

# APPROVED

## MINUTES OF THE MEETING

### GOVERNING BOARD SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT

BROOKSVILLE, FLORIDA

DECEMBER 14, 2010

The Governing Board of the Southwest Florida Water Management District (SWFWMD) met for its regular meeting at 9:11 a.m. on December 14, 2010, at the District's headquarters in Brooksville. The following persons were present:

#### Board Members Present

Ronald E. Oakley, Chair  
Hugh Gramling, Vice Chair  
H. Paul Senft, Secretary  
Douglas B. Tharp, Treasurer  
Jeffrey M. Adams, Member  
Carlos Beruff, Member  
Jennifer E. Closshey, Member  
Neil Combee, Member  
Albert G. Joerger, Member  
Todd Pressman, Member  
Judith C. Whitehead, Member

#### Staff Members

David L. Moore, Executive Director  
William S. Bilenky, General Counsel  
Lou Kavouras, Deputy Executive Director  
Richard S. Owen, Deputy Executive Director  
Eugene A. Schiller, Deputy Executive Director  
Bruce C. Wirth, Deputy Executive Director

#### Board's Administrative Support

LuAnne Stout, Administrative Coordinator  
Tahla Paige, Sr. Administrative Assistant

#### Board Member(s) Absent

Bryan K. Beswick, Member

A list of others present who signed the attendance roster is filed in the permanent records of the District. This meeting was available for viewing through internet streaming. Approved minutes from previous meetings can be found on the District's Web site ([www.WaterMatters.org](http://www.WaterMatters.org)).

## Public Hearing

### 1. Call to Order

Chair Oakley called the meeting to order and opened the public hearing. Mr. Senft noted a quorum was present.

### 2. Pledge of Allegiance and Invocation

Chair Oakley led the Pledge of Allegiance to the Flag of the United States of America. Mr. Bilenky offered the invocation.

## Public Hearing

Chair Oakley introduced each member of the Governing Board. He noted that the Board's meeting was recorded for broadcast on government access channels, and public input was only taken during the meeting onsite.

Chair Oakley stated that anyone wishing to address the Governing Board concerning any item listed on the agenda or any item that does not appear on the agenda should fill out and submit a speaker's card. To assure that all participants have an opportunity to speak, a member of the public may submit a speaker's card to comment on agenda items only during today's meeting. If the speaker wishes to address the Board on an issue not on today's agenda, a speaker's card may be submitted for comment during "Public Input." Chair Oakley stated that comments would be limited to three minutes per speaker, and, when appropriate, exceptions to the three-minute

limit may be granted by the Chair. He also requested that several individuals wishing to speak on the same issue/topic designate a spokesperson.

3. **Additions/Deletions to Agenda**

Mr. Moore said there was one deletion to the agenda and one item moved for discussion.

**Consent Agenda**

The following item was deleted from consideration:

- 20. Initiation of Litigation – Surface Water Activity - Colvin, Robert and Mary – Lake County

**Regulation Committee**

The following item was moved from the Resource Management Committee to Regulation Committee's Discussion Items:

- 34. Hydrologic Conditions Status Report

**General Counsel's Report**

The following item was moved from the Consent Agenda to Discussion Items under the General Counsel's Report:

- 21. Initiation of Litigation – Surface Water Activity - Ramaela of Clermont, LP – Sumter County

Chair Oakley noted for the record that the agenda was accepted as amended. (Track 1 – 00:00/05:35)

4. **District Recognition – North American Lake Management Society (NALMS) Technical Merit Award for Shinn Ditch Restoration in Citrus County**

Mr. Mark Hammond, Director, Resource Projects Department, said the NALMS presented the Technical Merit Award in the project category to the District for the Wetland and Hydrologic Restoration of the Shinn Ditch, Grand Prairie Site, and Flying Eagle Wildlife Management Area. Each year NALMS recognizes individuals, organizations and programs, corporations and projects that have contributed to the science of lake and watershed management. These awards were established to recognize and encourage the forging of partnerships among citizens, scientists, and professionals to foster the management and protection of lakes and reservoirs for today and tomorrow. (Track 1 – 05:354/08:45)

This item was presented for the Board's information, and no action was required.

5. **Employee Recognition**

Mr. Moore recognized staff members who have achieved milestones of 20 years or greater.

MILESTONE	EMPLOYEE NAME	TITLE	DEPARTMENT	OFFICE LOCATION
30 Years	Mack Sweat	Aquatic Plant Mgt Crew Leader	Operations	Bartow
25 Years	Dianna Brass	Administrative Supervisor	Executive	Brooksville
	Gwen Brown	Administrative Supervisor	Resource Projects	Brooksville
20 Years	Carol Lynch	Senior Administrative Assistant	Performance Mgt Office	Brooksville

Ms. Kuligofski introduced Mr. Don Wood who is the new Manager in the Human Resources Department. (Track 1 – 08:45/15:34)

This item was presented for the Board's information, and no action was required.

Chair Oakley requested Mr. Brian Starford, Director, Bartow Regulation Department, to come forward so he could be recognized for his efforts, as well as Messrs. Jan Burke and Dave

Carpenter. He commended staff for their work with a homeowner association and solving the problem with the as-builts. (Track 2 – 00:00/02:58)

6. **Public Input for Issues Not Listed on the Published Agenda**

Chair Oakley noted that one request to speak was submitted.

