

BOARD OF COUNTY COMMISSIONERS

AUGUST 3, 2006

A special meeting of the Board of County Commissioner was held at the Murdock Administration Complex in Room 119, Port Charlotte, Florida. The following members were present: Chairman Moore, Commissioner D'Aprile, Commissioner Cummings, and Commissioner DeBoer. Also in attendance were County Attorney Knowlton, Assistant County Administrator Baltz, Chief Deputy White, Executive Assistant Hunter, and Minutes Supervisor Nice. The following members were absent: Commissioner Devos. The meeting was called to order at **12:30 PM**.

COMMISSIONER DEBOER MOVED TO WAIVE THE BOARD RULES TO SET AND HOLD THIS SPECIAL MEETING DUE TO CIRCUMSTANCES AS A RESULT OF MULTI-JURISDICTIONAL MEETINGS DEALING WITH IMMEDIATE RESOLUTION OF WATER INTERCONNECT ISSUES, SECONDED BY COMMISSIONER CUMMINGS. Motion Carried 4:0. ABSENT: Commissioner Devos.

I. Citizen Input

Chairman Moore announced public input procedures.

Suzy Hackett encouraged the Board to reach a peaceful agreement with the City of Punta Gorda on behalf of City and County residents.

Rufus Lazzell requested the Board remove its veto to the pipeline from Desoto County and first right of refusal language in the agreement in order to have funding for projects included in the Peace River Basin Board budget.

Chairman Moore asked for additional comments and there were none from the public or opening comments from Board Members.

II. Discussion and direction regarding the Punta Gorda Water Interconnects

Chairman Moore read a proposed change to be made in the County's status at the Peace River/Manasota Regional Water Supply Authority (Authority) from a conventional full voting member to a sole source full voting member to be conditioned on (1) the County will withdraw their current veto to the Authority/Punta Gorda Pipeline; (2) Southwest Florida Water Management District (SWFWMD) will approve \$5,000,000 in funding for the Authority/Punta Gorda Pipeline; (3) SWFWMD will approve \$1,500,000 in funding for capacity improvements to the Punta Gorda Shell Creek Plant facility; (4) Peace River Water Basin will approve \$2,500,000 in funding for an emergency line from Charlotte County to the City of Punta Gorda; (5) all funding is to take place in the fiscal year beginning October 1, 2006; (6) all five conditions must be collectively approved; (7) with regard to the Water Supply Demand chart showing Charlotte County water supplied by the Burnt Store Plant at 1.127 mgd in 2006 and 2007 and 2.500 mgd in 2008 and future years, the water supplied by the Burnt Store Plant and Rotonda facilities and potential water supplied from the Englewood Water District (EWD) will not be considered a violation or deviation to the "sole provider" clause; (8) Charlotte County will immediately work with the Authority to resolve future short falls as they are beyond the seven-year forecasting cycle; and (9) Charlotte County requests SWFWMD, the Authority, and all four member counties to pledge their support to an expanded Peace River Basin Study to determine all uses and their impacts on critical water resources to protect the Peace River. **Chairman Moore** stated this proposal will save money that might be spent more effectively on other projects and requested input from Board Members.

Commissioner D'Aprile expressed support for the conditions as long as Charlotte County is protected in relation to future water shortages; referenced Item 1 on the water demands with a shortfall anticipated in 2013; and stated all the member

counties should join together and serve on a regional basis. **Commissioner D'Aprile** commented on the importance of assuring that Charlotte County's water needs are met; stated potential water interconnects would be options to address future water shortages; a change is necessary to make this a regional effort comprised of all members; and Charlotte County should join so long as future water needs are met.

Commissioner Cummings requested input from David Moore. David Moore, SWFWMD Executive Director, stated he just reviewed the 9 conditions and opined SWFWMD can support them but asked for a few minutes to make a telephone call and come back with affirmation.

Commissioner Cummings expressed support for the conditions to remove the veto and first right of refusal language; stated condition #3 does not provide any benefit except the Authority will need to provide for the water needs of Charlotte County; and explained water available from the Burnt Store Road facility is closer to 6mgd or 7mgd than 2.5 mgd. **Commissioner Cummings** indicated if Charlotte County is to become an exclusive customer, significant changes would be necessary regarding development of alternative water sources; expressed opposition to condition #3; agreed with **Commissioner D'Aprile** that all members should be participants; if not, at a minimum, a guarantee would be needed to make sure that Charlotte County water shortfall needs are met before needs of non-exclusive members; and pointed out Charlotte County citizens would be put at a severe disadvantage on a permanent basis under the proposed conditions. **Commissioner Cummings** stated the conditions are a good foundation for removal of veto and first right of refusal provisions in the agreement.

