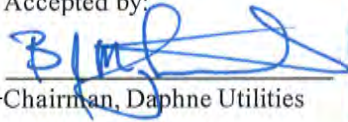


Accepted by:



Vice-Chairman, Daphne Utilities



APPROVED MINUTES

Utilities Board Meeting

Council Chambers, Daphne City Hall □ January 31, 2018 □ 5:00 p.m.

I. Call to Order

The regular January 2018 Board meeting for the Utilities Board of the City of Daphne was held on January 31, 2018 at 5:00 p.m. in the Council Chambers at Daphne City Hall and called to order by Chairman Randy Fry, proceeded by the Roll Call:

II. Roll Call

Members Present: Randy Fry, Chairman
Billy Mayhand, Vice Chairman Selena
Vaughn, Secretary/Treasurer Mayor
Dane Haygood, Board Member Robin
LeJeune, Board Member

Members Absent:

Others Present: Jerry Speegle – Board Attorney
Danny Lyndall – General Manager
Bobby Purvis – Operations Manager
Drew Klumpp – Administrative Services Manager
Teresa Logiotatos – Finance Manager
Lori May-Wilson – Executive Assistant
Melinda Immel – Volkert & Associates
Joe Asarisi – Asarisi & Associates
Ray Moore – 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 27, 2017:

The Chairman requested any additions, corrections, or deletions for the submitted Minutes from the November 27, 2017 Utilities Board Meeting.

Since there were no additions deletions or corrections, the Chairman declared that the submitted Minutes would stand approved.

V. OLD BUSINESS – None

VI. NEW BUSINESS –

A. Motion to Authorize Sale of Trucks and Equipment (Board Action: MOTION)

Danny Lyndall informed the Board of the list of eligible equipment and requested the Board to declare the equipment as surplus and authorize Daphne Utilities to sale the surplus on GovDeals.

MOTION by Robin LeJeune to authorize the sale of surplus equipment; Seconded by Billy Mayhand.

AYE: Fry, Haygood, LeJeune, Mayhand, Vaughn NAY: ABSENT: ABSTAIN: MOTION CARRIED

B. Bid Tabulation & Recommendation of Award for Project Number 408183 – Eastern Shore Tank Coating & Renovations (Board Action: MOTION)

Danny Lyndall invited Melinda Immel from Volkert to discuss the bid and award of this project. Mrs. Immel explained the details of the project to the Board, answered questions, and gave the recommendation. Mr. Lyndall also advised that this project had been included in the budget under the CIP at approximately \$600,000.

MOTION by Mayor Haygood to award Project #408183 to Tank Pro, Inc. with a base bid amount of \$450,628.00 and additional Additive Alternate amount if necessary in the amount of \$24,443.00 for a total of \$475,071.00; Seconded by Robin LeJeune.

AYE: Fry, Haygood, LeJeune, Mayhand, Vaughn NAY: ABSENT: ABSTAIN: MOTION CARRIED

C. Bid Tabulation & Recommendation of Award for Project Number 408196 – 2017/2018 Annual Contract for Manhole Rehabilitation (Board Action: MOTION)

Melinda Immel explained this project and the bid process associated with it.

MOTION by Mayor Haygood to award Project #408196 to Gulf Coast Underground, LLC in the amount of \$112,025.00 for the annual contract of manhole rehabilitation; Seconded by Billy Mayhand.

AYE: Fry, Haygood, LeJeune, Mayhand, Vaughn NAY: ABSENT: ABSTAIN: MOTION CARRIED

VII. BOARD ATTORNEY'S REPORT

Mr. Speegle offered to answer questions that are not related to any pending litigation or any topic that is not confidential attorney/client privilege. He requested the Board convene to Executive Session related to the Nettles lawsuit and before a vote, made the declaration required by Alabama Code 36-25A-7A3 that the Board convene to Executive Session to discuss with counsel the legal ramifications and legal options for the pending Nettles case with an estimated time 10-15 minutes.

MOTION by Billy Mayhand to convene to Executive Session to discuss the Nettles case for approximately 10-15 minutes; Seconded by Selena Vaughn.

