

EMPIRE ELECTRIC ASSOCIATION, INC.
MINUTES OF THE REGULAR MEETING
OF THE BOARD OF DIRECTORS
September 8, 2017

Regular meeting of the board of directors of Empire Electric Association, Inc. was held Friday, September 8, 2017 with the following directors present: Bill Bauer, Jerry Fetterman, J. Kent Lindsay, Sue McWilliams, Bill Mollenkopf, John Porter and David Sitton. Others present: General Manager Josh Dellinger, Attorney Shay Denning, Corporate Operations Manager Mary Thiesing, System Engineer Clint Rapier, Operations Manager Ken Tarr and Executive Secretary Denise Rosenbaugh.

Others Present: Members Heidi Brugger and Gala Pock. Hal Shepherd on behalf of the Four Corners Rifle and Pistol Club.

President Bauer called the meeting to order at 8:30 a.m.

Approve Consent Agenda:

Action Item: President Bauer called for approval of the consent agenda. Motion by McWilliams to approve the consent items. Motion seconded by Lindsay and carried.

Membership Input:

Ms. Pock said she appreciated Empire Electric getting involved in solar and renewables and was attending the board meeting to be better informed.

Hal Shepherd from the Four Corners Rifle and Pistol Club explained his donation request that was included in the packet. The club would like to get power to their outdoor shooting range. The rough estimate for doing so is \$20,000 and he is asking for Empire to assist with that cost. He explained the activities and events the club facilitates for the community. He also explained that he doesn't think the club will qualify for grants because it is a private organization.

Correspondence

Thank you from:

- Consumer thanking Empire and specifically Andy Carter who helped resolve her issue regarding her high bill. Andy and Clint helped her investigate her apartment and discovered that another unit's air conditioner was wired through her unit's meter.
- Jens Brewer for scholarship he was awarded by Empire Electric.
- London Brook Young and Armadao Martinez for buying their 4H sheep, Tiffany Whitmer for Empire's purchase of her goat and Noel West for buying his chickens at the fair.
- Montezuma School to Farm Project for Empire's donation.
- CARE committee for Empire's continued support.

Other correspondence:

- NRECA Director's Winter school to be in Nashville December 1-6, 2017.
- Update from Four Corners School of Outdoor Education.
- CFC board report in packet.
- Joe Martin asking for our vote at the Region VII meeting to continue to be Colorado's representative on NRECA's board.

- CoBank is decreasing their patronage – it was 100 basis points and they have changed it to 80. Also, the cash/equity split was 75/25 and now they changed it to 60/40.
- Received patronage capital allocation from CFC of \$17,317.41 and retirement of \$8,658.71.
- Received patronage Dividends from Western United.
- Received \$35 restitution from Balderrama case. Discussion followed concerning whether that money is Empire's to keep or needs to be submitted to Federated. Denning and Thiesing were confident that Federated filed their own damage claim and should be getting its restitution payments sent directly to it, but they will double-check to make sure this is the case.
- Received three tickets to the Montezuma Land Conservancy beer festival for Empire's annual support.

Donation Requests:

Jeff Pope sent the donation request discussed at last month's meeting for KSJD. He is requesting \$3,000. We already have money budgeted for advertising. This is additional. Motion by Fetterman to donate \$3,000 out of unclaimed capital credits. Motion seconded by Mollenkopf. Discussion was held regarding this and the fact that there have been issues with downtown restaurants considering KSJD selling food and alcohol in the street as competition. Upon call for vote, motion defeated with Lindsay, Sitton, McWilliams and Porter casting no votes.

The board revisited the request from the Four Corners Rifle & Pistol Club. Discussion followed and it was suggested that Mr. Shepherd could approach the county to see if they would sponsor a grant. It was also discussed that maybe Empire could help with in-kind match instead of paying for it all. Clint will visit with the staking engineers to get a better idea of what it will take to get power to the club's facility. After discussion, motion by Porter to table this request until next month. Motion seconded by McWilliams and carried. Dellinger was asked to contact Mr. Shepherd and let him know this will be revisited at the next board meeting.

Policy Review/Action:

Policy 12: Election and Voting Policy was reviewed. A few minor edits were suggested. Motion by Sitton to approve Policy 12 with those minor changes as shown in the redlined version in the board packet. Motion seconded by McWilliams and carried. A copy of this policy is attached to and made part of the minutes.

Policy 13: Activities and Conduct of Individual Board members: There were no changes to this policy except to correct a few typos.

