



**GOVERNING BOARD MEETING
TUESDAY, MAY 25, 2021 – 9:00 AM
7601 US-301, TAMPA, FL 33637**

MINUTES

Board Members Present

Kelly Rice, Chair
Joel Schleicher, Vice Chair
Rebecca Smith, Ph.D., Secretary
Michelle Williamson, Member
Ed Armstrong, Member
Roger Germann, Member
Jack Bispham, Member
Seth Weightman, Member
John Mitten, Member
Ashley Bell Barnett, Member
John E. Hall, Member
William Hogarth, Member

Staff Members

Brian J. Armstrong, Executive Director
Amanda Rice, Assistant Executive Director
Karen West, General Counsel
Chris Tumminia, General Counsel
Brian Werthmiller, Inspector General
John Campbell, Division Director
Brian Starford, Division Director
Michael Molligan, Division Director
Jennette Seachrist, Division Director
Michelle Hopkins, Division Director

Board Administrative Support

Virginia Singer, Board & Executive Services Manager
Lori Manuel, Administrative Coordinator

1. CONVENE PUBLIC MEETING

This meeting was held through a combination of in-person attendance and electronic media, via Zoom.

The Governing Board of the Southwest Florida Water Management District (District) met for its regular meeting at 9:00 a.m., on May 25, 2021, at the Tampa Office, 7601 U.S. Highway 301 North, Tampa, Florida 33637.

Approved minutes from previous meetings can be found on the District's website at WaterMatters.org.

1.1 Call to Order

Chair Kelly Rice called the meeting to order. He provided a telephone number to any member of the public wishing to address the Governing Board concerning any item listed on the agenda or any item that does not appear on the agenda. Chair Rice 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.

1.1a Oath of office for Governing Board Members

Ms. Virginia Singer, Boards and Executive Services Manager, administered the Oath of Office to reappoint Board Member Jack Bispham and newly appoint Board Members John Hall and William Hogarth.

1.2 Invocation and Pledge of Allegiance

Board Member Michelle Williamson offered the invocation and led the Pledge of Allegiance.

Chair Rice introduced each member of the Governing Board (this served as roll call), and staff. He noted that the Board meeting was being recorded for broadcast on government access channels, and public input was taken during the meeting via electronic media or in person.

1.3 Election of Governing Board Officers

Ms. Karen West, General Counsel, provided an overview of the process for the election of officers.

Board Member Seth Weightman made a motion to nominate a slate of officers as follows: Chair, Kelly Rice; Vice Chair, Joel Schleicher; Secretary, Rebecca Smith; and Treasurer, Ed Armstrong. The motion was seconded and carried unanimously.
(00:07:56)

1.4 Additions/Deletions to Agenda

Chair Rice stated a Request to Speak Card was received for the following item. This item was moved from Consent to Discussion.

2.5 Authorization to Issue Administrative Complaint and Order – Permit Condition Violations – Christ Church of Longboat Key, Inc. – Environmental Resource Permit No. 43007606.002 – CT No. 413561 – Manatee County

Mr. Brian Armstrong, Executive Director, stated the following item was deleted from the Consent Agenda:

General Counsel’s Report

2.9 Governing Board Concurrence – SWFWMD Emergency Order – Emergency Measures Made Necessary by COVID-19

1.5 Public Input for Issues Not Listed on the Published Agenda

Mr. David Ballard Geddes, Jr., spoke regarding the constitution.

CONSENT AGENDA

FINANCE/OUTREACH & PLANNING COMMITTEE - None

RESOURCE MANAGEMENT COMMITTEE

2.1 Initiation and Approval of Rulemaking to Amend Rules 40D-8.021, 40D-8.031 and 40D-8.624, Florida Administrative Code

Staff recommended the Board:

- A. Accept the report entitled, “Revised Minimum Levels Based on Reevaluation of Minimum Levels Adopted for 29 Lakes in the Southwest Florida Water Management District.”

