

# TOMS RIVER MUNICIPAL UTILITIES AUTHORITY

## Meeting Number Twelve Hundred Fourteen

Agenda

January 23, 2019

The regular meeting of the Toms River Municipal Utilities Authority was held on Tuesday, January 23, 2019 at 5:30 P.M. at the office of the Authority, 340 West Water Street, Toms River, New Jersey 08753.

### **The following were present:**

Carmen J. Memoli, Chairman

Deborah L. Clement, Vice-Chairperson

Joseph G. Bilotta, Commissioner

Charles S. Valvano, Commissioner

Tariq M. Siddiqui, Commissioner

Ben A. Montenegro – Alt. Commissioner

Dr. Alfonso J. Manforti – Alt. Commissioner

Robert J. DiBiase, Ex. Director/Sec’y.-Treas.

Daniel Leone, Esquire, Counsel

Rosemary Rosetto, Chief Financial Officer

Nicholas Otten, Authority Engineer - Absent

Bernard Rutkowski, Regulatory Compliance/Safety Officer

Cindy Toye, Administrative Bookkeeping Specialist - Absent

Georgia Benyola, Executive Secretary/Assistant Sec’y.

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Meeting #1214 was called to order at 5:30 p.m., January 23, 2019 by Chairman Memoli.

Ms. Benyola, Assistant Secretary, reported that in accordance with the Open Public Meetings Law, P. L. 1975, c. 231, notice of this meeting was posted on the Township Bulletin Board, the Authority Bulletin Board, filed with the Clerk’s Office, and published in the Asbury Park Press.

Ms. Benyola then called the roll. Mr. Montenegro, Mr. Siddiqui, Mr. Valvano, Mr. Bilotta, Mrs. Clement and Mr. Memoli were present. Dr. Manforti came in at 5:45 p.m.

### **Minutes of Meetings for Approval**

*A. Meeting #1213 - December 18, 2018 - New Submission*

A motion was made by Mrs. Clement and seconded by Mr. Bilotta to approve the minutes of Meeting #1213, December 18, 2018 as written. A roll call vote was taken with Mrs. Clement, Mr. Bilotta, Mr. Valvano and Mr. Memoli all casting affirmative votes. Mr. Siddiqui abstained, as he was not in attendance.

### **Disbursements**

A motion was made by Mr. Bilotta and seconded by Mr. Siddiqui to approve payment of the disbursements as listed in the amount of \$801,560.45. A roll call vote was taken with Mr. Bilotta, Mr. Siddiqui, Mrs. Clement, Mr. Valvano and Mr. Memoli, with the exception of his RX reimbursement, all casting affirmative votes.

### **Additional Disbursements**

A motion was made by Mr. Bilotta and seconded by Mrs. Clement to approve payment of the additional disbursements as listed in the amount of \$418.62. A roll call vote was taken with Mr. Bilotta, Mrs. Clement, Mr. Valvano, Mr. Siddiqui and Mr. Memoli all casting affirmative votes.

### **Trust Fund Releases**

A motion was made by Mr. Siddiqui and seconded by Mrs. Clement to approve the releases from the Trust Fund for Inspection Fees totaling \$5,622.19 and for Performance Bond totaling \$6,462.04. A roll call vote was taken with Mr. Siddiqui, Mrs. Clement, Mr. Valvano, Mr. Bilotta and Mr. Memoli all casting affirmative votes.

### **Ratification of Investment & Transfer Resolutions**

A motion was made by Mrs. Clement and seconded by Mr. Bilotta to ratify the monthly transfer and investment resolutions. A roll call vote was taken with Mrs. Clement, Mr. Bilotta, Mr. Siddiqui, Mr. Valvano and Mr. Memoli all casting affirmative votes.

### **Financial Reports**

A motion was made by Mr. Bilotta and seconded by Mr. Valvano to enter the financial reports 6A-6F into the record. A roll call vote was taken with Mr. Bilotta, Mr. Valvano, Mrs. Clement, Mr. Siddiqui and Mr. Memoli all casting affirmative votes.

### **Finance & Investments: 6G**

Mr. Valvano made a motion, seconded by Mr. Bilotta, to reinvest the available funds of \$25,122.94 into the Ocean First Trust Custodial Account. A roll call vote was taken with Mr. Valvano, Mr. Bilotta, Mr. Siddiqui, Mrs. Clement and Mr. Memoli all casting affirmative votes.

### **Operating Reports**

A motion was made by Mr. Siddiqui and seconded by Mrs. Clement that the operating reports 7A-7G were accepted as presented. A roll call vote was taken with Mr. Siddiqui, Mrs. Clement, Mr. Bilotta, Mr. Valvano and Mr. Memoli all casting affirmative votes.

