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## South Florida Water Management District

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### GOVERNING BOARD MEETING MINUTES

August 14, 2008

9:00 AM

District Headquarters - B-1 Auditorium

3301 Gun Club Road

West Palm Beach, FL 33406

Members Present:

**Eric Buermann, Chair**

**Charles Dauray**

**Shannon Estenoz**

**Melissa Meeker**

**Jerry Montgomery**

**Patrick Rooney**

Members Absent:

**Michael Collins**

**Paul C. Huck Jr.**

1. **Call to Order** - Eric Buermann, Chairman, Governing Board

Chair Buermann called the meeting to order at 9:01 am.

2. **Pledge of Allegiance** - Eric Buermann, Chairman, Governing Board

Mr. Rooney led the group in the Pledge of Allegiance.

3. **Arthur R. Marshall Foundations Annual Student Photography Project** - Presented by Carol Wehle, Executive Director

Ms. Wehle recognized the students who participated in the Arthur R. Marshall Foundation's Annual Student Photography Project.

4. **Employee Recognitions** - Presented by Carol Wehle, Executive Director

Ms. Wehle recognized the August Employee and Team of the Month.

5. **Agenda Addendum** - Annette Carter, Director, Office of Governing Board and Executive Services

Annette Carter, Director, Office of Governing Board and Executive Services read into the record the agenda addendum:

The Chair, as the person designated to preside at this meeting has determined that the changes to the agenda as reflected in the change sheet that has been printed and is available to the public and posted at the District's website are required in order to facilitate the conduct of this meeting efficiently and to provide as much information as possible to the Board and to the public regarding the items to be considered.

**6. Abstentions by Board Members from items on the Agenda**

There were no abstentions by Board members.

**7. Project & Lands Committee Report - Patrick Rooney, Chair**

Mr. Rooney provided the Project and Lands Committee report held on August 13, 2008. He reported on the action items and requested the Board formally vote on the District's Beneficial Interest and Disclosure Affidavit.

Public Comment: John Marshall, Arthur R. Marshall Foundation, commented on land management and the purchase of U.S. Sugar. He requested a District liaison with the Palm Beach County Commission.

Motion made by Melissa Meeker, seconded by Jerry Montgomery to Approve the following item(s): 7

To approve the Beneficial Interest and Disclosure Affidavit.

Vote called. Voting yes: Melissa Meeker, Jerry Montgomery, Charles Dauray, Shannon Estenoz, Patrick Rooney. Not present: Eric Buermann. Motion passed.

**8. Audit & Finance Committee Report - Charles Dauray, Chair**

Mr. Dauray reported on the Audit & Finance Committee meeting held on August 13th. Mr. Dauray reported the Committee members supported amending Sharpton Brunson & Company's existing contract in the amount of \$125,000 to provide due diligence and valuation services for the pending U.S. Sugar acquisition.

This contract amendment has been added on the addendum to the agenda as Agenda Item #62, Page 13.

**9. Human Resources & Outreach Committee Report - Jerry Montgomery, Chair**

Mr. Montgomery reported on the Human Resources & Outreach Committee meeting held on August 13th and asked the Board to move forward with the ten week Tri-Rail pilot program and have staff issue a Purchase Order to the vendor with the lowest responsible quote.

Motion made by Melissa Meeker, seconded by Charles Dauray to approve the Tri-Rail Pilot Program. Vote called. Voting yes: Melissa Meeker, Charles Dauray, Jerry Montgomery, Shannon Estenoz, Patrick Rooney. Not present: Eric Buermann. Motion passed.

Mr. Montgomery reported on the staffing plan for FY09. He requested Board approval to direct staff to submit the staffing package to the Governor's Office as part of the proposed FY09 budget.

Motion made by Patrick Rooney, seconded by Charles Dauray to direct staff to submit staffing packages to the Governor's Office as part of the proposed FY09 budget. Vote called. Voting yes: Melissa Meeker, Charles Dauray, Jerry Montgomery, Shannon Estenoz, Patrick Rooney. Not present: Eric Buermann. Motion passed.

## Consent Agenda

### **10. Public Comment on Consent Agenda**

Public Comment: Newton Cook, United Waterfowlers, commented on hunting in the STAs and commended the WRAC Lake Okeechobee Committee for their hard work regarding the hunting issues.

Public Comment: Alexandria Larsen, citizen, commented on mitigation of the Seminole Orange Plaza, the Dell Kalhert permit, and the FPL West County Energy Center Unit 3 project.

Mr. Brown responded to Ms. Larsen's concerns of the Seminole Orange Plaza and Dell Kalhert permit.

Mr. Ammon responded to Ms. Larsen's concern of the FPL project and rock mining.

