



South Florida Water Management District

GOVERNING BOARD MEETING MINUTES

May 15, 2008

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

Malcolm Wade

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

Chair Buermann called the meeting to order at 9:10 am.

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

Melissa Meeker led the group in the Pledge of Allegiance.

3. **Approval of Minutes** - Eric Buermann, Chairman, Governing Board

Approval of the April 9, 2008, Workshop and the April 10, 2008 Business Meeting Minutes held in West Palm Beach, Florida

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

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

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

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

Ms. Carter noted that Item 38 was pulled from the agenda and Item 70 was moved to the Consent Agenda.

5. Employee Recognitions - Presented by Carol Wehle, Executive Director

Carol Wehle, Executive Director, recognized the May Team and Employee of the Month.

6. Election of Vice Chair - Eric Buermann, Chairman, Governing Board

Melissa Meeker made a motion to nominate Shannon Estenoz as Vice Chair of the Governing Board, seconded by Paul Huck. Vote called. Voting yes: Melissa Meeker, Paul Huck, Mike Collins, Charles Dauray, Jerry Montgomery, Shannon Estenoz, Eric Buermann, and Patrick Rooney. Not present: Malcolm Wade. Motion passed.

7. Committee Member Appointments- Eric Buermann, Chairman, Governing Board

Chair Buermann made the following recommendations for Governing Board Committee structure. They are as follows:

Audit and Finance Committee

Charles Dauray - Chair
Paul C. Huck - Vice Chair
Eric Buermann, Mike Collins

Human Resources and Outreach Committee

Jerry Montgomery - Chair
Patrick Rooney - Vice Chair
Melissa Meeker, Charles Dauray

Project and Lands Committee

Patrick Rooney - Chair
Melissa Meeker - Vice Chair
Malcolm Wade, Jerry Montgomery

Water Resources Advisory Commission

Mike Collins - Chair
Shannon Estenoz - Vice Chair
Malcolm Wade - Lake Okeechobee Sub-Committee Chair

Big Cypress Basin

Charles Dauray - Chair

Motion made by Shannon Estenoz, seconded by Malcolm Wade to Approve the following item(s): 7

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

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

A Resolution of the Governing Board of the South Florida Water Management District urging the Secretary of the Army to immediately begin the process of revising the Programmatic Regulations for the implementation of the Comprehensive Everglades Restoration Plan (Rick Smith, ext. 6517)

Mr. Collins reported on the Water Resource Advisory Commission meeting held on May 8, 2008 in West Palm Beach.

Mr. Collins requested the Board approve Resolution No. 2008-500, and formally accept the WRAC report and action items.

Mr. Collins also requested the Board provide direction to staff to start the process to review the documents pertaining to this resolution.

Motion made by Michael Collins, seconded by Charles Dauray to Approve the following item(s): 8
Vote called. Voting yes: Michael Collins, Charles Dauray, Eric Buermann, Shannon Estenoz, Paul C. Huck Jr., Melissa Meeker, Jerry Montgomery, Patrick Rooney, Malcolm Wade. Motion passed.

9. Abstentions by Board Members from items on the Agenda

Ms. Meeker abstained from Discussion Agenda Item 58.

Mr. Wade abstained from Regulatory Consent Agenda Item 13, Page 4 #1, McDaniel Ranch #071127-20, and Discussion Agenda Item 71.

Consent Agenda

10. Public Comment on Consent Agenda

Public Comment: Rosa Durando, Audubon Society, opposes Consent Agenda Item 21, Water Use Permit Modification and Renewal Application 040113-4 for Palm Beach County Water Utilities Department Water Treatment Plant No. 10 (formerly known as Royal Palm Beach Public Water Supply).

Public Comment: Alexandria Larsen, citizen, opposes Consent Agenda 21, Water Use Permit Modification and Renewal Application 040113-4. Ms. Larsen also commented on Agenda Item 39.

Mr. Merriam provided information on the 20-year permit.

Chair Buermann requested that Agenda Item 21 be moved to the Discussion Agenda.

11. Pull Items for Discussion from Consent Agenda

Chair Buermann pulled Item 21 from the Consent Agenda to the Discussion Agenda.

12. Board Comment on Consent Agenda

There was no Board comment on the Consent Agenda.

