



GOVERNING BOARD MEETING
TUESDAY, MARCH 26, 2024 – 9:00 AM
7601 US 301 NORTH, TAMPA, FL 33637
(813) 985-7481

MINUTES

Board Members Present

Ed Armstrong, Chair
Michelle Williamson, Vice Chair
John Mitten, Secretary
Joel Schleicher, Member
Kelly Rice, Member
Ashley Bell Barnett, Member*
John Hall, Member*
James Holton, Member
Robert Stern, Member
Nancy H. Watkins, Member

*Attend via electronic media

Board Members Absent

Jack Bispham, Treasurer
Dustin Rowland, Member

Staff Members

Brian J. Armstrong, Executive Director
Amanda Rice, Assistant Executive Director
Chris Tumminia, General Counsel
Brian Werthmiller, Inspector General
Jennette Seachrist, Division Director
Michelle Hopkins, Division Director
Brian Starford, Division Director
Brandon Baldwin, Division Director
Michelle Weaver, Division Director

Board Administrative Support

Virginia Singer, Manager
Lori Manuel, Lead Administrative Coordinator

Convene Public Hearing

The Governing Board of the Southwest Florida Water Management District (District) met for its regular meeting at 9:00 a.m., March 26, 2024, at the Tampa Office, 7601 U.S. Highway 301 North, Tampa, Florida 33637. This meeting was available for live viewing through Internet streaming. An attendance roster is archived in the District's permanent records. Approved minutes from meetings can be found on the District's website at WaterMatters.org.

1.1 Call to Order

Chair Ed Armstrong called the meeting to order. He noted that the Board meeting was being recorded for broadcast on government access channels, and public input would be provided in person. Chair Armstrong stated that anyone wishing to address the Governing Board concerning any item listed on the agenda or any item that does not appear on the agenda should complete and submit a "Request to Speak" card. He stated that comments would be limited to three minutes per speaker, and when appropriate, exceptions to the three-minute limit may be granted by the Chair. Chair Armstrong also requested that several individuals wishing to speak on the same topic designate a spokesperson. He introduced each member of the Governing Board and staff present at the dais (this served as roll call). A quorum was confirmed.

1.2 Invocation and Pledge of Allegiance

Board Member Joel Schleicher offered the invocation and the Pledge of Allegiance.

1.3 Employee Recognition

Chair Armstrong recognized Mr. Ben Tomlinson for 30 years of service.

1.4 Additions/Deletions to Agenda

Mr. Brian Armstrong, Executive Director, stated there were no additions or deletions to the agenda.

A Request to Speak card was submitted for the following Consent item:

General Counsel's Report

2.7 Consideration of Final Order – Denying Petition for Declaratory Statement – Linnae Phillips, Robert Phillips, Laura Kelso, and Martin Kelso

There was good cause to approve the amended agenda as allowed by Section 120.525, Florida Statutes.

1.5 Public Input for Issues Not Listed on the Published Agenda

Mr. David Ballard Geddis spoke regarding House Bill 527.

Consent Agenda

Resource Management Committee

2.1 Knowledge Management: Springs Coast Steering Committee Governing Board Policy

Staff recommended the Board approve the Springs Coast Steering Committee Policy.

2.2 Approve the City of Seminole Watershed Management Plan Floodplain Information for Regulatory Use and to Update Flood Insurance Rate Maps in Pinellas County (Q163)

Staff recommended the Board approve use of the City of Seminole Watershed Management Plan floodplain information for best information available by the District ERP program and to update Flood Insurance Rate Maps in the City of Seminole.

2.3 Approve the Lake Tarpon Watershed Management Plan Floodplain Information for Regulatory Use and to Update Flood Insurance Rate Maps in Pinellas County (N924)

Staff recommended the Board approve use of the Lake Tarpon Watershed Management Plan floodplain information for best information available by the District ERP program and to update Flood Insurance Rate Maps in Pinellas County

2.4 Approve the City of St. Petersburg Watershed Management Plan Floodplain Information for Regulatory Use and to Update Flood Insurance Rate Maps in Pinellas County (N904)

Staff recommended the Board approve use of the City of St. Petersburg Watershed Management Plan floodplain information for best information available by the District ERP program and to update Flood Insurance Rate Maps in Pinellas County.

Operations, Lands and Resource Monitoring Committee

2.5 Donation of Utility Easement to Withlacoochee River Electric Cooperative (WREC) – Green Swamp Wilderness Preserve West Tract, SWF Parcel No. 10-400-179X

Staff recommended the Board:

- Approve the Easement donation and authorize the Chair and Secretary to execute on behalf of the District; and
- Authorize staff to execute any other documents necessary to complete the transaction in accordance with the approved terms.

General Counsel's Report

2.6 Authorization to Issue Administrative Complaint and Order – Environmental Resource Permit Violations; Unauthorized Activities – Edward J. Avella Trust – Pasco

Staff recommended the Board:

1. Authorize District staff to issue an Administrative Complaint and Order to Edward J. Avella, Trustee of the Edward J. Avella Living Trust dated April 24, 2008, and any other necessary party to obtain compliance with District rules.
2. Authorize District staff to initiate an action in Circuit Court against the Edward J. Avella Living Trust dated April 24, 2008, and any other necessary party to recover a civil penalty/administrative fine, enforcement costs, litigation costs, and attorney's fees, if appropriate.
3. Authorize District staff to obtain compliance with the terms of the Administrative Complaint and Order in Circuit Court, if necessary.

2.7 Consideration of Final Order – Denying Petition for Declaratory Statement – Linnae Phillips, Robert Phillips, Laura Kelso, and Martin Kelso

~~Staff recommended the Board approve the Final Order denying the Petition for Declaratory Statement filed by Linnae Phillips, Robert Phillips, Laura Kelso, and Martin Kelso.~~

Executive Director's Report

2.8 Approve Governing Board Minutes – February 27, 2024

Staff recommended the Board approve the minutes as presented.

A motion was made and seconded to approve the Consent Agenda. The motion carried unanimously. (Audio –00:11:57)

Discussion

Finance/Outreach and Planning Committee

Vice Chair Michelle Williamson called the committee to order.

3.1 Consent Item(s) Moved to Discussion - None

3.2 Legislative Update

Ms. Cara Martin, Government and Community Affairs Office Chief, provided an overview of the 2024 Legislative Session. She provided a summary of the session and outlined the \$117.46 billion budget for FY2024-2025. Ms. Martin provided an overview of Senate Bill 1638 which provided funding for Environmental Resource Management. She summarized the \$3.4 billion funding allocated for the Florida Department of Environmental Protection and highlighted \$2.25 million funding appropriated for the District. Ms. Martin specifically addressed funding projects that will benefit the water supply authorities within the District. She provided an overview of District related bills that passed and failed to pass. Ms. Martin congratulated the Governing Board Members and the Executive Director who were successfully confirmed by the Senate. She thanked the Governor and the Legislature for their support of the environmental budget. Ms. Martin provided a timeline of the upcoming committee weeks and the FY2025 legislative session.

This item was for information only. No action was required.

3.3 Water Conservation Month: District FY23 Conservation Efforts

Ms. Katherine Munson, Lead Communications Coordinator, provided a history of the District's water conservation efforts and an overview of efforts that occurred across multiple Bureaus and Divisions in Fiscal Year (FY) 2023. This included cost-share programs that funded conservation projects, including the CFI, WISE, FARMS, and Mini-FARMS programs; utilities services provided by District staff to enhance system efficiencies and reduce system losses; the District's Water

Conservation Initiative; education and outreach efforts; regulatory programs; and research. . She responded to questions.

Board Member Joel Schleicher commended the presentation but asked why water conservation is not promoted year-round. Ms. Munson stated that although conservation is routinely promoted, April is considered the driest month of the year and when water demands begin to increase due to hot and dry conditions. Board Member Nancy Watkins suggested renaming the month of April to “Water Conservation Education and Awareness month”. Staff agreed to consider this suggestion.

Staff recommended the Board approve and execute Resolution No. 24-01 declaring April 2024 as “Water Conservation Month.”