Mr. Don Ross, representing EarthBalance, noted that the Florida Department of Mitigation (FDOT) program was discussed at the November 16, 2010 Board meeting. He provided an update on the opt-out issue and federal requirements. He requested the Board provide direction to staff for working on the new plan and not wait until the January meeting. (Track 3 – 00:00/03:28)

Mr. Bilenky said the District staff maintains its position to comply with all the requirements within the statute. He said staff concurs with the FDOT that the statute, in order to accommodate concerns, needs to be amended and staff offered assistance to FDOT to work with them to draft the statute to address concerns raised by Mr. Ross. Chair Oakley clarified that the District should follow the current statutes until changed legislatively. Mr. Senft said it may be proactive to advise legislative delegations that the District will not oppose changes so that it may be expedited. Mr. Beruff said his concern is that the FDOT would come to the District when it cannot find a private provider and the cost would exceed the statutory requirement. He said, with the opt-out provision, the District would not have to take on the extra cost and do the right thing for the taxpayer. In response to Chair Oakley's question, Mr. Bilenky said the District strictly follows the statutes and has an active program dealing with the FDOT. Ms. Closshey said she was expecting an overview of the mitigation program that is sufficient for the Board to make a policy decision regarding the District's involvement. Mr. Moore said staff will provide an overview at the January 2011 Board meeting. He said it would be appropriate at this time to send a message that the Board would advocate some of these changes. (Track 3 – 03:38/12:42)

For discussion purposes, **Ms. Closshey moved that the Board extend its support for the revision of the statute pertaining to mitigation banks. Mr. Gramling seconded the motion.** Discussion ensued regarding opt-out option, costs, taxpayer funds, legal opinions, policies, free market, land restoration and mitigation. (Track 3 – 12:42/30:40)

(Mr. Combee entered the meeting.)

Ms. Closshey requested that the overview include the existing inventory and associated costs, as well as projected sales and cash flow, and how that impacts our budget from the current program. She said to also do projected sales and review of what it would be under various alternative scenarios to understand how it affects budget, cash flow and operations. In response to Ms. Closshey's question, Mr. Bilenky said this item was not added to the amended agenda and there are interested parties who are being deprived that might want to be heard.

**Since this item was not on the published agenda and advertised, the motion and second were withdrawn.** (Track 3 – 30:40/32:18)

Mr. Senft requested information from the FDOT of its deadline(s) for project(s) currently proposed. Mr. Moore said the Board can provide direction whether it concurs with staff attending delegation and transition team meetings to relay that this is an issue for statutory discussion and modification. Mr. Joerger discussed the possibilities of using mitigation bank credits under current statutes and using free market enterprise. Chair Oakley said staff will provide an overview at the January meeting and Board members may contact staff to answer any questions. (Track 3 – 32:18/36:01)

## Consent Agenda

Item 20 was deleted from consideration, and Item 21 was moved for discussion purposes.

### Regulation Committee

7. **Initiate and Approve Rulemaking to Adopt New Noticed General Environmental Resource Permit for Construction, Operation and Maintenance of Nonproduction-Related Agricultural Facilities, Rule 40D-400.550, Florida Administrative Code**

Staff recommended to authorize the initiation of rulemaking and approve proposed Rule 40D-400.550, Florida Administrative Code (F.A.C.), to establish a new Noticed General Environmental Resource Permit for construction, operation and maintenance of nonproduction-related agricultural facilities.

8. **Individual Water Use Permits Referred to the Governing Board – WUP No. 20002933.006 - Diamond Z Ranch (Manatee County)**

Staff recommended to approve the proposed permit.

### Resource Management Committee

9. **Initiate Rulemaking to Amend 40D-8.624, F.A.C., to Add Minimum and Guidance Levels for Lake Crystal and North Lake Wales in Polk County**

Staff recommended to approve initiation of rulemaking to amend Rule 40D-8.624, F.A.C., to delete previously adopted guidance level and add new guidance and minimum levels.

10. **The Florida Government Utilities Authority Seven Springs Reuse Feasibility Study**

Staff recommended to authorize the Executive Director to execute the cooperative funding agreement between the District and the Florida Government Utilities Authority for the related project.

11. **Declaration of Surplus Lands – Chito Branch Reserve, SWF Parcel No. 11-709-141S**

Staff recommended to declare SWF Parcel No. 11-709-141S surplus.

12. **Amendments to Existing Management Agreements with Pinellas County – Sawgrass Lake Park and Brooker Creek Preserve, SWF Parcel Nos. 16-560-134X and 16-074-145X**

Staff recommended to (1) approve the Fifth Amendment to Sawgrass Lake Park and the Second Amendment to Brooker Creek Preserve Management Agreements with Pinellas County for SWF Parcel Nos. 16-560-134X and 16-074-145X; and (2) authorize the Land Resources Director to execute the amendments to the lease agreements.

13. **Accept Land Donation – Flying Eagle Preserve, SWF Parcel No. 19-334-146**

Staff recommended to (1) accept the donation; and (2) designate parcel as having been acquired for conservation purposes.

14. **Assign Cattle Grazing/Haying Lease Agreement between the District and Harrison Cattle LLC to the Peace River Manasota Regional Water Supply Authority – RV Griffin Reserve, SWF Parcel No. 20-223-113X**

Staff recommended to (1) approve the assignment of a Cattle Grazing/Haying Lease between the District and Harrison Cattle LLC to the Authority, SWF Parcel No. 20-223-113X; and (2) authorize the Land Resources Director to execute the Lease Assignment.

