

# **Florida Governmental Utility Authority**

## **Board of Directors Meeting Minutes**

**Thursday, July 19, 2007 - 1:00 p.m.**

**Lee County East Regional Library, Meeting Room 1  
881 Gunnery Road  
Lehigh Acres, FL 33971**

### **Board Members:**

Lea Ann Thomas, Chairman, Polk County  
Douglas Muerer, P.E., Alternate Member, Lee County  
Robert Knight, Member, Citrus County  
Mike Johnson, Alternate Member, (TOHO) Osceola County

### **Staff Present:**

Robert Sheets, Systems Manager, GSG  
Charles Sweat, Director of Operations, GSG  
John Pelham, General Counsel, Pennington, Moore, Wilkinson, Bell & Dunbar, P.A.  
Larry Koch, Acting Chief Financial Officer, GSG  
Tarek Fahmy, Manager of Capital Projects, GSG  
Barbara Kerby, Community Services Representative, GSG  
Faith Doyle, Clerk to the Board, GSG

### **Guests Present:**

Rob Van Meter, Severn Trent  
Ed Goscicki, Severn Trent  
Reggie Snell, Lee County School District  
Heather Hawkins, Lee County School District  
Dave Partenheimer, Lee County School District  
Kevin Shea, Lehigh Acres Resident  
Frank Lohlein, Lehigh Acres Resident  
Richard Gorgian, Lehigh Acres Resident  
Robert Anderson, Lehigh Acres Resident  
Michael Cook, ECWCD  
David Lindsay, ECWCD  
Dan Johnson, TKW Engineering  
Ralph Hemingway, Lehigh Acres Resident  
Lena North, Lehigh Acres Resident

### **I - Call to Order**

Chairman Thomas called the meeting to order at 10:03 a.m.

### **II - Invocation**

Chairman Thomas offered the invocation.

### **III - Pledge of Allegiance**

Chairman Thomas led the audience in reciting the Pledge of Allegiance to the American flag.

### **IV - Public Comment**

Lehigh Acres resident Mr. Kevin Shea was given the floor by Chairman Thomas. He stated that he was a resident of Lehigh Acres since 1968 and was a member of the "watch dog" but that his comments are his personal beliefs. He questioned the 40% over run on the customer service building and the Mirror Lakes WTP budget over run and inquired about the reasons why the interconnect project at Lee Boulevard and Route 82 was not coordinated by the City, FGUA and Lee County causing additional expense for the line tap and to tear up new sidewalks. He also questioned why shut off valves; and wye connections can't be located. He stated that he wants a detailed systematic map available on CD and believes this information is critical in case of a disaster and that the time it takes presently is unacceptable. Mr. Shea also inquired if there has been any further over capacity leakage (wastewater from the retention ponds) into the canals. Mr. Shea thanked the Board for addressing the concerns of the citizens.

Mr. Robert Anderson, a Lehigh Acres resident, stated an objection that Osceola and Citrus Counties still have representation on the Board and believes that whatever agreements are in place need to be revised. He believes there should be more local representation. Mr. Anderson believes the Board should continue to explore options for Fire Station 4 to receive fire flow water. He stated that at the UAC meeting it was discussed that \$533,000 need for the line should be paid by a developer not the FGUA. Mr. Anderson stated that he believes the FGUA legal notices are not sufficient to inform the citizens of Lehigh Acres and that at least the notices should also be posted on the FGUA web site. Mr. Anderson described an incident at his home requiring excavation of his yard and inquired why clay pipes are difficult to locate and how much clay pipe there is in Lehigh Acres. Mr. Anderson also stated that he has objections to item CA4 the septic tank conversion project.

The Chair of the local advisory board and fire commission, Ralph Hemingway, questioned if the Woodbridge Preserve developer is putting their water system to close to our aquifer and if it will cause cross contamination. He questioned if the FGUA had made any negotiations to serve their development. Mr. Hemingway stated concern that fire station #4 and #5 can not open because there is no water service available. He is still against the cost of the line for station #4 being paid by the fire department and then turning it over to the FGUA who will make future income from future development. He stated that the fire department would be willing to sacrifice five hydrants, and that the \$539,000 budgeted could be used for the initial line. He also stated that the 11 acres owned by the FGUA in the industrial park could be sold for commercial development and that part of the property could be sold to the fire department (2.5 acres) and that the FGUA should look at a water tower.

