

Lower Cape Fear Water & Sewer Authority  
Regular Board Meeting Minutes

February 12, 2018

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Chairman Sneed called to order the Authority meeting scheduled on February 12, 2018 at 9:00 a.m. and welcomed everyone present. The meeting was held at the Authority's office located at 1107 New Pointe Boulevard, Suite 17, Leland, North Carolina. Director Milliken gave the invocation.

**Present:** Norwood Blanchard, Trent Burroughs, Wayne Edge, Larry Johnson, Al Leonard, William Milliken, Charlie Rivenbark, Bill Saffo, Larry Sneed, William Sue and Frank Williams

**Present Electronically by Telephone:** Skip Watkins

**Absent:** Phil Norris and Jackie Newton

**Staff:** Don Betz, Executive Director; John Wessell, General Counsel; Tony Boahn P.E., McKim & Creed and Amy Scruggs, Administrative Assistant

**Guest:** John Nichols, Brunswick County Public Utilities Director; Glenn Walker, Brunswick County Water Resources Manager; Chad McEwen, Pender County Assistant County Manager; Bryan McCabe, Pender County Interim Public Utility Director; John Malone, Cape Fear Public Utility Authority Water Resources Manager and Heidi Cox, NC DENR Assistant Regional Engineering Supervisor, Public Water Supply Section Division of Water Resources

**PLEDGE OF ALLEGIANCE:** Chairman Sneed led the Pledge of Allegiance.

**APPROVAL OF CONSENT AGENDA**

**C1 - Minutes of Regular Board Meeting January 8, 2018**

**C2 - Minutes of Special Board Meeting January 15, 2018**

**C3 - Kings Bluff Monthly Operations and Maintenance Report**

**C4 - Bladen Bluffs Monthly Operations and Maintenance Report**

**C5 - Resolution Awarding Annual Audit Contract for Fiscal Year Ending June 30, 2018 to Thompson • Price • Scott • Adams & Co. P.A. in the Amount of \$7,500.00**

**Motion:** Director Leonard **MOVED**; seconded by Director Blanchard, approval of the Consent Agenda Items as presented. Upon vote, the **MOTION CARRIED UNANIMOUSLY**.

**OLD BUSINESS**

**OB1- Discussion on the Parallel Raw Water Transmission Main Project**

**1. Resolution of the Lower Cape Fear Water & Sewer Authority to Support Utility Recommendation of Agreement for Capacity Allocations and Financial Costs for a 54-inch, 14-mile Parallel Raw Water Main for the Kings Bluff Raw Water Pump Station**

Executive Director Betz recalled Director Norris' suggestion and Director Newton's motion that Brunswick County, Pender County and Cape Fear Public Utility Authority (CFPUA) meet to determine their needs relating to the transmission main and to sort out the issues in order to bring their recommendation to the Authority Board of Directors for a vote. Two such meetings were held in January with their regional effort resulting in a unified compromise. The components of compromise are as follows. All are in agreement in support of a 54-inch main rather than a 60-inch main. The Authority will allocate 4.5 MGD among the three utilities; therefore, it is necessary for the Authority to terminate its 6.5 million gallons per day (MGD) water supply agreement with Cape Industries. CFPUA will allocate 5 MGD of its 53 MGD safe yield withdrawal from the Cape Fear River to Brunswick County. Brunswick County will purchase 50 MGD, which is 52% of the new transmission main, and will finance 5 MGD for Pender County with a 10 year option for purchase. Pender County does not need additional water in the near future but will secure financing to purchase 5 MGD for its future need from Brunswick County within 10 years. Both Brunswick and Pender Counties joined the Authority in support of the 60-inch main; however, it is not financially feasible for Brunswick County to secure their capacity need as well as support an option for Pender County's future capacity need. This compromise is the best proposal in meeting the long term needs of each of these utilities without exceeding the safe yield withdrawal amount of 106 MGD. The presented resolution supports the recommendation of the utility representatives for a 54-inch main with correlating capacity

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and cost allocation illustrated in two tables, one with Pender County not exercising the 10 year purchase option and the second table with Pender County exercising that option. Director Sue noted the presented resolution is just a beginning point because several agreements must be developed to work out the details for implementation of the compromise. Director Rivenbark commented that a lot of time and effort was expended in consideration of the 60-inch main and while finances are a major decision factor, he hopes that in the future the partners don't look back questioning this decision. Executive Director Betz explained that the 54-inch main fully utilizes the total 106 MGD safe yield withdrawal from the Cape Fear River, whereas, the 60-inch main would provide a withdrawal of 124 MGD which is beyond the safe yield. Working within the established 106 MGD withdrawal can be supported by these partners and the State, but going beyond that is unknown. He also noted possible future options to obtain the total 124 MGD withdrawal.

