



Board of Commissioners

Senator Robert Singer, Chairman

Raymond Coles, Commissioner

Anne Fish, Treasurer

Samuel Flancbaum, Assistant Secretary

Michael Sernotti, Commissioner

Craig Theibault, Alt. Commissioner

P. G. Waxman, Vice Chairman

THE LAKEWOOD TOWNSHIP MUNICIPAL UTILITIES AUTHORITY

Regular Meeting Minutes

March 4, 2014

- I. Senator Singer opened the meeting at 10:02 A.M. in the Conference Room of the Lakewood Township Municipal Utilities Authority, 390 New Hampshire Avenue, Lakewood, New Jersey.
- II. It was announced that in accordance with Chapter 231, Public Law, adequate notice of this meeting was given and that a notice of this scheduled meeting was filed with the Township Clerk and posted in the Municipal Building in a place accessible to the public and by means of public notices in the Asbury Park Press on February 7, 2014 and The Tri Town News on February 12, 2014.
- III. **Salute to the Flag**
- IV. **Roll Call of Commissioners**
On the roll call the following Commissioners were present: Mr. Theibault, Mr. S. Flancbaum, Mr. Sernotti, Mr. Waxman and Senator Singer. Mr. Theibault and Mr. S. Flancbaum were seated as alternates. The following professionals and key personnel were present: Mr. Norman Smith, Esq., Mr. Gerwin Bauer, Auditor, Mr. Justin Flancbaum, Executive Director, Mr. Paul Morrill, P. E., Mrs. Nancy Lapa, Secretary and Mr. Robert Farina, Instrumentation Department Supervisor.
- V. **Minutes**
A motion to approve the minutes of the Reorganization Meeting held on February 4, 2014, was made by Mr. Waxman and seconded by Mr. Sernotti. On a **voice vote**, all members present voted "**Aye**". **Motion carried.** A motion to approve the minutes of the Regular Meeting held on February 4, 2014, was made by Mr. Waxman and seconded by Mr. Sernotti. On a **voice vote**, all members present voted "**Aye**". **Motion carried.**
- VI. **Accountant's Report**
Mr. Bauer reported that with the assistance of management and the engineering department the audit is in draft form now. Mr. Bauer is ready to meet with the committee to review the draft in detail so that it can be presented at the next month's meeting. The

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Authority is on target based on our budget. Looking at the past, the revenues are carrying the debt service coverage. The Authority is in good shape. There are a few recommendations that Mr. Bauer will introduce to the committee regarding allocations and expenses in the future. Senator Singer asked Mr. Flancbaum to set up the meeting with the Budget Committee so that the audit can be presented at next month's meeting. Mr. Flancbaum said he will.

VII. Engineer's Report

1. Cedarwood Hills

- Resolution Granting Technical Approval

In the packet are two letters. One letter is dated February 21, 2014 and the second is dated February 24, 2014. This is for Technical and also for Conceptual Approval. Senator Singer questioned where this development is located. Mr. Flancbaum said that it is across the street, corner of Cedar Bridge Avenue and New Hampshire Avenue. Mr. Morrill said that it is a residential development that will wrap around the proposed QuickChek. Mr. Waxman asked who the builder is. Mr. Flancbaum said it is Jack Mueller. Senator Singer passed the gavel over to Mr. Waxman as his bank is doing the financing. Mrs. Lapa read **Resolution # 14-29 Grant Of Technical Approval Cedarwood Hills**. Motion was made by Mr. Sernotti, seconded by Mr. S. Flancbaum. On a **roll call**, Mr. S. Flancbaum, Mr. Sernotti and Mr. Waxman voted, "**Yes**". Mr. Theibault and Senator Singer abstained. **Adopted**. Mr. Waxman returned the gavel to Senator Singer.

2. Locust 48 Lot Townhouse

- Resolution Granting Final Approval

There is a letter in the packet dated February 14, 2014. Mrs. Lapa read **Resolution # 14-30 On Site And Off Site Water And Sanitary Sewer Grant Of Final Approval Locust Street 48 Unit Development**. Motion was made by Mr. Sernotti, seconded by Mr. S. Flancbaum. On a **roll call**, Mr. S. Flancbaum, Mr. Sernotti, Mr. Waxman and Senator Singer voted, "**Yes**". Mr. Theibault abstained. **Adopted**.

