



South Florida Water Management District

GOVERNING BOARD MONTHLY MEETING EXECUTIVE SUMMARY AGENDA

This meeting is open to the public

August 14, 2014

9:00 AM

District Headquarters - B-1 Auditorium

3301 Gun Club Road

West Palm Beach, FL 33406

FINAL

Pursuant to Section 373.079(7), Florida Statutes, all or part of this meeting may be conducted by means of communications media technology in order to permit maximum participation of Governing Board members.

The Governing Board may take official action at this meeting on any item appearing on this agenda and on any item that is added to this agenda as a result of a change to the agenda approved by the presiding officer of the meeting pursuant to Section 120.525, Florida Statutes. The order of items appearing on the agenda is subject to change during the meeting and is at the discretion of the presiding officer. Public Comment will be taken after each presentation and before any Governing Board action(s) except for Governing Board hearings that involve the issuance of final orders based on recommended Orders received from the Florida Division of Administrative Hearings.

1. Call to Order - Dan O'Keefe, Chairman, Governing Board
2. Pledge of Allegiance - Dan O'Keefe, Chairman, Governing Board
3. Employee Recognitions - Presented by Blake Guillory, Executive Director
 - August Employee of the Month: Albert Cantelo, Building Maintenance Mechanic, Administrative Services Division
 - August Team of the Month: Supreme Court Appeal Team
4. Agenda Revisions - Jacki McGorty, District Clerk
5. Abstentions by Board Members from items on the Agenda

6. Water Resources Advisory Commission (WRAC) Report - Jim Moran, Chair

Consent Agenda

Members of the public wishing to address the Governing Board are to complete a Public Comment Card and submit the card to the front desk attendant. You will be called by the Board Chair or designee to speak. If you want to request that an item be removed from the Consent Agenda and be discussed by the Governing Board, please advise the Governing Board when you are called upon to speak. Governing Board directives limit comments from the public to 3 minutes unless otherwise determined by the Governing Board Chair. Your comments will be considered by the Governing Board prior to adoption of the Consent Agenda.

*Unless otherwise determined by the Chair, Board action on pulled Consent Agenda items will occur at or after 9:00 a.m. on Thursday. Regulatory items pulled from the Consent Agenda for discussion will be heard during the Discussion Agenda. **Unless otherwise noted, all Consent Agenda items are recommended for approval.***

7. Public Comment on Consent Agenda
8. Pull Items for Discussion from Consent Agenda
9. Board Comment on Consent Agenda
10. Approval of the Minutes for the July 10, 2014 Regular Business Governing Board meeting held in West Palm Beach, Florida.
11. Waivers for Water Resource Advisory Commission (WRAC) members pursuant to Section 112.313, Florida Statutes.
12. Regulatory Consent Items
 - Denials
 - **WCI Communities, Inc; Pelican Colony (WU - Lee County)** - Staff recommends denial due to applicant's failure to complete the application.
 - Consent Orders
 - **George Williams; Williams Property (Hendry County)** - Settlement of an enforcement action regarding unpermitted construction and alteration of wetlands.
 - **JTD Land; Kaileys Ridge (Orange County)** - Settlement of an enforcement action regarding non-compliance with permit conditions due to unauthorized offsite discharge into adjacent wetlands and failure to comply with the District's Best Management Practices.
 - **Orlando Orange County Expressway Authority; OOCEA - SR 417 and Boggy Creek Interchange (Orange County)** - Settlement of an enforcement action regarding unpermitted dewatering with offsite discharge and failure to comply with the District's Best Management Practices.
 - **Hickory Tree, LLC; Altman Fishery (Osceola County)** - Settlement of an enforcement action regarding non-compliance with permit conditions due to unauthorized offsite discharge and failure to comply with the District's Best Management Practices.
 - Conservation Easements, Amendments and Releases
 - **Maxcy Development Group Holdings - CFM, Inc., Magnolia Landing Additional Parcels (Lee County)** - Staff recommends the approval of an

amendment of recorded conservation easement numbers: 2, 3, 4, 6, 7, 12, 13, 14, 15, 16, 18, 29 for a project known as Magnolia Landing Additional Parcels in Lee County. It was discovered that the legal descriptions attached to the original recorded conservation easements granted to the District were incorrect. The easements total 149.12 acres. This change will be reflected in Application Number 060718-4.