Mr. Frank Lohlein a resident of Lehigh Acres asked if only Golden Gate and Lehigh Acres system fees are supporting all of the overhead for the Board. He asked why there are other counties on the Board without systems being served by the FGUA or that do not have systems for sale. He also believes that ECWCD is inexperienced and unqualified to acquire and run the systems. He believes that for the ECWCD to acquire it there would need to be a special taxing district created that would cause political unrest. Mr. Lohlein stated that should the FGUA sell the systems only Lee County offers experience and economic options that would be of benefit to the Lehigh Acres residents.

Chairman Thomas asked if these issues should be addressed immediately or if the responses should be formally provided as a briefing to the Board. In her opinion, to address the issues completely research would be required.

Mr. Knight commented that FGUA has a public liason, Ms. Barbara Kerby and that there are additional public notices and press releases that could be utilized. He questioned the problems with the older systems and if there were maps and maintenance programs, and if so, what are they.

Mr. Sheets summarized the major elements requiring a response: what action if any will be taken concerning the management of the FGUA Board membership; the details of the clay pipe program in the Lehigh Acres system; carriage home (recreational vehicle) development and the options for serving Fire Stations 4 & 5 briefing; a review of the communication programs is provided each month but a review of the public noticing protocols will be provided and the FGUA web site would be used in the future for public notices. Mr. Sheets stated that a briefing memo on these items would be forwarded to the Board prior to the next regular meeting.

Doug Muerer stated that the THM level requiring an ad does not elevate it to a public health issue. The levels indicated are not as big an issue as the notice leads the public to believe. Per Charles L. Sweat when the maximum standard limit of 100 parts per million is exceeded a legal ad must be placed. There is no immediate health risk to healthy adults, but there could be concern if prolonged levels are ingested by the sick, elderly or very young. Mr. Sweat stated that he would provide more details in the future if the Board would like. Mr. Tarek Fahmy added that the Lehigh Acres facility usually has very good point of entry readings. However, the recent plant modification that introduced chlorine brought the level up temporarily. Mr. Sheets noted that once a year all utility systems publish a Consumer Confidence Report describing the water quality. The CCRs are posted on the FGUA web site and are mailed to each customer as billing inserts once a year.

Mr. Robert Knight stated that Citrus County has remained on the Board without systems because he believes they can add expertise in the utility field. Mr. Knight commented that the FGUA has done well with maintaining the rates. (Mr. Knight had noted that the rates were set by GSG and Chairman Thomas indicated that the FGUA Board sets the rates based on information provided by management through various rate studies.) Mr. Robert Knight stated that, in his opinion, GSG as managers may need to review the costs of engineering services for some projects. Mr. Knight indicated that Citrus County may still have an interest in utilizing the FGUA to acquire privately owned systems and remediate them. Mr. Knight stated that he wanted to be involved because there are many things the FGUA does well. Ms. Thomas stated that we look forward as a Board to Mr. Knight's expertise.

**V - Minutes** | Approval of the June 14, 2007 Regular Board Meeting Minutes

**Chairman Thomas asked if there were any additions, deletions and/or changes to the meeting minutes. Hearing none, Chairman Thomas asked for a motion to approve the June 14, 2007 meeting minutes. A motion to approve was made by Mr. Doug Muerer and seconded by Mr. Robert Knight. Chairman Thomas asked for discussion, there being none and all being in favor, the motion was unanimously approved.**

Chairman Thomas then moved to the Consent Agenda items and asked if there were any additions and/or deletions to the Consent Agenda.

**VI - Consent Agenda**

**CA 1 Approval of Change Order No. 4 to the Standard Construction Agreement with Cardinal Contractors for FGUA Project LE004 Mirror Lakes WTP 2**

Provided for the Board's review and consideration was Change Order No. 4 for the additive amount of \$60,775.96 and requesting an increase to the contract time by 41 calendar days to the Standard Construction Agreement with Cardinal Contractors, Inc. for FGUA Project No. LE 004, Lehigh Acres Mirror Lakes WTP No. 2 Improvements.

