



MINUTES

Special Board Meeting

12:00 Noon - Monday, December 28, 2020
Video-Teleconference

The Frankfort Plant Board met in Special Board Meeting on Monday, December 28, 2020 at 12:00 Noon in the Video-Teleconference.

ATTENDANCE:

Dawn Hale, Board Secretary/Treasurer
Stephen Mason, Board Vice Chair
John Cubine, Board Chair
John Snyder, Board Member
Kathryn Dutton-Mitchell, Board Member
David Billings, Director of Water Operations
Harvey Couch, Marketing Video Content Coordinator
David Denton, Chief Financial Officer
Vent Foster, Chief Operations Officer
Ryan Henry, Assistant IT Director
Cathy Lindsey, Communications & Marketing Director
Kathy Poe, Executive Assistant to GM
Hance Price, Assistant GM Administration/Staff Attorney
Julie Roney, Water Treatment Superintendent
Gary Zheng, General Manager
Nichell Brown, HR Director
Charles Burnette, Cable Installer Supervisor
Doug Buresh, CEO KyMEA
Zachary Hubbard, Cable 10 Director/Producer
State Journal

- 1 NOTICE OF SPECIAL MEETING
 - 1.1 Special Meeting Notice

- 2 ACTION ITEM: APPROVAL OF MINUTES
 - 2.1 Consider Approval of the Minutes of the December 15, 2020 Board Meeting.

Ms. Dutton-Mitchell noted some minor revisions to these minutes.

Dawn Hale moved moved to approve the Minutes of the December 15, 2020 Board Meeting as amended. John Snyder seconded the motion.

CARRIED. 5 to 0.

3 INFORMATIONAL ITEM: PUBLIC COMMENT

3.1 None

4 ACTION ITEMS:

- 4.1 The FPB KYMEA Director and Alternate Director are hereby authorized and directed to take any and all further actions as may be reasonably necessary to implement Plan E consisting of the following power supply sources: (PPS 60MW, Ashwood 53.75MW, MISO PPA 30MW, MISO PTP 15MW). (Gary Zheng and Doug Buresh to discuss)

Due to a contractual decision point in December 2020 on the Paducah Peakers (PPS), KYMEA requires some corresponding planning direction to be able to progress toward future decisions. Staff recommends the following planning directives and PPS nomination decision to KYMEA.

- Staff Recommendation – Keep Ashwood Solar at current level (53.75MW)
- Staff Recommendation – Reduce PPS (Paducah Power System) Peaking to 60MW and add 15MW PTP (Point To Point Transmission)
- Staff Recommendation – Addressing Market Risk with 30MW MISO PPA (Power Purchase Agreement)
- Based on KyMEA's study, staff recommendation is to move forward with Plan E (PPS 60MW, Ashwood 53.75MW, MISO PPA 30MW, MISO PTP 15MW)

Staff believes this plan represents the most reasonable and prudent path forward when the three factors of market exposure, operating risk and expected cost are considered.

FPB Staff, Doug Buresh, CEO of KyMEA, and FPB Board members discussed this item in detail.

John Snyder moved moved that FPB's KyMEA Director and Alternate Director are hereby authorized and directed to take any and all further actions as may be reasonably necessary to implement Plan E consisting of the following power supply sources: (PPS 60MW, Ashwood 53.75MW, MISO PPA 30MW, MISO PTP 15MW). Dawn Hale seconded the motion.

CARRIED. 5 to 0.

4.2 **Consider Retransmission Consent Agreements with Gray Television Group (WKYT and WAVE); Morris Network (WTVQ); Nexstar Inc. (WDKY); Hearst Properties, Inc. (WLKY); and Independence Television Company (WDRB). (Harvey Couch to discuss)**

Every three years, FPB must renegotiate Retransmission Consent Agreements with all the local broadcasters in Lexington and Louisville. During the budget process, staff discussed the possibility of removing duplicate broadcasters. The preliminary results of the Retransmission Preference customer survey showed that while customers were very interested in maintaining at least one affiliate from Louisville, they also preferred FPB to eliminate some duplicate broadcasters in the interest of minimizing any expected rate increase corresponding with these renewals.

