MINUTES OF THE MEETING

GOVERNING BOARD
SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT

BROOKSVILLE, FLORIDA MARCH 26, 2019

The Governing Board of the Southwest Florida Water Management District (District) met for its regular meeting at 9:00 a.m., on March 26, 2019, at the Brooksville Office. The following persons were present:

**Board Members Present**
- Jeffrey M. Adams, Chair
- Ed Armstrong, Vice Chair* via phone
- Bryan Beswick, Secretary
- Michelle Williamson, Treasurer
- I. Paul Senft, Member
- Randall S. Maggard, Member
- John Henslick, Member
- Kelly S. Rice, Member
- Mark Taylor, Member *via phone
- Joel Schleicher, Member
- Rebecca Smith, Ph.D., Member
- James G. Murphy, Member *via phone
- Scott Wiggins, Member

**Staff Members**
- Brian J. Armstrong, Executive Director
- Amanda Rice, Assistant Executive Director
- Karen E. West, General Counsel
- Brian Werthmiller, Inspector General
- John J. Campbell, Division Director
- Ken L. Frink, Division Director
- Alba E. Más, Division Director
- Michael Molligan, Division Director
- Jennette Seachrist, Division Director
- Board Administrative Support
- Caroline Browning, Board & Executive Services Manager
- Lori Manuel, Administrative Assistant

A list of others in attendance, 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 website (www.WaterMatters.org).

**PUBLIC HEARING** (Video – 00:00)

1. **Call to Order**
   Chair Adams called the meeting to order and opened the public hearing. Secretary Beswick stated a quorum was present.

2. **Invocation and Pledge of Allegiance**
   Board Member Adams offered the invocation and led the Pledge of Allegiance to the Flag of the United States of America.

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

Chair Adams 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 “Request to Speak” 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 Adams 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. **Employee Recognition**
   Chair Adams recognized employees who have reached at least 20 years of service with the District and thanked them for their service. The following staff were recognized: Russell Martin, Ben Tomlinson and Dan Wolthuis.

4. **Additions/Deletions to Agenda**
   Mr. Brian Armstrong, executive director, stated there were no changes to the agenda.

   Board Member Smith requested the following items be moved to Discussion:

   **12. Administrative, Enforcement and Litigation Activities that Require Governing Board Approval**
   a. **Approval of Consent Order – Failure to Comply with Permit Conditions – Dale Watts & Dale Watts, Jr., B&S Auto Salvage – ERP No. 43042061.001 – CT No. 387626 – Pasco County, Florida**
   b. **Authorization to Issue Administrative Complaint and Order – Unauthorized Dredging and Filling Activities – the Greenhouse Bistro and Market – CT No. 394688 – Citrus County, Florida**
   c. **Authorization to Issue Administrative Complaint and Order – Well Construction Violations – Dustin Tyler – CT No. 392292 – Polk County, Florida**

   Board Member Armstrong declared a conflict of interest for the following item:

   **10. Approve the Release of Conservation Easement for Clearwater Christian College Expansion – ERP No. 44004951.013 – Pinellas County**

   Chair Adams said there is good cause to approve the amended agenda as allowed by Section 120.525, Florida Statutes. A motion was made to approve the amendments to the published agenda, which was seconded. The motion carried unanimously. (Audio 00:07:42)

5. **Public Input for Issues Not Listed on the Published Agenda**
   Mr. David Ballard Geddis, Jr., spoke against water district taxation.

**Consent Agenda**

Finance/Outreach & Planning Committee

6. **Knowledge Management: Construction Plans and Specifications Governing Board Policy**
   Staff recommended the Board approve the deletion of Governing Board Policy 401-001 Construction Plans and Specifications.

7. **Budget Transfer Report**
   Staff recommended the Board approve the Budget Transfer Report covering all budget transfers for February 2019.

**Resource Management Committee - None**

Operations, Lands and Resource Monitoring Committee

   Staff recommended the Board approve the Resident Security Officer Lease Agreement for the Hampton site - SWF Parcel No. 10-200-1263X and authorize the Governing Board Chairman to execute the agreement on behalf of the District.
9. **Offer for Surplus Lands – Upper Hillsborough Preserve (UH-1), SWF Parcel No. 13-400-174S**

Staff recommended the Board:
- Accept the offer of $280,000 and the Conservation Easement
- Authorize the Executive Director to execute the Contract for Sale and Purchase on the behalf of the District,
- Approve the conveyance of the District’s interest in all phosphate, minerals, metals and petroleum in, on or under the land upon request of the buyer; and
- Authorize staff to execute any other documents necessary to complete the transaction in accordance with the approved terms.

