South Florida Water Management District

GOVERNING BOARD MONTHLY MEETING MINUTES

October 13, 2016
9:00 AM
District Headquarters - B-1 Auditorium
West Palm Beach, FL 33406

Attendee Name | Title | Status | Arrived
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Daniel O'Keefe | Chair | Present |
Kevin Powers | Vice Chair | Present |
Sam Accursio | | Present |
Rick Barber | | Present |
Federico Fernandez | | Present |
Clarke Harlow | | Present |
Mitch Hutchcraft | | Present |
James J. Moran | | Present |
Melanie Peterson | | Present |

1. **Call to Order - Dan O'Keefe, Chairman, Governing Board**
   Chairman O'Keefe called the meeting to order at 9:02 AM.

2. **Pledge of Allegiance - Dan O'Keefe, Chairman, Governing Board**
   Mr. Fernandez led the Pledge of Allegiance.

   Chairman O'Keefe discussed the 2017 Governing Board, WRAC, Audit & Finance and Project & Lands Committee meeting schedule.

   Chairman O'Keefe thanked staff for their efforts during Hurricane Matthew emergency operations.

   Mr. Hutchcraft discussed the Water for Small Villages fundraising events and recognized staff for their efforts planning the fundraising events.

3. **Employee Recognitions - Presented by Peter Antonacci, Executive Director**
Mr. Antonacci presented employee recognitions, including; October Employee of the Month, Michael Tompkins; Team of the Month, Lake Kissimmee State Park Wetland Restoration Team; 25 Year Service Award, Dave Struve; and a Good Samaritan Award, Terry Jones, Morgan Reins, Barbara Conmy.

4. **Agenda Revisions - Tia Barnett, Director, Board & Executive Services**

   Ms. Barnett stated that there were no revisions to the agenda.

   **Henry County Commissioner Janet Taylor, addressed the Governing Board and presented a plaque to the Board.**

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

   Mr. O'Keefe abstained from Consent Agenda item 13 and 15 for Kennedy Camp LLC, White Course Lennar, LLC, CC-WCD TIC, LLC and Krome Mining Partners. Mr. O'Keefe's firm, Shutts & Bowen, LLP, represents these parties or an affiliated company on unrelated matters.

   Mr. O'Keefe abstained from Discussion Agenda item 33 for Old Kissimmee Land Company, LLC. A partner in Mr. O'Keefe's firm, Shutts & Bowen, LLP, is a principal with Old Kissimmee Land Company LLC.


   Mr. Moran stated that the WRAC meeting scheduled for October 6, 2016 was cancelled, due to Hurricane Matthew.

   The next WRAC meeting is scheduled for November 3rd in West Palm Beach.

7. **Project & Lands Committee Report - Melanie Peterson, Chair**

   Ms. Peterson provided a Project and Lands Committee update. Items discussed included presentations on the S82 Structure Refurbishment Project, the importance of the 40-foot right of ways along the District's canals, an overview of the District's Land Stewardship functions and an update on several real estate items.

   Committee members concurred with the staff proposal for 5-year lease extensions on current grazing leases and the proposed terms of the Brady lease extension inclusive of an exotic animal removal plan. Additionally, the Committee re-confirmed the proposed terms for surplus of the Lockett Estate property. The surplus will be sold as-is with no warranties and no historic restrictions other than statutory access to the cemetery and a project flowage easement would be reserved on Tract 19103-837.

   The next Project and Lands Committee Meeting is scheduled for November 9th at District headquarters.

8. **Approval of the Minutes from the September 8th Governing Board meeting, September 8th Tentative Millage & Tentative Budget Public Hearing and the September 20th Final Millage & Final Budget Public Hearing, held in West Palm Beach.**
RESULT: ADOPTED [UNANIMOUS]  
MOVER: Rick Barber  
SECONDER: Kevin Powers, Vice Chair  
AYES: O'Keefe, Powers, Accursio, Barber, Fernandez, Harlow, Hutchcraft, Moran, Peterson

Consent Agenda

9. Public Comment on Consent Agenda  
Mark Perry, Florida Oceanographic Society, commented on Consent Agenda items 21, 24 and 27.

