

# ***APPROVED***

Minutes of Board of Directors Meeting  
**PEACE RIVER/MANASOTA REGIONAL WATER SUPPLY AUTHORITY**  
DeSoto County Administration Building  
201 East Oak Street, Arcadia, Florida

September 7, 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 Commissioners Garner, Neads and Wells from DeSoto County and Commissioners Gross and Tower from the City of North Port. Chairman Glass also recognized Gene Heath, SWFWMD Assistant Executive Director and Ed Chance, SWFWMD Governing Board.

## ***CONSENT AGENDA:***

- Item 1. Meeting Minutes of August 3, 2005***
- Item 2. Check Register for Month of July 2005 (acceptance for further audit)***
- Item 3. Authorization for EarthBalance for Continuation of Technical Services Oversight of the Horse Creek Stewardship Program***
- Item 4. Transfer from R&R Reserve Account for Miscellaneous Rehabilitation/Replacement***

- Projects in the amount of \$206,978.38*
- Item 5.** *Charlotte County Transfer of 25 MG Water Allocation to the City of North Port for FY05 at No Cost*
- Item 6.** *Authorization for Executive Director to approve up to \$25,000 of as-needed Engineering Services for HDR Engineering, Inc. in accordance with the Agreement for Professional and Technical Consultant Services between the Authority and HDR Engineering, Inc. for General Engineering Services*

**Motion was made by Commissioner Cummings, seconded by Commissioner Staub, to approve the consent agenda for September 7, 2005. Motion was approved unanimously.**

**REGULAR AGENDA:**

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

A workshop was held on August 29, 2005 to discuss the Regional Expansion Program Master Water Supply Contract (MWSC) and the Second Amendment to the Interlocal Agreement creating the Peace River/Manasota Regional Water Supply Authority. Along with the member counties, the City of North Port participated in the workshop. There were a number of changes requested to the documents as presented. The documents were revised accordingly and distributed by Mr. Manson on September 1. For today's presentation of the finalized documents, Mr. Manson prepared a summary of the workshop discussion outlining the issues and the proposed changes requested which is filed with the permanent records of the Authority.

Mr. Manson said subsequent to the documents being distributed on September 1, some additional changes were requested and the documents were revised yet again. Some grammatical and typographical errors were also corrected. Additionally, the customers had the ability to change their new water supply demand tables until September 6 and some changes were received on those as well. Mr. Manson used the overhead projector to reference the changes as he reviewed them.

For purposes of this discussion, Chairman Glass requested two representatives from each of the member counties and the City of North Port come forward from the audience and be seated at the front of the room to participate with the Board in resolving any remaining issues to the MWSC. Chairman Glass requested any comments or concerns be expressed as Mr. Manson reviewed each of the changes.

Mr. Manson reviewed the changes as follows:

**Redistribution Pool**

- Distributed on pro-rata basis on new water supply demands (Section 10.5.1 of MWSC)
- Clarify that the redistribution cannot be used to remove a customer's water allocation (small revision was made as the MWSC already provides the following statement: "Nothing herein shall be construed to require any customer that timely responds to the Notice of Available Water to provide any of its Water Allocation to the Redistribution Pool." (underlined language is new language)
- Clarify that redistribution of water cannot exceed total system capacity (Section 10.5 of MWSC)

## COMMENTS

Commissioner Cummings asked Mr. Manson to review the comment he made referencing the Authority shall not be distributing more than the permitted capacity.

Mr. Manson said the Authority cannot reallocate or redistribute water that has not been made available by one of the customers and referred to the language in Section 10.5 'Authority Water Transfers' as follows: "The Authority shall not transfer more water than the amount of Available Water placed in the Redistribution Pool."

Commissioner Cummings then called the re-rating process into question noting that the Authority cannot distribute more than the permitted capacity without a re-rating process.