15. **Authorize Submission of Preliminary Flood Insurance Rate Maps (FIRMs) to the Federal Emergency Management Agency (FEMA)**

- a. **Deep Creek Gulley Watershed in DeSoto County**

Staff recommended to authorize staff to submit the preliminary FIRMs for the Deep Creek Gulley watershed in DeSoto County to FEMA.

- b. **Alligator Branch, Buzzards Roost Run, City of Wauchula, Horse Creek, and Thompson Branch Watersheds in Hardee County**

Staff recommended to authorize staff to submit the preliminary FIRMs for the Alligator Branch, Buzzards Roost Run, City of Wauchula, Horse Creek, and Thompson Branch watersheds in Hardee County to FEMA.

- c. **Withlacoochee River, Withlacoochee Region, and Withlacoochee River 2 Watersheds in Southwestern Marion County**

Staff recommended to authorize staff to submit the preliminary FIRMs for the Withlacoochee River, Withlacoochee Region, and Withlacoochee River 2 watersheds in Marion County to FEMA.

- d. **Christina Watershed in Polk County**  
Staff recommended to authorize staff to submit the preliminary FIRMs for the Christina watershed in Polk County to FEMA.
16. **Facilitating Agricultural Resource Management Systems (FARMS)**
    - a. **Roper Growers Cooperative - Amendment – DeSoto County**  
Staff recommended to (1) approve the Roper Growers Cooperative Project for a not-to-exceed project reimbursement of \$11,250 with \$2,812 provided by the Peace River Basin Board, \$2,813 provided by the Governing Board, and \$5,625 provided from 2009 State Appropriations; (2) authorize the transfer of \$2,812 from fund 020 H017 Peace River Basin Board FARMS funds, \$2,813 from fund 010 H017 Governing Board FARMS funds, \$5,625 from State Appropriations allocated to fund 010 H017 FARMS funds, to H594 Roper Growers Cooperative project fund; and (3) authorize the Executive Director to execute the agreement.
    - b. **Alafia Berry Farms, LLC Amendment – Hillsborough County**  
Staff recommended to (1) approve the Alafia Berry Farms, LLC project for a not-to-exceed project reimbursement of \$40,500 with \$20,250 provided by the Alafia River Basin, \$20,250 provided by the Governing Board; (2) authorize the transfer of \$20,250 from fund 011 H017 Alafia River Basin FARMS funds, \$20,250 from fund 010 H017 Governing Board FARMS funds to H017 Alafia Berry Farms, LLC project fund; and (3) authorize the Executive Director to execute the agreement.
    - c. **Blues Berry Farm, LLC – Hillsborough County**  
Staff recommended to (1) approve the Blues Berry Farm LLC project for a not-to-exceed project reimbursement of \$58,500 with \$29,250 provided by the Alafia River Basin Board and \$29,250 provided by the Governing Board; (2) authorize the transfer of \$29,250 from fund 011 H017 Alafia River Basin Board FARMS funds and \$29,250 from fund 010 H017 Governing Board FARMS funds to H620 Blues Berry Farm, LLC, project fund; and (3) authorize the Executive Director to execute the agreement.
    - d. **Brookdale Farms, LLC – Hillsborough County**  
Staff recommended to (1) approve the Brookdale Farms LLC project for a not-to-exceed project reimbursement of \$117,000 with \$58,500 provided by the Alafia River Basin Board and \$58,500 provided by the Governing Board; (2) authorize the transfer of \$58,500 from fund 011 H017 Alafia River Basin Board FARMS funds and \$58,500 from fund 010 H017 Governing Board FARMS funds to H625 Brookdale Farms, LLC, project fund; and (3) authorize the Executive Director to execute the agreement.
    - e. **Ennis Strawberry Farm – Hillsborough County**  
Staff recommended to (1) approve the Ennis Strawberry Farm project for a not-to-exceed project reimbursement of \$23,250 with \$11,625 provided by the Alafia River Basin and \$11,625 provided by the Governing Board; (2) authorize the transfer of \$11,625 from fund 011 H017 Alafia River Basin FARMS funds and \$11,625 from fund 010 H017 Governing Board FARMS funds, to H619, Ennis Strawberry Farm project fund; and (3) authorize the Executive Director to execute the agreement.
    - f. **Mathis Farms, Inc. – Hillsborough County**  
Staff recommended to (1) approve the Mathis Farms, Inc. project for a not-to-exceed project reimbursement of \$123,900 with \$61,950 provided by the Alafia River Basin Board, and \$61,950 provided by the Governing Board; (2) authorize the transfer of \$61,950 from fund 011 H017 Alafia River Basin Board FARMS funds, and \$61,950 from fund 010 H017 Governing Board FARMS funds to the H622 Mathis Farms, Inc. project fund; and (3) authorize the Executive Director to execute the agreement.
    - g. **Peacock-Meek Farms – Hillsborough County**  
Staff recommended to (1) approve the Peacock-Meek project for a not-to-exceed project reimbursement of \$33,750 with \$16,875 provided by the Alafia River Basin and \$16,875 provided by the Governing Board; (2) authorize the transfer of \$16,875 from fund 011 H017 Alafia River Basin FARMS funds and \$16,875 from fund 010 H017 Governing Board FARMS funds to H623 Peacock-Meek project fund; and (3) authorize the Executive Director to execute the agreement.

