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## South Florida Water Management District

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### GOVERNING BOARD MEETING MINUTES

July 11, 2007

9:00 AM

District Headquarters - B-1 Auditorium

3301 Gun Club Road

West Palm Beach, FL 33406

Members Present:

**Eric Buermann, Chair**

**Michael Collins**

**Shannon Estenoz**

**Nicolás Gutiérrez, Vice-Chair**

**Melissa Meeker**

**Patrick Rooney**

**Malcolm Wade**

Members Absent:

**Charles Dauray**

**Harkley Thornton**

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

Chair Buermann called the meeting to order at 9:16 am.

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

Patrick Rooney led the group in the Pledge of Allegiance.

3. **Approval of Minutes from the last month's Governing Board Meeting -**

Approval of the Workshop Minutes for June 13th and Regular Meeting Minutes for June 14th, 2007, held in Orlando, Florida.

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

Vote called. Voting yes: Michael Collins, Nicolás Gutiérrez, Eric Buermann, Shannon Estenoz, Melissa Meeker, Patrick Rooney, Malcolm Wade. Motion passed.

4. **Agenda Addendum**

Annette Carter, Director of Governing Board & Executive Services read into the record the agenda addendum. A copy was made available to the public.

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

Mr. Wade abstained from Discussion Agenda Item 64 and Consent Agenda Item 18; Regulatory Consent Agenda Item 12, Page 19 #1, Orchard Park; Regulatory Consent Agenda Item 12, Page 4 #2, Peeples Ranch; and the Regulatory Consent Agenda Item 12, Page 30 #1, Seminole Tribe Work Plans.

**6. Water Resource Advisory Commission (WRAC) Update - Michael Collins, Chair**

Mr. Collins provided an update on the Water Resource Advisory Commission meeting which was held on July 5, 2007. Mr. Collins reported on the Everglades National Park General Management "Alternative E" plan.

Mr. Collins requested the Board approve the WRAC report that would include the resolutions.

Public Comment: John Arthur Marshall representing the Arthur Marshall Foundation, provided comment on the flow way into Lake Okeechobee and the modeling studies.

Motion made by Michael Collins, seconded by Nicolás Gutiérrez to Approve the following item(s): 6

Vote called. Voting yes: Michael Collins, Nicolás Gutiérrez, Eric Buermann, Shannon Estenoz, Melissa Meeker, Patrick Rooney, Malcolm Wade. Motion passed.

**7. Water Resources Advisory Commission (WRAC) Appointments and Reappointments - Mike Collins, Chair**

Mr. Collins announced his reappointments of Ms. Christina Casado-Acorn, Mr. Bevin Beaudet and Mr. James Harvey to the Water Resources Advisory Commission.

Mr. Collins announced Mr. Rooney's appointments of Mr. Donald Arrington and Mr. Michael Tammaro to the Water Resources Advisory Commission.

Mr. Collins recognized Lennart Lindahl, former Governing Board member, who was in the audience. A plaque and photo were presented to Mr. Lindahl.

Mr. Lindahl thanked the agency and said the District is very important to Florida and praised the staff at the South Florida Water Management District.

Motion made by Michael Collins, seconded by Nicolás Gutiérrez to Approve the following item(s): 7

Vote called. Voting yes: Michael Collins, Nicolás Gutiérrez, Eric Buermann, Shannon Estenoz, Melissa Meeker, Patrick Rooney, Malcolm Wade. Motion passed.

**8. 2007-700 A Resolution of the Governing Board of the South Florida Water Management District authorizing the Executive Director to inform the Superintendent, Everglades National Park, United States Department of the Interior, that the Governing Board urges the adoption of a Preferred Alternative for the proposed Everglades National Park General Management Plan that is similar in concept to Alternative E prepared by leaders and members of the Florida Keys Fishing Guides Association and other citizens who visit the backcountry of Everglades National Park (Rick Smith, ext. 6517)**

Motion made by Michael Collins, seconded by Nicolás Gutiérrez to Approve the following item(s): 8  
Vote called. Voting yes: Michael Collins, Nicolás Gutiérrez, Eric Buermann, Shannon Estenoz, Melissa Meeker, Patrick Rooney, Malcolm Wade. Motion passed.

## Consent Agenda

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

Public Comment: Rosa Durando, Audubon Society, Lake Worth, spoke with staff regarding modifying language to the Regulatory Consent Agenda Item 12, Page 16 #10, Woerner South Inc.

### **10. Pull Items for Discussion from Consent Meeting Agenda**

There were no items pulled from the Consent Agenda to the Discussion Agenda.

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

There was no Board comment on the Consent Agenda.

## **Water Resources**

**12. Water Use Permit Applications**

Surface Water Management Permit Applications (includes Conservation Easements)

Environmental Resource Permit Applications (includes Conservation Easements)

Everglades Works of the District Permit Applications

Denials

Environmental Resource Permit Extensions

Addendums to Water Use Permits

Consent Agreements

Seminole Tribe Work Plans

Water Shortage Enforcement Actions

Page 1 No 1 City of Dania Beach (WU): **Postponed** to August Board

Page 4 No 1 Brighton Public Water Supply (WU): **Postponed** to August Board

Page 4 No 2 Peeples Ranch (WU): **Postponed** to August Board

Page 7 No 2 Bonita Springs Utilities (WU): **Postponed** to August Board

Page 8 No 5 One West (WU): **Postponed** to August Board

Page 9 No 3 Martin Preserve (FKA 322 Stuart) (ERP): **Postponed** to August Board

Page 9 No 4 Venture Park (ERP): **Postponed** to August Board

Page 11 No 5 Silver Palms (WU): **Removed** from Agenda

Page 18 No 2 Fairlake at Weston (WU Denial): **Removed** from Agenda

Page 19 No 1 Orchard Park (WU Denial): **Withdrawn**

Page 20 No 3 Pine Haven Condominium (WU Denial): **Removed** from Agenda

Page 22 No 1 United Nursery Corporation (WU Denial): **Removed** from Agenda

Page 23 No 1 FPL St. Lucie Nuclear Plant Duct Bank Replacement (WU Denial): **Withdrawn**

Page 23 No 2 Gracewood Dairy (WU Denial): **Removed** from Agenda

13. Right of Way Occupancy New Permits  
Right of Way Occupancy Permit Modifications  
Right of Way Occupancy Permit Requests with Waiver of District Criteria
  
14. **2007-701** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a five year cooperative agreement with Florida Fish and Wildlife Conservation Commission for fish collection in Broward, Martin, Miami-Dade, Okeechobee, Palm Beach, and St. Lucie counties in an amount not to exceed \$636,615 of which a total of \$130,725 (Ad valorem fund \$41,606; and Dedicated Funds - STA O&M Fund \$63,630, Comprehensive Everglades Restoration Plan Fund \$25,489) are subject to Governing Board approval of the FY08 budget, and the remainder is subject to Governing Board approval of the FY09-FY12 budgets; providing an effective date. (Contract Number 4600000932) (Nicole Howard, x4765)
  
