

MINUTES FROM A REGULAR MEETING OF THE UTILITY BOARD OF THE CITY OF KEY WEST, FLORIDA, HELD AT 5:00 P.M. ON MAY 26, 2010 AT THE WILLIAM ARNOLD SERVICE BUILDING LOCATED AT 1001 JAMES STREET, KEY WEST, FLORIDA

The above referenced meeting of the Utility Board of the City of Key West, Florida, convened at 5:00 P.M., on the above date and location and was called to order by Chairman Hernandez. Present and answering to the roll call were Utility Board members: Peter Batty, Charles Bradford, Mona Clark and Ty Symroski. Also present at the meeting: Tom Sireci, Attorney; Jack Wetzler, Assistant General Manager & CFO; Alex Tejada, Customer Services Director; Suzanne Greager, Management Services Director; Dale Finigan, Director of Engineering/Control Center; David Price, Director of T&D; Eddie Garcia, Director of Generation; and Stan Rząd, Compliance Administrator.

AGENDA ITEM #4 – SET AGENDA

There were no changes to the agenda and the agenda was set.

AGENDA ITEM #5 – RECOGNITION AND PRESENTATION

Chairman Hernandez said the Board would like to recognize Mr. Marc Palka for completing the Apprentice Power Plant Mechanic Training Program.

Chairman Hernandez stated that the program spanned over four years and covered General Physics web-based training, General Electric School and vocational classes at Florida Keys Community college.

Chairman Hernandez said that Mr. Palka is a Diesel Generation Technician within our Generation department and has been with KEYS for 12 years.

The Board congratulated Mr. Palka on his achievement.

Mr. Palka thanked the Board.

AGENDA ITEM #6 – INFORMATIONAL ITEMS

Agenda Item #6a – Generation Report

Mr. Wetzler informed the Board that the Generation Report is included in the Board meeting packet and staff is prepared to answer any questions they may have.

Agenda Item #6b – Rate Comparison

Mr. Wetzler informed the Board that the Rate Comparison is included in the Board meeting packet and staff is prepared to answer any questions they may have.

**Agenda Item #6c – Florida Municipal Electric Association (FMEA)- Florida
Municipal Power Agency (FMPA) 2010 Annual Conference**

Mr. Wetzler informed the Board that the FMEA-FMPA 2010 Annual Conference will take place on July 20th – 23rd in Orlando, FL. He said that at least two Board members have expressed an interest in attending the conference and the FMEA-FMPA Conference was not approved in the budget and therefore will need Board approval.

Mr. Wetzler said that funding is available from the general travel budget if the Board is in favor of making the FMEA-FMPA Conference a Board endorsed conference.

Mr. Batty stated that when the Board voted not to increase salaries there was also a vote to reduce Board travel with the exception of specific conferences and meetings. He does not believe this was one of the meetings approved and therefore the item needs approval from the Utility Board and should be an action item.

Motion was made by Mr. Symroski and seconded by Ms. Clark to add Approval of Board travel for the FMEA-FMPA 2010 Annual Conference to the agenda.

There being no opposition from the Board, Approval of the FMEA-FMPA 2010 Annual Conference was placed on the agenda as an action item.

Chairman Hernandez said he would like to continue discussing the subject at this time.

Motion was made by Mr. Batty and seconded by Mr. Bradford to Approve Board travel for the FMEA-FMPA 2010 Annual Conference for Board members that would like to attend.

Mr. Symroski expressed his desire to attend the conference and said it is important that the Board maintain a strong connection with FMEA and FMPA and feels it is very amiable that Board members attend.

Chairman Hernandez said if there was a FMPA Policy Makers Liaison Committee meeting during the conference he would attend.

The roll was called and the following vote was recorded:

Mr. Batty	Yes
Mr. Bradford	Yes
Ms. Clark	Yes
Mr. Symroski	Yes
Chairman Hernandez	Yes

There being no further discussion the motion passed unanimously.

Land Use Update

Mr. Wetzler informed the Board that the Land Use Committee met on May 21st and discussed legal issues associated with the development of BAMA property.

Mr. Wetzler reported that to date KEYS has incurred \$69,000 in legal fees and anticipate another \$8,000 this fiscal year. He said that this included services associated with the original real estate agreement in the amount of approximately \$38,000. Mr. Wetzler said the costs for addendums one through six total approximately \$20,000. The Stock Island title work is approximately \$6,000. The Stock Island access cure is approximately \$13,500.

Mr. Wetzler stated that although the total exceeds \$25,000, they were different projects and in different fiscal years; therefore, the different purchase orders were all under \$25,000 and within the General Managers/CEO authority.

Chairman Hernandez asked for the time frame. Mr. Wetzler replied over three fiscal years.

Mr. Batty said when discussed at the Land Use Committee meeting he suggested to provide the Board with an update to corroborate that Mrs. Tejada is not exceeding her authority where each project is separate and does not exceed her \$25,000 spending limit.

Chairman Hernandez asked what the anticipated cost will be at the end of the fiscal year. Mr. Wetzler said the estimated cost at the end of the fiscal year will be roughly \$77,000.

AGENDA ITEM #7 – CONSENT AGENDA

- a) Approve Minutes - Regular Meeting – May 12, 2010
- b) Approve Disbursements Report

Motion was made by Mr. Batty and seconded by Mr. Symroski to Approve the Consent Agenda. The motion passed unanimously.