Water Resources

- 13. 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
 - Enforcement Actions
 - Page 2 No 1 Catherine Island (WU): **Postponed** to July Board
 - Page 3 No 5 The Club Pelican Bay (WU): **Postponed** to June Board
 - Page 7 No 1 Indiantown Grove (WU): **Postponed** to June Board
 - Page 9 No 1 Alvarez Farm (WU): **Postponed**
 - Page 12 No 3 Mirasol Irrigation System (WU): **Removed** from agenda
 - Page 13 No 6 Seminole Water Treatment Plant (WU): **Postponed** to June Board
 - Page 16 No 1 Chapel Trail (WU Denial): **Removed** from agenda
 - Page 16 No 2 Oceanside (WU Denial): **Postponed** to June Board
 - Page 17 No 1
 - Golden Gate Community Park (WU Denial): **Withdrawn**
 - Page 19 No 1 Case Brothers Farms (WU Denial): **Removed** from agenda
 - Page 19 No 2 Flower Land Group LLC (WU Denial): **Removed** from agenda
 - Page 21 No 1 Coleman Grove (WU Denial): **Postponed** to June Board

14. Right of Way Occupancy New Permits

Right of Way Occupancy Permit Modifications

Right of Way Occupancy Permit Requests with Waiver of District Criteria

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

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

- 17. **2008-501** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a 2-year cost share agreement with Lee County Parks and Recreation Department for construction of a Water Quality Improvement Project in the total amount of \$840,000 of which the District's total contribution is \$420,000 in Dedicated Funds (State Appropriations), which is budgeted; providing an effective date (Contract Number 4600001359) (Damon Meiers, ext 6876)

18. **2008-502** A Resolution of the Governing Board of the South Florida Water Management District to authorize an amendment to Contract 4600000680 with the Florida Department of Transportation and the Federal Highway Administration for implementation of the Efficient Transportation Decision Making process to provide for a more efficient process and decrease the amount of reimbursement funding; providing an effective date (Contract 4600000680-A1) (Damon Meiers, ext 6876)
19. **2008-503** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a 4 month Local Governmental Agreement with Highlands Soil and Water Conservation District to oversee the completion of an Agricultural Stormwater Management System on B4 and Butler Oaks, Inc. property in the amount of \$5,000,000, of which the District's total contribution is \$175,000 for which ad valorem funds are budgeted; providing an effective date. (Contract Number 4600001397) (Benita Whalen, ext. 2957)
20. **2008-504** A Resolution of the Governing Board of the South Florida Water Management District to enter into a 3-year cooperative agreement with Hendry Soil and Water Conservation District (HSWCD) to administer a grant for development of Best Management Practices (BMP) demonstration project in the C-139 Basin (Demonstration Grant) in the amount not to exceed \$500,000, of which \$160,000 (State Appropriations and Everglades Restoration Trust Funds) are budgeted; and the remainder is subject to Governing Board approval of the FY09 and FY10 budgets; providing an effective date (Contract Number 4600001365) (Pamela Wade, ext 6901)

Everglades Restoration Resources

22. **2008-505** 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)
23. **2008-506** 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 \$390,000 together with statutory costs and attorneys' fees in the total amount of \$29,337.50 and all associated costs for which dedicated funds (Florida Forever 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 an effective date. (Tom Hanaway, ext. 6668)
24. **2008-507** 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 5.0 acres for the C-111 Canal Project (L-31 North Acquisition Area) in Miami-Dade County, in the amount of \$390,000, together with statutory costs and attorneys' fees in the amount of \$29,337.50 and associated costs; providing an effective date. (Tom Hanaway, ext. 6668)