The change order included the following items:

- |   |                              |              |
|---|------------------------------|--------------|
| (1) Additional mechanical, electrical and instrumentation/controls associated with overrun of the construction allowance for the raw water wellfield work identified in the bid form as item no. 3. | Add                          | \$ 51,239.78 |
| (2) Additional cost for application of chemical resistant coating for sulfuric acid system containment area.  | Add                          | \$ 9,536.18  |
| (3) A time extension of 41 calendar days for delays related to installation of permanent electrical power at the site.  | Add contract time of 41 days |              |

A letter from Malcolm Pirnie, Inc., the consulting engineer, was provided giving a detailed analysis and recommendation to approve this item.

Staff recommended approval of Change Order No. 4 to the Standard Construction Agreement with Cardinal Contractors, Inc. for the additive amount of \$60,775.96 and for an addition of 41 calendar days to the contract time for the Lehigh Acres Mirror Lakes WTP No. 2, FGUA Project No. LE 004.

**CA 1a Approval of Budget Amendment 2007-45, Mirror Lakes WTP # 2, FGUA Project No. LE004**

Provided for the Board's review and consideration, was Budget Amendment 2007-45 that provided for the appropriation of \$35,782 of un-appropriated fund balance from the Lehigh 2005 Bond Issue to allow the completion of Change Order No. 4 to the Standard Construction Agreement with Cardinal Contractors, Inc. The change order was for \$60,775.96 and available funds in the budget of \$25,908.67 dictated a budget amendment for \$35,785 with funds from the 2005 Bond Issue.

Staff recommended approval of the budget amendment in order to allow for funding for change order No. 4 with Cardinal Contractors, Inc.

**CA 2 Approval of Change Order No. 1 to the Standard Construction Agreement with DN Higgins for FGUA Project LE038 Lee Boulevard Water Main**

Provided for the Board's review and consideration were the following items of change in the scope of work for FGUA Project LE038: replacement of jack and bore with directional drilling, addition of fire hydrant assemblies, change of gate valves to butterfly valves, revision of air release valve details, credit for deleting bollards and guardrails, seeding and mulching in lieu of sod, additional tie-in at 10" main, instrumentation and control system modifications at the booster pump station, reduced length of directional drilling at two locations, reduced length of jack and bore at one location, reduction of 8" main length, reduction of asphalt patch, additional sidewalk replacement and additional fittings for 8" and 16" piping. This work required an additional 172 day time

extension. Supportive backup data and a letter from the FGUA consulting engineer, Malcolm Pirnie, Inc. was provided.

Staff recommended approval of Change Order No. 1 to the Standard Construction Agreement with D. N. Higgins, Inc. for LE 038 Lee Boulevard Water Main Interconnect in the Lehigh Utility System for the sum of \$78,222.60 and a time extension of 172 days.

**CA 2a Approval of Budget Amendment 2007-46 Lee Boulevard Water Main Interconnect, FGUA Project No. LE038**

Provided for the Board's review and consideration was Budget Amendment 2007-46 that provided for the appropriation of \$78,223 in un-appropriated fund balance from the Lehigh 2003 Bond Issue to allow the completion of change order No. 1 to D. N. Higgins, Inc. as presented in CA 2. All funds in the current project budget have been spent or encumbered dictating this budget amendment for the full amount of the change order, \$78,223.

Staff recommended approval of the of the budget amendment in order to allow for the completion of the Lee Boulevard Water Main Interconnect in the Lehigh Utility System.

**CA 3 Approval of Changes Required to Correct Scrivener Errors in the June 14, 2007 Agenda Package**

The Board was informed that items presented as part of the June 14, 2007 FGUA Board of Director's meeting agenda were discovered to contain errors. These items were CA3, Approval of Change Order No. 3 to the Standard Construction Contract with Cardinal Contractors Inc. for the Water Treatment Plant System Improvements, FGUA Project No. LE 004 Lehigh Acres Mirror Lakes WTP No.2; CA6a Approval of Change Order No. 8; CA6b Approval of Change Order No. 9 to the Standard Construction Agreement with Encore Construction Company for the Lehigh Acres Wastewater Treatment Plant Improvements, FGUA Project No. LE 026 in the Lehigh Acres Utility System; CA12 Approval of Change Order No. 1 to the Standard Construction Agreement with Southland Painting Corporation for the Golden Gate Painting, FGUA Project No. GG042 in the Golden Gate Utility System; and CA 13 Approval of Change Order No. 1 to the Standard Construction Agreement with Southland Painting Corporation for the Lehigh Acres Painting, FGUA Project No. LE001 in the Lehigh Acres Utility System.