Mayor Haygood requested that Executive Session not be held until the end of the meeting as the meeting had an extremely large crowd that, out of courtesy, should not be subjected to a lengthy executive session. A discussion ensued and Mr. Speegle advised that Executive Session can be

convened at the end of the meeting and made an additional declaration for further discussion with legal counsel regarding the legal ramifications and legal options for the pending ADEM litigation.

After a continued discussion, the decision was made to hold Executive Session after Public Participation and the Motion to convene and second were withdrawn.

VIII. FINANCIAL REPORT

Teresa Logiotatos advised that the submitted financials represented November and December (2017). She then discussed information from the December financials, reviewing the financial summary, charts, check register and offered to answer any questions.

IX. GENERAL MANAGER'S REPORT

A. GM Report

Danny Lyndall recognized several employees for the Board; he welcomed new employees Don Trotter, Marcus Moseley, Matthew Collins, and Christopher McConico. He recognized: new employee Dennis Scott who relocated from Georgia and a Grade IV Operator; Robert Miller for passing his Grade II Certification exam; Alex Godfrey for being promoted to GIS Analyst; and lastly announced Mr. Woodrow Maye's retirement after serving 28 years with Daphne Utilities.

B. Operations Report

Mr. Bobby Purvis recognized the employees working on the lift stations in our system and commended our Facilities Support personnel for all the work they do behind the scenes. He also answered questions regarding repairs and upgrades at the water reclamation facility.

C. Engineering & Consulting Reports

Melinda Immel with Volkert had nothing to add to her report

Ray Moore with HMR updated the Board regarding the sewer connection availability in the Oakstone subdivision.

Joe Asarisi with Asarisi & Associates had nothing further to add to his report.

- X. Public Participation – The Chairman announced public participation for anyone who would like to address the Board to state their name and address. He advised that the Board serves the community and does their best for this organization. He informed the attendees that although pending litigation has been widely publicized against Daphne Utilities, we are advised from our counsel to refrain from comment on the issue but are aware that residents may express their concerns. He stated that we do look forward to factual information being announced to resolve the issue that is pending. Public participation began at 5:21pm.

Mr. Taylor Norton, 5 St. Charles Place, Daphne, with additional property on Main Street; expressed obvious concern about the pending litigation. He commented that as a small business owner in this area with a family, he bought into Olde Towne Daphne for the purpose of enjoying the Bay and quality of life on the Eastern Shore. He stated that it was paramount to him to continue to protect water quality in the areas that we live in. He continued that as a property owner, he is looking to spend a significant amount of money investing in the community and expressed worry to think that we as a public don't have trust in our utility. He thanked the Board for their time and effort. He stated his concerns referring to the Mobile Baykeepers allegations from statements of current and former staff members and hoped that an internal investigation had been performed as well as to the candidness with which employees can freely speak without retaliation.

Mrs. Galya Porter – stated that her name is Galya Porter and she wanted to state for the record that she is Van Baggett’s mother-in-law. She stated she had a question that she would like to ask which was why the information from the so-called independent internal investigation surrounding the issues at Daphne Utilities are being shared with Danny Lyndall so that he has had months to invent a defense and a cover-up of the allegations and also to retaliate against the fine employees who in good faith provided their statements to the attorney. She believed that the original intent of this investigation was to obtain and disclose the truth. She now believed that many of the truths are being covered up in an attempt to protect Danny Lyndall. She stated that the seriousness of this situation warrants that all the board members, and not just the board chairman, are kept informed of all the ongoing facts and disclosures and this does not seem to be the case at all. She declared that she also believed that all the board members should be involved in any employee mediations or grievance hearings and not just the board chairman due to the importance of these meetings. She thanked the Board.

Mr. Bill Riley – 1303 Lovette Lane; inquired as to the continued pollution of the Bay as a result inordinate rain and not only from Daphne but from Mobile and Spanish Fort and Fairhope. He asked if (Daphne Utilities) had contacted the other 3 cities to have a collective effort to correct the infrastructure problems causing the pollution in the Bay, such as the pollution that floats passed his house from time to time. He acknowledged that it’s a situation that has occurred numerous times over the past years and that money may be an issue when it comes to repairs of this nature. He asked where (Daphne Utilities) stands on this and what is being done to correct this situation.

