

The Utilities Board of the Town of Cedar Bluff

January 15, 2013

STATE OF ALABAMA
CHEROKEE COUNTY

The Utilities Board of the Town of Cedar Bluff met for their regular business meeting Tuesday January 15, 2013 at 4:00 p.m. in the Utility Board room located at 3360 Old Hwy 9, Cedar Bluff Alabama. Chairman Donald Sanders called the meeting to order at 4:00 p.m.

Chairman Donald Sanders announced that the newly appointed Board members, Billie Jean Burkhalter and Gloria Thacker, were present but would not be recognized as members at this time, nor, would they be allowed to vote, or comment on agenda items, until the board could meet with their attorney concerning the legality of the appointment, by the Cedar Bluff Town Council.

Roll Call:

Ken Blair	Present	Linda Pickelsimer	Present
Cindy Early	Present	Donald Sanders	Present
Eugene Mann	Present		

A motion was made by Eugene Mann and seconded by Cindy Early approving the December 18, 2012 minutes as presented.

Ken Blair	Yes	Linda Pickelsimer	Yes
Cindy Early	Yes	Donald Sanders	Yes
Eugene Mann	Yes		

Treasurer Linda Pickelsimer gave the financial report for the board. Mrs. Pickelsimer stated that she had gone over the report and everything looked in order. She wanted to point out the water department had a monthly loss of \$5952.89 and year to date loss of \$8895.50. The sewer department had a monthly loss of \$1957.00 and year to date net of \$255.72. She informed the board part of the reason for the loss included quarterly water/sewer testing and yearly dues.

A motion was made by Ken Blair and seconded by Cindy Early approving the December financial report as presented.

Ken Blair	Yes	Linda Pickelsimer	Yes
Cindy Early	Yes	Donald Sanders	Yes
Eugene Mann	Yes		

Chairman Donald Sanders turned the floor over to Wes Davis of Hindsman-Davis; P.C. Mr. Davis gave the board copies of the finished Audit for the 2012 fiscal year. Mr. Davis thanked the board for giving them the opportunity to serve as their auditor again this year. He proceeded to explain high points of the audit; the board had a clean audit as required by the Governmental Accounting Standards Board. Although operating expenses were down, cash asset's went from \$804,000.00 in 2011 to \$613,000.00 in 2012 due to the rising cost of materials, supplies, insurance, cost associated with Phase II of the sewer upgrade and the lack of a rate increase over the past 15 years. Mr. Davis stated that with the rate increase the board recently put into place things would look better in next years audit. Mr. Davis explained other high points of that audit and then had a short question and answer period. Chairman Donald Sanders thanked Mr. Davis for his service.

Chairman Sanders then recognized Vicki Robinson with the Cherokee Co. Herald. Mrs. Robinson asked the board to participate in the Review and Forecast Magazine. In the past, the board purchased a four column by 10.5 advertisement at a cost of \$185.96.

After some discussion, a motion was made by Ken Blair and seconded by Cindy Early not to participate at this time. After further discussion, Ken Blair amended his motion to purchase a three column by 10.5 advertisement at a cost of \$135.78 with changes as needed. Eugene Mann seconded the amended motion.

Ken Blair	Yes	Linda Pickelsimer	Yes
Cindy Early	Yes	Donald Sanders	Yes
Eugene Mann	Yes		

Manager Jeff Harrell presented the board with a print out for work performed by the Utility employees since the last meeting. Mr. Harrell informed the board that due to rain they had been unable to start installing sewer lines in the Riverbend Campground, Hidden Cove and Sewell Ferry Rd. area. Mr. Harrell brought to the board's attention the difference between customer rates and commercial rates. In the past, commercial rates were \$2.00 higher than customer rates and he is unaware as to how or when the changes were made. The board requested that an investigation be made as to when and why the changes were made and report to the board during a work session.

In unfinished business, Chairman Sanders brought to the board's attention the issue of the 1% yearly increase mentioned in the rate increase letter mailed to customers. It needs to be decided if this is a 2 year 3 year or unlimited. After some discussion, it was decided that the 1% increase would be a yearly increase and be added January 1 of each year and would be perpetual unless an increase is necessary.

