



Daphne Utilities

APPROVED MINUTES

Utilities Board Meeting

City of Daphne Council Chambers ♦ April 30, 2008 ♦ 5:00 p.m.

I. CALL TO ORDER

The April 30, 2008, regular Board meeting for the Utilities Board of the City of Daphne was called to order by Chairman Robert Segalla, at 5:03 p.m.

II. ROLL CALL

Members Present: Robert Segalla, Chairman
Ron Scott, Vice Chairman
Lon Johnston, Secretary Treasurer
Fred Small, Mayor – arrived at 5:04 pm

Others Absent: Fenton E. Jenkins

Others Present: Tommy Zieman – for Jerry Speegle, Board Attorney
Rob McElroy – General Manager
Danny Lyndall – Operations Manager
Deloris Brown – Human Resources Manager
Drew Klumpp – Adm. Services Manager
Lori Scharles – Executive Assistant
Rebecca Williamson – Accounting Assistant
Melinda Immel, Engineer - Volkert
Ray Moore, Engineer – HMR

Others Absent: Teresa Logiotatos – Finance Manager
Jerry Speegle – Board Attorney

III. PLEDGE OF ALLEGIANCE

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

Announcement: Chairman Segalla made an announcement that Mr. Johnston is recovering very well and will fulfill his term with the Board until June, 2009.

IV. APPROVAL OF MINUTES

a. *Utilities Board Minutes from March 26, 2008:*

The Chairman inquired if additions, deletions or corrections were recommended for the Minutes from the March 26, 2008, Utilities Board meeting. No further comments were added.

MOTION BY Mayor Small to approve the Utilities Board of the City of Daphne minutes from the regular Board meeting conducted March 26, 2008; Seconded by Mr. Johnston.

AYE: SEGALLA, SCOTT, SMALL, JOHNSTON

ABSENT: JENKINS

MOTION CARRIED

Announcement: Chairman Segalla announced that due to the early departure of Mayor Small, he would like to proceed with the agenda as far as possible, then re-arrange to accommodate a topic Mayor Small would like to address.

V. OLD BUSINESS

a. Park City Service Agreement:

Rob McElroy advised the Board that he, Danny Lyndall, Deloris Brown and Lori Scharles met with the Park City Water Board the day before and had a lengthy discussion regarding the Agreement and combined billing. He explained that it is his feeling that negotiations with Park City Water Board is deserving of one more discussion and vote from them. He stated that he was informed by their Board of the date of their meeting and should have a decision by the May, 2008, Daphne Utilities Board meeting. Chairman Segalla expressed his reservation after reviewing the minutes of the previous month's meeting and stated that attempts at negotiations should be only with the Park City Water Board and not their acting legal counsel and emphasized the longstanding duration of this situation. Mr. McElroy reiterated that he would be able to report to this Board whether the Park City Water Board approved or disapproved the proposed Agreement and the outcome will decide on a Resolution to be submitted to the Board authorizing Daphne Utilities to move forward collecting the unpaid delinquent accounts or that significant progress was made and a different course of action will be taken. Chairman Segalla requested that any information should be made available to the Daphne City Council due to the fact that the garbage fee collections is affected by the Proposal as well and would be a separate matter. Tommy Zieman offered a suggestion to reduce the economic turns to help focus on the real issue. Mr. Scott stated that it would be wise to give attention to the recent events from the WhiteHouse Fork Water System and realize that even though money was saved for the citizens, a trust issue continued to exist and this Board would be remiss to not recognize that there are trust issues with this Board and Park City Water Board and even Belforest that would have to be repaired. Mr. McElroy responded that this was how the meeting was framed, to ensure that Park City Water Board fully understood the Agreement that was proposed to them and is acceptable even if the Agreement is rejected. Chairman Segalla agreed with this mistrust issue but stressed that none of the incumbents at Daphne Utilities Board were established at the time Park City Water Board was formed to which Mr. McElroy expressed that this was pointed out in the meeting.

b. Daphne High School Stadium:

Mr. McElroy stated that a letter was sent to Mike Keating of the Baldwin County Board of Education detailing the costs for the stormwater modifications of which were to be divided and subtracted from the amount due to Daphne Utilities for the capacity fees. He advised that he is waiting on the response and payment.

