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## South Florida Water Management District

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### MINUTES GOVERNING BOARD WORKSHOP

December 2, 2008

9:30 AM

District Headquarters - B-1 Auditorium

3301 Gun Club Road

West Palm Beach, FL 33406

Members Present:

**Eric Buermann, Chair**

**Michael Collins**

**Charles Dauray**

**Shannon Estenoz**

**Paul C. Huck Jr.**

**Melissa Meeker**

**Jerry Montgomery**

**Patrick Rooney**

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

Chair Buermann called the meeting to order at 9:35 am.

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

Chair Buermann led the group in the Pledge of Allegiance.

Ms. Estenoz reported on the Susan G. Komen Race for the Cure event which will be held on January 31st, 2009 in West Palm Beach.

**3. Approval of Minutes**

Approval of the Minutes from the November 12, 2008, Workshop, and the November 13, 2008, Business meetings held in West Palm Beach, Florida

Motion made by Michael Collins, seconded by Melissa Meeker to Approve the following item(s): 3

Vote called. Voting yes: Michael Collins, Melissa Meeker, Eric Buermann, Charles Dauray, Shannon Estenoz, Paul C. Huck Jr., Jerry Montgomery, Patrick Rooney. Motion passed.

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

Annette Carter, Director, Governing Board and Executive Services, read into the record the agenda addendum. Copies were made available to the public.

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

Mr. Huck announced his on-going abstention with any items dealing with the U.S. Sugar land acquisition.

**6. CONSENT AGENDA**

*Members of the public wishing to address the Governing Board are to complete a Public Comment Card and submit the card to the front desk attendant. You will be call by the Board Chair or designee to speak. If you want to request that an item be removed from the Consent Agenda and be discussed by the Governing Board, please advise the Governing Board when you are called upon to speak. Governing Board directives limit comments from the public to 3 minutes unless otherwise determined by the Governing Board Chair. Your comments will be considered by the Governing Board prior to adoption of the Consent Agenda.*

*Unless otherwise noted, all consent agenda items are recommended for approval.*

**7. Public Comment on Consent Agenda**

Public Comment: Ken Miller, Majestic Isles Association, commented on lost trees due to Hurricane Katrina and the District's denial of their variance request.

Mr. Merriam reported on the variance request and Majestic Isles' irrigation system.

There was Board discussion regarding the denial of this variance request and the consistency of the District's permit process.

Mr. Merriam said staff will work with the county and Majestic Isles Association regarding this variance request.

**8. Pull Items for Discussion from Consent Agenda**

Chair Buermann pulled Agenda Item 27 from the Consent Agenda to the Discussion Agenda.

**9. Board Comment on Consent Agenda**

There was no Board comment on the Consent Agenda.

**Regulatory Matters**

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

Right of Way Occupancy Permit Modifications

Right of Way Occupancy Permit Requests with Waiver of District Criteria

Consent Agreements

**11. Water Use Permit Applications**

Surface Water Management Permit Applications (includes Conservation Easements)

Environmental Resource Permit Applications (includes Conservation Easements)

Lake Okeechobee SWIM Works of the District Permit Applications

Environmental Resource Permit Extensions

Consent Agreements

Conservation Easements

Page 12 No 3 Water Conserv II Distribution Facility (WU): **Postponed** to January Board

**Water Resources**

**12.** 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)

**13.** 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)

**14.** **2008-1200** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into an 15-month Cooperative Agreement between the South Florida Water Management District and the St. Johns River Water Management District to Address Excess Surface Water in St. Lucie and Indian River Counties (C-25 Basin); providing an effective date. (Contract Number 4600001594) (Marjorie Craig, ext. 2987)

**15.** **2008-1201** A Resolution of the Governing Board of the South Florida Water Management District Accepting the Five-Year Water Resource Development Work Program pursuant to Section 373.536(6)(a)(4), Florida Statutes. (Marjorie Craig, ext. 2987)

**16.** **2008-1202** A Resolution of the Governing Board of the South Florida Water Management District recognizing the need for a collaborative, multi-jurisdictional approach to address county-wide water resource needs; endorsing the establishment a Palm Beach County Task Force composed of elected county and city commissioners and officials representing the South Florida Water Management District, and Water Control District Governing Board; the designation of a technical/professional staff workgroup to advise the task force; providing for meetings of the task force and technical/professional staff workgroup; providing for staff support; providing for reporting and maintenance of records; and providing an effective date. (Marjorie Craig, ext. 2987)

