

PORT LABELLE UTILITY SYSTEM ADVISORY BOARD MINUTES

March 31, 2009

Hendry County Board of County Commissioners Chambers
25 E. Hickpochee Avenue
LaBelle, FL 33035
2:00 P.M.

Board Members Present:

Paul Samerdyke, Acting Chairman
Han Mouthaan
Warren Grant

Board Members Absent:

Richard Bass
George Davis

Other Attendees / Speakers

Roger Greer, PLUS Director
Yvonne Cayce, PLUS Staff Assistant
Mark Lapp, Hendry Co. Attorney
Richard Yoraschek, LaBelle Plumbing
Michael Boyle, City of LaBelle
John Hollingsworth, PLUS Resident
Jack Zorn, PLUS Resident

John Capece, PLUS Advisory Board Facilitator
Danny Nelson, Tetra- Tech
Mark Charneski, DEP
Terry Bengtsson, SFWMD
David Hoffman, Johnson Engineering
Robert Pool, PLUS Resident
Mike Cummings, PLUS Resident

1) **Call to Order**

Paul Samerdyke, acting Chairman, called the meeting to order at 2:00 p.m. on Tuesday, March 31, 2009.

2) **Review of Minutes**

Copies of the November 18, 2008 minutes were distributed and reviewed by members. Motion to accept was made by Han Mouthaan and seconded by Warren Grant. Motion carried unanimously.

3) **Sunshine Laws Review – Mark Lapp**

County Attorney Mark Lapp provided information on the Sunshine Law to Board Members concerning email communication.

4) **Water Plant Project Costs Recovery – Mark Lapp**

Attorney, Mark Lapp, informed the Board that the County terminated CAS Contractors after design was complete and before construction was completed. Tetra Tech was hired to take over the project and discovered four different errors created by CAS totaling \$86,949 in additional costs. USDA would not cover the costs, and suggested that we recover the costs from the design engineer. A letter was sent to CAS in January of last year detailing the errors, the costs incurred, and a request that they pay. CAS took extensive time to review and evaluate documents presented to them by Hendry County. After reviewing the documentation, CAS said they wanted to discuss a settlement. Mr. Shriner, Steve Smith, Bill Landis, and the CAS lawyer met with Shane Parker, Roger Greer and Mark Lapp about a month ago. CAS stood firm in that there was no fault in their design, and that Tetra Tech simply came up with different ideas, not that the original ideas were wrong. They added that the so-called errors were actually enhancements or betterments incorporated by Tetra Tech. It was their feeling that they should have been consulted of any design problems soon after their termination. They would have liked the opportunity to comment on errors at the time they were discovered rather than having much time pass and then hearing of problems via a

letter from Attorney, Mark Lapp. CAS affirmed they bear no responsibility and will not pay anything. The only alternative would be for the Board to sue for malpractice. Mark Lapp does not recommend that action be taken; stating if all went in the County's favor, the gain would only be 30% of \$86,949.

Paul Samerdyke, Board Member, asked Mark Lapp about the delay time in receiving the design plans from CAS. Mark Lapp responded that although the delay was not part of the expense incurred by the errors, he did inform CAS that the delay held the project up and costs went up.

Han Mouthaan, Board Member, asked wasn't there an issue with location. Roger Greer responded that Tetra Tech saw a potential problem with the original location in that no soil borings were done. It was in our best interest to relocate to more stable ground. This, however, had nothing to do with the design.

5) Banyan Special Assessment Modification – Mark Lapp, John Capece & Roger Greer

In 2005 the County had an estimate of costs and assessed each residential lot with a special assessment. Actual costs, however, were higher than anticipated. Construction costs ended up being approximately \$1,000,000 more than originally estimated, so a supplemental special assessment is needed to cover the additional costs. The original assessment was attached to the residential lots, but not the commercial lots. Therefore, a second assessment will be applied for the few commercial parcels. Calculations are being done now to determine what would be a fair amount per lot, whether there is pipe frontage or not. The plan now is to take the initial assessment resolution to the BOCC on April 14th. There will be a newspaper notice, and a mail notice that will go to every owner for the final assessment hearing, which is scheduled for May 26, 2009 before the BOCC. If approved, the second assessment will start showing up on the people's tax bill in November 2009 with the option to pay off early.

John Capece stated that the initial assessment was \$1,640.00 per residential unit. It's looking like that will go up to about \$1,900.00 for an increase of \$260.00 - \$270.00 per residential lot, and an additional \$77,000 from the four nonresidential landowners.

