

# ***APPROVED***

Minutes of Board of Directors Meeting  
**PEACE RIVER/MANASOTA REGIONAL WATER SUPPLY AUTHORITY**  
Authority Administrative Office  
6311 Atrium Drive, Suite 100, Bradenton, Florida

February 21, 2007

***Board Members Present:***

Commissioner Shannon Staub, Sarasota County, Chair  
Commissioner Adam Cummings, Charlotte County, Vice Chair  
Commissioner Jerry Hill, DeSoto County  
Commissioner Jane von Hahmann, Manatee County

***Staff Present:***

Patrick J. Lehman, Executive Director  
Douglas Manson, General Counsel  
Kevin Morris, Facilities Division Director  
Mike Coates, Water Resource Division Director  
Ed Yates, Finance/Administration Division Director  
Ray Pilon, Government/Community Affairs Director  
Susan Hochuli, Water Resource Planner  
Sam Stone, Environmental Affairs Coordinator  
Linda Stewart, Secretary

***Others Present:***

A list of others present that signed the attendance roster for this meeting is filed with the permanent records of the Authority. Chair Staub recognized the elected officials present in the audience who included Charlotte County Commissioners Duffy and Loftus; DeSoto County Commissioner Allen; Sarasota County Commissioner Thaxton; and City of North Port Commissioners Gross and Blucher.

***Call To Order:***

Chair Staub called the meeting to order at 10:00 a.m.

***RESOLUTIONS:***

***Item 1. Resolution 2007-01 'Recognition of the Month of April as Water Conservation Month'  
Presented by Ray Pilon, Governmental/Community Affairs Director***

Mr. Pilon read Resolution 2007-01 into the Board records. By adopting Resolution 2007-01, the Authority joins the State of Florida, water management districts, local governments and water-related organizations in recognizing the importance of water conservation in sustaining the water resource.

**Motion was made by Commissioner von Hahmann, seconded by Commissioner Hill, to approve Resolution 2007-01 'Recognition of the Month of April as Water Conservation Month'. Motion was approved unanimously.**

**REGULAR AGENDA:**

**Item 2.           *North Port Representation at Board Meetings  
Presented by Patrick Lehman, Executive Director***

At the January 17, 2007 Board meeting Chair Staub proposed including the City of North Port (North Port) in an 'ex-officio' capacity on the Authority Board. This item was deferred so the Board members could have the opportunity to discuss this matter with their respective Commissions. Mr. Lehman said since that time, Mr. Manson has reviewed the legalities involved and invited him to address the Board on this matter.

Mr. Manson said the governance documents of the Authority were analyzed, along with the governance documents of other water supply authorities, in respect to the addition of a non-voting ex-officio member to the Board. Authorities such as TOHO and WAV expressly authorize the addition of non-voting members. In 1982, the West Coast Regional Water Supply Authority (now known as Tampa Bay Water) added a non-voting member based upon a general powers provision within their governance documents and allowed New Port Richey representation on their board. There were no legal challenges brought against West Coast for providing New Port Richey representation. Ultimately, when reconstituting West Coast into Tampa Bay Water, New Port Richey was made a full voting member.

Following the precedence established by West Coast, Mr. Manson said the Authority can basically do the same by resolution. The Authority lacks an expressed authorization or the broad general powers provision like West Coast, but may rely on a more specific powers provision within the Second Amended Interlocal Agreement (Interlocal) to add a non-voting representative to the Board and referred to Paragraph 5.1 of the Interlocal that states the Authority has "the right to have and exercise such powers as are reasonably implied herefrom and necessary and proper to carry out the objectives and purposes of the Authority".

Mr. Manson presented a resolution for Board consideration that would allow a non-voting participant. The resolution states the participant would not have the power to vote, make motions, second motions, be counted toward a quorum, call for special meetings, serve as an officer of the Authority Board or raise issues during member comments. The participant's authority to act would be limited to participation in debate among Board members. The participant would be subject to the Florida Public Meeting Laws and Sunshine Laws.

Chair Staub said her intent was to have North Port participate on the Authority Board but not as a voting member recognizing North Port would like membership eventually. She said the Sarasota County Commission was in unanimous support of the seating of North Port on the Authority Board as a participant.

