



HANCOCK COUNTY UTILITY AUTHORITY

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Monthly Board Meeting

October 17, 2009

The meeting was called to order by Director Pullman at 1:07 P.M.

Director Kevin Hill led the attendees in the Pledge of Allegiance and a moment of silent prayer.

Attendees:

Mr. Al Smith

Mr. Jack Cleveland

Mr. Rocky Pullman

Mr. Larry Ladner

Mr. Kevin Hill

Mayor Les Fillingame

Approval of Minutes

Motion was made by Director Hill to approve the minutes from the September 8, 2009, Monthly Board Meeting, Director Smith seconded the motion; it was voted on and it carried unanimously.

Approval of Claims Docket with Additions

Motion was made by Director Hill to approve the September 2009 Claims Docket w/additions as presented to the Board, Director Ladner seconded the motion; it was voted on and it carried unanimously.

Request to Address the Board

Mr. Rodney Ladner – Magnolia Estates – See minutes prior to Old Business

At this point in the meeting, Director Pullman pointed out to attendees that some were parking in parking spaces designated for use by the City of BSL employees, and requested that these spaces be left open for the BSL employees.

Board Action Items

Motion was made by Director Ladner to approve the Request for Cash as presented to the Board, in the total amount of **\$3,010,420.98**, Director Hill seconded the motion; it was voted on, and it carried unanimously.

Request for Cash

	HANCUA-01			
RFC#	28	W5E	Kiln Regional Water Supply	\$376,117.90
		List of Projects for HANCUA-02		

RFC#	14	W5	Kiln Regional Water Supply	\$316,491.99
RFC#	24	S5	Northern Regional (Kiln) WWTF and Transmission System	\$99,999.16
RFC#	25	S6	Kiln Wastewater Collection System	\$35,967.10
RFC#	26	S7	Bay St. Louis-Cedar Point and I-10 Wastewater System	\$12,620.50
RFC#	23	W6	Kiln Water Distribution System	\$62,993.31
RFC#	26	W7	Eastern Hancock County Regional Water Supply	\$1,545.00
RFC#	23	W9	Waveland-US 90 Water System Improvements	\$353,009.80
RFC#	22	PD1	Program Delivery	\$6,759.25
List of Projects for HANCUA-03				
RFC#	24	S3	Western Regional (Pearlington-Port Bienville) WWTF	\$361,009.96
RFC#	24	S4	Pearlington Wastewater Collection System	\$375,820.24
RFC#	23	W3	Pearlington-Port Bienville Regional Water Supply System	\$12,530.00
RFC#	22	W4	Pearlington Water Distribution System	\$586,430.50
RFC#	27	W8	Hancock County Water and Sewer District Water Distribution	\$409,126.27
Total Request				\$3,010,420.98

Discussion: Director Cleveland requested that a change be made to the format of the Request for Cash spreadsheet, as shown above, he requested that an additional column be added to the sheet to show the total balance left for each project after each submission. It was understood by the Board that the change on the spreadsheet will provide sufficient information to the majority of the Board and that Authority personnel will need only to provide a complete set of Request for Cash to Director Kevin Hill. Director Pullman requested that a complete set of the Request for Cash be available at each meeting, should there be any questions.

Motion was made by Director Hill to approve Amendment No. 2 to the engineering agreement with Neel-Shaffer for the S7 pump station and force main project for Bay St. Louis, in the additive amount of \$9,600.00, contingent on final approval of MDEQ and Board Attorney Artigues. This amendment provides for additional survey, engineering design and wetlands delineation services occasioned by the relocation of the new pump station, Director Smith seconded the motion; it was voted on and it carried unanimously.

Motion was made by Director Ladner to approve Amendment No. 5 to the engineering agreement with Neel-Shaffer for the W7 regional water system project, in the additive amount of \$6,000.00, contingent on approval of MDEQ and Board Attorney Artigues. This amendment provides for additional engineering design services occasioned by the reorientation of the McLaurin well and tank site and the requirement to provide storm drainage culvert along the paved section of McLaurin, Director Smith seconded the motion; it was voted on and it carried unanimously.

Motion was made by Director Cleveland to approve Contract Modification No. 2008-01/10(W3) to Term Bid 2008-01 and Work Order W3-02, in the additive amount of \$756.71, for the required fuel and material price adjustments, contingent on final approval of MDEQ and Board Attorney Artigues, Director Hill seconded the motion; it was voted on and it carried unanimously.

Motion was made by Director Cleveland to approve the request by DMR to set up a weather tower on the west side of the retention pond and operate and maintain it at no cost to the HCUA, Director Ladner seconded the motion; it was voted on and it carried unanimously.