c. Advertising:

Mr. McElroy notified the Board that he has met with the Daphne High School and Quarterback Club representatives to discuss the advertising agreement outlined as \$3,000 per year for three years and approval is required on their part from the Baldwin County Board of Education. Chairman Segalla suggested to have this finalized before the next budget; Mr. McElroy confirmed that it would be.

d. Capacity Fee Study – Call for Workshop

Mr. McElroy explained that the workshop for the Capacity Fee Study had to be postponed due to emergencies on the part of the outside consultant and that a later date would be scheduled.

e. Items in Abeyance:

1. **Gas Franchise Agreement** – no updated information.
2. **19 Acres** – no new development.

VI. NEW BUSINESS –

a. MWPP:

Mr. Lyndall explained that the MWPP Resolution is an annual document submitted to the Municipal Water Pollution Prevention and is a routine resolution that ensures to ADEM that our practices and procedures to reduce sewer spills will continue. Chairman Segalla suggested this motion be voted on while Mayor Small was present.

MOTION BY Mayor Small to approve Resolution 2008-02. Seconded by Mr. Johnston.

AYE: SEGALLA, SCOTT, SMALL, JOHNSTON

ABSENT: JENKINS

MOTION CARRIED

b. Source Water Assessment:

Melinda Immel briefed the Board that the Source Water Assessment is an ADEM requirement for the two newly installed wells consisting of a study that examines the well-head location and potential area for contamination of the water source. She explained that this is a fairly expensive process and that during a recent conference with the Alabama Rural Water Association, it was noted that since Rob McElroy had assisted the Association with several presentations, that Alabama Rural Water Association offered to assist with the Source Water Assessment at no charge to Daphne Utilities. She confirmed that ADEM will be inspecting in the coming weeks. Chairman Segalla asked if Mrs. Immel feels that everything that could have and should have been done has been done with all the protective work performed at the well site. She agreed that it has. Mr. McElroy noted that he is following up with the High School and their irrigation well close to the site and has notified them of the potential harm in fertilizing the area close to our wells as well as storing chemicals in the facility that well-head is situated. Mrs. Immel reiterated that the Source Water Assessment is to be used as a planning tool for cities and their proximity for potential planning. Chairman Segalla requested that at some point in the near future to be updated on the aquifer from which we draw, specifically how deep it is located, how large the aquifer is, the recovery rate, and the potential life existence based on current and forecast usage put in a format easily understood by someone who is not an engineer. Mr. Scott asked if refill spots are shown to which Mrs. Immel responded yes. Chairman Segalla asked if the wells are currently fully productive. Mrs. Immel answered that they were and have exceeded expectations. Mr. Scott asked when the actual date that the water will be used from the wells. Mrs. Immel explained that ADEM would perform their inspection on the 6th of May, and when the inspection is complete, she expects ADEM to approve the wells. Mr. Scott noted the apartment complex being constructed and commented on the need for new capacity. Mr. McElroy advised that even though well #5 is inoperable at this time, the 3million gallon tank is full and acts as a buffer.

ANNOUNCEMENT: Chairman Segalla asked to re-arrange the agenda in order to discuss the Highway 64 sewer issue while Mayor Small is present and requested Ray Moore to review his Status Report.