Commissioner von Hahmann said the Manatee County Commission briefly discussed this matter and requested their legal staff review the implications and therefore was not prepared to vote at this time.

Commissioner Hill requested Mr. Fred Busack, utility counsel for DeSoto County, address the Board regarding DeSoto County's position. Mr. Busack said the County has had a very good relationship with North Port over the years and would like to continue that relationship. The County however differs from Mr. Manson's opinion. The County feels if there were a resolution to allow North Port's participation, this would be a violation of the Interlocal as the Interlocal contains no provision providing for a non-voting member on the Board. Mr. Busack referred to Section 4.2 that says, "the Authority Board shall be composed of the member representatives of the Authority". He said if the Interlocal is to be changed, Section 10 provides that new members can be added by unanimous vote. Further, Section 11 provides that the Interlocal be amended in writing and signed by all members. Mr. Busack said the County's concern is that the resolution opens the door

to an ex-officio board member being given the right to vote without amending the Interlocal. The County also feels North Port’s representation will create a fundamental imbalance on the Board. Mr. Busack pointed out North Port has always had the opportunity for input.

Commissioner Cummings said what he is hearing is a discussion of whether a strict constructionist or loose constructionist interpretation of the Interlocal is used--you are allowed to do only what you are specifically told you can do or you are allowed to do anything you are not specifically prohibited from doing. He said there have been occasions when North Port was sitting at the table because they were invited to participate. It would seem it could be something as simple as a standard addition to the agenda for allowing specific input from a specific group and does not have to be so elaborate as trying to create a new type of member or role. He said the Charlotte County Commission supported allowing North Port to sit at the table. During their discussion, the Commission considered the concerns raised by DeSoto County and looked for ways to address some of those issues and the suggestion was made to allow Punta Gorda and Arcadia to both have non-voting participation. Commissioner Cummings noted Punta Gorda has expressed an interest in having a closer relationship with the Authority.

Chair Staub said her feeling toward inviting Punta Gorda and Arcadia is that Punta Gorda is not a customer and is not interconnected at this point and has not been a party to contracts where they are providing the Authority with demand projections. She is not aware Arcadia wants to be a participant. She feels it would lead to other issues say if Bradenton or Palmetto, etc. would want to participate.

Commissioner Hill said DeSoto County feels like the Board is trying to fix something that is not broken. When the Board and/or staff are dealing with issues that affect North Port, North Port is invited to participate and North Port has the opportunity at every meeting to offer input. He feels sometimes the members rehash an issue until it is a waste of time. He said if one more or two more or eventually five more members are added, the Board will not get anything accomplished.

Chair Staub reminded the Board that over a year ago they said they would consider North Port’s request for membership. She said eventually the Board would have to address this issue. Chair Staub deferred action to the next agenda.

***Item 3. Regional Integrated Loop System – Phase 1 Interconnect  
Presented by Patrick Lehman, Executive Director***

- a. Water Supply Needs***
  - (1) Master Water Supply Contract***
  - (2) GAP Plan***
- b. Availability of Water from Punta Gorda***
  - (1) Punta Gorda Water Treatment Plant Capacity Availability***
  - (2) Conjunctive Water Use Permit***
- c. Phase 1 Interconnect Project Description***
- d. Project Funding and Financing***
- e. Projected Water Rate to Authority Customers***
- f. Water Supply Contract and Operation Agreement between the City of Punta Gorda and the Authority***
- g. Amendment to Design-Build Contract with Westra Construction Corporation for Construction***

Mr. Lehman said the Authority is nearing the finish of a twenty-year ongoing project. In the 1980s the original Board consisted of visionaries like T. Mabry Carlton and Ed Chance and took it upon themselves to look at what regional interconnects were important for the future. They had a vision and the vision of interconnecting Punta Gorda ranked number one even twenty years ago. Approximately five years ago, the District helped finance a pipeline crossing of the river to DeSoto County. At the time of construction, it was anticipated the pipeline would continue south to interconnect to the Punta Gorda WTP and for that reason the Authority up-sized that pipe for future capacity. The ability for the Authority to own and maintain the capacity was put into place with the Master Water Supply Contract (MWSC) and Interlocal implemented in October 2005. The MWSC also established a planning mechanism that allowed the Authority to move forward with the regional expansion program (REP) for the Peace River Facility to its buildout of 32.7 mgd. Another element of the MWSC is a twenty-year projection of water demands with a lock-down for the first seven years. Mr. Lehman referred to Exhibit "C" of the MWSC that identifies the customer's allocation up to the full 32.7 mgd. When the MWSC was implemented in October 2005, the projected demands indicated the Authority would need to develop water sources over and above the REP of 12 mgd. In order to meet their obligation, the Authority needed short-term water quantities starting with fiscal year 2007 through 2009 until the REP was completed. Mr. Lehman said that was the basis of the GAP program.

The GAP program led to what those sources are and how they could be permitted. The GAP permit is a Conjunctive Water Use Permit (Permit) and is the first the District has issued in this area. The Permit was issued on January 30, 2007 and is for a term of six years through January 2013. It moves to a new era of tying resources together. For the first time in the four-county area, it ties together surface water with ground water with the intent of maximizing surface water and providing for rotation of ground water. A partner in the GAP permit is the City of North Port who recently upgraded their Water Use Permit and has additional supply and can potentially make available 1 mgd during certain times of the year. The Permit also incorporates two other resources that being ground water from the Carlton Plant and surface water from the Punta Gorda WTP. Mr. Lehman pointed out Shell Creek is unique, because like the Peace River, it fluctuates between seasons. Therefore, the Permit allocates to the Authority 2 mgd annual average water supply. Recognizing the ups and downs of Shell Creek, the permit allows the Authority 6 mgd during a peak month with the anticipation of drawing water during the rainy season to replenish the ASR wells that would help provide reliability plus meet demands in the dry season. The Permit piggybacks onto Punta Gorda's WUP which is for 8 mgd. The Permit increases Punta Gorda's WUP to 10 mgd but the additional 2 mgd is in the name of the Authority for Authority use only.

Chair Staub asked what the discussions were with Punta Gorda relating to the City's concerns with guaranteeing the 2 mgd of water when the Permit specifies 2 mgd for the Authority.

Mr. Manson said even though it is clear in the contract the water is above and beyond what Punta Gorda needs for their customer demand or for regulatory requirements, Punta Gorda felt uncomfortable that guaranteeing the water may put them in a position of having to serve the Authority first and their citizens second. Mr. Manson said from the standpoint of Punta Gorda not being a member of the Authority and not having contracted with the Authority before, they are hesitant. Mr. Manson pointed out Punta Gorda staff is confident the water is available to sell to the Authority. Further, Punta Gorda will want to provide the water because they will be paid for it and are in fact counting on the money to offset how much they charge their customers.

Continuing with his presentation, Mr. Lehman said this project consists of a six-mile 24-inch diameter pipeline at US 17 that would follow south through Charlotte County and connect with Punta Gorda's Shell Creek WTP. The Authority would design, own, build and operate the facilities. The District has allocated \$5.3M to this project leaving the Authority with providing funds of just over \$6M. Concurrent with this project, Charlotte

County is proposing an interconnect with Punta Gorda, and the District has allocated \$2.5M to that project. Punta Gorda would receive \$1.5M for facility improvements. Accordingly, there is a total of over \$9M of District funding committed to-date.

It is anticipated this project can be funded initially from the bond proceeds for the REP by virtue of a resolution. Such a resolution has been drafted by bond counsel for Board consideration. In order to replenish the bond funds for the REP, the Authority has been qualified for commercial paper. The commercial paper would be for a term of up to five years and the Authority would pay only the interest initially. With the anticipation of future pipelines, the commercial paper would ultimately be wrapped into long-term financing through a bond issuance.

Commissioner Cummings said he has repeatedly been told the customers that receive this water will pay for the local match of the pipeline. Yet what he is seeing is the financing being folded into the REP cost for which Charlotte County pays 70%. He does not see anything giving him assurance that the customer that is receiving the water is going to pay for the local match.