Chairman Fry responded that it would take some time to answer his questions, advised that a major part of our budget is for capital improvements to continually make upgrades to our system on water, gas and wastewater, and offered to talk with him by telephone at a later time. Chairman Fry stressed that as residents in Daphne, we are concerned as well about the environment and our community.

Mayor Haygood requested to read an email from a presumed resident of Daphne that his office received earlier in the day. The email from Ms. Alison Henry read: “Mayor Haygood, to say the reporting concerning how Daphne Utilities is operating is upsetting, doesn’t really come close. As a mother that allows her family to swim in Mobile Bay, the thought that raw sewage spills are not only tolerated but covered up is incomprehensible. It seems that the only response so far has been to blame the situation on “disgruntled former employee” who appears to be a “former employee” simply because he wouldn’t play along with dishonest reporting of numbers. I urge you and the board to take this situation seriously. It should be as distressing to you as it is for all of us that enjoy Mobile Bay that raw sewage is routinely being allowed into those waters; worse, once it occurs, employees at the highest level are lying about it. I will be unable to attend the Utilities Board meeting held this evening. I request that my statement be read out in the public comment period to be one voice stating the concerns of many.” Alison Henry

Mr. Bill Walton – 102 Bell Circle, Daphne. Mr. Walton explained that he was not only a marine biologist professional who cares about the Bay from a professional perspective, he is a local scout leader. He stated that he periodically takes his Scouts to Bayfront to explore. He stated that while he is aware that these are allegations he considers them to be potentially tragic and expressed his concerns about not only the brand of the City, The Jubilee City, as well as seafood on the logo, but the health of our residents. He echoed previous comments made regarding assurance from the board for employees to be able to come forward without fear of repercussion. He noted that it did not take long after moving to Daphne to understand that the Daphne Utilities Wastewater Treatment Plant might need some investment, that we had spills and hoped those investments are made. He stated that if we find out that we’re under reporting or not reporting those (spills), that is misleading to the public as well as the taxpayer and that maybe we have an issue we need to spend money on sooner than planned.

With no additional requests to be heard, the Chairman closed Public Participation at 5:32pm and called for Board Comments.

Following Public Participation:

Chairman Fry asked legal for certification to go into Executive Session

Mayor Haygood requested Board discussion prior to a motion to convent to Executive Session.

Chairman consented Fry to discussion.

Mayor Haygood began the discussion:

Mayor Haygood acknowledged the Mobile Baykeeper report and citizen concerns surrounding the allegations as well as addressing the board's duty to investigate all such allegations. Concern over the boards plan to address the complaint and the citizen concerns that currently stem from the report. It was acknowledged that the board did engage Mr. Speegle's firm to conduct an investigation back in September but that such a report had still not been received at this time nor any communication as to when it would be available. Mayor Haygood suggested that the board proceed with an independent investigation, as Daphne Utilities committed to, and that perhaps engaging Mr. Speegle's firm was not the right course of action as it may not have been independent enough.

Mayor Haygood addressed high level planning related to the sewer plant. He referenced existing ten year Capital Improvement Plan for the Daphne Utilities that is in place and the fact that Water Reclamation Facility, or sewer plant, has \$14.826M of planned improvements as part of that ten year capital plan. He also mentioned the Aqua Nareda pilot project which is underway. The Mayor indicated a desire for the staff and board to explore an acceleration of the 10 year CIP to more quickly "long hard look at whatever improvements can be made to make sure that we are serving our citizens properly and protecting the environment." He indicated the matters of an independent investigation and communication to the public of actions being undertaken by the board would help restore confidence in the members of the public who are concerned about the allegations against the utility. Further, the mayor had a proposed solution to the independent investigation that he would like the board to consider as well.

Mr. Speegle: Indicated there would be relevant discussion during executive session and that executive session before you consider anything else.

Mr. Speegle advised the Board that they would hear discussion about the investigation in Executive Session and asked to finish Executive Session before considering anything else. For purposes of attorney/client privilege, he advised to go into Executive Session to discuss possible litigation, not to be discussed in an open meeting.

