

MINUTES OF THE MEETING

GOVERNING BOARD SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT

BROOKSVILLE, FLORIDA

AUGUST 27, 2019

The Governing Board of the Southwest Florida Water Management District (District) met for its regular meeting at 9:00 a.m., on August 27, 2019, at the District's Brooksville Office, 2379 Broad Street Brooksville, Florida. The following persons were present:

Board Members Present

Mark Taylor, Chair
Michelle Williamson, Vice Chair
Joel Schleicher, Secretary
Kelly S. Rice, Treasurer
H. Paul Senft, Member
Rebecca Smith, Ph.D., Member
James G. Murphy, Member

Board Members Absent

John Henslick, 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
Brian Starford, Acting Division Director
Michael Molligan, Division Director
Jennette Seachrist, Division Director
Michelle Hopkins, 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 (00:00)

1. Call to Order

Chair Mark Taylor called the meeting to order and opened the public hearing. Secretary Schleicher stated a quorum was present.

2. Invocation and Pledge of Allegiance

Board Member Williamson offered the invocation and led the Pledge of Allegiance to the Flag of the United States of America.

Chair Taylor 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 Taylor 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 Taylor 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 Taylor 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: Brian Armstrong, Jack Garvey, Mark Hurst, Scott Hickerson, Deborah Ammendola and Dudley Black.

4. Additions/Deletions to Agenda

Mr. Brian Armstrong, executive director, stated there were no changes to the agenda.

Secretary Schleicher asked that the following items be moved to Discussion:

Resource Management Committee

6. FARMS – Jack Paul Properties, Inc. – Redwing Grove Phase 2 (H778), DeSoto County

General Counsel's Report

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

a. Approval of Consent Order – Unauthorized Wetland and Floodplain Activities – Jak Rentals, LLC – CT No. 380009– Polk County, Florida

Board Member Smith asked that the following item be moved to Discussion:

General Counsel's Report

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

b. Approval of Consent Order – Unauthorized Construction – Steven B. Zink – CT No. 389961 – Sumter County

Chair Taylor stated there was good cause to approve the amended agenda as allowed by Section 120.525, Florida Statutes.

5. Public Input for Issues Not Listed on the Published Agenda

Ms. Taren Wadley provided an update to the Board regarding unwanted fish harvesting. She also asked that more consideration be given to the relationship between unwanted nitrogen/phosphorus and fish.

Mr. David Ballard Geddes spoke regarding the constitution and water supply.

Consent Agenda

Resource Management Committee

6. FARMS – Jack Paul Properties, Inc. – Redwing Grove Phase 2 (H778), DeSoto County

Staff recommended the Board:

1. Approve the Jack Paul Properties, Inc. – Redwing Grove Phase 2 project for a not-to-exceed project reimbursement of \$295,500 with \$295,500 provided by the Governing Board;
2. Authorize the transfer of \$295,500 from fund 010 H017 Governing Board FARMS Fund to the H778 Jack Paul Properties, Inc. – Redwing Grove Phase 2 project fund;
3. Authorize the Assistant Executive Director to sign the agreement.

7. FARMS – Lykes Bros., Inc. Lake Placid Grove Phase 2 (H779), Highlands County

Staff recommended the Board:

1. Approve the Lykes Bros., Inc. - Lake Placid Grove Phase 2 project for a not-to-exceed project reimbursement of \$137,112 with \$137,112 provided by the Governing Board.
2. Authorize the transfer of \$137,112 from fund 010 H017 Governing Board FARMS funds to the H779 Lykes Bros, Inc. - Lake Placid Grove Phase 2 project fund;
3. Authorize the Assistant Executive Director to sign the agreement.

8. Conservation Easements for Restoration Projects – Ungarelli Preserve Habitat Restoration (W603)

Staff recommended the Board approve the form of the proposed conservation easement over the Ungarelli Preserve Habitat Restoration project area.

9. Knowledge Management: Cooperative Funding Initiative Governing Board Policy Staff recommended the Board approve the changes to the Cooperative Funding Initiative Governing Board Policy as presented at the July 23, 2019 Governing Board meeting.

10. Authorize Staff to Initiate the Process to Update the Surface Water Improvement and Management Program Priority List

Staff recommended the Board authorize staff to initiate the process to update the District's Surface Water Improvement and Management (SWIM) Program priority list.