Mr. Lehman said the way the Authority has done business in the past is as Commissioner Cummings indicated. However, for the Punta Gorda interconnect, that still needs to be addressed by the Board. In addition, by virtue of the Interlocal and MWSC, the Authority was given the ability to own capacity and that also needs to be addressed by the Board. It needs to be determined if the pipeline is of benefit for a specific entity or for the good of all entities.

Looking at the cost of the pipeline, Mr. Lehman said Punta Gorda will sell the water for \$2.14/1000 gallons through 2009. The pipeline will add a cost of approximately \$0.40/1000 gallons based on 2 mgd for a total cost of approximately \$2.54/1000 gallons of water.

Chair Staub asked why the cost increased from \$2.09 as originally stated.

Mr. Lehman said the \$2.14 is based upon a revised report Punta Gorda received from their financial consultant and provided to the Authority.

Commissioner Cummings asked what happens if the customers do not buy the water.

Mr. Lehman said that issue needs to be addressed however if the customers do not need the water, the Authority would not pay the \$2.14. There would be the debt service on the pipeline to pay.

Commissioner Cummings said his understanding of the Punta Gorda contract is that it is strictly paying the variable rate.

Mr. Lehman said that is correct. It needs to be addressed if the Authority needs the water who pays for it and also what happens if the water is not needed. Mr. Lehman pointed out there are different cost centers for debt service for the current customers that being the 1991 acquisition, the Peace River Option and the DeSoto County pipeline. He reviewed how those costs are calculated based on the cost centers for each of the customers and how they compare with Punta Gorda's cost.

Continuing on, Mr. Lehman said the revised projections are substantially lower than what is shown on Exhibit "C" to the MWSC. The quandary is the Authority is obligated by the MWSC to provide the water as set out on Exhibit "C" but if the Authority were to fulfill the MWSC it would be financially infeasible for some of the

members. Mr. Lehman said as the money is not bonded at this time, a meeting was held with the member staffs to discuss the lower projections and how the Authority is obligated and how to plan ahead understanding a project takes a five to seven year planning timeframe from bonding through design. Mr. Lehman said the revised projections will be distributed within one week to all of the customers. Basically there is still a need for water but not the 12 mgd that is shown on Exhibit "C" so how is the pipeline going to be paid for. One proposal to pay for the remainder of the debt service would be to take the debt service cost and place a surcharge on the volumetric charge of water that would be approximately 2 to 3 cents per 1000 gallons.

Chair Staub pointed out if the MWSC is revised with the much lower numbers, then the members must be prepared to deny development in the future if the Authority is not prepared with an adequate supply.

Commissioner Cummings said what he is hearing is Sarasota County expressing a concern why should anyone pay for a local match for a pipeline that has no guarantee that there will be water. He has heard legitimate points on both sides of that issue as to whether there is actually, in essence, a default guaranteed through the permit. Charlotte County has expressed concern over what assurances they are going to have that they will not have to pay the local match for a pipeline they likely will not be using. In addition, Charlotte County has been viewing the two pipelines as both of regional significance and should move forward together. The District however inserted language into the County's contract with Punta Gorda saying the only situation under which the County can use the pipeline is an emergency scenario so in essence, Charlotte County is building a pipeline they can't use. He noted Charlotte County's local match on their pipeline was 25% not 50%. He wondered aloud what would happen if the Authority were to shift some of the grant funding to bring the Punta Gorda and Charlotte County match up to 50% and perhaps oversize it for additional hydraulic capacity. That would require cooperation from the District to let the County remove the language that prohibits the County from working with Punta Gorda directly. Then any capacity the Authority wanted, run it either through that pipeline or bill through the County's allocation because they own 12.75 mgd and their allocation could actually be reduced. The Authority could acquire water from Punta Gorda either directly or by reducing the County's allocation on that particular day. There would be an additional charge for the local match that Charlotte County paid for whatever excess hydraulic capacity we were building to make this plan work. Charlotte County would be taking on the risk to build the additional capacity and not get their local match back but would get in return the ability to work with Punta Gorda and sufficient justification to support the project to the Burnt Store Plant. The Authority does not have any risk.

Chair Staub asked Commissioner Cummings if this had discussed this with Punta Gorda.