- B. Authorize the initiation of rulemaking and approve the proposed rule language to amend Rules 40D-8.021, 40D-8.031 and 40D-8.624, F.A.C., to update obsolete language and delete methodologies, categories, and guidance levels for minimum lake levels, as shown in the Exhibit.
- C. Authorize the initiation of rulemaking and approve the proposed rule language to amend Rule 40D-8.624, F.A.C., to replace the previously approved minimum lake levels with the proposed levels for 29 lakes, as shown in the Exhibit.
- D. Authorize staff to make any necessary minor clarifying edits that may result from the rulemaking process and to complete report finalization.

OPERATIONS, LANDS & RESOURCE MONITORING COMMITTEE - None

REGULATION COMMITTEE

2.2 Water Use Permit No. 20007846.030, Schroeder-Manatee Ranch, Inc. (Sarasota and Manatee Counties)

Staff recommended the Board approve the proposed permit.

GENERAL COUNSEL'S REPORT

2.3 Approval of Consent Order between SWFWMD and UP LA Leesburg, LLC - Violation of Permit Conditions for Construction - Environmental Resource Permit Nos. 44026730.005 & 43026730.008 - CT No. 407344 - Sumter County

Staff recommended the Board:

- Approve the Consent Order
- Authorize District staff to initiate an action in Circuit Court to enforce the terms of the Consent Order, if necessary.

2.4 Approval of Consent Order between SWFWMD and The Villages of Lake Sumter, Inc. - Violation of Permit Conditions for Construction - Environmental Resource Permit Nos. 44026730.005 & 43026730.008 - CT No. 407344 - Sumter County

Staff recommended the Board:

1. Approve the Consent Order.
2. Authorize District staff to initiate an action in Circuit Court to enforce the terms of the Consent Order, if necessary.

~~**2.5 Authorization to Issue Administrative Complaint and Order - Permit Condition Violations - Christ Church of Longboat Key, Inc. - Environmental Resource Permit No. 43007606.002 - CT No. 413561 - Manatee County**~~

~~Staff recommended the Board:~~

- ~~1. Authorize District staff to issue an Administrative Complaint and Order to the Permittee to obtain compliance with District rules.~~
- ~~2. Authorize District staff to initiate an action in Circuit Court against the Permittee to recover a civil penalty/administrative fine, enforcement costs, litigation costs, and attorneys' fees, if appropriate.~~
- ~~3. Authorize District staff to initiate an action in Circuit Court to enforce the terms of the Administrative Complaint and Order, if necessary.~~

2.6 Approval of Well Construction Permitting Delegation Agreement between the Southwest Florida Water Management District and Sarasota County, Florida, and Initiation and Approval of Rulemaking to Incorporate the Agreement by Reference

Staff recommended the Board:

1. Approve the Well Construction Permitting Agreement between the District and Sarasota County, Florida, which shall be in effect from June 1, 2021 until May 31, 2026.

2. Initiate and approve rulemaking to amend Rule 40D-1.002, Florida Administrative Code, to incorporate the Agreement by reference and authorize staff to make any necessary minor clarifying edits that may result from the rulemaking process.

2.7 Approval of Well Construction Permitting Delegation Agreement between the Southwest Florida Water Management District and the Florida Department of Health (Marion County, Florida), and Initiation and Approval of Rulemaking to Incorporate the Agreement by Reference

Staff recommended the Board:

1. Approve the Well Construction Permitting Agreement between the District and the Florida Department of Health for Marion County, Florida, which shall be in effect from June 1, 2021 until May 31, 2026.
2. Initiate and approve rulemaking to amend Rule 40D-1.002, Florida Administrative Code, to incorporate the Agreement by reference, and authorize staff to make any necessary minor clarifying edits that may result from the rulemaking process.

2.8 Approval of Well Construction Permitting Delegation Agreement between the Southwest Florida Water Management District and Manatee County, Florida, and Initiation and Approval of Rulemaking to Incorporate the Agreement by Reference

Staff recommended the Board:

1. Approve the Well Construction Permitting Agreement between the District and Manatee County, Florida, which shall be in effect from June 1, 2021 until May 31, 2026.
2. Initiate and approve rulemaking to amend Rule 40D-1.002, Florida Administrative Code, to incorporate the Agreement by reference, and authorize staff to make any necessary minor clarifying edits that may result from the rulemaking process.