- **Maxcy Development Group Holdings - CFM, Inc., Magnolia Landing Additional Parcels (Lee County)** - Staff recommends the approval of an amendment of recorded conservation easement numbers: 9, 10, 21 for a project known as Magnolia Landing Additional Parcels in Lee County. It was discovered that the legal descriptions attached to the original recorded conservation easements granted to the District were incorrect. The easements total 6.772 acres. This change will be reflected in Application Number 060718-4.
- **Maxcy Development Group Holdings - CFM, Inc., Magnolia Landing Additional Parcels (Lee County)** - Staff recommends the approval of an amendment of recorded conservation easement number 1 for a project known as Magnolia Landing Additional Parcels in Lee County. It was discovered that the legal descriptions attached to the original recorded conservation easements granted to the District were incorrect. The easements total 36.95 acres. This change will be reflected in Application Number 060718-4.
- **Maxcy Development Group Holdings - CFM, Inc., Magnolia Landing Additional Parcels (Lee County)** - Staff recommends the approval of a request for the partial release of recorded conservation easement numbers: 2, 13, 16 for a project known as Magnolia Landing Additional Parcels in Lee County. It was discovered that the legal descriptions attached to the original recorded conservation easements are in error in that the legal descriptions were incomplete (i.e. scrivener's error). The easements total 6.88 acres. This change will be reflected in Application Number 060718-4.
- **Maxcy Development Group Holdings - CFM, Inc., Magnolia Landing Additional Parcels (Lee County)** - Staff recommends the approval of a request for the full release of recorded conservation easement number 17 for a project known as Magnolia Landing Additional Parcels in Lee County. The applicant is proposing to impact the area and offset the impact with on-site mitigation, including the addition of 256.87 acres of additional preserve placed under C.E. The easement totals 9.52 acres. This change will be reflected in Application Number 060718-4.
- **Lennar Homes, LLC, Innovation Way South Segment 3 (Orange County)** - Staff recommends the approval of a request for the partial release of a conservation easement to allow for the construction of a new roadway segment located South of Wewahootee Road and East of John Wycliff Blvd within Sections 10 and 11, Township 25 South, Range 31 East Orange County; within the Innovation Way, Segment 3 Application No. 140218-2. The existing easement was recorded in accordance with Permit 48-00886-P. Compensation for the removal of 5.16 acres from the conservation easement will be offset through the purchase of 11.02 credits from the TM-ECON Mitigation Bank.
- **Eagle Creek Development Corporation, Eagle Creek Southeast Planning Area (Orange County)** - Staff recommends the approval of a request for the partial release of a 74.95 acre conservation easement within the Eagle Creek Development in Orange County which includes a 4.0 acre created wetland and 70.95 acres of uplands. The proposed release is to allow for the

construction of 867 single family lots and associated infrastructure. Based upon the mitigation calculations approved in the original Conceptual Permit (#48-01290-P), the applicant proposes to purchase 4.59 UMAM credits from the TM-ECON Mitigation Bank also located within Orange County.

- Seminole Tribe Work Plans
 - Staff recommends concurrence with the **Twenty Eighth Annual Work Plan** for the Seminole Tribe of Florida. Works in the Big Cypress Reservation include a modification to the existing forestry compound stormwater management system; works in the Brighton Reservation include the construction of an 8-inch irrigation well for the Brighton Sports Park/Ball Field; works at the Immokalee Reservation include a proposed design of a new stormwater management system serving 63 single family homes in the reservation.

13. Right of Way Regulatory Consent Items

- Right of Way Occupancy New Permits
 - Staff recommends approval of a request by Biscayne National Park(Application Number 14-0415-1) for authorizing spoil island restoration consisting of exotic vegetation removal, regrading, planting of native vegetation and site maintenance within the north right of way of C-102 located approximately 1.2 miles east of S-21A in Miami-Dade County.

