

TOMS RIVER MUNICIPAL UTILITIES AUTHORITY

Meeting Number Twelve Hundred Seven

Agenda

July 24, 2018

The regular meeting of the Toms River Municipal Utilities Authority was held on Tuesday, July 24, 2018 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

Deborah L. Clement, Vice-Chairperson

Joseph G. Bilotta, Commissioner

Charles S. Valvano, Commissioner

Tariq M. Siddiqui, Commissioner

Ben A. Montenegro – Alt. Commissioner

Alfonso J. Manforti – Alt. Commissioner

Stephen C. Acropolis, Executive Director/Sec’y.-Treas.

Daniel G. Leone, 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 #1207 was called to order at 4:30 p.m., July 24, 2018 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. Manforti, Mr. Montenegro, Mr. Siddiqui, Mr. Valvano, Mr. Bilotta, Mrs. Clement and Mr. Memoli were present.

Minutes of Meetings for Approval

A. Meeting #1206 - June 26, 2018 - New Submission

A motion was made by Mr. Siddiqui and seconded by Mr. Bilotta to approve the minutes of Meeting #1206, June 26, 2018 as written. A roll call vote was taken with Mr. Siddiqui, Mr. Bilotta, Mr. Valvano, Mrs. Clement 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 #1207, June 26, 2018 as written. A roll call vote was taken with Mr. Bilotta, Mr. Valvano, Mrs. Clement, Mr. Siddiqui 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 \$847,602.58. A roll call vote was taken with Mrs. Clement, Mr. Bilotta, Mr. Valvano, Mr. Siddiqui and Mr. Memoli, with the exception of Dynamic Testing Service, all casting affirmative votes.

Additional Disbursements

A motion was made by Mr. Valvano and seconded by Mr. Bilotta to approve payment of the disbursements as listed in the amount of \$4,875.78. A roll call vote was taken with Mr. Valvano, Mr. Bilotta, Mrs. Clement, Mr. Siddiqui 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. Bilotta, Mr. Siddiqui and Mr. Memoli all casting affirmative votes.

Financial Reports

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

Finance & Investments: 6G

Last month, Mr. Valvano reported that we had a CD coming due for \$500,000 at the Lakeland Bank. After the Finance Committee had their meeting with Mrs. Rosetto concerning this, nothing had changed, and they still did not want to roll the CD over, as we are using the funds for rate stabilization. Mr. Valvano called our Assistant Finance Officer, Mr. Lee, who proceeded to tell Mr. Valvano that our Investors Bank was offering a 1.25% on our checking account. Mr. Valvano spoke with Mrs. Rosetto and also spoke with the Chairman who advised Mr. Valvano to contact Lakeland Bank to see what they could do for us. Lakeland Bank not only matched the rate but also increased our money market account from .8% to 1.25%. Mr. Valvano was pleased to say that it worked out measurably well. Mr. Valvano noted what the Chairman said was right, it never hurts to ask. The Ten year Treasury Bond is at 2.96% but it is still being pedaled down with the tariff and trade war that Mr. Valvano had mentioned last month.

Mr. Valvano made a motion, seconded by Mrs. Clement, to reinvest the available funds of \$40,468.13 in the Ocean First Trust Custodial Account. A roll call vote was taken with Mr. Valvano, Mrs. Clement, Mr. Siddiqui, Mr. Bilotta and Mr. Memoli all casting affirmative votes.

Operating Reports

A motion was made by Mrs. Clement and seconded by Mr. Siddiqui that the operating reports 7A-7G were accepted as presented. A roll call vote was taken with Mrs. Clement, Mr. Siddiqui, Mr. Bilotta, Mr. Valvano 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, August 28, 2018 at 4:30 p.m.

Adoption of Resolutions Authorizing Capital Purchases

9A-2A Resolution - IPC Purchases

A motion was made by Mrs. Clement and seconded by Mr. Bilotta to authorize the ratification of the IPC Purchases. A roll call vote was taken with Mrs. Clement, Mr. Bilotta, Mr. Valvano, Mr. Siddiqui and Mr. Memoli all casting affirmative votes.