### **Development Applications-Major Sub Divisions**

A motion was made by Mrs. Clement and seconded by Mr. Bilotta to approve the final application for Sub Division #D-1055. A roll call vote was taken with Mrs. Clement, Mr. Bilotta, Mr. Valvano, Mr. Siddiqui and Mr. Memoli all casting affirmative votes.

Another motion was made by Mr. Valvano and seconded by Mr. Siddiqui to approve the preliminary application for Sub Division #D-254L. A roll call vote was taken with Mr. Valvano, Mr. Siddiqui, Mrs. Clement, Mr. Bilotta and Mr. Memoli all casting affirmative votes.

#### **Authority Meeting**

The Re-Org meeting was confirmed for Tuesday, February 26, 2019 at 4:30 p.m.

#### **Adoption of Resolutions/Capital Purchases**

9A-2A – There were no IPC Purchases for ratification.

A motion was made by Mr. Bilotta and seconded by Mr. Valvano approving the following resolutions, 9A-2B & 9A-2C:

9A-2B - Authorization was given to purchase (1) one Snap-on Vehicle Diagnostic unit with software from Snap-on Industrial, PO Box 9004, Crystal Lake, IL, 60014-9004 at a cost not to exceed \$4,509.35; and

9A-2C - Authorization was given to publicly advertise and bid the acquisition and installation of (1) one new vehicle maintenance lift with travel jacks or procure through a cooperative purchasing program if available at a cost not to exceed \$35,000.00.

A roll call vote was taken with Mr. Bilotta, Mr. Valvano, Mrs. Clement, Mr. Siddiqui and Mr. Memoli all casting affirmative votes.

A motion was made by Mr. Bilotta and seconded by Mr. Siddiqui approving the following resolutions, 9A-3 through 9A-6:

9A-3 - Authorization was given that a subsidiary contract for the Supply and Delivery of Natural Gas is hereby assigned to UGI Energy Services, LLC, One Meridian Blvd, Wyomissing, PA 19610 in compliance with all terms and conditions of the original contract awarded on November 27, 2018; and

9A-4 - Authorization was given to the Executive Director to enter into agreement to participate in the OMNIA Partners Purchasing System and the Authority shall be responsible to ensure that the goods and or services procured through the system comply with all applicable laws of the State of New Jersey and all other provisions of the revised statutes of the State of New Jersey; and

9A-5 - Authorization was given to the Qualified Purchasing Agent to enter into contract for Purchases and Services with Certain Vendors under State Contracts pursuant to and in accordance with N.J.S.A. 40A:11-12; and

9A-6 - Authorization was given to the Qualified Purchasing Agent to enter into contracts for the Purchase of Goods and/or Services with Certain Vendors under County Contract pursuant to 5:34-7.21.

A roll call vote was taken with Mr. Bilotta, Mr. Siddiqui, Mrs. Clement, Mr. Valvano and Mr. Memoli all casting affirmative votes.

Chairman Memoli stated to let the minutes show that Dr. Manforti just entered the meeting at 5:45.

#### **9A-7 Resolution – Advertise Surplus Auction Sale**

The Director noted that there was an additional item to be added for the auction. Mr. Rutkowski proceeded to say that item #5 on the Item Description list will also read (8) Metal Detectors for the auction sale. A motion was made by Mr. Siddiqui and seconded by Mrs. Clement to approve the resolution advertising the Surplus Auction Sale with the amended Item Description list. A roll call vote was taken with Mr. Siddiqui, Mrs. Clement, Mr. Valvano, Mr. Bilotta and Mr. Memoli all casting affirmative votes.

## **9A-8 Resolution – Adopt Amended Rules & Regulations**

A motion was made by Mr. Bilotta and seconded by Mr. Siddiqui authorizing that the Rules and Regulations of the Authority shall be amended and supplanted with the following language effective as of January 23, 2019:

“Each individual property/lot shall be serviced wholly by its own sanitary sewer laterals(s), as situated between the building structure and its own separate individual downstream curb cleanout.”

A roll call vote was taken with Mr. Bilotta, Mr. Siddiqui, Mrs. Clement, Mr. Valvano and Mr. Memoli all casting affirmative votes.

### **Unfinished Business**

Mr. DiBiase mentioned that Mrs. Rosetto and Mr. Rutkowski were complying with the directions set by the Board to negotiate an agreement with Mrs. Wainwright. Mrs. Rosetto stated that Mrs. Wainwright came in last Friday and she and Mrs. Wainwright were able to finalize an agreement to pay \$20.00 per month plus keeping current charges paid when due. If the ratepayer adheres to this agreement, no interest will be assessed on the arrears. If payments are not paid in a timely manner, the agreement will become null and void and interest will accrue at 18% per annum per State Statute. Payments towards the arrears will commence on February 1, 2019 and current 2019 charges are due on the first of January, April, July and October.

