South Florida Water Management District

GOVERNING BOARD MONTHLY MEETING
EXECUTIVE SUMMARY AGENDA

This meeting is open to the public

March 13, 2014
9:00 AM
District Headquarters - B-1 Auditorium
3301 Gun Club Road
West Palm Beach, FL 33406

FINAL REVISED 03/12/2014 3:54 PM

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. Recognition of Loxahatchee Mitigation Bank and Tetra Tech - Presented by Dan DeLisi, Chief of Staff, and Jonathan Weiss, President at Tetra Tech CES

4. Employee Recognitions - Presented by Blake Guillory, Executive Director
   - February Employee of the Month - Jennifer Leeds, Lead Project Manager, Office of Everglades Policy and Coordination
   - February Team of the Month - Water Quality Monitoring Field Quality Assurance Team

- March Employee of the Month - Jeff Giddings, Principal Scientist, Water Resources Division
- March Team of the Month - Modeling Server Virtualization Team

5. Agenda Revisions - Jacki McGorty, District Clerk

6. Abstentions by Board Members from items on the Agenda

7. Water Resources Advisory Commission (WRAC) Report - Tim Sargent, Chair

8. Big Cypress Basin Board Report - Rick Barber, 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.***

9. Public Comment on Consent Agenda

10. Pull Items for Discussion from Consent Agenda

11. Board Comment on Consent Agenda

12. Approval of the Minutes

13. Waivers for Water Resources Advisory Commission members pursuant to Section 112.313, Florida Statutes ***- SUPPORTING DOCUMENTS ADDED***

14. Regulatory Consent Items ***- ITEM REVISED***

- *Consent Orders*
  - **Musca Properties, LLC; Renaissance Center (Lee County)** - Settlement of an enforcement action regarding unpermitted construction of a building and parking lot.
  - **Osceola County; Osceola Parkway Phase 2 Roadway Widening (Osceola County) -** Settlement of an enforcement action regarding non-compliance with permit conditions.
  - **Northlake ACLF; Northlake A C L F Phase One (Palm Beach County)** - Settlement of an enforcement action regarding unpermitted clearing of vegetation and placement of fill.
- *Conservation Easements, Amendments and Releases*
  - **Venetian Acres, LLC, Venetian Acres LLC - Polo Club (Martin County)** - Staff recommends the approval of a request for the release of a conservation easement over 52.66 acres of wetlands and uplands as part of a previously permitted ranchette development in Martin County known as Venetian Acres LLC - Polo Club. The Environmental Resource Permit (43-00092-S-07) for Venetian Acres LLC - Polo Club will be rescinded at the new owner's request since the development will not be moving forward and no works under the development permit have occurred. The existing agricultural operation will continue under a separate permit to be transferred to the new owner.
  - **KB Home Orlando, LLC, Enclave at Tapestry (Osceola County)** -

Staff recommends the approval of a request for the partial release of a conservation easement to allow for the construction of the Enclave at Tapestry Application No. 131112-10 in Osceola County. The existing easement was recorded in accordance with the Tapestry Permit No. 49-01654-P and the underlying property is owned by the applicant. Compensation for the removal of the 2.52 acres from the conservation area is offset by 1.49 mitigation credits from the Latham Park Mitigation Ledger.

- **Deerfield Land Corporation, Osceola Corporate Center - The Oasis (Osceola County)** - Staff recommends the approval of a request for the partial release of a conservation easement to allow the construction of the Osceola Corporate Center, The Oasis, Application No. 050120-20 in Osceola County. The existing easement was recorded in accordance with the Osceola Corporate Center, The Oasis Permit No. 49-00477-S and the underlying property is owned by the applicant. Compensation for the removal of the 2.494 acres from the conservation area is offset by the purchase of credits from a mitigation bank. ***- ADDED***

15. Right of Way Regulatory Consent Items

- Right of Way Occupancy New Permits
- Staff recommends approval of a request by Myelin Group, LLC (Application Number 13-0722-1) for authorizing open channel connection and dredging for the construction of adjacent upland marina basin and rip-rap bank stabilization within the north right of way of the old Pompano Canal located approximately 600' downstream of G-57 in Broward County.

16. **Resolution No. 2014 - 0301** Approving release of canal and road reservations; providing an effective date. (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.

