

TOMS RIVER MUNICIPAL UTILITIES AUTHORITY

Meeting Number Twelve Hundred Sixteen

Agenda

March 26, 2019

The regular meeting of the Toms River Municipal Utilities Authority was held on Tuesday, March 26, 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

Joseph G. Bilotta, Commissioner

Deborah L. Clement, Commissioner

Charles S. Valvano, Commissioner

Ben A. Montenegro – 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 #1216 was called to order at 4:30 p.m., March 26, 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 #1215 - February 26, 2019 - New Submission

A motion was made by Mrs. Clement and seconded by Mr. Siddiqui to approve the minutes of Meeting #1215, February 26, 2019 as written. A roll call vote was taken with Mrs. Clement, Mr. Siddiqui, Mr. Valvano, Mr. Bilotta and Mr. Memoli all casting affirmative votes.

A motion was made by Mr. Bilotta and seconded by Mr. Valvano to approve the minutes of the Executive Meeting #1215, February 26, 2019 as written. A roll call vote was taken with Mr. Bilotta, Mr. Valvano, Mr. Siddiqui, Mrs. Clement and Mr. Memoli all casting affirmative votes.

Disbursements

A motion was made by Mrs. Clement and seconded by Mr. Bilotta to approve payment of the disbursements as listed in the amount of \$950,925.69. A roll call vote was taken with Mrs. Clement, Mr. Bilotta, Mr. Siddiqui, Mr. Valvano and Mr. Memoli, who had an exception of Dynamic Testing Service, all casting affirmative votes.

Additional Disbursements

There were no additional disbursements listed.

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. Siddiqui, Mr. Bilotta 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 was advised by the CFO that the auditors completed their audit and returned to their offices to start working on finalizing the 2018 final audit for Mr. Holman to present to the Authority. Mr. Valvano noted that last year our audit was clean and hopefully, we will have the same this year. Mr. Valvano also noted that the NJIB loan should be closing sometime in May. The third item Mr. Valvano discussed was called GASB 75 Governmental Account Standard. This regulation tells the Authority that they have to account on our balance sheet, future retiree health benefits. This is in addition to several years ago when we had to show future pension liabilities. The actuaries at Connor Strong are currently working on this and will get back to us.

Mr. Valvano mentioned that he hasn't given an interest rate report for a long time but today he will because both he and Mr. Bilotta found it very interesting. Mr. Valvano proceeded to say that the German 10 year government bond went negative, which basically means that instead of getting paid as a saver, you have to pay them in order to keep your money safe and when you borrow, they pay you. On the same day in the US the interest rates curve inverted which means that short term rates are higher than long term rates. This is a forecaster of a potential United States recession and there is about a 70% reliability on this. This is not good news and with both of these

items, the German interest rates and the United States inverted yield curve, not only are the rates going down, there are going down in a fashion that could portray economic trouble in the future.

With all that said Mr. Valvano made a motion, seconded by Mr. Bilotta, to reinvest the available funds of \$21,884.98 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. Valvano and seconded by Mr. Bilotta that the operating reports 7A-7G were accepted as presented. A roll call vote was taken with Mr. Valvano, Mr. Bilotta, Mrs. Clement, Mr. Siddiqui and Mr. Memoli all casting affirmative votes.

Development Applications-Major Sub Divisions

There were no applications submitted for approval.

Authority Meeting

The next Authority meeting was confirmed for Tuesday, April 23, 2019 at 4:30 p.m. Mr. Avalone is also scheduled for Tuesday, April 23, 2019 at 4:00 p.m. to conduct the training.

Adoption of Resolutions/Capital Purchases

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

9A-2B - A motion was made by Mrs. Clement and seconded by Mr. Bilotta authorizing a contract to DeMaio, Inc, 543 Columbia Rd, Egg Harbor City, NJ 08215, to perform time sensitive repairs insuring the fueling system remains in compliance at a cost not to exceed \$10,846.18. A roll call vote was taken with Mrs. Clement, Mr. Bilotta, Mr. Siddiqui, Mr. Valvano and Mr. Memoli all casting affirmative moves.

A motion was made by Mr. Bilotta and seconded by Mr. Valvano approving the following resolutions, 9A-3 through 9A-8:

9A-3 - Authorization was given to approve Change Order No. 1 Final and that the contract issued to Johnson Baran Corp., be decreased by \$260,007.80 and the contract be commensurately decreased from \$363,490.35 to \$103,482.55; and

9A-4- Authorization was given to approve Change Order No. 2 Final and that the contract issued to Eastern Data Comm. be decreased by (\$4,120.43) and the contract be commensurately decreased from \$367,608.63 to \$363,488.20; and

9A-5 - Authorization was given to ratify award of emergency contract to Montana Construction for repairs to pipes on Gary Road, in the amount of \$55,604.18; and

9A-6- Authorization was given to the Safety/Compliance Officer to advertise the sale of surplus personal property no longer needed for public use identified as Toms River MUA 2019 Auction Items; and

9A-7- Authorization was given to award the 2019 On-Call Roadway Pavement Restoration Project, in accordance with plans and specifications prepared by the TRMUA, to Johnson-Baran Corp., P.O. Box 842, Forked River, NJ 08731, with the maximum dollar value not to exceed \$405,350.25 and funds be certified prior to scheduling of any work; and

9A-8 Authorization was given to the Qualified Purchasing Agent to advertise for the receiving of bids for purchase and delivery of aggregates.