Newton Cook expressed concern pertaining to the flows in the Kissimmee River Basin.

10. Move Consent Agenda Items to Discussion Agenda  
No items were moved from the Consent Agenda to the Discussion Agenda.

11. Board Comment on Consent Agenda  
There was no Board Comment on the Consent Agenda.

12. Waivers for Water Resource Advisory Commission (WRAC) members pursuant to Section 112.313, Florida Statutes

13. Regulatory Consent Items  
Mr. O'Keefe abstained from Consent Agenda item 13 for Kennedy Campus, LLC.

14. Right of Way Occupancy Permit Requests with Waiver of District Criteria

15. Resolution No. 2016 - 1001 Approve release of canal and road reservations, and issuance of non-use commitments. (Real Estate, staff contact, Kathy Massey, ext. 6835)

Mr. O'Keefe abstained from Consent Agenda item 15 for Lennar Homes, LLC and Krome Mining Partners.

16. Resolution No. 2016 - 1002 Authorize entering into an Agreement with the Town of Jupiter and Palm Beach County for the purpose of the Town of Jupiter providing water facilities and services to Riverbend Park at no cost to the District. (Real Estate, staff contact, Richard Bassell, ext. 2510)

17. Resolution No. 2016 - 1003 Authorize submission of the proposed 2017 Priority Water Body List and Schedule for Minimum Flows and Levels and Water
Reservations to the Florida Department of Environmental Protection for review and approval pursuant to Section 373.042(3), Florida Statutes. (Water Resources, staff contact, Don Medellin, ext. 6340)

18. Resolution No. 2016 - 1004 Authorize the transmittal of the draft Fiscal Year 2017 Five-Year Water Resource Development Work Program pursuant to Section 373.536(6)(a)4, Florida Statutes (F.S.) (Water Resources, staff contact, Mark Eisner, ext. 6156)

19. Resolution No. 2016 - 1005 Authorize an amendment to Contract No. 4600003391 with Trigg, Catlett & Associates to expand the firm’s scope of services to include providing expert witness and appraisal services associated with the Kissimmee River land acquisitions and to increase the Contract amount by $150,000, for which funds are budgeted. (Office of Counsel, staff contact, James Nutt, ext. 6253)

20. Resolution No. 2016 - 1006 Authorize District staff to file a third party complaint in the 15th Circuit of Palm Beach County against Central Florida Equipment Rentals, Inc. for breach of contract and indemnification. Further authorizing District staff to take all appropriate action it deems necessary in this matter for the purpose of successfully enforcing the District’s contract and defending the District’s interest in Case No. 2016-CA-003495-AN, subject to approval of the Executive Director. (Office of Counsel, staff contact, Maricruz R. Fincher, ext. 6842)

21. Authorize publication of a Notice of Rule Development in the Florida Administrative Register, to revise Chapter 40E-61, Florida Administrative Code (F.A.C.), Works of the District Basins, as required by 2016 legislative amendments to Section 373.4595, Florida Statutes, affecting the Lake Okeechobee, St. Lucie River, and Caloosahatchee River Watersheds. (Regulation, staff contact, Pamela Wade, ext. 6901)

22. Resolution No. 2016 - 1007 Report to the Florida Department of Environmental Protection on the implementation of the Fiscal Year 2016-2017 Comprehensive Everglades Restoration Plan Water Quality Studies using Save Our Everglades Trust Funds and authorize the Executive Director or Designee to request reimbursement monthly and/or quarterly based on actual expenditures through September 30, 2017. (Administrative Services, staff contact, Candida Heater, Ext. 6486)

23. Resolution No. 2016 - 1008 Report to the Florida Department of Environmental Protection on the Fiscal Year 2016-2017 Adopted and Estimated Carry Forward grant balances available utilizing funds from the Save Our Everglades Trust Fund and authorize the Executive Director or Designee to request reimbursement based on actual expenditures through September 30, 2017. (Administrative Services, staff contact, Candida Heater, Ext. 6486)
24. Resolution No. 2016 - 1009 Authorize the Executive Director or Designee to request that the Florida Department of Environmental Protection release and transfer funds from the Land Acquisition Trust Fund for Dispersed Water Storage in the amount of $5,000,000. (Administrative Services, staff contact, Candida Heater, Ext. 6486)

