

MINUTES FROM A REGULAR MEETING OF THE UTILITY BOARD OF THE CITY OF KEY WEST, FLORIDA, HELD AT 5:00 P.M. ON MAY 12, 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 Vice Chairman Batty. Present and answering to the roll call were Utility Board members: Charles Bradford, Mona Clark and Ty Symroski. Also present at the meeting: Lynne Tejada, General Manager & CEO; Nathan Eden, 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 Rzas, Compliance Administrator .

Mrs. Tejada informed the Board that Chairman Hernandez is out of town and would like to participate telephonically for item 6f, Update on Real Estate Purchase Agreement – former “BAMA Property”.

There was no opposition from the Board.

AGENDA ITEM #4 – SET AGENDA

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

AGENDA ITEM #5 – RECOGNITION AND PRESENTATION

Vice Chairman Batty stated he is pleased to recognize three employees this evening that have completed various training programs within their respective sections.

Vice Chairman Batty said he would like to recognize Mr. Matthew Roy for completing the first year of the Apprentice Power Systems Coordinator Training Program.

Vice Chairman Batty said that the first year consists of eight sections that focus on dispatching.

Vice Chairman Batty stated that Mr. Roy is an Apprentice Power System Coordinator and has been with KEYS for just over two years.

Mr. Roy thanked the Board.

Vice Chairman Batty said he is pleased to recognize Mr. Mike Euliss for completing the first year Apprentice Lineman Training Program.

Vice Chairman Batty stated the first year of training consists of numerous elements ranging from electrical theory and safe practices, to learning the tools of the trade. The first year of the program also includes on-the-job training consisting of climbing poles and working de-energized electrical lines.

Vice Chairman Batty said that Mr. Euliss is an Apprentice Lineman within KEYS Transmission & Distribution department and has been with KEYS for just under two years.

Mr. Euliss thanked the Board.

Vice Chairman Batty said he would like to recognize Mr. Paul Sanchez for completing the second year Apprentice Lineman Training Program.

Vice Chairman Batty stated the second year of the program consists of learning to safety work on energized conductors below 600 volts using proper personal protection equipment, and gain a better understanding of positioning trucks on the job sites, public safety, and trouble shooting electrical problems.

Vice Chairman Batty said that Mr. Sanchez is an Apprentice Lineman within KEYS Transmission & Distribution department and has been with KEYS for two years.

Mr. Sanchez thanked the Board.

The Board congratulated Mr. Roy, Mr. Euliss and Mr. Sanchez and wished them luck as they proceed through their respective training programs.

AGENDA ITEM #6 – INFORMATIONAL ITEMS

Agenda Item #6a – Power Supply Report

Mrs. Tejeda informed the Board that the Power Supply Report is included in the Board meeting packet and staff is prepared to answer any questions they may have.

Agenda Item #6b – Financial and Operational Indicators

Mrs. Tejeda informed the Board that the Financial and Operational Indicators Report is included in the Board meeting packet and staff is prepared to answer any questions they may have.

Agenda Item #6c – Storm Hardening Update

Mrs. Tejeda said she asked Mr. Finigan to provide the Board with an update on the Storm Hardening Project. She stated that staff thought it would be beneficial for the Board to receive the update and review the project prior to the Strategic Planning Session, which is scheduled for May 19th & 20th.

Mr. Finigan reviewed a power point presentation with the Board and discussed the following items:

- Florida Public Service Commission (PSC) Rules
- Pole Inspection 8-Year Cycle
- Design/Construct New Facilities to Extreme Wind of 150mph
- Critical Customers – Port, Emergency Operations Center, Hospital
- Elevated Underground Facilities
- Inaccessible Facilities (Easements)
- PSC Yearly Reporting
- Replacement Status- Project Summary
- Poles Replaced Per Quarter
- Reject Poles
- Proposed Scheduling
- Work Summary
- Fund Disbursement
- Misunderstandings & Misconceptions
- Executive Summary
- 2014 Projected Wood Pole Reject Quantity
- Customer Riser Relocated to new KEYS Pole

A copy of the power point presentation is available upon request.

Agenda Item #6d – Transmission & Distribution (T&D) Projects Update

Mrs. Tejada said she asked Mr. Finigan to provide the Board with an update on Transmission & Distribution Projects. She stated that staff thought it would be beneficial for the Board to receive the update and review the project prior to the Strategic Planning Session, which is scheduled for May 19th & 20th.

Mr. Finigan reviewed a power point presentation with the Board and discussed the following items:

- T&D Capital Plan – Major Projects
- 138kv Line-4 Pole Top Repairs & Shield Wire Replacement
- 69kv Line-1 Conductor Replacement
- Substation Major Equipment Upgrade Program
- US-1 Substation Buss Replacement
- Transmission Poles- Structural Repairs and Coating
- Transmission Pole Foundation Concrete Structural Repair
- Transmission Steel Pole Miscellaneous Coating
- Transmission System Protection Relay Improvements
- Fiber Optic Network
- System Import and Stability Improvements
- FKEC Area – Capital Projects

A copy of the power point presentation is available upon request.

**Agenda Item #6e – Comprehensive Annual Financial Report (CAFR)
for Retirement System**

Mrs. Tejada informed the Board that the CAFR is financial report that the Utility Board is required to complete annually for the Retirement System.

Mrs. Tejada reported the accounting firm of Cherry, Bekaert & Holland, LLP, performed the annual audit and KEYS received a clean opinion that the financial statements are accurate.

Mrs. Tejada informed the Board that the (CAFR) for Retirement System is included in the Board meeting packet and staff is prepared to answer any questions they may have.