Mr. Ray Moore advised the Board that he has contacted Janey Galbraith for availability of grant programs for the City to begin work on expanding the sewer system. He was delayed due to the review of grant allocations and new criteria required for more impartial distribution. Mr. Moore explained that he has talked extensively with Mayor Small about this undertaking. Mr. Moore stated that he has presented two cost estimates and plans to the Mayor and Councilman Yelding, who represents that district. He offered: 1) the gravity system which ties into the Pollard Road/Stanton Road area for which the cost was split 3-ways; 2) the low-pressure system with low-pressure pipes and grinder pumps at each dwelling. He discussed the community block grants and how they function by installing the sewer lines in the street but run the lines to the dwelling and connect to the dwelling and stated that this type of grant was implemented for Park City. He also pointed out another factor would be that no tap fees would be associated with this option because it is a federal program. He noted that Daphne Utilities bond issues would need to be reviewed for compatibility with any type of grant funding programs. He stated that the gravity system would be at a cost to the City at approximately \$1.8 million, and the low-pressure system estimated cost to the City would be \$990,000. He continued that the low-pressure system does have the drawback of the grinder pump but that they are widely used throughout the County and have improved from past reported performance, except when power outages occur. Mr. Scott inquired about for whom Janey Galbraith works. Mr. McElroy and Mr. Moore responded that she is a self-employed grants writer/grants administrator. Mr. Scott also questioned her fee of \$75,000 for a half-million dollar grant. Mr. Moore confirmed. Chairman Segalla commented to Mr. Moore about the grinder pump option and the cost incurred, and asked about the costs incurred for maintenance on a gravity sewer line. He also asked for all the figures for each system, including maintenance costs, in order for comparison. Mr. Scott expressed that the mood of the Council is one of which to single out this area because it is financially beneficial to the City and/or the Utility Board and to install a grinder pump system whereas the rest of the City that has been sewerred has been on gravity system is unfair and could possibly be legal challenges to the City treating one section of the City differently than others. Mr. Johnston commented that he felt there would be some reaction to the residents at the southern end of the City where they had a choice between the two options and where they paid for the additional cost for the gravity system and has been paid over time. Mr. Johnston expressed concern with a legality issue if now gravity is provided free at some additional cost where they had to pay. Mr. Moore recalled the additional cost to residents was approximately \$40 per linear foot. Mrs. Immel commented that the Ordinance passed for the area in question relative to the \$40 linear foot was the area whereby everybody was going to be assessed and that group was given an exception to that rule because \$400,000 was already allocated by the City and that this was a unique situation and the only one that she recalled. Chairman Segalla expressed that he is not taking sides but would like to have all the facts for both options, especially for the gravity option due to the terrain and unknown maintenance costs. Mr. Scott restated the negative issue of the grinder pump and replacement costs responsible to the resident, and