25. Resolution No. 2016 - 1010 Report to the Department of Environmental Protection of the District's Land Acquisition Trust Fund Budget for Fiscal Year 2016-2017 and Estimated Carry Forward Grant Balances and authorize the Executive Director or Designee to request the release of appropriations and reimbursement monthly and/or quarterly based on actual expenditures through September 30, 2017. (Administrative Services, Candida Heater, Ext. 6486)

26. Resolution No. 2016 - 1011 Authorize the Executive Director or Designee to request reimbursements monthly and/or quarterly based on actual expenditures through September 30, 2017 for the C-43 Reservoir Grant Agreement from the Florida Department of Environmental Protection. (Administrative Services, staff contact, Candida Heater, Ext. 6486)

27. Resolution No. 2016 - 1012 Authorize the Executive Director or Designee to request that the Florida Department of Environmental Protection release and transfer funds from the Land Acquisition Trust Fund for Land Acquisition in the amount of $27,700,000.

28. Board Vote on Consent Agenda Items 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27

Mr. O'Keefe abstained from Consent Agenda items 13 and 15.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Kevin Powers, Vice Chair
SECONDER: Mitch Hutchcraft
AYES: O'Keefe, Powers, Accursio, Barber, Fernandez, Harlow, Hutchcraft, Moran, Peterson

29. Board Comment

Ms. Peterson recognized District staff and local elected officials for their efforts during Hurricane Matthew.

Discussion Agenda

30. Technical Reports
A) WATER CONDITIONS REPORT - JOHN P. MITNIK, CHIEF ENGINEER, OPERATIONS, ENGINEERING & CONSTRUCTION

Mr. Mitnik presented the water conditions for the last thirty days. Rainfall has been slightly above average and Lake Okeechobee water levels have receded slightly.

Mr. Mitnik explained Lake Tohopekaliga is at regulation schedule and Lake Kissimmee is slightly above regulation schedule. Water Conservation Area 1 (WCA) is below regulation schedule and WCAs 2 and 3 remain above regulation schedule.

In the southern portion of the system, S-12-A, B, C, and D are all open and discharging water into Everglades National Park (ENP), with S-12A preparing to close in November. The S-197 structure was briefly open for storm preparations and has now been closed. The S-333 and S-334 structures are currently closed, due to an issue with the hydraulic cylinders.

Mr. Mitnik provided the Lake Okeechobee position analysis for the next several months and discussed Hurricane Matthew preparations and the systems response during the storm.

Mr. Mitnik discussed the physical construction features and headwaters revitalization regulation schedule for the Kissimmee River Restoration project.

Board Comment
Chairman O'Keefe commented on water storage in the upper system and complimented staff on the progress made on that project.

In response to a question from Mr. Accursio, Mr. Mitnik stated the closing date of S-12 is November 1, 2016 and is associated with the biological opinion for the Cape Sable seaside sparrow.

In response to a question from Chairman O'Keefe, Mr. Mitnik will be providing a follow up on the S-12A closure.

B) ECOLOGICAL CONDITIONS REPORT - TERRIE BATES, DIVISION DIRECTOR, WATER RESOURCES

Ms. Bates provided ecological conditions for the last thirty days and an update on the Kissimmee River Phase 1 Restoration area.

Lake Okeechobee water depths have been above elevation 15 feet NGVD. Ms. Bates provided the water quality monitoring results.

In the St. Lucie Estuary salinity conditions continue to decline due to additional rainfall during Hurricane Matthew. The fall oyster density report showed the highest oyster counts in the past five years, but those counts were made prior to the recent high lake discharges. Ms. Bates explained there is currently a low seagrass population and we would not expect to see increased population until the spring.
In the Caloosahatchee Estuary salinity levels are low. Oyster density varies at different parts of the system, due to salinity levels and there been a reduction of tapegrass in the estuary. Ms. Bates provided an update on the Vallisneria Americana Biomass Index Time Series highlighting data from 2009 to 2016 pertaining to tapegrass levels.