Item CA3 included a change order form that indicated an "Original Agreement Amount" of \$5,812,669.28 that was incorrect. The true amount is \$5,773,733.57 and with the addition of the sum of the previous changes, \$38,935.71 and the change order presented \$12,882.62 would result in a "Present Agreement Amount" of \$5,825,551.90.

Item CA6a included a change order form that indicated the "Sum of Previous Changes" to be \$1,188,602.00 that was incorrect. The true amount is \$1,152,776.00 and with the addition of the change order presented, \$95,317.00, would result in a "Present Agreement Amount" of \$7,145,093.00. These same totals were carried over to Item CA6b.

Items CA 12 and CA 13 included change order forms that indicated the contract times to be 240 days after the requested 15 calendar days were added. The original contracts specified 210 days for final completion that would have correctly increased to 225 days when adding 15 days.

Copies of the Section 00900 Change Order Form page 0900-1 for Change Order No. 3 FGUA Project No. LE004, Change Orders No. 8 and No. 9 for FGUA Project No. LE0526, Change Order No. 1 for GGO42 and Change Order No. 1 for LE001 were provided with the corrections.

Staff recommended acceptance of the changes to correct the errors noted and approval for the Board Clerk to adjust the FGUA's permanent records to reflect these changes.

**CA 4 Approval of Work Authorization ST07-84 to Implement the Septic Tank Conversion Program as Required by Consent Order OGC 05-0329-36-DW**

Provided for the Board's review and consideration was STES Work Authorization ST07-84, providing construction services for the conversion of 13 residential septic tanks located in the Woodridge sub-division within the Lehigh Acres Utility System.

As a result of an unprecedented series of hurricane events in 2005, impacting the region with record rainfall, the Lehigh Acres Wastewater Treatment Plant discharge to the percolation ponds were overloaded with a number of significant hydraulic influences including: accelerated storm induced plant effluent, rainwater inflow and groundwater infiltration. The percolation ponds were subsequently overwhelmed resulting in 44 continuous days of overflow to the adjoining Abel Canal. As a result of this unprecedented event, the FGUA Lehigh Acres Wastewater Treatment Facility was issued a Consent Order from the Florida Department Environmental Protection (FDEP) for a settled penalty of \$52,800.00.

As suggested by the FDEP, in conjunction with the Consent Order OGC Case No. 05-0329-36-DW, Staff developed and submitted a residential septic tank conversion proposal. At the October 20, 2006 FGUA Board meeting, the Board was informed through Agenda item IN 6 of the proposal to convert an estimated 6 septic tanks to connect to the existing FGUA collection system. The FDEP has two categories of settlement improvement projects - *Pollution Prevention* and *In-Kind*. Based on initial discussion with the FDEP, Staff was encouraged the proposed project would be considered *Pollution Prevention* and subsequently be awarded a 1 to 1 penalty value. The projected project budget was adjusted accordingly. However, the FDEP elected to define the project as *In-Kind*, resulting in a 1.5 to 1 penalty value, increasing the required project value from \$52,800.00 to \$79,200.00. The FDEP notified the FGUA on May 7, 2007, that the septic tank conversion proposal was approved and to be considered an In-Kind project with a settlement equivalency of \$79,200.00.

The In-Kind project will decommission failed or failing residential septic treatment facilities located within the residential neighborhood of Woodridge, bordering and potentially impacting the sensitive wetlands area. The actual septic tank conversion is projected to last 4 to 6 weeks. The program process status was also provided.

Staff recommended approval of Work Authorization ST07-84 to fund the FDEP approved septic tank conversions for a total amount of \$76,296.23 for FGUA Project No. LE 074, serving the Lehigh Acres Utility System.

