

Lower Cape Fear Water & Sewer Authority
Regular Board Meeting Minutes

May 11, 2020

Chairman Milliken called to order the Authority meeting scheduled on May 11, 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 Sue gave the invocation.

Roll Call by Chairman Milliken:

Present: Norwood Blanchard, Patricia Kusek, William Milliken, Charlie Rivenbark and William Sue

Present by Virtual Attendance: Trent Burroughs, Wayne Edge, Al Leonard, Jackie Newton, Phil Norris, Larry Sneed, Bill Saffo and Frank Williams

Absent: Larry Johnson

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

Guests: Jerry W. Pierce, Former Interim Executive Director, Randell Woodruff, Brunswick County Manager (virtual attendance), Anthony Colon, Pender County Public Utilities Assistant Director (virtual attendance)

PLEDGE OF ALLEGIANCE: Director Blanchard led the Pledge of Allegiance.

APPROVAL OF CONSENT AGENDA

C1 - Minutes of Regular Board Meeting April 13, 2020

C2 - Minutes of Closed Session April 13, 2020

C3- Kings Bluff Monthly Operations and Maintenance Report

C4 - Bladen Bluffs Monthly Operations and Maintenance Reports

C5 - Bladen Bluffs Weekly Report: May 1, 2020

C6 - Updating of Bank Signature Cards

C7 - Retainer for Engineering Services Agreement: McKim & Creed in the amount of \$21,000 for Fiscal Year 2020-2021

C8 - Retainer for General Counsel Services Agreement: John C. Wessell, III, Attorney At Law in the Amount of \$195 Per Hour for the Month of July or Longer if Needed to Conclude Hiring of a New Attorney

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

PRESENTATION OF RESOLUTION:

A Resolution Honoring Jerry W. Pierce, P.E. (Presentation by Chairman Milliken)

Chairman Milliken presented the Resolution honoring Mr. Jerry Pierce in recognition and appreciation for his outstanding service and commitment to the Authority as Interim Executive Director from December 1, 2019 to April 24, 2020. A copy of this resolution is hereby incorporated as a part of these minutes.

OLD BUSINESS

OB1 - Final Adjusting Change Order No. 2 From McKim & Creed for the Kings Bluff Raw Water Pump Station 48-Inch Raw Water Main Relocation, US HWY 421 Project and Second Amendment to the Associated Capital Project Ordinance

Mr. Boahn explained the change order is associated with time and effort associated for repair of a leak on the abandoned transmission main which was discovered after the project was completed. McKim & Creed worked with the contractor by providing engineering services for the repair process. Since these engineering services were not included in the original scope of work and were incurred after the contract was completed, McKim & Creed is requesting compensation in the amount of \$3,255. Additionally, Mr. Boahn recommended the Authority consider deduction of this amount from the contractor's final payment, since the leak was attributable to the contractor. Executive Director Holloman confirmed the \$3,255 would be deducted from the contractor's final payment.

Motion: Director Blanchard **MOVED**; seconded by Director Rivenbark, approval of the Final Adjusting Change Order No. 2 from McKim & Creed for the Kings Bluff Raw Water Pump Station 48-Inch Raw Water Main Relocation, US HWY 421 Project and of the second amendment to the associated Capital Project Ordinance as presented. Upon vote, the **MOTION CARRIED UNANIMOUSLY**.

OB2 - Change Order from Wells Brothers Construction Co., Inc. for Change in Contract Times for the Bladen Bluffs Regional Surface Water Plant Cape Fear River Bank Restoration Project

Mr. Boahn recalled the project regards restoration of the river bank due to bank erosion caused by Hurricane Florence in the vicinity of the Bladen Bluffs facility's river intakes. The project was to begin in February; however due to excessive rain, the river levels have been consistently 8 to 12 feet high which was too high to access the site to begin work. Accordingly, the contractor is requesting a time extension to move the project's substantial completion date from May 15, 2020 to May 30th with final completion by June 29, 2020. Once, the contractor was able to access the site good progress has been made. Executive Director Holloman noted that at this time the project is approximately 60% complete.

Motion: Director Sue **MOVED**; seconded by Director Kusek, approval of the Change Order from Wells Brothers Construction Co., Inc. for Change in Contract Times for the Bladen Bluffs Regional Surface Water Plant Cape Fear River Bank Restoration Project as presented. Upon vote, the **MOTION CARRIED UNANIMOUSLY**.

