

APPROVED

Minutes of Board of Directors Meeting
PEACE RIVER/MANASOTA REGIONAL WATER SUPPLY AUTHORITY
Manatee County Administrative Center
1112 Manatee Avenue West, Bradenton, Florida

October 5, 2005

Board Members Present:

Commissioner Patricia Glass, Manatee County, Chairman
Commissioner Jerry Hill, DeSoto County, Vice Chairman
Commissioner Shannon Staub, Sarasota County
Commissioner Adam Cummings, Charlotte County

Staff Present:

Patrick J. Lehman, Executive Director
Douglas Manson, General Counsel
Kevin Morris, Chief Engineer
Susan Hochuli, Water Resource Planner
Ray Pilon, Governmental Affairs Coordinator
Sam Stone, Environmental Affairs Coordinator
Edward Yates, Fiscal Manager
Linda Stewart, Executive Secretary

Others Present:

A list of others present who signed the attendance roster for this meeting is filed with the permanent records of the Authority.

Call To Order:

Chairman Glass called the meeting to order at 10:00 a.m.

Chairman Glass recognized the elected officials seated in the audience who included Commissioner Tom Moore, Charlotte County; Commissioner Delma Allen, DeSoto County; Commissioner Jon Thaxton, Sarasota County; and Commissioners Rue Berryman, Barbara Gross and Fred Tower, City of North Port; as well as former commissioners Don Ross, Charlotte County and Bob Allen, DeSoto County. Chairman Glass also recognized Ed Chance, Tom Dabney and Janet Kovach, SWFWMD Governing Board members and Sonny Vergara, former executive director of the Authority.

Former Commissioner Bob Allen took this opportunity to congratulate the Board on their diligent efforts toward regional water planning and the signing of the Master Water Supply Contract.

RECOGNITION:

The Authority recognized September 24, 2005 as National Estuaries Day.

Motion was made by Commissioner Cummings, seconded by Commissioner Staub, to approve Resolution 2005-07 'Recognition of September 24, 2005 as National Estuaries Day'. Motion was approved unanimously.

CONSENT AGENDA:

- Item 1. Meeting Minutes of September 7, 2005*
- Item 2. Check Register for Month of August 2005 (acceptance for further audit)*
- Item 3. Pay Range Annual Indexing Adjustment*
- Item 4. Award Bid for 'Reservoir Repair Vinyl Sheet Pile Project' to Marine Contracting Group for the amount of \$86,300*

Motion was made by Commissioner Hill, seconded by Commissioner Staub, to approve the consent agenda for October 5, 2005. Motion was approved unanimously.

REGULAR AGENDA:

- Item 5. DeSoto Facility Transfer Agreement (Project Prairie Well and Facilities) - Douglas Manson, General Counsel and Patrick Lehman, Executive Director*

Mr. Manson said the DeSoto Facility Transfer Agreement is in accordance with the Master Water Supply Contract (Section 21) and transfers the 'Project Prairie' well, wellhead and certain structures and equipment to the Authority including transfer of the water use permit. The exhibits attached to the Transfer Agreement pertain to the transfer itself and related real estate issues and include: 1) Well Access Easement Agreement, 2) Easement for Ingress and Egress and 3) Bill of Sale. There is a provision within the Transfer Agreement to allow the documents to be changed as may be necessary in order to effectuate the intent of the Transfer Agreement. The version of the transfer agreement presented had two additional changes that Mr. Manson read into the record and Mr. Manson had a conformed copy ready for signature. The changes were: 1) Paragraph 7. Title Evidence, reference to Paragraph 9 should read Paragraph 10 and 2) insertion of a new paragraph entitled No Waiver of Sovereign Immunity which states: "Nothing contained in this Agreement is intended to waive the Sovereign Immunity of either party or to inure to the benefit of any third party for the purposes of allowing any claim, lawsuit or legal proceeding which would otherwise be barred under the Doctrine of Sovereign Immunity for by operation of law." Mr. Manson said Sarasota County presented several comments to the agreement which he believed have been addressed satisfactorily. DeSoto County has reviewed the final version and is in agreement. With those two changes, Mr. Manson asked the Board to approve the Transfer Agreement.