Motion was made by Director Smith to approve the Wage Classification request by – L. G. Barcus & Sons as shown below, Director Pullman seconded the motion; it was voted on and it carried unanimously.

- Crane Operator - \$15.00

Motion was made by Director Pullman to approve Contract Modification 2008-07/01(S5) to the Term Bid 2008-07 construction contract in the additive amount of \$672,416.99, contingent on final approval of MDEQ and Board Attorney Artigues. The current budget for the project, through Budget Modification No. 10, indicates remaining construction contingency funds for the S5 project in the amount of \$1,470,753.00. The \$672,417.00 represents approximately a 7.5% increase to the \$8,980,879.50 Term Bid 07 construction contract amount, Director Ladner seconded the motion; it was voted on and it carried unanimously.

Motion was made by Director Ladner to make it a matter of record that at 1:10 P.M. Director Les Fillingame joined the meeting and that Director Tommy Longo has an approved absence, Director Smith seconded the motion; it was voted on and it carried unanimously.

Motion was made by Director Cleveland to approve spreading on the minutes the results of the Telephone Poll concerning adding an additional \$30,000.00 to the 2009/2010 Budget to cover cost of adding brackets and framework to Project W5 and W5E water tanks for the purpose of leasing space to other companies, Director Ladner seconded the motion; it was voted on and it carried unanimously.

Motion was made by Director Ladner to approve the request by Necaise Brothers Construction, Inc., to utilize the services of the following subcontractors, Director Smith seconded the motion; it was voted on and it carried unanimously.

- **Projects S4 and W3**
 - TST&E, LLC – Carriere, MS

- **Project W7**
 - A & C Industrial, Inc. – Long Beach, MS
 - Directional Road Boring – Metairie, LA

Motion was made by Director Hill to approve the request by Hemphill Construction Company., to utilize the services of the following subcontractors, Director Fillingame seconded the motion; it was voted on and it carried unanimously.

- **Projects S7**
 - O'Brian Construction – Gulfport, MS

Motion was made by Director Ladner to accept the Certificate of Substantial Completion for Term Bid 2009-10, Work Order No. 2009-10/W5-01, as of September 15, 2009. This date is the start of the one-year warranty period for this project, the Kiln North Regional Water Supply transmission main, Director Cleveland seconded the motion; it was voted on and it carried unanimously.

Discussion: Mr. Bill Mitchell of Brown and Mitchell, Inc., informed the Board that the project was completed with an excess of funds of approximately \$100,000.00

Motion was made by Director Fillingame to accept the Certificate of Substantial Completion for Work Order No. 2008-06/W3-01, Term Bid 2008-06, as of August 19, 2009. Since this establishes the completion of the test well only, no warranty is applicable. The warranty period will not start until the permanent well is completed, Director Ladner seconded the motion; it was voted on and it carried unanimously.

Motion was made by Director Smith to approve Contract Modification 2008-03/08(W8) to the Term Bid 2008-03 construction contract in the additive amount of \$154,073.00, contingent on final approval of MDEQ and Board Attorney Artigues. This change is for adding water service for West Adams Street in Bayside Park. The current budget for the project, through Budget Modification No. 6, indicates remaining construction contingency funds for the W8 project are \$3,781,311.00, Director Fillingame seconded the motion; it was voted on and it carried unanimously.

Motion was made by Director Ladner to approved Contract Modification 2008-07/02(W7) to the Term Bid 2008-07 construction contract in the additive amount of \$188,850.00, contingent on final approval of MDEQ and Board Attorney Artigues. This change is for adding 16-inch diameter ductile iron pipe to the Eastern Hancock County Regional Water Supply project, due to unforeseen conditions. The current budget for the project, through Budget Modification No. 10, indicates remaining construction contingency funds for the W7 project are \$3,513,340.00, Director Hill seconded the motion; it was voted on and it carried unanimously.

Motion was made by Director Fillingame to approve Contract Modification 2008-01/11(S4) to the Term Bid 2008-01 construction contract in the additive amount of \$128,837.70, contingent on final approval of MDEQ and Board Attorney Artigues. This change is for revisions to the S4 pump station and the S4 sewer service connections. The current budget for the project, through Budget Modification No. 6, indicates remaining construction contingency funds for the S4 project are \$467,249.59, Director Pullman seconded the motion; it was voted on and it carried unanimously.