General Manager Report:

Dellinger updated the board on strategic planning progress. He highlighted items from the updated action plan model and his narrative in the packet.

Consensus of the board that the 2018 annual meeting be held June 14, 2018.

Dellinger reported that staff has been working through the loan refinance. Resolutions to be passed were sent out to board members by email. Dellinger asked that the board consider these resolutions: the first two deal with refinancing our existing RUS FFB loan through CFC – one to prepay RUS loan and one to borrow money from CFC to pay off RUS loan. The third one deals with Empire securing a new loan through CFC for future needs. Dellinger noted that we are only securing access to funds through this new loan with CFC. We are not actually borrowing the money at this time, but we will have access to this money when we need it. Denning noted that these resolutions are "form" resolutions that CFC sends us and we followed their lead. Dellinger mentioned that we also need a motion from the board to give those listed the authority to sign all related loan documents.

Action Item: Motion by Mollenkopf to approve the following resolution:

RESOLUTION 2 – 2017

WHEREAS, the board of directors of the Cooperative has caused to be conducted a thorough review of the feasibility of prepayment of all its RUS Guaranteed Federal Financing Bank (FFB) notes currently outstanding with the Rural Utilities Service (RUS), and

WHEREAS, the board of directors have, after full study and consideration, determined that it is in the best interest of the Cooperative and its membership, that it prepay all its RUS Guaranteed FFB notes, as set forth on the Schedule attached to this resolution, at a discounted present value at the earliest practicable date, as authorized in 7 CFR Part 1786.

WHEREAS, the board of directors have determined that it will seek to prepay, at a discount, its existing RUS debt, and National Rural Utilities Cooperative Finance Corporation (“CFC”) financing is needed for the prepayment in the approximate amount of \$32,040,816.08.

NOW THEREFORE BE IT RESOLVED, that the board of directors hereby requests that RUS enter into a prepayment agreement with the Cooperative providing for the prepayment of all its RUS Guaranteed FFB notes.

BE IT FURTHER RESOLVED, that the Cooperative make application to CFC for a commitment in the approximate amount of \$32,040,816.08 to be used to prepay RUS debt.

BE IT FURTHER RESOLVED, that the CFC financing requested herein include several different loan amounts, each loan having a maturity no longer than 35 years, as determined by the General Manager and provided to CFC in writing prior to the preparation of CFC loan and security documentation. The loans, which in the aggregate total the financing commitment request of \$ 32,040,816.08, will have separate CFC interest rate options which will be selected at the time of the advance by the General Manager.

BE IT ALSO RESOLVED, that the Cooperative hereby authorizes the release of information from RUS to CFC in connection with the system as it relates to this application.

Motion seconded by McWilliams and carried.

Action Item: Motion by McWilliams to approve Resolution 3:

RESOLUTION 3 – 2017

RESOLVED, that the Cooperative borrow from National Rural Utilities Cooperative Finance Corporation (“CFC”), from time to time as determined by the persons designated by the board of directors of the Cooperative, an aggregate amount not to exceed \$30,800,000.00 as set forth in the loan agreement with CFC governing such loan, substantially in the form of the loan agreement presented to this meeting (the “Loan Agreement”);

RESOLVED, that the proceeds of this loan be used to refinance certain of the Cooperative’s existing indebtedness with its other lenders;

RESOLVED, that the individuals listed below are hereby authorized to execute and deliver to CFC the following documents:

- (a) As many counterparts as shall be deemed advisable of the Loan Agreement;

- (b) One or more secured promissory notes payable to the order of CFC, which in the aggregate shall not exceed the principal amount of \$30,800,000.00 substantially in the form of the note presented to this meeting; and
- (c) If required by CFC, an amended, restated or supplemental mortgage, security agreement, and financing statement with CFC and the United States of America as mortgagees for purposes of securing the loan provided for herein, substantially in the form of the mortgage presented to this meeting,

RESOLVED, that each of the following individuals is hereby authorized in the name and on behalf of the Cooperative to execute and to deliver all such other documents and instruments as may be necessary or appropriate, to execute any future amendments to said Loan Agreement as such individual may deem appropriate within the amount of the promissory notes so authorized herein and to do all such other acts as in the opinion of such authorized individual acting may be necessary or appropriate in order to carry out the purposes and intent of the foregoing resolutions:

<u>Title or Office</u>	<u>Name</u>
President	William C. Bauer
Secretary	Jerry Fetterman
General Manager	Josh Dellinger
Corporate Operations Officer	Mary Thiesing

Motion seconded by Sitton and carried.

