

**MINUTES FROM A REGULAR MEETING OF THE UTILITY BOARD OF THE CITY OF KEY WEST, FLORIDA, HELD AT 5:00 P.M. ON SEPTEMBER 23, 2009 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 Tejeda, General Manager & CEO; Nathan Eden, Board Attorney; Jack Wetzler, Assistant General Manager & CFO; Alex Tejeda, Customer Services Director; Suzanne Greager, Management Services Director; David Price, Director of T&D and Stan Rzas, Compliance Administrator.

**AGENDA ITEM #5 – INFORMATIONAL ITEMS**

**Agenda Item #5a – Generation Report**

Mrs. Tejeda informed the Board that the Generation Report is included in the Board meeting packet and staff is prepared to answer any questions they may have. There were none.

**Agenda Item #5b – FMEA Community Service Award**

Mrs. Tejeda advised the Board that KEYS was recently honored by Florida Municipal Electric Association (FMEA) for KEYS community service with the 2009 Community Service Award.

Mrs. Tejeda said that KEYS received the award for their commitment to enhancing customers quality of life through out community improvement and involvement programs to include tree giveaway, environmental initiatives to reduce green house gasses, and ongoing involvement and support of numerous school/youth-related activities and programs throughout the service area.

The Board congratulated and commended staff for their accomplishment.

**No Name Key Update**

Mrs. Tejeda reported there continues to be discussions regarding No Name Key. Mrs. Tejeda stated she has had conversations with the group that wants electrification and the group opposed to electrification. She said that KEYS has also been working with the County.

Mrs. Tejada informed the Board that KEYS staff has had numerous internal discussions and concluded there are three more tasks that KEYS can and should undertake. First, is to complete 60 percent of design work by KEYS engineering department. Second, to send design work to United States Fish and Wildlife Commission to comment if they are opposed to the project. Third, KEYS has sent a letter to Monroe County asking if they would grant KEYS permission to attach to bridge and have also asked for a formal ruling.

Mrs. Tejada stated after the three tasks are complete, any additional work completed by KEYS would be considered beyond due diligence. Mrs. Tejada said there are high demands from the group wanting electrification and that any additional work should be paid for by those requesting the work.

Mrs. Tejada said that staff is aware of additional work that will be forthcoming. KEYS will seek payment for any additional work by requiring an initial deposit or retainer of 2 percent of the estimated overhead cost which is an estimated amount of \$14,000.00.

Mrs. Tejada said that the \$14,000.00 is enough for KEYS to complete additional work and not affect ratepayers.

Vice Chairman Batty wanted to confirm that any money currently being spent is on staff time and the only way to recoup is if No Name Key was electrified because it would be billed as part of the project. Mrs. Tejada said that was correct.

Vice Chairman Batty wanted to confirm that installation will be paid by homeowners of No Name Key and neither KEYS nor the County is responsible for the cost of installation. Mrs. Tejada said that was correct.

Vice Chairman Batty asked if one of the justifications for electrification was installation of sewer. Mrs. Tejada replied as of the last communication KEYS had with Florida Keys Aqueduct Authority (FKAA), any decisions regarding waste water on No Name Key and Big Pine Key have been delayed and money has been diverted to other projects which are ready to move forward.

Mr. Symroski asked if storm hardened poles were used would there be exceptional maintenance and would it be out of the ordinary versus other areas on the system. Mrs. Tejada replied that it would not be out of the ordinary and KEYS would follow the Public Service Commission (PSC) requirements and No Name would have normal Operations and Maintenance (O&M) as the current service territory for KEYS.

Mr. Symroski questioned if the other rate payers should pay for extraordinary maintenance with such an extensive route even if No Name Key agrees to pay for initial lines. Mrs. Tejada replied when rates are created staff looks at the cheapest rate versus the most expensive rate and then blends the rates and rates are not differentiated due to the location.

Mr. Eden stated at one time Sunset Key wanted to turn over there system to KEYS and KEYS declined due to the cost of the maintenance which would be passed onto ratepayers and KEYS would not be able to recoup the cost.

### **American Public Power Association RP3**

Mrs. Tejada informed the Board that staff is currently working on the application for RP3 Award, which is the Reliable Public Power Provider that APPA bestows on utilities.

Mrs. Tejada stated the KEYS received the designation two years ago and must reaply every two years. The deadline for submittal of application is September 30<sup>th</sup>.

### **AGENDA ITEM #6 – CONSENT AGENDA**

- a) Approve Minutes - Regular Meeting – September 9, 2009
- b) Approve Disbursements Report
- c) Award Contract for Repair & Painting of Stack – Bid #16-09

Motion was made by Mr. Bradford and seconded by Mr. Symroski to approve the Consent Agenda. The motion passed unanimously.

### **AGENDA ITEM #7 – ACTION ITEMS**

#### **Agenda Item #7a – Approve Resolution No. 766 – Endorsing the Proposed Location of an Assisted Living Facility (ALF) at the Key West Diesel Plant & Substation on Angela Street**

Mrs. Tejada stated there was a previous resolution approved by the Utility Board, which set aside the proposed piece of property, under certain conditions, for a period of five years possibly, which has expired.

