

Onslow Water & Sewer Authority
Board of Directors' Special Meeting 228 Georgetown Road Jacksonville
Thursday, February 10, 2022
APPROVED MINUTES

CALL TO ORDER: Having a quorum, Chairman Jerry Bittner called the meeting to order at 6:00 pm. Board members present included Chairman Jerry Bittner, Vice Chairman Royce Bennett, Secretary/Treasurer Pat Turner, Directors Paul Conner, Timothy Foster, and Robert Warden. Absent was Directors Joann McDermon and Jeff Wenzel.

APPROVAL OF AGENDA – Vice Chairman Royce Bennett made a motion to approve the agenda as submitted. Director Paul Conner seconded the motion. All were in favor. The agenda was approved as submitted.

1. BUSINESS

A. Interim Chief Executive Officer Appointment

Chairman Jerry Bittner called on Authority Attorney, Chuck Kitchen, to present the item. Mr. Kitchen explained the new CEO will begin work on March 7, 2022 and the current CEO Mr. Jeffrey Hudson is leaving February 28, 2022 leaving a six day period without a CEO leaving the need for an Interim for the six day period.

Action: Vice Chairman Royce Bennett made a motion to appoint Authority Attorney, Chuck Kitchen, as Interim Chief Executive Officer to serve March 1, 2022 through March 6, 2022. A second was made by Director Paul Conner. All were in favor. The motion carried.

B. Approve the Chief Executive Officer Contract

[A COPY OF THE CHIEF EXECUTIVE OFFICER CONTRACT MAY BE FOUND AT EXHIBIT A AND ARE FULLY INCORPORATED HEREIN BY REFERENCE]

Chairman Jerry Bittner called on Authority Attorney, Chuck Kitchen, to present the item. Mr. Kitchen said when the Board last met, they selected Franky Howard as the new CEO and at that time they set the compensation for the new CEO and asked that a contract be worked out to handle any other matters. Mr. Kitchen said the biggest difference is the automobile allowance went from \$500 a month to \$700 a month. He said the rest of it is comparable to what the current CEO is receiving. Chairman Bittner asked if a weeks vacation was included in the contract. Mr. Kitchen replied that one weeks vacation was added in the contract. Mr. Kitchen said for clarity it was also added that his sick leave would transfer although that would normally occur. Vice Chairman Royce Bennett asked if he would have to move to meet the residency requirements. Mr. Kitchen said it was looked at and was determined he was within the required response time.

Action: Director Paul conner made a motion to ratify the Chief Executive Officer Contract. A second was made by Director Timothy Foster. All were in favor. The motion passed unanimously.

3. ADJOURNMENT: A motion was made by Vice Chairman Royce Bennett to adjourn at 6:07 PM. Director Paul Conner seconded the motion. All were in favor, the motion passed.

The minutes were approved on May 19, 2022.

Onslow Water & Sewer Authority Board of Directors

Jerry A. Bittner

Jerry Bittner, Chairman



ATTEST:

Heather W. Norris

Heather Norris, Clerk

EMPLOYMENT AGREEMENT

THIS AGREEMENT made and entered into as of January 31, 2022, by and between the Onslow Water and Sewer Authority (ONWASA), a political subdivision of the State of North Carolina, hereinafter called "Employer", and Franky J. Howard, hereinafter called "Employee", both of whom understand as follows:

WITNESSETH

WHEREAS the Employer has appointed the Employee to serve as the Chief Executive Officer (CEO) of the Onslow Water and Sewer Authority; and

WHEREAS in his position as the CEO, Employee will serve at the pleasure of the Employer's Board of Directors; and

WHEREAS it is the desire of the Employer to:

- i. secure and retain the services of Employee and to provide inducement for him to remain in such employment; and
- ii. to make possible full work productivity by assuring Employee's morale and peace of mind with respect to future security; and
- iii. to provide a just means for terminating Employee's services at such time as he may be unable to fully discharge his duties for any reason or when Employer may otherwise desire to terminate his employ.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties agree as follows:

Section 1. Effective Date. Employee shall begin work on March 7, 2022.

Section 2. Duties. Employee shall perform all duties of a Chief Executive Officer (CEO), sometimes titled Executive Director of a North Carolina water and sewer authority as provided by law consistent with the direction, consent, and authority of the Employer, and any other lawful duties as may be assigned and directed to him from time to time by the Employer.

Section 3. Term. This employment agreement shall be deemed to be continuing in nature unless and until the Employer or Employee shall terminate it as hereinafter provided. As an employee serving at the will and pleasure of the Employer, it is understood that the Employer may terminate the employment provided for herein at any time, with or without cause.

Section 4. Termination and Severance pay. In the event Employee is terminated by the Employer without cause other than it being the will and pleasure of the Employer, and Employee is willing and able to perform his duties under this Agreement, then in that event Employer agrees to pay Employee a lump sum amount equal to three times the Employee's then existing monthly base salary. After three years from the date of this Agreement, in the event the Employee is terminated by the Employer without cause other than it being the will and pleasure of the Employer, and Employee is willing and able to perform his duties under this Agreement, then in that event Employer agrees to pay Employee a lump sum amount equal to four times the Employee's then existing monthly base salary.

The Employer may terminate this agreement for cause upon the Employee's malfeasance; neglect of duty; dishonesty; the employee's conviction for a crime directly or indirectly involving his employment (other than a traffic violation) or any crime involving dishonest, corruption, baseness or depravity; the Employee's conviction of a felony; an act of moral turpitude directly and substantially impairing his ability to reasonably perform his duties; an act contrary to his employment involving personal gain to him; an act which is injurious to the political or economic well-being of the Employer; or for any act in violation of this employment agreement. In that event, Employer shall have no obligation to pay severance in any amount or for any reason.