Public Comment: Rosa Durando, Audubon Society, commented on comprehensive land use plans and the FPL West County Energy Center Unit 3 project.

### **11. Pull Items for Discussion from Consent Agenda**

Mr. Dauray pulled Agenda Item 13, Page 6, #3, Stoneybrook North, Application No. 011121-14; #4, Stoneybrook North, Application No. 050602-25; Page 7, #5, Stoneybrook North, Application No. 050602-22.

### **12. Board Comment on Consent Agenda**

There was no Board comment.

## **Water Resources**

**13. Water Use Permit Applications**

Surface Water Management Permit Applications (includes Conservation Easements)

Environmental Resource Permit Applications (includes Conservation Easements)

Environmental Resource Permit Extensions

Consent Agreements

Enforcement Actions

Page 13 No 2 Tesoro (WU): **Postponed** to September Board

Page 6 No 3 Stoneybrook North (ERP): **Moved** to Discussion (Item 60)

Page 6 No 4 Stoneybrook North (WU): **Moved** to Discussion (Item 60)

Page 7 No 5 Stoneybrook North (WU): **Moved** to Discussion (Item 60)

Page 16 No 1 FPL Turkey Point Uprate (Power Plant Site Certification): **Added**

**14. Right of Way Occupancy New Permits**

Right of Way Occupancy Permit Modifications

Right of Way Occupancy Permits for Denial

Right of Way Occupancy Permit Requests with Waiver of District Criteria

**15. Enter Final Orders Concurring with the Granting of Temporary Variances from Water Shortage Restrictions Imposed within the Boundaries of the South Florida Water Management District (Dean Powell, ext. 6787)**

**16. Enter Final Orders Denying Applications for Variances from Water Shortage Restrictions Imposed within the Boundaries of the South Florida Water Management District (Dean Powell, ext. 6787)**

**17. 2008-800 A Resolution of the Governing Board of the South Florida Water Management District to authorize an amendment to contract 4600000525 with the University of Florida for geomorphic monitoring of the Kissimmee River Restoration, South-Central Florida, to extend the term by one year from October 1, 2008 to September 30, 2009, in an amount not-to-exceed \$54,000, for which ad valorem funds are subject to Governing Board approval of the FY09 budget; providing an effective date. (Contract Number 4600000525) (Jose Valdes, ext. 6734)**

**18. Authorize transmittal of the District's Agency Report on the FPL West County Energy Center Unit 3 Project to the Florida Department of Environmental Protection (Damon Meiers, ext 6876)**

19. Approve Water Use Permit Modification and Renewal Application 071228-9 for Lee County Utilities North Lee County System public water supply for the projected water use demands with a 20-year duration (Lee County) (Marjorie Craig, ext 2987)

### **Everglades Restoration Resources**

20. **2008-801** A Resolution of the Governing Board of the South Florida Water Management District approving Staff recommendations for releases of District canal, mineral and road reservations, releases of Trustees of the Internal Improvement Trust Fund (T.I.I.T.F.) canal reservations, and issuance of non-use commitments; providing an effective date. (Vinola Rada, ext. 6836)
  
21. **2008-802** A Resolution of the Governing Board of the South Florida Water Management District approving the surplus and conveyance of fee title interests containing 0.81 acres, more or less, to Orange County; all lying within Section 36, Township 24 South, Range 28 East, Shingle Creek Project, Orange County, Florida; approving the waiver of the application fee; subject to satisfaction of certain requirements; providing an effective date. (Carla Segura, ext. 2469)
  
22. **2008-803** A Resolution of the Governing Board of the South Florida Water Management District to authorize a third amendment to Contract Number 3600000794 with Corkscrew Regional Ecosystem Watershed Land and Water Trust, Inc., to extend the term by three (3) years, from October 1, 2008 to September 30, 2011, in an amount not to exceed \$327,816 of which \$109,272 will be subject to Governing Board approval of the FY09 budget and the remainder will be subject to Governing Board approval of the FY10 and FY11 budgets; providing an effective date. (Contract Number 3600000794-A03). (Steve Coughlin, ext. 2603)
  
23. **2008-804** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a Cooperative Agreement with Osceola County and the City of Kissimmee for the joint management of properties within the Shingle Creek Save Our Rivers Project utilizing wetland mitigation funds from the Central Florida Beltway Trust Fund, not to exceed \$100,000 per year in in-kind and contract services over the ten (10) year term of the agreement, subject to annual Governing Board budget approval; providing an effective date. (Contract Number 4600001341) (Steve Coughlin, ext. 2603)
  
