

Lower Cape Fear Water & Sewer Authority
Regular Board Meeting Minutes

January 14, 2019

Chairman Edge called to order the Authority meeting scheduled on January 14, 2019 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 Leonard gave the invocation.

Present: Norwood Blanchard, Trent Burroughs, Wayne Edge, Larry Johnson, Al Leonard, William Milliken, Jackie Newton, Phil Norris, Charlie Rivenbark, Larry Sneed, William Sue, Frank Williams and Rob Zapple

Present Electronically by Telephone: Bill Saffo

Absent: None

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

Guest: Frank Styers, Cape Fear Public Utility Authority Chief Operations Officer; Chad McEwen, Pender County Assistant County Manager; John Nichols, Brunswick County Public Utilities Director; Glenn Walker, Brunswick County Water Resources Manager; and Heidi Cox, NC DENR Assistant Regional Engineering Supervisor, Public Water Supply Section Division of Water Resources

PLEDGE OF ALLEGIANCE: Chairman Edge led the Pledge of Allegiance.

PRESENTATION TO:

- Larry Sneed, New Hanover County Representative, by Chairman Edge
- Skip Watkins, New Hanover County Representative, by Chairman Edge

Chairman Edge presented Director Sneed with a plaque in recognition and appreciation of his distinguished service as Chairman of the Authority's Board of Directors for 2018. Mr. Watkins was not in attendance.

ADMINISTER OATH OF OFFICE TO: Rob Zapple, New Hanover County Representative (Chairman Edge)

Chairman Edge administered the Oath of Office to Mr. Rob Zapple, New Hanover County Commissioner, who was newly appointed by the County as one of their two representatives on the Authority's Board of Directors. Mr. Zapple was welcomed by members and staff.

APPROVAL OF CONSENT AGENDA

C1 - Minutes of Regular Board Meeting December 10, 2018

C2 - Kings Bluff Monthly Operations and Maintenance Report

C3 - Bladen Bluffs Monthly Operations and Maintenance Report

C4 - Bladen Bluffs Weekly Report: January 4, 2019

C5 - Budget Amendment #4

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

OLD BUSINESS

OB1- Status Update Intermediate Booster Pump Station Building Improvements Project (Tony Boahn, P.E., McKim & Creed)

Mr. Boahn reported that in response to the request for bids for construction of the Intermediate Booster Pump Station (IBPS) Building Improvements Project, it was anticipated six contractors would submit bids; however only two bids were received even with a bid extension. Both bids exceeded the estimated probable cost for the project with one from TMC- Taylor Construction being \$437,800.00 and the other from Jackson Builders being \$579,638.00.

Mr. Boahn noted that in the current economy most contractors are busy. He inquired if the board wanted to move forward or wait for a better bidding market in about six months to a year. He noted the project's momentum could be

delayed for another year. Executive Director Betz added this project has a lower priority to the current the projects resulting from by Hurricane Florence and the Parallel Transmission Main Project.

Motion: Director Blanchard **MOVED**; seconded by Director Sue, approval to wait six months to a year to see if there is a better bidding market in which to receive bids for construction of the Intermediate Booster Pump Station Building Improvements Project. Upon vote, the **MOTION CARRIED UNANIMOUSLY**.

Motion: Director Leonard **MOVED**; seconded by Director Norris, approval to reject the bids submitted by TMC-Taylor Construction in the amount of \$437,800.00 and by Jackson Builders in the amount of \$579,638.00. Upon vote, the **MOTION CARRIED UNANIMOUSLY**.

OB2 - Status Update on Legal Review and Action Required of Existing Easements for Construction of the Kings Bluff Raw Water Parallel Transmission Main Project (John Wessell, General Counsel)

Mr. Wessell reported that to move forward with this project McKim & Creed identified a number of easements needing to be acquired or with encroaching, permanent structures needing to be moved. As approved by the Board, title searches have been conducted to identify lawful owners for acquisition of these easements. This week letters will be sent to these property owners informing them of the project and requesting a meeting to discuss voluntary granting of the easements to the Authority. The letters will state that if a response is not received within fifteen days of the date of the letter, the Authority will have no choice but to consider condemnation of the required easement. If needed, condemnation proceedings must be initiated by adoption of a resolution by the Board specifically authorizing the condemnation. Letters will also be sent to property owners needing to remove structures.

