

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date: November 6, 2007

☒ **Consent** ☐ **Regular**
☐ **Public Hearing**

Department:

Submitted By: **ADMINISTRATION**

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to receive and file:

A) Resolution No. 84-07 adopted by the Town Council of the Town of Jupiter supporting and endorsing the principals of home rule and adopting policies set forth in the Resolution to support the premise that the Town should have the authority to govern within its jurisdiction; and

B) Resolution No. 07-10-26 adopted by the Lee County Board of County Commissioners in support of Congressional appropriations for the funding of the repairs and rehabilitation of the Herbert Hoover Dike.

Summary: N/A

Background and Justification: N/A

Attachments: Original Documents

Recommended By:

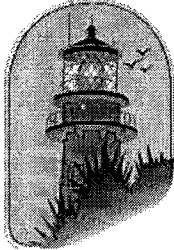

Agenda Coordinator


Date

Approved By:

N/A
Assistant County Administrator

Date



TOWN OF JUPITER

October 12, 2007

Mr. Robert Weisman, County Administrator
Palm Beach County Board of
County Commissioners
301 N. Olive
West Palm Beach, FL 33401

Re: Resolution 84-07

Dear Mr. Weisman:

Attached is a copy of Resolution 84-07 adopted by the Town Council of the Town of Jupiter supporting and endorsing the principles of home rule and adopting the policies to support the premise that the Town should have the authority to govern within its jurisdiction.

If you require any additional information, please call me at (561) 741-2217.

Sincerely,

A handwritten signature in cursive script, reading "Sally Boylan". The signature is written in dark ink and is positioned above the printed name of the signatory.

Sally M. Boylan, CMC
Town Clerk

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RESOLUTION NO. 84-07

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF JUPITER, SUPPORTING AND ENDORSING THE PRINCIPLES OF HOME RULE AND ADOPTING THE POLICIES SET FORTH BELOW TO SUPPORT THE PREMISE THAT THE TOWN SHOULD HAVE THE AUTHORITY TO GOVERN WITHIN ITS JURISDICTION; FURTHER PROVIDING THAT SUCH AUTHORITY SHOULD NOT BE ERODED; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, Chapter 166, *Florida Statutes*, entitled "Municipalities" and known as the "Municipal Home Rule Powers Act" provides a broad grant of authority to all municipalities to enable them to exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Section 2(b), Article VIII, State Constitution, protects the rights of municipal government by means of language which reads as follows:

Municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services, and may exercise any power for municipal purposes, except as otherwise provided by law; and

WHEREAS, the legislature recognizes that, pursuant to the grant of power set forth in Section 2(b), Article VIII, State Constitution, the legislative body of each municipality has the power to enact legislation concerning any subject matter upon which the state legislature may act except for those subjects specifically listed at Section 166.021(3)(a)-(d); and

WHEREAS, municipalities are voluntary forms of government and would not exist if communities had not organized and held special elections in order to create the local form of government; and

WHEREAS, Residents in a community decide to incorporate in order to govern themselves and to gain a greater degree of control over issues that impact their quality of life and property interests directly; and

WHEREAS, municipalities represent the form of government which is closest to the people and therefore many people expressly choose to live within municipalities in order that their ideas may be heard on a more personal basis; and

WHEREAS, the following four issues of jurisdiction and regulation are exempt from future dual referendums as described in this resolution because they have all been

enacted by County wide referendum: traffic performance standards, well field protection, impact fees, and annexation, and

WHEREAS, a similar resolution was adopted by the Palm Beach County League of Cities, Inc. on November 22, 2006; and

WHEREAS, the Town of Jupiter desires to preserve this unique responsive form of government, wishes to support the Palm Beach County League of Cities, Inc. and believes it to be in the best interests of its citizens to adopt this Resolution formally stating its position.

NOW, THEREFORE, BE IT RESOLVED by the TOWN COUNCIL OF THE TOWN OF JUPITER as follows:

Section 1: The Town of Jupiter believes that when issues are in conflict between Palm Beach County and a municipality or several municipalities, such conflict should be resolved by the following:

- A. Approval by the governing body of the municipality or municipalities affected; or
- B. Approval by a majority of the electors within the County and a majority of the electors within the affected municipality or municipalities.

