



Alaska Energy Authority
BOARD MEETING MINUTES
Thursday, December 3, 2015
Anchorage, Alaska

1. CALL TO ORDER

Vice-Chair Pruhs called the meeting of the Alaska Energy Authority to order on December 3, 2015 at 10:00 am. A quorum was established.

2. ROLL CALL: BOARD MEMBERS

Members present: Chair Russell Dick (Public Member); Vice-Chair Dana Pruhs (Public Member); Jerry Burnett (Deputy Commissioner, Department of Revenue); Chris Hladick (Commissioner, Department of Commerce, Community and Economic Development (DCCED)); Fred Parady (Deputy Commissioner, DCCED); Elaine Brown (Public Member); Dan Kennedy (Public Member); and Gary Wilken (Public Member).

3. ROLL CALL: STAFF, PUBLIC

Staff present: Sara Fisher-Goad (AEA Executive Director), Amy Adler, Brenda Applegate, Salina Bearden; Tom Erickson, Emily Ford, Jennifer Haldane, Dan Hertrich, Cady Lister, Michael Lamb, Sandra Moller, Sean Skaling, Gene Therriault, Kirk Warren, Teri Webster, and Brian Bjorkquist (Department of Law).

Others present: Elwood Brehmer (Alaska Journal of Commerce); Bob Grimm (Alaska Power & Telephone (AP&T)); Dale Wade, Tim Williams (Alaska Railroad); Lisa Ross (Birch Horton Bittner & Cherot); Jomo Stuart (Fairbanks Economic Development Corporation); Jason Custer, Lisa Lang, Vincent Jameson, and Gene Thompson (Haida Corporation and Haida Energy); Brown Thornton (IGU); Tim Gallagher (HDR Consultant); Amber Rae McCampbell, Beth Stuart (KPMG); James Wilson (MatSu Borough); Alan Bailey (Petroleum News); Merick Pierce; Greg Residas; and Jane Smyth (Accu-Type Depositions)

4. AGENDA APPROVAL

Ms. Fisher-Goad requested the agenda be amended to insert Public Session, Haida Energy Loan Update after Item 7B. Ms. Fisher-Goad requested Item 7C. Executive Session be expanded to include a litigation update and discussion of potential legislation.

The agenda was approved as amended.

5. PRIOR MINUTES - October 22, 2015

MOTION: A motion was made by Mr. Wilken to adopt the minutes of October 22, 2015. Mr. Kennedy seconded the motion. Motion passed.

6. PUBLIC COMMENTS

None.

7. NEW BUSINESS

7A. FY 2015 AEA Financial Statements - Presentation by KPMG

Ms. Fisher-Goad invited Ms. Stuart of KPMG and Mr. Lamb to present the FY 2015 financial statements provided to the Board members. There were no significant or unusual matters revealed in the audit process. The financial statements and schedules received the highest opinion ranking of unmodified opinion. There were no materially misstated items within the financial statements.

Ms. Stuart discussed the Statements of Net Position and the net assets restricted by legislation. This is a change in presentation from past years. The statements remain consistent and there are no significant areas of activity. Ms. Stuart informed the A133 federal compliance audit of grant requirements revealed a clean report.

Mr. Wilken congratulated Mr. Lamb and staff for a clean audit. He expressed appreciation for the hard work and maintaining public confidence in AEA's mission. Mr. Lamb expressed appreciation to staff for their diligence.

Mr. Kennedy asked if it is recommended to have an audit committee interact directly with the auditors in accordance with Sarbanes-Oxley (SOX). Ms. Stuart believes the full AEA Board acts as the audit committee and there is no need for a separate audit subcommittee. Ms. Stuart informed the full Board has historically interacted with the auditor once a year. Additional interaction could occur if there were areas of concern or at the Board's request.

Mr. Wilken believes the continuity of KPMG issuing the financial audits over the last five years provides additional confidence.

Vice-Chair Pruhs asked if there are any upcoming changes in accounting principles of which the Board should be made aware. Mr. Lamb stated new pronouncements will be occurring, but the effects to AEA are unknown. GASB 72 will be monitored. Staff will evaluate AEA's activities to determine if any should be reported as governmental activities, rather than enterprise activities. The unfunded pension obligation issue will be brought before the Board for discussion at a later meeting. Mr. Lamb indicated funding from the Legislature will have an ultimate impact on decision-making.

Vice-Chair Pruhs expressed his appreciation to Mr. Lamb, Ms. Fisher-Goad, and staff for a clean audit.