**CA 4a Approval of Work Authorization GSG07-38 for General Inspection Services for the Septic Tank Conversion Program as Required by Consent Order OGC 05-0329-36-DW in the Lehigh Utility System**

Provided for the Board's review and consideration was Work Authorization GSG 07-38 for twenty-six (26) hours of general inspection services related to on site project inspection services, which will

include observation and documentation of the septic tank conversions to Lee County code and to also ensure the residents are safe and the residential properties are returned to original preconstruction condition. The GSG work authorization GSG07-38 was provided. The inspection services to be provided by GSG shall include, but not be limited to: Preconstruction planning, drawing review, the visual inspection of all construction work, project progress meetings, work site documentation, verification of materials used, verification of materials stored on site, verification that all equipment used is in accordance with approved plans, performance testing, project documentation and close-out

Staff recommended approval of GSG07-38 for 26 hours of inspection service associated with the Lehigh Acres Septic Tank Conversion Project in the amount of \$2,860.

**CA 4b Approval of Budget Amendment 2007-44 for the Septic Tank Conversion Program as Required by Consent Order OGC 05-0329-36-DW**

Provided for the Board's review and consideration, was Budget Amendment 2007-44 in the amount of \$19,200 to fund the FDEP approved Septic Tank Conversion Program project LE 074 serving the Lehigh Acres Utility System, as described in agenda item CA 4 and the related inspection services in agenda item CA 4a.

The budget amendment to Project LE 074 is to provide additional funds consistent with the amount in FDEP Consent Order OGC 05-0329-36-DW of \$79,200. This project was originally budgeted from the 2005 Bond Issue before the specific project was identified. The Septic Tank Conversion Program qualifies for funding from Wastewater Capacity Funds and this budget amendment also changes the funding source for Project LE 074 accordingly.

The original budget of \$60,000 from the 2005 Bond Issue is being reduced to zero and returning these funds to the un-appropriated fund balance for the 2005 Bond Issue. The entire amount of \$79,200 is being from the Wastewater Capacity Fund and the budget amendment appropriates \$79,200 from these funds for this project.

Staff recommended approval of Budget Amendment 2007-44 for STES work authorization ST 07-84 and the related inspection services with Government Services Group, Inc. defined in CA 4 and CA 4a respectively.

**CA 5 Approval of Work Authorization GSG 07-39 for Government Services Group, Inc. (GSG) for General Inspection Services for Utility Relocations along Santa Barbara Blvd, FGUA Project No. GG 045 in the Golden Gate Utility System**

Provided for the Board's review and consideration was Work Authorization No. GSG 07-39 from Government Services Group, Inc. (GSG) for twenty four (24) hours of general inspection services related to the utility relocations along Santa Barbara Boulevard in the Golden Gate Utility System (FGUA Project No. GG 045). Collier County is currently widening Santa Barbara Boulevard in Golden Gate. There are multiple FGUA owned utilities that are in direct conflict with the County road widening project that need to be relocated outside of the conflict zone. The conflicts include two fire hydrants, the relocation of a 4" force main, and installation of conflict boxes for a 10" water main.

GSG will gather all required information and will record the daily activities during the inspections in order to place these projects into service and ensure proper installation and relocation of said utilities outside of the conflict zones.

This proposed work authorization is in the not-to-exceed amount of \$2,906.00 and is scheduled for sixty (60) days.

Staff recommended approval of Work Authorization GSG 07-39 in the not-to-exceed amount of \$2,906.00 for the general inspection services for the Santa Barbara Boulevard Utility Relocations, FGUA Project No. GG 045 in the Golden Gate Utility System.

**CA 6      Acceptance of the FGUA Utility Infrastructure Conveyance and Service Agreement with Heron Pond Apartments II, Ltd. for the Heron Pond, Phase II Senior Affordable Housing Project Located in the Lehigh Acres Utility System**

Provided for the Board's review and consideration was the FGUA Standard Utility Infrastructure Conveyance and Service Agreement with Heron II Pond Apartments Ltd. for Developer Project No. 06-026, Heron Pond Affordable Housing Located at parcel of land lying within parcel A-3 of village on the Lakes, as recorded in Plat Book 60, Pages 46 and 47, of the public records of Lee County Florida, Section 30, Township 44 South, Range 27 East, located within the Lehigh Acres Utility System.

Construction completion is anticipated to be in the first Quarter of 2008.

The wastewater facilities from Heron Pond II will connect to the existing 8 inch wastewater force-main on Lake Boulevard that connects to the collection transmission system. The water facilities to be installed include a 10 inch water main on Lake Boulevard that draws water from the existing 12 inch water main on Williams Avenue. Additionally, a 4 inch meter with a backflow prevention device and gate valves and the associated infrastructure will be conveyed. The estimated value of the infrastructure is yet to be valued.

