

Minutes of Board of Directors Meeting
PEACE RIVER MANASOTA REGIONAL WATER SUPPLY AUTHORITY
Charlotte County Administrative Building
18500 Murdock Cir, Port Charlotte, FL 33948

July 28, 2016

Board Members Present:

Commissioner Christopher G. Constance, Charlotte County, Chairman
Assistant County Administrator Mark A. Cunningham, Sarasota County, [Alternate]
Commissioner Elton A. Langford, DeSoto County
Commissioner John R. Chappie, Manatee County

Staff Present:

Patrick Lehman, Executive Director
Laura Donaldson, General Counsel
Mike Coates, Deputy Director
Kevin Morris, Science and Technology Officer
Richard Anderson, System Operations Manager
Ann Lee, Finance/Administration Manager
Ford Ritz, Project Engineer
Jessica Benson, Agency Clerk

Others Present:

A list of others present who signed the attendance roster for this meeting is filed with the permanent records of the Authority. Commissioner Constance recognized Charlotte County Commissioner Ken Doherty.

CALL TO ORDER

INVOCATION

PLEDGE OF ALLEGIANCE

PUBLIC COMMENTS

There were no public comments.

RESOLUTIONS/PRESENTATIONS

1. We've Come a Long, Long Way Video Presentation

A short video presentation was developed to commemorate the 25th anniversary of Peace River Manasota Regional Water Supply Authority's acquisition of the Peace River Facility. The video presentation included brief interviews of leaders who have help shape and advance the Authority and its regional water supply vision.

PUBLIC HEARING – BUDGET FOR FY 2017

- 1. Open Public Hearing**
- 2. Presentation of Budget for FY 2017**

Mr. Lehman gave a PowerPoint presentation on the proposed budget for FY 2017 for \$43,931,504. The proposed budget remains unchanged from the tentative budget approved in April.

Mr. Lehman went over the historical budget comparison for the past 5 years. Operating & Maintenance (O&M) costs and non O&M costs have remained constant through the years. The budget variance each fiscal year reflects capital improvement (CIP) projects for each respective budget year. Mr. Lehman reviewed the key aspects of the budget with the breakdown of water allocation, expenditures, and available funds.

Mr. Lehman stated that revenue primarily comes from water sales. The water rate is comprised of two components - the base rate charge [fixed cost based on water allocation] and the water use charge [based on actual delivery of water]. The base rate remains steady over past years while water delivery has increased. The water use charge will remain at \$0.74 for the sixth year in a row. Mr. Lehman also pointed out that the budget includes \$3.3M in grants for the Phase 1 Interconnect with Punta Gorda project and Phase 3B Interconnect with Sarasota.

The membership fee is for the administration of the Authority and has slightly increased. The customer planning assessment has also minimally increased.

Mr. Lehman said the proposed Budget for FY 2017 is \$43,931,504 and is presented for public comment and for Board consideration.

Commissioner Constance asked for clarification on the historical budget comparison chart showing O&M and non O&M costs and if these costs have decreased or stayed flat. Mr. Lehman confirmed that the O&M and non O&M costs have stayed flat and the difference in historical budgets has been the CIP costs budgeted. Commissioner Constance commented that the base rate being flat over the years and maintaining the water use rate at \$0.74 is a result of the Authority making upgrades and being more efficient.

Commissioner Constance inquired about the use of reserve funds in the budget. Mr. Lehman clarified that the reserve funds shown are from the R&R account. The Authority maintains other reserve accounts, including a Utility Reserve and Rate Stabilization Account that are fully funded and not included in the budget.

Commissioner Constance asked for confirmation that the reserve funds shown in the budget are then pre-programmed use of reserve funds, which Mr. Lehman confirmed.

Commissioner Constance pointed out errors on member fee chart for Charlotte and Desoto County in the presentation materials. Mr. Lehman confirmed the errors, gave the correct amounts contained in the budget noting that these will be corrected in the presentation materials in the record.

3. Public Comment

There were no public comments.

4. Close Public Hearing

Motion was made by Commissioner Chappie, seconded by Commissioner Langford, to close the public hearing. Motion passed unanimously.

BUDGET FOR FY 2017

1. Adoption of Budget for FY 2017

The proposed Budget for FY 2017 in the amount of \$43,931,504 was presented for Board consideration.

Motion was made by Commissioner Langford, seconded by Commissioner Chappie, to approve the Budget for FY 2017 in the amount of \$43,931,504. Motion was approved unanimously.