mentioned some type of monthly insurance plan for the grinder pump to offset the replacement costs and felt that would be an alternative option that would allay concerns of the Council. Mayor Small stated that even now the Planning Commission requires the developer of new subdivisions to install gravity sewer, except for one – Ottawa Subdivision – which when completed was low-pressure. Mayor Small explained that in the past 10 years when the City has paid to install sewer has implemented gravity sewer whenever possible and expressed his opinion to finish this last pocket within the City with gravity sewer. He continued that with the requirement of new development in place, this would be a good opportunity to finish uniformly throughout the City and that although no grant is guaranteed, he mentioned EPA grants that may be available in the fall of the year. He stated that it is his opinion for everyone to come along to try to help finish this to give money and he stated that a small amount of money is left over from the Highway 90 project whereby the entire sewer was built, (Mr. Scott stated there is \$670,000 left from the original) approximately \$1million and \$20,000 left to put toward this project. Mr. Scott stated if the half million-dollar grant money becomes available would be almost \$1.6 million, would mean \$200,000 would have to be ascertained. Mayor Small inquired as to the cost of the wet-well. Mr. Moore approximated \$100,000. Mayor Small suggested the Utility Board to pay for the pumping station, and the City be responsible for the remainder. He asked Mr. Moore if the overview work schedule of this particular industry (construction of this nature) is backlogged, to which Mr. Moore responded that the work load is light at this time. Mayor Small indicated that it might be possible to estimate less than \$1.8 million dollars. Mr. Moore explained that a project of this magnitude would have to be advertised state-wide which has a good and bad outcome, one being that good prices would be received, and the bad outcome not being familiar with whom the contractor may be. Mr. Scott commented that it is his understanding from serving on the Utility Board that money is not made on wastewater treatment, he praised the diligent financial examination and asked if it is true that \$1.1 million dollars was made to date in wastewater treatment. Mr. McElroy explained that utilities do not make money in the long term; money is saved as fast as possible for wastewater due to the exorbitant and numerous costs of repair. Mr. Scott reported that at a recent Baldwin County Sewer presentation, it is their contention that municipalities subsidize sewer with their other utility products and are artificially creating a price. Mr. Scott's concern is if at some point State legislation is passed to regulate utilities, private and public, this could cause us to charge (more); where we're actually make a rate of return on our investment, if that was the case, instead of charging \$30 we could be subject to charge the \$54 similar to what is being charged throughout the County. Mr. McElroy stated that this subject would be discussed in the requested Capacity Fee Study workshop to be scheduled, as well as introducing a study of our rates and re-examine a transparent rate of which we can stand behind. He commented that if it were revealed that our rates are excessive, it would then be up to the Board to determine the best rate structure. He remarked that it is necessary to make this information available to the Board for the future of the utility. Mr. Scott pointed out that if a \$1.8 million new improvement would be turned over to the Utility of which money could be made, that \$100,000 from the Utility would be good partnering with the City and that the \$6 million sitting in some accounts used for drawing interest is good. Mr. McElroy advised that those are capacity fee funds in restricted accounts to be used for capacity increases and expanding the sewer system is the opposite of capacity increases, taking capacity away, and that just because that money is sitting there drawing interest, it is in a restricted account and cannot be spent in just any way. Mr. Scott stated that not all the \$6 million is restricted due to the fact a profit is being made over the past three years that has gone some place. Mr. McElroy declared that discussions with Mr. Moore have transpired relative to Daphne Utilities acquiring the lift station and running the force main line and agree that it would be a good partnership with the City. He continued that he did want the Board to be aware that there is a capacity fee issue with this grant due to the fact that the residences in this area would be subject to the "grandfather" \$1500 sewer capacity fee which would represent a loss of approximately \$125,000 in capacity fees ineligible for collection in addition to the \$100,000 for the lift station making a total of a \$250,000 cost to the Utility. Chairman Segalla asked of the legal ramifications. Mr. McElroy stated that he has discussed with Janey Galbraith at length regarding this and she has indicated that there is a significant amount of work to satisfy our bond-holders and that federal grants are the only exception to providing free service, otherwise our bond covenants will be violated and we are unable to move forward until approval from the bond-holders. Mr. Scott inquired if the lift station would have the capacity for other residences to be tied into it. Mr. McElroy approved. Mr. Scott stated that knowing that grants are an uncertain funding source, he would recommend making a motion as a Utility to make the determined funds available if the grant funds are secured and if this project moves forward, that these funds are appropriated and set aside \$250,000 for this project. Mr. McElroy corrected that it would only be \$100,000 to be set aside for the project due to the fact that the other funds would not be an expense but money we would not be able to collect. Chairman Segalla stated to defer from Mr. Zieman that the allocation of money would be contingent upon Ms. Galbraith's research for federal grants relative to satisfying our bond covenants by forgiving or not collecting these capacity fees and he would not vote for anything that would cause legal problems for Daphne Utilities. Mr. Scott reassured that it would need to be legal. Mr. Zieman stated that the bond covenants need to be protected and was not certain of how to protect yourself by getting close to violation of those covenants. Mr. Scott asked if the grant package could be forwarded to our bond-holders and request approval for Daphne Utilities to partner with the City in this way. Mr. McElroy stated

that Ms. Galbraith has been previously successful in this endeavor but that it is a significant amount of work, and that it is still no guarantee from our bond-holders. Chairman Segalla stated that Mr. Scott asserted that Ms. Galbraith is charging \$75,000 for preparing the grant, but he inquired as to what her fee would be to investigate our bond covenants clearance to correlate with the grant and City partnership. Mr. McElroy stated that discussions have not reached that point as of yet. Chairman Segalla stated that we need to know what those costs are going to be before any vote, the total cost of her fee to the Utilities and how much money to set aside and then if that is acceptable, the Board could vote at that time. Mr. Zieman asked if there was knowledge of how widely-held the bonds are of Daphne Utilities; it was determined that information was not known. Mayor Small commented that time is running out on the grant and that the Council has to make a decision on this at their Monday Council meeting and he agreed to make a motion to work with the City to move forward with the project in any means possible which involves the Utilities paying for the lift station in order to provide sewer to that area off of Hwy. 64 east and to work with Ms. Galbraith in any means possible in determining to not charge capacity fees. Mr. Scott discussed that as part of the motion if it is determined that we could not waive the tap fees due to violation of our bond covenants then the Council would be responsible for the additional dollars to avoid risking Daphne Utilities' bond rating. Mayor Small stated that this could be incorporated into his motion that if for some reason the Utilities is unable to provide, the City would have to be liable for all the tap fees. Chairman Segalla reviewed to simplify the motion the issue upon which the vote would be is \$100,000 for the lift station. Mayor Small added to include the force main. Chairman Segalla suggested making that a separate motion for clarity purposes. A discussion ensued for clarity of the correct wording of the motion. Ron Scott commented on the Highway 90 sewer project that the City assessed a portion of and could not assess the lift stations which resulted in the City ultimately paying out of a bond issue, however sewerage in this area created retail income opportunities for this Utility Board, not only with sewer but for water and natural gas as well.