**Regulation Committee**

10. **Approve the Release of Conservation Easement for Clearwater Christian College Expansion – ERP No. 44004951.013 – Pinellas County**

Staff recommended the Board approve the release of the conservation easement and quit claim deed as authorized by ERP No. 44004951.013.

11. **Individual Water Use Permits Referred to the Governing Board** - None

**General Counsel’s Report**

12. **Administrative, Enforcement and Litigation Activities that Require Governing Board Approval**

   a. **Approval of Consent Order – Failure to Comply with Permit Conditions – Dale Watts & Dale Watts, Jr., B&S Auto Salvage – ERP No. 43042061.001 – CT No. 387626 – Pasco County, Florida**

   Staff recommended the Board approve the proposed Consent Order and authorize District staff to initiate litigation against Permittees, and any other necessary parties, if Permittees fail to comply with the terms and conditions of the approved Consent Order.

   b. **Authorization to Issue Administrative Complaint and Order – Unauthorized Dredging and Filling Activities – the Greenhouse Bistro and Market – CT No. 394688 – Citrus County, Florida**

   Staff recommended the Board:
   (1) Authorize District staff to issue an Administrative Complaint and Order to Mr. Shatto, and any other necessary parties, to obtain compliance, recover an administrative fine/civil penalty, and recover District enforcement costs, litigation costs, and attorneys’ fees, if appropriate.
   (2) Authorize District staff to initiate litigation against Mr. Shatto, and any other necessary parties, to enforce the terms of the Administrative Complaint and Order.

   c. **Authorization to Issue Administrative Complaint and Order – Well Construction Violations – Dustin Tyler – CT No. 392292 – Polk County, Florida**

   Staff recommended the Board
   (1) Authorize District staff to issue an Administrative Complaint and Order to the Well Contractor to obtain compliance with District rules, and seek assessment of civil penalties, including applicable fines, including the full amount of the penalty described above, as well as taxable costs and attorney’s fees.
   (2) Authorize District staff to initiate litigation against the Well Contractor to enforce the terms of the Administrative Complaint and Order, if necessary.

   d. **Approval of Consent and Joinder to Declaration of Restrictive Covenant – Aisha Investments, LLC and Environmental Protection Commission of Hillsborough County – SWF Parcel No. 14-042-121X – Hillsborough County, Florida**

   Staff recommended the Board approve the Consent and Joinder for each parcel.
comprising the Property and authorize the Chairman and Secretary to execute each Consent
and Joinder on the District’s behalf.

13. Rulemaking - None

Executive Director’s Report
14. Approve Governing Board - February 26, 2019
   Staff recommended the Board approve the minutes as presented.

A motion was made to approve agenda items 1-9 and 11, 12d-14 in the published agenda,
which was seconded. The motion carried unanimously. (Audio 00:15:34)

A motion was made to approve agenda item 10 in the published agenda, which was seconded.
The motion carried with 12 unanimous votes and Board Member Armstrong abstaining. (Audio:
15:54)

Chair Adams relinquished the gavel to the Finance/Outreach & Planning Committee
Chair Williamson, who called the meeting to order. (00:16:23)

Finance/Outreach & Planning Committee
Discussion
15. Consent Item(s) Moved for Discussion - None

16. Springs Protection Awareness Month
   Ms. Melissa Gulvin, Communications Manager, provided a presentation that recognized the
Springs Community Partner Award recipient Ms. Lace Blue-McLean.

   Ms. Gulvin stated that the District has partnered with the Florida Department of Environmental
Protection (FDEP) and other water management district on the My Home My Springs campaign.

   Staff recommended the Board approve and execute Resolution No.19-04 declaring
April 2019 as “Springs Protection Awareness Month.”