15. **2007-702** 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 (FEMA) for Flood Map Modernization in Polk County, to extend the term of the contract from January 3, 2009 to December 31, 2009, and to add funding in the amount of \$250,000, as reimbursement to the District, subject to Governing Board approval of the FY08 and FY09 budgets; providing an effective date. (Contract number 4600000257-A01)(Angela Prymas, ext. 6629)
  
16. Authorize publication of the Notice of Rulemaking in the Florida Administrative Weekly (FAW) to amend Rule 40E-1.607(4), F.A.C., to reference Chapter 18-21, F.A.C., to incorporate the Department of Environmental Protection's permit fee schedule for proprietary authorizations under Chapters 253 and 258, F.S. (Anita Bain, ext 6866)
  
17. **2007-703** A Resolution of the Governing Board of the South Florida Water Management District releasing a conservation easement for a project known as Trailview (Okeechobee County); providing an effective date (Anita Bain, ext 6866)
  
19. **2007-704** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a 180 day contract with Florida Design Drilling Corporation, the lowest responsive and responsible bidder, for the construction of the Floridan Aquifer Test Monitor Well in Highlands County in the amount of \$864,500, for which dedicated funds (Water Management Land Trust Fund) of \$700,000 are budgeted; and the remainder is subject to Governing Board approval of the FY08 budget; providing an effective date. (Contract Number 4600000986) (Bob Verrastro, ext. 6139)

### **Everglades Restoration Resources**

20. **2007-705** 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. **2007-706** A Resolution of the Governing Board of the South Florida Water Management District to approve the purchase of land interests containing 6.21 acres, more or less, for the Kissimmee River Project, in Okeechobee County, in the amount of \$120,270, together with statutory costs and sellers attorneys fees and associated costs in the amount of \$16,297.20 for which dedicated funds (Florida Forever Trust Fund) and ad valorem funds (Capital Projects Okeechobee) are budgeted; 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. (Barbara Katz, ext. 6837)
22. **2007-707** A Resolution of the Governing Board of the South Florida Water Management District requesting the release of funds from Florida Forever Trust Fund by the Department of Environmental Protection for the acquisition of land interests containing 6.21 acres, more or less, for the Kissimmee River Project in Okeechobee County, in the amount of \$120,270: providing an effective date. (Barbara Katz, ext. 6837)
23. **2007-708** A Resolution of the Governing Board of the South Florida Water Management District to approve the purchase of land interests containing 4.7 acres, more or less, for the C-111 Canal Project (L-31 North Acquisition Area) in Miami-Dade County, in the amount of \$500,000, and all associated costs for which ad valorem funds (Capital Projects Okeechobee) are budgeted; 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. (Tom Hanaway, ext. 6668)
24. **2007-709** A Resolution of the Governing Board of the South Florida Water Management District to approve the purchase of land interests containing 1.44 acres, more or less, in Miami-Dade County, Pennsuco Project, in the amount of \$11,520 and associated costs; for which dedicated funds (Lake Belt Mitigation) have been budgeted; 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. (Barbara Katz, ext. 6837)
25. **2007-710** A Resolution of the Governing Board of the South Florida Water Management District to approve the purchase of land interests containing 6.53 acres, more or less, for the Kissimmee River Project, in Highlands County, in the amount of \$84,000, and associated costs for which dedicated funds (Florida Forever Trust Fund) are budgeted; providing an effective date. (Tom Hanaway, ext. 6668)

26. **2007-711** A Resolution of the Governing Board of the South Florida Water Management District requesting the release of funds from Florida Forever Trust Fund by the Department of Environmental Protection for the acquisition of land interests containing 6.53 acres for the Kissimmee River Project in Highlands County, in the amount of \$84,000.00, and associated costs; providing an effective date. (Tom Hanaway, ext. 6668)
  
27. **2007-712** A Resolution of the Governing Board of the South Florida Water Management District approving the release of right of way interests containing 0.18 acres, more or less, in fee; C-14 (Pompano) Canal, Section 1, Township 49 South, Range 42 East, Broward County; to the adjacent landowner for a price no less than appraised value, subject to terms and conditions; providing an effective date. (Linda Schindeler, ext. 6838)
  
28. **2007-713** A Resolution of the Governing Board of the South Florida Water Management District to approve the purchase of land interests containing 0.5 acre, more or less, in Miami-Dade County, Pennsuco Project, in the amount of \$4,000 and associated costs; for which dedicated funds (Lake Belt Mitigation) have been budgeted; 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. (Barbara Katz, ext. 6837)
  
29. **2007-714** A Resolution of the Governing Board of the South Florida Water Management District to approve the purchase of land interests containing 5.0 acres, more or less, for the C-111 Canal Project (L-31 North Acquisition Area), in Miami-Dade County, in the amount of \$550,000, together with statutory costs and attorneys fees in the total amount of \$44,000.00 and all associated costs for which ad valorem funds (Capital Projects Okeechobee) are budgeted; 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. (Tom Hanaway, ext. 6668)
  
30. **2007-715** A Resolution of the Governing Board of the South Florida Water Management District to approve the purchase of land interests from the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida containing 160 acres, more or less, within the boundaries of the Pennsuco Project, in Miami-Dade County, in the amount of \$864,000 and associated costs, for which dedicated funds (Lake Belt Mitigation Trust Fund) are budgeted, 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 that this Resolution supersedes and replaces Resolution No. 2007-104; providing an effective date. (Barbara Katz, ext. 6837)

31. **2007-716** A Resolution of the Governing Board of the South Florida Water Management District to approve releasing road easement interests containing 0.90 acres, more or less, to the underlying fee owner, located within Orangebrook Estates (n/k/a Valencia Landings) Subdivision, in Section 1, Township 43 South, Range 28 East and in Section 6, Township 43 South, Range 29 East, Hendry County, subject to satisfaction of certain terms, conditions and requirements, including conveyance of a replacement easement to the district; providing an effective date. (Linda Schindeler, ext. 6838)
33. **2007-718** 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 and manage waterfowl hunts during the 2007-2008 Waterfowl Hunting Season; providing an effective date. (Steve Coughlin, ext. 2603)

#### **Executive Office**

34. **2007-719** A Resolution of the Governing Board of the South Florida Water Management District authorizing the settlement in full of the workers' compensation claim: Frank Gustafson v. South Florida Water Management District (Date of Accident - 08/30/2002); providing an effective date. (Kathy Henderson, x6435)
35. **2007-720** A Resolution of the Governing Board of the South Florida Water Management District to authorize an amendment to a contract with Akerman Senterfitt for legal services in the amount of \$140,000.00 for which ad valorem funds are budgeted, with no change in terms; providing an effective date. (Contract 3600000842/OT050039)(Robert Panse, x6279)
36. **2007-721** A Resolution of the Governing Board of the South Florida Water Management District requesting release of funds to carry out surface water restoration projects funded by the Florida Legislature in the General Appropriations Act for fiscal year 2007/2008; providing an effective date. (Ernie Barnett, x2110)
37. **2007-722** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a cost share agreement with the City of Fort Myers for Installation of East and West Weirs at Manuel's Branch Canal in the total amount of \$250,000, of which the District's total contribution is \$240,000 in ad valorem funds, and authorize a budget transfer from Managerial Reserves to the Lower West Coast Service Center; providing an effective date. (Contract Number 4600000974) (Phil Flood, ext. 7768)
38. **2007-723** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a cost share agreement with the City of Sanibel for the Sanibel Centralized Sanitary Sewer Expansion in the total amount of \$64,000,000, of which the District's total contribution is \$500,000 in ad valorem funds, and authorize a budget transfer from Managerial Reserves to the Lower West Coast Service Center; providing an effective date. (Contract Number 4600000973) (Phil Flood, ext. 7768)