- h. **Peacock-Register Farms – Hillsborough County**  
Staff recommended to (1) approve the Peacock-Register project for a not-to-exceed project reimbursement of \$24,000 with \$12,000 provided by the Alafia River Basin and \$12,000 provided by the Governing Board; (2) authorize the transfer of \$12,000 from fund 011 H017 Alafia River Basin FARMS funds and \$12,000 from fund 010 H017 Governing Board FARMS funds to H624 Peacock Register project fund; and (3) authorize the Executive Director to execute the agreement.
- i. **Mary McTeer – Polk County**  
Staff recommended to (1) approve the Mary McTeer project for a not-to-exceed project reimbursement of \$23,000 with \$5,750 provided by the Peace River Basin Board, \$5,750 provided by the Governing Board, and \$11,500 provided from State Appropriations; (2) authorize the transfer of \$5,750 from fund 020 H017 Peace River Basin Board FARMS funds, \$5,750 from fund 010 H017 Governing Board FARMS funds, \$11,500 from State Appropriations allocated to fund 010 H017 FARMS funds, to H621 Mary McTeer project fund; and (3) authorize the Executive Director to execute the agreement.

#### **Finance & Administration Committee**

17. **Budget Transfer Report**

Staff recommended to approve the Budget Transfer Report covering all budget transfers for November 2010.

#### **General Counsel's Report**

18. **Settlement Agreement – SWFWMD v. Raymond J. Shea & Mary Lou Shea, et al, Case No. 53-2009-CA-008352, 10th Judicial Circuit – Lake Hancock Project, SWF Parcel No. 20-503-129 – Polk County**

Staff recommended to approve the settlement in the total amount of \$1,800,000.

19. **Settlement Agreement – SWFWMD v. Don Gary Crabtree & Kaye Hadlock Crabtree, et al, Case No. 53-2009-CA-008352, 10th Judicial Circuit – Lake Hancock Project, SWF Parcel No. 20-503-196 – Polk County**

Staff recommended to approve the Settlement Agreement in the total amount of \$516,092.50.

20. **Initiation of Litigation – Surface Water Activity - Colvin, Robert and Mary – Lake County** – This item was deleted from consideration.

21. **Initiation of Litigation – Surface Water Activity - Ramaela of Clermont, LP – Sumter County** – This item was moved for discussion purposes.

#### **Executive Director's Report**

22. **Approve Governing Board Minutes – November 16, 2010 Meeting**

Staff recommended to approve the minutes.

**Mr. Gramling moved, seconded by Mr. Tharp, to approve the Consent Agenda as amended. Motion carried unanimously.**

At this time, the order of consideration was altered to allow for the item moved from the Consent Agenda to General Counsel's Report to be heard. (Track 4 – 00:00/04:40)

## **General Counsel's Report**

### ***Discussion Items***

56. **Consent Item(s) Moved for Discussion** – Item 21

21. **Initiation of Litigation – Surface Water Activity - Ramaela of Clermont, LP – Sumter County**

Ms. Carrie Felice, Staff Attorney, provided an overview and timeline of observed wetland impact activities and communications with Ramaela of Clermont Limited Partnership (Owner). She said staff is recommending to authorize the initiation of litigation against Ramaela of Clermont Limited Partnership and any other appropriate

parties to obtain compliance, to recover an administrative fine/civil penalty for the violations, and to recover District enforcement costs, court costs and attorney's fees. (Track 5 – 00:00/04:54)

Chair Oakley said there was one request to speak.

Mr. Joseph Zagame, representing Ramaela of Clermont Limited Partnership, addressed the Board. He said he feels he has worked in good faith with the District and has requested help from staff in resolving this issue for which he received no assistance. He provided a brief overview of his activities to clean up a dump site and a packet of information for each Board member.

Following consideration, **Mr. Gramling moved, seconded by Mr. Pressman, to authorize the initiation of litigation against Ramaela of Clermont Limited Partnership and any other appropriate parties to obtain compliance, to recover an administrative fine/civil penalty for the violations, and to recover District enforcement costs, court costs and attorney's fees. Motion carried unanimously.** (Track 5 – 04:54/13:33)

Chair Oakley relinquished the gavel to Regulation Committee Chair Beruff.

## Regulation Committee

Item 34 was moved from the Resource Management Committee to the Regulation Committee.

### *Discussion Items*

23. **Consent Item(s) Moved for Discussion** – None

34. **Hydrologic Conditions Status Report**

Mr. Granville Kinsman, Manager, Hydrologic Data Section, said November marks the second month of the eight-month dry season and is historically the driest month of the year, with a long-term mean of just 1.8 inches District-wide. Provisional rainfall totals through November 28 fall within the normal range in the northern and central portions of the District and the above-normal range in the southern District. Rainfall during the month was regionally variable and associated with tropical moisture or frontal systems. The provisional 12-month District-wide rainfall deficit showed a slight improvement during November, ending the month approximately 0.51 inch below the long-term average. The 24-month and 36-month cumulative rainfall deficits improved during the month and are approximately 5.8 and 10.1 inches, respectively, below the historic average. The amount of rainfall received was not sufficient to improve conditions, and most hydrologic indicators declined during November throughout the District. Regional lake levels, streamflow and groundwater levels are at low-normal to below-normal conditions. (Track 6 - 00:00/07:55)