Mrs. Tejada said that the Board indicated the desire to renew or extend for an additional five years.

Motion was made by Mr. Symroski and seconded by Mr. Bradford for discussion to approve Resolution No. 766 – Endorsing the Proposed Location of an Assisted Living Facility (ALF) at the Key West Diesel Plant & Substation on Angela Street.

Under discussion Mr. Symroski asked if expenses are encumbered for maintaining the property is the ALF expected to reimburse KEYS. Mrs. Tejada stated that is correct.

Mrs. Tejada informed the Board that there was additional language added to the current resolution that the terms and conditions of any transactions hereunder, which may include compensation, shall be negotiated and agreed at such time as any transfer of property rights are sought.

There being no further discussion to come before the Board. The roll was called and the following vote was recorded:

Vice Chairman Batty	Yes
Mr. Bradford	Yes
Ms. Clark	Yes
Mr. Symroski	Yes

**Agenda Item #7b – Approve FY 2010 Award of Excess Liability, Public Officials, Pollution Liability, and Fiduciary Insurance effective October 1, 2009**

Mrs. Tejada stated that staff is seeking approval to grant insurance for Excess Liability to Southernmost Insurance Agency as the local agent using Everest as the carrier; Public Officials Insurance using Darwin Insurance as the carrier; Pollution Liability Insurance to Southernmost Insurance Agency using XL Insurance as the carrier; and Fiduciary Liability to Key West Insurance using Zurich as the carrier.

Mrs. Tejada said that staff proposes to move Excess Liability from AEGIS, which was a direct write to local agent Southernmost Insurance using Everest as the carrier. Aegis had quoted a \$10,000, increase over last year and Everest came back with a yearly savings.

Mrs. Tejada informed the Board that Everest does not offer failure to supply or pollution. She said that Mr. Woodard and McNeary and Associates were comfortable with the risk level of not having the failure to supply or pollution. The failure to supply is very specific, and pollution is currently covered through other policies.

Mrs. Tejada stated that staff is recommending moving the Pollution Insurance from one local agent to another local agent which would result in a savings. FMPA pays for 71.1 percent of the premium and has agreed to bind a three-year premium.

Mrs. Tejada advised the Board the Mr. Bruce Woodard, KEYS Risk Manager, and Mr. Rich Popp, FMPA Risk Manager, were both comfortable with the coverage and the carriers.

Motion was made by Ms. Clark and seconded by Mr. Bradford to approve FY 2010 Award of Excess Liability, Public Officials, Pollution Liability, and Fiduciary Insurance effective October 1, 2009.

Vice Chairman Batty asked if all the premiums selected were the lowest quotes received. Mrs. Tejada replied yes.

Vice Chairman Batty asked what failure to supply covers. Mr. Woodard replied that failure to supply does not apply to Florida. He said the way Florida Statutes are set for public entities is someone has to prove gross negligence on KEYS part which has to consist of bodily injury to customer or property damage.

Vice Chairman Batty asked if KEYS currently has failure to supply insurance. Mrs. Tejada replied KEYS currently has the coverage but will expire on September 30, 2009 and staff is recommending not renewing with AEGIS which would save \$12,000, a year.

Mr. Eden stated that there is a \$100,000 limit and KEYS would not be responsible if exceeded.

Vice Chairman Batty asked since Florida Statute states the maximum recovery is \$100,000, would that be KEYS maximum exposure. Mr. Woodard replied yes.

Vice Chairman Batty then asked if insurance is required for bonds. Mr. Woodard replied no.

There being no further discussion to come before the Board. The roll was called and the following vote was recorded:

Vice Chairman Batty	Yes
Mr. Bradford	Yes
Ms. Clark	Yes
Mr. Symroski	Yes

**Agenda Item #7c – Extend Property, Boiler & Machinery Insurance coverage with Florida League of Cities from April 1, 2010 to September 30, 2010, and add new Second Street Substation to policy**

Mrs. Tejada stated that staff is seeking approval for Extend Property, Boiler & Machinery Insurance coverage which will be an extension of the coverage the Board approved in March of this year.

Mrs. Tejada informed that Florida League of Cities presented an extension offer to KEYS for the period of April 1, 2010 through September 30, 2010. The additional premium of \$47,685 will include the addition of the new Stock Island Substation. Florida League of Cities is providing the extension of coverage for FY 2010 with no increase to rates.

Mrs. Tejada notified the Board that Florida League/ Hartford Steam Boiler is providing an oil analysis and infrared services for the substations at no additional charge.

Motion was made by Ms. Clark and seconded by Mr. Symroski to Extend Property, Boiler & Machinery Insurance coverage with Florida League of Cities from April 1, 2010 to September 30, 2010, and add new Second Street Substation to policy.

Vice Chairman Batty asked what the total savings for additional services offered. Mrs. Tejada replied the saving would be approximately \$17,000.