Councilman LeJeune asked about the AquaNareda pilot program. Mr. Lyndall informed that the project has been delayed due to issues at the water reclamation facility, that the pilot study is an optimization of the current process and that the process needs to be working properly before this type study takes place. Mr. Lyndall responded to Councilman LeJeune's question that the pilot study will affect the long-term capital improvements at the water reclamation facility.

With no additional Board comments, Chairman Fry thanked the meeting attendees for coming to the meeting to express concerns and affirmed that the Board had the same concerns.

Mayor Haygood asked for clarification on whether or not Executive Session discussions would be limited to the Nettles case as stated earlier in the meeting by Mr. Speegle as the preceding discussions has referenced the board would be discussing other matters as well the desire to ensure that we are not misleading the public. Mr. Speegle indicated that both the Nettles case and legal advice regarding the ongoing ADEM lawsuit would be discussed and that the certification would include both.

Mr. Speegle confirmed that discussions in Executive Session will be concerning the Nettles case and legal advice regarding the ongoing ADEM lawsuit with action to be taken on at least one issue or possibly more.

XI. Executive Session

MOTION by Selena Vaughn to adjourn into Executive Session as declared by Attorney Jerry Speegle for the discussion of the legal ramifications and legal options for the pending Nettles case with an estimated time 10-15 minutes and for further discussion with legal counsel regarding the legal ramifications and legal options for the pending ADEM litigation with an estimated time of 1 hour to 1-1/2 hours; Seconded by Billy Mayhand.

AYE: Fry, Mayhand, Vaughn, Haygood, LeJeune

NAY:

ABSENT:

ABSTAIN:

MOTION CARRIED

Adjourn to Executive Session at 5:42pm.

The Chairman reconvened the meeting at 7:10 pm and called for a Motion.

MOTION by Mayor Haygood for the Board to approve the Nettles mediated confidential settlement agreement; Seconded by Selena Vaughn.

AYE: Fry, Haygood, LeJeune, Mayhand, Vaughn NAY: ABSENT: ABSTAIN: **MOTION CARRIED**

MOTION by Mayor Haygood for the Board to hire an independent consultant to perform an independent study and fact-finding mission related to personnel matters within the Utility Board pursuant to what has become known to us through the grievance and ADEM process to supplement what had been done by Speegle and Hoffman; Seconded by Robin LeJeune.

Mr. Mayhand commented that since he just received his report in Executive Session and had not had a chance to read it and before he spent any money on another investigation, he requested the opportunity to read this report first. Mrs. Vaughn agreed. Mayor Haygood indicated that he would withdraw the motion to allow more time for the board to review the report the board received during executive sessions if the board would be willing to call a special-called meeting, that would occur sooner rather than later, to consider this action. Mr. Mayhand and Mrs. Vaughn agreed.

The Motion and Second was withdrawn.

A discussion took place regarding arranging a date and time for a special meeting. During the discussion Mayor Haygood indicated the reasons for the special called meeting would be (i) to consider hiring an a truly independent firm to perform an investigation on behalf of the board and (ii) to consider the as well as to have management provide an update to the board and the public on actions, activities and plans that have been undertaken or are underway at the sewer treatment plant.

MOTION by Mayor Haygood to call a special-called Daphne Utilities Board meeting at 5:00 pm on Thursday, February 8, 2018, in the City Council Chambers, if available; Seconded by Robin LeJeune.

AYE: Fry, Haygood, LeJeune, Mayhand, Vaughn NAY: ABSENT: ABSTAIN: **MOTION CARRIED**

The Chairman noted the agenda topics as to 1) give a presentation from management staff on the current work status of the wastewater treatment plant, engineers' recommendations for the wastewater treatment plant, and monitoring and processing plans; 2) potentially consider an independent investigation into certain matters

XII. Adjournment

The meeting adjourned at 7:26 pm.

MOTION by Robin LeJeune to adjourn; Seconded by Billy Mayhand.

Preceding minutes submitted to the Daphne Utilities Board by:

