



South Florida Water Management District

GOVERNING BOARD MEETING MINUTES

January 13, 2009

9:00 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 9:03 am.

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

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

3. Employee Recognitions - Presented by Carol A. Wehle, Executive Director

Deena Reppen, Deputy Executive Director, Government & Public Affairs, recognized the December Team of the Month and the January Employee of the Month.

Tommy Strowd, Assistant Deputy Executive Director, Everglades Restoration, recognized the December Employee of the Month, a 30-Year Service Award and the January Team of the Month.

Chip Merriam, Deputy Executive Director, Water Resources, recognized a 25-year and 35-year award.

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

Annette Carter, Director, Office of Governing Board & Executive Services, read into the record:

Section 120.525, Florida Statutes, allows the District to change the published agenda for good cause shown, as determined by the presiding officer. Based upon that authority, the Chairman has determined that good cause exists to make certain changes to the Agenda. These changes are being made in order to permit the Governing Board to efficiently accomplish necessary public business at this meeting and to reflect the items on the agenda that have been requested or suggested to be deleted, revised, supplemented or postponed. These changes have been listed in the Governing Board Addendum available at the entrance to this meeting room.

5. Abstentions by Board Members from items on the Agenda

Ms. Estenoz abstained from the Regulatory Consent Agenda Item 12, Page 31, Consent Agreement No. 13, Indian Street Bridge Soil Borings.

Mr. Huck abstained from Discussion Agenda Item 57.

Mr. Rooney abstained from Consent Agenda Item 17.

6. Audit & Finance Committee Report - Charles Dauray, Chair

Mr. Dauray reported on the activities and recommendations of the Audit & Finance Committee meeting held on January 12, 2009.

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

Mr. Montgomery reported on the activities and recommendations of the Human Resources & Outreach Committee meeting held on January 12, 2009. The Committee reviewed staff's proposal and recommended approval to the full Governing Board. The Governing Board approved the following four modifications to District benefit programs:

- Sick Leave Incentive Program.
- Sick Leave Separation Program.
- Retiree life insurance benefit.
- Eligible requirements for the District's medical health insurance benefit.

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

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

8. Water Resources Advisory Commission (WRAC) Report - Michael Collins, Chair

Mr. Collins reported on the activities and recommendations of the Water Resources Advisory Committee meeting held on January 8, 2009.

Consent Agenda

9. Public Comment on Consent Agenda

There was no public comment on the Consent Agenda.

10. Pull Items for Discussion from Consent Agenda

Mr. Rooney pulled Consent Agenda Item 16 for discussion at the January 12, 2009 Workshop meeting.

11. Board Comment on Consent Agenda

There was no Board comment on the Consent Agenda.

Regulatory Matters

12. Water Use Permit Applications

Surface Water Management Permit Applications (includes Conservation Easements)

Environmental Resource Permit Applications (includes Conservation Easements)

Denials

Environmental Resource Permit Extensions

Consent Agreements

Conservation Easements

Page 5 No 1 Seminole Tribe of Florida Holdings LTD St. Thomas Properties (WU): **Postponed** to February Board

Page 9 No4 Porpoise Point Townhomes FKA Porpoise Point Single Family (ERP): **Postponed** to February Board

Page 11 No 1 Green River Parkway South (ERP): **Postponed** to February Board

Page 14 No 3 Lake Nona Golf Course and Estates (WU): **Postponed** to February Board

Page 14 No 4 Lake Nona South-TPC International (WU): **Postponed** to February Board

Page 16 No 1 BVL Golf Course Excavation (WU): **Postponed** to February Board

Page 18 No 2 PGA National Golf Club and Sports Center (WU): **Postponed** to February Board

Page 20 No 2 Mobil Station 15795 (02-A38) Dewatering Project (WU Denial): **Withdrawn**

Page 20 No 3 North County Neighborhood Improvements Bid Package (WU Denial): **Withdrawn**

Page 20 No 4 St. James Townhomes (WU Denial): **Postponed** to February Board

Page 23 No 1 Miranda Nursery (WU Denial): **Removed** from agenda

Page 25 No 3 Royal Palm Beach School (WU Denial): **Removed** from agenda

Page 31 No 13 Indian Street Bridge Soil Borings (Consent Agreement): **Postponed** to February Board