17. **2008-1203** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a three-year contract with the Florida Fish and Wildlife Conservation Commission for the Lake Okeechobee Benthic Macroinvertebrate Community Structure Study in the amount of \$243,000 of which \$70,916.66 in dedicated funds (Comprehensive Everglades Restoration Plan Fund) is budgeted and the remainder is subject to Governing Board approval of the FY10-FY11 budgets; providing an effective date. (Julio Fanjul, ext. 3711) (Contract Number 4600001557)
18. **2008-1204** A Resolution of the Governing Board of the South Florida Water Management District accepting the 2008 Report on the "Long Term Plan for Achieving Water Quality Goals for the Everglades Protection Area Tributary Basins (Long Term Plan)" and directing staff to submit the 2008 Report on the Long-Term Plan to the Governor and Legislature; providing an effective date. (Tracey Piccone, ext. 6495)
19. **2008-1205** A Resolution of the Governing Board of the South Florida Water Management District to authorize an amendment to Contract 4600000257 with the Federal Emergency Management Agency for Flood Map Modernization in Polk County, to extend the term of the contract from December 31, 2009 to December 31, 2010, and to increase funding in the amount of \$335,000 as reimbursement to the District, subject to Governing Board approval of a future amendment of the FY09 Budget; providing an effective date (Contract Number 4600000257-A02) (Damon Meiers, ext 6876)
20. Authorize publication of a Notice of Rulemaking in the Florida Administrative Weekly (FAW) to amend Chapter 40E-4, F.A.C., and the Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District (Basis of Review) to reflect changes in the listing status of the bald eagle consistent with the Florida Fish and Wildlife Conservation Commission (FFWCC) de-listing and to update rule citations, in coordination with the other water management districts and the Florida Department of Environmental Protection (FDEP) (Anita Bain, ext 6866)
21. **2008-1206** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a 1 year cost share agreement with Palm Beach County for Sandhill Crane East Restoration Phase II, in the amount of \$1,500,000, of which the District's total contribution is \$750,000 in dedicated funds (State Appropriations), for which funds are budgeted; providing an effective date. (Contract Number 4600001636)
22. **2008-1207** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a 1 year cost share agreement with the Town of Jupiter for Urban Stormwater Management System Rehabilitation-Phase IV, in the amount of \$401,500, of which the District's total contribution is \$200,750 in dedicated funds (state appropriations), for which funds are budgeted; providing an effective date. (Contract Number 4600001634)

23. **2008-1208** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a 1 year cost share agreement with the Florida Park Service for Wild and Scenic River Corridor Exotic/Pest Plant Control Phase III, in the amount of \$350,000, of which the District's total contribution is \$175,000 in dedicated funds (state appropriations), for which funds are budgeted; providing an effective date. (Contract Number 4600001637)

#### **Everglades Restoration**

24. **2008-1209** 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)

#### **Corporate Resources**

25. **2008-1210** A Resolution of the Governing Board of the South Florida Water Management District Authorizing a five (5) year lease with Signature Flight Support for Hangar/Office Space necessary to conduct the District's flight operations and authorize a Waiver of Competition as an exception to the general standards of competition, in an amount not-to-exceed \$329,665, of which \$61,642 is budgeted for FY09 and the remainder is subject to Governing Board budget approval for fiscal years FY2010 through FY2013, providing an effective date. (Contract No.: 4600001578). Sponsor: Mike Piccone

#### **Operations and Maintenance**

26. **2008-1211** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a 3 year work order contract with Toler Enterprises Incorporated, the lowest responsive and responsible bidder for Slope Mowing Services within the Miami Field Station region in the amount of \$361,088 of which ad valorem funds in the amount of \$90,272 are budgeted; and the remainder is subject to Governing Board approval of the FY10-FY12 budgets; providing an effective date. (Contract Number 460001610) (Ron Zasloff, ext. 7014)
28. **2008-1213** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a 200 day cooperative agreement with the Natural Resource Conservation Service (NRCS) for Tropical Storm Fay Repairs in an amount not-to-exceed \$383,350, of which 75% or \$287,512.50 is NRCS reimbursable; providing an effective date.(Contract Number 4600001640) (Lucine Dadrian, Ext. 2685)

#### **29. Board Vote on Consent Agenda**

Motion made by Michael Collins, seconded by Jerry Montgomery to Approve the following item(s): 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 28

Vote called. Voting yes: Michael Collins, Jerry Montgomery, Eric Buermann, Charles Dauray, Shannon Estenoz, Paul C. Huck Jr., Melissa Meeker, Patrick Rooney. Motion passed.