Ms. Bates reported the Stormwater Treatment Areas (STAs) continue to provide good performance. In Biscayne Bay, nearshore salinity levels remain below the maximum preferred level.

Ms. Bates presented the water depths in the Greater Everglades and relayed that the District will be looking for a gradual recession of water levels across the WCAs at the end of this year’s dry season.

Ms. Bates provided information pertaining to Florida Bay conditions and activities.

The draft 2017 South Florida Environmental Report has been posted on the District’s website and is currently undergoing the public peer review process. The final report will be delivered on March 1, 2017.

**Board Comment**

In response to a question from Ms. Peterson, Ms. Bates explained rehabilitation efforts are underway in some of the STA cells and water is not being moved into those cells.

In response to a follow-up question from Ms. Peterson, Ms. Bates explained that there are sparrow nesting populations near the C-111 with the largest population located south of S-12A. Ms. Bates also explained that the areas shown as dry on the map are at a higher ground elevation and they do not typically have standing water.

Ms. Peterson requested a copy of the 2017 South Florida Environmental Report be sent to the Board.

In response to a question from Mr. Accursio, Ms. Bates discussed areas of blue-green algae prior to the hurricane in the St. Lucie Estuary and the cooler temperatures and shorter hours of daylight are not conducive to bloom formation.

**C) EMERGENCY ACTIONS REPORT - BRIAN ACCARDO, GENERAL COUNSEL, OFFICE OF COUNSEL**

Mr. Accardo provided the post Hurricane Matthew Emergency Actions report and stated that the District prepared four and executed two emergency orders that addressed permitting, permitting time clocks, procurement, emergency pumping and restoration activities following the storm.
D) PROJECT SPOTLIGHT - DUPUIS MANAGEMENT AREA PUBLIC USE
IMPROVEMENT PLAN UPDATE - DAN COTTER, SECTION LEADER, FIELD
OPERATIONS & LAND MANAGEMENT DIVISION

Mr. Cotter gave an update on the DuPuis Management Area Public Use
Improvement Plan. Mr. Cotter discussed refurbishments for the equestrian
campground to include; restroom facilities, three barns, renovate and replace
paddocks, the addition of two picnic shelters and general site improvements.

Board Comment
Mr. Powers and Ms. Peterson recognized staff's hard work on the project and the
improvements of the facility.

In response to a question from Mr. Accursio, Mr. Cotter stated there is not a fee to
use the property.

Mr. Accardo elaborated on the provision of Florida Statute that allows the District to
have recreational use immunity.

31. C-51 Project Update - Len Lindahl, Assistant Executive Director (ext. 6283)

Mr. Lindahl provided an update on the C-51 Reservoir update. Mr. Lindahl
discussed the Palm Beach aggregates and local sponsors, alternative water supply,
project history, 2013 project MOU agreement, progress update, proposed operations
and maintenance agreement, participant costs, funding challenges and potential
pilot project designation.

Board Comment
Chairman O'Keefe read a letter from Lake Worth Drainage District pertaining to the
C-51 Reservoir.

Mr. Fernandez directed staff to put together an alternate water supply (AWS) pilot
program that is consistent with statute and gather information to identify the projects
that will qualify under the statutory requirements. Once completed, Mr. Fernandez
would like the Board to be briefed on the results, in addition to criteria that would
used in solicitation to select a project.

In response to a question from Mr. Moran, Mr. Lindahl stated that the District would
be obligated to provide the fifty percent funding assistance and the funds would
come from the District's budget or from the legislature.

In response to a question from Ms. Peterson, Mr. Lindahl stated that if the District
does a pilot program that funds can still come from the legislature.

Mr. Fernandez elaborated further on the specifics of the proposed pilot program.