13. Right of Way Occupancy New Permits

Right of Way Occupancy Permit Requests with Waiver of District Criteria

Right of Way Occupancy Permit Applications Adjacent to C-13

Water Resources

14. 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)

 15. **2009-100** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a 3-year contract with the Florida Fish and Wildlife Conservation Commission for the South Florida Fisheries Habitat Assessment Program in the amount of \$676,500, for which \$257,000 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. (Contract Number 4600001348) (Julio Fanjul, ext. 3711)

 17. Approve a three month extension of the Consent Agreement with Ibis West Palm Beach Partners, LP to allow the use of water for golf course turf and landscape irrigation purposes on the portion of the property known as the Tradition course, provided the volume of water utilized by Ibis West Palm Beach Partners, LP does not exceed the allocation authorized under Water Use Permit 50-02120-W. (Marjorie Craig, ext. 2987)
- Mr. Rooney abstained from voting on Consent Agenda Item 17.
18. **2009-102** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a 10 month contract with Applied Technology and Management, Inc., for the purpose of completing the Everglades Protection Area Water Quality Based Effluent Limit Level II Study and authorize as an exception to the general standards of competition, in an amount not-to-exceed \$347,000, of which \$347,000 in dedicated funds (Everglades Restoration Trust Fund) is budgeted; providing an effective date. (Tracey Piccone, ext. 6495) (Contract Number 4600001693)

 19. **2009-103** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a 1 year cost share agreement with Martin County for Cypress Creek Restoration Phase IV, in the amount of \$2,691,965, of which the District's total contribution is \$850,000, for which \$454,695 in dedicated funds (state appropriations) is budgeted, and the remainder is subject to Governing Board approval of the FY10 budget; providing an effective date. (Contract Number 4600001635) (Barbara Welch, ext. 6311)

 20. **2009-104** A Resolution of the Governing Board of the South Florida Water Management District to authorize an amendment to cost share agreement 3600001334 with Highlands Soil and Water Conservation District for the Avon Park Air Force Range alternative water storage project in an amount not to exceed \$250,000 for which dedicated funds (Lake Okeechobee Trust Fund) are budgeted; providing an effective date. (Contract Number 3600001334-A03) (Benita Whalen, ext. 2957)

Everglades Restoration

21. **2009-105** A Resolution of the Governing Board of the South Florida Water Management District to approve the purchase of land interests containing 10.49 acres, more or less, for the Indian River Lagoon - South CERP Project, in St. Lucie County, in the amount of \$315,000 and associated costs for which unrestricted funds from the sale of an easement to Gulfstream Natural Gas Systems, L.L.C., are available subject to Governing Board approval of a future budget amendment in FY09 and approve a budget transfer of dedicated funds (CERP ad valorem), from ACCELER8 Program Support Reserves to Indian River Lagoon - South CERP Project; providing an effective date. (Bob Schaeffer, ext. 2985)

23. **2009-107** A Resolution of the Governing Board of the South Florida Water Management District amending the Fiscal Year 2008-2009 Budget to provide funding for the Indian River Lagoon - South Comprehensive Everglades Restoration Project; providing an effective date. (Bob Schaeffer, ext. 2985)

24. **2009-108** A Resolution of the Governing Board of the South Florida Water Management District to approve entering into four (4) amendments and restatement of electric easements in exchange for obtaining partial releases thereof, all located in Sections 6, 7, 18 and 30, Township 27 South, Range 28 East, Polk County, Upper Lakes Basin Watershed; approving the waiver of the application fee; providing an effective date. (Kathy Massey, ext. 6835)

25. **2009-109** A Resolution of the Governing Board of the South Florida Water Management District to approve the purchase of land interests containing 2.63 acres, more or less, for the Herbert Hoover Dike Rehabilitation Project, in Palm Beach County, in the amount of \$125,000, and associated costs; and approve a budget transfer (ad valorem funds) from managerial reserves to Herbert Hoover Dike Rehabilitation Project; approve declaring surplus, disposal of, and removal from the asset records, any such structures and improvements deemed unnecessary for the stated purpose of the original land acquisition; providing an effective date. (Bruce Hall, ext. 6541)

Executive Office

27. **2009-111** A Resolution of the Governing Board of the South Florida Water Management District authorizing the transfer of funds within the District FY2008-2009 budget as shown on the attachment hereto; providing an effective date (Doug Bergstrom, ext. 6214)