**Agenda Item #6f – Update on Real Estate Purchase Agreement – former
“BAMA Property”**

An attempt was made to contact Chairman Hernandez telephonically and was unsuccessful.

Mrs. Tejada informed the Board that currently there are two issues that staff is dealing with regarding Fishbusterz. Mrs. Tejada stated the first is the sales contract and the second is the lease of property.

Mrs. Tejada said at the last Board meeting the Utility Board authorized her to proceed and sign closing documents for the Real Estate Purchase Agreement between The Utility Board of the City of Key West, Florida and Fishbusterz, LLC.

Mrs. Tejada informed the Board that KEYS sent paperwork and notification to Fishbusterz informing that KEYS was willing and able to close on April 30, 2010. She said that there was no attempt to contact KEYS or execute the documents in order to close the Purchase Agreement.

Mrs. Tejada said that Fishbusterz currently owes KEYS April interest payments under the Fifth Addendum.

Mrs. Tejada stated that Mr. Eric Dickstein, Fishbusterz Managing Partner, contacted Mr. Rzad and apologizes for not being involved and was under the impression that their attorney, Mr. Tom Didato, was handling Purchase Agreement and due to tragic, unforeseen circumstances Mr. Didato did not follow through.

Mrs. Tejada said that Mr. Dickstein informed Mr. Rzad that Fishbusterz is still very interested in moving forward with the sales contract and would like to pursue an extension through the Sixth Addendum. Mr. Dickstein said Fishbusterz was unable to close on April 30th; however, they are still interested in maintaining their right to purchase the property.

Mrs. Tejada informed the Board that Mr. Dickstein sent a letter to Mr. Rzad, which was included in the packet for review.

Mrs. Tejada asked the Board for direction and said she feels that the Board has the following options:

1. Approve the Sixth Addendum at the next Utility Board meeting.
2. Ask the Land Use Committee to meet before the next Utility Board meeting and provide the Board with a list of pros versus cons and provide the Board with a recommendation.
3. Approve sending a letter of termination stating that the Board is not interested in pursuing the sales contract at the next Utility Board meeting.

Vice Chairman Batty asked if it takes a vote of the Board for the Sixth Addendum to be reactivated since the agreement has expired. Mrs. Tejada said that both Mr. Eden and Mr. DeCubellis agree that if Fishbusterz signs off on the Sixth Addendum and the Utility Board signs that it is legally possible for the contract to continue.

Mrs. Tejada said during a conference call today that Mr. Eden and Mr. DeCubellis recommended adding language to the Sixth Addendum which would state if Fishbusterz goes into default with the lease it would also default the sales contract.

Mrs. Tejada informed the Board that KEYS has not received any feed back from Fishbusterz as to the language in the Sixth Addendum other than they are interested in pursuing.

Mr. Symroski said he would like for the Board to continue with the Sixth Addendum and give Fishbusterz the opportunity to seek legal advice in consideration of recent events.

Vice Chairman Batty said he suggests if Fishbusterz approaches KEYS by the next Utility Board meeting with the intention of signing the Sixth Addendum the Board should consider signing.

Mrs. Tejada reviewed some of the terms and conditions of the Sixth Addendum with the Board.

Mrs. Tejada said at the direction of the Board that KEYS would contact Fishbusterz and notify them that the Board agreed to bring the Sixth Addendum back before the Board at the next regularly scheduled Utility Board meeting.

Vice Chairman Batty said from his perspective it should be no later than the next Utility Board meeting.

Mrs. Tejada stated that at the next Utility Board meeting if the Sixth Addendum is not on the agenda the termination agreement will come before the Board.

Vice Chairman Batty asked the Board if there was a consensus regarding the Sixth Addendum. There was no opposition from the Board.

Mrs. Tejeda said the other issue staff is currently dealing with is the Fishbusterz lease.

Mrs. Tejeda informed the Board that it is not uncommon for the lease payment to be a couple days late but the last payment for May has gone into default. She said after numerous emails notifying them they were late, a check was finally delivered, which was for the exact amount of the lease not including the late fee or interest owed. The late fees total \$116.00 which KEYS asked for them to remit late fees by the end of the day yesterday and they did not, so they are technically in default.

Mrs. Tejeda stated that the underlying concern is that if Fishbusterz is financially in trouble and if they were to ever to file for bankruptcy that KEYS property could possibly be tied up in bankruptcy proceedings.

Mrs. Tejeda said that staff is looking for direction from the Board as to how far KEYS should let the lease payments go into arrears prior to taking formal action.

The Board agreed to wait till the next Utility Board meeting and if the payments are not current at that time the Board would give staff direction.

The Board agreed that if formal action needs to be enforced just as any other property and would ask staff to follow through as they would with any other property.

AGENDA ITEM #7 – CONSENT AGENDA

- a) Approve Minutes - Regular Meeting - April 28, 2010
- b) Approve Disbursements Report
- c) Approve Federal Flood Insurance with Fidelity National Property & Casualty Insurance Company through Key West Insurance, Inc.
- d) Award Unit Price Contract for Coating Utility Steel Power Poles (7 Mile Bridge Area), Bid #13-10, and Approve Budget Amendment #10-19
- e) Declare Non PCB Transformers as Surplus

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

AGENDA ITEM #8 – ACTION ITEMS

There were no Action Items to come before the Board.

OTHER BUSINESS

There was none.

ADJOURNMENT

Motion was made by Mr. Symroski to adjourn the Regular Utility Board meeting of May 12, 2010 at 6:18 p.m.

APPROVE:

Lou Hernandez, Chairman

ATTEST:

Lynne E. Tejeda, General Manager/CEO & Secretary

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