14. **Resolution No. 2014 - 0801** Approve release of canal, mineral and road reservations. (OMC, Kathy Massey, ext. 6835)

Summary

The District has jurisdiction over certain reserved rights to construct canal and road right of ways, and mineral rights, together with the right of ingress, egress and exploration. Applications requesting releases of these reservations are routinely received from landowners, attorneys, title companies and lending institutions, who consider the reservations to be title defects. Applications are reviewed by appropriate District staff and applicable local governmental agencies to determine that there is no present or future need for the reservations.

Staff Recommendation

Staff recommends approval of the following:

- Release of District canal, mineral and road reservations for Karl F. Sneider and Amy H. Sneider, husband and wife, (File No. 18589) for 0.12 acres in Palm Beach County
- Release of District mineral and road reservations for Fred W. Zipperlein, (File No. 18590) for 0.17 acres in Palm Beach County
- Release of District mineral rights for Iliad, LLC, a Delaware limited liability company, (File No. 18594) for 1.15 acres in Palm Beach County
- Release of District canal and mineral reservations for Genesis RE Holdings, LLC (File No. 18595) for 1.66 acres in Broward County

15. **Resolution No. 2014 - 0802** Approve the purchase of land interests containing 30.0 acres, more or less, in Miami-Dade County, Pennsuco Project, in the total amount of \$240,000 and associated costs in the amount of \$2,950 for which dedicated funds (Lake Belt Mitigation Fund) 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. (OMC, Ray Palmer, ext. 2246)

Summary

Tract Nos. W9307-020 and W9307-024 comprise a total of 30 acres located within the District's Pennsuco Wetlands Project. The Pennsuco wetlands are approximately 13,000 acres of wetland prairie located adjacent to the east perimeter of Water Conservation Area (WCA) 3B in northwestern Miami-Dade County. The Pennsuco area is bordered to the west and north by Krome Avenue, to the south by Tamiami Trail and the east by the Dade-Broward Levee.

Staff Recommendation

Staff recommends approval of the acquisition.

16. **Resolution No. 2014 - 0803** Authorize entering into a Memorandum of Understanding between the South Florida Water Management District and the Florida Public Service Commission (FPSC) which outlines the responsibilities and duties regarding water conservation and water reuse issues for utilities subject to FPSC jurisdiction and describe how the SFWMD and FPSC will coordinate on these issues. (WR, Jim Harmon, ext. 6777)

Summary

This Memorandum of Understanding (MOU) replaces and updates an existing MOU between the Florida Public Service Commission (FPSC) with Florida's five water management districts which has been in place for 23 years. The proposed MOU outlines the responsibilities and duties of the SFWMD and the FPSC in regard to water conservation and water reuse and describes how the parties will coordinate on these issues for water service providers under the FPSC's jurisdiction, as necessary.

Staff Recommendation

Staff recommends the Governing Board enter into the Memorandum of Understanding with the Florida Public Service Commission.

17. **Resolution No. 2014 - 0804** Authorize entering into a Memorandum of Understanding between the South Florida Water Management District, Hendry-Hilliard Water Control District, and Water and Soil Solutions, LLC, regarding operation and monitoring of the East Caloosahatchee River Floating Aquatic Vegetative Tilling Project. (REG, Sharon Trost, ext. 6814)

Summary

The East Caloosahatchee River Floating Aquatic Vegetative Tilling (FAVT) Project is located within the boundaries of the Hendry-Hilliard Water Control District (HHWCD). The project has been funded by FDACS for the operation and monitoring of a proposed water quality treatment project by Water & Soil Solutions LLC (WSS), which utilizes an above ground reservoir with aquatic vegetation to remove excess phosphorus and nitrogen from storm water. The Memorandum of Understanding (MOU) has specific operating protocols and monitoring for protection of the resource.

Staff Recommendation

Approve a MOU between the District, HHWCD and WSS authorizing the HHWCD and WSS to operate the FAVT project, subject to the operational protocols in the MOU.