Finance/Outreach & Planning Committee

11. Knowledge Management: Capital Assets Governing Board Policy

Staff recommended the Board Approve the Capital Assets Governing Board Policy as revised.

12. Knowledge Management: Office of Inspector General Charter Governing Board Policy

Staff recommended the Board approve the Office of Inspector General Charter Governing Board Policy as revised and the deletion of the Inspector General - Roles and Responsibilities Governing Board Policy.

13. Budget Transfer Report

Staff recommended the Board approve the Budget Transfer Report covering all budget transfers for July 2019.

Operations, Lands and Resource Monitoring Committee

14. Renewal of Management Agreement with South Florida Water Management District – Lake Marion Creek – SWF Parcel Number 20-597-102X

Staff recommended the Board:

- Approve renewal of Management Agreement with South Florida Water Management District for Lake Marion Creek, SWF Parcel Number 20-597-102X.
- Authorize the Governing Board Chairman to execute the agreement.

15. Right of First Refusal to Acquire the Remainder Fee Interest in a Conservation Easement – R.P. Ranch – SWF Parcel No. 20-780-102C

Staff recommended the Board:

- Approve declining the right of first refusal to purchase the remainder fee interest over SWF Parcel No. 20-780-102C encumbered by a District conservation easement.
- Authorize the Executive Director to execute the necessary documents to decline the right of first refusal on SWF Parcel 20-780-102C.

16. Management Agreement with the City of Oldsmar – Lake Tarpon Outfall Canal Park – SWF Parcel No. 16-001-121X

Staff recommended the Board:

- Approve the Management Agreement with the City of Oldsmar for a portion of the Lake Tarpon Outfall Canal property for a ten-year term with options to renew for two successive ten-year terms.
- Authorize the Governing Board Chairman to execute the agreement.
- Authorize the Executive Director to approve the options to renew for two successive ten-year terms.

17. Second Amendment – Management Agreement with Citrus County – Chassahowitzka River Campground – Chassahowitzka River and Coastal Swamps – SWF Parcel No. 15-347-105X

Staff recommended the Board:

- Approve the Second Amendment to the Management Agreement with Citrus County – SWF Parcel No. 15-347-105X.
- Authorize the Governing Board Chairman to execute the amendment.

Regulation Committee

18. Individual Water Use Permits Referred to the Governing Board – None

General Counsel's Report

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

a. Approval of Consent Order – Unauthorized Wetland and Floodplain Activities – Jak Rentals, LLC – CT No. 380009 – Polk County, Florida

Staff recommended the Board:

1. Approve the proposed Consent Order
2. Authorize District staff to pursue additional enforcement measures to obtain compliance with the terms and conditions of the approved Consent Order, including filing any appropriate actions in Circuit Court, if necessary.

b. Approval of Consent Order – Unauthorized Construction – Steven B. Zink – CT No. 389961 – Sumter County

Staff recommended the Board:

1. Approve the proposed Consent Order.
2. Authorize District staff to pursue additional enforcement measures to obtain compliance with the terms and conditions of the approved Consent Order, including filing any appropriate actions in Circuit Court, if necessary.

20. Rulemaking - None

Executive Director's Report

21. Annual Calendar for Fiscal Year 2019–2020 Meeting Dates

Staff recommended the Board approve the meeting dates as presented.

22. Approve Governing Board Minutes – July 23, 2019

Staff recommended the Board approve the minutes as presented.

A motion was made and seconded to approve the Consent Agenda as amended. The motion carried unanimously. (00:12:38)

Chair Taylor relinquished the gavel to Resource Management Committee Chair Smith, who called the meeting to order. (00:12:55)

Resource Management Committee

Discussion

23. Consent Item(s) Moved for Discussion

6. FARMS – Jack Paul Properties, Inc. – Redwing Grove Phase 2 (H778), DeSoto County

Mr. Chris Zajac, Facilitating Agricultural Resource Management Systems (FARMS) Program manager provided a presentation that provided an overview of the Redwing Grove Phase 2 project.