Motion was made by Director Hill to approve Contract Modification 2008-01/12(W3) to the Term Bid 2008-01 construction contract in the additive amount of \$14,651.50, and 45 calendar days contract time for work order 2008-01/W3-02, contingent on final approval of MDEQ and Board Attorney Artigues. This change is for revisions to the access road to the well and tank site for Pearlinton. The current budget for the project, through Budget Modification No. 6, indicates remaining construction contingency funds for the W3 project are \$157,164.00, Director Ladner seconded the motion; it was voted on and it carried unanimously.

Motion was made by Director Smith to approve Amendment No. 1 to the consultant agreement with Krebs, LaSalle, Lemieux adding revised Exhibit D-2 at no change in contract price, contingent on final approval of MDEQ and Board Attorney Artigues. This amendment deletes projects S7 and W9 from the SCADA design contract. No SCADA is required for these 2 projects, Director Fillingame seconded the motion; it was voted on and it carried unanimously.

Motion was made by Director Smith to approve the award of the construction contract for Project S5, the Northern Regional Wastewater Treatment Facility, to the low bidder, P. F. Moon and Company, Inc., to include Bid Alternates E, F, and J for the low bid amount of \$19, 331,000.000, contingent upon receipt of U.S. Corps of Engineers permit, Corps approval to construct the S5 facility in the NASA buffer zone, approval of Board Attorney Ronnie Artigues and approval of award by MDEQ, Director Cleveland seconded the motion; it was voted on and it carried unanimously.

Discussion: Director Cleveland inquired if the land acquisition for the S5 Northern Regional WWTP has been finalized? Mr. Bill Mitchell explained that Attorney Artigues recommended that the land not be purchased until all the permits are in from the Army Corp of Engineers, he explained that the Corps is waiting on a Letter of Water Quality

Certification from MDEQ, Executive Director Pitalo has just received the original. Mr. Mitchell spoke with Ms Linda Brown with the Corps and that possibly in the next ten days we should have the necessary permits from MDEQ and that the permit from the Corp should be issued next week, if it is then several things would have to happen. Once the permit is issued for the land, (1) the Authority can proceed with the purchase of the land, (2) to begin the project some mitigation credits would have to be purchased, (3) approval from the Corps to build in the NASA buffer zone would have to be acquired.

Director Cleveland inquired if the Authority had done anything to lock in the purchase of the land for a negotiated price; Attorney Pittman explained that an appraisal has been completed for the purchase price of the land, also, the land owner has been in contact with Executive Director Pitalo discussing when the closing will be on the land, so Executive Director Pitalo feels that even with the lack of a written agreement, the negotiated price will stand.

Director Cleveland feels it would be in the best interest of the Authority if there was a written agreement and a retaining fee paid to the land owner, just to insure that the property will be available once all the permits are obtained. Attorney Pittman explained that any "option" monies paid for land is not reimbursable by the CDBG program, and monies paid as a retainer should be as a part of the actual purchase price.

Director Pullman asked that should the property owner change his mind about selling the property, how long it would take the Authority to take this property under condemnation. Attorney Pittman explained that it would take approximately sixty to ninety days.

Also, best case scenario, when could we actually start construction on the project? Mr. Mitchell explained that once all permits are obtained, MDEQ agrees with everything and the purchase of mitigation credits is completed, a Notice to Proceed could be issued in approximately one month. He also explained that Attorney Artigues has a conference call on October 26, 2009 to discuss getting approval from NASA to build in the buffer zone. There is also the issue of the contractor, P.F. Moon, holding their bid price, they had agreed to hold the price until October 15, 2009, but Mr. Mitchell, feels that they will continue to hold their bid price. John Cutright with Carollo Engineers informed the Board that they have a verbal agreement from the contractor to hold the bid price. Executive Director Pitalo said he was informed by the contractor that should he have to hold the bid price much longer, he is in jeopardy of losing approximately \$75,000.00. **Director Cleveland** highly recommends that with all things considered the Authority should secure in some manner the purchase of the land. Attorney Pittman advises against any type of retainer fees to be paid for the land.

Director Pullman wanted to make sure that we have the funds in place to immediately proceed with the land acquisition and construction once all necessary permits and approvals have been acquired, Executive Director Pitalo assured him the funds are in place. Also, were all issues settled with the Stennis Airport, Mr. Mitchell explained that a letter was received from the FAA stating some concerns about the proximity of the treatment plant and their runway, in that the treatment plant may attract birds, but there was nothing in the letter stating that the project should not proceed. Mr. Mitchell recommends that we respond with a letter to the FAA acknowledging their concerns, but

informing them that we are going to proceed with the project, unless we received a letter from the FAA stating otherwise.