18. **Resolution No. 2014 - 0805** Authorize entering into a two-year contract with Florida International University for the project titled, "Bioassays for Determining Dissolved Organic Nitrogen Bioavailability to Primary and Secondary Production in the Caloosahatchee River Water Column," in the amount of \$200,000, for which ad valorem funds are budgeted subject to Governing Board approval of the FY15 budget. (WR, Theresa Coley, ext. 2636)

Summary

A two-year contract with the Florida International University to determine dissolved organic nitrogen bioavailability to primary and secondary production in the Caloosahatchee River water column, in the amount of \$200,000, for which ad valorem funds are budgeted for FY15. This contract supports the C-43 Water Quality Treatment Testing Facility Project - Phase I (PS#100911), which will demonstrate and implement cost effective wetland-based strategies for reducing loadings of total nitrogen (TN), including dissolved organic nitrogen (DON) and other constituents into the Caloosahatchee River and Estuary (CRE). Results of this "bench test study" will be used in the design of the larger scale (mesocosm and plot) studies to test the effectiveness of treatment wetlands to remove bioavailable nitrogen from the CRE.

Staff Recommendation

Staff recommends approval of this project.

19. **Resolution No. 2014 - 0806** Approving an amendment to the Fiscal Year 2013-14 budget. (AS, Candida Heater, ext. 6486)

Summary

The District is recognizing additional revenues in the amount of \$300,000 from undesignated fund balance for the self-insurance fund, and \$1 million from interfund charges from ad valorem funds for the health benefits funds. Expenditure trends for the first three quarters of FY2013-14 indicate that there is insufficient budget for the remainder of the fiscal year. Internal Service Funds are used to account for District activities that provide services to other funds and organizational units on a cost reimbursement basis.

- Self Insurance Fund - Accounts for the operations related to providing workers' compensation, general liability, and automobile insurance coverage to all District resource areas. Revenue is provided through interfund charges based on a cost allocation study.
- Health Benefits Fund - Accounts for the operations related to providing health and medical insurance coverage to District employees and retirees who choose to remain in the plan. Revenue is provided through interfund charges and employee and retiree contributions.

Staff Recommendation

Staff recommends Governing Board approval of this budget amendment.

20. **Resolution No. 2014 - 0807** Authorize entering into a three-year contract with two (2) one-year renewal options with James L. King & Associates, Inc., the lowest responsive and responsible bidder, for Flat Mowing Services in the Miami Field Station area, in the amount of \$294,462.00, of which \$69,854.00 in ad valorem funds are budgeted in FY15, subject to Governing Board approval. Funds for FY16 and FY17 budgets are subject to Governing Board approval; providing an effective date. (Contract Number 4600003121) (Kristy C. Jenkins, ext. 7028)

Summary

Maintenance of the Right of Ways is required to ensure that vegetation is controlled at a manageable height and will uphold the operational integrity of the District's flood control system. This project for the Miami Field Station area, will contract approximately 4,674 acres to be mowed on an annual basis. The lowest responsive and responsible bidder is James L. King & Associates, Inc., at \$21.00 per acre. Since this is a work order contract, the amount of acreage to be mowed will fluctuate, based on the weather, budget, and construction projects in the named areas.

Staff Recommendation

Staff recommends authorizing the approval of Contract Number 4600003121, as this item supports continual operations and maintenance of the District canal system. If the ability to not mow and maintain these areas, it would become a potential hazard to the public, as well as District employees.

21. **Resolution No. 2014 - 0808** Authorize a change order to contract 4600002959 with Lucas Marine Acquisition Company, LLC, for the G-94 Refurbishment Project; L-40 Levee Restoration, in the amount of \$331,735.21, and to extend the term of the contract by 45 days for which ad valorem funds of \$331,735.21 are budgeted in FY14. (OEC, Jeff Kivett, ext. 2680)

Summary

Approval is requested to incorporate the demolition of the existing Village of Wellington (VOW) 1DS Structure as part of the District's ongoing G-94 Refurbishment Project. The request proposes an increase to the current construction contract, by change order, in the amount \$331,735.21 and to add a 45-day time extension to the overall contract duration.

