

TOMS RIVER MUNICIPAL UTILITIES AUTHORITY

Meeting Number Twelve Hundred Twenty

Agenda

July 23, 2019

The regular meeting of the Toms River Municipal Utilities Authority was held on Tuesday, July 23, 2019 at 4:30 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
Tariq M. Siddiqui, Vice-Chairman
Deborah L. Clement, Commissioner
Charles S. Valvano, Commissioner
Ben A. Montenegro, Commissioner
Joseph G. Bilotta – Alt. Commissioner
Dr. Alfonso J. Manforti – Alt. Commissioner
Robert J. DiBiase, Ex. Director/Sec’y.-Treas.
James Gluck, Esquire, Counsel
Rosemary Rosetto, Chief Financial Officer
Nicholas Otten, Authority Engineer
Bernard Rutkowski, Regulatory Compliance/Safety Officer
Cindy Toye, Administrative Bookkeeping Specialist
Georgia Benyola, Executive Secretary/Assistant Sec’y.

Meeting #1220 was called to order at 4:30 p.m., July 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. Dr. Manforti, Mr. Montenegro, Mr. Valvano, Mrs. Clement, Mr. Bilotta, Mr. Siddiqui and Mr. Memoli were present.

Minutes of Meetings for Approval

A. Meeting #1219 - June 25, 2019 - New Submission

A motion was made by Mr. Valvano and seconded by Mrs. Clement to approve the minutes of Meeting #1219, June 25, 2019 as written. A roll call vote was taken with Mr. Valvano, Mrs. Clement, Mr. Siddiqui, Mr. Montenegro and Mr. Memoli all casting affirmative votes.

Disbursements

A motion was made by Mr. Siddiqui and seconded by Mr. Valvano to approve payment of the disbursements as listed in the amount of \$434,220.78. A roll call vote was taken with Mr. Siddiqui, Mr. Valvano, Mrs. Clement, Mr. Montenegro and Mr. Memoli all casting affirmative votes.

Additional Disbursements

A motion was made by Mr. Valvano and seconded by Mr. Siddiqui to approve payment of the additional disbursements as listed in the amount of \$602.02. A roll call vote was taken with Mr. Valvano, Mr. Siddiqui, Mr. Montenegro, Mrs. Clement and Mr. Memoli all casting affirmative votes.

Ratification of Investment & Transfer Resolutions

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

Financial Reports

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

Finance & Investments: 6G

Mr. Valvano stated that the Finance Committee had a meeting yesterday with the Executive Director and the Chief Financial Officer trying to identify the revenue needs for the Authority. It was a very preliminary meeting and at this point, things are very inconclusive. Mr. Valvano spoke with the Chairman yesterday and he suggested the auditors attend the meeting so they can offer ideas, recommendations and answer any questions that the Committee may have. Mrs. Rosetto scheduled the meeting for August 7, 2019. Financial officers, auditors and some employees will be in attendance. Once the Finance Committee is in agreement with a plan, they will bring it to the Board for review.

Mr. Valvano then made a motion, seconded by Mrs. Clement to reinvest the available funds of \$28,149.53 into the Ocean First Trust Custodial Account. A roll call vote was taken with Mr. Valvano, Mrs. Clement, Mr. Montenegro, Mr. Siddiqui and Mr. Memoli all casting affirmative votes.

Operating Reports

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

Development Applications-Major Sub Divisions

A motion was made by Mr. Siddiqui and seconded by Mrs. Clement to approve the final application for sub-division D-1057, Route 9 & Stevens Road. A roll call vote was taken by Mr. Siddiqui, Mrs. Clement, Mr. Montenegro, Mr. Valvano and Mr. Memoli all casting affirmative votes.

Authority Meeting

The next Authority meeting was confirmed for Tuesday, August 27, 2019 at 4:30 p.m.

Adoption of Resolutions/Capital Purchases

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

9A-3 - A motion was made by Mr. Valvano and seconded by Mrs. Clement authorizing to advertise for the receiving of bids for Contract No. TRMUA PR-2019 for Quick Lock Repair Clamps and to prepare the formal bid specifications. A roll call vote was taken with Mr. Valvano, Mrs. Clement, Mr. Siddiqui, Mr. Montenegro and Mr. Memoli all casting affirmative votes.

9A-4 - A motion was made by Mrs. Clement and seconded by Mr. Valvano authorizing Bernard Rutkowski, Regulatory Compliance and Safety Officer, be named as the Designated Employee Representative (DER) in compliance with regulations. A roll call vote was taken with Mrs. Clement, Mr. Valvano, Mr. Montenegro, Mr. Siddiqui and Mr. Memoli all casting affirmative votes.

9A-5 - A motion was made by Mrs. Clement and seconded by Mr. Valvano authorizing the ratification of the two appropriation transfers, one for \$7,500.00 and one for \$50,000.00, be made to the approved 2019 budget. A roll call vote was taken with Mrs. Clement, Mr. Valvano, Mr. Siddiqui, Mr. Montenegro and Mr. Memoli all casting affirmative votes.

