



Daphne Utilities

APPROVED MINUTES

Utilities Board Meeting

City of Daphne Council Chambers ♦ December 1, 2010 ♦ 5:00 p.m.
(November 2010)

I. CALL TO ORDER

The regular November, 2010, Board meeting for the Utilities Board of the City of Daphne was held on December 1, 2010 and called to order by Chairman Robert Segalla, at 5:05 p.m.

II. ROLL CALL

Members Present:

Robert Segalla, Chairman
Ron Scott - arrived at 5:06
Lon Johnston, Secretary/Treasurer
Fred Small, Mayor

Others Absent:

Fenton E. Jenkins, Vice Chairman

Others Present:

Jerry Speegle - Board Attorney
Rob McElroy - General Manager
Danny Lyndall - Operations Manager
Teresa Logiotatos - Finance Manager
Deloris Brown - Human Resources Manager
Drew Klumpp - Administrative Services Manager
Lori Scharles - Executive Assistant
Melinda Immel - Volkert & Associates
Tim Patton - Volkert & Associates
Ray Moore - HMR
Doug Bailey - HMR

Others Absent:

III. PLEDGE OF ALLEGIANCE

The Chairman led the Board and meeting attendees in the Pledge of Allegiance.

IV. APPROVAL OF MINUTES

a. *Utilities Board Minutes from November 3, 2010:*

The Chairman inquired if there were any corrections noted for the submitted Corrected Minutes from the November 3, 2010, Utilities Board meeting.

MOTION BY Lon Johnston to approve the submitted Minutes for November 3, 2010, as Corrected; Seconded by Mayor Fred Small.

AYE: JOHNSTON, SEGALLA, SCOTT, SMALL ABSENT: JENKINS ABSTAIN: MOTION CARRIED

V. Old Business

a. *Central Services Building (Property Investigation) – Update*

Rob McElroy informed the Board that the property investigation will be reported on in Executive Session.

b. *Spanish Fort Sewer Franchise issues*

No updated information was reported.

c. **19 Acres - Daphne Utilities property**

Mr. Speegle advised the Board that he and City Attorney Jay Ross have been corresponding; Mr. Speegle notified the Board that this issue is on the agenda for the next Building and Property Committee. He stated that Danny Lyndall has been collecting information on the locations of the various properties and lift-stations.

d. *Items in Abeyance:*

1. **Gas Franchise Agreement** – No current information was reported.
2. **Sewer Only Cutoff Policy** – No updated information was reported.

VI. New Business

a. *Daphne Utilities Bond Rating Outlook – presented by Pfil Hunt w/Gardnyr Michael Capital Inc.*

Mr. Pfil Hunt addressed the Board updating them on the positive Standard & Poors rating and stable outlook and gave congratulations on the solid financial operations the Board and staff are exercising at Daphne Utilities.

VII. BOARD ATTORNEY'S REPORT

Mr. Speegle had nothing further to add to his report but advised that an Executive Session would be needed for the purpose of discussing pending litigation and possible settlement of that litigation.

VIII. FINANCIAL REPORT

Teresa Logiotatos reviewed for the Board the financial report for the first month of the new fiscal year. She advised that all metered services were above budget and that the budget was set up this year based on a 5-year average and that revenues could be up due to the warm season. No other comments were made.

IX. GENERAL MANAGER'S REPORT

a. *GM Report*

Mr. McElroy notified the Board that the Wharton School had contacted the Utilities for information on the biodiesel operation. He had no further information to add to his report.

b. *Operations Report*

Nothing further was added to the Operations Report.

Deloris Brown updated the Board of the completion of the evaluation process and distributed to each Board member for their information a copy of the evaluation paperwork each employee receives.

Melinda Immel of Volkert & Associates advised the Board on the re-issuance of the renewal for the Wastewater Treatment Plant's NPDES permit through ADEM and the critical situation it places on the plant. Mr. McElroy added that the equality limits are being investigated as well so that Daphne Utilities is not facing tighter restrictions than other municipalities.

Doug Bailey from HMR responded to the question about sewer taps for the Board. He indicated that 14 houses have been connected on the Hwy. 64 Sewer Project.