## 30. DISCUSSION AGENDA

### **Water Resources**

31. Approve Water Use Permit Application 080530-10 for rock washing requesting a maximum monthly allocation of 312 million gallons and an annual allocation of 3,796 million gallons with a 5-year duration permit for a project known as Corkscrew Excavation (Lee County) (Marjorie Craig, ext 2987)

Keith Smith, Deputy Department Director, Water Supply Department, presented information on the project know as Corkscrew Excavation located in Lee County.

Motion made by Michael Collins, seconded by Jerry Montgomery to Approve the following item(s): 31

Vote called. Voting yes: Michael Collins, Jerry Montgomery, Eric Buermann, Charles Dauray, Paul C. Huck Jr., Melissa Meeker, Patrick Rooney. Voting no: Shannon Estenoz. Motion passed.

### **Everglades Restoration**

32. Authorize publication of a Notice of Rulemaking in the Florida Administrative Weekly to add new Rules 40E-10.011, 40E-10.021, 40E-10.031, and 40E-10.041, F.A.C., and to amend Rules 40E-2.011, 40E-2.091, 40E-2.301, 40E-2.331, 40E-20.091, 40E-20.301, 40E-20.302 and 40E-20.331, F.A.C., and Sections 1.8, 2.5.2, 2.5.3 and 3.11.1 of the "Basis of Review for Water Use Permit Applications within the South Florida Water Management District", to identify the quantity, location and timing of waters reserved from allocation for the protection of fish and wildlife for the Picayune Strand and Fakahatchee Estuary associated with the Comprehensive Everglades Restoration Plan Picayune Strand Restoration Project, and to establish regulatory criteria to protect the reserved water from consumptive use. (Ken Ammon, ext. 4220 and Chip Merriam, ext. 6597)

Chip Merriam, Deputy Executive Development, Water Resources, presented information on water reservations of Picayune Strand and an overview of the recommended actions.

Public Comment: Stuart Appelbaum, USACE, supports staff's recommendation on Picayune Strand's reservation rule and commended staff for their hard work on this effort.

Pubic Comment: Edward delaParte, Collier County, commented on the Picayune Strand's reservation rule and the District's permit application process.

Public Comment: Mitch Hutchcraft, Consolidated Citrus, supports the restoration of Picayune Strand but had concerns about rulemaking under the Lake Okeechobee Service Area (LOSA).

Public Comment: Joan Lawrence, US Dept. of the Interior, supports the publication of rulemaking for reservations of water associated with the Picayune Strand CERP Project.

Public Comment: Jacquie Weisblum, Audubon, supports the publication of the rule and also commented on water allocation for retired permits.

Motion made by Michael Collins, seconded by Jerry Montgomery to Approve the following item(s): 32

Vote called. Voting yes: Michael Collins, Jerry Montgomery, Eric Buermann, Charles Dauray, Shannon Estenoz, Paul C. Huck Jr., Melissa Meeker, Patrick Rooney. Motion passed.

**33. WORKSHOP AGENDA**

**Everglades Restoration**

**34. 'River of Grass' Project Update - Carol Wehle, Executive Director**

Carol Wehle, Executive Director, presented an introductory overview of the River of Grass project.

Nigel Williams and Dr. Harold Birkett, Schaffer & Associates International, LLC, presented information on the business models of the sugar industry which included: ownership, production structure, and comparisons throughout the Americas and Florida.

There was Board discussion on the railroad, the production of ethanol, water allocation and phosphorus removal in the ethanol process, and the acreage of sugar cane needed to keep the mill in production.

Ms. Estenoz commented on an analysis of diversity in the soil and and quality of sugar cane.

Mr. Montgomery provided comment on the operating efficiency of the sugar mill as the acreage of raw material declines.

Mr. Williams provided additional information pertaining to the mill's capacity to run with less sugar cane.

Tommy Strowd, Assistant Deputy Executive Director, Everglades Restoration, presented an overview of the overlays/map of the U.S. Sugar land acquisition.

There was Board discussion addressing the land constraints, construction costs, mining, and the varying configuration of the footprint.

Mr. Collins commented on Total Maximum Daily Loads (TMDLs), the Clean Water Act and statutory requirements regarding U.S. Sugar land acquisition.

There was further Board discussion on the footprint, revenue projections and the public process for Everglades restoration, water storage and treatment.

Andrew Capitman, Duff & Phelps, presented information on the conclusion of the fairness agreement.

Mr. Collins commented on the highest and best use of the acres associated with the U.S. Sugar land acquisition.

Mike Gibbs, Duff & Phelps, presented the background information on the fairness opinion, the scope of work performed by Duff & Phelps, the bulk of the land sales, and the comparable land sale data.