Staff recommended the Board:

1. Approve the Jack Paul Properties, Inc. - Redwing Grove Phase 2 project for a not-to-exceed project reimbursement of \$295,500 with \$295,500 provided by the Governing Board;
2. Authorize the transfer of \$295,500 from fund 010 H017 Governing Board FARMS Fund to the H778 Jack Paul Properties, Inc. - Redwing Grove Phase 2 project fund;
3. Authorize the Assistant Executive Director to sign the agreement.

A motion was made and seconded to approve staff's recommendation. The motion carried with six in favor and one opposed. (00:15:13)

Submit & File Reports

- 24. Minimum Flows and Minimum Water Levels Priority List and Schedule Update**
- 25. Lower Hillsborough River Recovery Strategy Implementation – Annual Update**

Routine Reports

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

- 26. Minimum Flows and Levels Status Report**
- 27. Significant Water Resource and Development Projects**

Committee Chair Smith relinquished the gavel to the Finance/Outreach & Planning Committee Chair Rice, who called the meeting to order. (00:15:37)

Finance/Outreach & Planning Committee

Discussion

- 28. Consent Item(s) Moved for Discussion - None**

- 29. Knowledge Management: Risk Management and Safety Governing Board Policy**

Ms. Kelley Rexroad, Human Resources Office chief, presented an overview of the Risk Management and Safety Governing Board Policy. She outlined the purpose of this policy. She stated it is recommended this policy be changed from a Governing Board Policy to an Executive Procedure. If approved, she stated a recommendation to deem the policy obsolete will be included as a consent item in the September 2019 Board packet.

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

- 30. Knowledge Management: Performance Incentive Program Governing Board Policy**

Ms. Kelley Rexroad, Human Resources Office chief, presented an overview of updates that have been made to the Performance Incentive Program Governing Board Policy. She stated the revised policy will be included as a consent item in the September 2019 Board packet and approval will be requested at that time.

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

- 31. Fiscal Year (FY) 2019 Board Designated Encumbrance Request**

Mr. Michael Molligan, Employee and External Relations Division director, provided a presentation regarding FY2019 Board designated encumbrance request. Mr. Molligan provided an overview of the 2019 modified budget, projected expenditures and the salary budget.

Mr. Molligan stated the District is requesting the utilization of \$1 million for staff merit increases. He provided an overview of this request and information from FY2018.

Mr. Molligan provided a presentation that outlined the request for implementation of recommendations from a salary survey. He explained that salary surveys are completed

approximately every three years. He provided an overview of the recommendations, the impacts and funding request to implement these recommendations.

Staff recommended the Board approve the encumbrance of \$1,140,000 from the FY2019 Salary appropriation to carry forward into FY2020 for recommended salary adjustments for positions identified in the 2019 Salary Survey and staff merit-based salary increases.

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

Submit & File Reports – None

Routine Reports

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

32. Treasurer's Report and Payment Register

33. Monthly Financial Statement

34. Monthly Cash Balances by Fiscal Year

35. Comprehensive Plan Amendment and Related Reviews Report

Committee Chair Rice relinquished the gavel to the Operations, Lands and Resource Monitoring Committee Chair Murphy, who called the meeting to order. (00:28:58)

**Operations, Lands and Resource Monitoring Committee
Discussion**

36. Consent Item(s) Moved for Discussion - None

37. Knowledge Management: Cooperative Land Management Agreements Governing Board Policy

Mr. Jerry Mallams, Operations & Land Management Bureau chief, provided a presentation that outlined the modifications that are being recommended for the Cooperative Land Management Agreements Governing Board policy.

Mr. Mallams stated the revised policy will be included as a consent item in the September 2019 Board packet and approval will be requested at that time.

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

Submit & File Reports

38. Hydrologic Conditions Report

Chair Taylor asked Mr. Brian Starford, Operations, Lands and Resource Monitoring Division acting director to provide an update regarding recent flooding issues.

Mr. Starford informed the Board that all 86 of the District structures were being monitored 24 hours a day. He stated the Tampa Bypass Canal is being operated to assist in routing water to the Hillsborough River detention area and down the Tampa Bypass Canal. Mr. Starford stated the District is coordinating with Tampa Bay Water, City of Tampa and City of Temple Terrace.

Mr. Starford stated that Lake Panasoffkee is at its third highest level. To improve the flow of the Outlet River, the District coordinated with the Florida Wildlife Conservation Commission to harvest hydrilla in Lake Panasoffkee. As a result, flow in the river increased from 210 cubic feet per second (ft³/s) to approximately 450 ft³/s.

