



---

## **South Florida Water Management District**

---

### **MINUTES GOVERNING BOARD WORKSHOP**

July 8, 2009

10:00 AM

District Headquarters - B-1 Auditorium  
3301 Gun Club Road  
West Palm Beach, FL 33406

Members Present:

**Eric Buermann, Chair**  
**Shannon Estenoz**  
**Patrick Rooney**

**Michael Collins**  
**Melissa Meeker**

**Charles Dauray**  
**Jerry Montgomery**

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

Chair Buermann called the meeting to order at 10:06 AM.

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

Mr. Montgomery lead the Pledge of Allegiance.

**3. Approval of Minutes**

Approval of the Minutes for the May 11, 2009, Special Meeting Workshop, May 13, 2009, Workshop, and the May 14, 2009, Regular Business Meeting held in West Palm Beach, Florida. Approval of the Minutes for the June 10, 2009, Workshop, and June 11, 2009, Regular Business Meeting held in Naples, Florida.

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

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

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

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

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

There were no abstentions from the Workshop agenda items.

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

There were no items pulled for discussion from the Consent Agenda.

**Water Resources**

**7. Proposed Implementation of the Regulatory Component of Senate Bill 2080 - Robert M. Brown, Director, Environmental Resource Regulation Department (Ext. 6283)**

Mr. Brown reviewed the regulatory components of Senate Bill 2080 which was signed into law by Governor Crist on June 30. Mr. Brown discussed the permitting process and the public participation process for regulatory items.

There was discussion on items of heightened public concern.

Mr. Brown discussed the open public meeting with the Executive Director for reviewing regulatory items and reports to the Governing Board.

There was discussion on permits that may initiate a policy issue. The policy issues will be brought to the Governing Board for direction and approval.

Mr. Brown reviewed the transparent permitting process that the District will follow and the process will remain flexible. Ms. Wehle addressed how large controversial projects and the public process will work.

Ms. Wood provided a legal interpretation of the intent of the legislation. Ms. Wood explained the discretionary delegation authority of the Governing Board. Ms. Wood recommended, from a legal and a practical standpoint, delegating both the ERP and the CUP programs to the Executive Director.

Mr. Buermann reviewed the language in the bill focusing on the mandate to delegate final action on "permit applications under Part II or Part IV" of Chapter 373, F.S. Mr. Buermann stated concern about the legislative language and the interpretation of the intent of the language.

Mr. Collins commented on the intent of the legislature to delegate final action on permit applications under Part II and Part IV.

There was further discussion on legal exposure, practical implementation, plain language, intent, and legal determinations.

Ms. Estenoz requested a legal opinion and commented on the permitting process.

There was discussion on mandated and discretionary delegation under the statute.

Mr. Collins made a motion, seconded by Mr. Montgomery, to delegate both ERP and CUP final approval authority to the Executive Director based on the approved legislative language in SB 2080.

Public Comment:

Ms. Rosa Durando, representing self, commented on not wanting to be excluded from the permitting process.

Ms. Lisa Interlandi, representing self, supported the public process and delegating one permitting program.

Mr. Kahlil Kettering, representing NPCA, supported the public process and the plain language of the legislation.

Ms. Martha Musgrove, representing Decision Makers Forum, supported the plain language of the legislation and the public process.

Ms. Jacquie Weisblum, Audubon, supported the public process and recommended a standing item on Governing Board agenda for policy issues.

Mr. Jim Harvey, representing self, commented on legislative intent, case law and supports the public process.

Ms. Alex Larson, representing self, stated concern on delegating approval and being removed from the public process.

Vote called. Voting yes: Michael Collins, Melissa Meeker, Jerry Montgomery.  
Voting no: Charles Dauray, Eric Buermann, Patrick Rooney, Shannon Estenoz.  
Motion failed.

After further discussion on how to proceed with implementing the legislation, Ms. Meeker, seconded by Mr. Dauray, made the following motion:

Pursuant to the mandatory duty to delegate permitting authority in SB 2080 the Governing Board delegates approval of Ch. 373, Part II permits, and all approvals of variances or waivers, to the Executive Director.