Ray Palmer, Chief Appraiser, reported on the land appraisals:

- Anderson & Carr, Inc. and Sewell, Valentich, Tillis and Associates retained to conduct independent appraisals.
- Designated Members of the Appraisal Institute (MAI) for more than 25 years.
- More than 1000 pages of appraisal reports submitted, providing complete analysis.
- Reports met all appraisal standards; reviewed by District and DEP.

There was Board discussion on the terms and rates of the appraisals.

Bob Banting, Anderson & Carr, reported on the current lease rates, and Best Management Practices (BMPs) of the U.S. Sugar land acquisition.

Ruth Clements, Director, Land Acquisition Department, presented information on the proposed purchase contract and lease agreement. Ms. Clements reported on closing date information, the "Evergreen" escrow fund and other provisions, special clauses, and environmental provisions. Ms. Clements reported there is no personal liability with the proposed purchase agreement.

Ms. Clements then reported on the Everglades land acquisition project lease agreement.

Doug Bergstrom, Director, Budget Division, presented information on current economic conditions that provide the basis for upcoming financial forecasts (stock market, credit market, interest rates, foreclosure, unemployment, property tax reform measures).

Ms. Wehle provided the next steps for the U.S. Sugar land acquisition project.

Public Comment: Kevin McCarthy, Hendry County, provided commented on job losses in the Glades community, and lands needed for restoration and farming.

Public Comment: Andrew Couse, Glades County resident, commented on the lack of a plan for the U.S. Sugar land acquisition and Everglades restoration goals.

Public Comment: Ramon Iglesias, Roland Martin's Marina of Clewiston, commented on the personal gain to upper management of the U.S. Sugar Corporation and the economic impact to the Glades Community.

Public Comment: Miller Couse, CEO First Bank, commented on the economic impact to the Glades Community due to the U.S. Sugar land acquisition. He requested the contract be postponed until a plan can be formulated.

Public Comment: Deborah VanSickle, citizen Hendry County, commented on the economic impacts to the Glades community with the purchase of the U.S. Sugar land acquisition.

Public Comment: Karson Turner, Commissioner of Hendry County, read into the record a statement of concern from the Florida Association of Counties.

Public Comment: Melanie A. McGahee, resident of Clewiston, requested the Board evaluate the land deal and listen to the Glades community.

Public Comment: Carl Berner, Berner Oil Company, had concerns that the Board has not addressed the economic impacts to the Glades community.

Public Comment: Wendell Johnson, City of Clewiston, read into the record an editorial published on 12/2 regarding the purchase of the U.S. Sugar Land acquisition and the economic impacts to the Glades community.

Public Comment: Mali Chamness, Mayor, City of Clewiston, commented on the concerns of the Glades community. She requested a detailed economic transition plan.

Public Comment: Linda Johnson, City of South Bay, requested a long-term plan for the U.S. Sugar Land acquisition.

Public Comment: Alfonzo Azqueta, Trucane Sugar, commented on \$50 lease rates and the timeline for the contract agreement.

Public Comment: John Hundley, Hundley Farms Inc., (former Governing Board member) commented on the timeframe for the contract agreement and the cost of lease rates.

Public Comment: William Kennedy, citizen, Pahokee, commented on the lease rates of the contract and the economic impacts to the Glades community.

Public Comment: Alexandria Larsen, citizen, commented that the State of Florida should pay for Everglades restoration.

Public Comment: Drew Martin, Sierra Club, has concerns about the people in the Glades community and the lease rates of the contract.

Public Comment: Paul Orsenigo, Orsenigo Farms, Inc., requested a bidding process for land leases.

Public Comment: Rick Roth, Roth Farms, commented on Everglades restoration, land use, BMPs and crop rotation of the U.S. Sugar land acquisition.

Public Comment: Mark Soddors, citizen, has concerns about the timeframe for the contract agreement. He requested the Board postpone the contract agreement.

Public Comment: Fritz Stein, citizen, commented on the fiduciary responsibility of the Board.

Public Comment: Sharon Waite, citizen, commented on world recession and mining.

Public Comment: George Wedgworth, Sugar Cane Growers Cooperative, submitted a statement to the Governing Board supporting Everglades restoration, but stated they do not support the U.S. Sugar land acquisition contract agreement.

Public Comment: Phillip Roland, citizen, Clewiston, commented on upper management of U.S. Sugar Corporation and also the Lawrence Group.

Public Comment: Thom Rumberger, Everglades Trust, commented on the lease costs, and the details of the land acquisition contract agreement.