39. **2007-724** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a cost share agreement with the City of Fort Myers for Billy Creek Filter Marsh Phase 1 in the total amount of \$400,400, of which the District's total contribution is \$308,000 in ad valorem funds, and authorize a budget transfer from Managerial Reserves to the Lower West Coast Service Center; providing an effective date. (Contract Number 4600000977) (Phil Flood, ext. 7768)
  
40. **2007-725** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a cost share agreement with the City of Cape Coral for Stormwater Improvements in the total amount of \$1,787,720, of which the District's total contribution is \$893,500 in ad valorem funds, and authorize a budget transfer from Managerial Reserves to the Lower West Coast Service Center; providing an effective date. (Contract Number 4600000976) (Phil Flood, ext. 7768).
  
41. **2007-726** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a cost share agreement with Lee County for the Powell Creek Algal Turf Scrubber System in the total amount of \$477,000, of which the District's total contribution is \$427,000 in ad valorem funds, and authorize a budget transfer from Managerial Reserves to the Lower West Coast Service Center; providing an effective date. (Contract Number 4600000978) (Phil Flood, ext. 7768)
  
42. **2007-727** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a cooperative agreement with Lee County for the North Fort Myers Surface Water Restoration, Powell Creek Section, in the total amount of \$2,000,000, of which the District's contribution is \$300,000 in ad valorem funds, and authorize a budget transfer from Managerial Reserves to the Lower West Coast Service Center; providing an effective date. (Contract Number 4600000979) (Phil Flood, ext. 7768)
  
43. **2007-728** A Resolution of the Governing Board of the South Florida Water Management District to authorize an amendment to 4500008780 with Intellisoft Technologies, Inc. as a waiver of competition for a SAP Payroll/time Functional Consultant, from July 15, 2007 to September 30, 2008, in the amount of \$389,570, of which \$66,830 of ad valorem funds are budgeted in FY07 and the remainder is subject to Governing Board approval of the FY08 budget; providing an effective date. (Purchase order 4500008780, Bernardo Camarena, ext 6421)
  
44. **2007-729** A Resolution of the Governing Board of the South Florida Water Management District to authorize an amendment to 4500008778 with Zenith Infoway, Inc. as a waiver of competition for a SAP Programmer, from August 1, 2007 to September 30, 2008, in the amount of \$358,050, of which \$51,150 of ad valorem funds are budgeted in FY07 and the remainder is subject to Governing Board approval of the FY08 budget; providing an effective date. (Purchase order 4500008778, Bernardo Camarena, ext. 6421)

45. **2007-730** A Resolution of the Governing Board of the South Florida Water Management District to authorize District staff to file suit or administrative complaint, 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 any persons who violated water shortage restrictions enacted by the District, or who engaged in the consumptive use of water without a permit during a declared water shortage period in violation of Section 373, Florida Statutes, or any other appropriate or necessary parties in the appropriate court. (Doug MacLaughlin, x2153)

#### **Corporate Resources**

46. **2007-731** A Resolution of the Governing Board of the South Florida Water Management District authorizing the transfer of funds within the District budget as shown on the attachment hereto; providing an effective date. (Doug Bergstrom, ext. 6214)
47. **2007-732** A Resolution of the Governing Board of the South Florida Water Management District amending the Fiscal Year 2006 - 2007 budget; providing an effective date. (Doug Bergstrom, ext 6214)
48. **2007-733** A Resolution of the Governing Board of the South Florida Water Management District authorizing the designation of Positions 000380 Assistant Deputy Executive Director, for the purpose of participation in the Florida Retirement System Senior Management Service Class, effective July 19, 2007. Concurrently, the following position is being deleted from participation in the Senior Management Service Class, effective July 18, 2007: Position 002304 Chief Exec Consultant - WRM. (Lourdes Ramos, ext. 6370)

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

Mr. Wade abstained from Regulatory Consent Agenda Item 12, Page 19 #1, Orchard Park; Regulatory Consent Agenda Item 12, Page 4 #2, Peeples Ranch; and the Regulatory Consent Agenda Item 12, Page 30 #1, Seminole Tribe Work Plans.

Motion made by Melissa Meeker, seconded by Patrick Rooney to approve following items 12, 13, 14, 15, 16, 17, 19, 20, 21, 22, 23, 24,25, 26, 27, 28, 29, 30, 31, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42,43,44,45,46, 47, 48. Vote called. Voting yes: Shannon Estenoz, Malcolm Wade, Melissa Meeker, Eric Buermann, Patrick Rooney. Motion passed.

Sheryl Wood, General Counsel, requested to take a revote because Mr. Collins was not present for the vote.

Shannon Estenoz moved to reopen the original vote because there was not a quorum present, seconded by Nick Gutiérrez; Vote called. Voting yes: Michael Collins, Nicolás Gutiérrez, Eric Buermann, Malcolm Wade, Shannon Estenoz, Melissa Meeker. Motion passed.

Motion made by Shannon Estenoz, seconded by Melissa Meeker to Approve the following item(s): 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48  
Vote called. Voting yes: Shannon Estenoz, Melissa Meeker, Eric Buermann, Michael Collins, Nicolás Gutiérrez, Patrick Rooney, Malcolm Wade. Motion passed.

## Workshop Agenda

### **Water Resources**

52. Water Supply Issues Workshop Regarding Terminated or Reduced Base Condition Water Uses under the Regional Water Availability Rule (Section 3.2.1 of the Basis of Review for Consumptive Use Permit Applications) - Chip Merriam, Deputy Executive Director, Water Resources Management

Chip Merriam, Deputy Executive Director, presented information on this agenda item.

Mr. Merriam reported on North Miami Beach and Miami-Dade's Consumptive Use Permits and the Regional Water Availability Rule.

Public Comment: Gerry Hartman, representing North Miami Beach, reported on the water improvements and alternative water supplies in North Miami Beach. He reported on the inter-local agreement between Miami-Dade and North Miami Beach.

Public Comment: Douglas Yoder representing Miami-Dade Water & Sewer stated they are working together with North Miami Beach regarding the water supply issues and also reported on the Regional Availability Rule.

Mr. Collins provided comment on consumptive use permits and the public interests.

Mr. Gutiérrez commented on Miami-Dade's 20-year agreement.

Mr. Buermann provided comment on the Floridan aquifer and the Regional Water Availability Rule.

### **Everglades Restoration Resources**

53. Everglades Restoration Update - Tommy Strowd, Assistant Deputy Executive Director, CERP, Paul E. Dumars, Sr., Chief Financial Officer

Tommy Strowd, Assistant Deputy Executive Director, provided information on the EAA Reservoir seepage canal blasting.