Jenni Burt gave an update on the website. Mrs. Burt stated that she had gone as far as possible with her limited knowledge. She told the board that Network Solutions was currently hosting our existing site and sent a proposal to set up, train, and maintain a website for a one-time fee of \$995.00, a yearly hosting cost of \$270.00, and a yearly domain name cost of \$11.25.

After some discussion, a motion was made by Eugene Mann and seconded by Cindy Early authorizing Jenni Burt to hire Network Solutions to create a website.

Ken Blair	Yes	Linda Pickelsimer	Yes
Cindy Early	Yes	Donald Sanders	Yes
Eugene Mann	Yes		

After a questions and comments from the audience, Chairman Donald Sanders asked the board for a motion to recess the meeting until 4:00 p.m. on Wednesday January 16, 2013.

A motion was made by Ken Blair and seconded by Cindy Early to recess the meeting until 4:00 p.m. Wednesday January 16, 2013

Ken Blair	Yes	Linda Pickelsimer	Yes
Cindy Early	Yes	Donald Sanders	Yes
Eugene Mann	Yes		

Meeting went into recess at 5:02 p.m.

RECONVEINE:

Chairman Donald Sanders called the meeting to order and stated that the recess was over at 4:00 p.m. on January 16, 2013.

Roll Call:

Ken Blair	Present	Linda Pickelsimer	Present
Cindy Early	Present	Donald Sanders	Present
Eugene Mann	Absent		

At this time, Chairman Sanders explained the board took a recess to allow the board Attorney to be present. Mr. Sanders turned the meeting over to Board Attorney Al Shumaker. Mr. Shumaker thanked the board for allowing him to be here. Mr. Shumaker told those in attendance that the greatest concern with the Town Council appointing two new members to the board, is the impact it will have on the board being able to close the current bond for Phase II of the sewer upgrade for being unable to certify that we have a legal board.

The statute says the board can have seven members. Original membership in 1950's was three members. 3 years ago, the charter was amended to remove garbage service and at that time, the member number was increased to five. The town council and the board passed a resolution setting the number of members to five. To increase to seven the same procedure should be followed. Mr. Shumaker met with the attorney for the Town of Cedar Bluff Bill Hawkins in December of 2012 asking that before appointing new members, they would give Mr. Shumaker time to investigate further. He then found a case in Leeds, Alabama dated in the 1970's similar to our situation and the Attorney General ruled in favor of the Utility board. Mr. Shumaker then asked Mr. Hawkins to suggest the town seek an Attorney General's opinion before proceeding with the appointments. Since that was not done, Mr. Shumaker told the board there were three options the board could take against the appointments:

1. Do nothing and loose the USDA funds.
2. The Town and Utility board get together and agree to amend the charter from 5-7.
3. File declaratory judgment action and let a judge decide what is best for the board.

Mr. Shumaker presented the board with a letter outlining what would take place and his fees for filing a declaratory judgment toward the town. He suggested the board file the action to let a judge decide the outcome. This action could take six months to a year. Mr. Shumaker stated that until this is settled, the board would be unable to move forward with the USDA loan. Vice-Chairman Cindy Early asked Mr. Shumaker how long it would take to get an Attorney General's opinion. He said it would take about 30 days.

After much discussion, a motion was made by Linda Pickelsimer and seconded by Cindy Early authorizing Mr. Shumaker to draft a letter to Bill Hawkins, attorney for the Town of Cedar Bluff, requesting a meeting of the two entities to resolve the issue.

Ken Blair	Yes	Linda Pickelsimer	Yes
Cindy Early	Yes	Donald Sanders	Yes
Eugene Mann	Absent		

After assuring there were no further comments a motion was made by Ken Blair and seconded by Cindy Early to adjourn the meeting.

Ken Blair	Yes	Linda Pickelsimer	Yes
Cindy Early	Yes	Donald Sanders	Yes
Eugene Mann	Absent		

Meeting adjourned at 4:42 p.m.

APPROVED February 19, 2013:

DONALD SANDERS, CHAIRMAN

MARIE KELLY, SECRETARY