In October, FPB executed an NCTC-negotiated agreement with Scripps for carriage of WLEX and in November, executed an NCTC-negotiated agreement with Tegna for carriage of WHAS.

As of December 23, NCTC had agreed on rates with Gray Television Group, but is still working to complete the long form agreement for carriage of WKYT and WAVE.

Over the past 60 days, staff successfully negotiated Retransmission Consent Agreements with the remaining four local broadcasters. All of the agreements are as follows:

1. NCTC/Gray Television Group agreement for carriage of WKYT 27 (CBS Lexington) on cable channel 6/506 and CWKYT (CW Lexington) on cable channel 13/513 through December 31, 2023 at an increase of 19% in year one and 11% in years two and three.
2. NCTC/Gray Television Group for carriage of WAVE 3 (NBC Louisville – which is not currently carried on FPB Cable through December 31, 2023.
3. Morris Network for carriage of WTVQ 36 (ABC Lexington) on cable channel 8/508 and MyTVQ (MyNetwork Lexington) on cable channel 18/518 through December 31, 2023 at an increase of 18% in year one and 6% in years two and three.
4. Nexstar, Inc. for carriage of WDKY 56 (FOX Lexington) on cable channel 5/505, Comet on cable channel 30, Charge! on cable channel 26, and TBD TV on cable channel 27 through December 15, 2023 at an increase of 17% in year one and 15% in years two and three. This agreement also requires carriage of WGN America on Classic Cable (see item 4.3).
5. Hearst Properties, Inc. for carriage of WLKY 32 (CBS Louisville) on cable channel 12/512 through December 31, 2020 at a decrease of 16% in year one and increases of 10% in years two and three.

6. Independence Television Company for carriage of WDRB 41 (Louisville) on cable channel 4 through December 31, 2020 at an increase of 17% in year one and 11% in years two and three.

Staff and the Cable Advisory Committee recommend approving the agreements with: Morris Network; Hearst Properties; Nexstar, Inc.; and Gray Television Group and not approving the agreement with Independence Television Company. We feel as though this was the best solution for providing the best value to FPB's customers.

If the Gray/NCTC long form agreement is not completed by the time of this meeting, staff would ask the board to approve the agreement contingent upon NCTC and Gray completing a long form agreement that meets with staff's approval.

Please note Independence Television Company (WDRB) is contractually forbidden by FOX from retransmitting FOX broadcast into Frankfort. Three years ago, staff worked with the then-General Manager Bill Lamb, to reach a mutually beneficial agreement that would allow us to retransmit WDRB news and syndicated programming into Frankfort and keep the rate we paid for WDRB flat throughout the term. Bill Lamb is no longer at WDRB and the new management group would not agree to flat rates and instead insisted on a 17% increase in year 1 and greater than 10% annual increases after that.

The staff attorney has reviewed the agreements and they meet with his approval.

Stephen Mason moved to approve agreements with Morris Network, Hearst Properties, Inc., Nexstar, Inc., and Gray Television Group, contingent on agreeable negotiation of long form agreement with Gray Television Group.; and NOT approving Independence Television Group. Kathryn Dutton-Mitchell seconded the motion.

CARRIED. 5 to 0.

- 4.3 Consider Agreement with Nexstar/WGN America. (Harvey Couch to discuss)

Staff and the Cable Advisory Committee recommend approval of the Nexstar/WGNA Agreement. This direct agreement has a term from January 15, 2021 through December 15, 2023. Carriage of WGNA is required for any operator that carries a Nexstar local broadcast channel. Until six months ago, FPB did not carry a local broadcast channel from Nexstar. That changed this past summer when WDKY (Fox Lexington) was transferred from Sinclair to Nexstar. In order to save space in the channel lineup, staff plans to remove Tennis Channel from Classic Cable when our current agreement with Sinclair expires on 12/31/20. Staff plans to work with the NCTC and Sinclair to re-launch Tennis Channel on the optional Preferred tier as soon as possible.