Public Comment: John Arthur Marshall provided comment on the pond apples located next to the canal where this blasting will occur.

## Discussion Agenda

### **Water Resources**

54. Water Shortage Emergency

Water Conditions Report - Susan Sylvester, ext. 6152

Susan Sylvester, Director, Operations provided an update on the District's June and July rainfall.

Ms. Sylvester reported on the water level of Lake Okeechobee.

Public Comment: Robert Underleink representing King Ranch provided comment on the 2001 back pumping into Lake Okeechobee. He recommends the Board take action today to implement back pumping into the Lake.

Public Comment: Jacquie Cohen representing Audubon, opposes back pumping into Lake Okeechobee.

Public Comment: Tom MacVicar representing LOSA Agriculture provided comment on back pumping, the water shortage, and water quality in Lake Okeechobee.

Public Comment: Drew Martin representing the Sierra Club opposes back pumping into Lake Okeechobee.

Public Comment: Patrick Martin representing Lake Worth Drainage District reported on the water shortage and the resolution approved by the Lake Worth Drainage District.

Mr. Gutiérrez provided comment on back pumping to the Lake and the need to balance various interests around Lake Okeechobee.

Mr. Collins reported on the Savings Clause by Congress.

Mr. Wade had Mr. MacVicar provide an explanation of the water quality charts during the 2001 and the 2007 droughts.

Mr. Wade reported on the back pumping into the Lake in the 1970s and said since the District started Best Management Practices in the EAA; the water quality going out of the EAA is cleaner than any other basin around. Mr. Wade reported on the permits pertaining to back pumping in the S2, 3, and 4. Mr. Wade recommended that the Board direct Ms. Wehle and staff meet with Secretary Sole to address the permit issues and the economic issues.

Mr. Wade said these policy issues need to be addressed immediately and recommended having an emergency Board meeting.

**55. Water Shortage Emergency**

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 to address the water shortage conditions (Terrie Bates, ext. 6952)

A.) Enter an Order 1) Rescinding Modified Phase III Extreme Water Shortage Restrictions (Order No. 2007-107-DAO-WS) and Modified Phase II Severe Water Shortage Restrictions (Order No. 2007-100-DAO-WS) ,and 2) Imposing Modified Phase II and Phase III Landscape Irrigation Restrictions within the Lower East Coast Region and the Water Conservation Areas / Everglades National Park Water Conservation Areas / Everglades National Park Water Use Basin within all or part of Martin, Palm Beach, Broward, Miami-Dade, and Monroe Counties.

B.) Enter an Order 1) Rescinding Modified Phase II Severe Water Shortage Restrictions (Order No. 2007-106-DAO-WS), and 2) Imposing Modified Phase II Landscape Irrigation Restrictions within the Upper East Coast Region within all or part of Martin, St. Lucie and Okeechobee Counties.

C.) Enter an Emergency Order imposing specific water supply related actions concerning the City of Dania Beachs public water supply facilities (Water Use Permit No. 06-00187-W) within Broward County.

Terrie Bates, Assistant Deputy Executive Director, Water Resources, presented information on this agenda item.

Public Comment: Alex Larsen, citizen, reported on the water quality of Lake Okeechobee and also on water restrictions.

Public Comment: Drew Martin representing the Sierra Club had concerns regarding decreasing the water restrictions and the message it will send to the public.

Public Comment: Cynthia Plockelman representing Audubon Society of the Everglades does not want the District to modify the water restrictions.

Public Comment: Elise Ryan representing the Florida Nursery Growers & Landscape Association, reported on water restrictions and the rules of hand watering landscapes.

Public Comment: Bill Schall representing Palm Beach County Extension reporting on the economic impact to the landscape companies in South Florida.

Ms. Meeker reported on the water supply, public outreach/conservation, and back pumping.

Public Comment: Herb Zebuth, citizen, provided comment on back pumping into the Lake and phosphorus levels in the Lake.

Ms. Estenoz provided comment on the water restrictions and lifting the restrictions.

Mr. Collins provided comment on landscaping and water restrictions.

Mr. Estenoz provided comment on public outreach and the drought conditions.

Mr. Wade provided comment on the nurseries and the water restrictions.

Ms. Wehle provided comment on the water conservation areas and the rainfall on the coast.

Motion made by Michael Collins, seconded by Nicolás Gutiérrez to Approve the following item(s): 55

Vote called. Voting yes: Michael Collins, Nicolás Gutiérrez, Eric Buermann, Shannon Estenoz, Melissa Meeker, Patrick Rooney, Malcolm Wade. Motion passed.

## **56. Water Shortage Emergency**

Enter a Final Order concurring with the Executive Director's Order rescinding water shortage restrictions for withdrawals from the C-23, C-24 and C-25 Canals within all or part of St. Lucie and Martin Counties (Order No. 2007-331-DAO- WS) (Terrie Bates, ext. 6952)

Terrie Bates, Assistant Deputy Executive Director, provided information on this agenda item.

Motion made by Michael Collins, seconded by Nicolás Gutiérrez to Approve the following item(s): 56

Vote called. Voting yes: Michael Collins, Nicolás Gutiérrez, Eric Buermann, Shannon Estenoz, Patrick Rooney, Malcolm Wade. Not present: Melissa Meeker. Motion passed.

**57. Water Shortage Emergency**

Authorize publication of a Notice of Rulemaking in the Florida Administrative Weekly and adopt amendments to Chapter 40E-24, F.A.C., subject to no request for public hearing being received within 21 days of publication, to amend the mandatory year-round landscape irrigation measures for Lee, Collier and Charlotte Counties and to implement the rules District-wide (Keith Smith, ext. 6620)

Chip Merriam, Deputy Executive Director, Water Resources, presented information on this agenda item. The goal is to have mandatory year-round water conservation for landscape irrigation.

Public Comment: Randy Brown, representing the City of Pompano Beach commented on reuse restrictions in residential areas.

Public Comment: Jacquie Cohen representing Audubon of Florida, reported on landscape irrigation, and educating the public on water conservation.

Public Comment: John Fumero representing the City of Ft. Lauderdale said the City supports the year-round water restrictions but has concerns about the rule and asked this item be deferred.

Public Comment: Julie Leonard representing Southeast Florida Utility Council said the Council does not support this rule change and ask this item be deferred.

Public Comment: Thomas Miller representing Palm Beach County Water Utilities reported on water conservation and water restrictions for golf courses.

Mike Collins made a recommendation this item be deferred and requested there be a WRAC workshop to discuss a) the year-round water conservation rule and b) to revamp the drought policy.

Ms. Wehle said that staff will work on both of these issues and have a reuse discussion with FDEP.

**58. Water Shortage Emergency**

Enter Final Orders Concurring with the Granting of Temporary Variances from Water Shortage Restrictions Imposed within the Lower East Coast, Lake Okeechobee Service Area, Upper East Coast and Lower West Coast (Terrie Bates, ext. 6952)

Terrie Bates, Assistant Deputy Executive Director, Water Resources, provided information on this agenda item.