The District is preparing for impact from tropical storm Dorian through various District-wide efforts, which includes communications for public outreach, status updates for lake and river systems and issuance of emergency field authorizations.

Routine Reports

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

39. Surplus Lands Update

40. Structure Operations

41. Significant Activities

Committee Chair Murphy relinquished the gavel to the Regulation Committee Chair Schleicher, who called the meeting to order. (00:38:36)

Regulation Committee

Discussion

42. Consent Item(s) Moved for Discussion - None

43. Denials Referred to the Governing Board

Secretary Schleicher asked about overpumpage variances on the monthly report provided to the Board. Ms. Michelle Hopkins, Regulation Division director, stated a presentation regarding the water use permitting process, which will include overpumpage variances, will be provided at the October Board meeting.

Submit & File Reports – None

Routine Reports

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

44. Dover/Plant City Water Use Caution Area Flow Meter and Automatic Meter Reading (AMR) Equipment Implementation Program Update

45. Overpumpage Report

46. Individual Permits Issued by District Staff

Committee Chair Schleicher relinquished the gavel to Chair Taylor. (00:39:50)

General Counsel's Report

Discussion

47. Consent Item(s) Moved for Discussion

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

Secretary Schleicher and Board Member Smith expressed concerns regarding the District's process negotiating consent orders.

Ms. Karen West, general counsel, explained that the penalties are calculated pursuant to a Penalty Matrix developed by the District. The severity and level of impact is considered in determining the penalty.

a. Approval of Consent Order – Unauthorized Wetland and Floodplain Activities – Jak Rentals, LLC – CT No. 380009– Polk County, Florida

Staff recommended the Board:

1. Approve the proposed Consent Order
2. Authorize District staff to pursue additional enforcement measures to obtain compliance with the terms and conditions of the approved Consent Order, including filing any appropriate actions in Circuit Court, if necessary.

A motion was made and seconded to approve staff's recommendation. The motion carried unanimously. (00:48:46)

b. Approval of Consent Order – Unauthorized Construction – Steven B. Zink – CT No. 389961 – Sumter County

Board Member Smith expressed her concerns regarding the District's ability to ensure that the conditions of the Consent Order are met. Ms. Smith asked about the process if the violator becomes non-compliant after the Consent Order is approved. She asked if there is an option for a bond to be required and what wetland certifications are required.

Mr. Jamie Fussell, staff attorney, responded to questions and explained the conditions outlined in the Consent Order.

Board Member Smith made a motion to table the vote on this item until the September Board meeting. The motion was seconded. The motion failed with three in favor and four opposed (00:53:16/01:06:10)

Staff recommended the Board:

1. Approve the proposed Consent Order.
2. Authorize District staff to pursue additional enforcement measures to obtain compliance with the terms and conditions of the approved Consent Order, including filing any appropriate actions in Circuit Court, if necessary.

Board Member Senft made a motion to amend staff's recommendation to include language stating if the financial terms of the consent order are not met, the property would be forfeited to the District. The motion failed with one in favor and six opposed. (01:07:18/01:17:20)

A motion was made and seconded to approve staff's recommendation. The motion carried with five in favor and two opposed. (01:07:06/01:17:40)

Ms. West provided the Board with an update regarding the rule challenge filed by the Rainbow River Group for the Rainbow River Minimum Flows and Levels (MFLs). She stated there has been a delay in the process due to issues with the transcripts of the hearing. Ms. West stated that as a result of the issues with the transcripts the Administrative Law Judge be delayed in the issuance of a final order by the September deadline. She will keep the Board apprised of this matter.

Submit & File Reports – None

Routine Reports

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

48. August 2019 Litigation Report

49. August 2019 Rulemaking Update

Committee/Liaison Reports

50. Industrial Advisory Committee

A written report for the August 13 meeting was provided.

51. Public Supply Advisory Committee

A written report for the August 13 meeting was provided.

