



South Florida Water Management District

GOVERNING BOARD MEETING AGENDA

This meeting is open to the public

July 15, 2010

9:00 AM

District Headquarters - B-1 Auditorium

3301 Gun Club Road

West Palm Beach, FL 33406

All or part of this meeting may be conducted as a teleconference 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** - Eric Buermann, Chairman, Governing Board
2. **Pledge of Allegiance** - Eric Buermann, Chairman, Governing Board
3. **Recognition of George L. Horne** - Eric Buermann, Chairman, Governing Board
4. **Employee Recognitions** - Presented by Carol Wehle, Executive Director
 - July Employee of the Month - Patti Nicholas
 - July Team of the Month - Performance Records Conversion Team
 - 25 Year Service Award - Cal Neidrauer
5. **Agenda Addendum** - Annette Carter, Director, Office of Governing Board & Executive Services
6. **Abstentions by Board Members from items on the Agenda**
7. **Water Resource Advisory Commission (WRAC) Report** - Shannon Estenoz, 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.**

8. **Public Comment on Consent Agenda**
9. **Pull Items for Discussion from Consent Agenda**
10. **Board Comment on Consent Agenda**

Regulatory Matters

11. Denials

Consent Agreements

Conservation Easement Amendments and Releases

Seminole Tribe Work Plans

See supporting document: [ca_rp_rm_100_sd.pdf](#)

12. Right of Way Occupancy New Permits

Right of Way Occupancy Permit Modifications

Right of Way Permit Requests With Waiver of District Criteria

Concurrence with Executive Directors Emergency Authorizations

See supporting document: [ca_om_rm_101_sd.pdf](#)

Everglades Restoration and Capital Projects

13. **2010-700** A Resolution of the Governing Board of the South Florida Water Management District approving the release of canal reservation/easement interests to the underlying fee owner, containing 0.12 acres, more or less, over a portion of Tract 54, Florida Fruit Lands Company Subdivision No. 1, in Section 11, Township 53 South, Range 40 East, Plat Book 2, Page 17, Miami-Dade County Public Records, C-6 (Miami) Canal right of way, Miami-Dade County, Florida; subject to a perpetual maintenance agreement; providing an effective date. (Linda Schindeler, ext. 6838)
See supporting document: [ca_lr_100_sd.pdf](#)

See resolution document: [ca_lr_100_rd.pdf](#)

See supporting document: [ca_lr_100_map.pdf](#)

- 14. 2010-701** A Resolution of the Governing Board of the South Florida Water Management District approving release of a canal reservation, containing 2.03 acres, more or less, being a portion of Tract "A", Cobblestone Plaza, Plat Book 177, Page 69, Section 16, Township 51 South, Range 40 East, Broward County, Florida; providing an effective date. (Linda Schindeler, ext. 6838)

See supporting document: [ca_lr_101_sd.pdf](#)

See resolution document: [ca_lr_101_rd.pdf](#)

- 15. 2010-702** A Resolution of the Governing Board of the South Florida Water Management District to approve declaring surplus land interests containing 0.12 acres, more or less, in fee, being a portion of Lot Z, Lake Trafford Shores Unit No. 1, Plat Book 8, Page 12, located in Section 36, Township 46 South, Range 28 East, Collier County, CREW Project (Save Our Rivers, Lake Trafford Area); authorize the donation of said property to Collier County for public access; and approve waivers of the application fee and reservation of rights pursuant to Section 270.11, Florida Statutes; providing an effective date. (Marcy Zehnder, ext. 6694)

See supporting document: [ca_lr_102_sd.pdf](#)

See resolution document: [ca_lr_102_rd.pdf](#)

See supporting document: [ca_lr_102_map.pdf](#)

- 16. 2010-703** A Resolution of the Governing Board of the South Florida Water Management District authorizing an amendment to Contract Number LS051080 with A. Duda & Sons, Inc., to extend the term for five (5) years, from September 1, 2010 to August 31, 2015, and adjust the annual rent from \$54,276.93 to \$53,700.00 based on a recent appraisal of the market rent; providing an effective date. (Contract Number LS051080-A01) (Andrea Stringer, ext. 6742)