9A-6 - The Authority's Auditor did an independent review and sent copies of the 2018 TRMUA Deferred Compensation for the Commissioners to review. No material modifications needed to be made.

Unfinished Business

None

New Business

In conjunction with the IT report, Mr. DiBiase stated that we had a lightning hit last week which came through the fire alarm system. It traveled through the system and jumped over into our network and got into equipment, blew out a panel and did a lot of damage. The panel was replaced, people were here till 12:00 Friday night and everything was 100% up to speed, but the cost was equipment and the time. IT is going through the list now in all the departments. B&G will be involved with the fire end of it. An insurance claim for damages will be submitted.

Committee Reports

Legal

1. Shared Services Agreement: In regards to the shared services agreement for BID and the request they made to us to include a vehicle maintenance service in that agreement, Counsel was not sure if there were any further conversation with them. The Executive Director mentioned that our mechanic was out of the country making arrangements due to a death in the family and was unavailable to meet with us at the time. The Director said we're still on hold and should be having that meeting within the next few days.

2. Borough of Island Heights – Counsel stated that there were new Blocks and Lots for properties that were not included in the original shared services agreement but they will be in the new agreement. The agreement for the Borough of Island Heights will expire on July 31, 2019. Counsel was advised that their commissioners wanted to extend the agreement for an additional period of time. Mrs. Clement asked for the amount of houses that were found, Counsel noted 4. Mrs. Clement asked if we could go back and charge them for the 6 years they had been with us but never paid or let us know how long it had been going on. Mrs. Clement asked if Counsel would recommend that. He said he could look into it. If the Borough of Island Heights received the benefit of getting paid for it and did not have any additional payment to us for those, it's a windfall for them and they should had sent it to the Authority. Counsel asked if the Board wanted to table this so that they could take care of this issue and see if they could come to a resolution. Counsel

asked if the Board wanted to extend the agreement for 30 days till the end of August. A motion was made by Mrs. Clement seconded by Mr. Valvano to extend the agreement with the Borough of Island Heights till the end of August 31, 2019. A roll call vote was taken with Mrs. Clement, Mr. Valvano, Mr. Montenegro, Mr. Siddiqui and Mr. Memoli all casting affirmative votes.

3. Shared Services Agreement: Mr. Gluck mentioned that the next shared services agreement that they are working on is Brick MUA. Mr. Otten is working with Mr. Leone trying to get the language in there that he feels is necessary to amend that agreement.

4. Grease Trap Ordinance: Mr. Gluck mentioned that Mr. DiBiase had the most recent correspondence with Mr. Leone getting it to the Business Administrator and working out the language with him. Mr. DiBiase noted that it was in the office of the Township's Attorney where he was looking at it and realized that he did not want to create policy for the town so it had to go through their departments. He offered a suggestion that we take it back and give it to the BA, which Mr. DiBiase did. It was mentioned that the plumbing inspectors will be handling this and we should hear something by our next meeting.

5. D'Alessandro vs TRMUA: Mr. Gluck, with Chairman's approval, will have a discussion in executive session.

6. Pitale/Lavallette-Litigation: Counsel noted that due to other parties that have been identified in discovery, they have now been added to the law suit and discovery is ongoing in that matter.

7. Earle Company: Counsel followed up with Earle Companies after the additional information and proof was sent to them. Counsel is not in litigation with them as yet.

Engineering

Mr. Siddiqui had an Engineering Committee meeting yesterday. Mr. Siddiqui mentioned that Mr. Otten briefed the Committee on the ongoing projects that are in his report. Mr. Otten also briefed them on the progress of the NJIB loans. He informed the Committee that he had the approval for the TV Truck already and also discussed the other components of that project.

Regionalization

Mr. Siddiqui wanted to clarify whether or not the shared services should be included in the Regionalization. In addition, Mr. Siddiqui noted that there is a billing issue in shared services agreement that he and the Director feel caused under billing in the past. Mr. Siddiqui would like the billing shared services category to remain under the Regionalization Committee. He thinks it would be a good time go over the billing shared services, as they can review/revise them more closely and work on getting them ready for next year. The other shared services can remain as is.

Land Use

Mr. Bilotta noted that there was nothing reported this month.

Personnel

Chairman Memoli is taking over for the Personnel Committee Chair. The Chairman noted that our new Line Maintenance Worker is approaching his 90 day probationary period and will be recommended for a permanent position, as both Executive Director and Foreman feel that he is deserving. The temporary Data Input Clerk position has been filled and that position is underway. The back-up part-time IT Technician position has not been filled but we do have the shared services agreement from the Township if needed.