A motion was made and seconded to approve staff’s recommendation. The motion carried
unanimously. (00:23:05)

17. Fiscal Year 2017-18 Comprehensive Annual Financial Report
   Mr. James Allern, representing James Moore Certified Public Accountants and Consultants,
provided a presentation for FY2017-18 Comprehensive Annual Financial Report. He outlined the
reports included in the CAFR. He stated the overall financial condition assessment for FY2017-18
was favorable. Mr. Allern outlined the changes that have occurred. This included a planned
decrease in the general fund to $406.3 million; the unassigned fund balance is $18 million; total
fund balance increased to $11.6 million in the Florida Forever capital project fund; and the total
fund balance increased to $7 million in the capital projects fund.

   Mr. Allern outlined the impact from the Governmental Accounting Standards Board (GASB) on
pension liability and Other Post-Employment Benefits (OPEB).

   Staff recommended the Board accept and place on file the District’s Comprehensive Annual
Financial Report, including a Single Audit pursuant to Chapter 10.550, Rules of the Auditor
General, the Management Letter and the Independent Accountants’ Report for fiscal year
ended September 30, 2018.
A motion was made and seconded to approve staff’s recommendation. The motion carried unanimously.  (00:32:22)

18. Approval of Purchase and Sale Agreement - Sarasota Service Office
Mr. John Campbell, Management Services director, provided a presentation for the purchase and sale agreement for the Sarasota office. Mr. Campbell presented background information regarding the negotiation processes. He stated the purchase price is $4.7 million and outlined the stipulations and time line of the contract.

Staff recommended the Governing Board approve the following items:
• Accept the offer;
• Approve the purchase and sale agreement and authorize the Chairman to sign on the behalf of the District;
• Upon the request of the Buyer, authorize the conveyance of the District’s interest in all phosphate, minerals, metals, and petroleum in or on or under the land;
• Authorize the Executive Director to execute any governmental entity documents or applications associated with, but not limited to, the Buyer’s rezoning, land use plan changes, and site permitting;
• Accept the exclusive easement; and
• Authorize staff to execute any other documents necessary to complete the transaction in accordance with the approved terms

A motion was made and seconded to approve staff’s recommendation. The motion carried unanimously.  (00:43:28)

Legislative Update - This item was added during the meeting
Mr. Michael Molligan, Employee and External Relations director, provided a legislative update presentation. Mr. Molligan outlined the Senate budget activity proposed expenditures which included water/water quality projects and water protection and sustainability program. He stated that because these are budget bills, if they are approved, they will be implemented for one year only. Mr. Molligan reminded the Board that the budgets for both the House and Senate will still need approval.

This item was for the Board’s information only 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.
19. Treasurer’s Report and Payment Register
20. Monthly Financial Statement
21. Monthly Cash Balances by Fiscal Year
22. Comprehensive Plan Amendment and Related Reviews Report

Committee Chair Williamson relinquished the gavel to the Resource Management Committee Chair Rice, who called the meeting to order.  (00:49:31)

Resource Management Committee
Discussion
23. Consent Item(s) Moved for Discussion — None

24. History and Status of Northern Tampa Bay Water Use Caution Area (NTBWUCA) Recovery Strategy
Mr. Michael Hancock, chief professional engineer, provided a presentation on the NTBWUCA. This presentation provided historical information that included: a map outlining the study area of the
NTBWUCA, information regarding water wars during the 1990s, the Partnership Agreement from 1998, the NTBWUCA Recovery Strategy, a comparison of the general area of potential impacts in 1998 versus 2010, the groundwater withdrawals from 1998 to current, a comparison of groundwater use of other industries, the recovery assessment data collection sites, the minimum flows and levels (MFLs) in the NTBWUCA, photos of Lake Merrywater as an example of successful recovery and a timeline that outlined key dates associated with the NTRWIJCA.

This item was for the Board’s information only 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.

25. Significant Water Resource and Development Projects

Committee Chair Rice relinquished the gavel to the Operations, Lands and Resource Monitoring Committee Chair Maggard, who called the meeting to order. (01:18:00)

Operations, Lands and Resource Monitoring Committee Discussion
27. Consent Item(s) Moved for Discussion – None

28. Hydrologic Conditions Report
Mr. Granville Kinsman, P.G., Hydrologic Data manager, provided a presentation on the hydrologic conditions. Mr. Kinsman stated the District remains wetter than normal, but declines are occurring. February rainfall in the north was drier than the other regions within the District. Groundwater levels throughout the District were considered normal to above normal. Lake levels are declining in all areas, but remain in the normal range in the northern, Tampa Bay and Polk Upland regions. Lake levels in the Lake Wales Ridge area are declining and have fallen below the base of the annual normal range. Flows on the Withlacoochee River, Hillsborough, Alafia and Peace rivers were in the above normal range. The Bill Young and the Peace River reservoirs remain at healthy levels. Mr. Kinsman stated that forecasts still project above normal rainfall until the onset of the rainy season. El Niño forecast models are diverging, some showing fading to neutral conditions and others showing strengthening and lasting into next winter and spring.