2. Resolution 2016-05 'Resolution Setting Forth Rates, Fees and Charges for FY 2017'

Resolution 2016-05 establishes the rates, fees and charges by the Authority for FY 2017 as established in the Budget for FY 2017.

Motion was made by Commissioner Langford, seconded by Commissioner Chappie, to approve Resolution 2016-05 'Resolution Setting Forth Rates, Fees and Charges for FY 2017'. Motion was approved unanimously.

CONSENT AGENDA

Commissioner Constance requested discussion on Consent Item 2 recognizing that it had been deleted from the Consent Agenda.

1. Minutes of June 1, 2016 Board of Director Meeting
2. MBDV P.A. Additional Legal Services [DELETED]
3. Resolution 2016-06 'Florida Water Professionals Month'
4. U.S. Geological Survey Joint Funding Agreement #17ESFL000000105

Motion was made by Commissioner Chappie, seconded by Commissioner Langford, to approve the consent agenda [Item No. 2 Deleted]. Motion was approved unanimously.

2. MBDV P.A. Additional Legal Services

Commissioner Constance said the original request for Item 2 was to provide funds for legal charges related to the Phase 1 Interconnect. Commissioner Constance wanted clarity on this issue. Item 2 was removed from the agenda after being addressed with Mr. Lehman in pre-agenda meeting. The board had previously discussed it is not funding the Phase 1 Interconnect pipeline project. In collaboration with MBDV, this issue was resolved. The breakdown of legal costs to-date is \$117,000 out of the \$180,000 maximum amount by contract and no action is required.

REGULAR AGENDA

1. Water Supply Conditions – Staff Report Presented by Richard Anderson, System Operations Manager

Mr. Anderson said for this reporting period through June 15th the basin received 5.5 inches in the past two weeks approaching normal conditions. River flow has been running in the range of 1,700 cubic feet per second [cfs] which is average at this time of year.

There were not river withdrawals in May. In mid-June, when the rainfall started the Authority started withdrawals to refill reservoir. Water storage in both reservoirs is 5.72 BG and there is 5.33 BG in the ASR system for a total of 11.05 BG in storage. Water quality and water quantity remains consistent for the last 2 years. Commissioner Constance asked if the water quality was consistent because of the treatment process or because the Authority is able to get better quality water. Mr. Anderson said they are keeping the same process on water treatment because the quality of water is good.

Regionally, Mr. Anderson said the Authority and its customers maintain close to 104 MGD of finished water supply capacity. For the month of June, the Authority produced about 24.59 MGD and the member utilities produced 43.81 MGD for a total regional production of 68.4 MGD which is about 65.3% of the region's capacity.

Commissioner Constance asked if the total capacity and production is consistent every quarter or if it changes. Mr. Anderson responded that capacity won't change unless there is a change in water use permits. Commissioner Constance requested to keep amount of total capacity and production from previous months on the chart for use as a reference in future presentations.

Mr. Anderson reviewed the current demand and supply conditions for each of the members and customers for the month of June including their twelve-month rolling average and their historical annual average usage for the last six years. Regionally demands are a little higher than last year but the Authority is still in a very good position.

2. Hurricane Preparedness- Staff Presentation

Mr. Kevin Morris gave a PowerPoint presentation on Hurricane Charley from the standpoint of regional water supplies. Pictures were included of storm damage at the Peace River Facility and the Shell Creek Water Treatment Plant.

It has been nearly 12 years since Hurricane Charley's landfall in Charlotte County. The storm rapidly intensified in the hours leading up to landfall on August 13, 2004. Charlie was originally expected to hit further northward along the coast in the Tampa Bay region but changed its path to the Port Charlotte area, catching many unprepared. The storm led to 10 deaths in the US, damaged or destroyed more than 23,000 homes and caused nearly \$16 billion in damage.

Mr. Morris discussed damage to local water supply systems from Hurricane Charley, lessons learned from that storm, and showed projects that were completed after the storm to bolster regional reliability and sustainability. Commissioner Constance said Hurricane Charlie was a learning experience for the community on how to plan, face a hurricane, and deal with the damages.

3. Orange Hammock Ranch Conservation – Update

Mr. Lehman said the Orange Hammock Ranch property is located in southeastern Sarasota County within the city limits of North Port. Administrators from Sarasota and New Port, representative from SWFWMD and the Authority met to discuss how this property could be purchased and managed for public use and environmental preservation. Mr. Lehman said no entity can purchase the conservation by its own. These discussions are ongoing and Mr. Lehman will provide updates in future board meetings.

