



South Florida Water Management District

MINUTES GOVERNING BOARD WORKSHOP

December 8, 2010

1:00 PM

District Headquarters - B-1 Auditorium

3301 Gun Club Road

West Palm Beach, FL 33406

Members Present:

Sandy Batchelor

Eric Buermann, Chair

Joe Collins

Charles Dauray

Shannon Estenoz

Jerry Montgomery

Kevin Powers

Glenn Waldman

1. Call to Order - Chair, Governing Board

Chair Buermann called the meeting to order at 1:07 p.m.

2. Pledge of Allegiance - Chair, Governing Board

Shannon Estenoz led the group in the Pledge of Allegiance.

3. Approval of Minutes

Approval of the Minutes for the November 9, 2010, Workshop and the November 10, 2010, Regular Business meetings held in Ft. Myers, Florida

Motion made by Jerry Montgomery, seconded by Joe Collins to Approve the following item(s): 3

Vote called. Voting yes: Jerry Montgomery, Joe Collins, Sandy Batchelor, Eric Buermann, Charles Dauray, Shannon Estenoz, Kevin Powers, Glenn Waldman.
Motion passed.

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

Annette Carter, Director, Office of Governing Board & Executive Services, reported there were no changes to the agenda.

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

Shannon Estenoz announced her disclosure on Agenda Items 10. Her husband's law firm does not have clients on this matter but he has engaged in policy discussions with members of the public and environmental groups. She also announced a potential conflict of interest on Agenda Item 12 due to her acceptance of employment with the Department of Interior commencing December 14, 2010. She reported she would not be participating in discussions on these items.

6. Pull Items for Discussion from Consent Agenda

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

Chair Buermann introduced Palm Beach County Commissioner Paulette Burdick, who was in the audience.

7. Draft Lake Okeechobee Protection Plan Update - Temperince Morgan, Director, Policy and Coordination Department, Everglades Restoration and Capital Projects (ext. 6987)

Temperince Morgan, Director, Policy and Coordination Department, presented information on the draft Lake Okeechobee Protection Plan that is currently out for public comment. Ms. Morgan reported on the legislative requirements, the current ecological condition of the Lake, water quality and water storage of the watershed.

Ms. Morgan then reported on the in-lake strategies with regard to sediment and exotic species management. Ms. Morgan also explained the current activities for phosphorus load reductions and water storage in the watershed.

Ms. Morgan summarized the phosphorus load reductions:

- The total P load reduction needed to meet TMDL of 105 metric tons (mt): 434 mt
- Remaining load above the target: 62 mt
- Additional strategies may include:
 - Additional dispersed and sub-regional/regional storage/treatment
 - Soil amendments/stabilization
 - Linkages with other programs.

Mr. Dauray questioned whether there is funding this year for muck removal in Lake Okeechobee.

Ms. Wehle said staff will bring back to the Board in January a list of potential projects given the opportunities due to low lake levels.

Public Comment: Jane Graham, Audubon, commented that the LOPP is a top priority and a statutory requirement. She recommended more language on specific points such as increased funding in source control and dispersed water storage management.

Public Comment: Drew Martin, Sierra Club, said the nutrients need to stay on agriculture's land.

Public Comment: Martha Musgrove, A.R. Marshall Foundation, recommended stopping the import of phosphorus and spreading the residuals.

Public Comment: Pete Quasius, Collier Audubon, said Lake Okeechobee is the heart of the Everglades; The Governing Board needs to start with the goals first and then discuss funding.

8. Overall Framework of Florida Water Law as Implemented in the Lake Okeechobee Service Area (Part 2) - Beth Lewis, Sr. Specialist Attorney, Office of Counsel (ext. 6343)

Beth Lewis, Sr. Specialist Attorney, Office of Counsel, presented information on the overall framework of Florida Water Law as implemented in the Lake Okeechobee Service Area (LOSA).

Ms. Lewis provided background on the water protection of the natural system relating to Lake Okeechobee as the source for water for the Everglades, Caloosahatchee Estuary, St. Lucie Estuary and the STAS. Ms. Lewis provided a history of the Legislative intent for water supply plans, Lower East Coast Water Supply Plan and CERP.

Ms. Lewis reported on the Mimimum, Flows and Levels (MFL) water bodies. The MFL Prevention water bodies are:

Biscayne aquifer
Lower West Coast aquifers
North Fork of the St. Lucie River
Lake Istokpoga
Northeastern Florida Bay.