Commissioner DeBoer expressed uncertainty regarding the source for numbers in the list of conditions; commented in support of regionalization; stated the interconnect should be approved as well as putting all future and existing excess sources to the Authority; the Authority should agree that regional partners have certain benefits over non-regional partners; funding should be allocated to Charlotte County on a proportionate share with other regional partners with preference over non-regional partners; the Authority should provide all design and engineering for water sources; and non-regional partners should

only receive water allocations that are in excess of regional partners' use.

Commissioner D'Aprile asked Mr. Moore's viewpoint on the possibility of all Authority members becoming regional partners including Sarasota and Manatee Counties.

Mr. Moore recalled water wars in the Tampa area over three decades; reported strides have been made in the last decade to establish a strong partnership between the Authority, cities, and adjacent counties towards regionalization; and he will advocate for Sarasota and Manatee to become exclusive customers along with Desoto and Charlotte Counties. Mr. Moore stated Charlotte County's move towards regionalization will enhance the potential for Sarasota County becoming an exclusive customer and there is a 75% to 80% chance of that occurring.

Commissioner D'Aprile agreed with **Commissioner DeBoer** about all of the members becoming regional partners. Mr. Moore stated the SWFWMD will issue as many incentives and enhancements as possible to entice other counties.

Mr. Moore clarified #7 will provide 2.5 mgd exclusive of the amount to be provided by the Authority; pointed out the Burnt Store well field is permitted to almost 500,000 gpd; an application has been submitted to increase it to 3 mgd; and he cannot, by law, guarantee a specific quantity under a permit. Mr. Moore stated expressed understanding that funding in #5 is to be done this year, the normal process would be to enter into an agreement to commit to funding the \$2.5 million over two or three years; and with these clarifications, he can support the 9 conditions.

Commissioner Cummings recalled discussions with Mr. Moore on whether this project complies with the 50% criteria and the issue today concerns Charlotte County's agreement to remove the veto and first right of refusal provisions. Mr. Moore stated SWFWM's intent is to fund 50% of any project request received from Charlotte County; 20% of the funding will come from the State and the remainder from the Authority and County. Mr. Moore advised the \$5 million in #2 is actually one-half of the Walmart to Punta Gorda pipeline estimated amount of \$10 million; the \$2.5 million is part of a prior commitment; and

expressed support for the motion and 9 conditions with clarifications. **Commissioner Cummings** stated today is not the day to decide whether or not the County should become an exclusive customer.

Mr. Moore stated regionalization is important to the Authority and with removal of the veto and first right of refusal language, he will use his best efforts to try and secure the \$2.5 million. **Commissioner Cummings** requested Mr. Moore's commitment to promote a cooperative effort regarding intermediate withdrawals from the aquifer tied with alternate water supplies in relation to the Burnt Store facility and acknowledged that SWFWMD cannot commit to providing grant funds for intermediate aquifer withdrawals. Mr. Moore stated a regional system should be based on diverse water sources and a component would be groundwater.

Chairman Moore stated he does not support the Authority having the sole discretion; he wants to be a participant and have a vote in the decision making process; and requested input from the Authority's attorney. Doug Manson, General Counsel, expressed concern about language in conditions #2 through #4 e.g. "will be approved" since the final budget has not been approved, stated the funding request is in the draft budget, and offered to work with Mr. Armstrong and County Attorney Knowlton on the language change. Attorney Manson pointed out, with regard to condition #7, a precedent has already been set regarding the exclusive provider, customer for Desoto County, and it could be done for Charlotte County for the water supply from the Burnt Store facility to be exclusive of the water to be provided by the Authority. Attorney Manson requested 20-year water use projections under condition #8 and explained the 7-year projection is binding on the Authority for construction and on the County for payment. Attorney Manson agreed with condition #9 for having a basin wide study performed.

Commissioner DeBoer summarized the Board is in agreement on the first 5 conditions to the extent of the removal of the veto and first right of refusal and on conditions #2 through #5, SWFWMD and the Basin Board will commit to funding subject to approval of the final budget. Mr. Moore stated the Peace River Basin Board meets tomorrow and will approve funding allocations based on this Board's decision today. Mr. Moore stated he has never

seen a change from the draft to final of the Peace Basin Board budget; commented on the strong likelihood that SWFWMD would approve \$5 million in funding for the Authority/Punta Gorda Pipeline (condition #2) as well as \$1.5 million for capacity improvements to the Punta Gorda Shell Creek Plant facility (condition #3) and \$2.5 million for an emergency line from Charlotte County to Punta Gorda in the final recommended budget with funding for the projects allocated over multiple years. **Commissioner Cummings** stated he was told the intent was for the Board to drop the veto and first right of refusal, and, if so, SWFWMD would pursue the grant request for \$2.5 million and recalled the original grant request was for \$10 million for a regional pipeline.