27. **2008-510** A Resolution of the Governing Board of the South Florida Water Management District approving the surplus and release of a portion of the C-6 Canal (Miami Canal) right of way containing 0.10 acres, more or less, to the underlying/adjacent fee owner in exchange for a fee interest in a portion of the C-6 Canal (Miami Canal) right of way containing 0.66 acres, more or less, all lying within Tract 25, Florida Fruit Lands Company Subdivision No. 1, in Section 3, Township 33 South, Range 40 East, (PB: 2-17), of the Public Records of Miami-Dade County, Florida; subject to satisfaction of certain requirements; providing an effective date. (Linda Schindeler, ext. 6838)
28. **2008-511** A Resolution of the Governing Board of the South Florida Water Management District approving declaring surplus land interests containing 1.69 acres, more or less, in fee and easement, and accepting a canal easement containing 0.79 acres, more or less, all lying within Tracts 46 and 47, Florida Fruit Land Company's Subdivision No. 1 in Section 29, Township 52 South, Range 40 East, Plat Book 2, Page 17, Miami-Dade County Public Records, C-6 Canal (Miami Canal) Right of Way, Miami-Dade County, Florida; authorize the conveyance to the Town of Medley at no cost and approve the waiver of the application fee; subject to certain conditions; providing an effective date. (Marcy Zehnder, ext. 6694)
29. **2008-512** A Resolution of the Governing Board of the South Florida Water Management District authorizing the Executive Director to take appropriate action in the casting of District landowner votes in the June, 2008 election for the Board of Supervisors of the Pal Mar Water Control District for the purpose of protecting the District's interests; providing an effective date. (Ruth Clements, ext. 6271)
30. **2008-513** A Resolution of the Governing Board of the South Florida Water Management District authorizing the Executive Director to take appropriate action in the casting of South Florida Water Management District landowner votes in the June, 2008 election for the Board of Supervisors of the Troup Indiantown Water Control District for the purpose of protecting the District's interests; providing an effective date. (Ruth Clements, ext. 6271)
31. **2008-514** A Resolution of the Governing Board of the South Florida Water Management District authorizing the conveyance to Bellsouth Telecommunications, Inc., D/B/A AT&T Florida of land interests containing 0.10 acres, more or less, for utility service to the Fort Lauderdale Field Station lying within a portion of Section 23, Township 50 South, Range 42 East, Broward County, Florida; providing an effective date. (Bruce Hall, ext. 6541)

Executive Office

70. **2008-528** A Resolution of the Governing Board of the South Florida Water Management District to authorize amendment No. 5 to Contract OT040475 / 3600000780 with Sharpton, Brunson and Company, PA, for audit services, in an amount not to exceed \$100,000 for which ad valorem funds are budgeted; providing an effective date. (Purchase Requisition No. 10053046) (Tim Beirnes, extension 6398)

32. **2008-515** A Resolution to the Governing Board of the South Florida Water Management District to authorize an amendment to purchase order 4500013463 with Intellisoft, Inc. for the services of a SAP HR Payroll Consultant and ratify the amount for an additional \$15,238.13 of ad valorem funds, which are budgeted in FY08; providing an effective date. (Project Manager: Bernardo Camarena, ext 6421, SAP #4500013463)
33. **2008-516** 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 Great Oaks Estates, Inc., and any other appropriate or necessary parties, in Palm Beach County Circuit Court or other appropriate forum, regarding the property located in Sections 3, 10, Township 37 South, Range 33 East, Highlands County Florida, known as Great Oaks Estates. (Christopher Pettit, Ext. 6423)
34. **2008-517** 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 The Building Co., and any other appropriate or necessary parties, in the 15th Judicial Circuit in and for Palm Beach County or other appropriate forum, providing an effective date. (Michael Compagno, Ext. 6842)
35. **2008-518** 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 Joann Peebles and C&R Motorsports Park, LLC, and any other appropriate or necessary parties, in Glades County Circuit Court or other appropriate forum, regarding the property located in Section 4, Township 40 South, Range 30 East, Glades County, Florida. (Alison Kelly, Ext. 2977)
36. **2008-519** 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 Thanya Williams, Simone Properties, Inc., Horace McDonald, Jermaine Bowen, Beatrice Sibbles, Cleavlan Shields and any other appropriate or necessary parties, in the 19th Judicial Circuit in and for Okeechobee County or any other appropriate forum, regarding the property located in Section 6, Township 35 South, Range 35 East, Okeechobee County, providing an effective date. (Michael Compagno, Ext. 6842)
37. **2008-520** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a Consent Order with the State of Florida Department of Environmental Protection settling matters related to Environmental Resource Permit No. EI-530267164-001 for the Buttermilk/Packingham Slough Restoration and Flood Protection Project; providing an effective date. (Sheryl G. Wood, Ext. 6976)