Located within the L-40 Levee, on the eastern border of Water Conservation Area 1 in Palm Beach County, the VOW 1DS Structure is an abandoned and aging water control facility that requires removal to meet minimum compliance requirements for the associated FEMA Certification. Extensive deficiencies related to the VOW 1DS Structure were identified by the USACE in their Levee Safety Program Periodic Inspection Report dated March 4, 2011, which specifically identified and recommended the removal of the structure and subsequent restoration of the L-40 in accordance with USACE Design Standards. Removal of the VOW 1DS facility was originally to be completed by the VOW. However, following additional discussion and research, it was subsequently determined that the removal was the responsibility of the District and not VOW. Expediting this work will allow the District to complete the pending FEMA Certification in accordance with USACE minimum time and design mandates.

Staff Recommendation

Staff recommendation is for the approval of the change order to proceed with Lucas Marine Acquisition Company LLC to perform the demolition of the VOW 1DS structure and reconstruct the L-40 Levee in accordance with USACE standards and subsequently meet the FEMA Certification requirements.

22. Board Vote on Consent Agenda
23. General Public Comment
24. Board Comment

Discussion Agenda

25. Technical Reports
- A) Water Conditions Report - Jeff Kivett, Division Director, Operations, Engineering and Construction Division (ext. 2680)
- B) Ecological Conditions Report - Terrie Bates, Division Director, Water Resources Division (ext. 6952)
26. Indian River Lagoon National Estuary Program Update - Dan DeLisi, Chief of Staff, Executive Office (ext. 6232)

Summary

The Indian River Lagoon (IRL), heralded as one of the most biologically diverse estuaries in North America, stretches 156 miles encompassing three water bodies from Volusia County to Martin County on Florida's east coast. The IRL National Estuary Program is one of 28 in the US that is administered by the US Environmental Protection Agency. The Indian River Lagoon National Estuary Program (IRLNEP) coordinates federal, state, regional and local work to protect and restore the IRL. To date, the IRLNEP has been housed at the St Johns River Water Management District. The IRLNEP is undergoing organizational changes that will increase community participation and expand project opportunities. This presentation will provide an update on the IRLNEP and the partnerships being developed to support the program.

Staff recommendation

This item is for information only; no action is required.

27. C-51 Reservoir Update - Len Lindahl, Assistant Executive Director, Executive Office (ext. 6283)

Summary

The C-51 Reservoir project is a public private project being investigated for use as an alternative water supply source for utilities in the Lower East Coast. This presentation will provide an updated status of the project and activities currently underway.

Staff Recommendation

This item is for information only; no action is required.

28. Everglades Agricultural Area and C-139 Basins Source Control Program Annual Update - Pam Wade, Bureau Chief, Everglades Regulation Bureau (ext. 6901)

Summary

The purpose of this presentation is to provide an annual update on the Regulatory Source Control Program for the Southern Everglades. The Everglades Forever Act (EFA, 373.4595, Florida Statutes) directs the District to implement an on-going nonpoint source control program using best management practices (BMPs) in the Everglades Agricultural Area and C-139 Basins. These basins are primarily agricultural areas ultimately discharging to the Everglades. The EFA requires a monitoring network to assess the effectiveness of the BMP program in reducing

phosphorus loads in permittee discharges based on a specified quantitative performance measure. For Water Year 2014, the EAA Basin continues to perform beyond expectations. They achieved a 63% phosphorus load reduction compared to the historic pre-BMP base period, exceeding its 25% load reduction requirement. Their long-term average phosphorus load reduction is 55%. The C-139 Basin also complied with the required phosphorus levels based on methods established in rules adopted under Chapter 40E-63, Florida Administrative Code.

Staff Recommendation

This item is for information only; no action is required.

29. **Resolution No. 2014 - 0809** Authorize a 425 day contract with Shoreline Foundation, Inc., the lowest responsive and responsible bidder, for the C-44 System Discharge, in the amount of \$5,377,745.00, for which \$40,000.00 in ad valorem funds are budgeted in FY14, \$400,000.00 in dedicated funds (Save Our Everglades Trust Fund) are budgeted in FY14; and the remainder is subject to Governing Board approval of the FY15 budget. (Contract Number 4600003113) (OEC, Jeff Kivett, ext. 2680)

