

Lower Cape Fear Water & Sewer Authority  
Regular Board Meeting Minutes

February 10, 2020

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Chairman Milliken called to order the Authority meeting scheduled on January 13, 2020 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:** Trent Burroughs, Wayne Edge, Larry Johnson, Patricia Kusek, Al Leonard, William Milliken, Jackie Newton, Phil Norris, Charlie Rivenbark, Bill Saffo, Larry Sneed and William Sue

**Present Electronically by Telephone:** Norwood Blanchard and Jackie Newton

**Absent:** None

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

**Guests:** Randell Woodruff, Brunswick County Manager; John Nichols, Brunswick County Public Utilities Director; Glenn Walker, Brunswick County Water Resources Manager; Matt Hourihan, Cape Fear Public Utility Authority Assistant Treatment Director; John Malone, Cape Fear Public Utility Authority Water Resources Manager; Anthony Colon, Pender County Public Utilities Assistant Director; Heidi Cox, NC DEQ Regional Engineering Supervisor, Division of Water Infrastructure; Johanna Ferebee Still, Journalist Port City Daily; Shirley Lawler and Mark Allison

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

Chairman Milliken requested a motion to table Agenda Item OB5 concerning the Resolution Adopting the Amended and Restated Agreement for Operation and Maintenance of the Kings Bluff Raw Water Pump Station Between Lower Cape Fear Water & Sewer Authority and the County. He explained the Brunswick County Attorney was unable to review the agreement prior to this meeting.

**Motion:** Director Williams MOVED; seconded by Director Rivenbark, approval for the Agenda Item OB5 to be tabled until the March, 9, 2020 Board Meeting. Upon vote, the MOTION CARRIED UNANIMOUSLY.

**APPROVAL OF CONSENT AGENDA**

**C1 - Minutes of Regular Board Meeting January 13, 2020**

**C2 - Kings Bluff Monthly Operations and Maintenance Report**

**C3 - Bladen Bluffs Monthly Operations and Maintenance Reports**

**C4 - Bladen Bluffs Weekly Report: February 3, 2020**

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

**OLD BUSINESS**

**OB1 - Amendment to Budget Amendment #3 Dated December 9, 2019**

Interim Executive Director Pierce explained that on December 9, 2019, the Board approved Budget Amendment #3 which included funds to replace some wiring that shorted out at the Kings Bluff pump station. When the electrical contractor removed the wiring, it was found that the conduit was the cause for the shorted out wire. The existing 3-inch conduit was not adequate to safely install the size wire that was originally installed. Additionally, the conduit had collapsed at one location outside of the building and was misaligned at one location inside the building. In consulting with the operation and maintenance staff, it was determined the best long-term remedy is to replace the conduit with properly sized 4-inch conduit. The new conduit will be slightly rerouted to reduce the cost. Interim Executive Director Pierce recommended approval of the amendment to Budget Amendment #3 for the increase in cost of \$16,945 for the installation of new 4-inch conduit and the replacement of the shorted out wire.

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**Motion:** Director Sue **MOVED**; seconded by Director Kusek, approval of amendment to Budget Amendment #3 Dated December 9, 2019 as presented. Upon vote, the **MOTION CARRIED UNANIMOUSLY**.

**OB2- Status Report on the Bladen Bluffs Regional Surface Water Plant Cape Fear River Bank Restoration Project**

Interim Executive Director Pierce recalled that at last month's meeting the Board approved for the Chairman to sign the contract documents with Wells Brothers Construction Company as the project's contractor. A preconstruction meeting was held at the Bladen Bluffs Surface Water Treatment Plant on January 27<sup>th</sup> and the Notice to Proceed was issued to the contractor on January 29<sup>th</sup>. According to the contractor, work will commence this week. The project is scheduled to be completed by May 13, 2020. Two, FEMA payment requests have been submitted and reimbursement is expected in six to eight weeks. One request is for engineering services and the second is for administrative cost. In total, the Authority is eligible to receive reimbursement of \$30,207 in administrative costs associated with this project.