Mr. Kinsman provided a brief overview of drawdowns in the Dover/Plant City area occurring due to the cold temperatures. Mr. Moore said staff will provide an update later today on this morning's monitoring report. (Track 6 – 07:55/17:37)

24. **Approve Amendments to Chapters 40D-1, 40D-2, 40D-8 and 40D-80, F.A.C., including the Water Use Permit Basis of Review, to Establish a Water Use Caution Area in the Dover/Plant City Area and Associated Water Use Permitting Requirements, Minimum Level and Recovery Strategy**

Mr. Owen reviewed the order of presentations for this item. He noted that Board members were provided via electronic methods additional documents with changes to the rules as staff discussed with the Florida Strawberry Growers Association (FSGA). He said

Ms. Más will review the rules as provided in the Board's meeting materials. Mr. Owen said then he will review the additional changes provided to the Board. He suggested the public be allowed to speak and then the Board consider the staff recommendations.

Ms. Alba Más, Director, Tampa Regulation Department, said the Board authorized staff in July 2010 to initiate rulemaking in support of the Management Plan. She then provided a summary of the proposed modified rules in Chapters 40D-1, 40D-2, 40D-8 and 40D-80, Florida Administrative Code (F.A.C.), including the Water Use Permit Basis of Review, minimum aquifer level and minimum aquifer level protection zone, and recovery strategies. (Track 7 – 00:00/23:10)

Mr. Owen reported on the meeting with the FSGA, and discussed the proposed rule language and additional modifications resulting from the meeting. He noted that automatic meter reading devices would be required for all permits with frost/freeze protection quantities. The District will provide funding for new meters and automatic meter reading equipment as well as the installation for all existing permits that do not already have these devices, and take all responsibility maintaining these meters.

Ms. Más said staff is recommending to (1) approve rules as presented with modifications as presented; and (2) authorize Executive Director to make changes to the proposed rules, in consultation with Board Chair, to resolve issues that are raised by Joint Administrative Procedures Committee (JAPC) or affected entities. (Track 7 – 23:10/32:00)

Committee Chair Beruff noted there is one speaker card.

Mr. Doug Manson, representing the FSGA, said he wanted to first address the next item regarding the emergency rule noting that the FSGA is in full support. Regarding the existing rule, he said the FSGA is in support of moving forward with the rule and provided comments on the work still needing to be accomplished. (Track 7 – 32:00/35:50)

Mr. Gramling requested that staff report to the Board no later than a year from today the suggested changes to the rule by all the external groups, whether accepted or not, and provide updates during the year as feasible. Ms. Closshey said she supports Mr. Gramling's request but would like to see the report by October 2011.

Following discussion, **Mr. Joerger moved, seconded by Chair Oakley, to approve the staff recommendation to (1) approve rules as presented with modifications as presented; and (2) authorize Executive Director to make changes to the proposed rules, in consultation with Board Chair, to resolve issues that are raised by Joint Administrative Procedures Committee (JAPC) or affected entities.** (Track 7 – 35:50/43:20)

Discussion continued between Board members and staff. **Committee Chair Beruff called the question and the motion carried unanimously.** (Track 7 – 43:20/56:05)

Ms. Adrienne Vining, Staff Attorney, provided an update on the status of the active well complaints and a summary of expenses. (Track 8 – 00:00/06:22)

25. **Authorize the Executive Director to Adopt Portions of the Proposed Dover/Plant City Rules as Emergency Rules**

Ms. Karen Lloyd, Assistant General Counsel, said the District's objective has been to have the rules in effect before the first freeze event might occur in the winter of 2010/2011 in order to avoid the dry well problems that arose last winter and the need for an emergency



order and other actions to address the problems resulting from freeze protection pumping. It is now unlikely that the rules will become effective in time to be used in the event of freeze events this winter. If an immediate danger to public health, safety and welfare would be created due to a freeze being predicted to occur before the rules become effective, the law provides that emergency rules can be adopted.

Following consideration, **Mr. Combee moved, seconded by Mr. Gramling, to approve the staff recommendation to authorize the Executive Director to adopt the rules shown in the exhibit as emergency rules if and when the Executive Director determines that emergency rules are necessary due to an immediate danger to public health, safety and welfare.** (Track 9 – 00:00/06:13)

Committee Chair Beruff asked Mr. Manson if he still wanted to address the Board and he declined. Mr. Moore said the District has received well complaints today and an emergency may be declared this afternoon due to the temperatures expected tonight.

**Committee Chair Beruff called the question and the motion carried unanimously.**  
(Track 9 – 06:13/08:20)

26. **Denials Referred to the Governing Board** – None

**Submit & File Reports** – None

#### ***Routine Reports***

The following items were provided for the Committee's information, and no action was required.

27. **Public Supply Production Report**
  28. **Southern Water Use Caution Area Quantities**
  29. **Overpumpage Report**
  30. **E-Permitting Metrics: Online vs. Paper Applications**
  31. **Individual Permits Issued by District Staff**
  32. **Resource Regulation Significant Initiatives**
- (Track 9 – 08:20/09:09)

Regulation Committee Chair Beruff relinquished the gavel to Committee Chair Joerger

### **Resource Management Committee**

Item 34 was presented during the Regulation Committee's Discussion Items.