OB3 - Status Update on Hurricane Florence Damages as it Pertains to FEMA, Insurance Claim and Discussions with Customers Regarding Water Service During Construction of Two NC DOT Bridges on US Highway 421

Mr. Boahn reported on the current post Hurricane Florence conditions.

A. U.S. Highway 421

Purchase Additional Repair Materials: Mr. Boahn noted the US 421 bridge construction and its potential impact to the Authority's water main as the current priority. In the event of a breach, adequate repair materials must be immediately available and a current inventory indicates additional materials are beneficial to have in-stock. McKim & Creed recommends the purchase of three 20 linear feet joints of 48-inch ductile iron pipe (DIP) and one 48-inch DIP 90 degree fitting at an estimated cost of \$48,000.00. This amount includes the cost to have the material unloaded at the Kings Bluff Raw Water Pump Station (KBRWPS). Executive Betz noted that if the Authority moves towards relocation of this section of main these materials can be used but regardless if there is a breach or not these materials need to be in stock for emergency repair of any failure at any time. He reminded the Board that if a main failure occurs, the water supply for Invista, Praxair, Fortron Industries and Southern States Chemical would be shut off and the supply to Cape Fear Public Utility Authority (CFPUA) would be significantly reduced from its current 12 million gallons per day (MGD). As a precaution CFPUA has secured diesel pumps to provide flow from its pump station since the station is currently shut down for installation of new electric pumps. Additionally, CFPUA would continue to receive a reduced supply of approximately 10 MGD or less through the emergency connection between the Authority's main and CFPUA's main. Executive Director Betz requested direction from the Board so a budget amendment and purchase order from the R&R Fund can be presented at the February board meeting. Normally, these size items are not kept in stock by vendors; however, McKim & Creed has verbally confirmed American Pipe currently has them available.

Permanent Relocation of 48-Inch Main at US 421 Bridge Replacement and Preliminary Permitting: Mr. Boahn explained that in discussions with FEMA regarding permanent relocation of the raw water main, McKim & Creed was asked to provide an option of probable cost. Relocating the main outside the bridge approach, based on installation of 48-inch DIP including open cut of the US 421 pavement sections and direct bury without encasement piping, is estimated at \$2,000,000.00. An additional cost of \$7,500.00 would be needed for environmental evaluations and preliminary design and survey. Executive Director Betz reported that at the January 10th FEMA meeting, permanent relocation of the main was denied due to the fact that no damages were sustained; therefore, mitigation criterion was not met. The names of other federal agencies were provided as possible funding sources including the Federal Department of Transportation and it was suggested the Authority's FEMA manager contact these agencies.

Temporary Bypass Alternatives US 421 Bridge Construction Area: Previously, McKim & Creed presented the option of providing a temporary by-pass tap and main in the event of the main failure. This option requires specific equipment and a specialty contractor at an estimated cost of \$1,200,000.00 to \$1,400,000.00 with the bulk of the costs associated with the tap installations and excavations. With this installation there could also be a time delay depending on the contractor's schedule.

Installation of Permanent Pipe Under US 421: The option to install a future permanent pipe beneath the US 421 pavement was also investigated. The main would be capped on each end and installed from "right of way" to "right of way" outside of the bridge construction zone. NC DOT verbally indicated that open cut of the road for main installation would be considered. This would result in a significant savings over bore & jack installation which for this project is estimated at \$1,000,000.00. Probable cost to install the 48-inch DIP is \$275,000.00. To install an encasement pipe for future insertion of the 48-inch main is \$315,000.00. Mr. Boahn recommends installation of the 48-inch main; however, a cost was calculated for an encasement if NC DOT required an encasement.