In response to a question from Mr. Barber, Mr. Lindahl stated a follow-up would have
to be provided to specify if all the utilities that are participating have central sewer
systems.
Public Comment
Seven members of the public encouraged designating the C-51 Reservoir as the pilot project for alternative water supply.

Three members of the public expressed concern regarding the funding of the C-51 Reservoir.

Board Comment
In response to a question from Ms. Peterson, Mr. Lindahl elaborated on the time frame and steps that would need to be taken in order to present the pilot project to the legislature for funding.

In response to a question from Mr. Moran, Mr. Lindahl stated that the project would be viewed as an AWS and wouldn't impact flood control.

32. Northern Everglades Public Private Partnership Status Update - Ernie Marks, Division Director, Everglades Policy & Coordination (ext. 6993) and Eva Velez, Office Chief, State & Agricultural Policy (ext. 6672)

Mr. Marks gave a presentation on the Northern Everglades Public-Private Partnerships interagency working group update. Mr. Marks discussed the background, roles and responsibilities, interagency and service provider coordination.

Mr. Marks provided a map and project details on the:
- Caulkins Water Farm,
- Bluefield Grove Water Farm,
- Scott Water Farm,
- Brighton Valley Project,
- Latt Maxcy Dispersed Water Management, and the
- Alico Dispersed Water Storage.

Included in Mr. Marks presentation on dispersed water storage (DWS) were challenges and the next steps.

Board Comment
The Board and Mr. Marks discussed specifics of the projects as well as technical review, permitting process and funding.

Chairman O'Keefe recognized Gregory Oravec, Mayor of City of Port St. Lucie. Mr. Oravec spoke with regards to the District's partnership with the City of Port St. Lucie on water issues.

In response to a question from Mr. Accursio, Mr. Marks explained the particulars of the Department of Environmental Protection's (DEP) survey for properties meeting their criteria, as it was associated with the basin management action plan. Of the sixteen projects DEP received, six met the criteria and the legislature chose to fund those projects.
In response to a follow-up question from Mr. Accursio, Mr. Marks explained the additional benefit to private land owners is continued agricultural use of their property by implementing a DWS project in the interim.

33. Resolution No. 2016 - 1013 Approve declaring surplus for exchange and conveyance fee title land interests containing 25.84 acres, in exchange for the acquisition of easement land interests containing 38.84 acres, in Okeechobee County, plus associated costs for which funds have been budgeted. (Real Estate, staff contact, Richard Bassell, ext. 2510)

Mr. Palmer gave a presentation on exchange of land interests in Okeechobee County. The proposed exchange will result in the District receiving a conservation and flowage easement and having control of water flowing through 38.84 acres of wetlands lying contiguous to District property in western Okeechobee County.

Board Comment
In response to a question from Mr. Accursio, Mr. Palmer stated the easement is perpetual and does not expire.

Mr. O'Keefe abstained from Agenda item 33 for Old Kissimmee Land Company, LLC.

RESULT: ADOPTED [8 TO 0]
MOVER: Mitch Hutchcraft
SECONDER: Kevin Powers, Vice Chair
AYES: Powers, Accursio, Barber, Fernandez, Harlow, Hutchcraft, Moran, Peterson
ABSTAIN: O'Keefe

34. Resolution No. 2016 - 1014 Approve a 3-year cattle grazing lease extension on the Lease Agreement with Frank J. and Marilyn H. Brady on 1,831.52 acres, more or less, in Martin County. (Contract No. 4600001297) (Real Estate, staff contact, Ray Palmer, ext. 2246)

Mr. Bassell gave a presentation pertaining to the extension of a lease agreement in Martin County. Mr. Bassell discussed the Brady Lease extension and the removal of exotic animals.

Board Comment
In response to a question from Mr. Moran, Mr. Bassell stated that the Brady's entered the lease individually and not through a corporate entity.

In response to a follow-up question from Mr. Moran, Mr. Bassell explained the required liability insurance requirements of the Brady's lease; it requires a $5 million liability policy with the District named as an additional insured.

Mr. Bassell will provide an update to the Board regarding prohibitions in the lease to preclude the Brady's from bringing in additional animals during the term of the three year extension.
In response to a question from Mr. Harlow, Mr. Bassell stated there is not a way to measure how many actual animals are on the property; therefore, the end result is that the Brady's are to have a hundred percent livestock removal by February 2019. Mr. Bassell stated the Brady's are obligated to provide the District progress reports during the three year extension.

| RESULT: | ADOPTED [UNANIMOUS] |
| MOVER: | Kevin Powers, Vice Chair |
| SECONDER: | Melanie Peterson |
| AYES: | O'Keefe, Powers, Accursio, Barber, Fernandez, Harlow, Hutchcraft, Moran, Peterson |

35. Resolution No. 2016 - 1015 Authorize entering into a 610-day contract with Douglas N. Higgins, Inc., the lowest responsive and responsible bidder, for the S-82 Structure Refurbishment Project, in the amount of $2,527,000, for which $1,000,000 is budgeted in Fiscal Year 2016-2017, and the remainder is subject to Governing Board approval of the Fiscal Year 2017-2018 budget. (Contract number 4600003567) (Operations, Engineering and Construction, staff contact, John P. Mitnik, ext. 2679)

Mr. Shirkey gave a presentation on the S-82 structure refurbishment project.

Board Comment
In response to a question from Mr. Barber, Mr. Shirkey stated the structure was constructed in 1964.

| RESULT: | ADOPTED [UNANIMOUS] |
| MOVER: | Melanie Peterson |
| SECONDER: | Rick Barber |
| AYES: | O'Keefe, Powers, Accursio, Barber, Fernandez, Harlow, Hutchcraft, Moran, Peterson |

36. 298 District Update - Brian Accardo, General Counsel, Office of Counsel

Mr. Accardo provided an update on Chapter 298 Districts including a map of the Districts within the SFWMD boundary and those that assess the District. Mr. Accardo discussed the assessments and several water control districts.

37. General Public Comment

Several representatives of varying 298 Districts addressed the Board.

Eleven members of the public commented on the District's lease with U.S. Fish and Wildlife Services (FWS) for the Loxahatchee National Wildlife Refuge (Refuge) and would like FWS to continue to manage the Refuge.

Staff Reports

38. Monthly Financial Report - Dorothy Bradshaw

Ms. Bradshaw provided the financial report through August 2016.
39. General Counsel's Report - Brian Accardo

Mr. Accardo provided a status update on the First Notice of Default sent to the U.S. Fish and Wildlife, Loxahatchee National Wildlife Refuge (Refuge) in regards to the performance measures not being met as part of the lease agreement.

Board Comment

Ms. Peterson commented on the interactions with the U.S. Fish and Wildlife pertaining to the notices sent by the District regarding non-compliance.

Mr. Moran commented on the status of lygodium and health of tree islands at the Refuge.

40. Executive Director's Report - Peter Antonacci

Mr. Antonacci provided a status update on the District's updated website and the steps being taken to increase the District's presence on social media. Mr. Antonacci further discussed C-51 project funding and reiterated funding will not come from ad valorem tax dollars. Mr. Antonacci also discussed the Florida Bay project and anticipates an update on the project and permit status in December.

41. Board Comment

Chairman O'Keefe discussed the aerial tour of the system recently taken with USACE Lieutenant General Samsonite.

Mr. Antonacci addressed Mr. Accursio's concerns regarding the environmental community's mistrust of the District's science and engineering as it relates to the Florida Bay and other projects.

Mr. Fernandez discussed the importance of getting the District's message out to stakeholders and in the community as it relates continuity of public access in the Refuge.

42. Adjourn

Chairman O'Keefe adjourned the meeting at 3:00 PM.

RESULT: ADOPTED [UNANIMOUS]

MOVER: Kevin Powers, Vice Chair
SECONDER: Melanie Peterson
AYES: O'Keefe, Powers, Accursio, Barber, Fernandez, Harlow, Hutchcraft, Moran, Peterson

Dan O'Keefe, Chairman
Governing Board
South Florida Water Management District
Haley Kootak
Deputy District Clerk
South Florida Water Management District