#### ***Discussion Items***

33. **Consent Item(s) Moved for Discussion** – None
35. **Establish Final Numeric Water Quality Standards for Nutrients in Fresh Water**  
Ms. Veronica Crow, Environmental Section Manager, Resource Projects Department, presented a summary of the components of the U.S. Environmental Protection Agency's (EPA) final lake, stream and springs numeric nutrient criteria for Florida as published in the Federal Register on December 6, 2010. The standards will become effective 15 months from the date of publication. The standards comply with the terms of the August 2009 consent decree between EPA and the Florida Wildlife Federation. For streams, EPA established five different watershed-based nutrient regions with different total nitrogen and phosphorus (TN and TP) criteria in each region. EPA classified lakes into three groups (colored, clear/alkaline, clear/acidic) and assigned different values for TN, TP and

chlorophyll a to each lake group. EPA established a single nitrate-nitrite criterion for springs statewide. EPA also announced an approach for obtaining federal approval of site-specific alternative criteria (SSAC), allowing for case-by-case adjustments to the criteria depending on local environmental factors while protecting water quality. There are currently two lawsuits challenging the standards, including one by the state agriculture commissioner. In a later action, EPA will establish rules to protect estuaries, South Florida canals and coastal waters, following a peer review by their Scientific Advisory Board. These standards must be proposed by November 2011 and finalized by August 2012.

Mr. Beruff noted that the South Florida Water Management District is considering entering the lawsuit with the state agriculture commissioner and suggested this District may want to join. He said the attorney general will also be filing suit. Ms. Closshey requested Ms. Craw present this item to the joint Industrial and Public Supply Advisory Committees meeting in January 2011. (Track 10 – 00:00/33:26)

This item was presented for the Committee's information, and no action was required.

36. **Initiation of Rulemaking to Allow for the Sale and Consumption of Alcoholic Beverages on Cooperatively Managed District Lands**

Following a brief overview by Committee Chair Joerger, **Ms. Closshey moved, seconded by Mr. Combee, to authorize staff to initiate rulemaking to Chapter 40D-9, F.A.C., to allow the sale and consumption of alcoholic beverages on cooperatively managed District land where a local government or agency has adopted by rule or ordinance the appropriate guidelines.**

The Office of General Counsel, Risk Management and Land Resources have evaluated the requests and determined that there is minimal risk to the District if the sale and consumption of alcohol under these circumstances were authorized by the Board. The impact to the overall management and use of the properties would be minimal.

In response to Mr. Tharp's question, Mr. Will Miller, Land Use and Protection Manager, Land Resources Department, said this only applies to cooperatively-managed lands, and the prohibition will stand for lands only managed by the District. In response to Mr. Adams' question, Mr. Miller said staff will return in January 2011 with specific rule language which will address insurance requirements.

**Committee Chair Joerger called the question and the motion carried unanimously.**

At this time, the meeting recessed for lunch and reconvened at 1:15 p.m. (Track 11 – 00:00/04:49; Track 12 – 00:00/00:02)

Committee Chair Joerger called the Committee meeting to order. He noted that this is another report in a series of staff presentations to provide the Board with a better understanding of the District's various programs, as well as staff and financial resources necessary. (Track 13 – 00:00/01:50)

37. **Aquatic Plant Management Program Overview**

Mr. Brian Nelson, Aquatic Plant Management Program Manager, Operations Department, provided the Board an update on the staffing, ongoing maintenance operations, budget and trends associated with the District's Aquatic Plant Management Program which includes the control of invasive species infestations on District-managed lands. One-hundred percent of the funding required for the District to manage aquatic plant

populations on 28 lake and river systems (State waterways) is provided by the Florida Fish and Wildlife Conservation Commission (FWC). (Track 13 – 1:50/33:50)

Discussion ensued regarding this program's budget and costs. Ms. Closshey said she is concerned there are other functions within the District where similar situations occur in anticipation of a weather event and requested information on how much of the total budget is impacted. She said it is one thing to be prepared for hurricanes, but there needs to be agreement on the policy to handle these situations. Messrs. Moore and Wirth clarified the budgeting process for land management programs. (Track 13 – 33:50/53:04)

Ms. Closshey said her questions are comprehensive enough for staff to provide a response, and then the Board can set policy affirming staff's actions or change it. (Track 13 – 53:04/57:31)

This item was presented for the Committee's information, and no action was required.

38. **Aquifer Storage and Recovery – Arsenic Issue Update**

Mr. Don Ellison, Senior Professional Geologist, Resource Projects Department, provided an update and status of the District's ongoing efforts to address the metals mobilization issue that is impeding the development of Aquifer Storage and Recovery (ASR) projects throughout the country. Currently, there are 12 ASR projects constructed in the District that provide up to 52 million gallons daily of water supply during the dry season. It was discovered that the injection of the water into the aquifer causes a reaction that mobilizes naturally occurring arsenic, resulting in elevated arsenic levels in the withdrawn water. The pilot project is removing the oxygen from the water prior to its injection to determine if that stops the chemical reaction that frees the arsenic from the rock. So far, results have been extremely promising, including estimated costs of about ten cents per thousand gallons for treatment.

Ms. Closshey requested Mr. Ellison present this item to the joint Industrial and Public Supply Advisory Committees meeting in January 2011. (Track 14 – 00:00/14:40)

This item was presented for the Committee's information, and no action was required.