OB3 - Finance Committee Comments and Review of Draft Recommended Budget for Fiscal Year 2020-2021 (Finance Committee Chairman Milliken)

Chairman Milliken reported the Finance Committee met prior to the board meeting to finalize the recommended Budget for Fiscal Year 2020-2021 which will be presented formally for adoption at the June board meeting. With there being no increases in the Board's monthly per diem amount for ten years, the Committee considered three options to increase the per diem in the new fiscal year. To be included in the Fiscal Year 2020-2021 Budget, it is the Committee's recommendation that the current \$250 monthly per diem amount for Directors' be increased by \$50 and that the Chairman's monthly per diem amount of \$300 be increased by \$30.

OB4 - Approval of Finance Committee's Recommendation Regarding Per Diem

Executive Director Holloman explained the draft recommended budget reviewed by the Finance Committee did not include the increase in per diem amounts as was recommended to the Board by the Committee. According to North Carolina General Statute 162A, Director's annual per diem amount may not exceed \$4,000. Chairman Milliken explained that if additional meetings, above regularly scheduled monthly board meetings, cause per diem amounts to reach this limit, then at that point board members would only receive mileage reimbursement.

Motion: Director Blanchard **MOVED**; seconded by Director Rivenbark, approval for the Fiscal Year 2020-2021 Budget to include an increase of \$50 to the current \$250 monthly per diem amount for Directors and approval of an increase of \$30 to the current \$300 monthly per diem amount for the Chairman with these increases being within the limit prescribed by North Carolina General Statutes 162A-5. Upon vote, the **MOTION CARRIED UNANIMOUSLY**.

OB5 - Adopt Raw Water Rate for Fiscal Year 2020-2021

Executive Director Holloman provided a brief review of the new fiscal year draft budget and reported that the raw water rate which provides for the daily operation of the Authority remains the same as was budgeted for this current fiscal year at \$0.2717 per 1,000 gallons based on the estimated usage of 26.2 million gallons per day. Total revenue in the Operating Fund and expenditures for the Fiscal Year 2020-2021 Budget is \$5,536,395. The major Kings Bluff Raw Water Pump Station (KBRWPS) expenditures are energy and the operation and maintenance (O&M) contract with Brunswick County and there are other administrative expenses including a 1.6% salary adjustment for the Administrative Assistant position. The engineer cost is held constant which includes an annual inspection and corresponding report for both the KBRWPS and the Bladen Bluffs Regional Water Treatment Plant (BBRWTP) as a requirement of the Bond Order. BBRWTP is operated by terms of an O&M agreement with Smithfield Foods where the Authority pays the monthly O&M costs which are then reimbursed on a monthly basis by Smithfield. Smithfield's monthly reimbursement also includes payment of a monthly administrative fee for the Authority's staff time associated with the associated accounting. All debt service payments are made by Smithfield with the liability in the name of the Authority. The December 1, 2020 bond principal payment of \$790,000 and monthly interest payments are additionally paid by Smithfield directly to the Trustee. The Bladen Bluffs Operating Fund functions as

a “pass through” fund for the accounting of revenues and expenditures and it has no net impact on the bottom line. As stipulated by the O&M agreement, should another industry purchase water from the BBRWTP, the Authority would assume O&M of the facility. As previously noted the BBRWTP riverbank restoration project is underway and the cost at completion will be \$270,180. This cost will be reimbursed by FEMA. Executive Director Holloman briefly reviewed the Authority’s additional funds. The Renewal & Replacement Fund is used for unexpected O&M repair needs during the fiscal year will have an estimated balance of \$218,965 as of June 30, 2020. The Right of Way Fund holds a deposit of \$281,000 for the use of the Authority’s right of way for the placement of a road and utilities and as of June 30, 2020 the estimated balance will be \$281,000. The Enterprise Fund is funded with various revenue sources and is used for capital projects or for major repairs. As of June 30, 2020 the estimated un-appropriated balance will be \$770,634. The budget will most likely not provide any significant surplus at June 30, 2021; however, any surplus will be transferred into the Renewal and Replacement Fund. At the June board meeting there will be a public hearing for public comment on the Fiscal Year 2020-2021 Budget prior to the Board taking action. Executive Director Holloman noted that this presented budget will be adjusted for the increase in the per diem amounts approved by the Board.

Motion: Director Rivenbark **MOVED**; seconded by Director Blanchard, adoption of the raw water rate for Fiscal Year 2020-2021 to remain at \$0.2717 per 1,000 gallons as is the rate for this current fiscal year. Upon vote, the **MOTION CARRIED UNANIMOUSLY.**

OB6 - Construction of 54-inch Parallel Transmission Main Project and Easement Matter Regarding Septic Tank and Mobile Home

Mr. Wessell explained that with construction of the 54-inch main the engineers discovered a building and septic system in the main right-of-way which creates an impediment with construction of the new main. The original easement granted in 1981 provides that any utilities existing in the right-of-way when the easement was granted would be brought back to their existing condition by the Authority if the Authority had to move or alter the utilities. The owner presented evidence that the septic system was installed in 1968 and upon review it has been concluded that the evidence is a correct representation of when the septic system was installed. It is clear the Authority is obligated to relocate the septic system. The owner provided an estimate of \$8,131 for relocation of the septic system. Mr. Wessell said that in speaking with Chairman Milliken and Jess Powell of McKim & Creed and with both being knowledgeable in this field; it appears to be a fair estimate. The estimate does not include the additional costs for any wiring or plumbing that may need to be done and for the existing septic tank to be pumped out, removed and disposed of. The contractor installing the main will remove the septic tank and set it aside. The property owner has received a price of \$450 to have the septic tank pumped out and disposed of. Mr. Wessell explained that upon Board approval, the Authority would pay the property owner and in turn the owner would be responsible for installing the septic system. Mr. Wessell will prepare an agreement for the property owner to sign acknowledging the payment fulfills the Authority’s obligation and releases the Authority from any liability. The Board was asked to consider approving \$11,000 to cover these expenses along with approval of an associated budget amendment. Mr. Wessell concluded that he is not confident this cost will be reimbursed per the terms of the agreement with Brunswick County and Cape Fear Public Utility Authority; however, he will review the agreement.

Motion: Director Blanchard **MOVED**; seconded by Director Kusek, approval of payment up to \$11,000 for expenses related to the relocation of the septic system located within the Authority’s easement and approval of the associated budget amendment. Upon vote, the **MOTION CARRIED UNANIMOUSLY.**

EXECUTIVE DIRECTOR REPORT

EDR1 - Customers’ Water Usage Report for Fiscal Year to Date Ending April 30, 2020

Water usage is tracking as projected for April and annual raw water revenue is slightly below projection due to a decline in water usage in December and January, 2019.

EDR2 - Update on the Disposition of the Cape Fear River Locks and Dams

Executive Director Holloman reported that a letter from Sheila C. Holman, Assistant Secretary for the Environment NCDEQ, was received in response to Chairman Milliken’s letter and according to the letter, transition of ownership of the Locks and Dams will occur in approximately four to five years. Executive Director Holloman commented that in speaking with Fayetteville Public Works Commissions (PWC) it seems they would prefer to move forward with acquisition of the Locks and Dams and he questioned how the Board would like to proceed. In response to a question by Director Blanchard, John Wessell responded that the Authority is under no obligation at this point to do anything and as mentioned by Executive Director Holloman there are some choices. One is to pursue acquiring the

Locks and Dams by supporting PWC or for the Authority to independently pursue acquiring Lock and Dam No. 1 and the second is to do nothing and see how this progresses. He noted that with the current event of Covid-19, this process may be slowed down even more than the noted four to five years. Executive Director Holloman recommended no action be taken at this time since there is no clarity in how this matter will progress. Mr. Wessell advised that it is important to stay informed on this matter. In response to Executive Director Holloman's question, Chairman Milliken affirmed, the Authority must keep up to date and remain current on the progression of the disposition of the Locks and Dams.

Executive Director Holloman informed the Board that a LinkedIn page and a Twitter page were established for the sharing of generic facts of interest about the Authority.

PUBLIC COMMENT

None

CLOSED SESSION

CS1 - Closed Session in Accordance with NCGS§143-318.11(a)(5)(i) to Consider Acquisition of Real Property Pertaining to an Easement Related to Property Located in Brunswick County with the Tax Parcel Number of 01400001

Chairman Milliken requested a motion for the Board to enter closed session in Accordance with NCGS§143-318.11(a)(5)(i) to Consider Acquisition of Real Property Pertaining to an Easement Related to Property Located in Brunswick County with the Tax Parcel Number of 01400001

Mr. Wessell requested that all non-board members participating by virtual attendance log out of the meeting or be muted from the meeting. Additionally, due to a personal connection relating to this matter, Directors Burroughs and Leonard recused themselves from the Closed Session.

Motion: Director Blanchard **MOVED**; seconded by Director Sue, to enter closed session for the stated reason. Upon vote, the **MOTION CARRIED UNANIMOUSLY**.


At 9:39 a.m. the Board went into closed session. At 9:46 a.m. the Board returned to open session.

Motion: Director Blanchard **MOVED**; seconded by Director Sue, to approve the resolution of the Authority's easement issues with the property owners of Parcel No. 01400001, the agreement being that the property owners will clarify the Authority's rights under the existing easement and will give the Authority a temporary construction easement in return for the payment of \$9,250 and to approve the associated budget amendment. Upon vote, the **MOTION CARRIED UNANIMOUSLY**.

ADJOURNMENT

There being no further business, Chairman Milliken adjourned the meeting at 9:50 a.m.

Respectfully Submitted:



Charlie Rivenbark, Secretary