Commissioner Staub referred to Paragraph 8 Survey and asked if the 15 days as set out was adequate time to obtain the survey.

Mr. Lehman said DeSoto County has a recent survey from when they acquired the facility and the Authority intends to use the same surveyor which will speed the process and he was confident the survey could be obtained within the allotted timeframe.

Commissioner Staub referred to Paragraph 9 Inspections which says the Authority will complete an inspection with 45 days and asked if that would include an environmental assessment.

Mr. Manson said DeSoto County recently did a phase one when they acquired the facility and it was clear and therefore, the phase one conducted by the Authority should take minimal time.

Commissioner Staub asked if staff was confident there are no environmental issues because the Authority

would then have to pay for them to be cleaned up.

Mr. Manson said the Authority would not be solely responsible for contamination on the property, if any were found. DeSoto County will retain ownership and responsibility under the environmental regulations. In the Easement Agreement there is joint indemnification. If the Authority causes an environmental problem then they are responsible for remedial action and the same for DeSoto County.

Commissioner Staub referred to Paragraph 11 Obligations at Closing which states Buyer will deliver at closing payment pursuant to Paragraph 6(A) Purchase Price. Commissioner Staub asked what the payment would be.

Mr. Manson said Paragraph 6(A) references the fact that it is a credit.

Commissioner Staub said therefore the \$800,000 would be credited in one lump sum.

Mr. Manson said yes.

Commissioner Staub asked where the monies would come from.

Mr. Lehman said the money would be distributed the same as the REP capital debt service payment and is spelled out in Paragraph 21 of the Master Water Supply Contract.

Commissioner Staub referred to Paragraph 16 Litigation and Attorney's Fees and said it was her understanding the Authority cannot commit to pay another party's attorney expenses.

Mr. Manson said the Attorney General has said governments should not have an attorney fees provision because it could act as a waiver to the sovereign immunity cap of \$100,000 and that is why the No Waiver of Sovereign Immunity paragraph as previously discussed was added. Mr. Manson pointed out there is also an attorney fee provision in the Master Water Supply Contract along with a no waiver of sovereign immunity provision.

Commissioner Staub said she did not see reference to DeSoto County's consent to transfer the permit in the agreement and asked how that would be handled.

Mr. Manson said SWFWMD looks at this as an ownership transfer. It is simply a form that needs to be filed. It will actually be a co-permittee status because DeSoto County is still the owner of the property. The permit cannot be transferred until the property transfer is finalized. There is a provision that DeSoto County will help the Authority effectuate the transfer. Mr. Manson said in his experience he has never encountered difficulty transferring a permit when you take property ownership and there is no change to the permit.

Referring to Commissioner Staub's question on the environmental assessment, Commissioner Cummings said he also had the same question and referred to Paragraph 14 Condition of Property and asked Mr. Manson if the Authority does not need to worry about the conditions of the soils, etc. why does this paragraph reference it specifically.

Mr. Manson said this is a provision that is in most real estate contracts. He said he did not say the Authority does not need to worry about it. That is why a phase one will be conducted. It will also be part of the inspection. If something is found, the choice is going to be either DeSoto County fixes it or the Authority makes the decision not to take the property.

Commissioner Cummings said it still comes back to the fact that it needs to be determined on the front end because once it closes, then it is the Authority's problem.

Mr. Manson said from a real estate standpoint, the Authority can get a refund of the \$800,000 after closing. From the standpoint of a regulatory agency, DeSoto County is the owner of the property and is responsible. The Authority is also responsible and hence the purpose of the indemnification provision.

Motion was made by Commissioner Staub, seconded by Commissioner Hill, to approve the 'DeSoto Facility Transfer Agreement'". Motion was approved unanimously.

*Item 6. Water Sale and Storage Agreement (Authority, Charlotte County and Sarasota County)
- Douglas Manson, General Counsel and Patrick Lehman, Executive Director*

Mr. Manson said the Water Sale and Storage Agreement is between Charlotte County, Sarasota County and the Authority to resolve the Water Sale and Purchase Agreement between Charlotte and Sarasota dated March 8, 1996. The Water Sale and Storage Agreement provides that the 2 mgd is going to revert back to Charlotte County as specified in the agreement on an incremental basis. In addition there will be a storage of water that will be reserved for Sarasota for a time period which basically gives Sarasota County the assurance they won't run out of water by virtue of giving up this water for which they had a contractual right to keep until 2010.