Mr. Manson said that is correct. The treatment capacity of the PRF cannot be increased without modifying the permit or the Authority would be in violation of the DEP requirements. Mr. Manson said the question Commissioner Cummings has which will be discussed later as well is if a re-rating of the PRF is always going to happen if the capacity is increased. The answer technically is 'yes' because the permit has to be modified but a re-rating is typically thought of as not a lot of changes required and then being able to increase (or decrease) plant capacity. If you wanted to cover both issues, you could do a re-rating or a permit modification of the plant capacity.

### Planning Process

- Remove provision allowing Customers to resubmit demands by January 15<sup>th</sup> date (Section 11.2 of MWSC)
- Can submit revised demands by September 6 - no contract revision necessary
- Clarify language that Authority is required to develop and provide water provided for in Tables B and C, including projected 7 year quantities (Sections 10.1 and 11.2 of MWSC)
- Make provisions consistent that the Authority has an absolute and unequivocal requirement to provide water subject to payment (Section 10.1 of MWSC)

## COMMENTS

Commissioner Staub asked Mr. Manson what the major thrust of the change was in this section from the September 1 version to today's version.

Mr. Manson said the major thrust was to revise the language from being negative to being affirmative saying the Authority absolutely and unequivocally has to develop and provide the water subject to it being paid for and it being a permissible water supply.

### Purchase Water From Other Providers

- A new provision stating that the Authority is not prohibited from purchasing water from other water providers (Section 53 of MWSC)

NO COMMENTS

Veto Provision

- Clarify that veto power includes expansion of existing facility and new water supply sources (Section 22 of MWSC and Section 8.2 of Interlocal Agreement)
- Revise definition of water supply sources (Section 1.45 of MWSC and Section 1.23 of Interlocal Agreement)

NO COMMENTS

DeSoto Pipeline

- Clarify that DeSoto pipeline is pipeline to WalMart distribution Center. Clarify how financing occurs (Exhibit B of MWSC)

NO COMMENTS

Alternative Delivery

- A new provision providing that the Authority will consider alternative delivery, such as design-build, when developing new Water Supply Sources, including REP (Section 13 of MWSC)

NO COMMENTS

Charlotte County Oversized Facilities Payment

- Clarify that this provision does not create a separate obligation, just continuation of an existing obligation that is included in REP debt (Financing Documents) (Section 1.9 and 18 of MWSC)

COMMENTS:

Mr. Bullock suggested paying Charlotte County the \$311,059.00 now rather than financing this amount and paying Charlotte County at bond closing as this dollar amount would seem to be a workable amount that could be paid without incurring the additional debt.

Mr. Lehman said the monies could be paid from Reserves. It would be the Board's option.

Mr. Manson said if the Board chose to take action to pay the \$311,059.00 to Charlotte County from Reserves, then he would delete the reference in the MWSC.

**Motion was made by Commissioner Staub, seconded by Commissioner Hill, to refund Charlotte County their overpayment in the amount of \$311,059.00 from the Authority's Reserves Account and delete the reference in the Master Water Supply Contract, Section 18.1 "Payment for Oversized Facilities for the PRO". Motion was approved unanimously.**

Commissioner Staub asked Mr. Manson to review Section 18.2 “Payment for Oversized Facilities for the REP” where the Authority shall pay Charlotte County all remaining oversized facility charges upon closing of the bond issuance for the REP.

Mr. Manson said Charlotte County initially purchased the PRF and transferred it to the Authority and the Authority pays Charlotte County for facilities that were not yet used. So the Authority makes oversized facility payments until the capacity of the PRF is maximized which is the REP. At the completion of the REP there will be no more oversized facility payments. The way the oversized facility payment was set up was Charlotte County, rather than financing and then paying back the money, takes a credit and that credit was based on the REP percentages. Charlotte County does not participate in the payment of the remainder of the oversized capacity payment because their amount was already taken out. Those percentages are set out in Section 18.2. For clarification purposes, a footnote was added to Exhibit F ‘Cost Allocation Percentages’ to refer to Section 18.2 where it sets out the different percentages for the remaining debt service on the oversized payment.