52. Other Committee/Liaison Reports

Executive Director's Report

53. Executive Director's Report

Mr. Brian Armstrong, executive director, recognized District employee Tim Ward, who passed away in August.

b. Approval of Consent Order – Unauthorized Construction – Steven B. Zink – CT No. 389961 – Sumter County

Board Member Smith expressed her concerns regarding the District's ability to ensure that the conditions of the Consent Order are met. Ms. Smith asked about the process if the violator becomes non-compliant after the Consent Order is approved. She asked if there is an option for a bond to be required and what wetland certifications are required.

Mr. Jamie Fussell, staff attorney, responded to questions and explained the conditions outlined in the Consent Order.

Board Member Smith made a motion to table the vote on this item until the September Board meeting. The motion was seconded. The motion failed with three in favor and four opposed (00:53:16/01:06:10)

Staff recommended the Board:

1. Approve the proposed Consent Order.
2. Authorize District staff to pursue additional enforcement measures to obtain compliance with the terms and conditions of the approved Consent Order, including filing any appropriate actions in Circuit Court, if necessary.

Board Member Senft made a motion to amend staff's recommendation to include language stating if the financial terms of the consent order are not met, the property would be forfeited to the District. The motion failed with one in favor and six opposed. (01:07:18/01:17:20)

A motion was made and seconded to approve staff's recommendation. The motion carried with five in favor and two opposed. (01:07:06/01:17:40)

Ms. West provided the Board with an update regarding the rule challenge filed by the Rainbow River Group for the Rainbow River Minimum Flows and Levels (MFLs). She stated there has been a delay in the process due to issues with the transcripts of the hearing. Ms. West stated that as a result of the issues with the transcripts the Administrative Law Judge be delayed in the issuance of a final order by the September deadline. She will keep the Board apprised of this matter.

Submit & File Reports – None

Routine Reports

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

48. August 2019 Litigation Report

49. August 2019 Rulemaking Update

Committee/Liaison Reports

50. Industrial Advisory Committee

A written report for the August 13 meeting was provided.

51. Public Supply Advisory Committee

A written report for the August 13 meeting was provided.

52. Other Committee/Liaison Reports

Executive Director's Report

53. Executive Director's Report

Mr. Brian Armstrong, executive director, recognized District employee Tim Ward, who passed away in August.

Mr. Armstrong stated that Board Member Henslick has resigned from the Board and read his resignation letter to the Board.

Mr. Armstrong stated that based on discussions regarding consent orders, the District's enforcement process will be presented at a future Board meeting.

Mr. Armstrong stated that Jan Burke, Environmental Resource Permitting (ERP) manager, assisted the Florida Department of Transportation (FDOT) with a cost-saving measure. It involved modifying 105 FDOT ERP permits and the frequency of inspections associated with the permits. This will save \$170,000 to \$200,000 over a five-year period and earned a productivity award from the Florida Tax Watch.

Mr. Armstrong informed the Board of a charity drive organized by the District Employee Committee. The Employee Committee held the "Starting Off on the Right Foot Sneaker Drive Challenge." They collected over 1,000 pairs of shoes for four Title I elementary schools within the District.

Chair's Report

54. Chair's Report

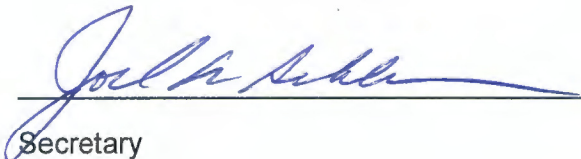
Chair Taylor welcomed Michelle Hopkins as the new Regulation director.

The next meetings scheduled are as follows: the tentative budget hearing on Tuesday, September 10 at 5:01 p.m., in the Tampa office; the Governing Board meeting, Tuesday, September 24 at 3:00 p.m., followed by the final budget hearing at 5:01 p.m., in the Tampa office.

55. Other

56. Employee Milestones

The meeting was adjourned at 10:31 a.m.


Secretary


Chair

The Southwest Florida Water Management District (District) does not discriminate on the basis of disability. This nondiscrimination policy involves every aspect of the District's functions, including access to and participation in the District's programs and activities. Anyone requiring reasonable accommodation as provided for in the Americans with Disabilities Act should contact the District's Human Resources Office Chief, 2379 Broad St., Brooksville, FL 34604-6899; telephone (352) 796-7211 or 1-800-423-1476 (FL only), ext. 4703; or email ADACoordinator@WaterMatters.org. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955 8771 (TDD) or 1(800)955-8770 (Voice).