**OB3 - Status Report on Capital Project: Kings Bluff Raw Water Pump Station 48-Inch Raw Water Main Relocation, US HWY 421**

Interim Executive Director Pierce reported that the work has been completed on this project and a final adjusting change order will be presented to the Board at its March meeting which will officially close the project. The change order is expected to be a deductive change order from the original estimate. This will significantly reduce the amount borrowed through the New Hanover County loan. He commented that no adjustments are needed to the loan's payment terms because repayment is to be made in two installments of \$390,000 each and the remaining balance amount will be payable as the third and final payment.

**OB4 - Status Report on 54-inch Kings Bluff Raw Water Parallel Transmission Main Project**

Interim Executive Director Pierce reported a value engineering meeting was held with Garney Construction as the project's contractor. He explained that with value engineering, the contractor provides a list of possible costs saving changes to the project. McKim & Creed reviewed the submitted list and recommended acceptance of six of the proposed changes which resulted in a net savings of \$77,628. The accepted changes include changes in casing sizes, changes in the depth of some manholes and shortening of one crossing. Garney has established their lay down yard and office trailer close to the Kings Bluff Pump Station on property owned by the Authority. With right-of-way clearing being underway, there have been a few issues with property owners; however, there is a procedure in place to document and work with these owners in resolving the issues. The pipe is being manufactured and deliveries to the job site begins mid-February with the laying of pipe scheduled to begin on March 2<sup>nd</sup>. The project completion date is May 1, 2021. Upon project completion, the existing pumps' transmission capacity will increase; therefore, the Kings Bluff Pump Station must be re-rated for this increase. Interim Executive Director Pierce is currently working on this and will provide more information at a future meeting.

**OB5 - Resolution Adopting the Amended and Restated Agreement for Operation and Maintenance of the Kings Bluff Raw Water Pump Station Between Lower Cape Fear Water & Sewer Authority and the County of Brunswick**

This agenda item is tabled until the March 9, 2020 board meeting.

**OB6 – Resolution of Support for the Submission of a Letter of Intent on the Transfer of the Cape Fear Locks and Dams by the Fayetteville Public Works Commission**

The Corps of Engineers (Corps) has completed their disposition study and the final version has been published for a 30 day comment period. The full report may be accessed on the Corps' website. All comments are due by February 20<sup>th</sup>. Interim Executive Director Pierce reported that the alternatives have not changed since the draft report. They include: (1) Leave the Locks and Dams but perform no operation or maintenance. (2) Remove the Locks and Dams which would take Congressional Action. (3) Turn the operation and maintenance over to a third party.

On January 31<sup>st</sup> a conference call was held with the North Carolina Department of Environmental Quality (NC DEQ) and the Corps. Interim Executive Director Pierce shared some highlights from that call. He said the Corps will not include a recommendation on which agency should receive ownership of the Locks and Dams and nonbinding Letters of Intent are only to demonstrate to Congress that the option to transfer ownership to a third party is a viable alternative. Congress ultimately has the power to take any steps which are in the nation's best interests. NC DEQ has met internally and decided they want to acquire ownership of the Locks and Dams; however, they are still determining how best to obtain the necessary approvals and they are unsure about the operation and maintenance

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funding source. NC DEQ also strongly reiterated they view all stakeholders (water supply, water quality, recreation, fish passage, and aquatic habitat) equally. The question of what requirements will be placed on the owner of the Locks and Dams is still unanswered. Initially the Corps indicated there would be no requirements but ultimately it was indicated that Congress would impose whatever requirements they deem necessary. After the conference call NC DEQ issued a press release announcing their intentions to submit a Letter of Intent. In speaking with the regional stakeholders after the conference call, Interim Executive Pierce commented that the Authority, Cape Fear Public Utility Authority (CFPUA) and Fayetteville Public Works Commission (PWC) had a better understanding of the disposition process. At last month's meeting the Board approved a contract with Arcadis Consulting Engineers, Inc. in the amount of \$17,500 to prepare a report on the operation cost and long term maintenance cost of all three Locks and Dams. To have access to the report, the Corps required Interim Executive Director Pierce to sign a nondisclosure agreement. He reported the agreement was submitted three weeks ago and the Corp has not signed the agreement nor returned his phone calls. The report was prepared and provided to PWC; however, the Authority cannot review it due to the report being confidential. The only information provided is that the operating cost for Lock and Dam 1 is less than that for Locks and Dams 2 and 3. If the Corps signs the agreement, then the report can be shared with the Board in executive session. Executive Director Pierce noted that he believes the best long-term solution is a joint effort between the utilities and the State working together on the Locks and Dams to protect this region's water supply. This could possibly be in the form of cost sharing of maintenance. It appears that PWC will submit a nonbinding Letter of Intent and which could provide some leverage to work and negotiate with the State to address the importance and establish the priority of protecting the water supply of this region. As one of four recommended actions he referenced the resolution in support of PWC's Letter of Intent for the Board's consideration. Since the Corps has indicated that all three Locks and Dams will be given to only one agency and PWC is willing to be the lead agency. In the event PWC acquires the Locks and Dams, the Authority would enter into an interlocal agreement with PWC for the transfer of Lock and Dam 1 to the Authority. Interim Executive Director Pierce said he has heard from different sources that the Corps received several comments on behalf of stakeholders supporting water quality, recreation, fish passage, and aquatic habitat; however, the importance of water supply was not represented in the comments. He provided the Board with a page of comments supporting the regional water supply and recommended the Board encourage their local governments and other associated parties such as wholesale water customers to submit comments to the Corps of Engineers on the final version of the *Cape Fear River Locks And Dams Bladen County, North Carolina Section 216 Disposition Study Draft Integrated Report And Environmental Assessment*, by the February 28<sup>th</sup> deadline, in support of the importance of this region's water supply. Director Sneed emphasized that the other stakeholders are not against water supply, rather they are advocating for their particular interest to be a part of the discussion as the Authority is doing for water supply. Interim Executive Director Pierce also recommended that a copy of the Authority's position on the disposition of the Locks and Dams be sent to all of the North Carolina Representatives and Senators that represent this region to make them aware of the importance of this issue.

**Motion:** Director William **MOVED**; seconded by Director Sue, approval of the *Resolution of Support for the Submission of a Letter of Intent on the Transfer of the Cape Fear Locks and Dams by the Fayetteville Public Works Commission* subject to a correction that the word resident in the seventh paragraph be changed to residents.

Chairman Milliken opened the floor and there was discussion that the motion should also include approval of the Authority's position to be sent to all of the North Carolina Representatives and Senators representing this region; PWC's and CFPUA's positions regarding this matter; the importance to raise awareness about this issue; whether the Authority is stronger or weaker in negotiating with the State by submitting a Letter of Intent; the condition of the 100 years old Locks & Dams and who is in the best financial position to maintain them and that the presented resolution should clearly state that water supply is the most important factor to consider in disposition of the Locks and Dams.

**Motion:** Director William amended his motion and **MOVED**; seconded by Director Sue, approval of the Resolution of Support for the Submission of a Letter of Intent on the Transfer of the Cape Fear Locks and Dams by the Fayetteville Public Works Commission subject to a correction in the seventh paragraph for the word resident to be changed to residents and that an additional paragraph be added as the last paragraph of the resolution which reads:

Further be it resolved that the Chairman and Board of Directors for the Authority will work with whatever entity acquires the Locks and Dams to prioritize and protect the public water supply in the southeastern region of the State of North Carolina.

He additionally added approval for the Authority's position as presented in the agenda to be sent to all of the North Carolina Representatives and Senators that represent this region. Upon vote, the **MOTION CARRIED UNANIMOUSLY**.

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Director Williams ask for this resolution to be sent to the governing bodies of the Authority's five counties membership.

**OB7 - Personnel Committee Report: Resolution Authorizing the Extension of Employment Agreement Between Lower Cape Fear Water & Sewer Authority and Jerry W. Pierce, P.E. to Serve as Interim Executive Director until May 31, 2020**

Chairman Milliken reported the employment contract with Interim Executive Director Pierce ends on February 28<sup>th</sup> and the presented resolution extends the term of the agreement for Mr. Pierce to serve as the Interim Executive Director for an additional three months or until May 31, 2020.

**Motion:** Director Rivenbark **MOVED**; seconded by Director Burroughs, approval of the Resolution Authorizing the Extension of Employment Agreement Between Lower Cape Fear Water & Sewer Authority and Jerry W. Pierce, P.E. to Serve as Interim Executive Director until May 31, 2020. Upon vote, the **MOTION CARRIED UNANIMOUSLY**.

**EXECUTIVE DIRECTOR REPORT**

**EDR1 - Customers' Water Usage Report for Fiscal Year to Date Ending December 31, 2019**

The water usage for December was below projection. Both CFPUA's and Brunswick County's water usage was below projection and Pender County's usage was slightly above projection. Currently, water usage is at the breakeven point.

**EDR2 - Operating Budget Status, Second Quarter Ending December 31, 2019 and Budget Amendment #5 for Approval**

Interim Executive Director Pierce reported that the six month status of the operating budget is in good overall shape with expenditures at 50% and revenues at 60%. A budget amendment is needed for two line items which have exceeded their budgeted amount. An increase is needed for the Attorney line item and for the Office Maintenance line item. Revenue for these increases will be provided by a decrease in the appropriation for Property Insurance which has been paid in full for this year.

**Motion:** Director Leonard **MOVED**; seconded by Director Norris, approval of amendment to Budget Amendment #5 as presented. Upon vote, the **MOTION CARRIED UNANIMOUSLY**.

**EDR3 - Report on Executive Director Recruitment**

Interim Executive Director Pierce reported the Authority received 27 applications for the Executive Director position. The applicants were screened and ten candidates were selected whose skills and experience most closely match the job description requirements for review by the Personnel Committee. The Committee will meet on February 24<sup>th</sup> to select three to five candidates for interview.

**EDR4 – Kings Bluff Raw Water Pump Station Local Water Supply Plan for Calendar Year 2019, Submitted January 29, 2020**

As an annual requirement the 2019 Local Water Supply Plan has been submitted. Once the plan is approved by the State, the Board will be presented a resolution for its approval.

**CLOSED SESSION**

**CS1 - Closed Session in Accordance with NCGS§143-318.11(a)(5)(i) to Consider Acquisition of Real Property as it Pertains to:**

- A) An Easement Related to Property Located in Brunswick County**
- B) A Contract Between the Authority and the Fayetteville Public Works Commission**

Interim Executive Director Pierce noted that no further discussion was needed for Agenda Item CS1- B.

Chairman Milliken requested a motion for the Board to enter closed session in accordance NCGS§143-318.11(a)(5)(i) to discuss an easement as it relates to a parcel of property in Brunswick County that has a tax parcel number of 01400001.

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Motion: Director Saffo MOVED; seconded by Director Sue, to enter closed session in accordance with North Carolina General Statute Section 143-318.11(5)(i) for the stated purposes of discussion. Upon vote, the MOTION CARRIED UNANIMOUSLY.

At 10:04 a.m. the Board went into closed session. At 10:18 a.m. the Board returned to open session. No action was taken.

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

None

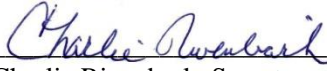
**PUBLIC COMMENT**

None

**ADJOURNMENT**

There being no further business, Chairman Milliken adjourned the meeting at 10:19 a.m.

Respectfully Submitted:

  
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Charlie Rivenbark, Secretary