A motion was made and seconded to approve staff’s recommendation. The motion passed with eight in favor and one opposed. Board Member Schleicher explained his opposition was related to the naming convention. (Audio –00:39:41)

3.4 Budget Transfer Report

This item was for information only. No action was required.

Resource Management Committee

Vice Chair Michelle Williamson called the committee to order.

4.1 Consent Item(s) Moved to Discussion - None

Operations, Lands and Resource Monitoring Committee

Vice Chair Michelle Williamson called the committee to order.

5.1 Consent Item(s) Moved to Discussion - None

5.2 Lease Agreement with Hernando County - Weeki Wachee Preserve, SWF Parcel No. 15-773-243X

Ms. Ellen Morrison, Land Resources Bureau Chief, presented information regarding a proposed agreement requested by Hernando County (County) for the lease of the Weeki Wachee Preserve (Preserve). She presented historical information regarding the Preserve and its recreational uses. Ms. Morrison outlined the previous requests from the County and the final proposed lease. She stated that the District requires that any recreation at the Preserve be of a passive nature and in-line with the preservation intent of the current usage level.

Ms. Morrison stated that in lieu of the County’s request for a five-year path to purchase all or part of the park, the County would receive the Right of First Refusal (ROFR) if the property was to be considered for surplus. However, she emphasized that in seven previous surplus evaluations, this property has not been recommended for surplus.

Board Member Kelly Rice asked if consideration could be given to ensure the property remains in government ownership if it was ever considered for surplus. Ms. Morrison responded that language could be included to address these concerns.

Board Member Nancy Watkins asked if objections from the Sierra Club had been resolved. Mr. Brian Armstrong, Executive Director, stated the County received a letter from the Sierra Club outlining concerns they think need to be addressed and issues they think have been resolved.

Fourteen Request to Speak cards were received for this item.

Ms. DeeVon Quirolo, Sierra Club Adventure Coast Group (Group) stated the Group's primary objection involves human and bear interactions as related to the picnic pavilions. She stated these concerns could be addressed through a provision requiring the implementation of the Florida Fish and Wildlife Conservation Commission (FFWCC) Florida Black Bear Management Plan (BMP). She also suggested a stakeholder group be created to oversee the implementation of the management plan. She expressed concerns regarding the ROFR. She stated appreciation that some of the Group's earlier concerns had been addressed.

Mr. Eugene Kelly, Florida Native Plant Society (Society), stated the Society is accepting of the lease with the exception of the concerns related to the black bears. The Society requested a provision be added to address these concerns. Mr. Kelly also expressed concerns regarding the ROFR provision.

Dr. John Paul-Reeve spoke in opposition to the proposed development of the Weeki Wachee Preserve.

Ms. Kelly Reeve submitted a Request to Speak card but declined to speak.

Ms. Lisa Savarese spoke in opposition to the proposed development of the Preserve.

Ms. Tommie Toler spoke in opposition to the proposed development at the Preserve.

Ms. Joann Serkey spoke in opposition to the proposed development at the Preserve.

Ms. Jodie Pillarella spoke in opposition to the proposed development at the Preserve. She presented signed petitions. She spoke against the creation of a boardwalk and suggested the use of mulch trails.

Mr. Kevin Love stated he worked for the District and worked on the Land Management Plan for the Preserve. He spoke in opposition to the proposed development at the Preserve. Mr. Mitten asked Mr. Love if anything in the lease was prohibited in the existing Land Management plan that he worked on. Mr. Love said no.

Ms. Jenine Schmit spoke in opposition to the proposed development at the Preserve.

Ms. Leslie Tomilson, Preserve the Preserve, expressed concerns regarding the ROFR and spoke in opposition to the proposed development at the Preserve.

Mr. David Snutes spoke in opposition to the proposed development at the Preserve.

Ms. Marsha Shoemaker spoke in opposition to the proposed development at the Preserve.

Mr. Charles Lee, Advocacy of Audubon Florida (Advocacy), commended the District for their part in the negotiations related to the language in the lease. He stated the Advocacy has mixed concerns regarding the ROFR and suggested language be added to the lease to limit any future use by the County.