Commissioner Cummings said this is something he just thought of. It is an idea for the Board's consideration.

Moving forward, Mr. Lehman said it needs to be confirmed the revised projections are approved by the individual commissions because the numbers cannot be revised every year. The other question is whether this pipeline is of value for the entire region. Does the pipeline provide water not only to cover 'what if' scenarios in the future but does it also increase reliability of the system by allowing the Authority to recharge ASR for the good of all customers and is there value for the extra 2 to 3 cents surcharge. Those are the questions facing the Authority.

Mr. Lehman said the design-build contract is in place with Westra Construction. Westra has provided a guaranteed maximum price (GMP) of \$10,346,053 for construction. It is anticipated the pipeline will be completed by early 2008. Staff recommends approval of the resolution modifying the bond resolution for the purpose of utilizing the bonds funds in the short term, and then at a later date convert to commercial paper. Wachovia Bank has provided a commitment letter for the commercial paper. The Punta Gorda City Council is

considering the contract today.

Chair Staub said she was not comfortable with acting on anything today. She suggested it may be good for the Board to meet with the Punta Gorda elected officials. With the demand numbers decreasing, there is not the immediate need so maybe the Authority should take this opportunity to re-assess this project.

For expedience, Mr. Lehman suggested Chair Staub meet with Mayor Friedman.

Commissioner Hill said he personally felt that is better than the two boards getting together.

Commissioner Cummings said he did not have an objection to Chair Staub meeting with the Mayor nor with having representatives from Punta Gorda speak to the Board.

Chair Staub requested staff and administration evaluate Commissioner Cummings suggestion as well as the financing.

Commissioner Cummings requested his staff be involved in the meeting Chair Staub would have with the Mayor or whomever.

Chair Staub deferred this item to the March 9 agenda.

Mr. Manson said the only issue with deferment is the deadline for projections and, in fact, that deadline had already been extended. He emphasized when discussing payment for the pipeline, the only reason why a customer would be paying for part of the pipeline is the demand figure in 2011 under the MWSC. It is not debatable unless the numbers are changed so everybody needs to get the numbers correct because they are going to lock in. Mr. Manson said he would begin the amendment process, which can take up to 90 days, and then insert the demand figures once finalized.

Chair Staub requested the Board members and North Port take this information to their next Commission meetings and get the projections approved and to Mr. Lehman as soon as possible. She requested Mr. Lehman email the final projections and a new GAP chart. The policy, as she understands, is nothing is being changed, the pipeline construction costs will be charged to those who get and use the water in the pipeline.

Mr. Manson confirmed that was his understanding. He said there are other options but right now the MWSC provides that any costs for a new water source, which would include the pipeline, would be borne pro-rata by those who are next in line on Exhibit 'C' based on their percentage of the water they are taking. The timing of that project would be dictated by the members.

Chair Staub asked if everybody agreed with that.

Commissioner Cummings said as long as we understand that even if we are buying it from the Authority it still does not make sense to run it through the other pipeline. We are not going to need that hydraulic capacity. That element of that project Charlotte County would receive no benefit. The County is not going to pay 70% of the local match of a cost and project for which they receive no benefit.

Chair Staub said there needs to be an answer to Commissioner Cummings' concerns and requested the administrators and technical staff address that issue.

Mr. Lehman said in 2005 with the DeSoto pipeline was the first time the Authority owned capacity and it was done with a different methodology. It is hydraulically committed to the Authority and the Board determined how that would be paid for.

Commissioner Cummings said Charlotte County was trying to be helpful to DeSoto County. He supported that but does not want to find himself in the situation of no good deed going unpunished.

Mr. Manson said to Commissioner Cummings you may find yourself on the other side of that. You may find you are actually getting your pipeline supported.

Commissioner Hill said we all remember that pipeline and it was not a fun time but it did succeed. The bottom line was we were trying to get the pipeline across the river so it would be available to go on to the Shell Creek WTP. As he recalls Commissioner Cummings would not support the pipeline if it was going to stop at Lettuce Lake. He wanted it to go to the Walmart site because he could see the value in that. Commissioner Hill said we can't forget the value of the loop system that we have talked about for years and this was the first phase of it. The GAP water is important but it has more value than just that and we need to keep that in mind.