Chairman Sneed along with several Directors commended all involved for their joint effort and for the compromises each utility was willing to make in order to meet the long term water needs of the region.

**Motion:** Director Williams **MOVED**; seconded by Director Blanchard, approval of the *Resolution of the Lower Cape Fear Water & Sewer Authority to Support Utility Recommendation of Agreement for Capacity Allocations and Financial Costs for a 54-inch, 14-mile Parallel Raw Water Main for the Kings Bluff Raw Water Pump Station* as presented. Upon vote, the **MOTION CARRIED UNANIMOUSLY**.

2. **Resolution to Terminate 6.5 MGD Water Supply Agreement Dated January 1, 1991 between Lower Cape Fear Water & Sewer Authority and Cape Industries in accordance with the Agreement**

Executive Director Betz explained that with approval of the previous resolution this is the next step to authorize the Authority's General Counsel to provide written notice to Cape Industries terminating the 6.5 MGD water supply agreement. This two year notice is required by either party requesting termination of the agreement. Therefore per the terms of the agreement, no termination is effective until two years after written notice has been given to Invista, who assumed the agreement upon acquiring Cape Industries. Executive Director Betz met with Mr. Bill King, Invista Vice President Operations - Intermediates Americas and Europe, who understood the need and expressed the need to develop a new water supply agreement with the Authority to secure water assigned to the HWY 421 corridor. The process for design and construction of the transmission main coincides well with this two year timeframe and will therefore not impede the project's progression. Mr. Wessell recommended he could send out the notice of termination this month with March 1, 2020 as the effective termination date for the January 1, 1991 water supply agreement. Approval of this resolution makes available the 4.5 MGD which the Authority will reallocate among the three utilities.

**Motion:** Director Sue **MOVED**; seconded by Director Williams, approval of the *Resolution to Terminate 6.5 MGD Water Supply Agreement Dated January 1, 1991 between Lower Cape Fear Water & Sewer Authority and Cape Industries in accordance with the Agreement with an effective termination date of March 1, 2020*. Upon vote, the **MOTION CARRIED UNANIMOUSLY**.

**OB2 - Update on the Cary, Apex, Morrisville Interbasin Transfer Modification Settlement**

Mr. Wessell provided background on the North Carolina Environmental Management Commission (EMC) approved 2001 Interbasin Transfer Certificate (IBT) and the subsequently approved 2015 IBT modification issued to Cary, Apex and Morrisville. The 2001 IBT increased the interbasin transfer withdrawal from the Cape Fear River and Haw River basins from 16 MGD to 24 MGD and it included a return flow requirement. In March 2015 the EMC granted these certificate holders an increase in the interbasin transfer from 24 MGD to 33 MGD without requiring any return flow. In May 2015 Fayetteville and the Public Works Commission (PWC) challenged the issuance of the 2015 IBT certificate before an Administrative Law Judge (ALJ). In January 2016 the Authority intervened in this matter and participated with a financial contribution and attendance on conference calls and at some of the proceedings. The ALJ issued an order ruling that EMC had to re-issue the 2015 IBT certificate inclusive of a return flow requirement to both basins. In March 2017 EMC filed a petition for judicial review of the ALJ's ruling seeking to overturn that decision. Ultimately the parties resolved this dispute and that resolution is set forth in the Consent Order signed in January, 2018. Generally the Consent Order requires: a return flow by Cary and Apex to both river basins; compliance monitoring by Cary and Apex of the return flow mandate; reporting of their findings of compliance to PWC and to the Authority; and posting of this record of compliance on the Town of Cary website. If the actual return flow is less than the required return flow, a method for reaching compliance with requirements of the Consent Order is set forth in the Consent Order. While the 2015 IBT remains in effect, the Division of Water Resources agrees to provide notice to interested parties thirty days before any

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changes are made to the formula set forth in the order regarding compliance and what is done upon failure to meet compliance.

**OB3 - Closed Session in Accordance with N.C.G.S. Sec.143-318.11(a) (3) to Preserve Attorney-Client Privilege (John Wessell, General Counsel)**

Chairman Sneed moved Item OB3 to the end of the agenda.

**NEW BUSINESS**

**NB1 - Appointment of 2018-2019 Finance Committee by Chairman**

Chairman Sneed asked if there were any volunteers not on the presented list who would like to serve. With there being none he read the names of those he appointed to the Finance Committee for fiscal year 2018-2019 including:

Larry Sneed, Chairman  
Norwood Blanchard  
Trent Burroughs  
Wayne Edge  
Al Milliken  
Skip Watkins

**Motion:** Director Rivenbark **MOVED**; seconded by Director Johnson, approval of the Finance Committee as presented. Upon vote, the **MOTION CARRIED UNANIMOUSLY**.

