

**TOMS RIVER MUNICIPAL UTILITIES AUTHORITY**  
**Meeting Number Eleven Hundred Sixty-nine**

Agenda

May 26, 2015

The regular meeting of the Toms River Municipal Utilities Authority was held on Tuesday, May 26, 2015 at 4:30 P.M. at the office of the Authority, 340 West Water Street, Toms River, New Jersey 08753.

**The following were present:**

Juan Carlos Bellu, Chairman  
Joseph Bilotta, Vice-Chairman  
Carmen Memoli, Commissioner  
Virginia Haines, Commissioner  
Deborah Clement, Commissioner  
Charles Valvano, Alt. Commissioner  
Tariq Siddiqui, Alt. Commissioner  
Stephen Acropolis, Executive Director/Sec'y.-Treas.  
James Gluck, Esq., Counsel  
James Lafferty, Director of Operations  
Rosemary Rosetto, Controller  
Nicholas Otten, Authority Engineer  
Bernard Rutkowski, Regulatory Compliance/Safety Officer  
Kelly Bellu, Administrative Bookkeeping Specialist  
Georgia Benyola, Executive Secretary/Assistant Sec'y.

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The regular Meeting #1169 was called to order at 4:30 p.m., May 26, 2015 by Chairman Bellu.

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 called the roll. Mr. Siddiqui, Mr. Valvano, Mrs. Clement, Miss Haines, Mr. Memoli, Mr. Bilotta and Mr. Bellu were present.

**Minutes of Meetings for Approval**

A. *Meeting #1168*                      *April 28, 2015*                      *New Submission*

A motion was made by Miss Haines and seconded by Mrs. Clement to approve the minutes of Meeting #1168 April 28, 2015 as written. A roll call vote was taken with Miss Haines, Mrs. Clement, Mr. Memoli, Mr. Bilotta and Mr. Bellu 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 \$2,937,706.77. A roll call vote was taken with Mrs. Clement, Mr. Bilotta, Miss Haines, Mr. Memoli and Mr. Bellu, with the exception of Kelly Bellu, all casting affirmative votes.

There were no additional disbursements listed.

### **Trust Fund for Contracts**

A motion was made by Mrs. Clement and seconded by Mr. Bilotta to approve the release from the Trust Fund for Contracts as listed in the amount of \$8,275.35. A roll call vote was taken with Mrs. Clement, Mr. Bilotta, Mr. Memoli, Miss Haines and Mr. Bellu all casting affirmative votes.

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

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

### **Financial Reports**

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

### **Finance & Investments:**

Mr. Valvano reported that this past Friday the Fed Chair, Ms. Yellen, mentioned that she plans on asking for a rate increase, but not to expect it soon but later this year. Mr. Valvano also mentioned that at our last meeting, the interest rate for the ten year Treasury bond was at 1.92%. It went up to 2.34% about one and a half weeks ago and now sits at 2.14%. Since our CMO balance has increased, Mr. Valvano feels we should inquire into investing in another CMO. Mr. Valvano did have a discussion with UBS; however, they have nothing at this time that meets are parameters.

Mr. Valvano asked that a motion be made to reinvest the available funds in the Ocean First Account. A motion was made by Mr. Bilotta and seconded by Mrs. Clement to reinvest the available funds of \$97,039.93 in the Ocean First Trust Custodial Account. A roll call vote was taken with Mr. Bilotta, Mrs. Clement, Miss Haines, Mr. Memoli and Mr. Bellu all casting affirmative votes.

### **Operating Reports**

A motion was made by Miss Haines and seconded by Mr. Memoli that the operating reports be accepted as presented. A roll call vote was taken with Miss Haines, Mr. Memoli, Mrs. Clement, Mr. Bilotta and Mr. Bellu all casting affirmative votes.

### **Development Applications/Major Sub Divisions**

No applications were submitted for approval.

**The next Authority meeting was confirmed for Tuesday, June 23, 2015 at 4:30 p.m.**

**Adoption of Resolutions Authorizing Capital Purchases**

A motion was made by Mrs. Clement and seconded by Mr. Bilotta approving the following resolutions, 9A-2A through 9A-8, with the exception of 9A-7:

2. Ratification of IPC capital purchases; and
3. Authorization was given to award Bid Contract No. SC -01-15a to National Water Main Cleaning Co., for the Sonar Inspection of 42" & 48" Sanitary Sewer, in accordance with specifications prepared by the consulting engineer, Alaimo Group, for the project, in the amount of \$61,750.00; and
4. Authorization was given for the purchase and delivery of solar panels, equipment and components available through the US Communities Cooperative in the amount of \$336,683.00. The US Communities has awarded a contract to The Home Depot under contract 11019-RFP for photovoltaic equipment and supplies; and
5. Authorization was given to the QPA to utilize and enter into contract with State Contract vendors for the acquisition of goods and/or services not to exceed \$17,500.00; and
6. Authorization was given to enter into an Interlocal Services Agreement between the Toms River Municipal Utilities Authority and the Toms River Parking Authority and authorizing the Executive Director to execute and Assistant Secretary to attest to the agreement, which shall be attached hereto and made a part hereof; and
7. Exception for 9A-7. See below.
8. Authorization was given to amend 2015 Authority Budget previously introduced and approved on November 25, 2014 and file with the Director of the Division of Local Government Services for approval.