24. **2008-805** A Resolution of the Governing Board of the South Florida Water Management District approving conveyance of an easement to correct an error contained in a 1968 condemnation action containing 0.26 acres, more or less, in Section 14, Township 40 South, Range 37 East, Structure S-153 Right of Way, Martin County, Florida; authorize the conveyance to the applicant at no cost and approve the waiver of the application fee; subject to certain conditions; providing an effective date. (Marcy Zehnder, ext. 6694)

25. **2008-806** A Resolution of the Governing Board of the South Florida Water Management District authorizing the Florida Fish and Wildlife Conservation Commission to establish Stormwater Treatment Area (STA) 2 as a Public Small Game Hunting Area in accordance with Rule 68A-13.007, F.A.C., and administer waterfowl hunts at STA 2 for the 2008-09 waterfowl hunting season, subject to certain terms and conditions; providing an effective date. (Steve Coughlin, ext. 2603)
26. **2008-807** A Resolution of the Governing Board of the South Florida Water Management District to authorize a no-cost contribution of up to 80,000 cubic yards of fill material under the second amendment to the Project Cooperation Agreement between the U.S. Army Corps of Engineers and the South Florida Water Management District for modification of the Central and Southern Florida Flood Control Project to improve water deliveries into Everglades National Park for the purpose of implementing the Tamiami Trail features; providing an effective date.

### **Executive Office**

29. **2008-810** A Resolution of the Governing Board of the South Florida Water Management District to authorize District staff to file suit, pursue any appropriate remedies, and take all appropriate action, including the authority to settle the matter, subject to the approval of the Executive Director, against the City of Stuart and any other appropriate or necessary parties, in the Martin County Circuit Court or other appropriate forum, to assure compliance with the 1994 Consent Agreement entered into between the District and the City requiring the City to mitigate for adverse impacts to permitted uses of water caused by the pumping of contaminated water by the City. (Doug MacLaughlin, Ext. 2153)
30. **2008-811** A Resolution of the Governing Board of the South Florida Water Management District to authorize District staff to intervene or appear as amicus curiae, pursue any and all appropriate defenses or relief, and take all appropriate action staff deems necessary to protect the Districts interests, subject to approval of the Executive Director, in the matter of Miccosukee Tribe of Indians of Florida v. United States of America and Mary Peters, Secretary, U.S. Department of Transportation, United States District Court for the Southern District of Florida, Case No. 08-21703-CIV-Ungaro, and providing an effective date. (Chris Pettit, Ext. 6423)
31. **2008-812** A Resolution of the Governing Board of the South Florida Water Management District to authorize District staff to intervene or appear as amicus curiae, pursue any and all appropriate defenses or relief, and take all appropriate action staff deems necessary to protect the Districts interests, subject to approval of the Executive Director, in the matter of Miccosukee Tribe of Indians of Florida v. Van Antwerp in Official Capacity as Commander of the U.S. Army Corps of Engineers, Geren, Acting Secretary of the Army, Schroedel in Official Capacity as Division Engineer, and Grosskruger in Official Capacity as District Engineer, United States District Court for the Southern District of Florida, Case No. 08-21747-CIV-Bandstra, and providing an effective date. (Chris Pettit, Ext. 6423)

32. **2008-813** A Resolution of the Governing Board of the South Florida Water Management District to amend a contract with Cecile I. Piverotto, Esq. for legal services regarding environmental resources for an amount not to exceed \$230,000, for which \$5,000 is budgeted with FY08 ad valorem funds and \$75,000 is subject to Governing Board approval of FY09 budget. (Elizabeth Ross x6257)
33. **2008-814** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into an amendment to purchase order 4500021534 with Zenith Infoway, Inc. as a Special Procurement using the State of Florida Contract 973-561-06-1, for an SAP Controlling Consultant from August 15, 2008 through September 30, 2009, in the amount of \$314,360 for which \$24,360 of ad valorem funds are budgeted in FY08 and the remainder is subject to Governing Board approval of the FY09 budget. (Purchase Order 4500021534, Project Manager: Bernardo Camarena, ext. 6421).
34. **2008-815** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into an amendment to purchase order 4500021534 with Zenith Infoway, Inc. as a Special Procurement using the State of Florida Contract 973-561-06-1, for an SAP HR Functional Consultant from August 15, 2008 through September 30, 2009, in the amount of \$363,000 for which \$33,000 of ad valorem funds are budgeted in FY08 and the remainder is subject to Governing Board approval of the FY09 budget. (Purchase Order 4500008780). (Purchase Order 4500021534, Project Manager: Bernardo Camarena, ext. 6421).