Section 2: The above stated policy is hereby adopted by the Town Council of the Town of Jupiter.

Section 3: This Resolution shall be forwarded to the Board of County Commissioners, the Palm Beach County Administrator, the Palm Beach County League of Cities, Inc. and the State Senators and Representatives elected from the jurisdiction of the Town of Jupiter.

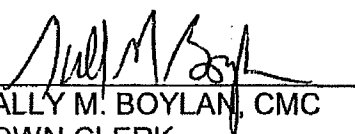
Section 4: This Resolution shall take effect immediately upon passage.

The foregoing Resolution was offered by Councilor Todd R. Wodraska, who moved its adoption. The motion was seconded by, Vice-Mayor Robert M. Friedman, and upon being put to a roll call vote, the vote was as follows:

	AYE	NAY
MAYOR KAREN J. GOLONKA	X	
VICE-MAYOR ROBERT M. FRIEDMAN	X	
COUNCILOR WENDY K. HARRISON	X	
COUNCILOR JIM KURETSKI	Absent	
COUNCILOR TODD R. WODRASKA	X	

The Mayor thereupon declared the foregoing Resolution 84-07 duly passed and adopted this 2nd day of October, 2007.

ATTEST:

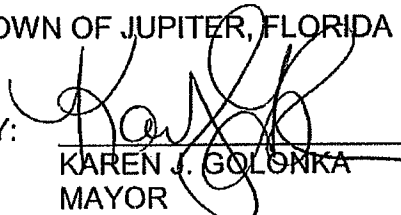

SALLY M. BOYLAN, CMC
TOWN CLERK

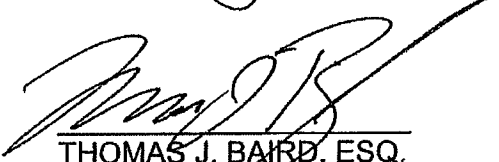
(TOWN SEAL)



TOWN OF JUPITER, FLORIDA

BY:


KAREN J. GOLONKA
MAYOR


THOMAS J. BAIRD, ESQ.
Approved as to form and
legal sufficiency

LEE COUNTY BOARD OF COUNTY COMMISSIONERS, FLORIDA

RESOLUTION NO. 07- 10-26

A RESOLUTION OF THE LEE COUNTY BOARD OF COUNTY COMMISSIONERS In Support of Congressional Appropriations for the funding of the Repairs and Rehabilitation of the Herbert Hoover Dike.

WHEREAS, the Lee County Board of County Commissioners is committed to the protection and restoration of its water resources; and

WHEREAS, the County receives discharge from Lake Okeechobee when water levels are high, in order to protect the integrity of the Herbert Hoover Dike, and

WHEREAS, Lake Okeechobee's importance to the entire region as a water source makes its management at seasonal high levels critical for South and Southeast Florida water supply planning for the foreseeable future, and

WHEREAS, these heightened levels increase risk to the integrity of the Herbert Hoover Dike, and

WHEREAS, Lake Okeechobee was impacted by four hurricanes during the 2004 and 2005 hurricane season; and

WHEREAS, subsequently, at the request of local community leaders, the Governing Board of the South Florida Water Management District commissioned an independent, expert review panel to evaluate all U.S. Army Corps of Engineers documents concerning the structural integrity of the 140-mile long Herbert Hoover Dike surrounding Lake Okeechobee; and

WHEREAS, the report found that the dike does not meet current levee protection safety standards; and

WHEREAS, failure of the dike poses a clear and imminent threat of catastrophic proportion to the communities surrounding Lake Okeechobee; and

WHEREAS, common engineering standards for levees include the consideration of the location and construction of spillways that reduce the risk of breach, and reduce the threat of damage and loss of life to the greatest number of persons, and

WHEREAS, the Plan for the Herbert Hoover Dike repair and rehabilitation describes the perimeter of the Lake as broken up into eight parts (known as "Reaches") for planning and repair prioritization, and

WHEREAS, the priority of the Corps and District is to pursue immediate repairs for Reach 1 (Port Myakka to Belle Glade) and then Reaches 2 (Moore Haven to Clewiston) and 3 (Clewiston to Belle Glade).