Modifications to Valve Vault Near Pender County Water Meter Connection: Pender County's water meter vault connection is submerged and inaccessible during flooded conditions. The operator on the valve needs to be raised to improve accessibility. Preliminary estimates for extension of the valve operator and/or extensions of the vault risers is \$25,000.00.

Director Sneed asked Mr. Styers, if the main on US 421 was washed out by another big storm, what type of impact would that have on CFPUA if its pump station was fully operational. In response Mr. Styers recalled that when operating with reduced flow due to a ruptured main repair in 2016 caused by Hurricane Matthew, CFPUA operated under full bore emergency procedures. By receiving limited supply from the Authority, utilizing wells and with conservation measures it was a day by day process to keep the system pressurized. CFPUA was able to survive but there was no additional capacity. Mr. Styers said in speaking with Executive Director Betz and Mr. Boahn regarding this type of scenario, he noted that CFPUA would have no additional capacity because they would need to take care of their community and hospitals first. Mr. Styers said that if CFPUA received no supply due to a breached main on US 421, they still have the option to use its Kings Bluff pump station or pump back through the interconnect which would supply approximately 10 MGD. CFPUA would definitely have to operate in some type of conservation mode especially if a breach occurred during a peak demand month such as July. The interconnection still needs to be tested and CFPUA will arrange that testing with Brunswick County. In conclusion he stated CFPUA relies on that line along with the other customers along US 421. Executive Director Betz explained the impact to the other US 421 customers including Invista and Praxair plus Forton Industries and Southern States Chemical who are both supplied by Invista. In meeting with representatives of these industries Praxair explained their water supply must not be shut down because they supply oxygen to critical needs customers via 15 trucks per day. In New Hanover County they deliver oxygen not only to the Sweeney Water Treatment Plant but also to the hospital. Southern States Chemicals is the sole supplier to some vendors in the automobile industry and a water supply shut down could cause a ripple effect of disruption in that industry. A shut down for Fortron Industries would affect a large base of employees also causing a ripple effect. There is a concern of a major economic situation if water supply to these industries was completely shut down. Executive Betz noted that if a plan could be developed to apportion some amount of flow by way of CFPUA's line that would be beneficial. He acknowledged there are limited options to do this and in so doing it takes water from CFPUA's customers making it a real balancing act.

There were additional discussions regarding: additional funds which may be required to provide increased observation by McKim & Creed during the US 421 bridge construction; suggestions concerning who to contact and what avenues to pursue for financial assistance and resources; impact on the water rate if the Authority funded relocation of the main; and, what is the timeframe in which a decision must be made to permanently relocate the main or install a section of main or encasement for future use.

Concerning bridge construction on US 421 and the possibility of damage to the Authority's main by the contractor, Director Norris recommended the Authority send a letter putting NC DOT on notice regarding liability. Mr. Wessell said such a letter can be sent; however, it will not have any legal impact but it may have impact on how they address it with their contractors and subcontractors. Mr. Wessell will work with Executive Director Betz to compose the letter.

In conclusion Executive Director Betz identified the top two priorities being the purchase of additional repair materials for the raw water transmission main and the modifications to Pender County valve vault and recommended these be funded from the R&R fund. He noted that after the board meeting he was meeting with Mr. Nichols and Mr. Walker regarding the coordination of an emergency response to include an stand-by, emergency contractor and having the repair materials on hand for all customers to be advised of the emergency contingency plan in the event of a main failure. Additionally with FEMA declining the permanent relocation of the main, he will start the activation of a grant application; notify the US 421 customers of the denial and request they provide letters in support of the application.

Motion: Director Blanchard **MOVED**; seconded by Director Newton, approval of funding from the R&R fund to purchase the additional repair materials and to modify the valve vault near Pender County's water meter connection to provide access during flooded conditions as presented in the McKim & Creed Technical Memorandum dated January 8, 2019, Project No. 01675-0049. Upon vote, the **MOTION CARRIED UNANIMOUSLY**.