- Release of District canal and road reservations for William B. Layne and Julie G. Layne and Jami L. Layne (File No. 18570) for 0.20 acres in Palm Beach County.
- Release of TIITF canal reservation for Fidel Suarez (File No. 2-14-1) for 2.5 acres in Miami-Dade County.
- Release of TIITF canal reservation for Global Real Estate Holding Group, LLC (File No. 2-14-2) for 0.03 acre in Miami-Dade County.
- Release of TIITF canal reservation for Intradeco Apparel, Inc. (File No. 1-14-3) for 10.0 acres in Miami-Dade County.
- Release of TIITF canal reservation for FDG Flagler Station 1, LLC. (File No. 3-14-3) for 21.82 acres in Miami-Dade County.

17. **Resolution No. 2014 - 0302** Approving conveyance of a Perpetual Surfacewater, Groundwater and Maintenance Easement containing 8.28 acres, more or less, in Section 14, Township 43 South, Range 27 East, to Lee County at no cost. (OMC, Kathy Massey, ext. 6835)

Summary
Lee County has requested the District convey a Perpetual Surfacewater, Groundwater and Maintenance Easement, at no cost, for the County's Daniels Preserve at Spanish Creek project. The County received a $205,000 grant from the District to restore portions of Bob Jane Preserve and Daniels Preserve at Spanish Creek. Hydrological restoration projects on both properties will assist the County in reaching goals outlined in the County approved land management plans.

Staff Recommendation
A Resolution of the Governing Board of the South Florida Water Management District approving conveyance of a Perpetual Surfacewater, Groundwater and Maintenance Easement, containing 8.28 acres, more or less, in Section 14, Township 43 South, Range 27 East, to Lee County at no cost; providing an effective date.

18. **Resolution No. 2014 - 0303** Approving the ten year update of the Kissimmee Chain of Lakes General Management Plan (2014-2024). (OMC, Steve Coughlin, ext. 2603)

Summary
Section 373.591, Florida Statutes, and Section 140.25(6)(b), South Florida Water Management District Policies Code, direct the District to develop a General Management Plan that follows a designated format and provides recommended management actions for Land Stewardship Management Areas. The District updates these plans every ten (10) years concurrent with conducting a multi-party land management review of the subject property which is consistent with the timeframe and process followed by State agencies. The management plan describes the historical, physical, and ecological aspects of the property, existing public recreational opportunities, and the various land management functions necessary to properly manage the area. The purpose of the management plan is to provide guidance to District land managers for the implementation of appropriate and consistent land management practices, to identify goals and objectives for the management of the property, and to present the findings of the land management review team.

Staff Recommendation
Staff recommends approval of the updated Kissimmee Chain of Lakes General Management Plan (2014-2024) in accordance with Section 373.591, Florida Statutes.

19. **Resolution No. 2014 - 0309** Authorize entering into an Agreement with Broward County for the S-9 Pump Station Access Bridge replacement project, in an amount not to exceed $800,000, for which ad valorem funds of $100,000 are budgeted in FY14 and the remainder, up to a maximum of $700,000, is subject to Governing Board approval of the FY15-FY16 budgets. (OMC, John Mitnik, ext. 2679)

Summary
The S-9 Pump Station Access Bridge was completed in 1957 by the United States Army Corps of Engineers (USACE). The bridge is located at the western terminus of

Griffin Road in western Broward County and provides access to the S-9/S-9A Pump Stations and Everglades Holiday Park over the L-37/L-33 borrow canals.
Located southwest of the S-9/S-9A Pump Stations is Everglades Holiday Park which is owned, operated and maintained by Broward County. Broward County desires to replace the existing S-9 Access Bridge with a two (2) lane bridge providing separate lanes for incoming and outgoing traffic with an integrated pedestrian sidewalk.

Staff Recommendation
Staff recommends approval to enter into a cooperative agreement with Broward County to provide contributory funds for the design and construction of the S-9 Access Bridge and the identification of operation and maintenance responsibilities for the bridge.

20. **Resolution No. 2014 - 0304** Approval of Land Exchange Agreement in Settlement of Eminent Domain (Condemnation) Action Pura C. Pol (Tract No. 09-005-049)

Summary
The South Florida Water Management District ("District") has been involved in numerous eminent domain (condemnation) actions to carry out the Critical CREW Project authorized by Section 373.1501, Florida Statutes. A proposed settlement of the above-referenced eminent domain action has been reached that would complete acquisition of Tract No. 09-005-049 (5 acres) at no additional acquisition cost to the District by way of a land exchange agreement, in cooperation with the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida. The Land Exchange Agreement calls for exchanging Tract No. 09-005-098 (5 acres) for Tract No. 09-005-049 (5 acres). Tract No. 09-005-098 was previously acquired with the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida utilizing Conservation and Recreation Lands ("CARL") Trust Funds. However, Tract No. 09-005-098 is located outside of the current boundary of the Critical CREW Project. The tract being acquired (Tract No. 09-005-049) is located within the current boundary of the Critical CREW Project and exceeds the conservation and other objectives for which Tract No. 09-005-098 was originally acquired. There is a $10,000 difference in the appraised value of these two tracts, but Pura C. Pol, the landowner of Tract 09-005-049, has agreed to make an equalization payment of $10,000 at closing which will be credited or paid to the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida since Tract 09-005-098 was previously acquired utilizing CARL Trust Funds.