3. Wells #9 & #16 Maintenance

- Resolution Awarding Professional Services Contract
- Resolution Awarding Contract

The first resolution is awarding a professional services contract for engineering to Hatch Mott MacDonald in the amount of \$4,500.00. Wells No. 9 and 16 seemed to be dropping off in the last few months. Mr. Morrill contacted Hatch Mott MacDonald to do an analysis. It was found that it needed maintenance work. Engineering put out a Request For Proposals quickly. Mrs. Lapa read **Resolution # 14-31 Awarding Professional Services Contract Without Public Bidding Pursuant to N.J.S.A. 40A:11-4.1 Et. Seq.** Motion was made by Mr. Waxman, seconded by Mr. Sernotti. On **voice vote**, all members present voted, "**Aye**". **Adopted**. On March 10, 2014 the Authority will receive proposals for the work. We have a resolution to grant the Executive Director the authority to award to the lowest bidder contingent upon the Authority's engineer and attorney's review and approval. Mr. Flancbaum said that the Authority advertised last week the request for proposal and expects it to be below the bid threshold. There was some confusion with the resolution passing. A **motion** to rescind the passing of **Resolution #14-31** was made by Mr. Waxman and seconded by Mr. Sernotti. On a **voice vote**, all members present voted "**Aye**". **Motion carried**. Mrs. Lapa (re)read

Resolution # 14-31 Awarding Professional Services Contract Without Public Bidding Pursuant to N.J.S.A. 40A:11-4.1 Et. Seq. Motion was made by Mr. Waxman, seconded by Mr. Sernotti. On **voice vote**, all members present voted, "**Aye**". **Adopted.** Mr. Morrill clarified with Mr. Smith that the next resolution title and contents of resolution to be read next is correct. Mr. Smith explained that the title does not need to have all the elements of the resolution in it. The last paragraph authorized the Executive Director to award to the lowest bidder. Mrs. Lapa read **Resolution # 14-32 Authorizing The Advertisement Of A Request For Proposals For Maintenance Work At Wells No. 9 and 16.** Motion was made by Mr. Waxman, seconded by Mr. Sernotti. On a **roll call**, all members present voted, "**Yes**". **Adopted.**

4. Well 2 ASR Well Repair

- Resolution Awarding Contract
- Resolution Awarding Professional Services Contract

The first resolution is awarding a contract to A.C. Schultes for work at Well No. 2 in the amount of \$88,920.00. Mrs. Lapa read **Resolution # 14-33 Awarding Contract To A.C. Schultes Inc. For Modifications To Well No. 2 Contract No. 25.** Motion was made by Mr. Waxman, seconded by Mr. Sernotti. Mr. Smith wanted to comment on this item before the vote. Mr. Smith said he wrote a memo on this item. The lowest bidder was A.C. Schultes by approximately \$3,000.00. When Mr. Smith reviewed the package everything was fine except the bid bond has a blank where it should say ten percent of the bid not to exceed \$20,000.00. That is the uniform amount in every bid bond by law. The statute requires that it says ten percent not to exceed \$20,000.00. Attached to the bidding bond is a signed notarized certification of the surety in which it recites the amount as ten percent not to exceed \$20,000.00. But the actual bond itself is blank in that line. It was an error. Because it is required to say that amount and the certification had it, Mr. Smith said he determined that it was a clerical error and allowed them to correct it by providing a proper filled in bond. They did correct it within three days. Mr. Smith wrote a memo to Mr. Flancbaum because the statute says that if they do not have a correct bond at the time opening it is a fatal error and cannot be cured. They had a bond, the certification attached to it had the right amount but the bond itself didn't. Mr. Smith said that he could have easily said no. Senator Singer asked if the Authority can be challenged on this and can the Authority lose the challenge. Mr. Smith said the Authority could lose the challenge. On the other hand, if the Authority disregarded the bid and awarded it to the second bidder, the Authority may be challenged by A.C. Schultes. So Mr. Smith wrote a memo to Mr. Flancbaum. It was discussed. Both Mr. Smith and Mr. Flancbaum decided to go with the lowest bidder. Mr. Smith prepared a notice to all the bidders with Mr. Flancbaum's signature explaining what happened and what the Authority is doing. The Authority is obligated to notify all the bidders. We will see what happens. Mr. Waxman asked if there is time to rebid it. Senator Singer said that it costs to rebid it. Mr. Smith said that it is up to Mr. Flancbaum. Senator Singer asked who the second lowest bidder is. Mr. Flancbaum said it is Tiger Construction. They are working now on Wells No. 5 and 8. Mr. Smith said that it is a \$3,000 difference. If the commissioners would like to throw out the lowest bid because technically it did not have a complete bond they can. Mr. Waxman said that the commissioners rely on you, the Authority's attorney. If you say it is okay, then it is okay. Mr. Smith said that it could easily be challenged. This is a very tough call. It could be thrown out. On the other hand it could be upheld. Mr. Smith said that it could be that the easier answer would be to throw it out. Senator Singer suggested that the Authority