38. **2008-521** A Resolution of the Governing Board of the South Florida Water Management District to authorize District staff to intervene or appear as amicus curiae (friends of the court), 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 *National Wildlife Federation, et. al. v. Souza, et. al.*, United States District Court for the Southern District of Florida, Case No. 08-14115-CIV-Martinez, and providing an effective date. (Keith Rizzardi, Ext. 6274)

Corporate Resources

39. Authorize publication of the Notice of Rule Development in the Florida Administrative Weekly (FAW) to amend Chapter, 40E-7 of the Fla. Admin Code , Suspension and Debarment Rules to expand the scope of the rule to include the pre-award phase and to clarify other provisions relating to the Districts Suspension and Debarment Rule. (Frank Hayden, ext. 6043)
40. **2008-522** A Resolution of the Governing Board of the South Florida Water Management District authorizing the transfer of funds within the District FY2007-2008 budget as shown on the attachment hereto; providing an effective date. (Doug Bergstrom, ext. 6214)

41. Board Vote on Consent Agenda

Motion made by Michael Collins, seconded by Paul C. Huck Jr. to Approve the following item(s): 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 22, 23, 24, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 70

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

Workshop Agenda

Water Resources

42. Update on rule development for Chapter 40E-24, Mandatory Year-round Landscape Irrigation Measures - Chip Merriam, Deputy Executive Director, Water Resources Management

Chip Merriam, Deputy Executive Director, Water Resources, presented an update on the rule development for Chapter 40E-24, Mandatory Year-round Landscape Irrigation Measures.

Mr. Merriam reported on the comments made at local public meetings held throughout the District's jurisdiction:

- Consistency goal does not recognize differences among WMDs.
- LEC & UEC: call for 3-day schedule.
- LWC & Central Florida: fewer concerns with 2-day schedule.
- 2-day schedule may increase line flushing.
- Lee County has had 2-day/week ordinance for 4 years. 36 hours for irrigation in rule is quite liberal.
- Enforcement burdensome on local government.
- UEC & LEC workshops: reclaimed water to be unrestricted.
- Central Florida workshop: support 2-day schedule for reclaimed water.
- Irrigation with AWS should be exempt.
- More irrigation opportunities for AWS.
- Higher cost to withdraw AWS. Need to recoup expenses.
- Should be given credit for using AWS with more irrigation days.

Public Comment: Richard Dent, Loxahatchee River District, commented on water quality in the estuaries, conservation goals, and unrestricted reclaimed water.

Public Comment: Sara Fain, National Parks Conservation Association (NPCA), commented on the water regional availability rule, water conservation, and protecting the water resources and the Everglades.

Public Comment: Jim Kuretski, Jupiter council, commented on funding and incentives for alternative water supplies and economic impacts to the public.

Public Comment: Jacquie Weisblum, Audubon of Florida, supports 2-day-a-week landscape irrigation.

Public Comment: Chris Helfrick, City of Boca Raton, commented on reclaimed water landscape irrigation and water restrictions for reuse.

Public Comment: John Fumero, City of Ft. Lauderdale and Lee County, commented on achieving District-wide goals for water conservation.

Mr. Huck commented on utility companies price structures and questioned the District's statutory authority.

Public Comment: Patrick Hayes, Martin County Soil and Water Conservation, commented on the restrictions for reuse, water conservation and having a unified message to the public.

Ms. Wood, General Counsel, presented information on the statutory authority for year-round conservation methods.

There was additional Board discussion about 2 or 3 day a week landscape irrigation, chlorination concerns, 7-day-a-week restricted hours for reuse, and storage issues for reclaimed water.

The next question discussed was for irrigation for 100% reclaimed water:

- 2 days a week
- 6 days a week
- 7 days with no irrigation between 10am & 4pm
- Unrestricted
- Reclaimed water supplemented with traditional sources of water.
- No more than 10%-20%.

There was Board discussion regarding alternative water sources and blending water percentage breakdowns.

Mr. Collins provided comment on enforcement of water restriction.

There was Board recommendation for irrigation for reclaimed water for 7 day use for reclaimed water with 10 am - 4 pm prohibition.

There was Board discussion about the percentages of blending water sources of 10 to 20 percent traditional water and 80 percentage reuse.

- 43.** Update on Rule Development for Rules 40E-2.091, 40E-8.421, 40E-20.091, F.A.C., and the Basis of Review for Water Use Permit Applications within the South Florida Water Management District, to address water supply availability within the Lake Okeechobee Service Area, consumptive use criteria, and a recovery strategy for Lake Okeechobee - Chip Merriam, Deputy Executive Director, Water Resources Management

Mr. Merriam presented information on the rule development for the Lake Okeechobee Service Area.