4. Executive Director Annual Review Process

Commissioner Constance said forms of Executive director annual review have been updated. If the new form was adopted, the board will be using it for the evaluation in October. Commissioner Chappie said the form looks good and it is easy to use and understand.

Motion was made by Commissioner Chappie, seconded by Commissioner Langford, to adopt the new executive director annual review form. Motion was approved unanimously.

GENERAL COUNSEL'S REPORT

Ms. Laura Donaldson stated there has been a federal and state investigation regarding bid collusion by vendors on chemicals used in the past for water treatment. The Authority has provided documentation related to chemical bids to the attorney general office. Ms. Donaldson introduced Mr. Salem from Salem Law Group to provide more information about the case.

Mr. Salem said the chemical company the Authority used in the past for liquid alum was accused of price fixing and overpayments. He gave a brief explanation on class action. A class action allows many people with similar grievances to join together and file a lawsuit. A class action recovers money within 2 to 3 years. Mr. Salem said his legal fees are 33% of any award amount and it can be reduced or adjusted.

He also suggested a direct action where they determine cost of damages and proceed to litigation at no cost for the Authority. Mr. Salem introduced his colleague Dan Mason to provide more details about the case.

Mr. Mason said a criminal investigation on fixing and altering prices on chemical used for water treatment is in process. Executives of the company have been indicted. One executive pleaded guilty of price fixing and is waiting on criminal trial. Mr. Mason explained the difference between a class action and direct action.

Mr. Mason said it is strong case. He suggested a direct action because more money can be recovered, and payment is done right away. Mr. Mason also explained payments to his firm are not collected until funds are recovered. Mr. Mason clarified his firm does not take the case if they don't think they are going to recover the money. Also, he said all expenses are negotiated, and there is not financial obligation if funds are not recovered. Mr. Mason added, if expert testimony is needed and an expert needs to be hired; it will be discussed and approved by client. All expenses are taken from the recovery. Mr. Mason said as soon as the settlement is done, customer will get paid right away.

Commissioner Constance asked what the disadvantages were to file a private action. Mr. Mason said if it was small purchase and there were not enough damages, a lawyer may not take the case.

Commissioner Constance asked what the amount was to file the action. Mr. Mason said there was \$11M

in purchases of liquid alum over the years. Salem Law Group will demand the amount of purchases plus damages. The recovery can be triple the damages. Mr. Mason said the percentage of legal fees of recovery is negotiated.

Commissioner Constance also asked if they can change to class action if the attorney general decides to file a case. Mr. Mason said lawyers can be terminated at any time.

Commissioner Constance also asked if the Authority's legal counsel expenses to handle the contract are included on the recovery expenses. Mr. Mason said it can be negotiated.

The board gave consent to proceed with negotiations. Motion was made to give the authorization to the counsel to hire this law group and negotiate the contract and experts.

Motion was made by Commissioner Langford seconded by Commissioner Chappie, to proceed with lawsuit. Motion was approved unanimously.

EXECUTIVE DIRECTOR'S REPORT

Mr. Lehman introduced Jessica Benson, new employee for the Agency Clerk position and announced Linda Stewart is retiring on August 31, 2016.

ROUTINE STATUS REPORTS

Routine status reports are provided for informational purposes and no presentation is made.

1. Hydrologic Conditions Report
2. Check Registers for May 2016 and June 2016
3. Regional Integrated Loop System Phase 1 Interconnect [U.S. 17 to Punta Gorda]
4. Regional Integrated Loop System Phase 3B Interconnect [S.R. 681 to Clark Road]
5. Partially Treated water Aquifer Storage & Recovery Concept

BOARD MEMBER COMMENTS

There were no board member comments.

PUBLIC COMMENTS

There were no public comments.

SCHEDULE OF FUTURE MEETINGS

Next Authority Board Meeting


Wednesday, October 5, 2016 @ 9:30 a.m.
Sarasota County Administration Center
Commission Chambers, First Floor
1660 Ringling Boulevard, Sarasota, FL

Future Authority Board Meetings

December 7, 2016 @ 9:30 a.m. – Manatee County Administrative Center, Bradenton, Florida

Adjournment

There being no further business to come before the Board, the meeting adjourned at 11:17 a.m.


Commissioner Christopher G. Constance
Chairman

BOARD APPROVED

OCT - 5 2016

Peace River Manasota
Regional Water Supply Authority