

**SEACOAST UTILITY AUTHORITY
REGULAR MEETING**

March 24, 2010
Seacoast Utility Authority Board Room

MINUTES

CALL TO ORDER: 3:00 PM

PLEDGE OF ALLEGIANCE

ROLL CALL:

PRESENT: Maria V. Davis, Chair
Robert Weisman, Vice Chair
Joseph Lo Bello, President Pro-Tem
Ron Ferris, Member
Jimmy Knight, Member

ALSO PRESENT: Nat Nason, General Counsel
Rim Bishop, Executive Director
Jessica Moore, Authority Clerk

*****THE FOLLOWING ITEMS WERE PLACED ON THE CONSENT AGENDA*****

APPROVAL OF MINUTES FOR MEETING OF FEBRUARY 24, 2010

Move to approve the minutes for meeting of February 24, 2010

AGREEMENTS

1. Palm Beach Gardens Right of Way Agreement

Move to approve Interlocal Agreement for Canal Bank Enhancements, as recommended by staff.

2. Roan Lane Water Main Relocation - Joint Participation Agreement

Move to approve Agreement Between Palm Beach County, Florida and Seacoast Utility Authority for the Joint Participation in Construction of Water and Sewer Improvements for Roan Lane in the amount of \$322,075.81, as recommended by staff.

3. Interlocal Agreement for the Collection of Water Utility Taxes

Move to approve the Interlocal Agreement for the Collection of Water Utility Taxes with the Town of Juno Beach, as recommended by staff.

CONTRACT AWARDS
EQUIPMENT/SUPPLIES

1. Wastewater Treatment Chemicals - Sodium Hypochlorite

Move to award annual contract for purchase of sodium hypochlorite to Allied Universal, the lowest responsive bidder whose bid will best serve the public interest, in the amount of \$0.706/Gallon, as recommended by staff.

PROCLAMATION NO. 1-2010, PROCLAIMING THE WEEK OF MAY 2 - 8 DRINKING WATER WEEK

Move to approve Proclamation No. 1-2009, Proclaiming the Week of May 2 – 8, 2010 Drinking Water Week, as recommended by staff.

RESOLUTION NO. 2-2010, AMENDING QUALIFIED RETIREMENT PLANS

Move to approve Resolution No. 2-2010, Amending Qualified Retirement Plans, as recommended by staff.

CERTIFICATE OF NO DEFAULT

Move to approve annual certificate of no default, as recommended by staff.

MOTION

Board Members Weisman/Lo Bello moved to adopt the Consent Agenda.

The motion carried unanimously.

*******END OF CONSENT AGENDA*******

BID PROTEST HEARING PGA WWTP PAINTING AND CONCRETE COATING

Authority Clerk Jessica Moore administered the witness oath to all parties wishing to speak in the bid protest. Attorney Nat Nason asked the board members to disclose any related ex parte communications. All board members indicated that no such communications had taken place.

Chair Maria Davis asked for staff presentation. Executive Director Rim Bishop read Exhibit “A” attached hereto into the record:

Exhibit "A"

1. On Feb. 8 and again on Feb. 15, Seacoast published an Invitation to Bid on its PGA WWTP **Painting and Concrete Coating** project. Ads were placed in the Palm Beach Post and on Onvia Demandstar
2. David Holtz of Holtz Engineering is the project engineer
3. Scope includes restoration, surface preparation, and recoating of all aeration basin, headworks, and anox basin exterior surfaces
4. Bid invitation describes in detail
 - a. How and where bid packages were to be obtained
 - b. Date, time and location of a mandatory pre-bid meeting at the PGA WWTP
 - c. Date, time and location of bid opening – 2 PM March 16 in this room
5. Seacoast's Purchasing Agent Randy Kellar, the project engineer Dave Holtz, and several bidders were present in the appointed place, at the appointed time, and all bidders present had submitted their bids in full conformance with the bid Invitation
6. On March 16 at 2 PM, according to the Purchasing Agent's watch, the first bid was opened and read aloud. As the Purchasing Agent began to open the second bid, Mr. Pete Luther of Prime Tech entered the room and offered Prime Tech's sealed bid.
7. Seacoast's Purchasing Agent declined to accept his submittal, noting that the bid opening had already begun. Mr. Luther protested, noting that the time on his cell phone at the moment was 2 PM. Mr. Luther continued his appeal to Mr. Kellar, Mr. Holtz, and then to me, but we declined to receive his bid.
8. After extended discussion, I advised Mr. Luther of Seacoast's Bid Protest procedure, provided him a copy, informed him of the date, time and location at which his appeal could be heard by the board. He filed his written appeal as required (copy in the packet), and he is here today to present that appeal to the board.
9. It is staff's position that the Prime Tech bid arrived too late to be considered, and that award should be made to Fleischer's , Inc. as the board packet memorandum recommends.

Ms. Davis asked if anybody from Prime Tech would like to testify. Mr. Pete Luther of Prime Tech offered comments on behalf of that firm.