~~2.9 Governing Board Concurrence – SWFWMD Emergency Order – Emergency Measures Made Necessary by COVID-19~~

~~Staff recommended the Board approve the Eighth Amended and Restated Emergency Order No. SWF 21-020 and concur with the Executive Director's determinations regarding the state of emergency and the actions necessary to meet the emergency.~~

EXECUTIVE DIRECTOR'S REPORT

2.10 Approve CFI Northern Region Meeting Minutes - April 7, 2021

Staff recommended the Board approve minutes as presented.

2.11 Approve CFI Southern Region Meeting Minutes - April 8, 2021

Staff recommended the Board approve minutes as presented.

2.12 Approve CFI Heartland Region Meeting Minutes - April 14, 2021

Staff recommended the Board approve minutes as presented.

2.13 Approve CFI Tampa Bay Region Meeting Minutes - April 15, 2021

Staff recommended the Board approve minutes as presented.

2.14 Approve Governing Board Minutes - April 27, 2021

Staff recommended the Board approve minutes as presented.

A motion was made and seconded to approve the Consent Agenda. The motion passed unanimously. (Audio - 00:18:05)

3. FINANCE/OUTREACH & PLANNING COMMITTEE

Secretary Smith called the Committee to order. (Audio – 00:18:55)

3.1 Consent Item(s) Moved to Discussion - None

3.2 2021 Legislative Session Update

Ms. Cara Martin, Government and Community Affairs Office chief, provided a recap of the Fiscal Year 2021-2022 Legislative Session. She provided an overview of the state's \$101.5 billion budget which included \$616 million for wastewater (including septic to sewer); \$500 million in resiliency funding to assist communities with storm surge and flooding; \$400 million for Florida Forever; \$116.6 million for statewide local water projects; \$75 million for springs funding; \$40 million for alternative water supplies; \$10.2 million to water management districts for land management and \$10 million for the Springs Coast and Peace River basin watersheds for water quality projects. Ms. Martin reminded the Board that the budget is pending approval from the Governor. She also reminded the Board that because the Governor has line-item veto authority, the funding could change.

Ms. Martin stated that Senate confirmation was received for four Governing Board members. These included Ed Armstrong, Ashley Bell-Barnett, John Mitten and Michelle Williamson.

Ms. Martin provided an overview of several bills that impacted the District and information regarding the 2021-2022 legislative session.

Ms. Martin stated the FY2022-23 session will begin January 11, 2022 and is scheduled to conclude on March 11, 2022. The session will include redistricting committee meetings.

This item was presented for information only. No action was required.

3.3 Budget Transfer Report

This item was presented for information only. No action was required.

4. RESOURCE MANAGEMENT COMMITTEE

Board Member Weightman called the Committee to order. (Audio – 00:29:19)

4.1 Consent Item(s) Moved to Discussion - None

4.2 Fiscal Year 2022 Cooperative Funding (CFI) Update

Mr. Kevin Wills, Cooperative Funding Initiative Lead outlined the FY2021 CFI process timeline, subcommittee structure planning regions, comparison of funding requests for 2018-2022, funding requests by regions, a map outlining the recommended projects, funding breakdown by areas of responsibilities and summaries of regional subcommittees.

Mr. Jay Hoecker, Water Supply Manager, provided an overview of projects that will be presented. He provided a summary table of future large-scale projects.

Mr. Ken Herd, representing Tampa Bay Water (TBW), provided a presentation for high ranked project Q241, Southern Hillsborough Pipeline. He provided an overview of this project. Mr. Herd stated that TBW is currently developing its five-year update to their master water plan. He identified three new alternative water supplies that were being reviewed. Mr. Herd explained that these new supplies were necessary for growth in the TBW service area. He provided a map outlining the location of the project. Mr. Herd provided a comparison for the current and planned water supply capacity. He outlined the regional benefits associated with the proposed project.