Action Item: Motion by Lindsay to approve Resolution 4:

RESOLUTION 4 – 2017

RESOLVED, that the Cooperative borrow from National Rural Utilities Cooperative Finance Corporation (“CFC”), from time to time as determined by the persons designated by the board of directors of the Cooperative, an aggregate amount not to exceed \$16,000,000.00 as set forth in the loan agreement with CFC governing such loan, substantially in the form of the loan agreement presented to this meeting (the “Loan Agreement”);

RESOLVED, that the proceeds of this loan be used for the purpose set forth in the Loan Agreement;

RESOLVED, that the individuals listed below are hereby authorized to execute and deliver to CFC the following documents (including as many counterparts as may be required):

- (a) The Loan Agreement;
- (b) One or more secured promissory notes payable to the order of CFC, which in the aggregate shall not exceed the principal amount of \$16,000,000.00 substantially in the form of the note presented to this meeting; and
- (c) If required by CFC, as many counterparts as shall be deemed advisable of a mortgage and security agreement with CFC and the United States of America as mortgagee, for purposes of securing the loan provided for herein, substantially in the form of the mortgage presented to this meeting,

RESOLVED, that each of the following individuals is hereby authorized in the name and on behalf of the Cooperative to execute and to deliver all such other documents and instruments as may be necessary or appropriate, to execute any future amendments to said Loan Agreement as such individual may deem appropriate within the amount of the promissory notes so authorized herein and to do all such other acts as in the opinion of such authorized individual acting may be necessary or appropriate in order to carry out the purposes and intent of the foregoing resolutions:

<u>Title or Office</u>	<u>Name</u>
President	William C. Bauer
Secretary	Jerry Fetterman

General Manager
Corporate Operations Officer

Josh Dellinger
Mary Thiesing

Motion seconded by Fetterman. Discussion was held regarding this new loan with CFC. The funds are secured, but we don't have to draw the funds until we need them. It is similar to RUS in that regard. Since we will no longer have RUS debt we will no longer be subject to the onerous requirements that accompany federal debt. We will retain some best-practices from RUS. This allows us access as it is similar to RUS loans to be used as funds are needed, but you don't have to jump through all the hoops that you do with RUS. This loan is in place for five years. Question was asked if it would be a monumental task to go back to RUS if necessary. Thiesing replied that Empire would have to stay out for five years, but if we wanted to go back after that we would just have to go through their normal loan process. It was also noted that the RUS cushion of credit will get applied to our prepayment and will no longer be available. Motion carried.

Action Item: Motion by Porter to authorize those listed above in resolutions to execute all documents for the closing of the loan. Motion seconded by Sitton and carried.

Dellinger revisited the request by CDOT for a small piece of land south of town that has been discussed previously. CDOT does not want to go through condemnation process and has offered \$2,000 as compensation to go through lien release process. Dellinger said they are interested in the entire 2.2 acres but don't have enough money in budget to pay for entire parcel. They will contact Empire within the next two weeks to discuss what their budget allows. Consensus of the board to table this until CDOT comes back to the board with an offer.

Brief discussion was held regarding the issue of CDOT's requirements as it pertains to the selling of the warehouse property and Empire's understanding that this goes with the property to the new owner. Empire expects that this permit will likely expire and revert back to historic use, however, it will leave that process to the new owner.

Thiesing reported on the financials of Empire and that we are doing well. We are still behind in gross margins but operating margins are very close to budget. There are some timing differences – at year end we will likely be below margins but still within financial goals. Empire received a million dollars from the sale of the assets to Tri-State, but that money, pursuant to contractual requirements, will go into the construction fund and will be used to pay down RUS debt before refinance.

Dellinger reported that Empire has been investigating using a call center (CRC) to supplement after hours to replace what the Cortez Police Department is providing for us at the present time. One of Empire's dispatchers retired which allowed the opportunity to evaluate the department. Staff does not believe a full-time position is required with the responsibilities of the asset transfer going away. Thus, we would like to use CRC to fill in the gaps. Dellinger believes it will be good for us financially and will allow us to provide better member service to our members. Denning has been reviewing the contracts. CRC has call centers in Minnesota, Texas, and Tennessee. There are a few cooperatives in Colorado that are using them and very satisfied with their services.

Roundtable:

McWilliams asked Dellinger to reschedule another tour at Air Products as the first tour was cut short.