28. **2009-112** A Resolution of the Governing Board of the South Florida Water Management District finding a public purpose for and authorizing the reimbursement of certain legal fees regarding Florida Commission on Ethics Complaint No. 07-125; providing an effective date. (Shawn Bernard, ext. 6270)

29. **2009-113** A Resolution of the Governing Board of the South Florida Water Management District to authorize a settlement and release agreement with Marquita Fruge to resolve a charge of discrimination, filed with the U.S. Equal Employment Opportunity Commission; as well as any and all claims of discrimination arising out of Fruges employment; providing an effective date. (Derek Brown, ext. 6278)
30. **2009-114** A Resolution of the Governing Board of the South Florida Water Management District to authorize District staff to file suit, pursue any appropriate damages and remedies, and take all appropriate action, including the authority to settle the matter, subject to the approval of the Executive Director, against Crosswinds at Buckingham Gardens, LLC, and any other appropriate or necessary parties, in the 20th Judicial Circuit Court in and for Lee County for violations of Chapter 373 of the Florida Statutes and Chapter 40E-4 of the Florida Administrative Code for not complying with a Consent Agreement with the District concerning resolution of unauthorized filling of wetlands on property located off of Buckingham Road, Section 28, Township 43 South, Range 26 East, Lee County, providing an effective date. (Doug MacLaughlin, ext. 2153)
31. **2009-115** A Resolution of the Governing Board of the South Florida Water Management District to authorize District staff to file suit, pursue any appropriate damages and remedies, and take all appropriate action, including the authority to settle the matter, subject to the approval of the Executive Director, against Heavenly Farms, LLC, Aida Fernandez, and any other appropriate or necessary parties, in Miami-Dade Circuit Court or other appropriate forum, regarding the property located in Section 28, Township 55, Range 38, Miami-Dade County, Florida, known as Heavenly Rainbow Farms. (Chris Pettit, ext. 6423)

Government and Public Affairs

32. **2009-116** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a nine (9) month cooperative agreement with the City of Marco Island for the construction of Drainage System Improvements, Inlet Retrofit and Outfalls Replacements, in the total amount of \$600,000, of which the District's total contribution is \$200,000 for which dedicated funds (Big Cypress Basin) are budgeted; providing an effective date. (Contract #4600001617) (Max Guerra, ext. 7612).

Corporate Resources

33. **2009-117** A Resolution of the Governing Board of the South Florida Water Management District authorizing the recording of the Disposition of Fixed Assets, during Fiscal Year 2008; providing an effective date (Jon Gleason, ext. 6078)

Operations and Maintenance

34. **2009-118** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a 3 year contract with The Bancorp Bank dba Jefferson Leasing as a special procurement using GSA Schedule GS-30F-0019P for Motor Pool leased vehicles in the amount of \$250,614 for which ad valorem funds of \$41,769 are budgeted and the remainder is subject to Governing Board approval of the FY10-FY12 budgets; providing an effective date. (Contract Number 4600001678) (Phillip White, ext.2182)

35. **2009-119** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a 180 day contract with Worth Contracting Incorporated, the lowest responsive and responsible bidder, for the S-63A Concrete Repairs in the amount of \$664,000 for which ad valorem funds are budgeted; providing an effective date. (Contract Number 4600001701) (Jerry Gresh, ext. 4058)
36. **2009-120** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a 130 day contract with Expert Construction Managers Incorporated, the lowest responsive and responsible bidder, for the C-41A Canal Bank Repairs in the amount of \$969,000 for which ad valorem funds are budgeted; providing an effective date. (Contract Number 4600001696) (Robin Deaton, ext. 4062)
37. **Board Vote on Consent Agenda**

Note: Patrick Rooney abstained from Consent Agenda Item 17.

Ms. Estenoz abstained from the Regulatory Consent Agenda Item 12, Page 31, Consent Agreement No. 13, Indian Street Bridge Soil Borings.