Public Comment: Debra Joneck representing the Florida Nursery Growers & Landscape Association, reported on newly-planted landscaping.

Motion made by Michael Collins, seconded by Nicolás Gutiérrez to Approve the following item(s): 58

Vote called. Voting yes: Michael Collins, Nicolás Gutiérrez, Eric Buermann, Shannon Estenoz, Melissa Meeker, Patrick Rooney, Malcolm Wade. Motion passed.

**59. Water Shortage Emergency**

Enter Final Orders Denying Applications for Variances from Water Shortage Restrictions Imposed within the Lower East Coast, Lake Okeechobee Service Area, Upper East Coast, Lower West Coast and the Indian Prairie Water Use Basin (Terrie Bates, ext. 6952)

Public comment: Rosa Duranda, Audubon Society, Lake Worth, reported on the water restrictions and said she opposes fundraising car washes.

Motion made by Michael Collins, seconded by Nicolás Gutiérrez to Approve the following item(s): 59

Vote called. Voting yes: Michael Collins, Nicolás Gutiérrez, Eric Buermann, Shannon Estenoz, Melissa Meeker, Patrick Rooney, Malcolm Wade. Motion passed.

**60. Water Shortage Emergency**

Lake Okeechobee Conditions Report - Susan Gray, ext. 6919

Susan Gray, Deputy Department Director, Watershed Management, reported on the water quality of Lake Okeechobee and the submerged aquatic vegetation. Dr. Gray reported on the muck removal projects.

Public Comment: John Marshall, Arthur Marshall Foundation, opposes back pumping into Lake Okeechobee.

Public Comment: Drew Martin, representing the Sierra Club, reported on the water quality flowing into Lake Okeechobee.

Mr. Wade requested Governing Board and staff's direction on back pumping into Lake Okeechobee.

Chair Buermann provided comment on back pumping and asked for a more specific rule or policy as to when the back pumping may be appropriate.

Mr. Collins provided comment on the 2001 drought, the agriculture industry, and the need for a policy regarding back pumping.

Ms. Meeker said she does not support the back pumping.

Ms. Estenoz provided comment on the back pumping and the environmental impacts. Ms. Estenoz said she does not support water supply back pumping at this point. Ms. Estenoz requested from staff more data regarding back pumping.

Mr. Gutiérrez reported on back pumping into the Lake, the environmental impacts and a possible policy decision regarding back pumping.

Mr. Rooney asked for the scientific effects on the back pumping.

Mr. Wade provided comment on water supply back pumping, the possibility of an extended drought and the economic impacts. Mr. Wade requested a timeframe for staff's recommendations.

Mr. Wade proposed that Ms. Wehle and staff immediately meet with the appropriate people to get a consensus on this issue.

Discussions continued by Board members regarding back pumping and direction for Ms. Wehle and staff. A motion was made and withdrawn by Mr. Gutiérrez after additional discussion.

Mr. Gutiérrez withdrew his original motion.

Mr. Gutiérrez made a motion: In the absence of a Board policy, and given the fact there are different circumstances that require prompt action by the SFWMD Governing Board that involve water supply back pumping, the Board requests to direct staff to obtain the necessary FDEP permit to effect such back pumping and, at the same time, initiate a process to create a more formal, structured, District policy, for making these decisions in the future. Seconded by Michael Collins. Vote called. Voting yes: Michael Collins, Nicolás Gutiérrez and Patrick Rooney. Voting no: Melissa Meeker, Shannon Estenoz and Eric Buermann. Motion did not pass.

Ms. Estenoz requested a comprehensive cost/benefit analysis and a comprehensive economic impact from staff.

Shannon Estenoz made a motion to: direct staff to 1) determine from FDEP what the parameters would be if the request from the SFWMD Board for water supply back pumping were made including mitigation and any other parameters; and 2) staff prepare a comprehensive cost/benefit analysis that includes a comprehensive economic analysis of the impacts of water supply back pumping. This to be done in two weeks. Seconded by Michael Collins. Vote called. Voting yes: Michael Collins, Nicolás Gutiérrez, Shannon Estenoz, Melissa Meeker, Eric Buermann, Patrick Rooney. Abstained: Malcolm Wade. Motion passed.

Ms. Wehle said they would workshop this item in two weeks, provide a technical presentation from the back pumping in 2001, invite Commissioner Bronson and his staff, and invite FDEP to provide information pertaining to the process.

- 61.** Approve Water Use Permit Modification and Renewal Application 050113-9 to meet the projected demands of the service area with a decrease in the maximum monthly demand and a 20-year duration for a project known as the Town of Mangonia Park (Palm Beach County) (Keith Smith, ext. 6620)

No presentation was provided.

Motion made by Michael Collins, seconded by Nicolás Gutiérrez to Approve the following item(s): 61

Vote called. Voting yes: Michael Collins, Nicolás Gutiérrez, Eric Buermann, Melissa Meeker, Patrick Rooney. Not present: Shannon Estenoz, Malcolm Wade. Motion passed.

- 62.** Approve request under Right of Way Occupancy Permit Application No. 06-0926-1 for proposed docking facilities and existing slab within Hillsboro Canal right of way located forty (40) feet or more from top of canal bank; deny corresponding Petition for Waiver of District's Criteria to allow existing shed and proposed encroachments within forty (40) feet of top of canal bank; deny request under Right of Way Occupancy Permit Application No. 06-0926-1 for proposed fence enclosure and landscaping and exiting, unauthorized shed and landscaping within forty (40) feet of top of canal bank; and issue Removal and Restoration Order for the removal of existing, unauthorized shed, palm trees, landscaping and any other above-ground encroachments within forty (40) feet of top of canal bank. (Tom Fratz, ext. 6968)

Tom Fratz, Division Director, Right of Way, presented information on this agenda item. Mr. Fratz reported on the encroachments. Mr. Fratz reported the District has offered to remove and dispose of the shed at District's expense. The applicant declined this offer.

Public comment: Michael Moore, applicant, reported on the shed and the 40 foot Right of Way. He stated the shed has been there for 25 years.

Ms. Meeker asked about structure and the fencing around the structure.

Mr. Collins reported on the problems created by the hurricanes in terms of clearing canals for the health and safety of the public.

Motion made by Michael Collins, seconded by Nicolás Gutiérrez to Approve the following item(s): 62

Vote called. Voting yes: Michael Collins, Nicolás Gutiérrez, Eric Buermann, Shannon Estenoz, Malcolm Wade. Voting no: Melissa Meeker, Patrick Rooney. Motion passed.

- 63.** Authorize publication of a notice of rule development in the Florida Administrative Weekly to develop a reservation of water in accordance with FI Stat. Ch. 373.223(4) for the water identified for the protection of fish and wildlife in the Indian River Lagoon South Project Implementation Report dated March 2004 (Chip Merriam, ext. 6597)

Chip Merriam, Deputy Executive Director, presented information on this agenda item.

Motion made by Melissa Meeker, seconded by Michael Collins to Approve the following item(s): 63

Vote called. Voting yes: Melissa Meeker, Michael Collins, Eric Buermann, Shannon Estenoz, Nicolás Gutiérrez, Patrick Rooney, Malcolm Wade. Motion passed.