Commissioner Staub suggested adding another chart to Exhibit F that shows the oversize percentages rather than being referred to Section 18.2.

Mr. Manson said the difficulty in doing that on Exhibit F is that this chart is referred to a number of times throughout the MWSC and he would need to make sure it does not do damage to the other references. Mr. Manson suggested instead listing those cost allocation percentages in the footnote.

Commissioner Staub said Mr. Manson’s suggested change was agreeable.

Exclusive Provider Customer

- Cannot affect other Customers’ Water Allocations (Section 12.1 of MWSC)

NO COMMENTS

New Water Reservation Alternative

- Deleted provision and definition.

NO COMMENTS

Sarasota and Charlotte 2 MGD Contract

- Satisfaction of conflict must be resolved prior to the MWSC taking effect (condition precedent)

COMMENTS

Mr. Manson said he understands there was substantial progress made in a meeting held earlier this morning between Charlotte County and Sarasota County and asked Mr. Bullock to expound on their meeting.

Mr. Bullock said the Charlotte County and Sarasota County staffs met earlier this morning and reached general consensus around a set of concept points on how they would resolve this issue. It does involve each of the County Commissions but also would involve the Authority Board agreeing that the concepts

are acceptable and drawing up a formal agreement. Mr. Bullock said he would review the concepts and requested Mr. Baltz and the attorneys to interject accordingly.

Mr. Bullock said the existing contract between Charlotte and Sarasota counties will terminate. As part of that, another agreement would be crafted which would be a three-party agreement between Charlotte County, Sarasota County and the Authority. In that Sarasota County would agree to purchase from the Authority 2 mgd of the Charlotte County allocation for FY06. Sarasota County would pay the Authority directly for that water. The contract would relieve Charlotte County of the obligation to make that payment. Sarasota County would accept the obligation to make that payment but would in no way jeopardize the allocation that Charlotte County has. Sarasota County is not buying Charlotte County's allocation but buying that amount of water and paying the Authority. During FY06 a total of 730 mgal of supply would be reserved by the Authority for Sarasota County. Sarasota County would begin receiving this stored water in February 2008. Sarasota County will pay the Authority Base Rate Charge for this 2 mgd during FY06. Sarasota County will pay the Water Use Rate at the time the Authority delivers this water to Sarasota County. The issue here is Sarasota County does not need the water until FY08 when their contract with Manatee County steps down. It takes Charlotte out of the payment loop which has been one of the issues they have been trying to resolve. It would require the Authority to agree to store that water on Sarasota's behalf to be delivered under a set of agreed upon conditions during peak times in FY08, 09 and 10 or until the REP is producing water.

Following the Board discussion, it was determined to modify the language in the MWSC Section 4.1.6 to say "Notwithstanding Paragraphs 8.4 and 10.5 herein, Charlotte and Sarasota shall establish a means to settle their disagreement over the Water Sale and Purchase Agreement between Charlotte and Sarasota dated March 8, 1996" rather than 'must have settled' their disagreement.

Chairman Glass asked if there were any other issues.

#### Re-rating Regional Water System - Section 29

Mr. Manson said this provision is the idea if the PRF was re-rated at some point in the future and there was additional capacity, the benefit of that re-rating should go to those customers that hold a water allocation. The way the provision is set up now if we did a re-rating for the appropriate agency, the new re-rated capacity and any increase in capacity would then be distributed and paid for pro-rata by the people holding a water allocation. It is an attempt to address on a system-wide basis the possibility that might not just occur today but might occur in the future on other facilities that the Authority may own. Mr. Manson said Commissioner Cummings has an issue with this provision and wanted to give him an opportunity to see if there was an acceptable modification.