### **Committee Reports**

#### *Legal*

1. TRTwp./TRMUA Shared Services – First of all, Counsel mentioned that he has been working on the TR Township/TR MUA Shared Services agreement. He mailed everyone on the Board the addendum to seek comments from the Commissioners. Counsel asked the Board if they wanted to discuss it now in regular session or wait until the executive session. The Board agreed to discuss this in executive session.

2. Litigation Pitale/Lavallette – Counsel noted that they are still defending that claim but not through the MUA but through the Utilities Authority JIF.

3. Earle Asphalt Claims – Counsel reported that they got a call back from Earle on the 571 incident but only wanted some more information. No payment offers have been presented.

#### *Engineering*

Mr. Siddiqui noted that the Engineering Committee met on January 15, 2019, with Mrs. Clement, Ex. Director DiBiase, Mr. Otten and himself being present.

Mr. Siddiqui mentioned that there were two significant items at the meeting. One was the resolution that Mr. Siddiqui and Mr. Otten revised and included it in the Hand-out for the Board to review, amending the TRMUA Rules and Regulations Manual and the other was the NJIB Financing. Mr. Siddiqui reported that he did some research on NJIB but he will hold off since the Bond Counsel will be talking about it later. Mr. Siddiqui, however, did say that he was in favor of the short term financing and recommends it so we can move forward.

#### *Land Use*

Mr. Bilotta mentioned that there was nothing new going on with the land use.

#### *Personnel*

Mr. Bilotta requested to go to executive session regarding new employees' probation process. The Chairman questioned the revising of the Employee Handbook. The Director mentioned that last month we discussed the amendatory insertion of three new clauses in order to keep our premiums down. Mr. Rutkowski continued to say that he went through the insurance

recommendations and made some comments. He also mentioned that he would like to get together with the Committee and the Director to review and discuss the social media internet used policies. Mr. Rutkowski doesn't think we should adopt the insurance language verbatim since they're only there for guidelines; however, there are some things that do not apply to us but it definitely needs to be discussed before it can be adopted.

Mrs. Clement asked the Director if we had any situations with the indigents in the back. She mention that in the past, we had concerns with them, as they were lighting fires to stay warm. The Director noted that when Mr. Gluck was driving in the back to take a look at who parks there, he did notice one individual but that individual hasn't been seen since then.

Mr. Montenegro excused himself from the meeting at 6:40 p.m.

#### **Public Comments**

Chairman Memoli opened the meeting to comments from the Public. Mrs. Rosetto wanted to report that we are still seeing accidents happening at the intersection in front of our building. Mr. Leone mentioned that he had advised the Board and Mrs. Rosetto at a previous session and reiterated that he had spoken to the County Engineer and they advised him that they were developing plans for that intersection, as they are County roads; however, a lot is involved, so it will not be a quick fix. It will probably take one to two years, if not more. Mrs. Rosetto stated she wanted it for the record. With seeing no other public comments, Chairman Memoli closed the public portion of the meeting.

#### **Correspondence**

None

#### **Resolution to Enter Executive Session**

A motion was made by Mrs. Clement and seconded by Mr. Valvano to adopt the resolution to enter Executive Session at 6:00 p.m. to discuss personnel matters, litigation and contractual matters. The motion was carried by unanimous voice vote.

#### **Public Session Reconvened at 7:11 p.m.**

With no further business to come before the Board, a motion was made by Mrs. Clement and seconded by Mr. Valvano to adjourn the meeting at 7:12 p.m. The motion was carried by a unanimous voice vote.

**TOMS RIVER MUNICIPAL UTILITIES AUTHORITY**  
**Meeting Number Twelve Hundred Fourteen**

**Executive Session**

Executive Session convened at 6:00 p.m.

January 23, 2019

**The following were present:**

Carmen J. Memoli, Chairman

Deborah L. Clement, Vice-Chairperson

Joseph G. Bilotta, Commissioner

Charles S. Valvano, Commissioner

Tariq M. Siddiqui, Commissioner

Ben A. Montenegro, Alt. Commissioner

Dr. Alfonso J. Manforti, Alt. Commissioner

Robert J. DiBiase, Executive Director/Sec'y.-Treas.

Daniel Leone, Esquire, Counsel

Rosemary Rosetto, Chief Financial Officer

Nicholas Otten, Authority Engineer - Absent

Bernard Rutkowski, Regulatory Compliance/Safety Officer

Cindy Toye, Administrative Bookkeeping Specialist - Absent

Georgia Benyola, Executive Secretary/Assistant Secretary

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Mrs. Rosetto and Mr. Rutkowski were asked to remain.

Mr. DiBiase asked to make a request from the Chairman to have Jim Fearon from Gluck & Walrath to do a clarification on our Bond process but before we do that, Mr. DiBiase asked to make a couple of statements about this and why we are here and why the Bond Counsel is here.