The MFL Recover Water Bodies are:

Lake Okeechobee
Everglades
Caloosahatchee River
Northwest Fork of the Loxahatchee River.

Ms. Lewis then explained the water reservations rule and focused on the Caloosahatchee River. Other District-wide ongoing water protection efforts are the water reservation for the Caloosahatchee Estuary, Kissimmee River Chain of Lakes, and the Biscayne Bay restricted allocation area.

Public Comment: Pete Quasius, Collier Audubon, said the Caloosahatchee River is dying and urged the Board to please allow water flow into the Caloosahatchee.

Public Comment: Jennifer Hecker, Conservancy of Southwest Florida, commented on water allocations and said there is a need for an interim plan for the Caloosahatchee.

Public Comment: Marcy LaHart, Conservancy of SW Florida, commented on the rule that needs to be amended by the Board and also commented on capping withdrawals from new water users.

9. Consumptive Use Permitting Resource Protection Criteria - Steven Memberg, Principal Scientist, Water Resource Regulation (ext. 2133)

Steven Memberg, Principal Scientist, Water Resource Regulation, presented information on the consumptive use permitting resource protection criteria. Mr. Memberg discussed the impacts to:

- water resource availability.
- saline intrusion/upcoming.
- wetland environments.
- Contamination Movement.
- Existing Legal Users.
- Off-site Land Use.
- Maximum Developable limits.
- Restricted allocation areas.
- Minimum flows and levels.

Permits are issued based on the most restrictive resource protection criteria.

Mr. Memberg also reported on the Lake Okeechobee Service Area (LOSA) rule which became effective October 14, 2008.

Public Comment: Rosa Durando, ASE, commented on seepage from protected wetland areas adjacent to taxing districts.

Public Comment: Drew Martin, Sierra Club, commented on the potential C-51 reservoir, and requested the District reestablish the cypress forest that was originally there.

Public Comment: Kristin Melton, Collier County, commented on water being made available for consumptive use instead of allocating it to meet MFLs.

Public Comment: Marcy LaHart, Conservancy of SW Florida, commented on the word "practicable" in the statute. She explained her clients have skepticism in the efficiency of the LOSA rule.

10. South Dade Seasonal Operations Update - Matt Morrison, Director, Project Coordination Division, Everglades Restoration and Capital Projects (ext. 3718)

Matt Morrison, Director, Project Coordination Division, provided an update of the South Dade Seasonal Operations and the Master Water Control Plan:

- Operating in accordance with Central and Southern Florida Project for Flood Control and Other Purposes - Master Water Control Manual, East Coast Canals, Vol. 5 March 1995, U.S. Army Corps of Engineers.
- Selection of operating range depends on field conditions and agricultural needs. Both S-21A (C-102 Basin) and S-20F (C-103 Basin) have been in Low Range since early October.
- Hydrologic conditions have not allowed for utilization of the Intermediate Range. Row crop planting nearing completion; anticipate returning S-20F to Intermediate Range Dec. 15; may need to keep S-21A on Low Range until Dec. 30, not withstanding heavy rainfall.

Mr. Morrison then reported on the suggestions recommended by the group of stakeholders:

- Include National Park Service and environmental community in communication protocols during seasonal operations.
- Develop 2010/2011 Seasonal Operations Report.
- Expedite installation of structures in the Florida City Canal and other areas.
- Utilize new expedited L-31E culverts as long as possible, prior to opening gates.
- Reconnect North Canal to improve operating efficiencies.
- Implement CERP BBCW Project.
- Statistical Analysis.

Mr. Morrison said the Final Statistical Analysis Report is Due on December 29, 2010.

Public Comment: Mark Lewis, Superintendent, Biscayne National Park, appreciates the staff involvement in the South Dade meetings. He said there is a better understanding among the participants. He is hopeful that everyone involved can come up with more effective ways of managing and maintaining the water.

Public Comment: Jane Graham, Audubon, said there needs to be permanent solutions or modifications to the seasonal draw down practice to lesson impacts to Biscayne Bay. She also had concerns about the structures and sea level rise.

Public Comment: Laura Reynolds, Tropical Audubon Society, commented on the possible upcoming drought and said they are disappointed in the low level. The goal is to capture some of the water.

Mr. Ammon said the statistical analysis will be completed this month and staff will bring that information back to the Board in February.

Public Comment: Dawn Shireffs, National Parks Conservation Association, said the BBWC culvert is inoperable and hopes the Board is committed to reevaluate and making changes to the outdated drawdown practices.