Mr. Herd outlined current and proposed pipeline capacity. He explained the necessity for emergency backup and redundancy in case of line outages. Mr. Herd outlined the engineering that has been completed to date. Secretary Rebecca Smith expressed concern regarding potential lack of redundancy related to pipelines. She requested that the design consultants provide a commitment to completing value engineering. Mr. Herd assured the Board that TBW is committed to ensuring there is redundancy in its system. Mr. Herd also committed to performing an analysis of a dual pipe configuration and value engineering as part of the 30% design for the project.

Mr. Mike Coates, representing Peace River Manasota Regional Water Supply Authority (PRMRWSA), provided a presentation for high ranked project Q272, Peace River Reservoir No. 3. He outlined the PRMRWSA regional vision for 2035. Mr. Coates provided a graph that outlined water supply capacity and proposed future regional needs. He provided historical background on this project. Mr. Coates provided an overview of the project, cost estimates, feasibility study, mitigation requirements and a timeline. He provided information on water system security maintained by the PRMWSA and its facilities. Mr. Coates stated that the Department of Homeland Security provided an audit of the physical and cyber vulnerabilities. This resulted in implementation of improved procedures. Mr. Coates responded to questions.

Mr. Ryan Taylor, representing Polk Regional Water Cooperative (PRWC), provided an update regarding the Board's request at the March Governing Board meeting. He outlined the objectives the Board required be completed before additional funding would be provided. This included information regarding a settlement agreement for the Central Florida Water Initiative (CFWI) rule challenge, signed project implementation agreements and final project definitions. Mr. Taylor addressed each item individually.

Mr. Taylor informed the Board that the PRWC signed a settlement agreement on March 19, 2021. He stated that implementation agreements for the Southeast Wellfield (project Q184) and the West Polk Wellfield (project Q216) were signed at the April 28, 2021 PRWC Board meeting. Mr. Taylor provided project definitions for both the Southeast Wellfield and the West Polk Wellfield.

Mr. Taylor explained the Water Infrastructure Financing Innovation Act (WIFIA) loan application process and the need for matching District funding to secure that loan. He stated the application process will begin in June.

Board Member Armstrong asked about the organizational structure of the entities associated with the projects. Mr. Taylor responded that the PRWC oversees the project boards. Ms. Seachrist explained that the PRWC is required to own, operate, and control any alternative water supply project the District would cooperatively fund.

Board Member Williamson asked why all the original 16 members did not sign on to the agreements. Mr. Taylor responded that based on future water projections for 2045, some members do not believe the additional water will be necessary. Board Member Weightman asked if the members that chose not to join initially will be afforded the option later. Mr. Taylor responded in the affirmative and explained the various mechanisms that would allow participation.

Secretary Smith asked if the WIFIA funding is not awarded, can the funding commitment from the District be reversed. Mr. Taylor responded that the PRWC would consider a new source of funding if the WIFIA loan is not granted. Mr. Brian Armstrong, Executive Director,

explained the cooperative funding reimbursement process. Chair Rice asked if all members of the PRWC commit to the financial liability. Mr. Taylor responded in the affirmative.

Board Member Hall asked if there was a “claw back” provision. Mr. Armstrong explained that if a cooperatively funded project is not completed and operated for the term of the cooperative agreement, the PRWC would be required to pay back the District. Those funds are then allocated into the general fund and redistributed to other projects through the annual budget process.

Chair Rice asked if the expectation is that the PRWC will service customers. Mr. Armstrong responded in the affirmative and explained that the funding agreement will provide additional details.

Mr. Hoecker outlined the recommendations which included a proposed cooperative funding agreement that meets our cooperative funding policy and includes alternative water supply funding from the state, the budgeting of funds as outlined in Resolution 18-06 and the approval of FY2022 CFI requests for project Q267, PRWC Demand Management Implementation. Mr. Hoecker stated an updated evaluation was provided for project Q267. The ranking for this project was revised from low to high. It was recommended that PRWC projects Q184, Southeast Wellfield and Treatment Facility and Q216, Southeast Transmission Pipeline to retain their recommended low ranking.