Mr. Merriam reported on the draft rule language for Governing Board consideration addressing:

- Water use permit criteria for allocation of Lake surface water.
- Revise the Lake minimum flow & level rule to replace existing prevention strategy with a recovery strategy.
- Revise Lower East Coast Regional Water.
- Supply Plan Appendix H to include the new Lake recovery strategy.

Mr. Merriam reported on the schedule and the outstanding policy issues for discussion.

Mr. Collins said there needs to be outreach and a deadline for compliance.

Everglades Restoration Resources

44. Everglades Restoration Update - Tommy Strowd, Assistant Deputy Executive Director, Everglades Restoration Resources

Tommy Strowd, Assistant Deputy Executive Director, Everglades Restoration, presented an update on C-111 Spreader Canal Phase 1 project. He reported on the upcoming stakeholder meetings.

Kim Taplin, U.S. Army Corps of Engineers, reported on the Corps Integrated Delivery Schedule.

Mr. Collins commented on the programmatic regulations, guidance memorandums, and funding.

Public Comment: Sara Fain, NPCA, commented on focusing on Everglades Restoration.

Public Comment: Jacquie Weisblum, Audubon of Florida, commented on completing Everglades Restoration at the earliest possible time.

Executive Office

45. Overview of Chapter 373, Florida Statutes (Continued), Legal Authority Regarding Condemnation and Land Acquisition - Carlyn Kowalsky, Managing Attorney, Office of Counsel

Carlyn Kowalsky, Managing Attorney, presented an overview of Chapter 373, Florida Statutes, Legal Authority regarding Condemnation and Land Acquisition.

Ms. Kowalsky provided the following points:

- District has condemnation authority for flood control, water storage, and named projects.
- Landowners get full compensation.
- Use Quick Take process to obtain title immediately upon deposit.
- Reducing gap between initial offer/deposit and final verdict results in lower condemnation costs.

Corporate Resources

46. Finance & Administration, Budget Division Briefing of mid-year status report on the FY2008 Annual Work Plan - Tom Olliff, Assistant Executive Director, Executive Office, and Doug Bergstrom, Budget Director, Corporate Resources

Doug Bergstrom, Budget Director, Corporate Resources, presented information on the mid-year status report on FY08 Annual Work Plan.

As part of drafting the FY09 budget, staff is implementing additional operating reductions such as:

Reduce training by 30%

Reduce conferences by 33%

Reduce travel by 30%

Reduce memberships by 28%

Reduce equipment lease/rental by 38%

Reduce books & subscriptions by 20%

Looking at cost-benefit of shifting more contracted work to FTEs

These reductions will provide additional savings of at least \$2.1M

Operations and Maintenance

47. Update on Lake Okeechobee Emergency Actions for Structure Stability - Cled Weldon, Director, Engineering Department

Cled Weldon, Director, Engineering Department, provided an update on Structure Stability Emergency Actions for Lake Okeechobee. Mr. Weldon reported on S-65E Tail Water Weir, S-72 Tail Water Weir, S-71 Tail Water Weir, and the temporary pumps south of Lake Okeechobee.

Discussion Agenda

Water Resources

21. Approve Water Use Permit Modification and Renewal Application 040113-4 for Palm Beach County Utilities Department Water Treatment Plant No. 10 (formerly known as Royal Palm Beach Public Water Supply) to partially meet the projected demands of their service area with a decrease in the maximum monthly allocation and a 20-year permit duration (Palm Beach County) (Marjorie Craig, ext 2987)

Mr. Merriam presented information on this agenda item.

Motion made by Michael Collins, seconded by Patrick Rooney to Approve the following item(s): 21

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

48. Water Conditions Report (Susan Sylvester, ext. 6152)

Susan Sylvester, Director, Director, Operations Control Department, presented information on the District's rainfall for April and May.

49. Ecological Conditions Report (Susan Gray, ext. 6919)

Susan Gray, Deputy Department Director, Watershed Management, provided information on the ecological conditions of the Upper Kissimmee Basin, Kissimmee River, Lake Istokpoga, and Lake Okeechobee. Dr. Gray reported on the fires and blue/green algae blooms on Lake Okeechobee.