B. Bladen Bluffs Facility

Mr. Boahn recalled that at this facility the river bank was severely eroded at the raw water intakes, exposing the stainless-steel air back wash piping. During Hurricane Florence the Cape Fear River flooded up the bank to the pump station. The air back wash piping is installed in the steepest section of the river bank and McKim & Creed recommends the pipes be lowered and re-installed further into the adjacent property to minimized future erosion and exposer of the pipes. Although the entire river bank was eroded upstream and downstream of the pipes, the focus is restoration of the bank within the area of the intake piping. The cost to move the pipes and restore the bank is estimated at \$800,000.00. If the pipes are not moved and the bank is restored, the cost will be considerably less. Director Blanchard asked Mr. Boahn to bring that cost amount back to the Board at the February meeting. Executive Director Betz commented that FEMA is scheduled to make a site visit on January 16th to evaluate the erosion damage. Mr. Boahn commented that this damage is much more likely to meet FEMA funding criteria unlike the US 421 raw water transmission main project which sustained no damage. In response to a question by Director Milliken about placement of a bulkhead on the upstream side of the pipes, Mr. Boahn explained that with FEMA funding if any type of concrete or hard surface stabilization is used, an environmental assessment is required. If a bio-engineering (natural restoration) method is used an assessment is not required. Executive Director Betz stated that since last month's board meeting, the Authority received a denial response to its insurance claim with Glatfelter Claims Management citing the damage estimate to the GAC filter tanks, the electrical pump building and debris removal did not exceed the deductible amount of \$5,000.00. Therefore Smithfield is responsible for these payments.

OB4 - Report on U.S. Army Corps of Engineers Public Scoping Meeting December 12, 2018 Regarding Disposition of Three Locks and Dams Inclusive of Lock and Dam No. 1 (Wayne Edge)

Chairman Edge attended the December 12th meeting concerning the disposition study on the three locks and dams located above Wilmington. He reported the purpose of the meeting was for the residents of the surrounding counties, government officials and leaders to review the disposition scenarios. The lock and dam system served two main functions, commercial and recreation; however, when river traffic ceased around 1995 the system fell into a caretaker status. The three presented scenarios are: (1) no action with no new funding investment; (2) reauthorize the system and remove it from the river and; (3) reauthorize the system and dispose of it to a governmental entity willing to be the responsible owner. Director Leonard suggested the scenario that if the Department of Commerce put an industry in Fayetteville or Elizabethtown that utilizes the river then the U.S. Army Corps of Engineers would have to maintain the locks and dams.

OB5 - Baron & Budd, P.C. Comments to the Proposed Consent Order Published for Comment in DEQ v. The Chemours Company (the "Enforcement Action") (John Wessell, General Counsel)

Mr. Wessell recalled that the Authority together with Brunswick County and Wrightsville Beach are plaintiffs in a lawsuit filed against Chemours in conjunction with the GenX issues. They are represented by a firm called Baron & Budd, P.C. The lawsuit was filed in early 2018 and in April, 2018 Chemours filed a motion to dismiss the lawsuit. The judge, who was assigned the case, for unknown reasons has chosen not to rule on that motion so since April 2018 the lawsuit is in limbo until the judge decides to grant or deny the motion. Last week Mr. Wessell spoke with his contact at Baron & Budd and was informed there is no clear understanding of when a ruling may be forthcoming on Chemours' motion for dismissal. On January 7, 2019, on behalf of the plaintiffs, Baron & Budd filed comments

in response to the proposed Consent Order. In summary the comments basically stated the Consent Order falls short, by some significant margin, with what it needs to address. The three primary issues are: (1) the Consent Order really doesn't address the impact on the downstream users; (2) the proposed testing protocols are not what they need to be; and, (3) the requirement for action on behalf of Chemours needs to be more stringent than what the State has proposed. Mr. Wessell said the comments are comprehensive and are not overly strong one way or the other.