***Submit & File Reports – None***

***Routine Reports***

The following items were provided for the Committee's information, and no action was required.

39. **Florida Forever Funding**
40. **Minimum Flows and Levels**
41. **Structure Operations**
42. **Watershed Management Program and Federal Emergency Management Agency Map Modernization**
43. **Significant Water Supply and Resource Development Projects**  
(Track 14 – 14:40/14:49)

Resource Management Committee Chair Joerger relinquished the gavel to Committee Vice Chair Closshey.

## Outreach and Planning Committee

### *Discussion Item*

44. **Strategic Plan Update**

Mr. Roy Mazur, Director, Planning Department, provided a brief update to the District's Strategic Plan development process and reviewed the proposed calendar. The Board embraced the idea of having the Outreach and Planning Committee meet regularly with staff in the coming year to develop the FY2013 plan. (Track 15 – 00:00/04:31)

This item was presented for the Committee's information, and no action was required.

45. **Youth and Public Education Programs Overview**

Ms. Beth Putnam, Projects Administrator, Communications Department, provided the Board with an overview of District education programs, audiences reached, methods employed, trends and accomplishments. The presentation included overall accomplishments along with a discussion of how education projects are evaluated and how success is measured. (Track 16 – 00:00/24:30)

This item was presented for the Committee's information, and no action was required.

### ***Submit & File Reports*** – None

### ***Routine Reports***

The following items were provided for the Committee's information, and no action was required.

46. **Comprehensive Plan Amendment and Related Reviews**

47. **Development of Regional Impact Reviews**

48. **Speakers Bureau**

49. **Significant Activities**

- Ms. Kavouras noted that staff has completed the update to the 2010 Regional Water Supply Plan as required by statute and the draft plan has been provided to the Board members. The Board will be asked to approve the plan at next month's meeting.

Committee Vice Chair Closshey relinquished the gavel to Finance and Administration Committee Chair Tharp. (Track 16 – 24:30/28:18)

## Finance and Administration Committee

### ***Discussion Items***

50. **Consent Item(s) Moved for Discussion** – None

51. **Delaying Employee Eligibility for Florida Retirement System Contributions**

Ms. Elaine Kuligofski, Director, Human Resources Department, provided an update of an issue raised at the September 2010 Governing Board Workshop regarding the potential for cost savings that might be achieved by delaying employee eligibility for Florida Retirement System (FRS) contributions. Staff investigated this approach and reviewed the matter with the Board member as a possible option for the District and determined that such an approach would be unlikely to result in significant (if any) cost savings to the District. The District currently, and typically, has a very low rate of turnover and does not experience turnover extensively in any particular class of employees. The average tenure for separating employees is approximately 12.5 years. In the past three years, only

14 staff members with less than one-year tenure have left District employment, and ten of those were in professional positions that are neither readily nor cost-effectively filled through temporary service contracts. Additionally, the current markup rate for temporary services ranges from between 33.5 percent to 44.0 percent, whereas the District's benefits overhead is approximately 38.0 percent. The cost savings from a temporary-to-full-time approach would therefore be negligible at best. Mr. Senft said he agreed with staff's assessment. (Track 17 – 00:00/05:25)

This item was submitted for the Committee's information, and no action was required.

52. **Status of Request for Proposals for Workload and Staffing Analysis**

Ms. Elaine Kuligofski, Director, Human Resources Department, said there were three proposals for the workload and staff analysis received by the deadline—2:30 p.m. today. The report listed the three respondents and the dollar value range of submitted proposals. District staff will review the proposals for responsiveness, then the proposals will be examined by the Finance and Administration Screening Committee prior to making a recommendation to the Governing Board. (Track 17 – 05:25/09:51)

This item was presented for the Committee's information, and no action was required.

In regard to the action taken against conducting a salary and benefits analysis at last month's Board meeting, Mr. Beruff requested that the vote be rescinded or action amended for discussion purposes since he was unable to attend the meeting. Mr. Bilenky said, since this item is not on the agenda, a two-thirds vote (six Board members) is required for consideration. **Mr. Beruff moved to reopen consideration; Mr. Combee seconded the motion.** Mr. Beruff raised the salary and benefits analysis issue again along with information that conducting such an analysis for all state employees is part of the incoming governor's guiding principles. Discussion ensued. **Committee Chair Tharp called the question and the motion failed with Messrs. Combee and Senft voting in favor and the remaining Board members voting in opposition.** (Track 18 – 00:00/30:20)

**Ms. Closshey moved, seconded by Ms. Whitehead, to recommend that all the water management districts, or at least the three largest districts, participate jointly in a salary and benefits analysis. Motion carried unanimously.** (Track 18 – 30:20/32:58)

53. **Status of District's Fiscal Year 2011 Outsourcing Funds**

As part of an ongoing comprehensive review of the Fiscal Year (FY) 2011 budget in preparation for FY2012 budget development, staff is providing the Board with overviews of major District initiatives and programs, organized by Area of Responsibility, each month for a period of five to six months. Mr. Schiller's presentation included a review of expense categories and a status report of the program budget and associated staffing. He reviewed that portion of the budget to be contractually outsourced for the following programs: Facilitating Agricultural Resource Management Systems (FARMS), Surface Water Improvement and Management (SWIM), Agricultural and Urban Landscape Research, Florida Department of Transportation Mitigation, Youth and Public Education, and Aquatic Plant Management. Through December 2010, the following has been presented for review: \$29.3 million (37 percent) of the \$79.1 million budgeted in FY2011 for contractual outsourcing, \$43,232,175 of the \$279,807,363 adopted FY2011 budget, and \$94,820,271 of the \$838,460,848 FY2011 modified budget. Over the next few months, the District's remaining major initiatives will be presented.