Mr. Hoecker stated that as a part of the initial third-party review for Southeast Wellfield an additional Lower Floridan Aquifer exploratory/test production well was recommended to be included during final design. He further stated that staff would be bringing forth a recommendation to the June Governing Board to fund this additional component as a standalone project.

Mr. Randy Smith, Natural Systems and Restoration Bureau Chief, provided a presentation regarding project W646, Sarasota Created Wetlands System. He provided an overview which included the location, project description, benefits associated, funding costs, and a timeline. Mr. Smith explained the regional benefit associated with this project. He explained the commitment from Sarasota County. Mr. Smith responded to questions.

Mr. Wills summarized the change that occurred since the April CFI meeting. He stated that the ranking for project Q267 ranking was revised from low to high.

Request to Speak Cards were received.

Mr. Jon Thaxton, representing Gulf Coast Community Foundation, spoke in favor of project W646.

Mr. Lou Costa, representing Coalition of City Neighborhood Associations, spoke in favor of project W646.

Mr. John Donahue spoke in favor of project W646.

Ms. Kathy Benz, representing Sarasota County Neighbor Hood Association, spoke in favor of project W646.

Ms. Edda Post spoke in favor of project W646.

Ms. Nancy Milholland, representing Conserve Bobby Jones Now, spoke in favor of project W646.

Ms. Christine Johnson, representing Conservation Foundation of the Gulf Coast, spoke in favor of project W646.

Mr. Norman Dumaine spoke in favor of project W646.

Staff recommended the Board consider the regional subcommittee funding recommendations for inclusion into the FY2022 RASB.

A motion was made to include the 1A, High, and Medium ranked projects, including Q267 and W646 into the FY2022 Recommended Annual Service Budget. The motion was seconded and passed unanimously. (Audio – 03:05:25)

5. OPERATIONS, LANDS, AND RESOURCE MONITORING COMMITTEE
Board Member Bispham called the Committee to order. (Audio – 03:06:30)

5.1 Consent Item(s) Moved to Discussion - None

5.2 Surplus Lands 5.0 Biennial Assessment

Ms. Ellen Morrison, Land Resources Bureau Chief, provided an overview of the surplus lands biennial assessment. Ms. Morrison presented a history of surplus assessments, a surplus lands summary, the Governing Board policy, review criteria, and the evaluation process.

Ms. Morrison identified parcels considered for surplus. She stated that when the District purchases lands, portions of those lands may be declared surplus at the time of acquisition. This is done if portions of the acquisition are not determined to be appropriate for conservation or other District needs.

Ms. Morrison provided information and explained the surplus assessments of two parcels being considered for surplus. These included Lake Panasoffkee LP-2 and Tampa By-Pass Canal TBC-21.

Ms. Morrison provided the Board with public comments received from Audubon Florida recommending against the surplus assessment of Lake Panasoffkee parcel LP-2. She stated that one of the conditions for surplus associated with this parcel states this parcel is to be sold subject to a conservation easement which will limit development and protect the environmental attributes of the parcel. The District believes this addresses the Audubon's concerns.

Ms. Morrison provided the Board with public comments received requesting the Tampa Bay By-Pass Canal parcel TBC-21 be considered for recreational use.

Chair Rice stated a Request to Speak Card was submitted for this item.

Mr. Charles Lee, Director of Advocacy for Florida Audubon, spoke against the surplus assessment of the Lake Panasoffkee LP-2 parcel.

Secretary Smith asked that consideration be given to the current circumstances related to land sales and the potential future impacts of surplusing these properties.

Mr. Brian Starford, Operations, Lands and Resource Monitoring Director, stated that careful evaluation has been done to support this recommendation. He reminded the Board that proceeds from these sales are used to purchase additional lands that better meets the District's areas of responsibility. He stated the District also has the option to withdraw a property that may have been approved for surplus, subject to Board approval. Mr. Armstrong stated the final sale of any surplus property must be approved by the Board.

Staff recommended the Board:

- Accept the District's 2021 Surplus Lands 5.0 Biennial Assessment conducted in accordance with Governing Board Policy.
- Approve, by a two-thirds majority vote, the surplus of properties originally acquired for conservation identified through the assessment process that are no longer needed for conservation purposes, and approve, by a majority vote, the surplus of properties originally acquired for District projects identified through the assessment process that are no longer needed by the District. Such properties are identified in Exhibit 1 and may continue to be conserved through less-than-fee ownership or sold for the highest price obtainable.