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

Unfinished Business

Mr. DiBiase noted that we are still monitoring the Comcast situation.

Committee Reports

Legal

1. As noted in the packet, Mr. Gluck mentioned that Mr. Leone worked on some contract language for the State entity and that the payment of their sewer fees to include that we would have an increase and if we do have an increase, pass it along to the user.

2. Counsel handled the review for the On-Call Roadway Pavement contract which was voted upon and approved this evening.

3. Counsel stated that they are continuing to go through the discovery on the Lavallette case and they've gotten some very favorable information last week and early this week. Counsel now has been able to establish that there was another contractor who was working in that area. Mr. Gluck will be requesting their voluntary dismissal of us from the case. If not, he will refile our motion for summary judgement.

4. Counsel noted they are still trying to clean up the couple of Shared Services that have not been completed as yet and they are still waiting for some input from the Township agencies. Rich MacDonald has also been coordinating getting the signatures for the other agreements that were out there.

5. Mr. Gluck said that we have not been sued in the last month.

6. Counsel did have contact by Earle's attorney. They have hired a firm and want all our claims presented to them and all of our proofs. Counsel is making some progress and hopefully they will be able to clear up some of those suits.

Engineering

Mr. Siddiqui noted that the Engineering Committee met yesterday, March 25, 2019, with Mrs. Clement, Ex. Director DiBiase, Mr. Otten and himself being present.

Mr. Siddiqui mentioned that there was one significant item that he wanted Mr. Otten to discuss and that was the OCUA meter flows. Mr. Otten stated that he and Mr. DiBiase met with the OCUA Executive Director to discuss the 2018 payment deficiency of \$305,423. TRMUA's wastewater flow for the year had been reported as 2,902 MG as metered by OCUA, which was 3% higher than Mr. Otten had estimated. The November and December 2018 metered flows were especially elevated, 17% higher than predicted. For the 3 quarters of 2018, the TRMUA had been on track. At the meeting OCUA acknowledged that after reviewing data further, they had found an error in metering data and on March 18, 2019, OCUA issued a revised deficiency notification. The revision indicated a corrected metered flow of 2,897 MG, equating to a deficiency of \$284,942, \$20k less than original. Mr. Otten stated that 2018 was the first year we had a deficiency.

Mr. Siddiqui reiterated that the flows have been dropping for years. Apparently, the crews have been doing a very good job with projects and fixing leaks which benefits the Authority. Mr. Siddiqui also mentioned that one of the biggest factors of increasing the flows is the rain and we have had quite a bit of heavy rain in the past few months.

Mr. DiBiase brought up the deficiency amount totaling approximately \$285,000 that has to be paid to OCUA. The CFO and Mr. DiBiase were talking with the OCUA Director and they are willing to work with us. The Director and CFO will discuss it further and notify the OCUA Director to work it out.

Land Use

None

Personnel

Mr. Bilotta said that we are on target for the new hire starting sometime in the beginning of May. TRMUA will be cross-training from rehab to construction to pump station. They want all three teams to share responsibilities, especially since we will be going on summer hours where there will be less workers on Mondays and Fridays.

General Business

Mr. DiBiase stated that our staff has been researching ordinances and came up with ordinances from around the state and county that are good examples of what we can use regarding ratepayer adhering to certain standards and if they don't, they can be penalized monetarily. The Township is on board and counsel will create an ordinance before the next meeting.

Dr. Manforti inquired about IT and what happens when the IT Director is out of the office. Mr. DiBiase stated that he is uncomfortable when the IT Director is out because there is no one in the office that can cover those duties if there is a problem. Mr. DiBiase stated that he would discuss a service contract solution with the vendors. Mrs. Clement mentioned that shared services was discussed previously but it didn't work out. Mr. Gluck stated to be aware of security issues with sharing information with vendors.

Public Comments

Chairman Memoli opened the meeting to comments from the Public. Mrs. Rosetto had the same question regarding the dangerous intersection. Mr. Gluck already had an update for Mrs. Rosetto. Mr. Gluck met with the County Engineer, John Ernst. He said that they are in the process of completing a report, they have already done the study, and he expects that they can be produced within the next couple of months. Counsel is on the list for one of the first copies that are available. The County is very aware of it. Mrs. Rosetto asked Counsel if he found out if the cut-off was a parking lot or a street. Counsel stated it was a street. With seeing no other public comments, Chairman Memoli closed the public portion of the meeting.

