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Board of Supervisors
Regular Meeting Minutes
September 14, 2016

Present:	
Chairman Bruce Van Meter Vice Chair Clarence Thacker Secretary Tom White Supervisor Wendell McKinnon Supervisor John Lambert Supervisor Skip Stellfox General Counsel Mark Lawson	Executive Director Brian L Wheeler Deputy Executive Director Mike Sweeney Executive Assistant Nilsa C Diaz Kissimmee City Commissioner Wanda Rentas Osceola County Commissioner Michael Harford

Absent: Polk County Commissioner Todd Dantzler

1. **Meeting called to order by:** Chairman Van Meter	**Time:** 5:00 PM

2. **After a Moment of Silent Reflection,** Supervisor Lambert led the attendees in the Pledge of Allegiance.
3. **Approval of Agenda:** Supervisor Lambert moved for approval of the Agenda as published and Supervisor McKinnon seconded the motion. Motion passed 6 to 0.
4. **Awards and Presentations**
5. **Public Hearing:**

5A. PUBLIC HEARING FOR FEE & RATE CHANGES – RESOLUTION 2016-008
5B. PUBLIC HEARING FOR FEE & RATE CHANGES – RESOLUTION 2016-009
5C. PUBLIC HEARING FOR FEE CHANGES – RESOLUTION 2016-010 – adjustment of the meter fee
5D. PUBLIC HEARING FOR SYSTEM DEVELOPMENT CHARGE CHANGES – RESOLUTION 2016-011 – adjustment to the system development charges

Mr. Ric Figueroa of Business Services gave a Power Point presentation explaining the four rate adjustments advertised for public hearing. He outlined the basis for each of the advertised rate adjustments. Mr. Figueroa explained that the rate resolution (Resolution 2016-008) provided for a 4% rate increase for the next four years. Adoption of the resolution would set a 4% rate adjustment each year through FY2020 unless the Board took action to modify the resolution. The purpose of the four year resolution is to

create revenues that will provide for the accumulation of a $50 million capital reserve to be utilized for part of the financing for the construction of alternative water supplies. Chairman Van Meter opened the public hearing for Resolution 2016-008 and asked if there was anyone present who wanted to address the Board on the resolution. Ms. Eukema Rose of 3025 Cranes Nest Lane, Kissimmee, representing her mother posed questions to the Board concerning the proposed rates. Mr. Figueroa and Chairman Van Meter addressed the questions. A second resident, Ms. Isabel Villanueva Gonzalez of 2626 Liz Lane, stated that some of her comments were similar to those of Ms. Rose. She asked for the Board to consider a smaller increase. She expressed concern about the amount of her bill. There was discussion with Ms. Gonzalez by various staff about the composition of her bill and potential actions she could take to reduce her usage.

Ric Figueroa explained the actions that the Board could take concerning the four resolutions for rate adjustments that were before them.

1. Adopt the advertised Resolution on rates and fees as presented
2. Amend the advertised Resolution reducing the advertised rates and fees. The rates cannot be increased without advertising for another rate hearing.
3. Reject the advertised resolution on rates and fees making adjustments to the Budget accordingly;
4. Take no action on the advertised resolution.

Supervisor Tom White moved for approval of Resolution 2016-008 and Supervisor Skip Stellfox seconded the motion. Motion passed 6 to 0.

Mr. Figueroa made a Power Point presentation outlining the proposed restructuring and adjustments to the reclaimed water rates (Resolution 2016-009). Chairman Van Meter opened the public hearing for Resolution 2016-009 and asked if there was anyone present who wanted to address the Board on the resolution. . Ms. Eukema Rose of 3025 Cranes Nest Lane asked questions about the reclaimed water service and the associated rates. Ms. Rose was informed that she did not have reclaimed water service at her address. Supervisor Skip Stellfox moved for approval of Resolution 2016-009 and Supervisor Lambert seconded the motion. Motion passed 6 to 0.

Mr. Figueroa explained that the purpose of Resolution 2016-010 was to provide for an increase in three quarter inch meter fees from $300 to $325. The last time these fees were adjusted was in 2010. Staff is recommending that the fees become effective on November 1, 2016. Supervisor John Lambert moved for approval of Resolution 2016-010 and Supervisor Tom White seconded the motion. Motion passed 6 to 0.

Mr. Figueroa outlined the purpose of Resolution 2016-011 was to provide for an annual adjustment to the System Development Charges. The adjustment is made annually to keep the system development charges current with cost of construction. The annual

adjustment is based on the annual change in the Engineering News Record Construction Cost Index. The adjustment for this resolution reflects a 3.4% increase. The fee increase will become effective January 1, 2017. Supervisor Skip Stellfox moved for approval of Resolution 2016-011 and Supervisor John Lambert seconded the motion. Motion passed 6 to 0.

6. Hear the Audience -

7. Consent Agenda: Supervisor Wendell McKinnon moved for approval of the Consent Agenda as published. Supervisor Thacker seconded the motion. Motion passed 6 to 0.