Vice Chair Williamson asked Mr. Chris Linsbeck, representing Hernando County (County), to address the concerns raised regarding the management of the black bears in the Preserve. Mr. Chris Linsbeck highlighted information that was provided in a letter from the County to the District. He stated the County is aware of the FFWCC Florida Black Bear BMP and will be reviewing and ensuring its implementation.

Board Member Robert Stern asked if the County would be open to public input regarding the design and use of materials for the proposed Preserve. Mr. Linsbeck responded in the affirmative and stated that currently there are no construction development plans.

Secretary John Mitten asked what type of easements are integrated into surplus lands. Mr. Armstrong stated easements are determined by the type of property. He provided a brief summary of the process.

Board Member Holton expressed concerns regarding the management of the black bears and other wildlife. He asked if the County had any studies associated with the environmental impacts to the wildlife community. Mr. Linsbeck responded in the negative but stated the County has no objective in incorporating the necessary language in the lease. Mr. Armstrong stated that the FFWCC would be responsible for studies and BMPs associated with the black bear.

Board Member Stern expressed his support for the ROFR and clarified the process and benefits associated with it. Chair Armstrong added that the Board would have the ability to impose protective restrictions if the property was ever considered for surplus. It was reiterated that no consideration was being given to surplus this property. Board Member Watkins agreed and questioned why that ROFR language is necessary based on the Board's ability to impose restrictions if the property is considered for surplus. Board Member Schleicher stated that although he supports the surplus of some properties, he does not believe that consideration would be given to surplus the Preserve.

Board Member Holton asked if FFWCC needs to provide any approval before the County proceeds. Mr. Linsbeck responded that before submitting any final designs, the appropriate steps will be taken to ensure all required BMPs are followed.

Vice Chair Williamson asked if there were gopher tortoises on the Preserve and what protection would be ensured. Mr. Brian Starford, Operations, Lands and Resource Monitoring Director, responded in the affirmative. Mr. Hall asked if the District would approve the permits. Mr. Starford stated that the District would not necessarily approve the permits, but the County would have to submit the plans for approval.

Vice Chair Williamson asked about the concerns that were presented regarding the County's management of their current parks, specifically maintenance of boardwalks. Mr. Linsbeck provided examples of improvements the County has addressed and stated a master plan is in development.

Board Member John Hall addressed language in the lease that allows the District the right to inspect and terminate the agreement if it is determined the County is not maintaining the property as indicated in the lease. He asked if there are scheduled inspections. Mr. Starford stated that although inspections are done on properties the District has agreements with, there are no set schedules as the schedules are specific to the properties. The District does land management activities on the property connected to the park and will conduct inspections to ensure the lease is followed. Board Member Hall asked if the District had reviewed the surveys and letters from the constituents that expressed their desire to improve the County's existing parks rather than acquire the Preserve. Mr. Starford responded in the affirmative. He stated that the language in the proposed lease is reflective of the input received from public stakeholders.

Board Member Watkins asked if any improvements proposed by the County would require approval from the District prior to initiating. Ms. Morrison responded in the affirmative. Board Member Watkins stated she would like the FFWCC Florida Black Bear BMP language added to the lease. She reiterated her concerns as related to the ROFR.

Board Member Watkins introduced a motion to amend the lease to remove the Right of First Refusal. The motion failed for lack of a second.

Mr. Chris Tumminia, General Counsel, clarified that Paragraph 15 of the lease agreement requires the County to develop an education and recreation management plan to be approved by the District. He asked Ms. Morrison to confirm that the District would require, as part of the recreation management plan submitted by the County, the inclusion of the FFWCC Florida Black Bear BMP. Ms. Morrison responded in the affirmative.

Secretary Mitten asked if the ROFR language is contained in any other District leases. Mr. Tumminia responded he was unable to confirm but would get that information.

Staff recommended the Board:

- Approve the Lease Agreement Between the Southwest Florida Water Management District and Hernando County for the Weeki Wachee Preserve Park; and
- Authorize the Governing Board Chair to execute the Lease Agreement on behalf of the District; and
- Authorize staff to make minor changes or corrections to conform documents or correct scrivener's errors; any substantive changes will be subject to Governing Board review and approval; and
- Authorize staff to execute any other documents necessary to complete the transaction in accordance with the approved terms.