Correspondence

Mr. DiBiase asked to go into executive session for discussion.

Resolution to Enter Executive Session

A motion was made by Mr. Bilotta and seconded by Mr. Siddiqui to adopt the resolution to enter Executive Session at 5:01 p.m. to discuss personnel matters, litigation and contractual matters. The motion was carried by unanimous voice vote.

Public Session Reconvened at 5:19 p.m.

A motion was made by Mr. Bilotta and seconded by Mr. Valvano to approve the minutes of the Executive Meeting #1202, February 27, 2018 as written. A roll call vote was taken with Mr. Bilotta, Mr. Valvano, Mr. Siddiqui and Mr. Memoli all casting affirmative votes. Mrs. Clement abstained.

A motion was also made by Mr. Bilotta and seconded by Mr. Valvano to approve the minutes of the Executive Meeting #1203, March 27, 2018 as written. A roll call vote was taken with Mr. Bilotta, Mr. Valvano, Mr. Siddiqui, Mrs. Clement and Mr. Memoli all casting affirmative votes.

General Discussion

There was a law that was approved recently for towns to create their own storm water authority and everyone is trying to find out how it's going to happen. If anyone is involved in those conversations, Mr. DiBiase mentioned that our staff is able to handle that. We do not need another Authority and if necessary, to fold it in. Chairman Memoli mentioned we should also revisit the Regionalization Committee at a later date.

With no further business to come before the Board, a motion was made by Mr. Bilotta and seconded by Mrs. Clement to adjourn the meeting at 5:26 p.m. The motion was carried by a unanimous voice vote.

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Meeting Number Twelve Hundred Sixteen

Executive Session

Executive Session convened at 5:01 p.m.

March 26, 2019

The following were present:

Carmen J. Memoli, Chairman

Tariq M. Siddiqui, Vice-Chairman

Joseph G. Bilotta, Commissioner

Deborah L. Clement, Commissioner

Charles S. Valvano, Commissioner

Ben A. Montenegro, Alt. Commissioner

Dr. Alfonso J. Manforti, Alt. Commissioner

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

James Gluck, Esquire, Counsel

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Nicholas Otten, Authority Engineer

Bernard Rutkowski, Regulatory Compliance/Safety Officer

Cindy Toye, Administrative Bookkeeping Specialist

Georgia Benyola, Executive Secretary/Assistant Secretary

A resident of Toms River sent a letter to Mr. DiBiase regarding her husband who is a 100% permanent disabled veteran who was deemed so by the VA in 1991. They purchased their home in 1998 and they applied and received the full property tax exemption from the TR Tax Assessors office.

Our policy is that we don't open up past years-only current (our veteran/spouse will not want to hear that).

Meetings taken place across the County from veteran groups who are educating the veterans who are 100% disabled. Whether they get the benefit or not get the benefit, they will come to us and we'll be in the same position as now. We can firm it up or we can address it on our website that we are giving this benefit to the veterans.

Could be a budget issue to pay back past years in a current year. TR Township also does not go back years. Townships that have both water/sewer will give the veteran the benefit because it's part of the township.

Statute for Disabled Veterans Act in State of New Jersey states 100% for "homeowners" tax – does not mention any utilities.

Suggestion was made to ask Counsel to research as to whether statutorily it is even required going forward. Also Rules & Regulations.

Board of Commissioners agreed that Counsel research further before Director responds to our ratepayer.

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

Mr. DiBiase stated that there were minutes that inadvertently did not get approved by the Board, thus not getting on our website either. We are asking to have them approved so that we have successive months of minutes on our website. It was brought to our attention when we were sent an Opra request requesting legal bills and executive session minutes. Counsel has been working on redacting the bills and we realized that the February and March 2018 were never approved by the Board. Counsel said that if everyone reviewed the minutes, he recommends they make a motion and adopt them when we reconvene. Mrs. Clement asked if she could make a statement.

Mrs. Clement stated that every part of those accusations were not correct and she has evidence to back it up and that's all she wanted to say. She is totally offended that this even occurred. She also added to make sure everyone understood, that the Community has an account with us, they pay every quarter for that guard booth. They did not have the clean out on their GIS system and she told them to look into it after this occurred. Mark Shinn showed Mrs. Clement that on his iPad, it was not there, however, they did find it ultimately.

Mr. Siddiqui mentioned that the minutes reflected what they talked about and Mr. Gluck agreed.

With no further business to discuss, a motion was made by Mr. Bilotta and seconded by Mr. Valvano to close the Executive Session and re-open Public Session at 5:19 p.m. A roll call vote was taken with Mr. Bilotta, Mr. Valvano, Mr. Siddiqui, Mrs. Clement and Mr. Memoli all casting affirmative votes.