WGNA runs a mixture of entertainment programming (consisting of comedy and drama series, and theatrical feature films) for most of the broadcast day and a straight-news format—via a daily national prime time newscast, NewsNation—during the evening and early overnight hours.

No additional carriage requirements or obligations are included in this agreement. The Asst. GM for Administration has reviewed the agreement and it meets with his approval.

Stephen Mason moved to approve the agreement with Nexstar/WGN America. John Snyder seconded the motion.

CARRIED. 5 to 0.

4.4 Consider NCTC TiVo Renewal. (Harvey Couch to discuss)

Staff recommends approval of a renewal with NCTC for participation in their TiVo Services and Participation Agreement. FPB launched the product in the second half of 2016.

This renewal includes several important improvements on terms between NCTC members and TiVo. Effective immediately, all members are relieved of any past due or future liability of Member Annual Minimum fees or shortfall payments. In short, all minimums and penetration requirements from the original agreement are removed from the terms of this renewal.

There is also a new household-based license fee. The current agreement is based on a per-device fee. This new household-based license fee will reduce FPB's TiVo license fees by approximately 18% monthly.

The term of this new agreement is through March 31, 2024. However, because there are no minimum requirements, if FPB decides to abandon the TiVo platform in the future, we will not be required to pay any fees as long as we don't have any subscribers.

The Assistant GM of Administration has reviewed this agreement and it meets with his approval.

John Snyder moved to approve the NCTC TiVo Renewal. Dawn Hale seconded the motion.

CARRIED. 5 to 0.

4.5 **Consider Approval of Change Order No. 2 on the US 127 Tank Painting Project with Sam Estes Painting Company for \$3,094.00. (David Billings will discuss)**

This past September, the Board awarded the project to Sam Estes Painting Company in the amount of \$244,642. The purpose of the project was to repair and repaint the existing 500,000 gallon elevated water tank on the west side of town.

The contract scope of work calls for necessary repairs that become evident after sandblasting. Since the quantities of repairs are unknown at bid time, unit pricing for different repair types are obtained at but not included in the bid (contract) amount. Change Order #2 is necessary to increase contract amount to reflect the additional work.

Original Contract	\$ 244,642.00
Change Order #1	\$ 8,825.00
Change Order #2	<u>\$ 3,094.00</u>
	\$ 256,561.00 (new contract amount)

Change Order No. 1 and 2 combined represents 4.9% of the original contract price. The FY 20-21 budget includes \$400,000 for the project. No additional change orders are expected.

As a matter of course, Staff recommends that the Board approve Change Order No. 2 with Sam Estes Painting Company.

John Snyder moved to approve Change Order No. 2 on the US 127 Tank Painting Project with Sam Estes Painting in the amount of \$3,094.00. Kathryn Dutton-Mitchell seconded the motion.

CARRIED. 5 to 0.

4.6 **Consider Approval to Purchase one (1) Peerless 24 MA 3-stage High Service pump at a cost of \$129,545. (Julie Roney will discuss)**

The water treatment plant high service pump station consists of three (3) Peerless vertical turbine pumps. Although the pumps have been inspected and rebuilt over the years, they are original to the 1974 plant construction. These pumps move the finished drinking water from the clearwell at the treatment plant to the Reservoir. Plant staff are recommending the purchase of a new high service pump to provide redundant pumping capability should an original one fail. The new pump will be placed in the rotation of pump rebuilds, going into service when a pump is removed for inspection. This practice is in-line with the Raw Water pump maintenance procedure. This is a sole source purchase, which will be made through S&K Equipment, FPB's authorized Peerless Pump representative. The purchase will be made using funds approved for the Water

Quality Laboratory renovation (\$150,000), which has been postponed to FY 2022 due to COVID concerns.