Mark Lapp replied that this is the current proposal, and it is still under review at this time.

6) SeaGrape Water & Sewer Liens Legal Opinion – Mark Lapp & Roger Greer

Roger Greer reminded the Board members of Mr. Svirk's concerns presented at the last meeting in which Mr. Svirk expressed that it was the County's responsibility to install potable water lines to the SeaGrape lots in Unit 4. After reviewing the issue, PLUS and the County concluded that it is not the County's responsibility to provide these lines for the Seagrape lots, but rather the landowner must install the water lines. The County's contract attorney in Tallahassee sent a letter to CHL stating the County's position.

Board Member, Warren Grant, asked how SeaGrape was different from Banyan Village in regard to installation of water distribution lines. Roger Greer responded that SeaGrape is undeveloped and owned by one single owner. It is platted; however, no money has ever gone into escrow.

7) Backflow Prevention Devices – Roger Greer & Mark Charneski (DEP)

Roger Greer informed the Board that the Florida Administrative code states that residents, who have irrigation systems, wells, pools, etc, are required to put in backflow prevention devices. Since 9-11, the Department of Environmental Protection has gotten more stringent in enforcing this for protection of the people, and compliance is necessary. In preparation, Roger and other PLUS employees have attended schools and purchased special software to be up-to-date with certification in order to be qualified to test the devices, and be prepared to enforce backflow requirements. Letters were drafted stating DEP requirements and informing customers to install backflow devices. The initial letters were mailed to customers residing

on Springview Circle as there were several who had pools, irrigation systems, etc. Many of the customers receiving the letters called with questions, or expressed their displeasure in having to install the device. Roger spoke to Mark Charneski with DEP and informed him of the customer feedback. Mark told Roger that there is a recent proposed change concerning this matter. At this point, Roger invited Mark Charneski to the podium to speak to the Board and answer any questions concerning this issue.

Mark Charneski stated that there has been much controversy relating to the rules and regulations in installing back flow preventative devices. As a result of this, the rules and regulations were reviewed and a new rule is proposed. This new rule basically states that if you have reuse water, irrigation pump either coming out of a well or out of a pond, then a dual check valve assembly may be used instead of a backflow preventer. However, if the owner chooses to install the dual check valve, the owner must then comply with additional requirements as listed in the regulation book. Mr. Charneski stated that in the past 4-5 years, he has seen cross connections created at people's homes with reuse water. This is waste water that has been treated typically for irrigation use. However, some have actually taken reuse water and put back in their houses. Should there be a loss of pressure with no backflow preventative device, this reuse water would go out into the distribution lines and contaminate the public water system. Such contamination can kill as was the case in 1988 when an individual in Belle Glade died as a result of a cross connection.

It is the responsibility of the utility to insure that the water is protected. The utility may choose to: 1) send letters to those customers that have cross connection potential, informing them that they have to install the backflow device; 2) survey the area, buy the devices in mass, install the devices and then include this cost in the customer's water bill, typically spread out over a period of time. All utilities have cross connection plans; however, it is essential that these plans be implemented. The devices are to be tested annually to insure that they still work properly.

Water meters that read electronically are able to detect backflow. Port LaBelle Utility System already uses these meters, and if the new rule is approved, dual check valves can be installed rather than the costly backflow preventative devices. With this new proposed rule in consideration, PLUS rescinded the letters initially sent requesting that backflow devices be installed.

The primary concern now should be focused on commercial and industrial situations and make sure that they have the backflow devices installed. With the new rule, a new plan should be submitted. In the back of the rule book is a draft ordinance which should be reviewed by Mark Lapp with the consideration of adopting. This will give the utility the authority to move forward with the implementation of the plan.

Currently, there is no statewide mandate as to requirements for new construction. Each utility can design or redesign their plans to dictate backflow prevention be installed at time of new construction. The plan can be designed to be more stringent than the bare minimum, but cannot be less stringent.

Audience Speaker, Richard Yoraschek, Owner of LaBelle Plumbing:

Mr. Yoraschek stated that he has been contacted by homeowners in the PLUS area asking questions and requesting quotes to install and test the backflow preventative devices (RPZ's). He informed the Board that he received his license in 1991 and has been a certified State plumbing contractor since 1987. He has installed hundreds, possibly thousands of RPZ's, and in the past five years has not installed plumbing for new construction without, also, installing a backflow preventative system. Mr. Yoraschek said there is a Florida Statute requiring any person installing or repairing a backflow prevention device assembly to a customer to be a licensed plumbing contractor. The cost is approximately \$335.00 per residence to install the system, and it should be the business of the licensed plumbing contractor, and not that of the utility.