Section 5. Death or Disability. If Employee becomes permanently disabled or is otherwise unable to perform his duties because of sickness, accident, injury, mental incapacity, or health for a period beyond any accrued leave or family or medical leave benefits, Employer shall have the option to terminate this Agreement subject only to compensation to Employee of all accrued benefits to which he is at that time entitled. Death of the Employee shall automatically terminate this Agreement subject only to compensation to Employee's estate of all accrued benefits at that time.

Section 6. Salary. Employer agrees to pay Employee for his services rendered pursuant hereto an initial base salary of \$144,000, which may be periodically adjusted as provided for herein. Employee shall not automatically receive cost-of-living (COLA) adjustments granted to ONWASA employees as part of the annual budget process but shall receive such salary and/or benefit adjustments as provided under Section 13 (Performance Appraisal) of this agreement. Nothing herein shall prevent Employer from granting COLA adjustments to Employee as part of the annual budget process if it is the will of the Employer to do so. Employee will receive payments in installments at the same time as other employees of the Employer are paid.

Section 7. Hours of Work. Because of the unique nature of this employment, it is recognized that Employee will be required to devote time outside the normal office hours of business of the Employer. To the extent practicable, the Employee will be expected and encouraged to adhere to the normal office hours established for the Employer.

Section 8. Residency. The Employee shall reside within a geographical area allowing a response time to the ONWASA main office at 228 Georgetown Road, Jacksonville NC no greater than 30 to 45 minutes during the pendency of this Agreement.

Section 9. Outside Activities. Employee may not engage in other work activities without prior approval of Employer. The Employer shall pay annual dues for one (1) local community civic organization within the service area.

Section 10. Cell Phone. The Employee shall be reimbursed the sum of \$100.00 per month for a cell phone plan.

Section 11. Automobile. Employee's duties require that he shall have the exclusive and unrestricted use at all times of an automobile. Employer agrees to compensate Employee the sum of \$700.00 per month for use of his personal vehicle for Employer's business inside the Authority service area. Trips outside the Authority service area shall be reimbursed per current IRS regulations and rates. For said vehicle allowance, Employee shall be responsible for providing a vehicle in good appearance and operating condition for the conduct of Employer's business, be responsible for paying for liability, property damage and comprehensive insurance and for the purchase, operation, maintenance, repair and regular replacement of said automobile.

Section 12. Benefits. The provisions of the Employer's personnel rules and regulations relating to the amount of vacation and sick leave, holidays, retirement system, and other fringe benefits and working conditions as they now exist or hereafter may be amended, shall apply to Employee, in addition to said benefits enumerated specifically for the benefit of Employee as herein provided in this Agreement. For purposes of accrual of all active-duty benefits and retirement benefits as provided by Article 10, Section 3 and Section 4 of the ONWASA Personnel Policy adopted on April 17, 2014, and longevity pay, Employee's number of years in the Local Government Retirement System and Teacher and State Employee Retirement System. In addition to the benefits provided herein, Employee shall be given the equivalent of one week's vacation leave at the beginning of this Contract. Employee's current sick leave shall transfer to Employee's employment with ONWASA.

Section 13. Performance Appraisal. Each year, the Employer and Employee will develop an annual work plan. The performance criteria reflected in these work plans will be the basis for the performance appraisal. On or about April of each year of employment, the Employer shall conduct with the Employee an evaluation of his work performance during the immediately preceding year. Failure to conduct this annual evaluation shall not be a default hereunder. During the evaluation process the Employer shall decide what amount (if any) of recurring base salary increases, one-time bonuses, or other pay or benefit increases shall be granted to the Employee. Increases shall be effective on July 1st, unless otherwise indicated by the Board.

Section 14. Notice of Termination. If Employee accepts employment or otherwise intends to terminate his services to the Employer, he shall give at least 30 days' notice of his intention to do so prior to his last day of employment. Failure to give this notice shall result in a forfeiture of the Employees right to any payment for accrued vacation pay. If the Employer intends to terminate the services of the Employee without cause, it shall give at least 30 days' notice of its intention to do so. In the alternative, the Employer may elect to pay the Employee an amount equal to his then existing compensation for the thirty-day period. This payment shall be in addition to the amount, if any, set forth in Section 4 above. Termination for cause by the Employer does not require any advance notice.

Section 15. Return of Property. Upon termination of employment, Employee shall return to Employer all records, physical or electronic, regarding the business or Authority. Further, Employee shall return to Employer all equipment or property belonging to the Employer.

Section 16. Law Controlling. The laws of the State of North Carolina shall control and govern this contract.

Section 17. Venue. The venue for any dispute involving this Agreement shall be Onslow County, North Carolina.

Section 18. General Provisions. The text herein shall constitute the entire Agreement between the parties. If any provision, or any portion thereof, contained in this Agreement is held unconstitutional, invalid, or un-enforceable, the remainder of this Agreement, or portion thereof shall not be affected and shall remain in full force and effect.

IN WITNESS WHEREOF, the Onslow Water and Sewer Authority has caused this Agreement to be signed and executed in its behalf by its Chairman and duly attested by the Clerk, and by the Employee in duplicate originals, as of the day and year first above written.

**ONSLow WATER AND SEWER AUTHORITY
SIGNED:**



Jerry Bittner, Chairman

ATTEST: 

Heather Norris, Clerk

CORPORATE SEAL:



SIGNED:



Franky J. Howard

This instrument has been pre-audited in a manner required by the Local Government and Fiscal Control Act.

SIGNED: 

Tiffany Riggs, CFO

DATE: 2/1/2022