Director Cleveland asked the Board if they were opposed to the idea of offering the property owner \$5,000.00 to hold the property, the Board is not opposed to the idea, but they didn't feel it is necessary to take any action at this point.

Motion was made by Director Ladner to approve the modification of the SCADA bid date from October 22, 2009 to October 29, 2009 for engineers to review technical issues, Director Cleveland seconded the motion; it was voted on and it carried unanimously.

Motion was made by Director Hill to approve the revised Amendment No. 3 to the consultant agreement with Compton/Digital Engineering, rescinding and replacing the prior Amendment 3 as approved 6-23-09, to provide for a changed scope-of-work for the property acquisition assistance at a reduced contract price of \$146,000.00, contingent on final approval of MDEQ and Board Attorney Artigues, Director Smith seconded the motion; it was voted on and it carried unanimously.

Not on Agenda - Motion was made by Director Hill to approve the Amendment No. 4 to the W9 Engineering contract to update a property acquisition survey in the additive amount of \$420.00, Director Ladner seconded the motion; it was voted on and it carried unanimously.

Executive Director – David Pitalo

Letters from Governor Haley Barbour Concerning Projects S5, S6, & W7, with responses from Mr. Jon Mabry-Chief Operation Officer – Disaster Recovery Division – Executive Director Pitalo informed the Board that Project S5 must be under construction by November 10, 2009, or we will have to request another extension – Motion was made by Director Hill to spread on the minutes the letters and responses to/from Governor Haley Barbour, Director Ladner seconded the motion; it was voted on and it carried.

Wholesale water and wastewater treatments rates – A recess meeting was scheduled on October 27, 2009 at 2:00 p.m. to discuss this item.

Letter from Secretary of State Office concerning Tideland Lease – Motion was made by Director Ladner to spread on the minutes the letter from the Secretary of State concerning the Tideland Lease, Director Smith seconded the motion; it was voted on and it carried unanimously.

Construction Status Information - Information only – No Action Taken

Non low-moderate sewer service connections in Pearlington – Executive Director Pitalo explained to the Board that the non low-moderate income sewer connections have been designed through the current construction designs, but there is not a construction manager to over see the project and since they are being funded by CIAP funds, does

the Hancock County Board of Supervisors want to select a contractor to oversee the project?

Director Pullman felt that the Board of Supervisors will come back to the Board and asked for a recommendation and set it up through the Authority, since this is considered part of the Pearlinton construction project.

Not on the Agenda – Executive Director Pitalo informed the Board of a “surprise” inspection from MDEQ at the Waveland WWTP, and that there were no issues. Also, the O&M procedures should be complete by November 30, 2009 and sent on to MDEQ.

Director Pullman explained to the Board that he has been approached by Directors Hill and Director Ladner about having each entity’s name on the water towers along with the HCUA name, Director Pullman explained that he has no objection to the names being added as long as there is no additional cost to the Authority. He has also asked that Executive Director Pitalo get with each contractor to see what if any additional cost would be added.

Request to Address the Board

Mr. Rodney Ladner – Magnolia Estates, explained his plans to develop a subdivision on Cuevastown Road, the subdivision has approximately 13 lots, and it has been approved the Hancock County Planning and Zoning, EPA, and the MDOH, he also has a letter of intent from the Kiln Water and Fire Protection District.

Mr. Bill Mitchell of Brown and Mitchell, Inc., explained to Mr. Ladner and to the Board that according to the Rules and Regulations of the HCUA, on subdivisions that are five lots to thirty-five lots in size, each lots must be a minimum size of two acres in size. But in consideration of the fact that the MS Department of Health has been out and done soil percolation test on each lot, and each lot passed percolation, and that none of the lots will be using spray fields and the lots, which all will be using septic tanks, will have a minimum of eighteen inch drain line depth, he has no objection to a variance being granted, if the Board decides to allow such.

Motion was made by Director Pullman to consider going into executive session to discuss this issue, Director Hill seconded the motion; it was voted on and it carried unanimously.

Motion was made by Director Ladner to go into executive session to discuss this issue, Director Cleveland seconded the motion; it was voted on and it carried unanimously.

Motion was made by Director Smith to leave executive session, with no action taken, Director Ladner seconded the motion; it was voted on and it carried unanimously.

Discussion: Director Pullman explained the reason for going into executive session, was to discuss legal issues pertaining to the Rules and Regulations in effect at this time, and the decisions made in the past dealing with other subdivisions, in order to ensure that no one’s rights have been violated. Basically what was discussed is that if a developer

of a small subdivision (five to thirty-five lots) comes before the Board asking for a variance on a wastewater processing system and does not meet the requirements of the HCUA Rules and Regulations, they could in fact request assistance from entities, i.e. MDOH, to help them get the necessary approval.