Pursuant to the discretionary authority in Sec. 373.083, F.S., the Governing Board delegates approval of Ch. 373, Part IV permits, and all approvals of variances or waivers, to the Executive Director.

The Governing Board further directs staff to seek an advisory opinion from the Attorney General on:

- whether SB2080 mandated a delegation of permitting approval under both Part II and Part IV, and
- whether SB2080 altered the District's discretionary authority in 373.083, F.S.

The District staff will implement the recommended public procedures, including a standing agenda item for the Governing Board to discuss policy matters related to Part II and Part IV permits.

All denials will be brought before the Governing Board.

Vote called. Voting yes: Mike Collins, Melissa Meeker, Jerry Montgomery, Charles Dauray. Voting no: Eric Buermann, Patrick Rooney, Shannon Estenoz. Motion passed.

**8. 2009-700 Strategic Plan and FY10 Budget Update** - Doug Bergstrom, Director, Budget Office (ext. 6214).

A) A Resolution of the Governing Board of the South Florida Water Management District to adopt the updated 10 year Strategic Plan of the District for the purpose of establishing priorities, goals, strategies and milestones; providing an effective date

B) FY10 Proposed Budget

C) A Resolution of the Governing Board of the South Florida Water Management District to adopt the proposed FY2009-2010 millage rates for the purpose of notifying county property appraisers for publication on Truth in Millage (TRIM) notices; providing an effective date

A) Mr. Bergstrom provided a presentation and discussed the FY10 budget and Strategic Plan.

Ms. Meeker, seconded by Mr. Montgomery, moved to approve:

A Resolution of the Governing Board of the South Florida Water Management District to adopt the updated 10 year Strategic Plan of the District for the purpose of establishing priorities, goals, strategies and milestones.

Mr. Collins commented on previous restoration commitments including Acceler8.

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

B) Mr. Bergstrom discussed the budget and decreases in tax revenue. Each of the Deputy Executive Directors reviewed their portion of the FY Work Plan.

Mr. Ammon reviewed the Everglades Restoration area's River of Grass Land Acquisition, C-111 Spreader Canal Project, Biscayne Bay Coastal Wetlands Project, Southern CREW Critical Project, and North Palm Beach Project Work Plan elements.

Mr. Merriam reviewed the Water Resources area's District Everglades, Water Supply, Coastal Wetlands, Modeling and Scientific Support, Lake Okeechobee Program, Regulation Program, and Kissimmee Watershed Program Work Plan elements.

Mr. Montgomery discussed economic concerns with storage north of Lake Okeechobee and the Florida Ranchland Environmental Services Program (FRESP). Mr. Collins commented on wildlife benefits with the storage components. Ms. Meeker commented on opportunities with the estuaries and expanding the program. Ms. Estenoz discussed the FRESP pilot projects and suggested it be a workshop item. Mr. Dauray commented on the benefits of connectivity of the lands with land stewardship. Mr. Montgomery recommended an economic and environmental analysis of the program to ensure sufficient funds are committed.

Under Operations & Maintenance, Mr. Carter reviewed the capital projects, movement of water and pumping, structure and pump station, canal and levee maintenance, vegetation management, operations and control, SCADA and Hydro management and the land stewardship elements of the Work Plan.

Mr. Collins requested the revised 50 Year Plan for O&M. Mr. Alex Damion will provide the revised plan.

Under Mission Support, Ms. Turnquest reviewed the Land Use / Land Cover Mapping, conversion of data from VAX to SAP, building and campus maintenance, and energy improvement projects Work Plan elements.

Mr. Montgomery requested an energy efficiency briefing.

Ms. Reppen reviewed the Government & Public Affairs area's public information materials, outreach and community partnerships, and local project funding Work Plan elements.

Mr. Dauray stated his support for environmental education programs.

Mr. Dumars reviewed the SAP and the different SAP modules as elements in the Work Plan. There was a discussion on the cost and commitment to SAP.