**NB2 - Appointment of 2018-2019 Evaluation Committee by Chairman**

Chairman Sneed asked if there were any volunteers not on the presented list who would like to serve. With there being none he read the names of those he appointed to the Evaluation Committee for fiscal year 2018-2019 including:

Norwood Blanchard, Chairman  
Trent Burroughs  
Wayne Edge  
Al Milliken  
Larry Sneed  
Skip Watkins

**Motion:** Director Rivenbark **MOVED**; seconded by Director Williams, approval of the Evaluation Committee as presented. Upon vote, the **MOTION CARRIED UNANIMOUSLY**.

**EXECUTIVE DIRECTOR REPORT**

**EDR1 - Duke Energy Progress Curtailment Event**

Executive Director Betz reported that in the month of January, the Authority participated in four energy curtailment events necessitating that the pump station operators (Jack Hogan and Darnel Brooks) be on site at 4:30 a.m. to ensure successful compliance. In January the pump station operated solely on generator power for a total of 21 hours and 10 minutes.

**EDR2 - Operating Budget Status as of December 31, 2017**

The mid-year budget performance shows operating revenue at 66% with expenditures at 68%. This increase over budget is mainly due to the receipt and expensing of Hurricane Matthew FEMA funds at the beginning of the fiscal year. Additionally, receipt of water revenue from most of the Authority's customers is over 50% as of December 31<sup>st</sup>.

**EDR3 - Customers' Water Usage Report for Fiscal Year to Date Ending January 31, 2018**

Executive Director Betz reviewed water use graphs for Brunswick County, CFPWA and Pender County as of January 31<sup>st</sup>. Brunswick County exceeded its projected water use six out of seven months. CFPWA had four significant months of use while Pender County had five months of exceeding its projected use. In January there was a great demand for water driven by the winter weather event which caused numerous water leaks in both the residential and business sectors.

**EDR4 - Winterizing the Interim Booster Pump Station**

Executive Director Betz recalled that in 2011 by way of a cooperative effort, the booster station was installed beyond the Authority's reservoir site in order to boost the line pressure during peak summer usage for downstream users including CFPWA, Pender County and the Hwy 421 corridor. Since its installation the booster station has never been used but has been tested two or three times. Due to the water demand created by the January winter weather event, operation of the booster pump station was needed; however, the pumps failed to perform. A robust operation and maintenance (O&M) plan is needed for the booster station along with a means of protection from the elements to ensure reliable operation when

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needed. Mr. Boahn noted the recent challenges came from January's freezing event. In preparation, the pumps were drained to prevent freezing; however, the effort was not successful. Additionally, it appears there may have been a lightning strike at the booster station at some point in time. Currently there is one pump which is serviceable. A range of options to better protect the booster station include the following. (1) Construction of a building around the booster station which would be the most protective and most expensive. (2) An intermediate option is to construct a shelter cover with heat tracing to prevent freezing. (3) Another option would be modular enclosures over some of the equipment which would be not as expensive but the same level of coverage. The booster station is a remote site located about a mile and a quarter from the main road. There is no appreciable electrical service except for single phase, 120 volt. Construction of a building would require three phase, 480 volt service for operation and building code compliance. Executive Director Betz recommended Mr. Boahn meet with the partners to evaluate and discuss the options and associated costs in order to make a recommendation to the board.

**EDR5 - NC AWWA-WEA Spring Symposium, March 26th -27th, Ashville, NC (Sunday Arrival)**

Executive Director Betz noted the Spring Symposium starts early on Monday, March 26<sup>th</sup>; therefore attendees should plan to arrive on Sunday. Directors planning to attend should contact Ms. Scruggs this week regarding registration submittal.

**DIRECTOR'S COMMENTS AND/OR FUTURE AGENDA ITEMS**

None

**PUBLIC COMMENT**

None

**OB3 - Closed Session in Accordance with N.C.G.S. Sec.143-318.11(a) (3) to Preserve Attorney-Client Privilege (John Wessell, General Counsel)**

**Motion:** Director Rivenbark **MOVED**; seconded by Director Edge, to go into closed session in accordance with North Carolina General Statute Section 143-318.11(a) (3) for the purpose of discussion with the Authority's General Counsel regarding litigation involving Chemours. Upon vote, the **MOTION CARRIED UNANIMOUSLY**.

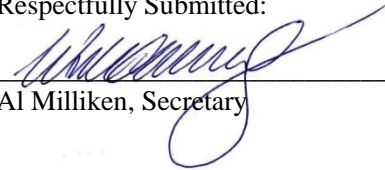
At 9:41 a.m. the board went into closed session. At 9:48 a.m. the board returned to open session.

Discussion only; no action required.

**ADJOURNMENT**

There being no further business, Chairman Sneed adjourned the meeting at 9:49 a.m.

Respectfully Submitted:

  
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Al Milliken, Secretary