Mark Charneski, DEP, interjected that part of the ordinances grant the utility the authority to go on private property to not only maintain the RPZ device, but also to survey the property for wells or any other existing potential for cross connection.

Audience Speaker, Mike Cummings, Laurel Oaks Resident:

Mr. Cummings asked why having a swimming pool would require a backflow device. Mr. Charneski explained to him that if the hose is left in the pool while filling, and the water pressure in the distribution system drops, this would result in the water from the pool being sucked back into the water system. At the minimum, a vacuum breaker should be installed.

Mr. Cummings stated that all the utilities are buried at Laurel Oaks, with the exception of those newer homes that have the unsightly backflow system protruding up from the ground by the meter. Two of them are currently bent over from being hit by mowers. With the economy as it is, he also feels the timing is bad, and that people cannot afford the cost of installation, or the annual testing of the backflow device.

Audience Speaker, Jack Zorn, Laurel Oaks Resident:

Mr. Zorn stated that our area has limited contractors who will make a lot of money with the installation of the backflow devices. When all is decided with the rules and regulations, and implementation is required, he encourages mass bidding by Port LaBelle Utilities in an effort to save money and minimize the expense to the homeowners. Also, with the industrial areas being the primary targets as to potential contamination, he suggested that implementation begin with them and not the homeowners.

Mark Charneski, being the enforcement coordinator, stated that it is appropriate at this time to wait and see what the new rule will do for the residential homeowners, but to move forward on the commercial and industrial customers.

Audience Speaker, Mike Boyle, City of LaBelle Public Works:

Mr. Boyle stated that for years the City has required the installation of backflow devices for those who have pools, sprinkler systems, etc. Although City employees do not install the devices, they do have certified people who do the annual testing at no charge to the customer. Upon inspection, the device is tagged noting the date and the name of the individual doing the inspection. If the device is not working properly, the customer is notified and told to contact a licensed contractor to do the repairs. With new construction without pools, sprinkler systems, etc., a Watts #7 can be used, which is like a double check valve and this valve does not require testing. All preventative backflow devices, however, are required to be installed by the meter.

John Capece asked if our current draft plan requires that backflow devices be installed on new homes under construction. Roger Greer responded yes, if it has a sprinkler system. The backflow device should also be installed 12" above ground, which makes it accessible for testing and repairing.

Audience Speaker, John Hollingsworth, PLUS resident:

Mr. Hollingsworth said that he feels an education campaign is needed system wide, which would also include the unincorporated areas of Clewiston. Mark Charneski responded that he had just completed an inspection of areas in Clewiston.

Roger Greer concluded the discussion relating to the backflow devices by stating the utility will implement and move forward with the commercial and industrial accounts. There will be a follow up and testing of those who already have the devices installed to insure that they are operational.

8) Director's Report – Roger Greer

Roger presented to the Board the following statistics:

Water Plant Usage for February = 8,864,600 gallons

Average Per day = 316,592 gallons

Max. Per day = 374,700 gallons

This Time Last Year = 10,389,300 gallons

This Time Last Year = 358,251 gallons

This Time Last Year = 645,900 gallons

Wastewater Treated for February = 5,524,000 gallons
Average Per day = 178,000 gallons
Max. Per day = 209,000 gallons

This Time Last Year = 9,661,000 gallons
This Time Last Year = 312,000 gallons
This Time Last Year = 430,000 gallons

Jan. - Mar: Meter Sets = 0 New Requests = 0 Outstanding = 67

9) Water Consumption Data – John Capece

John provided graphs to the Board to review the changes in water consumption, noting that the numbers are slightly lower. The decrease is due to the fact that people are not using a lot of water for irrigation, nor have there been a lot of lines flushed as there's not much construction going on. Also, with wastewater, the numbers are tightening up. An additional graph was reviewed showing the water treatment plant efficiency. The plant is currently operating in the range of approximately 20 % – 30% concentrate, but it is desirable to be at 20% consistently. Looking at the wastewater stream from homes, it's approximately 55% of the treated water delivered to homes. Roughly 70-80% of everything pumped from the PLUS supply wells goes back into the ground as treated wastewater. On the wastewater side, there will continue to be summer time load peaks and these peaks will grow worse due to the deterioration of sewer lines. Roger Greer recently provided to USDA information for possible grant monies to do repairs to the sewer lines.