This routine report provided information on the general state of the District's hydrologic conditions, by comparing rainfall, surface water, and ground water levels for the current month to comparable dates from the historical record.

Submit & File Reports - None

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

29. Surplus Lands Update
30. Structure Operations
31. Significant Activities

Committee Chair Rice relinquished the gavel to the Regulation Committee Vice Chair Henslick, who called the meeting to order. (01:24:15)

Regulation Committee Discussion
32. Consent Item(s) Moved for Discussion - None
33. Denials Referred to the Governing Board
Submit & File Reports - None

Routine Reports
The following items were provided for the Committee's information, and no action was required.
34. DPWUCA Flow Meter AMR Implementation Program Update
35. Overpumpage Report
36. Individual Permits Issued by District Staff

Committee Vice Chair Henslick relinquished the gavel to the Chair Adams. (01:25:13)

General Counsel's Report
Discussion
37. Consent Item(s) Moved for Discussion

12. Administrative, Enforcement and Litigation Activities that Require Governing Board Approval
Board Member Smith stated she would like the District to consider revising guidelines to ensure stricter enforcement penalties.

Board Member Wiggins made a motion to approve staff's recommendations for items 12a, 12b and 12c. (01:41:01)

Ms. Karen West, general counsel, explained the process regarding compliance and consent orders. She stated the District can determine the amount for penalty, however, it does not have the ability to impose penalties.

Mr. Brian Armstrong, executive director, explained to the Board that 12b and 12c will have penalty fines determined through the judicial process. He stated that 12a is a negotiated consent order that the Board can ask to be re-negotiated. He suggested that the process be re-addressed and presented to the Board at a future date, based upon comments today.

Board Member Wiggins reiterated a motion to approve staff's recommendation for items 12a, 12b and 12c. The motion was seconded. (1:58:20)

Board Member Smith asked to amend the motion by removing item 12a. (02:00:57)

Board Member Williamson stated concerns regarding removing item 12a. She asked the motion that was seconded, be voted on as it was initially stated.

Staff recommended the Board approve the proposed Consent Order and authorize District staff to initiate litigation against Permittees, and any other necessary parties, if permittees fail to comply with the terms and conditions of the approved Consent Order.

A motion was made and seconded to approve staff's recommendation. The motion carried with ten in favor and three opposed. (02:02:45)

b. Authorization to Issue Administrative Complaint and Order – Unauthorized Dredging and Filling Activities – the Greenhouse Bistro and Market – CT No. 394688 – Citrus County, Florida
Staff recommended the Board:
(2) Authorize District staff to issue an Administrative Complaint and Order to Mr. Shatto, and any other necessary parties, to obtain compliance, recover an administrative fine/civil penalty, and recover District enforcement costs, litigation costs, and attorneys' fees, if appropriate.

(2) Authorize District staff to initiate litigation against Mr. Shatto, and any other necessary parties, to enforce the terms of the Administrative Complaint and Order.

A motion was made and seconded to approve staff's recommendation. The motion carried unanimously. (02:03:00)

c. Authorization to Issue Administrative Complaint and Order – Well Construction Violations – Dustin Tyler – CT No. 392292 – Polk County, Florida

Staff recommended the Board

(1) Authorize District staff to issue an Administrative Complaint and Order to the Well Contractor to obtain compliance with District rules, and seek assessment of civil penalties, including applicable fines, including the full amount of the penalty described above, as well as taxable costs and attorney’s fees.

(2) Authorize District staff to initiate litigation against the Well Contractor to enforce the terms of the Administrative Complaint and Order, if necessary.