Public Comments

Chairman Memoli opened the meeting to comments from the Public. Mrs. Rosetto said there was another accident yesterday. A couple of Commissioners also saw it. Adding to that, Mrs. Rosetto mentioned that they now have closed the backstreet (Herflicker) also which makes it even worse since our employees were using Herflicker instead of crossing the intersection. What's even worse is that Herflicker is not due to reopen until the end of September or October. Mrs. Rosetto asked if we could get some time of traffic control. Mr. Gluck will contact the County Engineer and advise him of the concerns and the requests and see if he asks us to take it to the freeholders. Mr. DiBiase agreed with the Commissioners to have Mr. Rutkowski call the gas company and see what they have to say and also contact the Traffic Control for their opinion. With no additional comments, Chairman Memoli closed the public portion of the meeting.

Correspondence

None

Resolution to Enter Executive Session

A motion was made by Mr. Montenegro and seconded by Mr. Valvano to adopt the resolution to enter Executive Session at 5:25 p.m. to discuss personnel matters, litigation and potential litigation. The motion was carried by unanimous voice call.

Public Session reconvened at 6:10 p.m.

Based upon a discussion held in Executive Session, Mr. Gluck asked the Commissioners to approve the settlement and authorization of the resolution for the Nick D'Alessandro v. Toms River Municipal Utilities Authority and Robert DiBiase in Docket No. L-1128-19 by payment of \$5,494.08 to the Law Office of Donald M. Doherty, Jr. A motion was made by Mr. Siddiqui and seconded by Mrs. Clement to approve the settlement and authorization by payment of \$5,494.08 to the Office of Donald M. Doherty, Jr. A roll call vote was taken with Mr. Siddiqui, Mrs. Clement, Mr. Valvano, Mr. Montenegro and Mr. Memoli all casting affirmative votes.

With no further business to come before the Board, a motion was made by Mrs. Clement and seconded by Mr. Montenegro to adjourn the meeting at 6:15 p.m. The motion was carried by a unanimous voice vote.

TOMS RIVER MUNICIPAL UTILITIES AUTHORITY
Meeting Number Twelve Hundred Twenty

Executive Session

Executive Session convened at 5:25 p.m.

July 23, 2019

The following were present:

Carmen J. Memoli, Chairman

Tariq M. Siddiqui, Vice-Chairman

Deborah L. Clement, Commissioner

Charles S. Valvano, Commissioner

Ben A. Montenegro, Commissioner

Joseph G. Bilotta, Alt. Commissioner

Dr. Alfonso J. Manforti, Alt. Commissioner

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

James Gluck, Esquire, Counsel

Rosemary Rosetto, Chief Financial Officer

Nicholas Otten, Authority Engineer

Bernard Rutkowski, Regulatory Compliance/Safety Officer

Cindy Toye, Administrative Bookkeeping Specialist

Georgia Benyola, Executive Secretary/Assistant Secretary

Mrs. Rosetto, Mrs. Toye, Mr. Otten and Mr. Rutkowski were excused from the meeting.

Last month Mr. Gluck advised the Board that we got sued by a Nick D'Alessandro who had filed an OPRA request and asked for the Toms River MUA Counsel's legal bills which were redacted and provided to him. He apparently does this throughout the state looking to catch by the OPRA Act to collect money through his solicitor.

[REDACTED]

¹ The Order to show cause that was filed before Judge Ford is scheduled to be heard August 2nd.

² The litigation was filed not only against the TRMUA but also individually against Mr. DiBiase being the custodian of records. Counsel doesn't know if they have a defense, it's a technicality and rather than spend any more money trying to defend it, Mr. Gluck recommended it be settled.

[REDACTED]

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These are summarized Minutes composed by the Executive Director:

¹ Redaction was made only to delete the discussions subject to attorney-client privilege regarding advice related to litigation entitled D'Alessandro v. Toms River Municipal Utilities Authority, et al., Docket No. OCN-L-1228-19.

² See Footnote 1.

³ See Footnote 1.

Discussion ensued as to when outside employment becomes a conflict. We have an employee who was grandfathered from the previous Ex Dir's decision to allow QPA services to be performed for Beachwood outside of any existing Services Agreement with the TRMUA. Currently, Ocean Gate has named said employee to do the same for their town. The TRMUA code book may have language prohibiting this type of outside employment. The discussion took into consideration, doing work for entities on our time or out-of-hours, revising the code book, allowing this as exception and the process, if allowed, determining pay structure. The Ex Dir offered different services outside of our current Services Agreements with towns to generate more revenue under the control of the TRMUA. This QPA service is part of that proposal. Commissioners and Counsel tabled the discussion and placed the responsibility of seeking a solution with the Personnel Committee. The Personnel Committee Chair will make a recommendation at the next meeting. Mr. Gluck wants to get some direction so that he can put this to rest and try to get a policy in place.

With no further business to discuss, a motion was made by Mr. Valvano and seconded by Mrs. Clement to close the Executive Session and re-open Public Session at 6:10 p.m. A motion was carried by a unanimous voice vote.