Ms. Fisher-Goad recognized Ms. Adler, Ms. Applegate, Ms. Weems, Ms. Veech, Ms. Bearden, and Ms. Garner as the leaders in the finance department in creating the successful day-to-day activities, as well as keeping a clean audit.

7B. Resolution No. 2015-01: Railbelt Electric Transmission System

Ms. Fisher-Goad informed staff's recommendation is to table Resolution No. 2015-01 for the next meeting. Staff will work on additional language based upon the Board's intent and discussions with the Chair.

MOTION: A motion was made by Mr. Wilken to table Resolution No. 2015-01 until the next meeting. Mr. Kennedy seconded the motion. Motion passed.

Public Session: Haida Energy Loan Update - AEA staff and Haida Energy representatives

Ms. Fisher-Goad requested Ms. Lister and Mr. Bjorkquist of AEA, Mr. Jameson and Mr. Thompson of Haida Energy, and Mr. Grimm of AP&T, provided an update on the Haida Energy loan.

Chair Dick noted he was previously employed by Sealaska Corporation, who held the lease with Haida Energy for this project, and had recused himself from voting. Chair Dick informed he is no longer employed by Sealaska and has no interest in this project. After analysis with the Ethics Supervisor and Board members, it was deemed appropriate for Chair Dick to engage in continued Board discussions regarding the Haida Energy project. There were no objections.

Ms. Lister indicated the original Power Project Fund loan to Haida Energy to develop the Reynolds Creek hydro project for \$9 million was approved in 2010. The \$9 million loan was never closed due to escalation in the estimated cost of the project. The Legislature authorized for a loan application of an additional \$11 million in 2011. In 2014, the AEA Board approved the loan for up to \$20 million to construct the project. The project has been renamed to the Hiilangaay project. This 5 megawatt project will provide hydro power to the interconnected communities on Prince of Wales Island. Haida Energy is co-owned by Haida Corporation and AP&T. AP&T is also designing and constructing the project.

Ms. Lister described the term sheet approved by the board in 2014 and provided an update of significant loan closing activities since that time. The Power Sales Agreement (PSA) was approved by the Regulatory Commission of Alaska (RCA) three months ago. Staff has been working with Haida Energy to meet the conditions outlined in the term sheet and to negotiate conditions of the closing documents, including the issues regarding the requirement for a guarantee of completion through purchase of a 100% performance and payment bond (section 11 of the approved term sheet) and outstanding issues with the Sealaska lease. An item of importance to be discussed in executive session is the disputed interpretation of the guaranteed completion under Section 11.

Mr. Thompson stated that AP&T provided performance and payment bonds based on industry standards which provides assurances for 100% of the contract price for completion of the project.

Mr. Thompson believes the provided performance and payment bonds comply with the term sheet. Mr. Thompson believes there are adequate protections against cost escalations within the loan agreement and construction contract. Mr. Thompson requested proceeding forward with resolving the lease issues and moving onto closing the loan.

Mr. Grimm discussed the standard prequalification considerations performed by the bonding company and believes that AP&T has met the requirements of the term sheet. Mr. Grimm noted AP&T attorneys and Sealaska believe the Sealaska lease meets the FERC requirements without allowing a disposal of Native land in a permanent manner. Mr. Grimm requested resolution to AEA's specific objections to the lease without the onerous requirement of the land owner's disposal of land. Mr. Grimm informed the Black Bear project is also located on Sealaska land on Prince of Wales Island and has received FERC approval.

Mr. Wilken commented that his interpretation of the approval of AP&T supplying a guarantee of completion within three years through the purchase of a 100% performance and payment bond means AEA is protected if the project increases from \$20 million to \$27 million. Mr. Wilken commented AEA should not be held liable in any way for project cost increases. Mr. Thompson explained previous term sheets included a 50% construction bond. Mr. Thompson noted the Board wanted to change the term sheet language from a 50% construction bond to a 100% performance and payment bond, which provides funds for project completion according to the contract if the contractor fails to perform and breaches the construction contract. The construction contract is a cost plus with incentives and disincentives contract. The issue is if steel or transportation costs increase, for instance, which is not a result of a breach of the agreement by the contractor. There are other provisions in the construction contract and the disbursement procedures that will mitigate cost increases. Mr. Thompson stated there are no bonds that will guarantee payment of cost increases.