Motion made by Jerry Montgomery, seconded by Melissa Meeker to Approve the following item(s): 9, 10, 11, 12, 13, 14, 15, 17, 18, 19, 20, 21, 23, 24, 25, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36

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

Workshop Agenda

Executive Office

56. **Overview of Chapter 373, Florida Statutes, and Chapters 119 and 286, Florida Statutes - Public Records and Open Meetings (Continued)** - Sheryl Wood, General Counsel, and Frank Bartolone, Senior Attorney (ext. 6976 and 2884)

Frank Bartolone, Senior Attorney, Office of Counsel, reported on the District's open government activities, the Sunshine Law, penalties for violation of the law, public records law and retention schedule of public records. Mr. Bartolone also reported on examples of exemptions from public records.

Ms. Estenoz inquired on the District's financial policy and procedures for selection of bond issuances.

Mr. Olliff said there would be a review of the District's financial policy and procedures and stated it would be addressed at the Audit & Finance Committee.

Mr. Montgomery commented on the District staff's approach on policy and procedures.

Discussion Agenda

Water Resources

- 16. 2009-101** A Resolution of the Governing Board of the South Florida Water Management District to authorize an amendment to contract 3600000952 with HydroMentia, Inc., for one additional year of operation and maintenance of the Taylor Creek Algal Turf Scrubber® Nutrient Recovery Facility, and authorize a Sole Source Procurement as an exception to the general standards of competition, to extend the term from February 1, 2009 to January 31, 2010, and to increase funding in the total amount of \$300,000, for which Ad Valorem funds are budgeted; providing an effective date. (Contract Number 3600000952-A03) (David Unsell, ext. 6888)

This item was pulled from the Consent portion of the agenda by Mr. Rooney. Mr. Rooney asked about the effectiveness of the project.

Chip Merriam, Deputy Executive Director, Water Resources, discussed the project and requested further study of the HydroMentia algal turf scrubber.

Public Comment: Margaret Palmer, Hydromentia, Inc., commented on the Taylor Creek Algal turf scrubber project and looks forward to a continued partnership with the District and Hydromentia, Inc.

Motion made by Melissa Meeker, seconded by Paul C. Huck Jr. to Approve the following item(s): 16

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

Executive Office

- 57.** Consideration of a determination that the "Inspection Matters" associated with the 'River of Grass' Agreement for Sale and Purchase are satisfactory including the Best Management Practices (BMPs) and consideration of Amendment 1 to the contract allowing the relocation agreements to become a condition precedent to closing rather than an "Inspection Matter" as defined in the contract. (Carlyn Kowalsky, ext. 6240 and Kirk Burns, ext. 6546)

Carlyn Kowalsky, Managing Attorney, provided preliminary information on this agenda item.

Kirk Burns, Sr. Practice Expert, presented background information on the Best Management Practices (BMPs) for the River of Grass agreement. Mr. Burns reported there are three BMP regimes: phosphorus and nitrogen; sugar cane production and citrus BMPs.

There was Board discussion on BMP schedules, implementing additional BMPs for "hot spots", penalties for not achieving BMP requirements, and the immediate ecosystem benefits of the BMP schedules.

Mr. Burns then reported on the BMPs for sugar cane production and citrus.

There was further Board discussion on stricter compliance with BMP schedules and U.S. Sugar Corp. because of discounted lease rates.

Ms. Estenoz requested the Board host an interagency panel discussion meeting on water quality standards.

Mr. Montgomery commented on setting a standard for BMPs that the Governing Board is comfortable with as a landowner leasing the property to agricultural interests.

Mr. Dauray commented on setting BMP precedences for the future.

Mr. Burns then reported on the BMP compliance: annual inspection of "hot spots;" inspection for ambient contamination; and compliance test for new pesticides.

There was further Board discussion on the language in the compliance methodology, BMPs for chemicals, such as copper, and changes in pesticides.

Ms. Estenoz inquired on sediment and erosion controls being incorporated into the new BMPs for the U.S. Sugar contract.

Pam Wade, Director, Everglades Regulation Division, provided additional information on BMP compliance for sediment control in EAA and certain farms.

There was discussion regarding an extension from U.S. Sugar Corp. for further discussion of the BMPs. Mr. Olliff reported U.S. Sugar Corp. agreed on a 30-day contractual extension of this provision under the due diligence section to allow the Board further discussion of the BMPs.

Public Comment: James Harvey, citizen, commented on the cost of the lease, BMPs in the EAA and the District being responsible as a landowner. He also commented on water storage on the land.