7A. REQUEST APPROVAL OF THE TWA BOARD OF SUPERVISOR REGULAR MEETING MINUTES OF AUGUST 24, 2016 (DIAZ)

7B. APPROVAL TO PURCHASE PUMPS, CONTROL PANEL, FLOATS, HATCHES, AND TRANSDUCERS FROM KAMAN INDUSTRIAL TECHNOLOGIES D/B/A FLORIDA BEARINGS FOR LIFT STATIONS 85 AND 108 (IFB-16-111) (HOLMES)

7C. APPROVAL OF AMENDMENT #1 FOR INVESTMENT ADVISORY SERVICES, RFP-14-016 WITH PFM ASSET MANAGEMENT LLC (HOLMES)

7D. AMENDMENT TO DEVELOPER'S SERVICE AGREEMENT FOR POINCIANA CARDIAC CLINIC (BIRON)

7E. APPROVAL OF SEPTEMBER ASSET DISPOSAL (HOLMES)

7F. APPROVAL TO WAIVE COMPETITIVE BIDDING FOR DYER AVENUE MANHOLE REPAIR RESTORATION (EVERSOLE)

8. Informational Presentations

9. Unfinished Business

10. New Business:

10A: APPROVAL OF CONTRACT WITH SOUTHEASTERN INVESTMENT SECURITIES, LLC FOR FINANCIAL ADVISOR SERVICES FOR THE AUTHORITY

Executive Director Wheeler explained that at the June 22 meeting the Board had asked Staff to negotiate a new agreement with Southeastern Investment Securities, LLC (SIS)

for municipal advisor services. Staff has negotiated the attached agreement which includes a new fee structure incorporating a monthly retainer and a reduced fee structure for financings that is capped. The retainer is $1350 per month and the financing fee is $0.65 per $1000 with a cap of $80,000. Staff determined the proposed revised fee structure and fees are in line with the market for an agency with a credit profile similar to TWA. Supervisor Wendell McKinnon moved for approval and Supervisor Skip Stellfox seconded the motion. Motion passed 6 to 0.

10B. APPROVAL FOR TOHO WATER AUTHORITY (TWA) TO PROVIDE CERTIFICATION OF FINANCIAL RESPONSIBILITY ON BEHALF OF THE WATER COOPERATIVE OF CENTRAL FLORIDA FOR THE CYPRESS LAKE WATER TREATMENT PLANT CONCENTRATE REJECT WELL PERMITTING (WHEELER) - Executive Director Wheeler explained that treatment of the brackish water supply from the Cypress Lake wellfield utilizing a membrane process will produce a waste concentrate of the removed minerals for disposal. Inland disposal of membrane concentrate is typically accomplished through deep well injection into an aquifer with similar chemical characteristics. Consultants for the Cypress Lake project propose to permit and construct the disposal wells into the lower portion of the Lower Floridan Aquifer because the water quality of the aquifer is similar to that of the membrane concentrate. After an initial review of the permit application, FDEP has requested a "demonstration of financial responsibility" by the applicant for the future plugging and abandonment of each injection well if necessary in the future. The abandonment of each well could cost approximately $152,000. Three wells are proposed for the water treatment facility; therefore, the total demonstration of financial responsibility would be $456,000. Staff is requesting authorization for TWA to demonstrate financial responsibility on behalf of the Water Cooperative during the permitting process. Within the next several months an amendment to the project Interlocal agreement will be developed to include a joint commitment by each partner. No expenditures will be required at the present time. Supervisor Clarence Thacker moved for approval and Supervisor Tom White seconded the motion. Motion passed 6 to 0

11. Staff Reports:

11A. MONTHLY PRESENTATION PERIOD 10 FY2016 (FIGUEROA)

11B. ENGINEERING SERVICES CUSTOMER SERVICE REPORT (BIRON) – Chairman Van Meter observed that there were only five (5) responses and asked if it was because the same people are involved and they don't want to answer the survey again. Ray Biron said that the last group of surveys was done back in the spring and that the implementation of the recommendations from the Matrix survey had not yet occurred. Chairman Van Meter said that several surveys had come in with comments. Ray Biron stated that Staff is looking at improving the survey. Supervisor White said that a couple of responses were complimentary.