Fetterman mentioned that one of our consumers wanted to know if he could obtain a copy of the photograph of a bear up on top of one of Empire's poles.

Mollenkopf mentioned he had dinner with LaPlata's ex-director Joe Wheeling. He also said that Harry Goff (also a former director at LPEA) had passed away.

McWilliams mentioned she had met with Barbara McLaughlin who is house representative for District 59 which includes LPEA, Gunnison Archuleta, Ouray and Hinsdale Counties. She is a member of LPEA and lives in Durango. McWilliams believes she is open and receptive to cooperative needs.

Porter distributed and discussed his report on the dollars spent at the Montezuma County Fair and the San Juan County fair.

Attorney:

Denning reported on several issues: 1) Sent back changes to the contract for the Totten Lake solar project; 2) worked on the CDOT issue; 3) still no word on FERC, so we are still waiting a decision on Tri-State's Motion to Reconsider; 4) reviewed policies; 5) 115 asset transfer of retail assets and Cahone to Anasazi portion completed on August 31; 6) after board decides what they want to do on warehouse, Denning's firm will help on that contract; and 7) Still working with tribe and CenturyLink on joint use agreements.

Tri-State:

Mollenkopf reported on the Tri-State meeting. Finance committee was given the 2017 margin estimate update, he was concerned about DSR but it's better and forecast is \$110,000,000 in net margins – and DSR ends at 1.26 which far exceeds requirements. In spite of stipulation agreement with four plaintiff groups, the Los Conchas fire dispute is headed towards appeal which will be another 18 to 24 months. He mentioned that the Montrose, Nucla to Cahone 230 transmission line upgrade will be completed in 2018 but it will be operated at 115. The three substations scheduled for upgrading, will be removed from the budget as they determined there was no current need, so that helps the 2018 budget. Xcel submitted a proposal to the Colorado PUC to close two older Comanche units and replace with 700 megawatts of natural gas, 700 solar and 1000 megawatts of wind without a rate increase. He briefly discussed a DOE report which was very positive for TS. Mollenkopf also mentioned an education session on fuel supply that was interesting – with 52 % coal, 3 % natural gas, 25% renewables with the rest coming from purchased power sources.

CREA:

Porter reported the Western United fish fry was good. He also reported on the hail storm that damaged CREA's headquarters. Total cost was \$166,000 and Federated covered all but \$500. CREA is still planning on hosting the pot and power conference. This conference is in response to issues that arise from serving marijuana operations. Porter reminded the board that the annual energy summit is in October. Also discussed at the CREA meeting was: 1) electric markets discussion; 2) the governor's call for reducing statewide greenhouse gasses by 26%; 3) potential legislation; 4) opposition to retail choice; 5) the communications department won two statewide editor association awards; and 6) Empire was recognized for no loss time accidents last year.

Western United: McWilliams reported financials are good and ending in July was best on record. New Mexico is a great asset. Losses are low.

Utah Rural Electric Cooperative Association: Dellinger reported on the meeting he attended at Bryce Canyon. He outlined some of the topics in the written board report. Most interesting thing is issue between Rocky Mountain power and distributed generation group. Rocky Mountain Power wants to eliminate net metering. The two groups have reached an agreement to phase out net metering by 2035. Presently, this just affects IOUs and Peterson is watching this closely to make sure co-ops don't get swept up in it.

FastTrack:

No meeting.

President Bauer left the meeting at 10:40 a.m.

Vice President Sitton assumed the chair of the meeting.

Executive Session:

Motion by McWilliams to go into executive session to discuss the sale of the warehouse property. Seconded by Fetterman and carried. The board went into executive session at 10:43 a.m. The board came out of executive session at 11:00 a.m.

Action Item: Motion by McWilliams to accept the highest bid on the warehouse property and award the bid to Rusty Bauer for the amount of \$195,000. Motion seconded by Porter. Discussion was held regarding the bids and the board noted that accepting the bid from Rusty Bauer makes sense as it's the highest bid received, the proposed use is compatible with what the facility has been used for in the past, and the business should be a good neighbor to Empire Electric and good for the community. It was also noted that President Bauer, being Rusty's father, recused himself from all discussions pertaining to evaluating the received bids. President Bauer did not attend the building committee meeting in which the bids were opened and he left today's meeting before the bids were discussed. Motion carried.

Adjournment:

Meeting adjourned at 11:05 a.m.

Bill Bauer, President

Jerry Fetterman, Secretary/Treasurer