A motion was made and seconded to approve staff's recommendation. The motion passed unanimously. (Audio – 02:07:24)

Regulation Committee

Vice Chair Michelle Williamson called the committee to order.

6.1 Consent Item(s) Moved to Discussion - None

6.2 Denials Referred to the Governing Board

No denials were presented.

General Counsel's Report

7.1 Consent Item(s) Moved to Discussion

2.7 Consideration of Final Order – Denying Petition for Declaratory Statement – Linnae Phillips, Robert Phillips, Laura Kelso, and Martin Kelso

A Request to Speak Card was received for this item.

Mr. Destin Dawsy, Attorney, provided an overview of the process and statutory language that applies when a Petition for Declaratory Statement (Petition) is filed with the District. He stated the filed Petition seeks a statement from the District regarding Harbor Bay Community Development District's obligation for compliance with Section 373.430(1), Florida Statutes, Rule 62-302.300, Florida Administrative Code, and with Environmental Resource Permit Numbers 4318838.004 and 44018838.012. He explained that the District must deny the Petition as the Petitioners do not seek a determination concerning the applicability of the statutes, rules, or permit conditions to the Petitioners' particular set of circumstances but rather as they pertain to Harbor Bay Community Development District, a third party.

Dr. Robert Phillips, representing the Petitioners, spoke in opposition to denying the Petition for Declaratory Statement. He stated that the Petitioners are requesting clarification as to which entity is responsible for the MiraBay Lagoon.

Vice Chair Williamson asked if there are possible permit violations. Mr. Dawsy responded that staff is unaware of any current compliance issues associated with this project. Vice Chair Williamson asked that staff continue to investigate if there are any potential violations. Mr. Tumminia responded in the affirmative.

Staff recommended the Board approve the Final Order denying the Petition for Declaratory Statement filed by Linnae Phillips, Robert Phillips, Laura Kelso, and Martin Kelso.

A motion was made and seconded to approve staff's recommendation. The motion passed unanimously. (Audio – 02:15:47)

7.2 2024 Sunshine Law Presentation

Ms. Taylor Greenan, Attorney, provided a presentation that included background concerning the creation of the Sunshine Law. She defined the law and provided an overview of requirements that must be observed. Ms. Greenan stated that Board members are subject to this law and outlined the requirements that Board members must adhere to in order to maintain compliance. She stated that meetings must be open to the public, reasonably noticed and minutes of meetings be provided. Ms. Greenan provided examples of the types of communications that are considered meetings. She outlined what may be considered violations, penalties, and provided hypothetical examples. Ms. Greenan stated best judgement should be used when discussion could involve a “foreseeable matter” and explained there was no concrete definition. She stated that any action taken by the Board that is determined to be in violation of the law is considered invalid. Ms. Greenan explained the process of curing violations. She addressed violations of the law as related to social media and provided hypothetical examples. Ms. Greenan responded to questions.

This item was for information only. No action was required.

7.3 Affirm Governing Board Committee Actions

Staff recommended the Board affirm the actions taken by the Governing Board Committees.

A motion was made and seconded to approve staff's recommendation. The motion passed unanimously. (Audio – 02:30:48))

Committee/Liaison Reports

8.1 Industrial Advisory Committee

A written summary of the February 13 meeting was provided.

8.2 Public Supply Advisory Committee

A written summary of the February 13 meeting was provided.

Executive Director's Report

9.1 Executive Director's Report

Mr. Armstrong thanked the Governor and the Florida Legislature for the FY2025 funding approved this session. He also expressed appreciation for the Board Member confirmations passed by the Senate.

Chair's Report

10.1 Chair's Report

Chair Armstrong stated the next Board meeting is scheduled for Tuesday, April 23 at 9:00 a.m., in the Tampa Office.

Board Member Rice stated the Board was invited to tour the Middleton Development in the Villages on Friday, March 15. He wanted it recognized that all water supply needs for that development is being met by alternative water supplies.

10.2 Employee Milestones

A written summary was provided.

Adjournment

The meeting was adjourned at 11:37 a.m.