Motion was made by Director Smith to allow a variance, with the following requirements:

- All on site wastewater disposal systems will be accomplished with septic tanks and drain fields
- All drain fields will have sufficient earth cover (18-24 inches) as required by the MS Department of Health
- Developer must submit a copy of approval letters from the MS Board of Health and the Kiln Water and Fire Protection District
- Work must begin within one year, or this variance is voided and the developer will have to submit another request

Director Ladner seconded the motion; it was voted on and it carried unanimously.

Old Business

Director Pullman expressed concern that the left over dirt for the road boring is being left on the sides of the roads and when it rains the dirt is then washed into the ditches and creating drainage problems, he is requesting that the excess dirt be moved to a staging area to be used or disposed of at a later date.

Ms Pansy Maddox expressed concern about residents/businesses in the Pearlinton area who are wanting to build, but not being able to do so without some type of approval from the MDOH, she inquired if there was some type of temporary approval the Authority could issue to those that will have the central sewer system in the area within six months to a year. Director Pullman explained that he could entertain the idea of allowing a builder to pull a permit if the central sewer system would be operational within ninety days of the date of the permit, anything longer than that would create a situation in that the home owner may have a home built, but not be able to have electric power connected or move in.

SRF loan status – Executive Director Pitalo explained to the Board that the SRF loan the Authority has is a non-forgivable loan. In order for the loan to be forgivable, there would have to be special legislative action. Ms Trudy Fisher/MDEQ is going to investigate the state laws to see if we may have the option of refinancing the loan for a period of twenty or thirty years, which would reduce the monthly note. The MDEQ has issued the Authority another year of forbearance.

New Business

Executive Session

Motion was made by Director Ladner to consider going into executive session to discuss land acquisition for Project S4, Director Smith seconded the motion; it was voted on and it carried unanimously.

Motion was made by Director Fillingame to go into executive session to discuss land acquisition for Project S4, Director Ladner seconded the motion; it was voted on and it carried unanimously.

Motion was made by Director Smith to leave executive session at 3:05 p.m., with no action taken, Director Ladner seconded the motion; it was voted on and it carried unanimously.

Let the record show that 2:30 p.m., Director Kevin Hill has left the meeting due to a doctor's appointment.

Attorney Don Hinton presented to the Board the *Acquisition and Relocation Policy*, the policy was created due to a request from MDA, and he recommends that the Board accept, approve and spread on the minutes the policy with the effective date being October 16, 2009; with any land acquisitions prior to this date are not subject to this policy.

Motion was made by Director Fillingame to accept the policy as presented and recommended by Attorney Don Hinton, Director Ladner seconded the motion; it was voted on and it carried unanimously.

During executive session the Board had the opportunity to review, on a per parcel basis, a total of forty-six waiver valuations for Project S4 – Pearlinton Wastewater Collection System for the purpose of establishing a basis for making a fair market value offer pursuant to the waiver valuation procedure.

After a full discussion, a motion was made by Director Cleveland to authorize Attorney Jack Pittman to proceed with the fair market value offers, based on said information, in the amounts indicated in each file on the parcels shown on the **attached two pages**, and to allow Attorneys Ronnie Artigues and Jack Pittman and Executive Director David Pitalo to review, recommend and proceed with FMVOs as needed to avoid delays in the project, Director Ladner seconded the motion; it was voted on and it carried unanimously. *Let the record show that Director Rocky Pullman voted NO on Parcels 373 and 376, with a Yes vote on all other parcels. **Attached – Two Pages of FMVOs***

Also during executive session a correction on the footage for Parcel CE200, Project S4 was presented to the Board for review, and requested the Board to allow a new FMVO be issued.

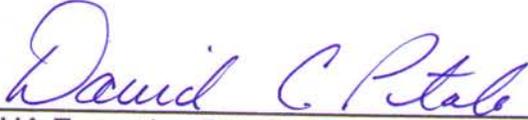
Motion was made by Director Ladner to approve this FMVO as presented and recommended, Director Smith seconded the motion; it was voted on and it carried unanimously.

Adjourn or Recess

Motion was made by Director Cleveland to recess the meeting at 3:20 p.m., until Tuesday October 27, 2009 at 2:00 p.m., Director Smith seconded the motion; it was voted on and it carried unanimously.



HCUA Board Chairman



HCUA Executive Director

HCUA Monthly Board Meeting
October 16, 2009, 2:00 P.M.

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HCUA Monthly Board Meeting
October 17, 2009, 1:00 P.M.