9A-3 Resolution – Execution of Schedule C

A motion was made by Mr. Bilotta and seconded by Mr. Siddiqui to authorize the Executive Director to execute, and the Assistant Secretary to attest to, a Schedule C Agreement (“Agreement”) with the County of Ocean in accordance with the provisions of the law to include \$1,000 for Truck Wash Services. The Agreement is for a period of one year, commencing on the date of award. A roll call vote was taken with Mr. Bilotta, Mr. Siddiqui, Mrs. Clement, Mr. Valvano and Mr. Memoli all casting affirmative votes.

9A-4 Resolution – Approval of Appropriation Budget Transfer

Authorization was given to the Finance Department by the Board approving that the appropriation transfer, in the amount of \$7,500.00, be made to the approved budget of 2018.

9A-5 Resolution – Shared Services –Manchester Township

A motion was made by Mrs. Clement and seconded by Mr. Siddiqui authorizing the Executive Director to execute, and the Assistant Secretary to attest to, a Shared Services Agreement between the Toms River Municipal Utilities Authority and the Township of Manchester. A roll call vote was taken with Mrs. Clement, Mr. Siddiqui, Mr. Valvano, Mr. Bilotta and Mr. Memoli all casting affirmative votes.

9A-6 Resolution – Ratify to Rescind Resolution

A motion was made by Mr. Bilotta and seconded by Mrs. Clement to ratify actions of the Toms River Municipal Utilities Authority Board of Commissioners taken on the record at the meeting dated June 26, 2018, related to rescinding Resolution No. 12-17-13. A roll call vote was taken with Mr. Bilotta, Mrs. Clement, Mr. Siddiqui, Mr. Valvano and Mr. Memoli all casting affirmative votes.

9A-7 Resolution – Change Order 2 for West Bay View Drive

A motion was made by Mr. Bilotta and seconded by Mrs. Clement authorizing deducting disputed items, asphalt price adjustments from the Change Order, and issuing payment to DeFino Contracting Company in the amount of \$46,891.67. The contract will be commensurately increased from \$627,804.00 to \$674,695.67. Change Order No. 2 exceeds twenty percent (20%) change order threshold of the original contract price and, therefore, notice shall be provided to the Director of the Division Local Government Services. A roll call vote was taken with Mr. Bilotta, Mrs. Clement, Mr. Siddiqui, Mr. Valvano and Mr. Memoli all casting affirmative votes.

Unfinished Business

None

Committee Reports

Legal

1. Mr. Leone stated that the Manchester Shared Services Agreement was approved earlier with the other resolutions. The purpose of the Agreement was to update an old agreement from 1991, which Rich MacDonald brought up, between the then Dover MUA and the now-defunct Manchester MUA.

2. The resolution rescinding the Resolution No. 12-17-13, which was approved at the last meeting, was also ratified tonight.

3. The West Bay View Drive will be discussed in close session. Counsel noted that he did receive payment from NJ American Water for its portion of the contract price in the amount of \$192,745.50.

4. Counsel mentioned that we have not received the Final Judgment yet on Earle Asphalt.

5. Counsel reported that they have not received any notices of new lawsuits or notices of tort claims.

6. Counsel said he had a brief Case Law Update on Rice Notices pertaining to the Kean Federation of Teachers v. Ada Morell. Rice Notices are required when a personnel matter will be discussed at a public meeting. Before Kean, municipalities dealt with this issue by issuing Rice Notices to any and all employees regardless of the discussion taking place. The following are the takeaways from Kean:

a. A Rice Notice is only necessary for employees who will be adversely affected by an action taken by the governing body.

b. A Rice Notice is not required where the public entity determined, prior to the meeting, that the discussion of personnel matters will be in public.

c. Employees have a right to make a private discussion public, but not a public discussion private.

d. The Court added the following: "We (as per the Supreme Court of New Jersey) add only that once a public entity has committed to a public discussion on a topic tangential to the personnel exception, if a Board member sought during that public session to raise questions or provoke a discussion that implicated a need to adjourn to private session, then the discussion would have to halt." The public entity would then have to issue a Rice Notice and discuss the matters at the next meeting.

Mr. Siddiqui asked Mr. Leone if he could get something in writing regarding the Rice Notices. Counsel will send the Notice to Ms. Benyola and she will send it to the Commissioners as requested.