#### **Corporate Resources**

35. **2008-816** A Resolution of the Governing Board of the South Florida Water Management District to authorize an amendment to contract 4600001030 with Aspen Skees Road LLC, for the Chemistry Lab lease and authorize a Waiver of Competition as an exception to the general standards of competition, to extend the term by 4 years, from January 11, 2010 to January 10, 2014, in the amount not to exceed \$680,743 which is subject to Governing Board approval of the FY11-14 budget(s); providing an effective date. (Contract Number 4600001030-A09) (Jon Gleason, ext. 6380)
36. **2008-817** A Resolution of the Governing Board of the South Florida Water Management District to authorize an amendment to contract 4600001017 with Aspen Skees Road LLC, for the Skees Road Office lease and authorize a Waiver of Competition as an exception to the general standards of competition, to extend the term by 4 years, from January 1, 2010 to December 31, 2013, in the amount not to exceed \$769,642 which is subject to Governing Board approval of the FY11-14 budget(s); providing an effective date. (Contract Number 4600001017-A05) (Jon Gleason, ext. 6380)
37. **2008-818** A Resolution of the Governing Board of the South Florida Water Management District relating to Budgetary and Financial Control; amending the District Policy to include a policy regarding the Districts Self Insurance Reserve; providing for inclusion in the District Policies Code; providing for severability; providing an effective date (Aaron Basinger, ext. 6660)

38. **2008-819** A Resolution of the Governing Board of the South Florida Water Management District authorizing the transfer of funds within the District FY2007-2008 budget as shown on the attachment hereto; providing an effective date. (Doug Bergstrom, ext. 6214)
39. **2008-820** A Resolution of the Governing Board of the South Florida Water Management District authorizing entering into a purchase order with Kenexa Government solutions as a special procurement using the GSA pricing schedule of GS-02F-0116N, for a hosted recruitment solution from September 8, 2008 through September 30, 2011, in the amount of \$322,211, and approval of a Budget Transfer for FY08 from disencumbered contract balances in the amount of \$74,822, with the remaining \$247,389 subject to approval of the FY09 FY11 Budgets. (Purchase Requisition # 10051916).
40. **Board Vote on Consent Agenda**
- Motion made by Melissa Meeker, seconded by Patrick Rooney to Approve the following item(s): 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39  
Vote called. Voting yes: Melissa Meeker, Patrick Rooney, Eric Buermann, Charles Dauray, Shannon Estenoz, Jerry Montgomery. Motion passed.

## Discussion Agenda

### **Water Resources**

41. Water Shortage Emergency Update & Action Items including, but not limited to, modifying restrictions in areas presently under water shortage restrictions, if necessary, additional water shortage declarations, contracts and / or any other necessary actions (Chip Merriam, ext. 6597)
- There was no action items reported.
42. **CERP-Discussion** - Approve Environmental Resource Permit Application 080710-8 for construction authorization of a 578 acre flow-way for a project known as Mecca Farms Wetland Restoration Project (Palm Beach County) (Bob Brown, ext. 6283)

Robert M. Brown, Director, Environment Resource Regulation, presented information on this Environmental Resource Permit application. Mr. Brown provided background information on the Mecca Farms Wetland Restoration Project:

- Located in Palm Beach County.
- Environmental Resource Permit (ERP) requested for construction and operation of a 625 acre environmental restoration project.
- Project is a potential component of the CERP North Palm Beach County Part 1 project.
- The environmental restoration project has the ability to provide conveyance capacity, water quality improvements, and water management flexibility.

Proposed project includes the following:

- Restoration/creation of 303 acres of wetland and upland habitats.
- Enhancement of the existing 272 acre reservoir (above-ground impoundment) through the removal of exotic and nuisance plant species.
- Creation of a 50 acre open water refugia.

Staff recommends approval of Application No. 080710-8 for the Construction and Operation of a 625 acre environmental restoration project known as the Mecca Farms Wetland Restoration Project.

Public Comment: Rosa Durando, Audubon Society, commented on the roadway within this restoration project.

Public Comment: Lisa Interlandi, 1000 Friends of Florida, supports the Mecca Farms restoration project.

Public Comment: Alexandria Larsen, citizen, commented on a sewage treatment plant in the Acreage and concerns of the Mecca Farms Restoration Project.

Public Comment: Martha Musgrove, citizen, commented on Scripps, the Northern Palm Beach project and her support of the Mecca Farms Restoration Project.

Mr. Brown commented on Scripps and the Seminole Pratt Whitney extension.

Ms. Estenoz said she supports this project.

Motion made by Patrick Rooney, seconded by Charles Dauray to Approve the following item(s): 42

Vote called. Voting yes: Patrick Rooney, Charles Dauray, Eric Buermann, Shannon Estenoz, Melissa Meeker, Jerry Montgomery. Motion passed.