Commissioner Cummings said Charlotte County supports the agreement and has approved it. However, Commissioner Cummings said there are reliability issues that may stem from implementing this agreement and expressed his concerns regarding system capacity issues. Commissioner Cummings said a strategy needs to be implemented to deal with the fact the reliability of the system may not be there.

Commissioner Staub suggested a future agenda item for this discussion.

Motion was made by Commissioner Staub, seconded by Commissioner Cummings, to approve the 'Water Sales and Storage Agreement'. Motion was approved unanimously.

*Item 7. Regional Expansion Program Master Water Supply Contract - Douglas Manson,
General Counsel and Patrick Lehman, Executive Director*

- a. Amended Interlocal Agreement for the Peace/River Manasota Regional Water Supply Authority*
- b. Peace River/Manasota Regional Water Supply Authority Master Water Supply Contract*
- c. Resolution 2005-08 'Resolution Setting Forth Rate Setting Methodology'*

Mr. Manson said the Settlement Agreement with North Port, which was a pre-condition of the Master Water Supply Contract, had been signed. The lawsuit being settled, the Authority was ready to move forward with the Master Water Supply Contract. Mr. Manson asked if there were any questions.

Referring to the Resolution Setting Forth Rate Setting Methodology, Commissioner Staub said she wanted to be clear on the common rate reference as it relates to maintenance and repairs and what the

impact will be to all of the customers.

Mr. Manson referred to the Master Water Supply Contract, Section 1 Definitions, 1.6 Base Rate Charge, which states “The Base Rate Charge also includes the Fixed Operations and Maintenance Costs budget by the Authority for expanding, operating, repair and replacement, maintaining and securing the Authority Water Supply Facilities regardless of the quantity of water, if any, being produce or delivered by the Authority, with such fixed costs being assessed proportionately in accordance with the annual average daily water allocation.” Mr. Manson said the impact is the same to everyone based on what you buy.

Commissioner Cummings said he wanted to make sure he understood correctly that the repairs will be done under a common rate and there is no going back and amortizing out the capitalized cost of the original system capacity or the PRO.

Mr. Manson said that is correct.

Commissioner Cummings said it would require a change of the contract to do so. This is a prospective common rate we are talking about not retroactive.

Mr. Manson said what Commissioner Staub was discussing and what he was discussing was the base rate charge for fixed operation and maintenance which includes repairs and replacement. What Commissioner Cummings is discussing is the debt service cost and Charlotte County’s capital component which are fixed in this contract by virtue of the schedule at Exhibit F which gives the percentages.

Commissioner Cummings said that was his understanding. He wanted to be perfectly clear because it is a big ticket item.

Mr. Manson said any change to Exhibit F which changes the cost allocation per customer for each one of the 1991 facility, PRO or the REP would take a written change to the contract.

Chairman Glass asked North Port City Commissioner Gross to come forward as she requested to address the Board and as she came forward Chairman Glass said she wished to take this opportunity to personally thank the administration and staff of the four counties. She said she was impressed by the people that we worked with and by the staunch discussions that came forth but always to the good of the whole system so this really is an historic day in this region.

Commissioner Gross said she fully agreed with Chairman Glass. Commissioner Gross said the City Commission approved the Master Water Supply Contract however were concerned about how the City would actually receive the water. The City has now been assured by the Authority and by the District that this will happen. She said the City may be making a big deal out of delivering these signature pages to the contract but think it is a big deal. This is a big deal in regional cooperation. It shows that when we really want to work together we can make it happen. This has been an arduous thing but feels some very good decisions were made for the whole region and it will show in the years to come. She thanked the Authority and SWFWMD.

Chairman Glass suggested the Authority keep this kind of communication because there are some serious growth problems in this region and would urge that we have an opportunity for at least four counties, and whoever is in the Water Planning Alliance, to start talking seriously because these matters are very well related and growth is about those kinds of infrastructure issues.

Commissioner Hill said this is a great day. It's been a long pull to get to where we are at but through all the troubling and stressful times the Authority ended with a great plan for the future. Commissioner Hill said its great when people can work together and can trust their neighbors and partners. This is an important accomplishment and the Authority can take this experience and make the next projects much easier.

Commissioner Cummings said I'm just glad it's done.

Commissioner Staub said there were 27 elected officials who signed off on this and that is a real accomplishment and having those 27 elected officials on board is extremely important . We have laid the foundation but now we have to build the house and as Commissioner Hill said the seeds of trust have been planted and if we can grow those then the future will be a lot easier than the past has been.

At this time, the board members moved forward for the contract signing and commemorative photograph.

Motion was made by Commissioner Staub, seconded by Commissioner Hill, to approve the 'Second Amended Interlocal Agreement Creating the Peace River/Manasota Regional Water Supply Authority'. Motion was approved unanimously.

Motion was made by Commissioner Staub, seconded by Commissioner Hill, to approve the 'Peace River/Manasota Regional Water Supply Authority Master Water Supply Contract'. Motion was approved unanimously.

Motion was made by Commissioner Hill, seconded by Commissioner Staub, to approve Resolution 2005-08 'Resolution Setting Forth Rate Setting Methodology'. Motion was approved unanimously.

Item 8. Regional Expansion Program Status Report - Kevin Morris, Chief Engineer

a. Peace River Facility Expansion (Consultant - Boyle Engineering Corporation "Boyle")

Mr. Morris said Boyle has completed the Basis of Design Report and Preliminary Design which has been distributed to the member staffs and the City of North Port. It is anticipated Boyle will present this information at the November Board meeting for approval. Staff is negotiating the final design scope and fee and it is anticipated this work order will be presented for approval in November.

b. Regional Reservoir Expansion (Consultant - MWH Americas, Inc. "MWH")

Mr. Morris said MWH has submitted the reservoir 30% design documents to the Authority staff for review. In addition HDR, the Authority's continuing engineering consultant, is conducting a value engineering effort on the Reservoir 30% Design. It is anticipated the review comments will be given to MWH in the next week. Once the report is finalized, it will be distributed to the member staffs. The ERP permit application for the mitigation construction project has been completed and submitted to FDEP. The permit application to the United States Army Corps of Engineers has also been submitted. Staff is negotiating the final design scope and fee and it is anticipated this work order will be presented for approval in December.

c. DeSoto County Regional Pipeline Extension (Consultant - PBS&J)

Mr. Morris reported all pipe has been installed, pressure tested, disinfected and has passed the required

bacteriological testing and DEP has cleared the pipe for service. The final tie-in and transfer of water is being coordinated with DeSoto County. Over the next month, final cleanup and paperwork will take place and the contractor will demobilize. Liquidated damages cannot be resolved until final completion is reached.

Commissioner Hill said it is great the pipeline is complete. It is good for DeSoto County and for the region.

Item 9. *Authorization for HDR Engineering, Inc. For Value Engineering Services for the Regional Expansion Program - Peace River Facility Expansion Project - Kevin Morris, Chief Engineer*

Mr. Morris said the use of the EPA funding for the Peace River Facility Expansion project requires the performance of a formal Value Engineering Study in accordance with federal guidelines. Staff has negotiated with HDR, the Authority's general engineering services consultant, to perform the value engineering study. This work will be funded through reserve funds and reimbursed through bond proceeds.

Motion was made by Commissioner Hill, seconded by Commissioner Staub, to authorize HDR Engineering, Inc. for value engineering services for Regional Expansion Program - Peace River Facility Expansion Project in the amount of \$74,650 and authorize the Executive Director to approve additional work on behalf of the Authority, as may be needed, up to \$10,000. Motion was approved unanimously.

Item 10. *Construction Project Delivery Alternatives - Michael Condran, HDR Engineering, Inc.*

Mr. Condran discussed the four most commonly used methods for delivering projects and reviewed schedule impacts, cost impacts, permitting impacts, level of owner control and potential risks for construction project alternative delivery methods as follows:

- \$ Design-Bid-Build (Traditional)
- \$ Design-Build
- \$ Construction Management at Risk
- \$ Design-Build-Operate

Mr. Condran said it is important to understand as you look at any given project with an eye toward design-build or some variation of design-build that you consider that early in the process. It is essential the thought process has been entered into long before you actually get to awarding design to an engineer.

Chairman Glass made the point that the type of project has a lot to do with the construction delivery alternative and, secondly, there must be a point person with whatever method is utilized.

Commissioner Staub asked Mr. Condran with the treatment plant expansion where he thought the Authority should be headed.

Mr. Condran said with the stage the design is at on the treatment plant expansion, the design-bid-build approach offers the best way through to project execution. For one of the other options, that choice would have had to been made twelve months ago.

Commissioner Staub asked how the Authority insures the most creative outside-of-the-box thinking for the plant expansion.

Mr. Condran said the value engineering process will offer a significant amount of benefit. It is a very constructive hard hitting week-long process where all the stakeholders and technical experts sit down at the table and look at the preliminary design documents and work in a collaborative effort to identify and discuss creative ideas. Mr. Condran said it is anticipated that week long session will take place in November and at the end of the week and as all the experts are convened at the table all of the collective wisdom of that group is documented in a report. The report would be issued literally the following week.

Mr. Lehman said that same process was done with the Peace River Option. It was an intensive week and they did come up with some very unique and cost saving concepts.

Commissioner Cummings said in the course of the value engineering process he would hope that we would take advantage of some of the ideas that were presented in CDM's bid package.

Mr. Lehman responded that the consultant looked at multiple alternatives and those are evaluated within the BODR. That report as previously mentioned has been distributed to all of the utility staffs to review exactly what those alternatives are and what Boyle is proposing.

Item 11. Hydrologic Conditions/Water Supply Conditions Report - Sam Stone, Environmental Affairs Coordinator

Mr. Stone reported the average rainfall for the month of September in the Peace River Basin was 3.6 inches and the average river flow recorded at the Arcadia gage station was 1,273 cubic feet per second (cfs). Mr. Stone pointed out the river flow has not reached the low flow cutoff level of 130 cfs all year. As of the end of September, the reservoir was 90% full and reserves in the wellfield system total approximately 2.9 billion gallons (39% of the wellfield system capacity). The 2.9 billion gallons is an all-time record high. Combined reserves total 3.5 billion gallon which, based on current demand, is equivalent to approximately 214 days of supply. That number is also higher than the past and is usually in the 175 day range. Customer average demand for September was 16.4 mgd. The 12-month moving average demand was 16.4 mgd.

The Climate Prediction Center forecasts rainfall will be normal over the next three months.

Item 12. Water Planning Alliance Update - Susan Hochuli, Water Resource Planner

Ms. Hochuli said the draft Phase II Report of the Water Planning Alliance Regional System Planning and Engineering Study has been submitted to the District for comment. The draft report has also been provided to the Alliance member governments. The next Water Planning Alliance Board event is scheduled for Thursday, October 27, at the Manatee Civic Center in Palmetto. The event includes an exhibition of water conservation measures practiced in the Alliance area beginning at 9:00 a.m. followed by the Board meeting at 10:00 a.m. In support of the water conservation exhibition, each Alliance member has been invited to provide an exhibit showcasing their water conservation initiatives and programs. This invitation has also been extended to the District, the Florida Department of Environmental Protection and other water user types such as agriculture, industry, mining and recreational. Also, a comparison of residential water rates from the local governments is being compiled for distribution to the attendees.

The agenda for the Board meeting will not only include a briefing about the Alliance Study Phase II Report but also the Regional Integrated Loop System the Authority has underway and regional supply strategy, also known as the GAP plan. There also will be a presentation on the state-wide water

conservation effort that has been spearheaded by DEP in conjunction with the five water management districts and also several speakers talking about Senate Bill 444. The meeting should be very informative and Ms. Hochuli encouraged the Board members and their respective commission members attend.

Item 13. Governmental Affairs Staff Report - Ray Pilon, Governmental Affairs Coordinator

In the area of outreach, Mr. Pilon said in conjunction with HDR Engineering, the Authority conducted a brown bag workshop. It was their first effort to do a workshop of this type regarding topics that are pertinent to the individual staffs and this one dealt with water loss prevention and water quality and corrosion control issues. The Water Planning Alliance TAC members and staff were invited to attend. There were 22 in attendance.