X. BOARD ACTION – None

XI. Public Participation –

Willie Williams, 1513 Pollard Road, Daphne, AL; addressed to the Board about a concern in the community, a situation occurring at the Hwy. 64 Sewer Project. He stated that he is community-minded and heard about the actions that occurred on the project involving the contractor's foreman who made derogatory remarks about a Daphne Utilities' customer which was uncalled for and violates the tenant of the community development block grant. He advised that under Title 6 of the Civil Rights Act of 1964, when using community development block grant you can't be discriminatory, and the Restoration Act of 1987 which is under the HUD Community Development Act also mentions about using community development block grants. He expressed his disappointment because it was meant to help the folks in the community and not for them to be harrassed and that the situation needs to be taken care of right away. He stated that the foreman needed to be removed from the community and replaced to finish the project and he also noted that he was putting a time limit on it to Chairman Segalla because he was sending an overnight letter to HUD and Alabama Department of Economic Community Affair alleging complaints and violations of these statutes.

Chairman Segalla asked if a formal complaint had been written; Mr. Williams stated that he was in the process. Chairman Segalla requested that Mr. Jerry Speegle receive a copy of the complaint. Chairman Segalla asked for Mr. Speegle to comment on the roll of the

Utilities for holding a public participation audience. Mr. Speegle stated that there certainly was an incident and management had taken action deemed appropriate. He noted that if any employee of the Utility files an appeal of that action, it would go to the Board, however the Board has not been informed of any action because it could tend to bias the Board. He stated that certainly public comment is just that, public participation. Mr. Speegle also noted that it would not be appropriate for the Board to ask any questions or investigate at this time if in fact the employee does file an appeal, and he admonished the Board that what anyone says here unless they were a witness to the incident would be inadmissible hearsay and not based on any personal knowledge of any events that occurred. Mr. Speegle requested the Board take anything said of a factual nature about any occurrences at just that, someone's opinion and probably not based on personal knowledge of what happened, what was said or any other circumstances. Mr. Speegle went on to say that if anyone wants to comment, they certainly can but the Chairman may limit comment and the number of people to comment on the same subject. Chairman Segalla offered to hear from anyone who has something to say and asked for the public to not be redundant and to observe a reasonable time limit per person.

Mr. Speegle also clarified that Daphne Utilities employees were there to inspect the project site and not manage the project. Mr. Scott explained that the grant came through the City of Daphne since Daphne Utilities services the sewer system once completed. He stated that this was the first he had heard of the incident but assured that it would be investigated. He commented that Councilman Yelding worked very hard to secure the grant for this project in hopes for a positive result for the community. He apologized for whatever role the City may have had.

Ms. Bennie Lee from 25504 Pollard Road, Daphne - addressed Chairman Segalla and the Board and commented about the incident with the contractors on the Hwy 64 Sewer project.

Mr. Willie Lee Johnson, Jr. from 706 Cedar Drive, Daphne - voiced his concerns to Chairman Segalla and the Board regarding the City of Daphne and the negative things he has heard about the City. He recommended that since the City of Daphne was involved in hiring a contractor that the City should get with the contractor to get the person involved in this incident off the job.

Ms. Eloise Wilson from 1601 Conaway Street, Daphne - announced that she recently moved to Daphne from Illinois and was appalled to hear of this incident going in the City of Daphne.

Chairman Segalla called for any other participants and then closed Public Participation.

XII. Board Comments - None

XIII. EXECUTIVE SESSION -

MOTION BY Lon Johnston to go into Executive Session at 5:41 pm for discussion of pending and ongoing litigation; Confirmed as proper purposes by Jerry Speegle; Seconded by Ron Scott.

AYE: JOHNSTON, SCOTT, SEGALLA, SMALL ABSENT: JENKINS ABSTAIN: MOTION CARRIED

Executive Session adjourned at 6:24 pm.

XIV. Adjournment

MOTION BY Ron Scott to adjourn the meeting. Seconded by Lon Johnston.

AYE: JOHNSTON, SCOTT, SEGALLA, SMALL ABSENT: JENKINS ABSTAIN: MOTION CARRIED

The meeting adjourned at 6:24 pm.