- 43. 2008-821** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into one year agreements with Water Savings Incentive Program applicants in an amount not to exceed \$1,028,694 for which ad valorem funds are budgeted, subject to Governing Board approval of the FY2009 budget; delegating authority to the Executive Director to execute project funding agreements for the projects; providing an effective date (Marjorie Craig, ext. 2987)

No presentation provided.

Public Comment: Maribel Balbin, Miami-Dade Water and Sewer, thanked the Board for supporting their program.

Motion made by Melissa Meeker, seconded by Patrick Rooney to Approve the following item(s): 43

Vote called. Voting yes: Melissa Meeker, Patrick Rooney, Eric Buermann, Charles Dauray, Shannon Estenoz, Jerry Montgomery. Motion passed.

**60.**

Approve Environmental Resource Permit Application 011121-14 for construction and operation of a surface water management system serving a 741.23-acre residential development known as Stoneybrook North, with discharge into waters of Bayshore Creek and Popash Creek and approval of Water Use Permit Applications 050602-25 for dewatering and 050602-22 for irrigation use. (Robert M. Brown, ext 6283) **Time certain - 10:00 a.m.**

Robert M. Brown, Director, Environmental Resource Regulation, provided background information on Stoneybrook North:

- Located in Lee County.
- Application is a proposal to construct a 741.23 acre residential development.
- Site was previously permitted by the District, including Pritchett Parkway (1992), an agricultural development known as NTG-Pritchett Farm (1995) and a residential subdivision known as Virginia Farms and Hunters Glen (1996).
- NTG-Pritchett Farm covered 197.60 acres of the site in the northeastern portion of the property, whereas the Virginia Farms and Hunters Glen development covered 58.30 acres along the northwestern portion of the property (east of Bayshore Creek).

Staff recommends approval of Application No. 011121-14 for the Construction and Operation of a surface water management system serving a 741.23-acre residential development known as Stoneybrook North, with discharge into waters of Bayshore Creek and Popash Creek.

Public Comment: Karen Kamener, citizen, has concerns of flooding in this area.

Mr. Brown said there will not be any impact to the adjacent landowners.

Mr. Dauray reported on the landowner's concerns and said the applicant is sensitive to their concerns and has continued to work with them.

Public Comment: Debbie Jackow, citizen, commented on the flooding in the area and the previous permit issued in 1995.

Public Comment: Shelley Traurig, citizen, commented on her concerns of the northern ditch, the berm on the property and the drainage in this area.

Public Comment: Richard Thompson, RT Engineering, commented on the flood plain and the impacts of the application. He commented on the proposed study by Lee County.

Public Comment: Matt Smith, Concerned Citizens of Bayshore Community, commented on flooding in the sheet flow area. He reported on the study being done by Lee County. He requested the permit be postponed until the study is completed.

Public Comment: Anura Karuna-Muni, Lee County Natural Resources, said he would answer any questions from Lee County.

Mr. Buermann reported on a letter from the Conservancy from Southwest Florida and asked if there can be a condition added to the permit.

Public Comment: Steve Hartsell, North Brook Holdings, commented on the concerns of the landowners. He reported on the length of the application process, the landowner's challenges, and requested the Board approve this permit.

Public Comment: Sam Marshall, North Brook Holdings, commented on the replacement of the North Berm, the regional study done, and requested the Board approve this permit.

Mr. Dauray commented on the Lee County study.

Mr. Smith requested the permit be delayed until the study is complete or put a restriction on the permit until data from the study has been incorporated into the model.

Ms Estenoz asked about adding a condition to the permit.

Mr. Merriam said staff could add a condition to the permit to postpone construction in the flood plain until the study is complete.

There was a special condition added to the permit application:

37. Except for removal of exotic or nuisance vegetation, construction authorized under this permit cannot commence until January 14, 2009 within the delineated green and red areas as depicted on Exhibit 8.0. The permittee shall cooperate with Lee County in the ongoing Boyle Engineering study of the Countys North Fort Myers Surface Water Master Plan (Study). January 1, 2009, the permittee and the South Florida Water Management District shall complete a review of the then existing Lee County Study. Should the District determine that the Study identifies improvements regarding drainage issues that should be conducted on the project site that are not included in this permit, the permittee shall submit an application for a modification to South Florida Water Management District Permit Number 36-06899-P to address the same. If such a permit modification is needed, no construction shall take place in the green and red areas as depicted on Exhibit 8.0 until the permit modification is approved.

Ms. Estenoz commented on the Comp Plan amendments, the Growth Management Act and better planning.

Ms. Meeker commented on areas in the State that also have flooding concerns.