should award the contract. If the Authority is challenged, it will be dealt with either way. If A.C. Schultes' bid is thrown out, they might challenge us also. Senator Singer said he would rather be in favor of the lower bid, the ratepayer's money, than the higher bid. If the Authority errs in that, the worse thing is that the Authority can come to an agreement with A.C. Schultes, maybe they will defend it. The Authority will talk to them. A.C. Schultes would not be upset at the Authority if we try to help them and end up in court. Let us see what happens. Mr. Smith said he agrees with Senator Singer's suggestion. This is the way he advised Mr. Flanbaum. But Mr. Smith said he wanted to present this to the commissioners. Senator Singer said that the commissioners have to decide what to do. Mr. Theibault asked if it will cost anymore to have Mr. Smith to get involved with it. Senator Singer said of course it will cost. If there is a challenge, the whole bid can be thrown out. Mr. Waxman asked if the bid can be thrown out once it is awarded. Is there some way to protect the Authority and throw it out without getting entangled in a lawsuit? Mr. Smith responded that there is no way to insure not getting entangled in a lawsuit. Lawsuits may happen no matter what we do. Mr. Smith sent a memo to Mr. Flanbaum stating that his feeling is that the Authority can be just as easily sued by the second bidder if the Authority accepts A.C. Schultes bid or by A.C. Schultes if the bid is thrown out. The easier thing to say is that A.C. Schultes did not have an accurate bid at the time of bidding and it should be thrown out. Mr. Smith said he has never seen one like this before, it seems to him that it is so close. Mr. Smith would not be shocked if A.C. Schultes complained and filed a suit against the Authority. This is \$88,000, a nice amount of money. Mr. Smith said he feels that it is a clerical error, but the court may decide otherwise. The statute said that the bid bond has to be with the bid. It cannot be cured if it is missing. The statute does not state what happens if they have it there and there is a clerical error. A.C. Schultes had the amount on the attached certification. It is so close. Mr. Smith's recommendation is to award the bid to A.C. Schultes but it could be subject to a lawsuit. On a **roll call**, Mr. S. Flanbaum, Mr. Sernotti, Mr. Waxman and Senator Singer voted, "**Yes**". Mr. Theibault voted, "No". **Adopted.**

The second resolution is for awarding professional services contract. Because of the nature of the contract, the Authority did not have a contract on it. This is for construction services. The Authority received a letter from Hatch Mott MacDonald dated February 27, 2014 detailing the construction services that are required for this project that they will perform for the lump sum fee of \$9,000.00. Mrs. Lapa read **Resolution # 14-34 Awarding Professional Services Contract Without Public Bidding Pursuant to N.J.S.A. 40A:11-4.1 Et. Seq.** Motion was made by Mr. Sernotti, seconded by Mr. Waxman. On **voice vote**, all members present voted, "**Aye**". **Adopted.** Senator Singer said he would like to pre-warn that if Hatch Mott MacDonald submits additional billing after the fact, this is the last contract for them. They will go off the bidder's list. If there is a problem and they tell you in advance and you agree with it, Senator Singer does not have a problem with that. Mr. Waxman asked Mr. Morrill if he can convey this to Hatch Mott MacDonald. Mr. Morrill said yes he will. Senator Singer asked Mr. Morrill to send out a note to all the engineering firms letting them know that if they do not notify the Authority once they are going over the amount of the bid, without Mr. Morrill's approval, they are on their own. This is happening too much. Even though the work was done legitimately and no one is questioning the work but if they did so without Mr. Morrill's authorization it is not acceptable.