John Snyder moved to approve the purchase of one (1) Peerless 24 MA 3-stage High Service Pump at a cost of \$129,545.00. Dawn Hale seconded the motion.

CARRIED. 5 to 0.

4.7 Consider Approval of FPB Employee Farmdale Board Appointment. (Nichell Brown and Charles Burnette will discuss)

Staff would like to inform the Board of a potential FPB employee appointment to the Farmdale Sanitation District Board. Staff asks that the Board review an opinion letter located in the details pages from the Franklin County Attorney, Rick Sparks. The opinion letter addresses if an FPB employee appointment to the Farmdale Sanitation District Board is an incompatible office or conflict of interest.

According to KRS 61.080 (incompatible office) there is no incompatibility created by the FPB employee's employment. However, there may be a functional incompatibility commonly referred to as conflict of interest. In the case of a potential conflict of interest, the appointed FPB employee would be required to recuse themselves from any action or participation in any action relative to matters involving FPB.

Staff does not currently know of any contracts or projects that will cause a conflict of interest and asks that the Board consider approval of the appointment.

Dawn Hale moved to approve FPB Employee Appointment to Farmdale Water Board of Directors. Kathryn Dutton-Mitchell seconded the motion.

CARRIED. 5 to 0.

4.8 Consider Approval of Coronavirus Preventive Services. (Nichell Brown to discuss)

Staff ask the Board to consider an amendment to the FPB Employee Health Plan to comply with Families First Coronavirus Response Act (FFCRA). The proposed amendment requires qualifying coronavirus preventive services to be covered under the health plan with no cost-sharing regardless of any preferred provider network status until such requirement is no longer mandated. "Qualifying Coronavirus Preventive Services," means an intended item, service, or immunization that prevent or mitigate COVID-19.

The updated Coronavirus Preventive Services adds additional regulatory requirements to the coverage of the COVID-19 vaccine by group health plans, including the following:

- clarifies that the coverage of any vaccine recommended by an appropriate authority must be paid without cost-sharing until the end of the COVID-19 public health emergency;
- extends the requirement to cover the vaccine without cost-sharing beyond the COVID-19 public health emergency provided the vaccines are given A or B recommendation status from the U.S. Preventive Services Task Force or are recommended by the Advisory Committee on Immunization Practices;
- clarifies that no cost-sharing be applied to office visits for which the primary purpose of the visit is the administration of the COVID-19 vaccine, but allows cost-sharing when the office visit is billed separately from the vaccine; and
- clarifies that the cost of administration of a COVID-19 vaccine will be covered with no-cost sharing, even if the cost of the vaccine itself is paid by a third party such as the federal government.

The changes are effective retroactive to March 1, 2020 which is the effective date of the FFCRA Amendment.

A copy of the proposed plan amendment is included in the detail pages for this Board item.

Stephen Mason moved to approve the Coronavirus Preventive Services effective retroactive to March 1, 2020. Kathryn Dutton-Mitchell seconded the motion.

CARRIED. 5 to 0.

5 REQUEST PERMISSION TO HAVE CHAIR CALL FOR A CLOSED SESSION

- 5.1 Request Permission to Call a Closed Session pursuant to KRS 61.810(1)(c) to discuss pending litigation regarding contractor/subcontractor claims and potential action.

John Snyder moved to go in to Closed Session. Kathryn Dutton-Mitchell seconded the motion.

CARRIED. 5 to 0.

6 CLOSED DOOR SESSION

- 6.1 Return to Open Session.

Kathryn Dutton-Mitchell moved to return to Open Session. Dawn Hale seconded the motion.

CARRIED. 5 to 0.

7 ACTION ITEM: POSSIBLE ACTION REGARDING CLOSED DOOR DISCUSSION

No Action was taken.

8 ACTION ITEM: ADJOURNMENT

8.1 Adjourn Meeting

John Snyder moved to Adjourn. Dawn Hale seconded the motion.

CARRIED. 5 to 0.



Board Chair



Board Secretary/Treasurer