Motion made by Charles Dauray, seconded by Patrick Rooney to approve Environmental Resource Permit Application 011121-14 as amended for construction and operation of a surface water management system serving a 741.23-acre residential development known as Stoneybrook North, with discharge into waters of Bayshore Creek and Popash Creek and approval of Water Use Permit Applications 050602-25 for dewatering and 050602-22 for irrigation. Vote called. Voting yes: Melissa Meeker, Patrick Rooney, Eric Buermann, Charles Dauray, Shannon Estenoz, Jerry Montgomery. Motion passed.

## **Everglades Restoration Resources**

- 44. 2008-822** A Resolution of the Governing Board of the South Florida Water Management District authorizing developing and entering into an acquisition agreement for donation to the South Florida Water Management District of 2266 +/- acres located in Martin County and construction of substantial project components, at no cost to the District, for the Northern Everglades and Estuaries Protection Program; providing an effective date. (Ruth Clements, ext. 6271 and Jeff Kivett, ext. 4018)

Ruth Clements, Director, Land Aquisition and Managment Department presented preliminary information on this agenda item.

Jeff Kivett, Director, Everglades Restoration Engineering Department, presented additional information on the feasibility test for the Lake Point Ranch Site Plan.

Ms. Clements reported on the agreement components and stated Martin County Commissioners fully support the project.

Ms. Estenoz asked for clarification pertaining to the mining and FDEP permits.

Public Comment: Donna Melzer, Martin County Conservation Alliance, commented on the staff report and said a peer review is needed.

Public Comment: Mark Perry, Florida Oceanographic & Everglades Coalition, commented on the C-44 and the St. Lucie Estuary.

Ms. Estenoz commented on the cost benefits and impacts to wetlands on this property.

Motion made by Melissa Meeker, seconded by Patrick Rooney to Approve the following item(s): 44

Vote called. Voting yes: Melissa Meeker, Patrick Rooney, Eric Buermann, Charles Dauray, Shannon Estenoz, Jerry Montgomery. Motion passed.

## **Executive Office**

- 45. 2008-823** A Resolution of the Governing Board of the South Florida Water Management District to authorize an amendment to 3500000098 (Contract C-13764) with SAP Public Services, Inc., for enterprise support and maintenance to extend the term 4 years and 4 months from August 15, 2008 to December 15, 2012, in the amount of \$2,349,580, of which ad valorem funds in the amount of \$301,538 are budgeted; and the remainder is subject to Governing Board approval of the FY09-FY13 budgets; providing an effective date. (SAP No. 3600000098, Project Manager: Bernardo Camarena, x6421)

No presentation provided.

Motion made by Patrick Rooney, seconded by Melissa Meeker to Approve the following item(s): 45

Vote called. Voting yes: Patrick Rooney, Melissa Meeker, Eric Buermann, Charles Dauray, Shannon Estenoz, Jerry Montgomery. Motion passed.

62. **2008-826** A Resolution of the Governing Board of the South Florida Water Management District to authorize an amendment to contract OT040475 / 3600000780 with Sharpton Brunson & Company, P.A. and authorize an increase to the contract by an amount not to exceed \$125,000 for which \$125,000 ad valorem funds are budgeted. (Purchase Requisition number 10020359) (Tim Beirnes, ext. 6398)

No presentation was provided.

Motion made by Melissa Meeker, seconded by Jerry Montgomery to Approve the following item(s): 62

Vote called. Voting yes: Melissa Meeker, Jerry Montgomery, Charles Dauray, Shannon Estenoz, Patrick Rooney. Not present: Eric Buermann. Motion passed.

### **Operations and Maintenance**

46. **2008-824** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a 180 day contract with Lucas Marine Construction LLC, the lowest responsive and responsible bidder for the C-4 Floodwall, Miami-Dade County, in the amount of \$1,427,750, of which ad valorem funds of \$10,000 are budgeted and the remainder is subject to Governing Board approval of the FY09 budget; providing an effective date. (Contract Number 4600001477) (Lucine Dadrian, ext. 2685)

No presentation provided.

Motion made by Melissa Meeker, seconded by Shannon Estenoz to Approve the following item(s): 46

Vote called. Voting yes: Melissa Meeker, Shannon Estenoz, Eric Buermann, Charles Dauray, Jerry Montgomery, Patrick Rooney. Motion passed.

47. **2008-825** A Resolution of the Governing Board of the South Florida Water Management District to authorize an amendment to cooperative agreement 4600001388 with the Natural Resource Conservation Services (NRCS) for C-24 Canal Bank Repairs damaged by Hurricane Wilma in an amount not-to-exceed \$2,650,000, of which 75% or \$1,987,500 is NRCS reimbursable; providing an effective date. (Contract Number 4600001388-A01) (Jose Guardiario, Ext. 2594)

No presentation provided.