Han Mouthaan, Board member, asked if there was an ongoing effort to get the sewer pipes repaired. Roger responded that PLUS does not have money allocated in the budget to deal with this. Sewer caps are replaced, however, when found to be broken or missing. He added that sometimes the customers will remove the caps to get rid of water on their lots, or hit them with their lawnmower. Also, certain areas were surveyed, cameras were used, lines were cleaned and cracks were repaired.

10) Revised SFWMD Water Use Permit Application – John Capece

John sent a copy of the response package to Roger Greer, Shane Parker and Board members, and stated that the package can go out to SFWMD in next couple of days. The water demand projections initially generated by the population computer model were significantly higher than what is allowed by BEBR population projections. The model was refined to incorporate the BEBR estimates by determining what portion of Hendry / Glades growth was the result of building in Port LaBelle. The number determined to be was 25%. Therefore 25% of the BEBR-allowed population growth was assigned to the PLUS service area. Computer models were also run to determine the impact on adjacent wells, the sandstone aquifer, and the water table aquifer.

Audience Speaker, Terry Bengtsson, SFWMD:

Mr. Bengtsson stated that there are several proposals that have been made by developers in Glades County, and Hendry County has had quite a few plans over the past few years. Both Port LaBelle Utilities and the City of LaBelle had their permit come up for renewal. Where timing is good in one respect, there is some concern as to how new development will get sufficient water. For Port LaBelle, the use of the sandstone aquifer is the traditional source. There are limitations, however, that have to be evaluated thru field testing, and may involve computer analysis. We're trying to assess all the existing permitted use and how these will be renewed. The rule that was passed for Lake Okeechobee service area had restrictive words for potable water permits and for new or additional potable water use. The final approved rule is not as restrictive as the draft. At this stage, just get the permit renewed, and then sort out other proposed developments on other side of river. From the planning prospective, and looking at the population, the service area could overwhelm plant capacity. If entertaining new service areas for the utility, be prepared to get more capacity in the system. In order to get more capacity in the system, as well as transmission lines, commitments are needed from developers to help finance installation. Mr. Bengtsson informed the

Board that his office is in the Fort Myers area, and offered his services as a free consultant, from planning to permitting, if needed.

John Capece stated that there will be questions as to the accuracy of estimates of the impact on the system. The permit will probably be accompanied by some monitoring requirements, and assistance from Terry and SFWMD in the design of the monitoring plan would be appreciated. Also, if expansion is needed, it is believed that wells will have to be added further away from the river and not on the site of the water plant.

Terry Bengtsson responded that he will be glad to assist, and stated that adding production wells is a good idea. Additional wells allow you to spread out the impact and reduce the stress. He asked, regarding wastewater and treatment, if there was a percolation pond for which there was opportunity to upgrade and the opportunity to pursue reclaimed water use.

Roger Greer replied that money is needed to pursue water reuse, and John Capece added that new agricultural operations are being encouraged to use the PLUS concentrate wastewater.

11) Replacement Well Construction – Roger Greer & Danny Nelson

Roger Greer stated that the contractor has mobilized and has begun pilot testing of the well. The drilling of the well will begin after the pilot testing.

12) Rate Study – Danny Nelson & Roger Greer

Roger Greer informed the Board that staff met about a month ago with Tetra-Tech. The preliminary report shows recommendation of a small rate increase. There should be more detail on this at the next meeting.

13) Franchise Agreement Renewal – John Capece & Roger Greer

John Capece stated that the original franchise agreement expires in 2009, so we may need to start working on its renewal this with the County attorneys, if the interlocal agreement does not supersede this franchise document. It is thought that part of any franchise renewal process would involve discussions or negotiations between the two counties as to service areas.

14) Other Issues

John Capece stated that Earth Week / Earth Day is coming up. An exhibit under the name of the Utility, was set up at the Hendry House last year for the school kids, and will be done this again this year. It was appreciated by all, and will again, prove to be an enjoyable and educational experience.

Roger stated that Yvonne has been working diligently at collecting debts associated with foreclosures. To date, she has collected over \$13,000. She continues to deal with banks, realtors, title companies, etc., by writing or calling them with requests to satisfy outstanding debts. Yvonne added that she's been working with other County agencies, such as the Clerk of Court and the Property Appraiser in Hendry and Glades in an effort to determine early on the homes and properties earmarked for foreclosure or sale.

15) Schedule Next Meeting & Adjourn

Roger Greer said that the next meeting will be held sometime before the end of June 2009. When the specific date and time are determined, the Board Members and associates will be notified.

The meeting was adjourned by Paul Samerdyke.