A roll call vote was taken with Mrs. Clement, Mr. Bilotta, Miss Haines, Mr. Memoli and Mr. Bellu all casting affirmative votes, with the exception of 9A-7.

**Resolution 9A-7 Force Main Rehab FM26 & FM28**

A motion was made by Miss Haines and seconded by Mr. Bilotta approving Bid Contract No. SR-02-12a be awarded to JC Contracting, Inc., for Force Main Rehabilitation (FM26 and FM28) in accordance with specifications prepared by the consulting engineer, Owen Little & Associates, Inc., for the project, in the amount of \$46,700.00.

Mr. Gluck noted that the above project was bid by the Authority and three bids were received from JC Contracting Inc., KMetz, Inc. and Eagle Paving. It was brought to his attention that there was a potential challenge bidder by the second lowest bidder last Thursday or Friday. Mr. Gluck did not have the opportunity to review the bids until yesterday. Mr. Gluck did mention that he had reviewed the bids, spoken with Doug Klee, Owen, Little, consulting engineers, looked at the contractor's references, looked at the projects he has completed, looked at all the forms and they all appear to be in conformance with the bid specs. Doug Klee informed Mr. Gluck that he had interviewed the bidder and takes no issue with anything. According to Mr. Klee, the low bidder understands the pricing, he understands what the second low bid was compared to his and he is prepared to do the project. Mr. Gluck mentioned that the principal of JC Contracting resides in Toms River, has been in business fourteen years and has completed many projects here in Ocean County. Mr. Gluck also mentioned that the consulting engineer advised him that

there will be an inspector at the site at all times while the work is being done. Mr. Gluck also stated that the consulting engineer should send a proposal over for him to review. Mr. Bellu agreed and would like Mr. Gluck to confirm how the consulting engineer will be monitoring and accessing this project. Since the Board felt confident that an appropriate due diligence was made by the Authority, a roll call vote was taken with Miss Haines, Mr. Bilotta, Mrs. Clement, Mr. Memoli and Mr. Bellu all casting affirmative votes.

### **Unfinished Business**

None

### **Committee Reports**

*Engineering* – Mr. Siddiqui mentioned that he had met with Mr. Otten on Friday and mostly discussed the routine items and updates as were noted in his report. Mr. Siddiqui also mentioned that awarding the bid contract to National Water Main Cleaning Co. for the sonar inspection of the 42” & 48” sanitary sewer, will solve many problems for the Authority with not having to deal with the disposal of the debris for that project.

*Legal* – Mr. Gluck had a few items he wanted to discuss that did not need a closed session. Mr. Gluck said there were two bids opened by the Authority this past month and neither one of them went to his office for review before they got to the resolution point. He understands that the QPA has been reviewing them for compliance with contract laws but Mr. Gluck still feels somewhat concerned. Mr. Acropolis mentioned he and Mr. Gluck had spoken about this previously and told Mr. Gluck that he would send the bids over to his office. In addition, Mr. Acropolis did mention that he and Mr. Gluck needed to address the turnaround time since we had some problems in the past. The Chairman said we should have some kind of threshold but he does feel that all professional contracts should be reviewed by Counsel. In addition, he stated that if time sensitive materials are sent to Counsel, make sure it states the date it’s needed by the Authority. Mr. Gluck did say that usually the construction contracts are sent to him for review.

Mr. Gluck mentioned that there were a couple of e-mails going back and forth as a result of an inquiry to the Authority regarding the transfer of pump stations and release of escrow monies back to Kara Homes. Mr. Gluck stated that he has been working on this for seven years, since the last bankruptcy order in 2008. According to Mr. Gluck, during this time Kara Homes’ attorneys have changed ten times, others have refused to get involved, it has gone to bankruptcy and bankruptcy said they’re not dealing with it, Counsel has sent over deeds and also has done revisions to the deeds. Mr. Gluck said he’s finally at a point where he has a motion drafted to intervene the bankruptcy action and get the judge to sign off on the transfer and appoint someone to sign the deeds for these properties. There is an issue with both of them. The Township sold tax sale certificates for delinquent taxes because they were not transferred in a timely fashion. Mr. Gluck has requested to find out what the payoffs are on these tax sale certificates.

The good news is that we have \$300,000+ across the board that we are holding in Bonds. We are going to have to make that application in bankruptcy to allow those monies to be paid to the tax lien holders or, in the alternative, to extinguish the tax lien based upon the bankruptcy and what should have happened. Mr. Bellu asked if all the billings from Counsel to the Authority for all these years he's been working on this issue could go through the escrow. Mr. Gluck agreed that it could. Mr. Acropolis mentioned that the Authority has also been maintaining and repairing the pump stations all these years and have been keeping records. Mr. Gluck noted that maintenance/repairs were approved back in 2008 but did add that whatever calculations the Authority needs from its engineers/operations areas regarding what monies in-house have been expended should start accumulating the information now so it can be readily available for him to review.

Mr. Gluck received an inquiry from the principal of Garden State Mechanical as a result of the judgment that we have against them. He now wants to negotiate. Conversations are ongoing at this time.

Mr. Gluck reported that he received the computation from EREZ Health Care as to how much they think they are owed back as a credit against what was paid at tax lien sale. Mr. Gluck and Mrs. Rosetto will meet to go over the spreadsheet sometime next week.

Mr. Gluck sent collection letters to the two contractors for damages done on Authority property. There has been no contact from either one of them as yet. If after the thirty day deadline there's still no communication from them, Counsel will file suit on them as well.

Mr. Gluck reported that awhile ago he was asked into locating and securing an easement on Killarney Drive where we need an easement because our line is on private property. Mr. Acropolis mentioned that this went back to 2013 where the Authority went out to look at the property. The homeowners had planted some trees on the site by then. After returning from the inspection, the Authority contacted Counsel and spoke with Brandon asking him to look into this for the Authority. The Authority went back and inspected it again and now a fence had been installed on the property restricting the easement and not letting us get into the area. Mr. Acropolis believes that when the development was done, they had agreed to an easement but it was never filed and was never followed up on in the past. Now we are looking to file it but the homeowners we don't believe will grant it. They would have signed when the development was built because they wanted the house but it was not done at that time so the MUA will have to go through condemnation proceedings. Mr. Gluck reported that certified letters were sent, title searches were ordered and they followed up with additional letters but there has been no movement. Mr. Bellu asked if the fence was directly on the pipe but Mr. Acropolis commented that we cannot get back there at all. They have erected this stockade fence with big signs stating "No Trespassing, Private Property", so they know we need to get back there but they don't want us to get back there. We'll need to go through condemnation. Mr. Gluck commented that he is going to look to see if there is one alternative to that, if it's a condition of their planning board approval and if they still have a

bond out there. He also mentioned that it should be zero dollars associated for the condemnation by the appraiser, as they are required to provide it to us but haven't. There should be no cost for the appraiser. Mr. Bellu stated that we need to protect our investment.

### **General Business**

Mr. Acropolis asked the Chairman if he would like to discuss the new Pilot Cut and Cap service that the Authority would like to offer its ratepayers. Research to date is as follows:

- Cost to the Authority is around \$800 based on labor/equipment/materials, as experience during the Sandy storm.
- Each C&C will be different depending on the depth, 3ft., 8ft., 10ft., etc. Prices will vary.
- The Authority will require Counsel to come up with some language for a document that the homeowner may have to sign, if required.
- Line Maintenance Crew can handle between 5 to 10 C&Cs a day.

Mr. Acropolis commented that these were some of the issues that were discussed in house and at this point he would like to bring it to the Board to get their direction. Discussions continued and the Board agreed that it was worth taking another look at the pilot program by allowing the Director to come up with a plan for ratification at the next meeting. Mr. Bellu did mention that we do need to find additional revenue streams for the betterment of the Authority and its ratepayers. A motion was made by Mrs. Clement and seconded by Mr. Bilotta to allow the Authority to go ahead and commence a pilot Cut and Cap program subject to having an access agreement and a hold harmless agreement, if necessary, and an established fee schedule. A roll call vote was taken with Mrs. Clement, Mr. Bilotta, Miss Haines, Mr. Memoli and Mr. Bellu all casting affirmative votes.

### **Public Comment**

Chairman Bellu opened the meeting to comments from the public. With no public comments, Chairman Bellu closed the public portion of the meeting.

### **Correspondence**

The Toms River Municipal Utilities Authority received the "Citation of Merit Award" for this year's 87<sup>th</sup> Governor's Occupational Safety and Health Awards Program.

### **Executive Session**

No executive session was held.

With no further business before the Board, a motion was made by Mrs. Clement and seconded by Mr. Bilotta. A unanimous voice vote was made to adjourn the meeting at 5:21.