50. Water Shortage Emergency Update & Action Items including, but not limited to, modifying restrictions in areas presently under water shortage restrictions, if necessary, additional water shortage declarations, contracts and / or any other necessary actions (Chip Merriam, ext. 6597)

No action needed to be taken with Agenda Item 50.

51. **CERP Discussion** - Approve Environmental Resource Permit Application 080220-9 for the conceptual approval of a 30-acre institutional development known as Bergeron School Site in the City of Weston (Broward County) (Robert M. Brown, ext 6283)

Robert M. Brown, Director, Environmental Resource Regulation, presented background information on Environmental Resource Permit Application 080220-9.

Motion made by Michael Collins, seconded by Malcolm Wade to Approve the following item(s): 51

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

- 52. CERP Discussion** - Approve Environmental Resource Permit Application 050919-18 for a 40-acre previously constructed commercial operation known as K and M Nursery (Palm Beach County) (Robert M. Brown, ext 6283)

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

Public Comment: Rosa Durando, Audubon Society, commented on the conservation easement for this property.

Mr. Brown provided additional information on the conservation easement for the property.

Motion made by Michael Collins, seconded by Melissa Meeker to Approve the following item(s): 52

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

- 53.** Approve Water Use Permit Modification and Renewal Application 040202-3 for the City of Sunrise for the proposed water use demands with a 20-year duration and a temporary increase in allocation from the Biscayne Aquifer to meet projected demands over the next five years (Broward County) (Marjorie Craig, ext 2987)

Mr. Merriam presented background information on the Water Use Permit Modification and Renewal Application 040202-3, City of Sunrise.

Public Comment: Marcy LaHart, Everglades Foundation, requested the Board defer this permit for another month.

Motion made by Shannon Estenoz, seconded by Michael Collins to Approve the following item(s): 53

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

Everglades Restoration Resources

- 55. 2008-523** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into an agreement for sale and purchase of land interests containing 98.45 acres, more or less, in Martin County, for the Indian River Lagoon - South, CERP Project, Allapattah Complex Natural Storage and Water Quality Area Component, in the amount of \$1,430,000, for which CERP ad valorem funds (District maximum contribution of \$75,000) are budgeted and the remainder to be funded by Martin County and the Federal Wetlands Reserve Program; 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 acquisition of the aforesaid 98.45 acres, more or less; providing an effective date. (Ruth Clements, ext. 6271)

No presentation was provided.

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

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

Executive Office

- 56. 2008-524** A Resolution of the Governing Board of the South Florida Water Management District authorizing entering into a 10 month purchase order with Meridian Partners, LLC for upgrading the current SAP 2004 version to SAP ERP 6.0 using state contract #973-561-06-1 in the amount of \$1,800,000 of which \$1,180,575 of ad valorem funds are budgeted in FY08; and the remainder is subject to Governing Board approval of the FY09 budget; providing an effective date. (SAP Requisition No. 10048788) (Bernardo Camarena, ext. 6421)

No presentation provided.

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

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

- 57.** Consideration of (1) Administrative Law Judge J. L. Johnston's Recommended Order Dismissal, and (2) timely filed Exceptions to the Recommended Order and Responses thereto, if any, in DOAH Case No. 08-1063, Pelican Bay Foundation, Inc. v. Collier County Water and Sewer District and South Florida Water Management District, regarding renewal of an existing water use permit to Collier County Water and Sewer District. (Sheryl G. Wood, SFWMD, Ext. 6976); Santiago Echemendia, Board Counsel; Jennifer Bokankowitz, SFWMD, Ext. 2258; Robert D. Pritt, for Petitioner; and Edward de la Parte, for Respondent Collier County Water and Sewer District) **Time certain 11:00 a.m.**

Sara Nall, Deputy General Counsel, presented information on the procedural history of the existing water use permit to Collier County Water and Sewer District. Ms. Nall also reported on the Governing Board's role in this matter.

Robert Pritt, representing the Petitioner, Pelican Bay Foundation Inc., provided background information on the petition filed by Pelican Bay Foundation, Inc.

Edward de la Parte, representing the Respondent, Collier County Water and Sewer District, provided information on the permit under review.