Mr. Luther stated that the bottom line is that the advertised project bid opening time was 2:00pm local time, March 16, 2010 at 4200 Hood Road, Palm Beach Gardens. According to his Blackberry, which corresponds to the official US time found at www.time.gov, he was on time for the bid opening, regardless of the time shown on the Purchasing Agent's watch. Mr. Luther said a long discussion with SUA staff followed the bid opening, and that his bid was thereafter rejected. Mr. Luther said that the whole protest has to do with the fact that he did attempt to turn in his bid right at 2:00pm local time.

Mr. Luther also offered the board evidence of his bid's timeliness in the form of his bid surety, a time stamped cashier's check from Bank Atlantic.

Mr. Nason stated that it may be relevant to know whether or not Prime Tech would have been the apparent low bidder. While it may not have influenced staff's decision to reject the bid, it may be important for the board to know.

Board Member Ron Ferris and Vice Chair Robert Weisman agreed that they do not believe this would be a good idea. Mr. Ferris stated that Prime Tech could have prepared another bid since the time of the bid opening.

Mr. Nason stated that this may be relevant if the board wishes to determine if the challenger has legal standing. If the board wishes not to know this information and determine the appeal on another basis, that is fine as well.

Mr. Luther stated that he prefers not to disclose the amount of his firm's bid if the project is likely to be advertised for rebid.

Mr. Nason stated the sole question is whether or not the board believes that Mr. Luther arrived with bid in hand before 2:00pm, as required by the bid solicitation.

Chair Maria Davis asked staff how long the bid was advertised. Mr. Bishop affirmed it was first advertised on February 8th and that bids were opened on March 16th.

Mr. Weisman asked for the exact wording of the scheduled bid opening.

Ms. Davis read "Sealed bids, in quadruplicate, will be received by the Seacoast Utility Authority in the Purchasing Office located at 4200 Hood Road, Palm Beach Gardens, FL 33410 for the subject project until 2:00pm local time, March 16, 2010 then opened publicly at that time and read. All bids should be in sealed envelopes addressed to Purchasing Agent."

Ms. Davis asked Mr. Luther why he would wait until the last second to submit his bid. Mr. Luther informed the board that he went to the wrong location. He went to the PGA Wastewater Treatment Plant rather than to the Purchasing Office.

Mr. Ferris asked staff what they normally do for bid openings - specifically, what clock typically determines the bid opening times. Mr. Bishop responded that staff uses the Purchasing Agent's watch and has been doing so for 23 years. Purchasing Agent Randy Kellar confirmed that he sets his watch based on the SUA computers.

Mr. Luther stated that he came for another bid 3 weeks prior that he was in the same room and the decision was to give bidders a couple more minutes because there is construction going on.

Board Member Jimmy Knight stated that the problem is that Mr. Luther came in the room after a bid had already been opened, which changes the whole situation. He does not think Mr. Luther is helping his case stating that he was here a few weeks earlier. He believes he should be more aware of the process.

Mr. Luther reiterated that the only thing that he is disputing is that he was on time according to the official United States National Institute of Standards Technology time.

Mr. Weisman asked Mr. Kellar if he verified his watch was accurate prior to the bid being open. Mr. Kellar stated he checked it with his computer and did not open the bids until his watch read 2:00pm.

MOTION

Board Members Weisman/Lo Bello moved to deny bid protest filed by PRIME Tech Coatings, Inc. and to award contract for PGA WWTP Painting and Concrete Coating to Fleischers, Inc., the lowest responsive bidder whose bid will best serve the public interest, in the amount of \$107,300.00, as recommended by staff.

The motion carried unanimously.

COMPREHENSIVE ANNUAL FINANCIAL REPORT (CAFR) – FY 2008/2009

Mr. Ed Holt with Nowlen, Holt and Miner gave an overview on the CAFR. This report has been awarded the Certificate of Achievement the last five years, which is the highest award in financial reporting. Mr. Holt commends the Authority for that.

Mr. Holt directed the board's attention to the financial section on pages 1 and 2 of the Comprehensive Annual Financial Report ("CAFR"), observing that the audit is done in conformity with Governing Auditing Standards.

Referring to pages 11 and 12 of the CAFR, Mr. Holt gave a brief description of the statement of net assets, including restricted and unrestricted assets. The total net assets are the same this year as last year within a few hundred thousand dollars.

Mr. Holt summarized Operating Revenues and Operating Expenses appearing on page 13 of the CAFR.

Mr. Holt noted that in the section titled "Other Reports," which is a report on internal control and compliance; the audit report reveals no significant or material items to be reported to the board.

The Management Letter format found on page 63 of the CAFR is dictated by the auditor general. There are no management letter comments this year.

Mr. Holt then asked the board if they had any questions and thanked Finance Manager Daniela' Russell and her staff for their support and assistance.

Board Member Jimmy Knight questioned as to why there a big increase in the debt reserve.

Mr. Holt stated Seacoast's bond insurer had been downgraded, triggering a bond covenant that required cash funding of Seacoast's debt service reserve fund. He noted that this transfer of unrestricted reserve funds to restricted status does not represent a net increase in cash reserves, just a change in their character.