- 64.** Authorize publication of a notice of rule development in the Florida Administrative Weekly in accordance with FI Stat. Ch 373.223 to establish priority use classes for water supply and for clarifying the public interest test for the Lake Okeechobee Service Area (Chip Merriam, ext. 6597)

Chip Merriam, Deputy Executive Director, Water Resources provided information on this agenda item.

Motion made by Melissa Meeker, seconded by Michael Collins to Approve the following item(s): 64

Vote called. Voting yes: Melissa Meeker, Michael Collins, Eric Buermann, Shannon Estenoz, Patrick Rooney. Abstained: Malcolm Wade. Not present: Nicolás Gutiérrez. Motion passed.

- 65.** Governing Board approval of Amendment to Interim Consumptive Use Authorization and Agreement between the South Florida Water Management District and Miami-Dade County subject to approval of the Amendment by the Miami-Dade County Commission before July 31, 2007 (Carlyn Kowalsky, ext. 6240)

Chip Merriam, Deputy Executive Director, presented information on this agenda item.

Mr. Merriam presented the new language to the agreement.

Motion made by Shannon Estenoz, seconded by Michael Collins to Approve the following item(s): 65

Vote called. Voting yes: Shannon Estenoz, Michael Collins, Eric Buermann, Nicolás Gutiérrez, Melissa Meeker, Patrick Rooney, Malcolm Wade. Motion passed.

**66. CERP-Coordination**

Approve Environmental Resource Permit Modification Application 050228-6 for conceptual approval of a surface water management system to serve an 1160-acre residential and commercial project known as Fort Dawson and construction and operation of the surface water management system to serve 552-acre residential phase (Martin County) (Anthony Waterhouse, ext 6867)

Robert Brown, Director, Environmental Resource Regulation Department, presented information on this agenda item.

Motion made by Melissa Meeker, seconded by Michael Collins to Approve the following item(s): 66

Vote called. Voting yes: Melissa Meeker, Michael Collins, Eric Buermann, Shannon Estenoz, Patrick Rooney, Malcolm Wade. Not present: Nicolás Gutiérrez. Motion passed.

- 18.** Authorize publication of a Notice of Rulemaking in the Florida Administrative Weekly and adopt amendments to Rules 40E-2.091 and 40E-20.091, F.A.C., to amend Section 1.7.3.3 of the "Basis of Review for Water Use Permit Applications within the South Florida Water Management District" to extend the basin expiration and application dates for the Lake Okeechobee Basin, subject to no request for public hearing being received within 21 days of publication of the notice (Keith Smith, ext 6620)

Chip Merriam, Deputy Executive Director, Water Resources, provided information on this agenda item.

Motion made by Michael Collins, seconded by Nicolás Gutiérrez to Approve the following item(s): 18

Vote called. Voting yes: Michael Collins, Nicolás Gutiérrez, Eric Buermann, Shannon Estenoz, Melissa Meeker, Patrick Rooney. Abstained: Malcolm Wade. Motion passed.

**Everglades Restoration Resources**

- 67. 2007-734** A Resolution of the Governing Board of the South Florida Water Management District to declare as surplus a perpetual conservation easement deed to the United States of America, by and through the Commodity Credit Corporation (U.S. Department of Agriculture - Natural Resources Conservation Service) over 1,357.14 acres, more or less, Martin County, Florida, for the purpose of restoring, protecting and managing the Pal Mar East property, part of the CERP Northern Palm Beach County Project, Pal Mar and J.W. Corbett Wildlife Management Area Hydropattern Restoration and under the Wetlands Reserve Program, for consideration in the approximate amount of \$5,029,560 as revenue to the District; providing an effective date. (Contract Number 4600000967) (Bruce Hall, x6541)

This item was pulled from the agenda.

- 68. 2007-735** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a revenue agreement with Martin County that provides for Martin County to contribute approximately \$2,200,000.00 to the acquisition of the CERP Northern Palm Beach County - Part One Project located in Martin County; providing an effective date. (Ruth Clements, x6271)

Ruth Clements, Director, Land Acquisition Department, provided information on this agenda item.

Commissioner Michael DiTerlizzi, Martin County, reported on the Martin County's Pal Mar East Extension and the Healthy Rivers one cent sales tax. Commissioner DiTerlizzi presented a check to the SFWMD in the amount of \$2,152,000.00.

Ms. Meeker thanked Commissioner DiTerlizzi and praised the partnership between Martin County and the District.

Motion made by Melissa Meeker, seconded by Shannon Estenoz to Approve the following item(s): 68

Vote called. Voting yes: Melissa Meeker, Shannon Estenoz, Eric Buermann, Michael Collins, Nicolás Gutiérrez, Patrick Rooney, Malcolm Wade. Motion passed.

- 69. 2007-736** A Resolution of the Governing Board of the South Florida Water Management District to approve the acquisition of land interests containing 262.01 acres, more or less, for the Biscayne Bay Coastal Wetlands Acceler8 Phase 1 Project, Cutler Flow Way Component, in Miami-Dade County, in the amount of \$4,975,000 and associated costs for which dedicated funds (Save Our Everglades Trust Fund) are budgeted, together with statutory costs and attorney's fees in the total amount of \$755,816 for which dedicated funds (CERP ad valorem funds) are budgeted; providing an effective date. (Robert Schaeffer x2985)

Ruth Clements, Director, Land Acquisition and Management, presented information on this agenda item.

Motion made by Shannon Estenoz, seconded by Melissa Meeker to Approve the following item(s): 69

Vote called. Voting yes: Shannon Estenoz, Melissa Meeker, Eric Buermann, Michael Collins, Patrick Rooney, Malcolm Wade. Not present: Nicolás Gutiérrez. Motion passed.

- 70. 2007-737** A Resolution of the Governing Board of the South Florida Water Management District requesting release of funds from the Save Our Everglades Trust Fund by the Department of Environmental Protection for the acquisition of land interests containing 262.01 acres, more or less, in Miami-Dade County, Florida, for the Biscayne Bay Coastal Wetlands Acceler8 Phase 1 Project, Cutler Flow Way Component, in the amount of \$4,975,000, and associated costs; providing an effective date. (Robert Schaeffer x2985)

Ruth Clements, Department Director, Land Acquisition and Management, presented information on this agenda item.

Motion made by Shannon Estenoz, seconded by Melissa Meeker to Approve the following item(s): 70

Vote called. Voting yes: Shannon Estenoz, Melissa Meeker, Eric Buermann, Michael Collins, Patrick Rooney, Malcolm Wade. Not present: Nicolás Gutiérrez. Motion passed.

- 71. 2007-738** A Resolution of the Governing Board of the South Florida Water Management District clarifying state assurances of project benefits for CERP-related Acceler8 Projects; providing an effective date. (Ken Ammon, ext. 4020)

Ken Ammon, Deputy Executive Director, Everglades Restoration presented information on this agenda item.

Public Comment: Jacquie Cohen, Audubon of Florida, appreciates the District efforts on the state assurances.