Public Comment: Gaston Cantens, Florida Crystals, said they'd like to partner with the State for the necessary land needed for Everglades restoration. This would be obtained through land trades. He opposes the current proposal.

Public Comment: Nat Reed, commented on Everglades restoration and said the Everglades cannot be restored without a major land acquisition.

Public Comment: Dr. Mark Kraus, Everglades Foundation, commented on Everglades restoration, water storage and treatment, and including taxpayers input on the plan.

Public Comment: Jacquie Weisblum, Audubon, commented on the leaseback provision of the contract agreement, farming practices on the land, and better BMPs.

### **Operations and Maintenance**

- 27. 2008-1212** A Resolution of the Governing Board of the South Florida Water Management District to authorize the Florida Fish and Wildlife Conservation Commission to initiate rulemaking to establish District lands consisting of approximately 21,000 acres within the Kissimmee Chain of Lakes as a Managed Area for the 2009-10 public hunting season and future seasons, and manage hunting on such lands, subject to terms and conditions; providing an effective date. (Steve Coughlin, ext. 2603)

Public Comment: Danny Brantley, Kissimmee River Valley Sportman Association (KRVSA), commented on the recreational plan on the Kissimmee Chain of Lakes. He supports this resolution.

Public Comment: Jason Burton, Fish & Wildlife Commission, supports this resolution.

Public Comment: Paul Gray, Audubon, reported on the Kissimmee Chain of Lakes Public Use Group comments to WRAC and their concerns on this resolution.

Mr. Collins reported on WRAC discussions of this agenda item.

Public Comment: David Lithgow, United Waterfowlers, commented on duck hunting in STA-5, and Kissimmee Chain of Lakes Public Use Group discussions. He supports this resolution.

Public Comment: Capt. Dave Markett, Airboat Tours, commented on the rules of operation and hunting on Drasdo Tract. He supports the resolution.

Public Comment: Bishop Wright, Florida Airboat Association, supports this resolution.

Public Comment: Byron Maharrey, citizen, commented on his participation of the Kissimmee Chain of Lakes Public Use Group. He supports the resolution.

Public Comment: Drew Martin, Sierra Club, opposes the resolution because of impacts to future wildlife.

Mr. Montgomery commented on the majority consensus(75%) process of the committee.

Chair Buermann also commented about the process.

Mr. Collins supports the integrity of the process.

There was Board discussion on adding language regarding the concerns of the Kissimmee Chain of Lakes Public Use Group.

Steve Coughlin, explained the resolution to the Board.

Mr. Collins commented on the WRAC consensus process.

Mr. Montgomery commented on the WRAC Recreation subcommittee process and negotiated discussions.

Ms. Estenoz commented on the WRAC stakeholder process and requested conflict issues be discussed at WRAC and brought to Governing Board members early in the process.

Motion made by Michael Collins, seconded by Paul C. Huck Jr. to Approve the following item(s): 27

Vote called. Voting yes: Michael Collins, Paul C. Huck Jr., Charles Dauray, Shannon Estenoz, Melissa Meeker, Jerry Montgomery, Patrick Rooney. Voting no: Eric Buermann. Motion passed.

### **35. Public Comment**

Public Comment: Alex Larson, citizen, commented on the cost of funding for Everglades restoration.

Public Comment: Drew Martin, Sierra Club, commented on the U.S. Sugar land acquisition and requested the Board move quickly on the contract agreement.

### **36. General Counsel Report - Sheryl Wood**

No report provided.

### **37. Executive Director's Report - Carol Wehle**

Mr. Olliff reported on the Board's direction regarding the U.S. Sugar Land acquisition and the follow-up items that will be supplied at the Governing Board meeting on 12/15 and 12/16.

**38. Board Comment**

Ms. Meeker commented on the Board's concerns of the economic impacts to the Glades community, the lease rates, the purchase price, financial concerns, and also requested OTTED return to address the citizens and the Board regarding a economic transition plan.

Mr. Montgomery commended staff for their hard work updating the District's website on the U.S. Sugar land acquisition.

Mr. Dauray requested discussions take place between staff and Florida Crystals.

Mr. Collins commented on the recent contract, the process and the financial projections for the land acquisition. There is a need to meet with the Florida Legislature.

Mr. Rooney commented on the dedication of Board members, and the lease back prices in the contract. He said the United States should pay for Everglades restoration because of it being a national treasure.

Ms. Estenoz commented on mining and the lease rate provisions. She commented on getting the best deal for Everglades restoration, to protect the taxpayers and help the Glades community.

**39. Adjourn**

Chair Buermann adjourned the meeting at 6:45 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