Board Member Jimmy Knight asked Mr. Holt whether there is a generally accepted standard for the amount of cash reserves that should be maintained by local government. Mr. Holt indicated that his firm audits many units of local government and that practices vary widely. Mr. Bishop noted that if Seacoast continues to hold its operating costs in check, the recently approved annual rate indexing will help assure a solid cash reserve in the coming years.

Mr. Holt observed that Seacoast has done an exceptional job of controlling its debt and payroll costs, reporting that the number of positions has remained relatively static since 2001, that real payroll costs have remained fairly stable since 2002, and that debt per customer is less now than it was four years ago. Mr. Bishop explained this has been achieved, in part, by consolidating treatment facility operations, reducing the number of Seacoast-owned treatment plants from 6 when he arrived in 1986 to the 2 that will exist when the Hood Road Membrane Plant is placed in service.

MOTION

Board Members Weisman/Lo Bello moved to receive and file the FY 2008/2009 Comprehensive Annual Financial Report and Audit, as recommended by staff.

The motion carried unanimously.

President Pro-Tem Joe Lo Bello congratulated staff for an excellent job. All other board members concurred.

INTERLOCAL AGREEMENT FOR CONNECTION TO PALM BEACH COUNTY

MOTION

Board Members Weisman/Ferris moved to approve Interlocal Agreement for Connection to the Palm Beach County Network, as recommended by staff.

The motion carried unanimously.

MEMBRANE CONVERSION PROJECT, HOOD ROAD WTP CONCENTRATE DISPOSAL WELL – ENGINEERING SERVICES DURING CONSTRUCTION, AMENDMENT NO. 1

MOTION

Board Members Weisman/Ferris moved to approve Amendment no. 1 to the CH2M Hill Engineering Services during Construction Agreement for the Hood Road Water Treatment Plant Membrane Concentrate Deep Injection Well project in the amount of \$144,000.00, as recommended by staff.

The motion carried unanimously.

FRENCHMANS CREEK WATER MAIN REPLACEMENT

MOTION

Board Members Weisman/Lo Bello moved to approve March 4, 2010 proposal from Deevan, Inc. to replace six-inch water mains on Rhone Circle and Rhone Drive in accordance with the terms of the competitively bid Annual Maintenance Contract, as recommended by staff.

The motion carried unanimously.

OTHER BUSINESS

COMMENTS FROM BOARD MEMBERS

Mr. Lo Bello suggested looking into an atomic clock for the board room where bids are opened.

Board Member Jimmy Knight wanted to commend staff for an excellent job on the CAFR. Board Members Ron Ferris and Ms. Davis expressed similar regards.

1 MILLION GALLON FINISHED WATER STORAGE TANK AT LILAC STREET

Mr. Bishop confirmed that the tank is now approved and in service.

ISLES HOMEOWNERS ASSOCIATION MEETING

Mr. Bishop reported that he and Construction Department Manager Jim Lance had attended the Isles HOA meeting last night, providing residents an update on the water main project affecting their entrance and an update on the membrane plant project. The homeowners in attendance were exceedingly happy and very complimentary as to the Military Trail project. They were, however, less pleased with the membrane project. There were complaints of dust and noise. The noise should subside and the contractor is developing a noise control plan.

SFWMD PERMIT

Attorney Nat Nason stated that the South Florida Water Management District (“SFWMD”) has agreed that if Seacoast can demonstrate that the proposed Hood Road Wellfield ground water withdrawal can be achieved without expanding the impact footprint from that which was created by 2006 withdrawals, the District would recognize no future harm with regard to the permit.

Mr. Nason was told by SFWMD staff that SUA can assume a 16 ft. level on the C-18 canal for purposes of determining how much water might go into the Mirasol lake system, which is good for Seacoast.

BENT TREE

Mr. Nason stated SFWMD will be pushing Seacoast to a resolution that will include an offer of reclaimed water for the Bent Tree lake system, but only in the amount of 60,000 gallons a day. They also are looking to Seacoast to contribute monetarily in fixing the historic bank degradation. The total dollar demand is \$99,000. SUA claims they are 0% responsible for that.

BRIGER TRACT

Mr. Nason also mentioned the SFWMD formulation on how they will intend to implement a past harm analysis is in the process of changing. The interpretation will benefit Seacoast and may ultimately result in zero historical harm.

SCRIPPS II PROJECT

Mr. Bishop thanked Palm Beach County for the Capacity Reservation and connection charge payment for the Scripps II Project.

COMMENTS FROM THE PUBLIC

There were no comments from the public.

ADJOURNMENT

There being no further business to come before the Authority, Chair Maria Davis adjourned the meeting at approximately 3:51 PM.

APPROVAL:

MARIA DAVIS, CHAIR

BOB WEISMAN, VICE CHAIR

JOE LO BELLO, PRESIDENT PRO-TEM

RON FERRIS, MEMBER

JIMMY KNIGHT, MEMBER

ATTEST:

JESSICA MOORE, AUTHORITY CLERK