Commissioner Cummings said his issue with this provision is that when somebody purchases something they should be able to keep that related capacity. This provision goes a long way toward accomplishing that but there is an excess capacity issue that still exists. Charlotte County is paying 27% of the local match for 23% of the water basically because there is a very real potential (due to the new arsenic regulations) that the ASR wells may not be available. Therefore we are over-sizing the reservoir to deal with the reliability issue in the eventuality the ASR wells are not available. If the ASR wells do not go away or there is a regulatory fix that is a serious amount of money, then Charlotte County has paid for infrastructure (larger reservoir) that in a later expansion will go to the benefit of whoever is purchasing that portion of the expansion. If the ASR issue is resolved, Charlotte County has now paid millions of dollars for the replacement of that ASR capacity and all of a sudden the ASR well capacity is available again. Charlotte County should be compensated for receiving the ASR capacity back. Commissioner

Cummings said overall everybody is back to even with the sole exception of the extra 2 billion gallons in the reservoir. This provision deals with what happens if the whole system gets re-rated due to regulatory changes and does a good job of that but does not deal with a potential excess capacity of a single component.

Following the discussion on this provision, Mr. Manson suggested two changes to the verbiage 1) adding “or treatment capacity if modified” in the first sentence and 2) changing water allocation percentage to cost allocation percentage.

Chairman Glass asked if there were any other points to be addressed.

Commissioner Gross said she wanted to go on the record that the City of North Port and Sarasota County must come to agreement on the 42-inch pipeline in order for North Port to sign the MWSC.

Mr. Manson said he had not heard that position prior to this discussion and that condition has not been one that has been discussed over the last several months of negotiation. What has been done is to provide an alternative where either the Authority will build a separate pipeline for North Port and North Port will pay for it or the Authority, Sarasota and North Port will come to an agreement on the use of the 42-inch pipeline.

Commissioner Gross said I think we can work it out but just wanted to be sure it was on the record that would be something that North Port and Sarasota would be looking at and hopefully before the contract was signed.

Commissioner Staub said she was not optimistic that in one month’s time that could be accomplished but felt the good faith effort of coming together and trying to find some resolution to this certainly is there.

Mr. Zimmerman referred to Section 31 ‘Designation as Representative and Co-Applicant Status’ states the Authority and its customers shall be co-applicants for any SWFWMD water use permits needed for the Authority water supply facilities, which to that point is fine, but then goes on to say and water supply sources. The definition of water supply sources includes all the member sources so there is a problem with the Authority and all of the members becoming co-applicants. Mr. Zimmerman suggested either deleting ‘and water supply sources’ in this section (it occurs twice) or specify that it is going to be jointly developed water supply sources.

Mr. Manson suggested adding the word ‘Authority’ before water supply sources.

Mr. Zimmerman said that would resolve the issue.

Mr. Zimmerman referred to Section 1.6 ‘Base Rate Charge’ which refers to Exhibit B ‘Water Allocation’ which shows how the base rates will proportionately be settled, he suggested deleting that reference as the annual average daily water allocation will change over time.

Mr. Manson said Exhibit B under the MWSC is an evolving table. Under this new process, there will be an addendum to Exhibit B so it will change over time. New allocations, once they go from being a new water supply demand to an actual project, then the water allocation cost allocation tables will be changed and the allocations will be changed. Mr. Manson said he could delete the reference to Exhibit B.

Mr. Lehman referred to Exhibit G ‘Regional Expansion Program Proposed Project Plan’ and clarified the definition for ‘substantial completion’ which is ‘make water’ when there is beneficial use of the project.

Final completion is when all of the automated controls, shop drawings, etc. is complete. October 2008 is still the target date for substantial completion. It was also noted there was no Table 1 in this exhibit hence Table 2 becomes Table 1 and Table 3 becomes Table 2.

At this point, the Board recessed.

Following the recess, Chairman Glass reconvened the meeting and said Mr. Manson needed some additional time to finalize the changes discussed to the MWSC and in the meantime, the meeting would proceed with the agenda items. Following reports by Mr. Morris and Mr. Stone, Mr. Manson reviewed the final revisions to the MWSC as discussed.