MOTION BY Ron Scott for approval of \$100,000, not to exceed 10% of \$100,000, for construction of the lift station for the Highway 64 South sewer project. Seconded by Mayor Fred Small.

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

A further discussion took place relative to the waiver of tap fees for the residences of the proposed Highway 64 South sewer project.

MOTION BY Ron Scott to indicate to the City Council of the City of Daphne that if the tap fees for the 86 residences in this Highway 64 South sewer project can be legally waived, contingent upon the language of the federal grant relative to the project, and without causing violation of the bond covenants of Daphne Utilities based on research and investigation by Janey Galbraith, and upon approval of this Board and its counsel, that this Board is willing to do so. Seconded by Mayor Fred Small.

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

Mayor Small left the meeting at 6:00 p.m.

VII. BOARD ATTORNEY'S REPORT

Chairman Segalla noted that Mr. Speegle's report was self-explanatory. Mr. Zieman commented that he circulated a memo regarding the current litigation. An Executive Session is recommended.

VIII. FINANCIAL REPORT

Rebecca Williamson noted that the independent audit was distributed to the Board and a representative from the auditing firm is expected to be at the May 2008 Board meeting; she then reviewed the Financial Report for March 2008. Mr. McElroy commented that Earl Bolden will be at the May 2008 Board meeting to give an update on the warehouse and inventory, which is a new item incorporated into the Financials. A discussion took place regarding cell phone usage.

IX. GENERAL MANAGER'S REPORT

a. GM Report

Rob McElroy reviewed the report of the General Manager and announced to the Board that notification was just received that Daphne Utilities has won Water Quality – Best Operated Plant in the State of Alabama for our well department supervised by Larry English and will be awarded at the AWPCA in Huntsville and conflicts with the July Board meeting and requested to move the July Board meeting to change the scheduled date ahead one

week. He stated that a vote would be required at the May 2008 Board meeting. Tammy Cannup reported to the Board the involvement Daphne Utilities displayed for the 2008 Relay For Life fundraiser. Mr. McElroy reported on the progress of the Elizabeth Yelding Park. Drew Klumpp reviewed the new Automated Payment Center Kiosk for the Board.

b. Operations Report

Danny Lyndall recognized the promotion of Larry Jackson as the Field Services Manager. Larry Jackson commented that he appreciates the opportunity.

Melinda Immel was present to review the Volkert Project Status Report.

Ray Moore reviewed the HMR Status Report for the Board and commended the ground breaking ceremony for the Elizabeth Yelding Park.

X. BOARD ACTION – None.

XI. PUBLIC PARTICIPATION – None

XII. BOARD COMMENTS – Mr. Johnston gave praise and thanks for the volunteer spirit displayed by the Utilities particularly in the Daphne Public Library’s Spring into Reading event. Mr. Scott also commended the participation of Daphne Utilities for the April 19th Earth Day celebration.

XIII. EXECUTIVE SESSION –

MOTION BY Mr. Scott to go into Executive session to discuss legal matters at 6:29 pm. Seconded by Mr. Johnston. Executive session concluded at 7:01 pm.

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

XIV. ADJOURNMENT:

MOTION BY Mr. Johnston to adjourn the meeting. Seconded by Mr. Scott.

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

The meeting adjourned at 7:01 p.m.