The agreement was signed June 8, 2007 for Heron II Pond Apartments Ltd. by Lloyd J. Baggio, Managing Member of Heron Pond Apartments II, LLC the General Partner of Heron Pond Apartments Ltd.

Staff recommended approval of the FGUA Utility Infrastructure and Service Agreement to provide water and wastewater utility services to Heron II Pond Apartments Ltd., FGUA Project No. 06-026, Heron Pond II Apartments located in the Lehigh Acres Utility System.

**CA 7      Acceptance of the FGUA Utility Infrastructure Conveyance and Service Agreement with School District of Lee County for High School GGG Located in the Lehigh Acres Utility System**

**At the request of the Board item CA 7 was pulled from the consent agenda for further discussion. Please see the General Counsel section of the minutes for this item.**

**CA 8** Other Items

Chairman Thomas stated CA7 would be pulled from the Consent Agenda for further discussion. Chairman Thomas asked if there were any other additions and/or deletions to the Consent Agenda, there being none, Chairman Thomas asked for a motion to approve the remaining Consent Agenda items. A motion to approve was made by Mr. Doug Muerer and seconded by Mr. Mike Johnson. All were in favor and the motion to approve CA1 through 6 was unanimously approved.

Chairman Thomas then moved to Finance and Administration and asked for the report. Mr. Larry Koch was introduced to the Board as the interim finance officer. It was noted that Ms. Donna Mallery would be present at the August Board meeting as the incoming finance officer.

**VII - Finance and Administration**

**FA 1** Approval of Budget Amendment 2007-42, Build-out Customer Service Office, Lehigh Acres

Provided for the Board's review and consideration was budget amendment 2007-42 that provided for the appropriation of \$30,000 in un-appropriated fund balance of the Lehigh 2005 Bond funds to allow the completion of the construction of the Customer Service Office in Lehigh Acres. Originally budgeted at \$70,000, the final estimate for completion of the construction of the office is approximately \$98,000. This work was provided to U.S. Water to complete the construction as they had originally leased the building and completed the phase I design work under the FY 2006 budget. This budget amendment will allow for the completion of the phase 2 construction work on the completed building.

Staff recommended approval of the budget amendment in order to allow for the completion of the Lehigh Acres Customer service Building.

**A motion to approve Budget Amendment 2007-42 was made by Mr. Robert Knight and seconded by Mr. Douglas Muerer. Chairman Thomas asked for discussion, there being none and all being in favor, the motion was unanimously approved.**

**FA 2** Approval of Budget Amendment 2007-43, Build-out Customer Service Office, Golden Gate

Provided for the Board's review and consideration was budget amendment 2007-43 that provided for the appropriation of \$26,000 in un-appropriated fund balance of the Golden Gate 2005 Bond funds to allow the completion of the construction of the Customer Service Office in Golden Gate. Originally budgeted at \$60,000, the final estimate for completion of the construction of the office is approximately \$86,000. This work was provided to U.S. Water to complete the construction as they had originally leased the building and completed the phase I design work under the FY 2006 budget. This budget amendment will allow the completion of the phase 2 construction work on the completed building.

Staff recommended approval of the budget amendment in order to allow for the completion of the Golden Gate Customer service Building.

**A motion to approve Budget Amendment 2007-43 was made by Mr. Robert Knight and seconded by Mr. Douglas Muerer. Chairman Thomas asked for discussion, there being none and all being in favor, the motion was unanimously approved.**

**FA 3** Other Items

There were no other Finance and Administration items to be discussed.

**VIII - Operations**

**OP 1** Approval of the Termination of the Standard Construction Agreement with A. C. Schultes for project GG008 Golden Gate Well Field Expansion Project

Mr. Tarek Fahmy informed the Board that staff has recommended that the contract between FGUA and A.C. Schultes of Florida, Inc., Project GG 008 in the Golden Gate Utility System, well field expansion be terminated for convenience pursuant to paragraph 19 of the general terms and conditions, based on FGUA's decision to delay construction of the proposed water treatment plant (project GG012), water blending facilities (project GG020) and water treatment plant high service pump system upgrades (project GG022). Until those projects are constructed and online, the wells to be constructed as part of GG008 are no longer required.