Commissioner Cummings said if we are doing it for value of a loop system and there is something that we want to have everybody contribute for the value of that loop system, he is prepared to talk about that but is not prepared to pay 70% of the cost of it for a regional benefit to a loop system.

Mr. Manson said the two are mutually exclusive of one another. If you are looking at a loop benefit then you are not looking at a hydraulic capacity by pro-rata use of the water. When we contemplated this during the negotiation of the MWSC at some point there just gets to be a futility of trying to allocate each member's portion of a particular pipeline especially when some of the pipelines are going to flow two directions. So the issue is going to be how are we going to do that and one of the things discussed but were unable to achieve during the MWSC negotiation was an ability for the Authority to own pipelines and would involve the potential of investing in pipelines already paid for by other members and then financing the new pipelines. But until all those pipelines and all those costs are on the table, or at least a significant portion, it is difficult to tell the benefit. We are going to be addressing this issue if not on this pipeline immediately on the loop pipelines.

Commissioner von Hahmann said I think the final statement is the intrinsic value of it as a loop system because right now we don't have a commitment to run water through a pipeline that the Authority is going to put into the ground. Her issue about the whole plan becomes customers and flow coming through a system that is going to be very expensive to lay down. If you don't have that, then having pipes in the ground does not make sense.

Chair Staub requested for the March 9 agenda a discussion of the operational issues if this pipeline is approved of how we are going to keep water in it.

***Item 4. Peace River Facility Expansion – Contract No. 2 “Water Treatment Plant Expansion”  
Presented by Kevin Morris, Facilities Division Director and  
Douglas Eckmann, Project Manager for Boyle Engineering Corporation***

One bid was received for Contract 2 from Encore Construction Company. The bid was for the amount of \$88,900,000 compared to the engineer's estimate of \$72,000,000 for the project. Because the bid received is significantly greater than the Engineer's estimate, it is being evaluated in detail with Encore. Boyle is familiar with Encore from past and on-going projects and considers Encore to be well qualified for this work. Boyle

anticipates providing a recommendation either for award or re-bidding based on the ongoing negotiation with Encore at the March 9 Board meeting.

***Item 5. General Counsel=s Report***

Mr. Manson said Mosaic may file a petition to the Authority's mitigation permit. Legal Counsel has filed a petition for an extension of time to file a petition. The deadline is February 26. We understand they have been in contact with Authority staff to potentially request information regarding the permit.

***Item 6. Executive Director=s Report***

Mr. Lehman had nothing further to report.

Chair Staub said at the last meeting, the Board discussed sending a letter to the District requesting a joint meeting with Tampa Bay Water and the District's governing board. Mr. Dabney contacted her and requested the letter be postponed to give the District an opportunity for further discussion.

**MEMBER COMMENTS**

Chair Staub said she participated in a round table discussion at the Sun Herald concerning DEP's cumulative impact study. She asked Mr. Lehman to schedule a presentation by DEP for April or May at which time DEP likely will have issued their management plan.

Chair Staub said recently there has been some negative press about the peer review panel. She requested an update at the next meeting on the peer review process, when they will meet again, who they are and also some discussion toward the comments from the news media.

Chair Staub said the Authority seems to not have what she considers to be a business plan of being able to see financial outcomes and a process. She suggested forming a finance committee including the administrators and a financial representative from all of the member governments and North Port.

Mr. Lehman said the Authority has contracted with Burton and Associates to conduct a rate study and Mr. Burton will be presenting information at the afternoon workshop.

**PUBLIC COMMENTS**

None.

**FUTURE MEETINGS:**

Authority Board Meeting:  
10:00 a.m., Friday, March 9, 2007  
Commission Chambers, First Floor  
Manatee County Administrative Center  
1112 Manatee Avenue West, Bradenton, Florida

**Adjournment**

There being no further business to come before the Board, the meeting adjourned at 12:05 p.m. Chair Staub announced lunch was being provided for everyone and the workshop would follow. She requested the City of North Port sit at the table for the workshop.

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The Honorable Shannon Staub, Chair