Mr. Stone submitted this year's newspaper insert for an award in the conservation area at the Florida Section AWWA conference in November.

Mr. Lehman attended the most recent SWUCA workgroup meeting. There continues to be a lot of questions from the governing and basin board members as well as the work group. However, it is anticipated a vote will be taken in January.

At the Governing Board meeting, the draft MFL schedule was presented. The proposed schedule as well as the schedule of meetings are available on the Districts website at watermatters.org.

There will be an in-depth discussion on the funding issues surrounding Senate Bill 444 at the Water Planning Alliance meeting on October 27. Diane Salz, the Authority's governmental representative in Tallahassee, is already hard at work because there is a 'glitch' bill that has been filed. The glitch bill that has been filed actually is the growth management bill. The section of the bill that deals with water concurrency says the bill strengthens the link between development approval and water supply planning. Specifically, the potable water element must incorporate water supply projects identified by the local governments from the regional water supply plan. The District will be working closely as they move forward with the update of the regional water supply plan. They are going to look to the local governments and the Authority to move forward with them in creating that list. Prior to the approval of a building permit or its functional equivalent, a local government is required to consult with the applicable water supplier to determine whether adequate water supplies will be available to serve the new development at the point of certificate of occupancy. As far as Senate Bill 444, they are working very hard in committee particularly the House Growth Management Committee. They are taking input from the stakeholders as well as their committee members on how to make the process of distributing the money smoother and to insure there are no unfair balances.

Item 14. Routine Status Reports

- a. Short-Term Water Supply Opportunities and Regional Strategies***
- b. Regional Integrated Loop System Feasibility/Routing Study***
- c. Alternative New Source Development Projects***
- d. Horse Creek Stewardship Program***

These reports are presented for the Board's information.

Referring to the report on the Short-Term Water Supply Opportunity and Regional Strategies, Commissioner Staub said she assumed staff was pursuing the potential supply opportunities with Punta

Gorda (Shell Creek), Sarasota County (Carlton) and North Port (Myakkahatchee Creek).

Mr. Lehman said yes. A meeting was held last Friday with the District and staff from each of those parties plus Manatee County and DeSoto County. Everyone is committed and we are taking steps to move forward.

Commissioner Staub requested expanding the detail in the monthly report so the Board has a better handle on what steps are being taken on those three specific projects.

Commissioner Staub said now that the Master Water Supply Contract is signed could a scope of the programs and timing be prepared for distribution to the Board.

Mr. Lehman said yes and in fact HDR has been tasked with that.

Item 15. General Counsel's Report

As previously reported on the Ona Mine case, the Administrative Law Judge issued his ruling in May 2005 that the DEP should issue Mosaic a permit for the mine provided the permit include a series of special conditions suggested by the ALJ. Mr. Manson said DEP Secretary Castille took the unusual step a few months ago to remand the case back to the ALJ. The one-week remand trial is scheduled to begin on Monday. Mr. Manson said a remand trial is very unusual so we are 'cutting new ground'. At this point, he is in the middle of depositions and discovery in preparation of the trial.

Regarding the Wingate Creek Mine located in eastern Manatee County, Commissioner Staub asked how involved Mr. Manson felt the Authority might be in this project.

Mr. Manson said at this time we are just monitoring it. The difficulty lies in that Mosaic is taking over IMC and counsel has been inundated with modification applications. We have received about 10 of them in the last 3 months and typically they are minor modifications to existing permits but we are monitoring this I have not commented on the renewal at this point. Mr. Manson said he would continue to work with Sarasota County's legal staff.

Mr. Manson's written report on all phosphate matters is filed with the permanent records of the Authority.

Item 16. Executive Director's Report

Mr. Lehman said it was a privilege to be a part of the Authority in these historic moments and bringing the contract to conclusion and thanked everyone who participated.

MEMBER COMMENTS

None.

PUBLIC COMMENTS

None.

ANNOUNCEMENTS

Next Authority Meeting:

10:00 a.m., Wednesday, November 2, 2005
County Commission Chambers, First Floor
Sarasota County Administration Center
1660 Ringling Boulevard, Sarasota, Florida

Adjournment

There being no further business to come before the Board, the meeting adjourned at 11:50 a.m.

The Honorable Patricia M. Glass, Chairman