COPY

WO#1
10-9-07

NOW THEREFORE BE IT RESOLVED THAT:

Section 1. Lee County hereby requests the Congress of the United States to appropriate funds necessary to bring the Herbert Hoover Dike into compliance with current levee protection safety standards and to expedite funding for the improvements through prompt enactment of the Energy and Water Appropriations Bill or some other mechanism.

Section 2. Lee County hereby requests that the rehabilitation and repair of the additional Reaches of the Lake Okeechobee Rehabilitation and Repair Plan, specifically reaches 2 and 3, include consideration of one or more spillways, with associated flowways that would accommodate the diversion of rapidly rising Lake waters away from inhabited areas and to areas that would threaten the fewest people.

Section 3. Lee County recognizes that it can only achieve its Clean Water Act obligations if seasonal high water discharges from Lake Okeechobee are reduced to levels manageable for water quality purposes, and supports this and other efforts that bring about such reductions.

Section 4. Copies of this resolution shall be sent to the South Florida Water Management District, the US Army Corps of Engineers to distribute as they deem appropriate, to the other members of the 10 County Coalition, and to Lee County's Congressional Delegation.

Commissioner Hall made a motion to adopt the foregoing Resolution, seconded by Commissioner Judah. The vote was as follows:

**ROBERT JANES
A. BRIAN BIGELOW
RAY JUDAH
TAMMARA HALL
FRANK MANN**

Aye
Aye
Aye
Aye
Aye

DULY PASSED AND ADOPTED THIS 9th DAY OF October, 2007.

**ATTEST:
CHARLIE GREEN, CLERK**

**BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA**

By: Marcia Wilson
Deputy Clerk

By: [Signature]
Chairman

APPROVED AS TO FORM:

By: [Signature]
Office of the County Attorney



SPILLWAY, AN EMERGENCY MANAGEMENT COMPONENT FOR DAMS

A **spillway** is a structure used to provide for the controlled release of flood flows from a dam or levee into a downstream area, typically being the river that was dammed. Spillways release floods so that the water does not overtop and damage or even destroy the dam. Except during flood periods, water does not normally flow over a spillway (Wikipedia, the online encyclopedia)

1. Background

Development of the Everglades has resulted in the loss of 3-6 million acre feet of storage, (depending upon how it is analyzed). The developments most notable are the reduction of the size of Lake Okeechobee's storage capacity by 300 square miles and 3 feet of depth, through the construction of the Herbert Hoover Dike at its existing location; and, the development of 700,000 acres (1100 square miles) of the "River of Grass," a shallow slow moving floodway, into the Everglades Agricultural Area and supporting urbanization. Additional loss occurred through the channelization of the Kissimmee River, and the resultant reduction of the Kissimmee Valley water table, as well as water tables throughout the District's jurisdiction, commonly performed by "298 Districts," individual property owners, and city and county drainage agencies.

Rainfall is basically the same in total volume on an annual average, but with broad variations from year to year, so that some years the storage loss isn't notable. Other years, the loss is dramatic.

The loss of storage has been compensated for, from an engineering viewpoint, by the construction of two discharge canals, one to the East—the St Lucie Canal, and one to the west—the Caloosahatchee River/canal. The canals are designed to remove the excess water by discharging them into the receiving estuaries.

These discharges have destroyed the ecology of the estuaries. Without creating additional storage in the system—up to 3 million acre feet—the discharges will continue.

As a side note, the condition of the Dike surrounding the Lake is requiring the Lake to be managed at a lower level. This means additional storage is lost—up to a half million acre feet—and additional volumes of discharges will likely be made.

It should be noted that the diversion of water east and west has had an adverse effect on the water supplies available to the SOUTHERN Everglades. With the current built canal systems and their diversions and height limitations serving as a choke point south of the Lake, the water budget for the Everglades is reduced, moving the system to one affected more by longer and more frequent droughts than was naturally experienced.