Summary

The C-44 Reservoir/Stormwater Treatment Area Project (C-44 Project) is intended to be constructed by the U.S. Army Corps of Engineers (USACE) and the District over the next six (6) years. In December 2013 the District completed construction of the C-44 Communication Tower and in July 2014 the USACE completed construction of Contract 1 (C-400 Intake Canal and Access Road, C-133A Canal, C-133 Canal, S-418 Spillway, and Citrus Boulevard improvements). As stated in the Project Partnership Agreement (PPA) Amendment approved at the July 2014 Governing Board meeting, the District intends to construct the System Discharge (construction start September 2014), the Stormwater Treatment Areas (construction start October 2014), and the S-401 Pump Station (construction start April 2015). The District started construction in July 2014 on the System Discharge Interim Spillway. That contract will achieve early benefits of retaining additional water within the C-44 Project site. That contract is not cost shareable since it was executed prior to the USACE executing the PPA Amendment. The USACE intends to start construction of the C-44 Reservoir (Contract 2) in July 2015.

This C-44 System Discharge construction contract is to construct the S-404 System Discharge Spillway with low level discharge gate, to improve the S-404S Southern System Discharge Spillway, and to construct the C-402 System Discharge Canal. These features will serve as the single point discharge for the entire C-44 Project once it has completed construction. Prior to completion of the total C-44 Project construction, these features will enable approximately 5.7 feet more water to be retained on the upstream 7,000 acres of the C-44 Project site in existing canals and ditches.

Staff Recommendation

Staff recommends approval to enter into a 425 day contract in the amount of \$5,377,745.00 with Shoreline Foundation, Inc., the lowest responsive and responsible bidder, for the construction of the C-44 System Discharge.

30. Consideration of (1) Administrative Law Judge R. Meale's Recommended Order, and (2) timely filed Exceptions to the Recommended Order and Responses thereto, in DOAH Case No. 13-4859, William B. Swaim v. South Florida Water Management District, regarding the South Florida Water Management District's decision not to verify SWERP exemptions for mosquito control activities and seawall construction in an artificially created waterway for property in Palm Beach County.
 - Edward Artau, Interim General Counsel,
 - Alison Kelly, for SFWMD staff,
 - William Swaim, pro se.

31. General Public Comment

Staff Reports

32. Monthly Financial Report - Doug Bergstrom, Division Director, Administrative Services Division
33. General Counsel's Report - Edward Artau
34. Executive Director's Report - Blake Guillory
Report on permits issued by authority delegated to the Executive Director from July 1-31, 2014.
35. Board Comment

Attorney Client Sessions

36. Attorney Client Session - USA

Attorney client session pursuant to Section 286.011(8), Florida Statutes (2013), 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 F. Barber, S. Batchelor, M. Hutchcraft, J. Moran, D. O'Keefe, M. Peterson, J. Portuondo, K. Powers, G. Waldman; Executive Director B. Guillory; District attorneys E. Artau, K. Burns, J. Collier, C. Kowalsky. (Edward L. Artau, ext. 6431)

Action Items, (if any), Stemming from Attorney/Client Session

Attorney client session pursuant to Section 286.011(8), Florida Statutes (2013), 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. (Edward L. Artau, ext. 6431)

37. Attorney Client Session - FEMA

Attorney client session pursuant to Section 286.011(8), Florida Statutes (2013), to discuss strategy related to litigation expenditures and/or settlement negotiations in South Florida Water Management District v. FEMA, et al., United States District Court, Southern District of Florida, Case No. 13-80533-CIV-Middlebrooks/Brannon.

ATTENDEES: Governing Board Members F. Barber, S. Batchelor, M. Hutchcraft, J. Moran, D. O'Keefe, M. Peterson, J. Portuondo, K. Powers, G. Waldman; Executive Director B. Guillory; District attorneys E. Artau, K. Burns, J. Collier, C. Kowalsky. (Edward L. Artau, ext. 6431)

Action Items, (if any), Stemming from Attorney/Client Session

Attorney client session pursuant to Section 286.011(8), Florida Statutes (2013), to discuss strategy related to litigation expenditures and/or settlement negotiations in South Florida Water Management District v. FEMA, et al., United States District Court, Southern District of Florida, Case No. 13-80533-CIV-Middlebrooks/Brannon. (Edward L. Artau, ext. 6431)

38. Adjourn