Public Comment: Erin Deady representing Seminole Tribe of Florida is supportive of this resolution.

Public Comment: Dennis Duke, US Army Corps of Engineers, supports this resolution.

Public Comment: Sara Fain, National Parks Conservation Association reported on WRDA assurances and had concerns about the language in the resolution.

Public Comment: Patrick Hayes representing the Martin Soil and Water Conservation District reported on the Northern Everglades Plan and the Indian River Lagoon.

Ms. Estenoz thanked staff for their efforts on these issues.

Ms. Meeker requested that the resolution be amended to include North Palm Beach County and the Loxahatchee River.

Motion made by Michael Collins, seconded by Nicolás Gutiérrez to Approve the following item(s): 71  
Item 71 as amended.

Vote called. Voting yes: Michael Collins, Nicolás Gutiérrez, Eric Buermann, Shannon Estenoz, Melissa Meeker, Patrick Rooney, Malcolm Wade. Motion passed.

### **Executive Office**

- 72. 2007-739** A Resolution of the Governing Board of the South Florida Water Management District to authorize an amendment to contract 3600000897 with Miami-Dade County for the Miami River Dredging Project, to extend the term by 21 months from July 26, 2007 to April 26, 2009, in the amount of \$2,162,250, for which dedicated funds (External Grant from the Florida Inland Navigation District) are subject to Governing Board approval of the FY08 and FY09 budgets; providing an effective date. (Contract Number 3600000897-A02)(Evan Skornick, X7290)

There was no presentation provided.

Motion made by Melissa Meeker, seconded by Shannon Estenoz to Approve the following item(s): 72

Vote called. Voting yes: Melissa Meeker, Shannon Estenoz, Eric Buermann, Michael Collins, Nicolás Gutiérrez, Patrick Rooney, Malcolm Wade. Motion passed.

73. Consideration of (1) Administrative Law Judge J. L. Johnston's Recommended Order, and (2) the Joint Stipulation and Motion filed by the parties in DOAH Case No. 06-4922, Conservancy of Southwest Florida v. G. L. Homes of Naples Associates II, Ltd., and South Florida Water Management District, regarding modification of an Environmental Resource Permit for a project known as Saturnia Falls.

Sheryl G. Wood, General Counsel, x6976

Santiago Echemendia, Board Counsel

Susan Martin, for SFWMD Staff

Gary Davis, for Petitioner

Frank Matthews, Esq. for Respondent G.L. Homes of Naples Associates II, Ltd.

Amanda Quirke, Tew-Cardenas LLP, presented information on this agenda item. Ms. Quirke provided the procedural history and the background information of this environmental resource permit. Ms. Quirke reported on the key findings of the Administrative Law Judge (ALJ).

Frank Matthews, Esq., representing G.L. Homes submitted a joint stipulation requesting this stipulation be affirmed.

Gary Davis, representing the Conservancy of Southwest Florida, requested to have additional comments after the Board's Counsel presents it's recommendation.

Ms. Quirke provided the Board Counsel's recommendations which included modifications to the recommended order.

Mr. Davis did not provide further comments.

Motion made by Michael Collins, seconded by Melissa Meeker to Approve the following item(s): 73

Vote called. Voting yes: Michael Collins, Melissa Meeker, Eric Buermann, Shannon Estenoz, Nicolás Gutiérrez, Patrick Rooney, Malcolm Wade. Motion passed.

32. **2007-717** A Resolution of the Governing Board of the South Florida Water Management District approving the purchase of land interests containing 154 acres, more or less, to be determined, in Lee and/or Collier Counties, Corkscrew Regional Ecosystem Watershed Project (CREW Project) and/or Critical CREW Project in the amount of \$712,404, and associated costs; for which dedicated funds (Florida Forever Trust Fund) are budgeted; and approve a budget transfer of dedicated funds (Florida Forever Trust Fund) from Kissimmee River Project and from C-111/Modified Water Delivery Project to CREW Project; providing an effective date. (Tom Hanaway, ext. 6668)

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

Vote called. Voting yes: Michael Collins, Nicolás Gutiérrez, Eric Buermann, Shannon Estenoz, Patrick Rooney, Malcolm Wade. Not present: Melissa Meeker. Motion passed.

## Corporate Resources

- 74. 2007-740** A Resolution of the Governing Board of the South Florida Water Management District to authorize issuing a purchase order to Dell Marketing, LP, the lowest responsive quote using State of Florida Contract #250-000-03-1, for a three year personal computer lease in a not to exceed amount of \$5,000,000 of which \$38,703.45 of ad valorem funds are budgeted in FY07, and the remainder is subject to Governing Board approval of the FY08-FY10 budgets, providing an effective date. (PR #10024966, Joe Weber, ext. 6074)

Sharon Trost, Director, Information Technology Department presented information on this agenda item.

Motion made by Melissa Meeker, seconded by Nicolás Gutiérrez to Approve the following item(s): 74

Vote called. Voting yes: Melissa Meeker, Nicolás Gutiérrez, Eric Buermann, Michael Collins, Shannon Estenoz, Patrick Rooney, Malcolm Wade. Motion passed.

- 75. 2007-741** A Resolution of the Governing Board of the South Florida Water Management District adopting the proposed FY2007-08 millage rates for the purpose of notifying county property appraisers for publication on Truth-In-Millage (TRIM) Notices; providing an effective date. (Doug Bergstrom, ext 6214)

Doug Bergstrom, Director, Budget Department, presented information on this agenda item.

Motion made by Michael Collins, seconded by Patrick Rooney to Approve the following item(s): 75

Vote called. Voting yes: Michael Collins, Patrick Rooney, Eric Buermann, Shannon Estenoz, Nicolás Gutiérrez, Melissa Meeker, Malcolm Wade. Motion passed.

### **Operations and Maintenance**

- 76. 2007-742** A Resolution of the Governing Board of the South Florida Water Management District to authorize the official ranking of short-listed firms and entering into a 3 year work order contract with 2 one-year renewal options, subject to successful negotiations with Applied Aquatic Management Incorporated, one of 4 firms selected for Ground Application Services for exotic plant infestations throughout the District, in an amount not-to-exceed the total funding of \$40,000,000 available for all 4 contracts (4600000981, 4600000982, 4600000983 and 4600000984); of which ad valorem and dedicated funds in the amount of \$8,000,000 are subject to Governing Board approval of the FY08 budget and the remainder is subject to Governing Board approval of the FY09-FY12 budgets; providing that if negotiations are unsuccessful with Applied Aquatic Management Incorporated, the District will proceed with negotiations in ranked order until a contract has been successfully negotiated; providing an effective date.(Contract Number 4600000981) (Francois Laroche, ext. 6193)

No presentation was provided.

Motion made by Melissa Meeker, seconded by Michael Collins to Approve the following item(s): 76

Vote called. Voting yes: Melissa Meeker, Michael Collins, Eric Buermann, Shannon Estenoz, Patrick Rooney, Malcolm Wade. Not present: Nicolás Gutiérrez. Motion passed.