Lloyds, the international insurance company, has an online report assessing the risks under the current situation, noting a heightened degree of risk with the Levee (now discussed as a dam) in its damaged condition, and referencing the Corps as the source of

the statement of a threat of breach being 1 in 6 in any given year. A series of recommendations are given, including adherence to higher standards required of "dams." No specific reference is given for a "spillway." Lloyds reiterates the statements made elsewhere in regard to the exposure to the combined populations of Palm Beach, Broward, and Dade counties, should the breach act to damage and sever transportation to the north for unstated but lengthy periods of time, and affirms the concern. (A privately produced imaginative report, publicized in the media, gives some description of this likelihood and event).

2. Spillway.

The Herbert Hoover Dike was built to protect surrounding areas from the inundation caused by lake movement driven by tropical storms/hurricanes. Its mission was subsequently altered to also be a water supply source for agriculture and urban areas. The change of the mission has led to the Lake being maintained higher than is good for its environmental values, and has recently been discovered to be higher than is good for the integrity of the Dike, given the nature of the construction of the Dike. Consequently, the Dike has a higher degree of failure in its original mission, flood protection, due to its additional water supply mission. The areas protected by the Dike have made the water supply demands that threaten the integrity of the Dike.

One option discussed to preserve a degree of water supply enhancement, allowing a higher Lake level, is to create an emergency water release structure—a spillway—which would go into effect when the water reached heights beyond which the integrity of the Dike becomes increasingly compromised. A spillway, though, requires a receiving floodway, or overflow area. The size of the floodway depends upon how much water is expected to be received.

As of July, 2007, the only spillway discussion that has occurred involved setting the spillway at 12 feet MSL, fixed elevation. At such a level, the entire EAA would be required to be the floodway, since in effect the water currently stored in Lake Okeechobee would be partially redistributed into "Lake Okeechobee South."

Setting the spillway at 12 feet for analysis was apparently a decision made to obviate the need for expensive dike repairs and restoration. That height, though, prevents even the common safe level of Dike water heights (15.5 feet), much less the maximum safe high level (17.3 feet), and the experienced high level (18.1 feet). Lake Okeechobee becomes a water body whose shallow nature is limited only by the requirements of water heights needed for navigation according to USCOE standards. This has not ever been a Lee County recommendation.

Setting a spillway at 15.5 feet MSL adds about 1 3/4 million acre feet of storage in the Lake and reduces the demand on the EAA; setting it at 17.3 feet MSL (the maximum safe level) adds an additional 800,000 acre feet (plus) of storage. Setting the spillway at 12 feet basically doubles the amount of storage lost, mentioned above. Setting the spillway at 12 feet for discussion purposes discredits the concept, and leaves the only

discharge points for Lake high water the two discharge points that exist today—the Caloosahatchee and St Lucie.

A serious assessment of spillway feasibility would examine overflow needs between 15.5 feet and 17.25 feet. It would require the repairs to the Dike be made.

3. 10 County Coalition

The 10 County Coalition met on September 14th and considered the request of the US Army Corps of Engineers and South Florida Water Management District. After the presentation Commissioner Judah raised the question of the spillway need, and criticized the effort referenced above undertaken for the 12 foot level.

The response he received from the USACOE representative was that the high priority repairs were for Reaches 1, 2, and 3, (out of 8). Whereas the work proposed for Reach #1, (from Port Myakka down to Belle Glade, facing the Atlantic Coast communities) was for repair and rehabilitation, the work for reaches 2 (Moore Haven to Clewiston, facing us), and for Reach 3, Clewiston to Belle Glade, facing south, including South Bay) are to include consideration for a spillway to be evaluated, in regard to need, location, and design. The response went on to describe the problem presented to the Lee Board before, that the Lake receives more inflow than it can discharge with the existing discharge points east (St Lucie) and west (Caloosahatchee), which is why the review is needed.

Commissioner Judah and others then discussed the item and a motion was made to support the drafted resolution they have received, with the inclusion of the consideration of a review for spillways in the additional high priority work areas. The motion failed 6-4. The motion to approve the resolution without language for a spillway passed 8-2, dissent voiced for public safety considerations.

4. Resolution for Herbert Hoover Dike Repairs.

The resolution before the Board for consideration, and direction to a future meeting for action, is the basic 10 County coalition resolution, modified for direct Lee County action. It includes language reflecting the discussion in favor of the spillway, as additional whereases (the last 3) and as an additional directed action (#2)