Ms. Closshey requested this format be presented each year so Board members understand the budget. (Track 19 – 00:00/22:44)

This item was presented for the Committee's information, and no action was required.

**Submit & File Reports** – None

**Routine Reports**

The following items were provided for the Committee's information, and no action was required.

54. **Treasurer's Report, Payment Register, and Contingency Reserves**
55. **Management Services Significant Activities**

Finance and Administration Committee Chair Tharp relinquished the gavel to Chair Oakley.  
(Track 19 – 22:44/22:53)

## **General Counsel's Report**

**Discussion Items**

56. **Consent Item(s) Moved for Discussion** – None
57. **Status of Tampa Bay Water's Seawater Desalination Project Operational Protocol Discussions**

Mr. Bilenky noted that, during the September 2010 Board meeting, staff discussed the history of the agreement that brought about the final District payments for the completion of Tampa Bay Water's (TBW's) desalination facility. As part of that discussion, staff noted that on October 1, 2010, TBW would commence a new "water year" and new budget year, and the Partnership Agreement will terminate on December 31, 2010. It was further noted that the District and TBW have a fundamental disagreement as to whether the original Funding Agreement between the District and Tampa Bay Water remains in force and effect after the final payment made pursuant to the Second Amendment to that Agreement. Staff indicated that they would work with the staff of TBW with the objective of returning to the December Governing Board meeting with a recommendation on an operational protocol for the desalination facility consistent with the parameters discussed at the September meeting.

Mr. Bilenky provided an update to the Board on the negotiations with TBW and a chronological list of communications between the two agencies. Chair Oakley said he contacted Mr. Jerry Seeber, TBW General Manager, who said he was told by his Board not to discuss the matter until the joint meeting between his agency's Board of Directors and the District's Governing Board. Chair Oakley said he then contacted Commissioner Mark Sharpe, Chair of TBW's Board of Directors, and has received no response.  
(Track 20 – 00:00:00/00:09:58)

Mr. Bilenky said the District knows the facility's capability and it is being ramped up for use due to climatic conditions. He said it is reasonable to consider the capacities of this facility as a source that is available for TBW to rely upon going into the future to meet demands that are placed on the system. He said there is no argument as to the facility's capacity.

Following discussion, **Mr. Gramling moved, seconded by Mr. Beruff, to direct staff to return to the January Board meeting with a list of potential actions, including permitting, litigation, etc., to take in response to differing opinions between the District and TBW regarding operation of the desalination facility.** Discussion ensued

between Board members and staff. **Chair Oakley called the question and the motion carried unanimously.** (Track 20 – 00:09:58/00:34:13)

Chair Oakley said there is one speaker card for this item.

Mr. Gene Heath, attending on behalf of Polk County, said the County is negotiating with TBW for a water supply achieved through a cooperative effort. He said the District's role is important and there is a need for substantive participation to negotiate a water supply contract. Mr. Heath said elements involved in the Southern Water Use Caution Area's (SWUCA's) strategy involved a regional approach including governance and regulatory solutions. He noted that the watershed is located 60 percent in the TBW and 40 percent in Polk County which is not a member of TBW and does not have a preferential right to the water. Mr. Heath said the District should be involved from the beginning to help reach a regional solution together with all the local governments and agencies. (Track 20 – 00:34:13/00:41:20)

Discussion ensued regarding defining regionalism to provide a structure and framework, water supply authorities, District's involvement, governance, regulatory solutions, multi-governmental negotiations, policy and legal positions, pending permits, and statutory mandates.

Mr. Moore said there is a December 21, 2010, meeting with the Polk County Administrator and TBW General Manager to work through the issues. He noted that District staff will be available to attend future meetings but suggested waiting to see if the two parties can resolve issues. He said staff will provide an update and recommendations at the Board's meeting in January. (Track 20 – 00:41:20/01:02:35)

**Submit & File Reports** – None

**Routine Reports**

The following items were provided for the Committee's information, and no action was required.

- 58. **Litigation Report**
- 59. **Rulemaking Update**

At this time, **Mr. Joerger moved, seconded by Mr. Beruff, to defer the remainder of the agenda (Items 60-63) to the January 2011 Board meeting. Motion carried unanimously.** (Track 20 – 01:02:35/1:04:25)

**Committee/Liaison Reports**

- 60. **Basin Board Land Resources Committee and Land Use Stakeholders Joint Meeting**
- 61. **Environmental Advisory Committee Meeting**

**Executive Director's Report**

- 62. **Executive Director's Report**
  - a. **Water Supply Agreement Polk County and Tampa Bay Water**
  - b. **Transition Team Activities**
  - c. **Other**

## Chair's Report

63. **Chair's Report**
  - a. **Performance Evaluations of the Executive Director and Inspector General**
  - b. **Other**

Mr. Combee said an issue which may come before the Board is the Rancho Bonito wetlands and destruction which has occurred.

Chair Oakley adjourned the meeting at 5:05 p.m. (Track 20 – 01:04:25/01:06:07)