Public Comment: Martha Musgrove, citizen, commented on the BMP report, and questioned whether the Board should put certain language into the contract.

Public Comment: Jacquie Weisblum, Audubon of Florida, supports a workshop for water quality and the BMPs, and commented on Lake Okeechobee and strengthening BMPs in the EAA.

Ms. Estenoz made the following motion:

Determine that due diligence Inspection Matters are satisfactory, with the exception of Best Management Practices, the agreement for which shall be extended for 30 days and approve the First Amendment to Agreement for Sale and Purchase providing that the Easements and Relocation Agreement are a condition precedent to Closing.

Motion made by Shannon Estenoz, seconded by Melissa Meeker to Approve the following item(s): 57

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

Government and Public Affairs

- 38. 2009-121** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into an eight (8) month cost share agreement with the City of Marco Island for Year 4 of the Septic Tank Replacement Program in the total amount of \$11,300,000, of which the District's total contribution is \$1,000,000, for which dedicated funds (Big Cypress Basin) are budgeted; providing an effective date. (Contract No. 4600001613) (Max Guerra, ext. 7612).

No presentation provided.

Motion made by Charles Dauray, seconded by Michael Collins to Approve the following item(s): 38

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

- 39. 2009-122** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a twelve (12) month cooperative agreement with the City of Naples for the construction of water quality and flood mitigation improvements in Basin III, V and Upper Gordon River Basin in the total amount of \$8,000,000 of which the District's total contribution is \$1,500,000 for which dedicated funds (Big Cypress Basin) are budgeted; providing an effective date. (Contract # 4600001679) (Max Guerra, ext. 7612)

No presentation provided.

Motion made by Charles Dauray, seconded by Paul C. Huck Jr. to Approve the following item(s): 39

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

- 40. 2009-123** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a ten (10) month cooperative agreement with Collier County for the construction of three (3) stormwater system improvement projects: Lely Main Canal between Rattlesnake-Hammock Road and US 41, Gateway Triangle Phase II and Gordon River Water Quality Park, in the total amount of \$8,900,000, of which the District's total contribution is \$1,500,000 for which dedicated funds (Big Cypress Basin) are budgeted; providing an effective date. (Contract # 4600001684) (Max Guerra, ext. 7612)

No presentation provided.

Motion made by Charles Dauray, seconded by Michael Collins to Approve the following item(s): 40

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

- 41. 2009-124** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a 1-year agreement with the Treasure Coast Resource Conservation & Development Council for the acquisition of an approximate 438 acre Conservation Easement in western St. Lucie County, in the total amount of \$2,000,000, of which the District's total contribution is \$1,000,000 for which dedicated funds (State Appropriations) are budgeted, providing an effective date. (Contract Number:4600001576)(Kathryn LaMartina, ext. 3603)

No presentation provided.

Motion made by Melissa Meeker, seconded by Michael Collins to Approve the following item(s): 41

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

- 42. 2009-125** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a 2-year agreement with St. Lucie County for Paradise Park Stormwater Improvements - Phase 3, in the total amount of \$2,000,000, of which the District's total contribution is \$1,000,000 for which dedicated funds (State Appropriations) are budgeted, providing an effective date. (Contract Number:4600001575)(Kathryn LaMartina, ext. 3603)

No presentation provided.

Motion made by Melissa Meeker, seconded by Paul C. Huck Jr. to Approve the following item(s): 42

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

Corporate Resources

- 43. 2009-126** A Resolution of the Governing Board of the South Florida Water Management District authorizing a three (3) year contract with two one-year renewal options with Wackenhut Corporation as a special procurement (other governmental entity contract) for security services for the Districts headquarters in an amount not-to-exceed \$2,644,406.77, of which \$326,818.97 is budgeted for FY09 and the remainder is subject to Governing Board budget approval for fiscal years FY2010 through FY2012, providing an effective date. (Contract No: 4600001689) (Aaron Basinger, ext. 6660)

No presentation provided.

Motion made by Michael Collins, seconded by Jerry Montgomery to Approve the following item(s): 43

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

Operations and Maintenance

- 55. 2009-128** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a 3 month Purchase Order with WCC Services Incorporated, for Heavy Equipment Rental to support the Rehabilitation Project at STA 5 Cell 1A, in the amount of \$430,800 with an option to extend for 1 additional month in the not-to-exceed amount of \$143,600 for which dedicated funds (Everglades Trust Fund) are budgeted; providing an effective date. (Purchase Requisition 10072198) (Jerry Rude, ext. 2137)

No presentation provided.

Motion made by Melissa Meeker, seconded by Paul C. Huck Jr. to Approve the following item(s): 55

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

Governing Board

- 44.** A discussion of whether the Governing Board of the South Florida Water Management District should 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. U.S. Army Corps of Engineers, et. al.*, Case No. 08-22966-CIV-Seitz/OSullivan, (S.D. Fla.). (Keith Rizzardi, Ext. 6274)

Keith Rizzardi, Managing Attorney, Office of Counsel, provided background information on the lawsuit, and reported on the Miccosukee Tribe's concerns on the Endangered Species Act (ESA) analysis. Mr. Rizzardi also reported on the District's interest pertaining to this lawsuit.

Mr. Collins provided comment on the potential impacts to the District and single species management. He has concerns on ecosystem impacts in terms of single species management.

Ms. Estenoz commented about the multi-species analysis.

Claudio Riedi, Miccosukee Tribe of Indians of Florida, provided information on the original biological opinion.

Mr. Collins commented on endangered species and ecosystem impacts due to the operation plan.

Mr. Riedi reported the Miccosukee Tribe has concerns about the endangered species and would like to see a biological opinion done recognizing a multi-species analysis.

There was further Board discussion about the project and remedies increasing water flows south.

Mr. Ammon commented on the remedies for increasing water flows south.

Chairman Buermann commented on the importance of water flowing south from the Tamiami Trail.

Ms. Estenoz discussed the District being able to intervene on specific issues as the case moves forward.

Mr. Huck requested additional information before the Board makes any decision on this item.

There was further Board discussion on the importance of the issues in the case.

The Governing Board agreed to take no action at this time and requested additional information.

Mr. Olliff reported that staff will follow-up with this item.

45. Public Comment

Public Comment: Ryan Baline, Real Estate Investment Group, LLC, commented on Interest in Real Property adjacent to C-4 Flood Mitigation Project located in Section 5, Township 54 south, Range 40 East, Miami-Dade County.

Chair Buermann requested this be addressed at the next Governing Board meeting.

Public Hearing

Everglades Restoration

46. 2009-127 Open Public Hearing

A Resolution of the Governing Board of the South Florida Water Management District adopting the SFWMD Florida Forever Work Plan, 2009 Annual Update, contained in Chapter 6A, Volume II of the 2009 South Florida Environmental Report; providing an effective date. (Wanda Simpson, ext. 6445)

Close Public Hearing

Chair Buermann opened the public hearing.

Ruth Clements, Director, Land Acquisition Department, presented information on the SFWMD Florida Forever Work Plan, 2009 Annual Update.

Public Comment: Rosa Durando, Audubon Society, Lake Worth, commented on Palm Beach County Board of County Commissioners endorsing rock mining.

Chair Buermann closed the public hearing.

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

Vote called. Voting yes: Shannon Estenoz, Jerry Montgomery, Eric Buermann, Charles Dauray, Paul C. Huck Jr., Melissa Meeker, Patrick Rooney. Not present: Michael Collins. Motion passed.

Staff Reports

47. General Counsel Report - Sheryl Wood

Sarah Nall, reported on a petition submitted by the Miccosukee Tribe.

48. Executive Director's Report - Carol Wehle

Mr. Olliff summarized the action items generated from this meeting for the Board and stated the items will be addressed in future workshops or other appropriate meetings.

49. Board Comment

Ms. Estenoz provided a follow-up of the Everglades Coalition Conference and reported on a panel discussion regarding programmatic regulations.

Adjournment

54. Adjourn

Chair Buermann adjourned the meeting at 2:40 pm.

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

Recorded By:

Cathy Widness
Administrative Assistant Senior
Governing Board and Executive Services
SFWMD

Motion made by Shannon Estenoz, seconded by Paul C. Huck Jr. to Approve the following item(s): 54

Vote called. Voting yes: Shannon Estenoz, Paul C. Huck Jr., Eric Buermann, Charles Dauray, Melissa Meeker, Jerry Montgomery, Patrick Rooney. Not present: Michael Collins. Motion passed.