

MINUTES OF REGULAR MEETING
OF THE
BOARD OF DIRECTORS
FLORIDA KEYS AQUEDUCT AUTHORITY

HELD ON

FEBRUARY 8, 2022

Florida Keys Aqueduct Authority
1100 Kennedy Drive
Key West, Florida 33040

11:00 A.M.

The following MEMBERS were present:

J. Robert Dean.	Chairman
Richard J. Toppino.	Vice-Chairman
Antoinette M. Appell.	Secretary/Treasurer
Cara Higgins.	Member
Nicholas W. Mulick.	Member
Kerry Shelby.	Executive Director
Greg Veliz.	Deputy Executive Director
Robert T. Feldman.	General Counsel
Timothy Esquinaldo.	Internal Auditor
Cindy Kondziela.	Director of Finance
David Hackworth.	Director of Capital Projects
Jolynn Reynolds.	Director of Engineering
Peter Gomez.	Director of Water Operations
Jay Miller.	Director of Wastewater Operations

A LIST OF ATTENDANCE IS RETAINED WITH THE PERMANENT RECORD OF THIS MEETING.

REGULAR MEETING

The Regular Meeting was called to order by Chairman Dean at 11:00 a.m.

Pam Albury presented the invocation and Chairman Dean led the Pledge of Allegiance.

EMPLOYEE AWARD

EMPLOYEE OF THE 4TH QUARTER

Matthew Mansueto

APPROVAL OF MINUTES

On motion of Mrs. Appell, seconded by Mr. Mulick, the Board unanimously approved the Minutes from the Audit Committee Meeting on January 25, 2022, and the Regular Board Meeting on January 25, 2022, as presented.

DELETIONS TO THE CONSENT AGENDA

1. BOD – 01. Consideration to pass Resolution 22-02 approving the provision of post service-health insurance coverage for members of the Board of Directors and their spouses or domestic partners after serving 8 or more years on the Board at no cost to the member
2. BOD – 02. Consideration to approve amendment to the contracts of the Executive Director, Deputy Executive Director, and Internal/Compliance Auditor to include health insurance coverage for their spouses or domestic partners after the expiration of their contracts

APPROVAL OF AGENDA

By consensus, the Board unanimously approved Agenda.

CONSENT AGENDA WATER /WASTEWATER

On motion of Mr. Mulick seconded by Mrs. Appell, the Board unanimously approved to delete the following items by Consent:

1. BOD – 01. Consideration to pass Resolution 22-02 approving the provision of post service-health insurance coverage for members of the Board of Directors and their spouses or domestic partners after serving 8 or more years on the Board at no cost to the member

This Item was deleted from the agenda.

2. BOD – 02. Consideration to approve amendment to the contracts of the Executive Director, Deputy Executive Director, and Internal/Compliance Auditor to include health insurance coverage for their spouses or domestic partners after the expiration of their contracts

This item was deleted from agenda.

REGULAR AGENDA ITEMS

EXECUTIVE DEPARTMENT

EO-01. EXECUTIVE DIRECTOR'S REPORT

The Board accepted the Executive Director's Report with additional comments as presented.

Proposed Interlocal Agreement with the City of Key West:

Mr. Shelby advised that the City of Key West approved the proposed agreement to treat wastewater from the Authority's Big Coppitt area at their Board meeting.

Mr. Shelby advised that the agreement will be on the agenda at the next meeting for the Board's consideration.

Transmission Line Break:

Mr. Shelby reported that there was a transmission line break on February 1st near MM23. He advised that while working on the break there was a second leak in Bahia Honda.

Mr. Shelby reported that there was low pressure in areas but no interruption in water service occurred and thanked the crews on a challenging job that was well done.

Additional Information:

Mr. Shelby reported that we recently received word from Tallahassee that the Authority was awarded a \$17.5 million grant from the Florida Department of Environmental Protection that will go towards the replacing of the transmission line.

Ms. Higgins inquired what is the expected cost of replacing the transmission line.

Mr. Shelby advised the estimated cost is \$5 million per mile.

Nearshore Water Quality Update:

Mr. Shelby provided information from the November meeting of the Water Quality Protection Program Steering Committee and provided an overview of nearshore water quality.

Additional Information

Mr. Shelby reported that Mr. Veliz, Ms. Higgins, and himself would be attending Florida Keys Days in Tallahassee.

OFFICE OF COUNSEL

OOC-01. GENERAL COUNSEL REPORT

Marchal et al. vs FKAA and Monroe County:

Mr. Feldman provided an update on the Marchal et al. vs FKAA and Monroe County Case as follows:

- A complaint for Declaratory Judgment and For Writ of Mandamus was filed on February 28, 2019, Defendants and were served on March 18, 2019.
- An Order of Disqualification from Circuit Judge, Timothy J. Koenig was filed on March 4, 2019.
- An Order of Disqualification from Circuit Judge, Bonnie J. Helms was filed on March 19, 2019.
- Notice of Filing Proof of Service was filed on 4/11/2019.
- Defendant's Joint Motion to Dismiss for Lack of Subject Matter Jurisdiction, filed on 5/10/2019.
- The Case was reassigned to Judge Mark Wilson. The JA is getting dates for the hearing on the Motion to Dismiss.
- On September 30, 2021, Judge Wilson entered an order granting the motion to dismiss with prejudice filed FKAA and the County; an order granting the Plaintiffs' request for clarification of the grounds on which the court dismissed their prior complaint; and an order granting the Plaintiffs' request to file a "supplemental" complaint. The following week, the Plaintiffs filed a motion to disqualify Judge Wilson from presiding over the case, and Judge Wilson granted the motion.
- The case was reassigned to Judge Mark Jones. The Plaintiffs filed a motion requesting that Judge Jones reconsider the orders Judge Mark Wilson entered granting the motion to dismiss filed by FKAA and the County and granting the Plaintiffs' motion for clarification of the prior dismissal order. FKAA and the County filed a motion for reconsideration of the order granting the Plaintiffs' motion to file a "supplemental" complaint.
- Judge Jones held a hearing on the parties' respective motions for reconsideration the first week of January 2022. The parties are currently awaiting rulings on the motions.

FKAA et al. vs Florida Power & Light & FDEP:

Mr. Feldman reported that the Florida Keys Aqueduct Authority (FKAA) has filed a Petition for Formal Administrative Hearing under Florida Chapter 120 against Florida Power & Light (FPL) and Florida Department of Environmental Protection (FDEP). FDEP granted a permit to FPL in violation of an Agreed Order issued by Miami-Dade County Division of Environmental Resources Management (DERM) reducing the water levels in the Everglades Mitigation Bank culvert weirs from 2.2 feet to 1.8 feet NGVD. He explained that this could result in an increase of

saltwater penetrating the Biscayne Aquifer and could contaminate the existing well fields, including FKAA's well field in Florida City.

Mr. Feldman advised that the administrative hearing was held on January 19th through January 29th, 2021, and the Administrative Law Judge has not ruled with a Recommended Order on this matter.

Local Preference Discussion:

Mr. Feldman advised that under the enabling act 76-441 as amended, the Authority is required to utilize Florida Statute 287 Part I for purchasing procedures. He explained that these purchasing procedures do not provide for a local preference only a preference for Florida vendors versus out of state vendors.

DIVISION OF ADMINISTRATION

DOA-01. MID-MONTH FINANCIAL UPDATE

Ms. Kondziela reported that preliminary figures show that at the closing of the month of January meter revenue for 2022 is approximately \$800,000 greater than January 2021. She added that unrestricted cash available for future projects as of yesterday is \$90.3 million.

DIVISION OF CAPITAL PROJECTS

DOCP-01. UPDATE ON MAJOR CAPITAL IMPROVEMENT PROGRAM (CIP) PROJECTS

Mr. Hackworth presented an update on the following projects:

- Kermit H. Lewin Reverse Osmosis Facility
- Islamorada Transmission Main
- SIRO Generators

DOCP-02. APPROVAL OF CONTRACT NEGOTIATIONS WITH CPH, INC. FOR PROFESSIONAL ENGINEERING SERVICES FOR THE CRAWL KEY DISTRIBUTION SYSTEM UPGRADES

On recommendation of Mr. Hackworth and motion of Ms. Higgins, seconded by Mrs. Appell, the Board approved contract negotiations with CPH, Inc. for professional engineering services for the Crawl Key Distribution System Upgrades

DIVISION OF ENGINEERING

DOE-01. APPROVAL OF AGREEMENT WITH FDOT AND PRE-PAY ESTIMATED COST OF UTILITY WORK FOR FKAA PROJECT #2372-21, "SOUTH ROOSEVELT UTILITY RELOCATES (\$1,059,825.06)

On recommendation of Mrs. Reynolds and motion of Mr. Mulick, seconded by Mrs. Appell, the Board approved agreement with FDOT and pre-pay estimated cost of utility work for FKAA Project #2372-21, "South Roosevelt Utility Relocates in the amount of \$1,059,825.06.

BOARD OF DIRECTORS

BOD-01. BOARD OF DIRECTORS DISCUSSION
(SPONSOR: J. ROBERT DEAN)

Mr. Mulick recommended that in the future and prior to placing exempt staff benefit changes on the agenda that the Board be provided a summary.

By consensus, the Board concurred.

Chairman Dean allowed time for two (2) people from the public to speak.

ADJOURNMENT

With there being no further business, the meeting was adjourned at 11:33 a.m.



FLORIDA KEYS AQUEDUCT AUTHORITY

By: 

J. Robert Dean, Chairman

Attest:



Antoinette M. Appell Secretary/Treasurer

ATTENDANCE

BOARD MEMBERS

J. Robert Dean
Richard Toppino
Antoinette M. Appell
Cara Higgins
Nicholas W. Mulick

FCAA STAFF

Kerry Shelby	Greg Veliz
Tim Esquinaldo	Peter Gomez
David Hackworth	Pam Albury
Robert T. Feldman	Krystal Waldner
Jolynn Reynolds	Randy Acevedo
Cindy Kondziela	Jay Miller
Sue Reich	Natalie Allen
Matt Mansueto	George Wallace

MEMBERS OF THE PUBLIC

Ernesto Cabrera (Union Rep.)
Joe Pappadakis
Virginia Panico
Mandy Miles
Jerry Ballarotto
Elliot Wells