AGENDA ITEM #8 – ACTION ITEMS

Agenda Item #8a – Approve Resolution #768 - Amending Article Four, Section 4.09 of the Retirement Plan Document – Benefit Adjustments

Mr. Wetzler stated that Resolution #768 was tabled by the Board on February 17th until May 26th. He said the item is presented exactly as it was in February.

Mr. Wetzler stated since that time the Board participated in a Pension Workshop and during the workshop legal counsel advised that any benefit changes to pension would require negotiations.

Mr. Wetzler said that staff believes it is in the Board's best interest to reject Resolution #768 and therefore it is the recommendation of staff to reject the Resolution #768.

Motion was made by Mr. Bradford and seconded by Ms. Clark to Reject Resolution #768 - Amending Article Four, Section 4.09 of the Retirement Plan Document – Benefit Adjustments.

Mr. Symroski said when discussed in the future he would like to see the Resolution amended or have discussion on having a predetermined Cost of Living Adjustment (COLA) and feels where the adjustment is called a COLA it should reflect what the COLA is at that time.

The roll was called and the following vote was recorded:

Mr. Batty	Yes
Mr. Bradford	Yes
Ms. Clark	Yes
Mr. Symroski	Yes
Chairman Hernandez	Yes

There being no further discussion the motion to reject passed unanimously.

Agenda Item #8b –Approve Sixth Addendum OR Terminate Real Estate Purchase Agreement related to Sale of Parcel-A (BAMA leased) property, Bid #21-08, with Fish Busterz, LLC.

Mr. Wetzler stated that the Board approved an extension of the purchase agreement on April 22, 2009, with a 5th Addendum. He said the 5th Addendum required FishBusterz to notify KEYS by February 15, 2010 of their intention to request an additional extension.

Mr. Wetzler said that FishBusterz contacted KEYS on May 15th and agreed to an additional extension and to deliver the signed 6th Addendum to KEYS along with the interest payment for May 1st in the amount of \$4,315, no later than Monday, May 24th for the Board's consideration. Mr. Wetzler said to date KEYS has not received the 6th addendum nor has FishBusterz paid May 1st interest payment.

Mr. Wetzler said that staff believes it is in the best interest of the ratepayers to terminate the real estate purchase agreement. Therefore, it is the recommendation of staff to Terminate Real Estate Purchase Agreement related to Sale of Parcel-A (BAMA leased) property, Bid #21-08, with FishBusterz, LLC.

Motion was made by Mr. Bradford and seconded by Ms. Clark to Terminate Real Estate Purchase Agreement related to Sale of Parcel-A (BAMA leased) property, Bid #21-08, with FishBusterz, LLC.

Mr. Batty asked for the sequence of how staff tried to contact FishBusterz to execute the agreement. Mr. Wetzler said that Finance sent an email regarding late fees and interest payments. He said after no response to emails that Finance provided information to Mr. Rzad to follow up. Mr. Rzad tried contacting FishBusterz on several occasions via email, telephone and finally hand delivered a letter along with the 6th Addendum.

Mr. Rzad said that Mr. Eric Dickstein contacted him on Friday, May 21st and stated he received the 6th Addendum and would like to review. Mr. Rzad informed Mr. Dickstein that KEYS needed three copies of executed 6th Addendum along with a check on Monday, May 24th. Mr. Rzad said he has not had any contact with FishBusterz since his conversation with Mr. Dickstein on Friday, May 21st.

Mr. Bradford asked if the 6th Addendum was attached to the Ice Plant lease so that if either was in the arrears that they would both be in arrears. Mr. Wetzler said that the provision was in the proposed 6th Addendum, which has not been signed.

Mr. Batty said he believes that the Board would take every reasonable step to close the deal but being faced with no information the Board has no other choice than to terminate.

Mr. Symroski stated that this item was on the last Utility Board agenda. Mr. Batty added that it was on the agenda as an informational item and that Mr. Dickstein has requested to address the Board and did not attend the meeting.

Chairman Hernandez stated he had legal concerns with bankruptcy and the effect it would have on the lease. Mr. Wetzler said that the Land Use Committee had a conversation with Mr. Dan DeCubellis, Attorney, regarding the possibility. Mr. Wetzler stated it was Mr. DeCubellis's opinion that a bankruptcy judge could bind the lease through September 30, 2010, which is the expiration or renewal date of the lease.

The roll was called and the following vote was recorded:

Mr. Batty	Yes
Mr. Bradford	Yes
Ms. Clark	Yes
Mr. Symroski	Yes
Chairman Hernandez	Yes

There being no further discussion the motion to terminate passed unanimously.

OTHER BUSINESS

Mr. Symroski said that he recently visited several departments within KEYS and was able to tour the Warehouse, Generation and Substations. He said he was extremely impressed with the professionalism and knowledge that staff exhibited.

ADJOURNMENT

Motion was made by Mr. Batty to adjourn the Regular Utility Board meeting of May 26, 2010 at 5:19 p.m.

APPROVE:

Lou Hernandez, Chairman

ATTEST:

Lynne E. Tejeda, General Manager/CEO & Secretary

/ed