12. Board Officials:

General Counsel Mark Lawson said that he had advised the Board by email that he would discuss the current status of the appointment of the Chairman at the meeting. Chairman Van Meter's term ends on September 30th and he cannot be reappointed or serve past this date. Appointment of the Chair position is to be made jointly between the County and City. Osceola County appointed Supervisor White to the position and the City through their process concurred in the appointment of Supervisor White. At the end of last week the Kissimmee City attorney, Mr. Don Smallwood, asked for copies of the TWA Legislative Act and amendments to review. The City Attorney was provided copies of the Legislative Act on Monday of this week and he conferred with General Counsel Lawson about the interpretation of the Legislative Act with reference to the number of years that a Board member was eligible to serve. Mr. Lawson reviewed the Legislative Act and amendments Monday night and then contacted Mr. Smallwood on Tuesday morning to advise him that based on Mr. Lawson's interpretation of the legislation it appeared that Supervisor White was ineligible to be appointed to the Chair position. Mr. Lawson's interpretation of the legislation is that a Board member is limited to serving only three consecutive terms regardless of whether the member serves a full three years in each of the terms. Serving a partial term is a term based upon Mr. Lawson's interpretation. Appointment of Supervisor White to Chair would be a fourth consecutive term according to Mr. Lawson's analysis. Mr. Lawson advised the Board that as their General Counsel he has the responsibility of advising them of his reading of the law and recommend action based upon that reading. The Board is not obligated to follow the General Counsel's advice. Mr. Lawson restated his reading and interpretation of the TWA legislation is that Supervisor White is ineligible for appointment to Chair. Mr. Lawson discussed his findings with Supervisor White Tuesday afternoon. The City of Kissimmee Commission voted on a motion to reconsider its action of appointing Supervisor White as Chair and then continued that motion to the next City Commission meeting date of September 27th. Based on the action of the City, the appointment of Supervisor White to the Chair is unresolved. The TWA legislation states that if a Board position is not filled within 60 days of the vacancy the Governor may appoint someone to the vacant position to serve until the vacancy is filled. Supervisor Thacker recommended that a partial term not be counted as a term and; therefore, Supervisor White would be eligible. Chairman Van Meter disagreed with this recommendation and stated that the Authority would be taking a risk to seat someone who was not eligible. Supervisor Mckinnon recounted a previous situation at the City of Kissimmee related to term limits and the interpretation of partial terms to the eligibility of a City Commissioner to run for a term. The court ruled that the partial term counted as a term as applied to the City's eligibility requirements.

Supervisor White distributed a handout to each of the Board members and the General Counsel. He advised the Board that the handout was from a Florida Attorney General opinion to the Florida Early Learning Coalition on the term limit language related to their governing board. The opinion dealt with the question of how to treat a partial term relative to the term limit language related their governing board. The opinion was that the partial term did not count toward the two term limit for the board members. Supervisor White reported that he was told that the Kissimmee City Attorney Smallwood did not agree with Mr. Lawson's interpretation. Supervisor White also reported that had an attorney interpret the TWA legislation relative to the term limit language and the attorney's opinion differs from Mr. Lawson. Chairman Van Meter stated that Mr. Lawson was only providing an opinion and advising the Board. Supervisor White said that the City would like to hear back from the Board whether he is eligible to be appointed to the Chair. Supervisor White disagrees with Mr. Lawson's opinion and would like for the Board to retain an outside counsel to review Mr. Lawson's opinion. Mr. Lawson said that the Attorney General opinion related to the Florida Early Learning Coalition was not applicable because statute cited is not general law. Mr. Lawson stated that the disagreement from Mr. Smallwood resulted from the City Attorney not having the most current version of the TWA legislation. Mr. Lawson stated that he was willing to meet with the Kissimmee City Attorney and the Osceola County Attorney to review the TWA act language to attempt to reach agreement on the interpretation within a few days. Mr. Lawson suggested that the Authority could seek an expedited opinion from the Circuit Court on the interpretation of the TWA legislation. Supervisors White and Thacker questioned Mr. Lawson about the timing of providing his opinion that Supervisor White was not eligible for appointment to the Chair position. Supervisor White was informed by Mr. Lawson of his questioning Supervisor White's eligibility for appointment at 1:30PM on Tuesday and then providing an opinion to Mr. Smallwood at 3:00PM. Mr. Lawson responded that he was responding to a request from the City Attorney for an opinion in written form. Supervisor White requested Mr. Lawson delay providing an opinion to provide more time to investigate and evaluate the eligibility language. Mr. Lawson said that he felt that he had an obligation to respond to the City Attorney request and attempted to research his opinion and communicate it as quickly as he could. Osceola County Commissioner Michael Harford stated that his opinion from his reading of the TWA legislation Supervisor White is not eligible to be appointed to the Chair position. Chairman Van Meter said that he wants to move forward and he wants something back within the week. Supervisor White wanted his attorney included in any meetings or effort on this issue.

Supervisor White made a motion that the attorneys get together and have a special meeting and take their recommendation to the Attorney General. Supervisor Stellfox seconded the motion. Motion passed 6 to 0. Supervisor

John Lambert asked who will make the final decision. Chairman Van Meter said that he is giving the attorneys a week. If the attorneys' recommendation is to go to the Circuit Court, then the issue should go to the Circuit Court. Counsel Lawson said that the lawyers will work to see if a consensus can be achieved, provide analysis of the issue, and report to the Board with a list of alternatives. Supervisor Stellfox informed the Board that he will not be at the meeting on the 28th.

Chairman Van Meter said that there was another issue to deal with which was appointment to the Water Coop and for the Board to be thinking of that situation. A member should be appointed at the September 28th Board meeting.

13. Adjournment:

There being no further business to come before the Board, Chairman Van Meter adjourned the meeting at 6:59 PM.

Ap[redacted]

Clarence D. Thacker, Vice Chairman

Attest[redacted]

Tom White, Secretary

ncd