Motion made by Melissa Meeker, seconded by Shannon Estenoz to Approve the following item(s): 47

Vote called. Voting yes: Melissa Meeker, Shannon Estenoz, Eric Buermann, Charles Dauray, Jerry Montgomery, Patrick Rooney. Motion passed.

48. Public Comment

Public Comment: Rosa Durando, Audubon Society, commented on due diligence and Mecca Farms.

### Public Hearing

### **Water Resources**

## **49. Open Public Hearing**

(A.) Adopt amendments to Rules 40E-2.091, 40E-8.421 and 40E-20.091, F.A.C., and the Basis of Review for Water Use Permit Applications within the South Florida Water Management District", to address water supply availability issues within the Lake Okeechobee Service Area, amend consumptive use criteria, and establish a recovery strategy for Lake Okeechobee.

### **Close Public Hearing**

B.) Final order of the Governing Board of the South Florida Water Management District amending the Lower East Coast Plan, Appendix H to be consistent with the proposed rules, above. (Chip Merriam, ext. 6597)

Chair Buermann opened the Public Hearing.

Chip Merriam, Deputy Executive Director, presented information on the Agenda Item 49 (A). Mr. Merriam reported on the overview of Lake Okeechobee's Water Availability Rule concepts.

Mr. Merriam explained that the purpose of today's public hearing is to adopt rule amendments including establishing the Lake Okeechobee Water Availability Rule and amending the Lake's minimum flow and levels status from prevention to recovery.

In addition, Mr. Merriam requested that the GB approve an order to amend the Lower East Coast Plan to be consistent with the proposed rules.

Mr. Merriam also provided procedural background information and the next steps.

Public Comment: Michelle Diffenderfer, Bonita Bay Group, commented on Bonita Bay Group's concern of the Lake Okeechobee Service Area change in use class. She thanked staff for their hard work on writing this rule.

Public Comment: Rosa Durando, Audubon Society, supports this rule change.

Public Comment: Steve Walker, Consolidated Citrus/King Ranch, commented on three factors: resource protection, protecting existing legal uses of water and ensuring the maximization of the reasonable beneficial use of water.

Public Comment: Paul Grose, King Ranch, commented on the language of the rule.

Public Comment: Mitch Hutchcraft, Consolidated Citrus, commented on having flexibility in the rule and considering agricultural interests.

There was further Board discussion of agricultural permit modifications and the discretion of the Board pertaining to the rule.

There was discussion of additional rule language.

Public Comment: Joan Lawrence, US Dept of the Interior, supports the rule as amended.

Public Comment: Barbara Miedema, Sugar Cane Growers Cooperative, commented on the renewal of upcoming permit applications.

Beth Ross, Sr. Attorney, provided additional information on the rule change.

Ms. Wehle reported on agriculture vs. residential water allocation with Consumptive Use permits.

The Governing Board voted to add language to the proposed Lake Okeechobee water availability rule concerning the Board's ability to restrict re-allocation of water while also considering the alternative water supply availability, whether the proposed use is ancillary to an agricultural use, and other public interest considerations.

Public Comment: Phillip Parsons, representing Florida Sugar Cane League, Inc., recommends the Board adopt the rule amendments.

Public Comment: Irene Quincey, citizen, commented on the permit renewal process and the need to update the permits.

Public Comment: Jacquie Weisblum, Audubon of Florida, supports this rule.

Chair Buermann closed the Public Hearing.

Motion made by Shannon Estenoz to approve the following item as amended (49A), seconded by Patrick Rooney. Vote called. Voting yes: Melissa Meeker, Shannon Estenoz, Eric Buermann, Charles Dauray, Jerry Montgomery, Patrick Rooney. Motion passed.

Motion made by Shannon Estenoz to approve the following item (49B), seconded by Melissa Meeker. Vote called. Voting yes: Melissa Meeker, Shannon Estenoz, Eric Buermann, Charles Dauray, Jerry Montgomery, Patrick Rooney. Motion passed.

- 61.** Authorize publication of Notice of Rule Development in the Florida Administrative Weekly (FAW) to amend Chapters 40E-1, 40E-2 and 40E-20, F.A.C., and the Basis of Review for Consumptive Use Permits, incorporated therein, to clarify administrative procedures associated with obtaining a new consumptive use permit as well as renewing, modifying and transferring existing consumptive use permits (Chip Merriam, ext. 6597)

Mr. Merriam provided information on this agenda item.

Public Comment: Michelle Diffenderfer, Bonita Bay Group, commented on the Basis of Review and new permits.

Public Comment: Steve Walker, representing Consolidated Citrus/King Ranch commented on the proposed rules on permit modifications.