As part of the termination of A.C. Schultes contract, all costs incurred by the contractor to date that are deemed reasonable and in accordance with the contract will be paid out. These costs amount to \$22,978.00 and cover mobilization costs, bonds, well permits and management costs.

Staff recommended the termination for convenience of the Standard Construction Agreement with A.C. Schultes of Florida, Inc. for the Golden Gate Raw Water Capacity Expansion Wells, FGUA Project No. GG 008 in the Golden Gate Utility System, and payment to A.C. Schultes of Florida, Inc. of any retainage and "reasonable termination expenses incurred", which amounts to \$22,978.00 for bonds, permits and project management charges. The remaining \$446,022.00 will be de-encumbered and placed back into the appropriate project fund.

Mr. Robert Knight made a motion to approve item OP 1 and Mr. Muerer seconded the motion. Chairman Thomas asked for discussion. Mr. Knight questioned the billed hours, indicating that he believed they were high. Mr. Fahmy stated that this was a combined project and that the billing hours had been reviewed closely and adjusted downward by the Contractor after several discussions. With no further discussion Chairman Thomas called for a vote. All members were in favor and the motion was unanimously approved.

**OP 2** Other Items

Mr. Robert Sheets then informed the Board that a briefing memorandum regarding the status of the Golden Gate wastewater treatment facility expansion options prior to the next meeting. Mr. Sheets stated that staff would be requesting direction from the Board at the August meeting.

**IX - Information Items**

- IN 1** Status Update on the Florida Governmental Utility Authority (FGUA) Capital Improvement Project (CIP) Program

The Capital Improvement Project Program status bar charts were included in the Board Agenda for their reference.

- IN 2** Status Update on the Florida Governmental Utility Authority (FGUA) Community Outreach Program

The Community Outreach Program monthly status reports for May and June were included for the Board's review.

- IN 3** Status Update on the Florida Governmental Utility Authority (FGUA) Award Winning Communication Products

Two (2) of the Florida Governmental Utility Authority's marketing materials that won the Prestigious 2007 Print Communicator Awards were included for the Board's review.

- IN 4** Status Update on the Florida Governmental Utility Authority (FGUA) Water Conservation Plan

The Water Conservation Plan was included in the Board Agenda for their reference.

- IN 5** Other Items

There were no other Information Items to be presented to the Board.

**X - System Manager**

- SM 1** Other Items

The System Manager informed the Board that the FY2008 budget approvals will be made at the September 20, 2007 meeting.

**XI - Utility Counsel**

- UC 1** Other Items

There were no other Utility Counsel items to be presented to the Board.

**XII - General Counsel**

**GC 1 Other Items**

Mr. John Pelham distributed a list of the conveyance and service issues and proposed solutions (attached) along with the revised Utility Infrastructure and Service Agreement for School GGG to the Board and briefed them as to the staff's recommended solution to each issue.

Mr. Pelham informed the Board that the agreement is to be signed by the Superintendent of the School Board for the School District of Lee County on or about July 20, 2007.

Staff recommended authorization for the Director of Operations and legal counsel to approve and forward the FDEP and Lee County Department of Health forms to place the systems on line upon receipt of the executed agreement from the School Board. The FGUA Utility Infrastructure and Service Agreement is to provide water and wastewater utility services to School District of Lee County, FGUA Project No. 04-015, GGG High School located in the Lehigh Acres Utility System. The signed agreement will be provided to the FGUA Board for ratification at the August 16, 2007 meeting. Additionally, staff recommended authorization for the Director of Operations and legal counsel to provide interim service to School GGG upon receipt of the necessary conveyance documentation executed by the school district as outlined in the memorandum (attached).

Mr. Robert Knight asked if the School District was made aware of the ramification of maintaining ownership of the lift station. Mr. Charles Sweat stated that they were made aware of them and that he has requested that it be noted on the record drawings that the School District owns and maintains the lift station.

Mr. Robert Knight made a motion to (1) authorize the Director of Operation and General Counsel to review the executed Utility Infrastructure and Service Agreement and upon their approval of it to provide the necessary certificates required by the School District for the Department of Health and (2) authorize the Director of Operations and General Counsel to provide interim service to School GGG upon receipt of the executed conveyance documents described in the attached memorandum. Mr. Doug Meurer seconded the motion. All were in favor and the motion was unanimously approved.