Mr. Bergstrom reviewed guidance and practices for budget reserves including contingency and economic stabilization reserves plus balance set-aside. Mr. Bergstrom requested guidance on the amount to keep in reserve. There was discussion on the amount to keep in reserve and the impact to the District's bond rating.

Staff will come back with more information and cost analysis on reserves.

Public Comment: Ms. Musgrove, Marshall Foundation, commented on the Strategic Plan and supports the Work Plan elements for restoration projects for flowing water South.

C) Ms. Meeker, seconded by Ms. Estenoz, moved to approve the following:

A Resolution of the Governing Board of the South Florida Water Management District to adopt the proposed FY2009-2010 millage rates for the purpose of notifying County property appraisers for publication on Truth in Millage (TRIM) notices.

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

### **Everglades Restoration**

11. **Everglades Restoration Update** - Tommy Strowd, Assistant Deputy Executive Director, Everglades Restoration (Ext. 6998)

Mr. Strowd turned the agenda item over to Mr. Ammon. Mr. Ammon reviewed the Master Agreement with the ACOE that was approved at the last Governing Board meeting. Mr. Ammon stated that the ACOE had substantial changes to the Master Agreement. Mr. Ammon reviewed the three areas that have been changed by the ACOE under the Master Agreement. Ms. Wehle discussed the new level of review for the agreement and the risks associated with the changes including construction on Picayune Strand and the C-111 Spreader Canal projects.

Ms. Estenoz expressed her frustration and concern with the process. She requested that the ACOE and the OMB address the Governing Board at a future meeting.

Mr. Collins requested a discussion on whether the State of Florida is committed to Everglades Restoration and the need for a federal partner or can the State move forward independently. There was discussion on the partnership with the federal government on restoration projects.

Ms. Wehle and Mr. Ammon discussed options for addressing issues. Staff will draft a resolution, including a chronology of events over the past seven years, addressing the concerns.

Public comment: Jacquie Weisblum, Audubon, commented on the proposed changes to the Master Agreement.

Public comment: Kim Taplin, ACOE, discussed the changes to the Master Agreement and the next steps that are planned to resolve the issues.

#### **Executive Office**

- 12. Overview of Chapter 373, Florida Statutes (Continued) - Public Procurement -** Sheryl G. Wood, General Counsel; Carlyn Kowalsky, Managing Attorney; and Cathy Linton, Sr. Supv Attorney; Office of Counsel (Ext. 6976, 6240 and 6322)

Item deferred to future meeting.

- 13. Public Comment on Regulatory Permits -** Facilitated by Carol Wehle, Executive Director (Ext. 2893) **PLACEHOLDER**

Based on Governing Board action and the implementation of SB 2080, Ms. Wehle heard public comments on the following permits:

South County Regional Park Golf Course Irrigation (WU) Application No: 050829-27

Ms. Rosa Durando, representing self, commented on the location and wetland impacts.

Ms. Sheri Scarborough, West Boca Community Council, stated support for the permit and the project.

Mr. Dennis Eshleman, Palm Beach County Parks & Recreation, stated support for the permit and the project.

Mr. Robert Higgins, Palm Beach County, explained that due to the new process the county is willing to defer the permit, however all issues have been resolved. Ms. Wehle discussed input from drainage districts and the Loxahatchee Wildlife Refuge on the permit.

Mr. Dylan Larson, Miller Legg, discussed comments from the Refuge.

Mr. Drew Martin, representing self, commented on water use and withdrawals from the aquifer.

Ms. Wehle called for any other comments on the permits. There were no additional comments.

Old Palm City Phase 3 STA (Appl. No. 070615-11) ERP in Martin County

Mr. William Thornton, Palm City Civic Organization, stated concern with access to adjacent residential properties. There were discussions with the County representative.

Ms. Jane Hilderbrandt, Palm City Civic Organization, stated concerns about drainage. Ms. Wehle offered to facilitate discussions with the County on access and drainage.

There were no additional public comments.

## **19. Adjourn**



The meeting adjourned at 5:23 pm.

---

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

Recorded By:

---

Jacki McGorty  
District Clerk  
Governing Board and Executive Services  
SFWMD