EXECUTIVE DIRECTOR REPORT

EDR1 - Update on Kings Bluff Pump Station Air Quality Emission Compliance Inspection Letter of November 30, 2018

As follow-up to last month's meeting Executive Director Betz referenced the letter of November 30th from Heather Carter, Regional Supervisor for the North Carolina Department of Environmental Quality Division of Air Quality (NC DEQ), which stated the Authority's emissions were not in compliance with current Federal regulations. Since 2013 the Authority has operated its generators with the understanding of a variance that each generator could not exceed 50 hours per year and that the Authority may have to comply with Federal compliance if the regulations changed. Apparently, in 2015 there was a legal case that indicated that variance was removed; however, the Authority received no such notification from the State until receipt of the November 30th letter. Ms. Carter's letter stated that specified testing results were due to NC DEQ by March 1, 2019. A letter of response was sent providing the actions the Authority intended to take to come into compliance along with a request for an extension date of May 1, 2019 for submittal of the testing results. The Authority connected with a local company that has the ability to create the required protocol and conduct the testing. Last week Executive Director Betz notified Ms. Carter that the testing company made a site visit to the Kings Bluff facility on January 8th and the information acquired from that visit had to be presented to the Authority's Board for direction. The company can provide and install the catalysts on the generators, provide testing, annual monitoring and submit the testing results to NC DEQ; however, this cannot be done by March 1st. The rough estimate for installation and testing is approximately \$65,000.00 per engine for the catalysts emissions upgrade. Lifespan of the equipment is estimated to be five years. Monitoring service is estimated at \$3,500.00 per engine with a one-time charge of \$1,000.00 for the cellular equipment. Emission testing is required every three years if the engines are operated more than 100 hours per year. If the engines operate less than 100 hours per year, emission testing is required every five years. This testing costs approximately \$5,000.00 per engine. The Authority has participated in the Duke Energy's curtailment program named Demand Response Automation (DRA) since 2010 and from that time the Authority has received a total amount of \$508,544.00 in credits. This figure includes monthly credits, curtailment events participation credits and a one-time incentive credit of \$57,823.00. Expenses incurred by the Authority during curtailment events include generator fuel and overtime pay for operators. Executive Director Bez estimated it will take at least 3 years to recover these expenses if the Authority decides to continue with DRA. Ms. Carter contacted Executive Betz last week informing him that she had not yet prepared a response letter which could include approval of the requested extension or notice of levy of a non-compliance fine. The Authority is in the final year of the current DRA contract extension and going forward it is open ended with two year extensions where either the Authority or Duke can terminate program participation. Executive Director Betz said he will contact Duke Energy to explain the consequences of this matter to see if Duke will provide some sort of guarantee.

Motion: Director Leonard **MOVED**; seconded by Director Sue, that the Executive Director provides a comprehensive, all-encompassing cost benefit analysis including upgrade cost, operating cost and cost of not participating in DRA for Board review and decision at the February 11, 2019 board meeting with the assurance from the Board that if the extension is not granted and a penalty is imposed, the Authority will pay the penalty. Upon vote, the **MOTION CARRIED UNANIMOUSLY**.

EDR2 - Customers' Water Usage Report as of December 21, 2018

Executive Director Betz reported water usage is above projection. Brunswick County's usage is strong and Pender County's usage remains steady. CFPUA's usage has increased. CFPUA's pump station is offline for renovations so 100% of its raw surface water supply is being provided by the Authority.

DIRECTOR'S COMMENTS AND/OR FUTURE AGENDA ITEMS

Director Burroughs suggested the Authority confirms it has sufficient insurance to adequately cover and protect the Board from personal liability.

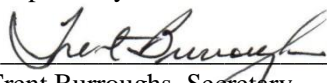
PUBLIC COMMENT

None

ADJOURNMENT

There being no further business, Chairman Edge adjourned the meeting at 10:20 a.m.

Respectfully Submitted:



Trent Burroughs, Secretary