The District Counsel's recommendation is as follows:

Reject Petitioner's Exceptions

Exception 1:

- Facts alleged in Amended Petition taken as true.

Exception 2:

- Facts alleged in Amended Petition taken as true.

- No basis for alternative conclusion that is "as or more reasonable".

Exception 3:

- No basis for alternative conclusion that is "as or more reasonable".

- Adopt ALJ's Recommended Order Dismissal in "toto".

- Dismiss Petitioner's Amended Petition with prejudice.

- Issue renewal of Permit No. 11-00052-W as previously approved on January 8, 2008.

Motion made by Michael Collins, seconded by Charles Dauray to Approve the following item(s): 57

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

71. Discussion of Contract No. 3600001384 (Everglades Agricultural Area Reservoir A-1 Project) between the South Florida Water Management District and Barnard-Parsons Joint Venture

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

John Dunnuck, Program Implementation Manager, Everglades Restoration, presented information on the suspension of construction on the EAA Reservoir A-1 Project.

Motion made by Michael Collins, seconded by Paul C. Huck Jr. to Approve the following item(s): 71

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

Government and Public Affairs

58. **2008-525** A Resolution of the Governing Board of the South Florida Water Management District authorizing the application for and administration of the second year of a Florida Inland Navigation District Cooperative Assistance Program Grant for Martin County's Manatee Pocket Channel Dredging Project; for up to \$3,000,000 over three years and contingent upon state appropriations to serve as the District's cost share match; with no cost or obligation to the District if state funds are not appropriated; providing an effective date. (Kathryn LaMartina, ext. 3603)

No presentation provided.

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

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

Operations and Maintenance

59. **2008-526** A Resolution of the Governing Board of the South Florida Water Management District to authorize an amendment to C-11951 / 3600000024 with Telvent USA, Incorporated for the Installation and Long-Term Support of the Water Management Supervisory Control and Data Acquisition (SCADA) System (WMSS) and authorize a Waiver of Competition, as an exception to the general standards of competition, to increase the funding by an amount not-to-exceed \$4,300,000 through the end of the contract duration or Fiscal Year 2015, for which ad valorem funds in the amount of \$120,000 are budgeted; and the remainder is subject to Governing Board approval of the FY09-FY15 budgets; providing an effective date. (Contract Numbers C-11951-A08 / 3600000024-A08) (Bill Roettgen, ext. 2295)

No presentation provided.

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

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

- 60. 2008-527** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a 140 day cooperative agreement with the Natural Resource Conservation Services (NRCS) for C-24 Canal Bank Repairs damaged by Hurricane Wilma in an amount not-to-exceed \$2,000,000, of which 75% or \$1,500,000 is NRCS reimbursable; providing an effective date. (Contract Number 4600001388) (Jose Guardiola, Ext. 2594)

No presentation provided.

Motion made by Melissa Meeker, seconded by Michael Collins to Approve the following item(s): 60

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

- 61. Public Comment**

There was no public comment.

Staff Reports

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

Ernie Barnett, Director, Office of Policy and Legislation, reported on the legislation that passed this session:

SB1552 - Everglades Restoration Bonds
SB542 - Florida Forever Successor Program
SB1302 - Waste Water Disposal/Ocean Outfalls
HB787 - Daiagi Claims

FY 2008-2009 Final Budget Conference Report
\$129,550,000 District Total Appropriation:

Everglades Restoration \$ 50,000,000
Florida Forever \$ 36,750,000
Water Management District Lands \$ 17,700,000
Miami River Dredging
/C-111 Spreader \$ 15,000,000
Alternative Water Supply \$ 3,600,000
Everglades (Alligator Alley Tolls) \$ 2,000,000

- 63. General Counsel Report - Sheryl Wood**

There was no oral report provided.

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

No oral reports provided.

65. Board Comment

No board comments provided.

Closed Door Agenda

Executive Office

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

Action Items (if any) Stemming from Closed Sessions

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

Chair Buermann adjourned to closed-door session at 12:30 pm. He stated they would reconvene in approximately 60 minutes.

Chair Buermann reconvened the meeting at 1:30 pm.

Sheryl Wood, General Counsel, reported on Board's direction to proceed with mediation on May 28th and 29th and report back to the Board in June.

Adjournment

69. Adjourn

Chair Buermann adjourned the meeting at 3:50 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