Staff Recommendation
Staff recommends approval. The proposed settlement by way of a land exchange would complete condemnation of 5 acres needed for the Critical CREW Project in Lee County without incurring additional acquisition costs, attorneys' fees, interest expenses, expert fees, or other costs. This settlement resolves all claims for compensation from the District, avoiding the uncertainties associated with a jury trial, and the District's expenditure of funds to pay both the District's and the landowner's legal costs associated with a jury trial. Moreover, the land exchange would replace 5 acres (Tract 09-005-098) previously acquired that is outside of the current Critical CREW Project boundary with 5 acres (Tract 09-005-049) within the current Critical CREW Project boundary. Furthermore, Tract 09-005-049 exceeds the conservation and other objectives for which Tract 09-005-098 was originally acquired by the District and the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida utilizing CARL Trust Funds.

21. **Resolution No. 2014 - 0305** Authorizing a settlement with Beverly Miller for the purpose of resolving a charge of discrimination, filed with the U.S. Equal Employment Opportunity Commission; as well as any and all claims of discrimination arising out of Miller's employment. (OC, Eileen Coates, ext. 6208)

Summary
A Resolution of the Governing Board of the South Florida Water Management District to authorize a settlement and release agreement with Beverly Miller for $5,054.20 to resolve a charge of discrimination filed with the U.S. Equal Employment Opportunity Commission, EEOC Charge No. 510-2014-00537, as well as any and all claims of discrimination arising out of Miller's employment; providing an effective date.

Staff Recommendation
Staff recommends authorization of the settlement and release agreement with Beverly Miller for $5,054.20 to resolve the charge of discrimination filed with the U.S. Equal Employment Opportunity Commission, EEOC Charge No. 510-2014-00537, as well as any and all claims of discrimination arising out of Miller's employment; providing an effective date.

22. **Resolution No. 2014 - 0306** Advising the Department of Environmental Protection of the District's Water Management Lands Trust Fund authority for operating activities moving water south and emergency storage on public lands; authorizing the Executive Director or Designee to request reimbursement quarterly. (AS, Mike Smykowski, ext. 6295).

Summary
This request is for Governing Board approval of a resolution advising the Department of Environmental Protection of the District's Water Management Lands Trust Fund authority for operating activities associated with moving water south and emergency storage on public lands; authorizing the Executive Director or Designee to request reimbursement quarterly; and extending the reimbursement timeframe to include the fourth quarter of Fiscal Year 2013; providing an effective date.

Staff Recommendation
Staff recommends approval of the Resolution advising the Department of Environmental Protection of the District's Water Management Lands Trust Fund authority for operating activities moving water south and emergency storage on public lands; authorizing the Executive Director or Designee to request reimbursement quarterly; and extending the eligible time period for cost reimbursement from July 1, 2013 through September 30, 2014.

23. **Resolution No. 2014 - 0307** Authorizing the recording of the disposition of fixed assets during Fiscal Year 2013. (AS, Chris Flierl, ext. 6078)

Summary
In accordance with Florida Statutes, the Governing Board has the authority and responsibility over the acquisition, management, and disposal of all District fixed assets. A "fixed asset" is defined as any item of property that is tangible in nature, costs $1,000 or more, and has a useful life of more than one year. In fiscal year 2013, a total of 560 assets, with a combined book value of $648,014, were removed from the District's fixed asset records. For these assets, the District received $122,155 in sales proceeds

resulting in a net loss on disposal of $525,860. Assets are disposed of for several reasons including obsolescence, excessive maintenance costs, broken or no longer necessary to further the District's mission, as well as assets that cannot be located. A detailed schedule of all fixed assets disposed of in FY2013 has been filed with the District Clerk's Office.

Staff Recommendation
District staff recommends that the Governing Board exercise its authority and responsibility under Chapter 274.07, Florida Statutes and the District fixed asset policy (Article V, Section 110-66) requiring that the disposition of fixed assets be recorded in the minutes of the Governing Board.