**XIII - Board Items**

**BD 1 Other Items**

With no other items to be presented to the Board, and with all in favor, Chairman Thomas adjourned the meeting at 2:20 p.m.

  
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Lea Ann Thomas, Chair

## East Lee County High School Conveyance and Service Issues

1. **The School Board does not feel that it can convey any property in fee to the FGUA. The standard agreement format requires all lift stations be conveyed in fee.**

Solution: The FGUA engineers have determined that the School lift station is not needed to support any other part of the utility system other than the school parcel alone. Consequently, the FGUA need not take possession of the lift station. The Conveyance and Service Agreement draft has been revised to remove all references to conveyance of the lift station (and a fee conveyance of the land that the lift station is located upon) to the FGUA. (*See Article II, Paragraph 1 and removal of Warranty Deed and Lift Station requirements in Exhibit B checklist.*)

2. **The School Board is statutorily limited in its indemnity scope.**

Solution: The Conveyance and Service Agreement has been altered to reflect the indemnity limitations under Florida law. (*See Article 1, Paragraph 13.*)

3. **The School Board is statutorily exempt from the responsibility to pay certain fees.**

Solution: While the School Board may be exempt from the requirement to pay some fees, it is still obligated to pay others. The Conveyance and Service Agreement format has been modified to reflect this. (*See Article 1, Paragraph 14.*)

4. **FGUA staff is concerned about whether the requirements of the Jessica Lunsford Act will restrict or burden its contractors from working on meters and related infrastructure located on school property.**

Solution: The school has agreed to fence off the portion of the infrastructure that will be located on school property from the rest of the campus. This coupled with the conveyance on an easement to the FGUA on this fenced off portion and recent changes in the Lunsford Act will result in no need to run all contractors through the former federal background checks and fingerprinting. Names of those that will be working at the site may still have to be provided to the school upon request and they may perform background checks as they see fit. The FGUA staff checked with its current service provider about these conditions and they did not object.

5. **The school needs its clearances now to avoid delay in opening the school.**

Solution: The terms of the Conveyance and Service Agreement were still being worked out as of Wednesday. The School Board will not be able to execute the document until July 31, 2007 at the earliest. The proposed Conveyance and Service Agreement with its revisions are now before the FGUA Board. The

School Board representatives previously attempted to deliver the necessary conveyance documents, but they were executed by an individual who had no authority to convey any interest in school property to the FGUA and the conveyance instruments were incorrect. In sum, the FGUA has no executed Conveyance and Service Agreement, the Conveyance and Service Agreement proposed is not the standard agreement format and the usually required conveyance instruments necessary to allow clearances to be approved are still incomplete. The solution is as proposed by the General Counsel in the memo attached as Exhibit A.

### **Requirements to Allow Clearances for East Lee County High School**

- 1. Receipt of a properly executed Conveyance and Service Agreement in the format presented to the FGUA Board on August 19, 2007.**
- 2. Delivery of a properly executed FGUA standard utility easement for the fenced area containing the potable water meter and the fire flow meter.**
- 3. Receipt of a properly executed FGUA standard bill of sale for all infrastructure to be used by the FGUA to provide service to High School GGG that is located in the public right-of-way or in the easement referenced above.**
- 4. Receipt of an as-built plan that illustrates the location of the utility infrastructure and the easement referenced above that is acceptable to the FGUA staff.**
- 5. Receipt of a properly executed FGUA standard attorney's affidavit that assures the FGUA of the title of personal property being conveyed to the FGUA as well as the School Board's ability to convey the easement referenced above.**
- 6. Receipt of a properly executed FGUA standard owner's affidavit, amended only to reflect the statutory indemnification limitation of the School Board.**
- 7. Receipt of all manufacturer's warranties transferred to the FGUA as required by FGUA staff.**
- 8. Receipt of a properly executed FGUA standard contractor's letter of warranty.**

**This list is ONLY to allow delegated authority to the Director of Operations and General Counsel to grant clearances and interim service. All other requirements outlined in the Conveyance and Service Agreement shall still be required to fulfill the School Board contractual obligations thereunder.**