Vice-Chair Pruhs requested the name of the underwriter and the rating of the bond. Mr. Grimm stated Berkley is the underwriter, and does not have the rating information. Vice-Chair Pruhs requested background on the underwriter's balance sheet be performed. Vice-Chair Pruhs asked who pays any cost increases above the \$20 million loan. Mr. Grimm commented Haida Energy would raise capital from Haida Corporation and AP&T. Vice-Chair Pruhs asked if Haida Corporation and AP&T are willing to provide that corporate guarantee. Mr. Thompson stated this issue was previously negotiated with AEA, and agreed there would be no corporate guarantees because of accounting reporting problems, and instead, other assurances and forms of security were provided in the term sheet, including the Power Sales Agreement.

Commissioner Hladick requested the contingency amount for the project. Mr. Grimm stated the total contingency is comprised of \$2 million in equity, \$1.1 million in contingency, \$2.4 million of equity extraction, and 5% of the 15% fee is placed in an escrow account, which will only be remitted to the contractor if the project is completed at or below budget. Mr. Jameson noted in 2014, AEA requested Haida Corporation take a 15% cut in equity. Haida Corporation agreed to this AEA requirement to move forward with the contract process. The initial filing of the FERC permit was over 20 years ago.

Vice-Chair Pruhs requested an explanation of the decision for a cost plus contract rather than a hard dollar project contract. Mr. Grimm noted AP&T is the general contractor on the project. AP&T will self-perform the work and has completed similar projects under budget. Mr. Grimm believes the project can be completed under budget by working with Haida Corporation, and will be a win situation for all. Vice-Chair Pruhs see this as a 100% loan with no risk from the contractor.

Deputy Commissioner Parady believes a contingency position of 20% to 25% is within an appropriate range. He commented the contractor has a third of his fee at risk if the project does not come in at budget. Deputy Commissioner Parady believes this project conforms with AEA's dedication to rural energy solutions. He requested discussion from the presenters regarding the cost of delaying this project. Ms. Lang believes Haida Energy has met and exceeded the expectations in negotiating terms. She noted AP&T is an experienced contractor in completing projects under budget. Ms. Lang expressed frustrations in negotiation delays and requested additional clarity. Haida Energy has worked diligently and has been completely engaged in the negotiation process. This project is important for economic development in rural Alaska. Ms. Lang requested the Board provide specific solutions to move this project forward.

MOTION: Mr. Wilken made a motion to go into Executive Session to discuss matters associated with the Haida Energy loan, litigation, and potential legislation, the public knowledge of which could be detrimental to the operations of the agency. Motion seconded by Ms. Brown. Motion passed.

**7C. Executive Session: 11:19 am.
Discussion of Haida Energy loan, Hiilangaay project, litigation, and potential legislation**

The Board reconvened its regular meeting at 12:53 pm. Vice-Chair Pruhs advised no formal actions were taken during executive session.

8. DIRECTOR COMMENTS

8A. Program Fact Sheets updates

Ms. Fisher-Goad indicated the program and project fact sheets are included in the Board packets. She announced AEA is providing technical support to the U.S. Department of Energy for their Remote Alaska Communities Energy Efficiency Competition. The competition was developed after the President's visit in September 2015 and will provide a three-phased approach for the issuance of \$4 million to encourage energy efficiency improvements in rural communities.

Ms. Fisher-Goad informed a FERC order was issued yesterday for the Susitna-Watana Project with respect to the integrated licensing process plan and schedule. A copy of the order will be sent to Board members. AEA is pleased with the FERC process and schedule provided. Initial study report meetings will begin the week of March 21, 2016. A director determination from FERC is anticipated to be released in October 2016.

Mr. Wilken asked if there are any hard dates for FERC within the next couple of years that are of concern. Ms. Fisher-Goad noted FERC made a few adjustments to the AEA requested schedule. The schedule essentially follows AEA's recommendations. AEA had a tremendous amount of support from Department of Natural Resources, and letters of support from Chugach Electric Association, Homer Electric Association, and other agencies and groups. Ms. Fisher-Goad stated the director determination in October 2016 is the next important target date, after which a consideration will be made if the identified \$100 million is enough to get to the licensed application.

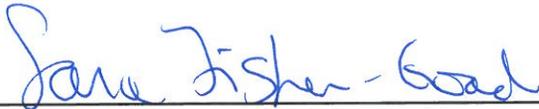
8B. Next regularly scheduled meeting Wednesday, January 13, 2016.

9. BOARD COMMENTS

Deputy Commissioner Burnett urged staff to follow through on the discussions regarding the Haida Energy loan and to find a path forward.

10. ADJOURNMENT

There being no further business of the Board, the AEA meeting adjourned at 12:59 pm.



Sara Fisher-Goad, Executive Director/Secretary
Alaska Energy Authority