24. **Resolution No. 2014 - 0308** Authorize entering into a purchase order with Software House International, Inc. for a three year Microsoft Enterprise agreement, for the time period June 1, 2014 – May 31, 2017, using State of Florida Contract #252-001-09-1, in the amount of $685,000 annually for which ad valorem funds in the amount of $685,000 are budgeted in FY14 and the remainder is subject to Governing Board Approval of the FY15 and FY16 budgets. (AS, Duane Piper, ext. 2638)

Summary
The Microsoft Enterprise Agreement will allow for the continuation of software licensing and support for Microsoft desktop and Windows server licenses for the time period June 1, 2014 through May 31, 2017. The annual amount is $685,000. The agreement will be procured through Software House International, Inc., an authorized Microsoft reseller, utilizing the State of Florida Contract #252-001-09-1.

Staff Recommendation
Authorize entering into a purchase order with Software House International, Inc. for a three year Microsoft Enterprise Agreement for the time period June 1, 2014 - May 31, 2017, using State of Florida Contract #252-001-09-1, in the amount of $685,000 annually for which ad valorem funds in the amount of $685,000 are budgeted in FY14 and the remainder is subject to Governing Board approval of the FY15 and FY16 budgets.

25. Board Vote on Consent Agenda

26. General Public Comment

27. Board Comment

Discussion Agenda

28. Technical Reports

    A) Water Conditions Report - Tommy Strowd, Assistant Executive Director, Operations, Maintenance & Construction (ext. 6998)

    B) Ecological Conditions Report - Terrie Bates, Division Director, Water Resources Division (ext. 6952)

29. South Florida Water Management District's Financial Capability for the Central Everglades Planning Project -Tom Teets, Office Chief, Federal Policy & Coordination (ext. 6993)

    Summary
    This presentation will provide an example scenario demonstrating SFWMD's financial capability to be sponsor for the Central Everglades Planning Project (CEPP), along with assumptions and conditions that will be included in the self-certification of financial capability submitted to the USACE. Prior to completion of the Chief of Engineers' Report and submittal of a Federal Project plan to Congress for authorization, the U.S. Army Corps of Engineers (USACE) requires that the Non-Federal Sponsor provide a letter of support for the project and a self-certification of financial capability to provide its required cost-share for implementing the project. The CEPP Project Implementation Report is currently being finalized for submittal to the Chief of Engineers. As such, the SFWMD will be asked to provide the self-certification of financial capability in April 2014.

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

30. Consideration of Appointment of Special Counsel to the Governing Board - Carolyn S. Ansay, General Counsel, Office of Counsel (ext. 6976)

    Summary
    The Governing Board's special counsel recently terminated its contract with the District. The Governing Board is being asked to approve and award a contract to another attorney to serve as special counsel.

31. General Public Comment

Staff Reports

32. Monthly Financial Report - Doug Bergstrom, Division Director, Administrative Services Division

33. General Counsel's Report - Carolyn Ansay

34. Executive Director's Report - Blake Guillory

    Report on permits issued by authority delegated to the Executive Director from February 1-28, 2014.

35. Board Comment

Attorney Client Sessions

36. Attorney Client Session - USA ***- ITEM DELETED***

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, J. Portuondo, K. Powers, T. Sargent, G. Waldman; Executive Director B. Guillory; District attorneys C. Ansay, K. Burns, C. Kowalsky, D. MacLaughlin. (Carolyn S. Ansay, ext. 6976)

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. (Carolyn S. Ansay, ext. 6976)

37. Attorney Client Session - FEMA ***- ITEM DELETED***

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 and the Administrative Appeal dated November 15, 2012, by the South Florida Water Management District to Major Phillip May, Regional Administrator, Region IV, Federal Emergency Management Agency (FEMA) of the FEMA decision to deobligate funds for the 2004-2005 Hurricanes. (Carolyn S. Ansay, ext. 6976)

ATTENDEES: Governing Board Members F. Barber, S. Batchelor, M. Hutchcraft, J. Moran, D. O'Keefe, J. Portuondo, K. Powers, T. Sargent, G. Waldman; Executive Director B. Guillory; District attorneys C. Ansay, K. Burns, C. Kowalsky, D. MacLaughlin. (Carolyn S. Ansay, ext. 6976)

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 Administrative Appeal dated November 15, 2012, by the South Florida Water Management District to Major Phillip May, Regional Administrator, Region IV, Federal Emergency Management Agency (FEMA) of the FEMA decision to deobligate funds for the 2004-2005 Hurricanes. (Carolyn S. Ansay, ext. 6976)

38. Adjourn