Motion was made the Commissioner Staub, seconded by Commissioner Hill to approve for distribution today's computer generated Second Amended Interlocal Agreement creating the Peace River Manastion Regional Water Supply Authority.

Mr. Manson clarified the Second Amended Interlocal Agreement was as presented in the Board Book. Changes were made only to the MWSC.

Motion was made by Commissioner Staub, seconded by Commissioner Hill, to approve for distribution today's computer generated copy of the Master Water Supply Contract.

Commissioner Cummings said he was willing to vote with the motion but was not committing that he would recommend the contract to his BOCC until he had an opportunity to read the contract and knows for a fact the changes that were made are consistent with everything discussed.

**Motion was made by Commissioner Staub, seconded by Commissioner Hill, to approve for distribution to the Authority member counties for approval 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 for distribution to the Authority member counties and the City of North Port for approval the computer generated Peace River Manasota Regional Water Supply Authority Master Water Supply Contract. 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 Engineering has submitted the draft Basis of Design Report and the 30% Preliminary Design to the Authority staff for review. It is anticipated the final report will be available for distribution to the member/customer staffs for review in the upcoming week.

*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. It is anticipated the internal review will take approximately two weeks and the 30% Design Report and Drawings will be ready for distribution to the member/customer staffs in late September. HDR, the Authority's continuing engineering consultant, will also do a value engineering effort on the Reservoir 30% Design and it is anticipated that effort will not be completed until late September or early

October and any comments would then be incorporated into the final design. In the past month, staff has reviewed the draft Public Notice and accompanying documentation that will start the United States Army Corps of Engineers permitting process. It is anticipated these documents will be submitted later this month. The ERP permit application for the mitigation construction project has been completed and submitted to the Authority for review. It is anticipated the internal review will take approximately two weeks and the final application submitted to FDEP later this month. As previously discussed, there will be two ERP applications—one for the mitigation and one for the reservoir construction. The ERP application for the reservoir project cannot be submitted until the reservoir design is well on its way to completion.

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

Mr. Morris reported that all of the pipe has now been installed and has successfully passed the pressure test phase. Over the next few days, the pipes will be flushed and disinfected and then the bacteriological samples will be submitted to the state for clearance. Following clearance the final tie-in can be completed. Liquidated damages as of this date exceed \$250,000.

***Item 9. Construction Project Delivery Alternatives - Erin Hunt/Terri Holcomb, HDR Engineering, Inc.***

This item was deferred.

***Item 10. Hydrologic Conditions/Water Supply Conditions Report - Sam Stone, Environmental Affairs Coordinator***

Due to time constraints, Mr. Stone made his report very brief and noted that the average rainfall for the month of August in the Peace River Basin was 27% below the historical average; the average river flow which is recorded at the Arcadia gage station, was 12% above the historical average and the ASR wells are at 2.8 billion gallons which is an all-time record high. Customer average demand was 15.1 mgd.

***Item 11. Governmental Affairs Staff Report - Ray Pilon, Governmental Affairs Coordinator***

Due to time constraints, this report was not presented. Mr. Pilon's written report is filed with the permanent records of the Authority.

***Item 12. 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.

***Item 13. General Counsel's Report***

Due to time constraints, this report was not presented. Mr. Manson's written report is filed with the permanent records of the Authority.

***Item 14. Executive Director's Report***

Mr. Lehman had nothing further to report.

**MEMBER COMMENTS**

Commissioner Staub requested Mr. Manson forward the redlined version of the contracts to make them easier to review rather than the clean version.

**PUBLIC COMMENTS**

None.

**ANNOUNCEMENTS**

Next Authority Meeting:

10:00 a.m., Wednesday, October 5, 2005  
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 12:20 p.m.

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The Honorable Patricia M. Glass, Chairman