- 77. 2007-743** A Resolution of the Governing Board of the South Florida Water Management District to authorize the official ranking of short-listed firms and entering into a 3 year work order contract with 2 one-year renewal options, subject to successful negotiations with Aquatic Vegetation Control Incorporated, one of 4 firms selected for Ground Application Services for exotic plant infestations throughout the District, in an amount not-to-exceed the total funding of \$40,000,000 available for all 4 contracts (4600000981, 4600000982, 4600000983 and 4600000984); of which ad valorem and dedicated funds in the amount of \$8,000,000 are subject to Governing Board approval of the FY08 budget and the remainder is subject to Governing Board approval of the FY09-FY12 budgets; providing that if negotiations are unsuccessful with Aquatic Vegetation Control Incorporated, the District will proceed with negotiations in ranked order until a contract has been successfully negotiated; providing an effective date.(Contract Number 4600000982) (Francois Laroche, ext. 6193)

No presentation was provided.

Motion made by Melissa Meeker, seconded by Michael Collins to Approve the following item(s): 77

Vote called. Voting yes: Melissa Meeker, Michael Collins, Eric Buermann, Shannon Estenoz, Patrick Rooney, Malcolm Wade. Not present: Nicolás Gutiérrez. Motion passed.

- 78. 2007-744** A Resolution of the Governing Board of the South Florida Water Management District to authorize the official ranking of short-listed firms and entering into a 3 year work order contract with 2 one-year renewal options, subject to successful negotiations with Native Technologies Incorporated, one of 4 firms selected for Ground Application Services for exotic plant infestations throughout the District, in an amount not-to-exceed the total funding of \$40,000,000 available for all 4 contracts (4600000981, 4600000982, 4600000983 and 4600000984); of which ad valorem and dedicated funds in the amount of \$8,000,000 are subject to Governing Board approval of the FY08 budget and the remainder is subject to Governing Board approval of the FY09-FY12 budgets; providing that if negotiations are unsuccessful with Native Technologies Incorporated, the District will proceed with negotiations in ranked order until a contract has been successfully negotiated; providing an effective date.(Contract Number 4600000983) (Francois Laroche, ext. 6193)

No presentation was provided.

Motion made by Melissa Meeker, seconded by Michael Collins to Approve the following item(s): 78

Vote called. Voting yes: Melissa Meeker, Michael Collins, Eric Buermann, Shannon Estenoz, Patrick Rooney, Malcolm Wade. Not present: Nicolás Gutiérrez. Motion passed.

- 79. 2007-745** A Resolution of the Governing Board of the South Florida Water Management District to authorize the official ranking of short-listed firms and entering into a 3 year work order contract with 2 one-year renewal options, subject to successful negotiations with Aquatic Plant Management Incorporated, one of 4 firms selected for Ground Application Services for exotic plant infestations throughout the District, in an amount not-to-exceed the total funding of \$40,000,000 available for all 4 contracts (4600000981, 4600000982, 4600000983 and 4600000984); of which ad valorem and dedicated funds in the amount of \$8,000,000 are subject to Governing Board approval of the FY08 budget and the remainder is subject to Governing Board approval of the FY09-FY12 budgets; providing that if negotiations are unsuccessful with Aquatic Plant Management Incorporated, the District will proceed with negotiations in ranked order until a contract has been successfully negotiated; providing an effective date.(Contract Number 4600000984) (Francois Laroche, ext. 6193)

No presentation was provided.

Motion made by Melissa Meeker, seconded by Michael Collins to Approve the following item(s): 79

Vote called. Voting yes: Melissa Meeker, Michael Collins, Eric Buermann, Shannon Estenoz, Patrick Rooney, Malcolm Wade. Not present: Nicolás Gutiérrez. Motion passed.

**80. Public Comment**

Wayne Nelson, representing the Fisherman Against the Destruction of the Environment opposes back pumping into Lake Okeechobee.

Mayor Joe Eggelton, Broward County, provided comment on water restrictions and the landscaping of the Central Broward Regional Park and also on duck hunting in the STAs.

Public Hearing

**Water Resources**

**81. Open Public Hearing**

Adopt amendments to Rules 40E-4.051, 40E-400.443, and 40E-400.447, F.A.C., to establish Exemptions for minor roadway safety projects and recreational paths, and to modify activities to be granted Noticed General Permits to the Florida Department of Transportation, Counties and Municipalities, and the Florida Turnpike Enterprise and various transportation authorities, for minor bridge alteration, replacement, maintenance and operation and for minor activities within existing Rights-of-way or Easements (Damon Meiers, ext. 6876)

**Close Public Hearing**

Chair Buermann opened the Public Hearing.

Damon Meiers, Deputy Department Director, Environmental Resource Regulation, presented information on this agenda item.

Chair Buermann closed the Public Hearing.

Motion made by Michael Collins, seconded by Malcolm Wade to Approve the following item(s): 81

Vote called. Voting yes: Michael Collins, Malcolm Wade, Eric Buermann, Shannon Estenoz, Melissa Meeker, Patrick Rooney. Not present: Nicolás Gutiérrez. Motion passed.

## **Corporate Resources**

### **82. Open Public Hearing**

Adopt amendments to Rule 40E-7, Part VI, F.A.C., of the District's Small Business Enterprise Rule, to clarify the South Florida Water Management Districts Procurement process as it relates to the Small Business Enterprise Rule. (Frank Hayden, ext. 6043)

### **Close Public Hearing**

Chair Buermann opened the public hearing.

Frank Hayden, Director, Procurement Department, provided information on this agenda item.

Chair Buermann closed the public hearing.

Motion made by Michael Collins, seconded by Malcolm Wade to Approve the following item(s): 82

Vote called. Voting yes: Michael Collins, Malcolm Wade, Eric Buermann, Shannon Estenoz, Melissa Meeker, Patrick Rooney. Not present: Nicolás Gutiérrez. Motion passed.

## **Staff Reports**

### **83. Office of Policy and Legislation Update - Ernie Barnett**

There was no report provided.

### **84. Calendar Update - Annette Carter**

There was no report provided.

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

Sheryl Wood, General Counsel, reported on the GEPS bid protest and stated that the protest was withdrawn and the contract proposals will go forward.

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

There was no report provided.

### **87. Board Comment**

Chair Buermann appointed Michael Collins to serve as Vice-Chair of the Finance and Audit Committee.

## Closed Door Agenda

### **Executive Office**

#### **88.** Closed-door Session

Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2005) 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, x6976)

#### Office of Counsel Action Items (if any) Stemming from Closed Sessions

Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2005) 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, x6976)

Chair Buermann adjourned the meeting to the closed-door session at 12:53 pm. The session shall last approximately 30 minutes each session.

Chair Buermann reconvened the meeting at 2:55 pm.

Sheryl Wood, General Counsel, stated there is no specific recommendation for the Governing Board in this matter and staff will continue with this case.

#### **89.** Closed-door Session

Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2005) 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, x6976)

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

Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2005) 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, x6976)

Sheryl Wood, General Counsel, stated there is no specific action to request on this case at this time.

## Adjournment

### **90. Adjourn**

Chair Buermann adjourned the meeting at 5:20 pm.

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Eric Buermann  
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