A motion was made and seconded to approve staff's recommendation. The motion carried unanimously. (02:03:28)

38. 2019 Office of General Counsel Enforcement Procedures Presentation

Mr. Jamie Fussey provided a presentation regarding enforcement procedures utilized by the Office of General Counsel. He stated the Office of General Counsel provides legal advice, representation, rulemaking services, research and counsel to the District. Mr. Fussey provided an overview of the rules and regulations, common types of violations and forms utilized, executive director authority, the administrative complaint process, the Department of Administrative Hearing (DOAH) process and the civil circuit court process. Mr. Fussey provided an overview of the penalties, matrix and guidelines associated with Water Use Permitting (WUP) and Environmental Resource Permitting (ERP). He outlined the disciplinary guidelines associated with water well construction. Mr. Fussey provided information regarding additional internal enforcement measures and criminal penalties as outlined by Chapter 373, Florida Statute.

Board Members expressed concern regarding the length of time associated with some District compliance cases and enforcement of penalties.

Ms. Karen West, general counsel, outlined extenuating factors that can impact the length of time associated with compliance cases and enforcement of penalties. Ms. West stated that liens can be imposed through civil court as related to penalties.

This item was presented for informational purposes only. No action was required.


Mr. Chris Tumminia, deputy general counsel, provided a presentation that outlined the rule language amendments for Rainbow River Minimum Flow and Levels (MFLs). Mr. Tumminia provided background information that included timeline, scientific/technical information, prior approved rule language and proposed rule language. He stated that no scientific/technical information has changed since the initial proposal in 2017. The proposed change only addresses the expression of technical/scientific information in the rule language.

Mr. Tumminia outlined the proposed rule language which included: expressing the MFL as 95 percent of natural flow; identifying the basis for the MFL; identifying the data used to develop the
MFL; identifying five objective criteria used for annual assessment; clarifying the five-year assessment and establishing a date for the ten-year evaluation schedule.

Chair Adams stated he received five Request to Speak cards.

Mr. Sid Flannery stated he supported the proposed rule language that expresses the MFL as 06 percent of natural flow. However, he stated there is still ambiguity in the proposed rule language. Mr. Flanner requested the Board postpone the vote on the proposed rule language to allow an opportunity to address the relationship between the reduction of flows and current velocity that contributes to the spread of filamentous algae.

Mr. Bill Vibbert, representing Rainbow River Board, provided a presentation that he stated included images of the spread of filamentous algae in the Rainbow River. Mr. Vibbert spoke in opposition of the proposed rule language.

Mr. Dan Hilliard, representing W.A.R., Inc., spoke in opposition of the proposed rule language.

Mr. Dennis Jones spoke in opposition of the proposed rule language.

Dr. Burt Eno, representing Rainbow River Conservation, stated his concerns regarding the setting of the MFL for the Rainbow River.

Ms. Jennette Seachrist, Resource Management director, stated the flow on the Rainbow River has been higher within the past year than previous years, and there has been an increase in filamentous algae. She also stated that the District is collecting data that will be re-evaluated.

Staff recommended the Board:
(1) Approve modification of proposed rule language to amend Rule 40D-8.041, Florida Administrative Code, to establish a minimum flow for the Rainbow River System; and,
(2) Authorize District staff to make any necessary clarifying or minor technical changes that may result from the rulemaking process.

A motion was made and seconded to approve staff's recommendation. The motion carried unanimously. (03:35:27)

Submit & File Reports  - None

Routine Reports
40. March 2019 Litigation Report
41. March 2019 Rulemaking Update

Committee/Liaison Reports
42. Other Committee/Liaison Reports

Executive Director's Report
43. Executive Director's Report
Mr. Brian Armstrong, executive director, stated a water supply workshop will be held during August/September to address several issues, including, but not limited to, the Tampa Bay Water WUP renewal, support for the Withlacoochee Water Supply Authority (WRWSA), identification of reservoirs in the southern District and assisting Polk County with identifying potential water resources.

Mr. Armstrong also congratulated Mr. Ken Frink, Operations, Lands and Resource Monitoring director on his proposed employment with the City of Crystal River.
Chair's Report

44. Chair's Report
   Chair Adams stated the next Governing Board meeting will be April 23 at 10:00 a.m., at the Lake Eva Banquet Hall in Haines City.

45. Other
46. Employee Milestones

The meeting was adjourned at 12:41 p.m.

Attest:

Chair

Secretary