11. **Background on Notice of Rule Development to Address Water Supply Availability for Protection of Fish and Wildlife in Biscayne Bay** - Brenda Mills, Principal Technical Program Specialist, Federal and State Policy Division, Everglades Restoration and Capital Projects (ext. 6536)

Brenda Mills, Principal Technical Program Specialist, provided background information on notice of rule development to address water supply availability for the protection of fish and wildlife in Biscayne Bay. She reported a Restricted Allocation Area Rule protects all existing surface water volumes to Biscayne Bay.

- Protects water by preventing additional consumptive uses that could reduce existing flows into bay.
- Flexible - protects existing volumes, future increases or redistribution of flows
- Acceptable to the U.S. Army Corps of Engineers.
- In public's interest to protect water to bay.

Public Comment: Mark Lewis, Biscayne National Park, is supportive of the District moving forward with this type of rulemaking but noted this does not fulfill the needs of Biscayne Bay.

Public Comment: Jane Graham, Audubon, supports the development of this rule as the first step to protect the freshwater resources needed to keep Biscayne Bay healthy.

Public Comment: Joan Lawrence, DOI, said Biscayne is not a lagoon. She also commented on the baseline data and said they have made the linkages between salinity and what kind of fresh water is needed for the protection of Biscayne Bay. This study was submitted to the District.

Public Comment: Laura Reynolds, Tropical Audubon Society, commented on the different areas of Biscayne Bay. She said the goal is to try and get more groundwater. She said there is a need for a reservation to protect groundwater.

Public Comment: Dawn Shirreffs, National Park Conservation Association said the RAA rule does not solve the problem. She recommended a reservation for the protection of groundwater.

Drew Martin, Sierra Club, said it is very important to resolve the issues with Biscayne Bay.

12. Compliance with the Special Master's Report dated July 5, 2006, and Judge Moreno's March 31, 2010, Order in the USA v. SFWMD, Case No. 88-1886-CIV-Moreno (S.D. Fla.) and Stormwater Treatment Areas (STAs) and Related Projects Update - Kirk Burns, Sr. Practice Expert, Office of Counsel, and John Mitnik, Director, Engineering Projects Division (ext. 6546 and 4068)

Kirk Burns, Sr. Practice Expert, Office of Counsel, presented an update on the USA lawsuit.

In his report dated July 5, 2006, Special Master Barkett recommended that the District be ordered to implement the Acme B, STA enhancement, and Compartment B and C STA projects. Since 2005, District staff have provided the Court and the Technical Oversight Committee with periodic updates concerning the project status.

By order dated March 31, 2010, Judge Moreno adopted the Special Masters' July 5, 2006, report, and ordered the District to implement its remedies and, "to the extent they are incomplete, requests the Special Master recommend realistic mutually-agreeable deadlines, as necessary. . . ."

John Mitnik, Director, Engineering Projects Division, presented an update on the Stormwater Treatment Areas and the related projects which include ACME Basin B Discharge, EAA Compartment C STA Buildout and EAA Compartment B STA Buildout.

13. Public Comment

Public Comment: Drew Martin, Sierra Club, thanked the Board for listening to public comment. He has concerns about the Town of Big Cypress.

Public Comment: John Arthur Marshall Foundation, commented on a benefit cost effective analysis for CERP.

Executive Office

14. Attorney client session pursuant to Section 286.011(8), Florida Statutes (2009) to discuss strategy related to litigation expenditures and/or settlement negotiations 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.

ATTENDEES: Governing Board Members S. Batchelor, E. Buermann, J. Collins, C. Dauray, R. Montgomery, K. Powers, G. Waldman; Executive Director C. Wehle; District attorneys S. Wood, S. Nall, C. Kowalsky, K. Rizzardi, K. Burns, J. Nutt, F. Bartolone, and outside counsel D. Moore. (Sheryl. G. Wood, ext. 6976)

Action Items (if any) Stemming from Attorney Client Session

Attorney client session pursuant to Section 286.011(8), Florida Statutes (2009) to discuss strategy related to litigation expenditures and/or settlement negotiations 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, ext. 6976)

Chair Buermann recessed to Attorney Client Session at 5:15. He announced the meeting would reconvene in approximately 60 minutes.

Chair Buermann reconvened the meeting at 6:20 p.m.

Sheryl Wood, General Counsel, reported no action be taken by the Board on Agenda Item 14.

15. Adjourn

Chair Buermann adjourned the meeting at 6:22 p.m.

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