Engineering

Mr. Siddiqui mentioned that he, Mrs. Clement and Mr. Otten met yesterday. Mr. Otten briefed them on items on his report and Mr. Siddiqui stated that he had nothing more to add to the report.

Land

None

Personnel

Mr. Bilotta mentioned that the ad for the Executive Director was posted on July 2nd on the website and ran for eight days till July 11th due to the holiday. He also mentioned that four resumes were received and interviews were scheduled and will be held on Monday, July 30th. Additional discussion will be held in Executive Session.

Public Comments

Chairman Memoli opened the meeting to comments from the Public. Mrs. Rosetto, being a member of the public who resides in Toms River, mentioned that another accident happened today at the intersection by our building, which seems to have become a weekly disaster. Mrs. Rosetto noted that most of our employees go through the JCP&L cut through road because they fear this intersection. She wanted to bring this to everyone's attention with hopes that maybe something could be done. A discussion was held and it was noted by Mr. Acropolis that we have tried many times over the years but to no avail. A suggestion was made to have the Authority's Counsel write a letter and send it to the State, County and Township so we can be on record that this intersection is very dangerous. The Board agreed. With no further comments, Mr. Memoli closed the public portion of the meeting.

Mr. Acropolis asked the Chairman for the floor as he had a couple of items to discuss. The Director mentioned that the Pole Barn is finally going up in the back where we are going to put our equipment underneath. There were several set backs on that project such as the water table, depth of footings, problems with the equipment, blowing hydraulic lines, different things like that from the contractor's standpoint. There are pieces of steel in the air now and they hope to have a roof on it in about a week or so.

Next, Mr. Acropolis mentioned that we had a CC-4 program where we go around and locate CC-4 boxes and if they were not there, we put them in. Part of that program, we televise. Across the street from a CC-4 box that we put in and televised, we saw that a new house that had been built had a clogged lateral. Upon further investigation, we had done the initial inspection, then they call up and we put them on temporary billing but we never did a final inspection. The people are not in the house yet; however, we discovered that their lateral pipe was now disjointed and he now has a new paved driveway. When we originally went out to look at it, it was done correctly but then he had the house done and you could look in where the lateral is and see that somebody hit it when he was doing his driveway or building his house. The owner is telling the MUA that we have to put in a new paved driveway for him because it's not his problem it's our problem. Mr. Acropolis is alerting the Board to the fact that this may be one of those cases that go to our Attorney. The Director noted that he would be talking to them tomorrow. The Director doesn't believe we should be paying for the driveway. If you take off the top of the CC-4 box, you can actually see that the stack was pushed down, somebody had to have hit it.

Correspondence

None

Resolution to Enter Executive Session

A motion was made by Mr. Bilotta and seconded by Mr. Valvano to adopt the resolution to enter Executive Session at 5:02 p.m. to discuss personnel matters, litigation and potential litigation. The motion was carried by unanimous voice vote.

Public Session Reconvened at 5:29 p.m.

Coming out of Executive Session, a motion was made by Mr. Bilotta and seconded by Mrs. Clement authorizing payment to DeFino Contracting Company for the undisputed amounts as stated in the Resolution presented by Counsel. A roll call vote was taken with Mr. Bilotta, Mrs. Clement, Mr. Siddiqui, Mr. Valvano and Mr. Memoli all casting affirmative votes.

Mr. Acropolis stated that there was a couple of things that came up during their internal meetings in reference to our rate structure. He mentioned a consumption based system was discussed. Right now ours is based on a certain number of fixtures. The Director knows that Brick does it by a consumption based system and minimal charges. Mr. Siddiqui confirmed that it was water based. Mr. Acropolis noted that since we have water data, it may be advantages to look into that. The Director stated that we are an environmental utility, consumption and being a good steward of the environment may mean that using a ton of water for your grass and only have a certain number of fixtures, you're not paying the way you should be paying, we should look into that also. Mrs. Clement and Mr. Manforti commented that they had looked into consumption awhile back, but it did not work. The Director also noted that we are thinking of going to a monthly billing instead of quarterly or annually, further discussion will be held. The Director ended by saying that we will continue to look at the rate structure.

With no further business to come before the Board, a motion was made by Mrs. Clement and seconded by Mr. Bilotta to adjourn the meeting at 5:38 p.m. The motion was carried by a unanimous voice vote.