A motion was made and seconded to approve staff's recommendation. The motion passed unanimously. (Audio – 03:19:29)

5.3 2021 Hurricane Preparedness

Mr. Kawika Bailey, emergency coordinating Officer, provided a presentation. This included a review of the 2020 hurricane season, 2021 hurricane forecast, overview of the District's responsibilities as related to the State Emergency Response Team, the District's primary responsibilities, and preparedness coordination.

This item was presented for information only. No action was required.

6. REGULATION COMMITTEE

Board Member Germann called the Committee to Order. (Audio – 03:32:10)

6.1 Consent Item(s) Moved to Discussion – None

Vice Chair Schleicher asked about the status of his request for a presentation regarding the overpumpage report. Mr. Armstrong responded that staff is preparing a presentation for the June Board meeting

6.2 Denials Referred to the Governing Board

None were presented.

7. GENERAL COUNSEL'S REPORT

7.1 Consent Item(s) Moved to Discussion

2.5 Authorization to Issue Administrative Complaint and Order – Permit Condition Violations – Christ Church of Longboat Key, Inc. – Environmental Resource Permit No. 43007606.002 – CT No. 413561 – Manatee County

A Request to Speak Card was received for this item.

Ms. Bryony Swift, representing Porges, Hamlin, Knowles and Hawk, P.A., provided information and asked the Board to deny the authorization to issue the Administrative Complaint and Order or table this item for consideration until the June Board meeting.

The Board agreed to postpone this item until the June Board meeting.

Staff recommended the Board:

1. Authorize District staff to issue an Administrative Complaint and Order to the Permittee to obtain compliance with District rules.
2. Authorize District staff to initiate an action in Circuit Court against the Permittee to recover a civil penalty/administrative fine, enforcement costs, litigation costs, and attorneys' fees, if appropriate.
3. Authorize District staff to initiate an action in Circuit Court to enforce the terms of the Administrative Complaint and Order, if necessary.

7.2 Central Florida Water Initiative Rulemaking Update

Mr. Chris Tumminia, General Counsel, provided a presentation regarding the Central Florida Water Initiative (CFWI) rulemaking update. This included an overview with historical information, summary of rule changes and status of rule implementation.

Mr. Tumminia provided a summary and explanation of each proposed rule change. He presented information on the rules that were not changed. Mr. Tumminia responded to questions.

This item was presented for information only. No action was required.

8. COMMITTEE/LIAISON REPORTS

8.1 Environmental Advisory Committee

A written summary of the April 13 meeting was provided.

8.2 Well Drillers Advisory Committee

A written summary of the April 7 meeting was provided.

9. EXECUTIVE DIRECTOR'S REPORT

9.1 Executive Director's Report

Mr. Brian Armstrong, Executive Director, welcomed the new Board Members, John Hall and William Hogarth and congratulated Jack Bispham on his reappointment. He also congratulated Board Members Williamson, Armstrong, Mitten and Barnett on their Senate confirmations.

Mr. Armstrong informed the Board that there are currently four contained wildfires on District properties.

Mr. Armstrong stated that beginning in June, public comments for Board meetings will be required in person.

Mr. Armstrong informed the Board that Eryn Worthington, Regulation Business Development Project Manager, received the Rookie of the year Award from the Sterling Council.

Mr. Armstrong stated that Chris Tumminia, Deputy General Counsel, has accepted the position of General Counsel. He will be replacing Karen West when she retires in July.

10. CHAIR'S REPORT

10.1 Chair's Report

Chair Rice stated the next meeting is scheduled for Tuesday, June 22 at 9:00 a.m., at the Brooksville Office.

10.2 Employee Milestones

Chair Rice recognized staff who reached at least 20 years of service with the District and thanked them. The following staff was recognized: Teresa McDonald

ADJOURNMENT

The meeting adjourned at 1:03 p.m.