Commissioner DeBoer stated two steps exist: the County's removal of the veto and first right of refusal and then direction to staff to pursue alternate water resources. Attorney Manson explained the process for Charlotte County to become an exclusive provider/customer exclusive of water supplies from the Burnt Store and Rotonda facilities. **Commissioner Cummings** stated a unanimous decision is needed by the Authority on the changes to the exclusive provider contract. Mr. Moore stated Senate Bill 744 gave jurisdictions and entities the authority to move towards regionalization including desalination plants and reported it has worked well in the Tampa Bay area.

Mr. Moore added more central counties are moving towards regionalization.

COMMISSIONER DEBOER MOVED THAT CHARLOTTE COUNTY WILL WITHDRAW THE CURRENT VETO TO THE AUTHORITY/PUNTA GORDA PIPELINE AND FIRST RIGHT OF REFUSAL (CONDITION #1); FUNDING (UNDER CONDITIONS #2, #3, AND #4) WILL BE APPROVED BY THE SWFWMD FOR \$5,000,000 FOR THE AUTHORITY/PUNTA GORDA PIPELINE AND \$1,500,000 FOR CAPACITY IMPROVEMENTS TO THE PUNTA GORDA SHELL CREEK PLANT FACILITY; AND THE PEACE RIVER WATER BASIN BOARD WILL APPROVE \$2,500,000 FOR AN EMERGENCY LINE FROM CHARLOTTE COUNTY TO PUNTA GORDA WILL BE INCLUDED IN THE AUGUST 2006 BUDGETS FOR ADOPTION IN THE SEPTEMBER HEARINGS; ALL FUNDING IS UNDERSTOOD TO TAKE PLACE IN THE FISCAL YEAR BEGINNING OCTOBER 1, 2006 ALTHOUGH IT MAY BE A MULTI-YEAR FUNDING PROCESS (CONDITION #5); DIRECT STAFF TO PURSUE CHARLOTTE COUNTY BECOMING AN EXCLUSIVE USER-PROVIDER-CUSTOMER ALSO KNOWN AS A REGIONAL PARTNER AND NEGOTIATE WITH THE

AUTHORITY FOR AGREEMENT THAT REGIONAL PARTNERS WOULD RECEIVE PREFERENCES AND THAT THE AUTHORITY WOULD PROVIDE ALL PLANNING, ENGINEERING, AND CONSTRUCTION TO DELIVER NECESSARY WATER AND PRIORITY SUPPLY DURING PERIODS OF SHORTAGE; NON-REGIONAL PARTNERS PAY HIGHER RATES THAN REGIONAL PARTNERS; NON-REGIONAL PARTNERS RECEIVE NO NEW ALLOCATIONS OF WATER BUT ARE TREATED AS BULK CUSTOMERS PURCHASING EXCESS CAPACITY, SECONDED BY COMMISSIONER D'APRILE.

Commissioner Cummings opposed moving forward with directing staff to pursue the County's becoming a regional partner today but he has no objection to directing staff to explore that possibility.

Commissioner DeBoer indicated staff will have to bring back any possibility of the County becoming a regional partner for approval.

Commissioner DeBoer amended the motion from directing staff to "pursue" to "explore."

Commissioner Cummings opined some of *Commissioner DeBoer's* statements merit exploration. *Chairman Moore* questioned the exclusion of condition #7 dealing with exclusivity of the water from the Burnt Store Plant. *Commissioner DeBoer* stated conditions #7, #8, and #9 were excluded from the motion because of the uncertainty regarding projected amounts and time frames. *Chairman Moore* expressed disappointment that the motion was not for the County to become an exclusive provider/customer or regional partner today. *Commissioner D'Aprile* agreed with *Chairman Moore*. Mr. Moore requested clarification of the Board's approval of the Authority/Punta Gorda interconnect and new water supply in lieu of the Board's removal of the first right of refusal and its veto. *Commissioner DeBoer* amended the motion, seconded by *Commissioner D'Aprile*. *Commissioner DeBoer* amended the motion from directing staff to "explore" back to "pursue." *Commissioner Cummings* reiterated opposition to the language change. *Commissioner DeBoer* called the question.

Motion Carried 3:1. Commissioner Cummings opposing, Commissioner Devos absent.

Meeting Adjourned: 2:05 P.M.

Signature on file in Commission Minutes
Chairman Moore

ATTEST:

BARBARA T. SCOTT, CLERK
OF THE CIRCUIT COURT AND
EX-OFFICIO TO THE BOARD
OF COUNTY COMMISSIONERS

By: Signature on file in Commission Minutes
Deputy Clerk_

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