There being no further discussion to come before the Board. The roll was called and the following vote was recorded:

Vice Chairman Batty	Yes
Mr. Bradford	Yes
Ms. Clark	Yes
Mr. Symroski	Yes

**Agenda Item #7d – Approve Retainer Agreement with Robert C. Tilghman, PA. and Associated Budget Amendment #10-01**

Mrs. Tejada stated that staff is seeking approval from the Board for a Retainer Agreement, in the estimated amount of \$30,000, with Robert Tilghman, PA, for legal services associated with the civil litigation entitled Underwater Engineering Services vs. Utility Board of the City of Key West.

Mrs. Tejada informed the Board that Mr. Eden has recommended that Mr. Tilghman assist him with potential legal service which will be associated with possible litigation.

Mr. Eden advised the Board that KEYS is currently in litigation with S.G. Pinney for work associated with the repair of concrete poles. KEYS denied payment of final invoices due to numerous performance issues and defects work.

Motion was made by Mr. Bradford and seconded by Mr. Symroski for discussion to Approve Retainer Agreement with Robert C. Tilghman, PA. and Associated Budget Amendment #10-01.

Under discussion Mr. Symroski inquired about the amount of money being disputed. Mrs. Tejada replied the disputed amount is \$659,000, which is the unpaid amount for amount not paid.

Mr. Eden informed the Board that S.G. Pinney coated 57 poles over the course of a weekend and KEYS was not notified and did not monitor the coating of poles.

Mr. Eden said that there have been inspections preformed and the last inspection completed revealed there are problems with poles KEYS did not monitor.

Mrs. Tejada stated that out of the 57 poles only 12 are in good shape.

Ms. Clark asked when the work was completed. Mr. Finigan replied that the work was done throughout 2005 with a 3 year warranty. He said that there were two separate inspections over the warranty period to document issues.

There being no further discussion to come before the Board. The roll was called and the following vote was recorded.

Vice Chairman Batty	Yes
Mr. Bradford	Yes
Ms. Clark	Yes
Mr. Symroski	Yes

**Agenda Item #7e – Approve Unit Price Change Order #1 to Prime Tech Coatings, Inc. for Coating Steel Transmission Poles, and Approve Budget Amendment #09-17**

Mrs. Tejada stated that this item was discussed at the August 26, 2009 Utility Board meeting and was briefly discussed at the last Utility Board meeting regarding extensive corrosion of Steel Transmission Poles.

Mrs. Tejada said that staff is requesting that the Board approve a Unit Price Change Order #1 to Prime Tech Coatings, Inc. and to expand the scope of work necessary to repair the identified seven poles.

Mrs. Tejada informed the Board that the estimated amount for the change order is \$99,983.

Motion was made by Ms. Clark and seconded by Mr. Bradford to approve Unit Price Change Order #1 to Prime Tech Coatings, Inc. for Coating Steel Transmission Poles, and Approve Budget Amendment #09-17.

Vice Chairman Batty commented that to run a utility in the Florida Keys in the marine atmosphere is a very expensive commodity due to the corrosion. And the community needs to be aware through advertising efforts and if utility bills are higher there are justifications and reasons. He said this item is a prime example.

There being no further discussion to come before the Board. The roll was called and the following vote was recorded:

Vice Chairman Batty	Yes
Mr. Bradford	Yes
Ms. Clark	Yes
Mr. Symroski	Yes

**Agenda Item #7f – Approve Emergency Purchase Order #9123 to Repair of Steel Transmission Poles**

Mrs. Tejada stated that staff is seeking approval for an Emergency Purchase Order for an estimated cost of \$72,352., to Valmont Industries, Inc. to repair Steel Transmission Poles.

Mrs. Tejada informed the Board that Valmont Industries, Inc. is the original manufacturer of the poles and they will be completing very specific welding work. She said the cost includes the design work and testing of welds to ensure the welds are secure.

Mrs. Tejada said that other staff obtained similar pricing from other welding services and felt that pricing was fair and reasonable.

Motion was made by Ms. Clark and seconded by Mr. Bradford to approve Emergency Purchase Order #9123 to Repair of Steel Transmission Poles.

Mr. Bradford said he appreciated the photos included in the Board packet which helps prevent a site visit.

Vice Chairman Batty asked when complete, will the poles be good as new. Mr. Finigan replied that the manufacturer has stated that the poles would be back to their original structural design.

Mr. Finigan explained the repair process with the Board.

Mr. Symroski asked how many people are on the crew. Mr. Finigan replied that there are two workers from Valmont, four from the metalizing crew and two KEYS employees monitoring.

There being no further discussion to come before the Board. The roll was called and the following vote was recorded:

Vice Chairman Batty	Yes
Mr. Bradford	Yes
Ms. Clark	Yes
Mr. Symroski	Yes

**OTHER BUSINESS**

There was no other business to come before the Board.

**ADJOURNMENT**

Motion was made by Mr. Symroski to adjourn the Regular Utility Board meeting of September 23, 2009 at 5:33 p.m.

APPROVE:

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Lou Hernandez, Chairman

ATTEST:

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Lynne E. Tejada, General Manager/CEO & Secretary

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