See supporting document: [ca_lr_103_sd.pdf](#)

See resolution document: [ca_lr_103_rd.pdf](#)

- 17. 2010-704** A Resolution of the Governing Board of the South Florida Water Management District authorizing an amendment to Contract Number LS051082 with Randy Fulford to extend the term for five (5) years, from September 1, 2010 to August 31, 2015, and adjust the annual rent from \$24,758.85 to \$16,725.00 based on a recent appraisal of market rent and reduced acreage; providing an effective date. (Contract Number LS051082-A02) (Andrea Stringer, ext. 6742)

See supporting document: [ca_lr_104_sd.pdf](#)

See resolution document: [ca_lr_104_rd.pdf](#)

- 18. 2010-705** A Resolution of the Governing Board of the South Florida Water Management District authorizing an amendment to Contract Number LS050770 with C2 Ranch, Inc. to extend the term for five (5) years, from July 8, 2010 to July 7, 2015, and adjust the annual rent from \$23,840.00 to \$10,430.00 based on a recent appraisal of market rent and reduced cattle stocking rate; providing an effective date. (Contract Number LS050770-A01) (Andrea Stringer, ext. 6742)

See supporting document: [ca_lr_107_sd.pdf](#)

See resolution document: [ca_lr_107_rd.pdf](#)

- 19. 2010-706** A Resolution of the Governing Board of the South Florida Water Management District authorizing an amendment to Contract Number LS050771 with Janet P. Storey, Trustee of the Juanell P. Peoples Trust Dated October 18, 1990 to extend the term for five (5) years, from July 8, 2010 to July 7, 2015, and adjust the annual rent from \$14,960.00 to \$6,510.00 based on a recent appraisal of market rent and reduced cattle stocking rate; providing an effective date. (Contract Number LS050771-A01) (Andrea Stringer, ext. 6742)

See supporting document: [ca_lr_108_sd.pdf](#)

See resolution document: [ca_lr_108_rd.pdf](#)

- 20. 2010-707** A Resolution of the Governing Board of the South Florida Water Management District to approve an agreement with Westgate Resorts, Ltd. ("Westgate") in connection with the Kissimmee River Restoration and Headwaters Revitalization Project in Polk County, whereby the District will pay Westgate a maximum of \$135,720 to formulate an engineering solution to address flooding and drainage impacts with respect to certain Westgate property for which dedicated funds (Florida Forever Trust Fund) [subject to approval of this expenditure by the Florida Department of Environmental Protection] or ad valorem funds (Capital Projects Okeechobee) are budgeted; providing an effective date. (Bob Schaeffer, ext. 2985)

See supporting document: [ca_lr_105_sd.pdf](#)

See resolution document: [ca_lr_105_rd.pdf](#)

- 21. 2010-708** A Resolution of the Governing Board of the South Florida Water Management District requesting the release of funds from the Florida Forever Trust Fund by the Department of Environmental Protection in connection with an agreement with Westgate Resorts, Ltd. for the Kissimmee River Restoration and Headwaters Revitalization Project in Polk County, whereby the District will pay Westgate a maximum of \$135,720 to formulate an engineering solution to address flooding and drainage impacts to certain Westgate property; providing an effective date. (Bob Schaeffer, ext. 2985)

See resolution document: [ca_lr_106_rd.pdf](#)

See supporting document: [ca_lr_106_map_ExhA.pdf](#)

- 22. 2010-709** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a Third Amendment of the C-44 Reservoir/Stormwater Treatment Area Project Funding Agreement with Martin County to provide for Citrus Boulevard Bridge and culvert improvements for which Operation and Maintenance funding is subject to Governing Board approval in future fiscal year budgets; providing an effective date. (Ruth Clements, ext. 6271)

See supporting document: [ca_lr_109_sd.pdf](#)

See resolution document: [ca_lr_109_rd.pdf](#)

See supporting document: [ca_lr_109_Exhibit 1_map.pdf](#)

Executive Office

23. **2010-710** A Resolution of the Governing Board of the South Florida Water Management District to authorize a settlement for all discrimination and other claims by John Moore, including but not limited to, an alleged retaliatory discharge action styled John Moore v. South Florida Water Management District, filed in the 15th Judicial Circuit in and for Palm Beach County, Florida, Case No.: 50 2008 CA 036666 AD; providing an effective date. (Robert Panse, ext. 6279)
See resolution document: [ca_oc_001_rd.pdf](#)
24. **2010-711** A Resolution of the Governing Board of the South Florida Water Management District amending the Fiscal Year 2009-2010 Budget; providing an effective date (Mike Smykowski, ext. 6295).
See supporting document: [ca_eo_001_sd.pdf](#)
See resolution document: [ca_eo_001_rd.pdf](#)
25. **2010-712** A Resolution of the Governing Board of the South Florida Water Management District authorizing the transfer of funds within the District FY2009-2010 budget as shown on the attachment hereto; providing an effective date (Mike Smykowski, ext. 6295).
See supporting document: [ca_eo_002_sd.pdf](#)
See supporting document: [ca_eo_002_sd1.pdf](#)
See resolution document: [ca_eo_002_rd.pdf](#)

Regulatory and Public Affairs

26. Enter a Final Order Rescinding Water Shortage Order No. 2007-870-DAO -WS rescinding water shortage restrictions in Charlotte and Polk Counties consistent with the rescission of the water shortage order of the Southwest Florida Water Management District (Peter Kwiatkowski, ext 2547)
27. **2010-713** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into an Interagency Agreement with the Southwest Florida Water Management District to designate to the South Florida Water Management District all regulatory responsibilities for environmental resource permitting under Part IV of Chapter 373, Florida Statutes and water quality for those activities that are associated with the Murphy Ranch Northern Everglades Environmental Restoration Project located in Highlands County, providing an effective date (Benita Whalen, ext 2957)
See supporting document: [ca_rp_104_sd.pdf](#)
See resolution document: [ca_rp_104_rd.pdf](#)

Corporate Resources

28. Approval by the Governing Board of the South Florida Water Management District of a proclamation declaring July 18-24, 2010, as Contract Management Week at the South Florida Water Management District in recognition of Contract Managers, in conjunction with National Contract Management Week. (Jessica Flathmann x6043)
See supporting document: [ca_cr_001_sd.pdf](#)

Operations and Maintenance

- 29. 2010-714** A Resolution of the Governing Board of the South Florida Water Management District authorizing the Florida Fish and Wildlife Conservation Commission to establish District lands consisting of approximately 4,235 acres located in Martin County, as part of the John C. and Mariana Jones / Hungryland Wildlife and Environmental Area and manage hunting and public use on such lands, subject to terms and conditions; providing an effective date. (Steve Coughlin, ext. 2603)
See supporting document: [ca_om_001_sd.pdf](#)
See resolution document: [ca_om_001_rd.pdf](#)
See supporting document: [ca_om_001_map.pdf](#)
- 30. 2010-715** A Resolution of the Governing Board of the South Florida Water Management District authorizing the Florida Fish and Wildlife Conservation Commission to establish vacant undesignated lands consisting of approximately 1,900 acres in the L-31 North project, Miami-Dade County. as a Public Small Game Hunting Area for the 2010-11 hunting season and manage for waterfowl hunting only on such lands, subject to terms and conditions; providing an effective date. (Steve Coughlin, ext. 2603)
See supporting document: [ca_om_002_sd.pdf](#)
See resolution document: [ca_om_002_rd.pdf](#)
See supporting document: [ca_om_002_map.pdf](#)
- 31. Board Vote on Consent Agenda**

Workshop Agenda

32. State of Water Resources

A) Water Conditions & Water Supply Report - Cal Neidrauer, Chief Engineer, Operations Control & Hydro Management Department (ext. 6506)

B) Ecological Conditions Report - Deborah Drum, Deputy Director, Restoration Sciences Department (ext. 6392)

C) US Army Corps of Engineers' Lake Okeechobee Report - Kimberley Taplin, P.E., West Palm Beach Deputy Program Manager for Restoration, US Army Corps of Engineers

Regulatory and Public Affairs

33. Legacy Environmental Education Program - Barbara Ross, Director, Public Information Department (ext. 2066), Dan Thayer, Director, Land Management & Vegetation Department (ext. 6129) and Kim Shugar, Director, Intergovernmental Programs Department (ext. 6016)

34. Intergovernmental Policy and Planning Update - Rod Braun, Director, Intergovernmental Policy and Planning Division (ext. 2925)

Discussion Agenda

35. 2010-716 Discussion on FY2010-2011 Budget and Approval of Proposed Millage Rates

A Resolution of the Governing Board of the South Florida Water Management District approving submission of the proposed FY2010-2011 millage rates for the purpose of notifying county property appraisers for publication on Truth-In-Millage (TRIM) notices; providing an effective date (Mike Smykowski, ext. 6295).

See supporting document: [ca_eo_003_sd.pdf](#)

See resolution document: [ca_eo_003_rd.pdf](#)

Everglades Restoration and Capital Projects

36. Acceptance of the "Adaptive Protocols for Lake Okeechobee Operations (LORS 2008)" Susan Gray, Chief Environmental Scientist, Restoration Sciences Department (ext. 6919)

See supporting document: [da_er_rsd_001_sd.pdf](#)

37. 2010-717 A Resolution of the Governing Board of the South Florida Water Management District authorizing entering into a Project Partnership Agreement with the U.S. Department of the Army for construction, operation, maintenance, repair, replacement, and rehabilitation of the Melaleuca Eradication and Other Exotic Plants - Implement Biological Controls Project, a component of the Comprehensive Everglades Restoration Plan, at a total estimated construction cost of \$1,750,000 and an estimated annual operations and maintenance cost of \$660,000, for which the South Florida Water Management District will be responsible for providing a 50 percent cost-share, and for which funding, if any, is subject to Governing Board approval of future fiscal years budgets; providing an effective date. (Contract Number 4600002148) (Paul Warner, ext. 6512)

See supporting document: [da_er_002.sd.pdf](#)

See resolution document: [da_er_002_rd.pdf](#)

38. 2010-718 A Resolution of the Governing Board of the South Florida Water Management District authorizing entering into a Cooperative Agreement with the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, the University of Florida Board of Trustees, and the United States Department of Agriculture - Agricultural Research Service, at no cost, for dedication and certification of approximately 0.19 acres of land in Davie, Florida, for implementation of the Melaleuca Eradication and Other Exotic Plants Implement Biological Controls Project, a component of the Comprehensive Everglades Restoration Plan; providing an effective date. (Contract Number 4600002151) (Paul Warner, ext. 6512)

See supporting document: [da_er_001_sd.pdf](#)

See supporting document: [da_er_001_Annex Parcel Exhibit A_sd.pdf](#)

See resolution document: [da_er_001_Melaleuca Resolution_rd.pdf](#)

39. **2010-719** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a 420-day contract with Suffolk Construction Company, Inc., the lowest pre-qualified, responsive and responsible bidder, for construction of the Environmental Services Laboratory in the amount of \$7,870,000 of which ad valorem funds in the amount of \$1,124,285 are budgeted, and the remainder is subject to Governing Board approval of the FY11 budget; providing an effective date. (Contract Number 4600002161) (John Mitnik, ext. 3748)
See supporting document: [da_er_003_Env Svcs Lab Memo_sd.pdf](#)
See supporting document: [da_er_003_Env Svcs Lab Map_sd.pdf](#)
See resolution document: [da_er_rd_16070_BFLD.pdf](#)

Executive Office

40. **2010-720** A Resolution of the Governing Board of the South Florida Water Management District authorizing a settlement and the execution of documents required to effectuate a settlement in connection with South Florida Water Management District v. Cutler Bay Venture, LLC and Miami-Dade County Tax Collector, 11th Judicial Circuit, Miami-Dade County, Florida, Case No. 07-30747 CA 10. (Keith Rizzardi, ext. 6274)

Regulatory and Public Affairs

41. Denial of Consumptive Use Permit Application Number 090501-7 for public water supply and irrigation for a project known as Turkey Hammock (Osceola County) (Robert M. Brown, ext 6283)
See supporting document: [da_rp_102_sd.pdf](#)
42. Public Comment
- Regulatory Policy Issues
 - General Public Comment

Public Hearing

Regulatory and Public Affairs

43. Open Public Hearing

Adopt amendment to Rule 40E-3.035, F.A.C., to incorporate by reference: 1) the agreements with the following governmental entities: Lee County and the County Health Departments of Broward, Glades, Highlands, Miami-Dade, Orange, Osceola, Polk, and Palm Beach Counties to delegate the implementation of the Water Well Regulatory Program; 2) to incorporate by reference the first amendments to the delegation agreements with the City of Cape Coral, Collier County, and the County Health Departments of Hendry, Martin, Okeechobee, Osceola, and St. Lucie Counties; and, 3) to incorporate by reference the second amendments to the delegation agreements with the Martin, Okeechobee, and St. Lucie County Health Departments to include a provision concerning legal support. (Jennifer Bokankowitz, ext 2258)

Close Public Hearing

See supporting document: [ph_rp_103_sd.pdf](#)

Staff Reports

- 44. **General Counsel Report - Sheryl Wood**

- 45. **Executive Director's Report - Carol Wehle**
 - Report on Permits Issued by Authority Delegated to the Executive Director from June 1 to June 30, 2010
 - See supporting document: [IP Issued by ED June.pdf](#)

- 46. **Board Comment**

Attorney Client Sessions

Executive Office

47. 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, S. Estenoz, 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, 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)

48. Attorney client session pursuant to Section 286.011(8), Florida Statutes (2009) to discuss strategy related to litigation expenditures and/or settlement negotiations in Miccosukee Tribe of Indians of Florida, et al. v. South Florida Water Management District, Supreme Court of Florida, Case No. SC09-1817, and New Hope Sugar Company, et al. v. South Florida Water Management District, Supreme Court of Florida, Case No. SC09-1818.

ATTENDEES: Governing Board Members S. Batchelor, E. Buermann, C. Dauray, S. Estenoz, R. Montgomery, K. Powers, G. Waldman; Executive Director C. Wehle; District attorneys S. Wood, S. Nall, C. Kowalsky, K. Rizzardi, F. Bartolone, K. Burns, J. Nutt, F. Bartolone. (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 Miccosukee Tribe of Indians of Florida, et al. v. South Florida Water Management District, Supreme Court of Florida, Case No. SC09-1817, and New Hope Sugar Company, et al. v. South Florida Water Management District, Supreme Court of Florida, Case No. SC09-1818. (Sheryl G. Wood, ext. 69976)

49. Attorney client session pursuant to Section 286.011(8), Florida Statutes (2009) to discuss strategy related to litigation expenditures and/or settlement negotiations in South Florida Water Management District v. Cutler Bay Venture, LLC and Miami-Dade County Tax Collector, 11th Judicial Circuit, Miami-Dade County, Florida, Case No. 07-30747 CA 10. (Sheryl. G. Wood, ext. 6976)

ATTENDEES: Governing Board Members S. Batchelor, E. Buermann, J. Collins, C. Dauray, S. Estenoz, R. Montgomery, K. Powers, G. Waldman; Executive Director C. Wehle; District attorneys S. Wood, S. Nall, C. Kowalsky, K. Rizzardi, J. Nutt, F. Bartolone, M. Compagno. (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 South Florida Water Management District v. Cutler Bay Venture, LLC and Miami-Dade County Tax Collector, 11th Judicial Circuit, Miami-Dade County, Florida, Case No. 07-30747 CA 10. (Sheryl. G. Wood, ext. 6976)

50. Attorney client session pursuant to Section 286.011(8), Florida Statutes (2009) to discuss strategy related to litigation expenditures and/or settlement negotiations in Collier County v. South Florida Water Management District, et al., 20th Judicial Circuit, Collier County, Florida, Case No. 09-7419-CA.

ATTENDEES: Governing Board Members S. Batchelor, E. Buermann, J. Collins, C. Dauray, S. Estenoz, R. Montgomery, K. Powers, G. Waldman; Executive Director C. Wehle; District attorneys S. Wood, S. Nall, C. Kowalsky, K. Rizzardi, J. Nutt, E. Artau, R. Panse, F. Bartolone,. (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 Collier County v. South Florida Water Management District, et al., 20th Judicial Circuit, Collier County, Florida, Case No. 09-7419-CA

Adjournment

51. Adjourn