Historically, in the past the Authorities had sufficient funds to cover and had expenditures for designated approved projects. Therefore, we never triggered the short term borrowing process. Now that we do not have sufficient funds to cover our \$3.1M projects, we have to go to the short term. That's why Mr. Fearon is here to tell us about that process.

Mr. Fearon started by saying that the issue here is managing our way through two distinct policies of the New Jersey Infrastructure Policy. Credit Policy is first. They will only lend money to people that possess investment grade rating. According to Counsel, the Authority is fortunate that we do not have any debt outstanding. The Authority is unfortunate because with not having any debt, we never had any public credit rating. Our rate base is efficiently sound, so we would likely qualify for an A rating by Moody's or Standard and Poor's. Most utilities have designated service agreements with municipalities which helps. Counsel stated that the second part is relatively new. The preference is to cause the Authority to initially have us borrow from them on a short term basis. They have imposed a new protocol where they will not allow us to go to bonds for a project until the project has been completed, which helps with their accounting. They know exactly how much money has been spent. They offer borrowers the opportunity for short term bonding in the interim. They will enter in a short term loan with the Authority, they

will let their money be used for the project and then the project will be completed in that process and then when the project is done and you spent all \$2.7M, because you've submitted requisitions, then they feel they have a clear easy path to convert that loan obligation with a bond issue, which would be for the exact dollar amount. So borrowers need to come up with money to build the project while it's being built. The Authority has two choices, you can reimburse yourself or you can do short term financing.

The EIT made it easy for borrowers to get short term financing. They maintain the right to charge you what they want, but typically they charge 0% because they haven't had to borrow money, they give you money they already have. The typical borrowing amount for EIT is you pay for your bills out of short term financing, when project is completed, then you'll have the amortization schedule. Because the credit policy requires that you're backed by service contract, and because the loan policy requires you take out a short term loan, for the first time in a long time, you're faced with the prospect of doing a short term taking out a short term loan under your municipal service agreement. The intention is to roll over the short term debt into something long term. In nearly every proficiency agreement, there is no problem with doing that. Instead it's covered because we know they are going to refund it. The 1975 service agreement says if you ever do short term debt, you'll have an affirmative obligation to proactively work on getting a refund for it. Don't let the balloon mature and have recourse to the town's credit.

The second part, however, says if you don't refund, the township is relieved of all payment obligations with respect to that debt. In order to give a full faith and credit at the time, you have to comply with this obligation to do a permanent revising. Counsel cannot do that. He would have to give a conditional opinion. He would have to say, "yes, it's covered as long as the MUA does XYZ two years from now." He does not believe the infrastructure bank would deem that to be "hell or high water" payment based on your future actions. It's a unique provision that Counsel has not seen this in any other municipal service agreement. It has an escape clause. It does have an escape clause that municipal governing body may offer a waiver in this particular instance. My recommendation is since you have every intention of doing a permanent bond issue, and the EIT has every intention to do a permanent bond issue, you're 95% there in terms of the risk that the refinancing would happen. Between now and the maturity, the risk is if the EIT program changes. The EIT isn't going to say what it is going to require in 3 years. The township appropriately protected its interest by doing this. They basically say you're covered as long as you do what you're supposed to do. That's not the same as full faith and credit. The logical way around this is to activate the waiver. This is going to come up every time you do EIT financing. Your circumstances were different, so that's why it hasn't come up in the past. Counsel answered questions needed.

Mr. Siddiqui mentioned that is was a very good presentation. The Commissioner was pleased that Counsel explained everything so well that he had no questions to ask.

TR Twp./TRMUA Shared Services – Counsel asked the Board what they wanted to include in the agreement. A discussion took place but there were some issues that needed to be re-addressed as some of the original details seemed to have changed. Mr. DiBiase suggested that Paul Daley, Mr. Bilotta, Land Chairman, and himself will meet to go over the agreement and the area to be occupied. Counsel mentioned that Mr. DiBiase's suggestion was good, so this will give us a better understanding for the discussion since everyone would be on the same page.

Personnel - Mr. Bilotta requested an extension on an employee's probation. Counsel asked if he got a Rice notice. Since no one was certain, Mr. DiBiase asked to talk only about the process of extending anyone's probation period. If someone were to fall, had a car accident or hurt himself they would not be able to go anywhere and if you can't go out in the field or truck or pump station, you wouldn't be able to learn much in that period. Mr. DiBiase only wants to extend the probation time another 90 days. The only reason Mr. DiBiase mentioned 90 days is because it was used in the past. Counsel was concerned about the Rice notice. Mr. DiBiase was looking in the Union Contract and found that the Director could extend the probation period for another 90 days for any reason.

With no further business to discuss, a motion was make by Mr. Valvano and seconded by Mrs. Clement to close the Executive Session and re-open Public Session at 7:11 p.m. The motion was carried by a unanimous voice vote.