Motion made by Melissa Meeker, seconded by Shannon Estenoz to Approve the following item(s): 61

Vote called. Voting yes: Melissa Meeker, Shannon Estenoz, Eric Buermann, Charles Dauray, Jerry Montgomery, Patrick Rooney. Motion passed.

### Staff Reports

- 50. Water Conditions Report - Susan Sylvester**

Susan Sylvester, Director, Operations Control, presented information on the rainfall for July and stated it is above-average. She reported on Kissimmee Basin, Lake Istokpoga, and Lake Okeechobee. Lake Okeechobee is above 11 feet elevation.

Public Comment: Barbara Miedema, Sugar Cane Growers Cooperative, commented on Phase III water restrictions in the EAA.

- 51. Ecological Conditions Report - Sean Sculley**

Sean Sculley, Deputy Department Director, Watershed Management, presented the ecological conditions report.

- 52. Office of Policy and Legislation Update - Ernie Barnett**

No report was provided.

- 53. General Counsel Report - Sheryl Wood**

No report was provided.

- 54. Executive Director's Report - Carol Wehle**

No report was provided.

- 55. Board Comment**

There was no Board comment.

## Closed Door Agenda

### **Executive Office**

56. Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2007) to discuss strategy related to litigation expenditures in United States of America v. South Florida Water Management District, et al. United States District Court, Southern District of Florida, Case No. 88-1886-CIV-Moreno. (Sheryl G. Wood, Ext. 6976)

#### Action Items (if any) Stemming from Closed Sessions

Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2007) to discuss strategy related to litigation expenditures in United States of America v. South Florida Water Management District, et al. United States District Court, Southern District of Florida, Case No. 88-1886-CIV-Moreno. (Sheryl G. Wood, Ext. 6976)

Chair Buermann announced that the Governing Board would adjourn to Closed-Door Session at 12:15 pm. He said the meeting would reconvene in approximately 75 minutes.

Chair Buermann reconvened the meeting at 1:45 pm.

Sheryl Wood, General Counsel, reported no action be taken on Agenda item 56.

57. Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2007) to discuss strategy related to litigation expenditures in Friends of the Everglades, Inc. and Fishermen Against Destruction of the Environment, Inc. v. South Florida Water Management District, et al., United States District Court, Southern District of Florida, Case No. 02-80309-CV-Altonaga/Turnoff; Miccosukee Tribe of Indians of Florida v. South Florida Water Management District, et al., United States District Court, Southern District of Florida, Case No. 98-6056-CIV-Lenard/Klein; and Friends of the Everglades v. South Florida Water Management District, United States District Court, Southern District of Florida, Case No. 98-6057-CIV-Lenard/Klein. (Sheryl G. Wood, Ext. 6976)

#### Action Items (if any) Stemming from Closed Sessions

Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2007) to discuss strategy related to litigation expenditures in Friends of the Everglades, Inc. and Fishermen Against Destruction of the Environment, Inc. v. South Florida Water Management District, et al., United States District Court, Southern District of Florida, Case No. 02-80309-CV-Altonaga/Turnoff; Miccosukee Tribe of Indians of Florida v. South Florida Water Management District, et al., United States District Court, Southern District of Florida, Case No. 98-6056-CIV-Lenard/Klein; and Friends of the Everglades v. South Florida Water Management District, United States District Court, Southern District of Florida, Case No. 98-6057-CIV-Lenard/Klein. (Sheryl G. Wood, Ext. 6976)

Sheryl Wood, General Counsel, reported no action will be taken on Agenda Item 57.

- 58.** Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2007) to discuss strategy related to litigation expenditures in Natural Resources Defense Council, Inc., et al. v. Van Antwerp, et al., United States District Court, Southern District of Florida, Case No. 07-80444-CIV-Middlebrooks. (Sheryl G. Wood, Ext. 6976)

Action Items (if any) Stemming from Closed Sessions

Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2007) to discuss strategy related to litigation expenditures in Natural Resources Defense Council, Inc., et al. v. Van Antwerp, et al., United States District Court, Southern District of Florida, Case No. 07-80444-CIV-Middlebrooks. (Sheryl G. Wood, Ext. 6976)

Sheryl Wood, General Counsel, reported no action will be taken on Agenda Item 58. Ms. Wood reported as soon as she receives an order from the Court, she will provide a copy to the Governing Board members.

Adjournment

- 59. Adjourn**

Chair Buermann adjourned the meeting at 3:55 pm.

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Eric Buermann  
Governing Board Chairman  
South Florida Water Management District Governing Board

Recorded By:

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Cathy Widness  
Administrative Assistant Senior  
Governing Board and Executive Services  
SFWMD