5. Wells #5 & #8 Relocations and Redrilling

Resolution Awarding Change Order #3

This change order is because of the problems that the Authority is having with the DEP. The Authority is still waiting for the Geologic Society who apparently moves the geologic rates to respond to the Authority's requests of two months ago. The amount of the change order is for \$7,500. Mr. Morrill would like to let the commissioners know that the total amount of the contract to date is \$42,500.00 as opposed to a proposal received from another engineering firm for this in the amount of \$80,000.00. Senator Singer he is okay with a change order as long as they talk to you before the work is done. Mr. Theibault wanted to know who the contract is with. Senator Singer said Hatch Mott MacDonald. Mrs. Lapa read **Resolution # 14-35 Authorizing Change Order No. 3 To Professional Services Contract Replacement of Well No. 5 and No. 8.** Motion was made by Mr. Waxman, seconded by Mr. Sernotti. On **voice vote**, all members present voted, "**Aye**". **Adopted.**

6. Installation of Blow-off Hydrants and the Repair of Valves and Boxes

Resolution Awarding Change Order #2

This change order is for Ernst, Ernst and Lissenden in the amount of \$4,684.50. Mr. Waxman asked Mr. Morrill if he recommends it. Mr. Morrill said yes. This is a project that the Authority changed the scope of work several times. They have done an excellent job and have given the Authority good advice on this. Part of it is that the Authority has been delaying them because we did not want the work done during the construction of the treatment plant. Mrs. Lapa read **Resolution # 14-36 Authorizing Change Order No.2 Installation Of Blow Off Hydrants And Repair Of Valves And Boxes.** Motion was made by Mr. Waxman, seconded by Mr. Sernotti. On a **roll call**, all members present voted, "**Yes**". **Adopted.**

7. Repair and Replacement of Sanitary Sewer on Redondo Lane Phase II

Resolution Awarding Change Order #2

This is a change order for engineering services for the storm sewer work and extra pavement work. These proposals were received before the work was done. Mrs. Lapa read **Resolution # 14-37 Authorizing Change Order No.2 Redondo Lane Sanitary Sewer Extension Phase II.** Motion was made by Mr. Waxman, seconded by Mr. Sernotti. On **voice vote**, all members present voted, "**Aye**". **Adopted.** Mr. Waxman questioned if a thank you letter was sent to the residents that were impacted by the project work. Mr. Flancbaum said yes. Mr. Waxman asked if a copy can be sent to him. Mr. Flancbaum said he will.

8. Woodlake Sanitary Sewer Improvements Phase 1

Resolution Releasing Contribution to Developer

In the packet are a number of documents that detail the costs for the construction work that was done. The construction work payment being recommended is \$634,655.00. The total fees and contributions from the developer total \$589,973.25. Out of the total of \$44,681.75, last month the Authority authorized payment of \$30,000.00. This leaves a total amount remaining due of \$14,681.75. Mr. Flancbaum wanted to inform the commissioners that there is still around a \$13,000.00 discrepancy that the Authority is working with the developer on. Mr. Waxman questioned if the Authority should negotiate from strength. Mr. Morrill said that this is what he is recommending that the Authority owes. Mr. Theibault questioned who the developer is. Mr. Flancbaum said the developer is Menashe Frankel. Mrs. Lapa read **Resolution # 14-38 Releasing**

Contribution To Developer Route 88 73 Lot Subdivision. Motion was made by Mr. Waxman, seconded by Mr. Sernotti. On a **roll call**, Mr. S. Flancbaum, Mr. Sernotti, Mr. Waxman and Senator Singer voted, "**Yes**". Mr. Theibault voted, "**Abstained**".
Adopted.

VIII. Attorney's Report

New Jersey Business Systems Lawsuit – Mr. Smith said that the Authority is in middle of a lawsuit with New Jersey Business Systems. Their attorney from the insurance company filed an answer on their behalf. This is their errors and omissions insurance policy. The attorney is pressing Mr. Smith to go to mediation. The only problem is with this particular case, and Mr. Smith told this to their attorney, is that the Authority does not have at this point all the information needed. The Authority has to go through a discovery period available in court. Mr. Smith prepared a set of interrogatories and demands for documents and will follow up on it. Mr. Smith has to assess the actual fact pattern from their side before going to a mediator. The Board decided that the lawsuit and results sought from upcoming discovery period will be discussed during closed session.

IX. Executive Director's Report

1. Resolution Awarding Contract to Meridian Property Services to install (2) Variable Frequency Drives at the Shorrock St. WTP

A Request For Proposal opening was conducted on February 11th, 2014. The lowest proposal received was from Meridian Property Services in the amount of \$29,827.00. Mrs. Lapa read **Resolution # 14-39 Awarding Contract For Two (2) Variable Frequency Drives At The Shorrock Street Water Treatment Plant.** Motion was made by Mr. Sernotti, seconded by Mr. S. Flancbaum. On **voice vote**, all members present voted, "**Aye**". **Adopted.**

2. Resolution to not require purchase orders when a signed lease agreement exists between the Authority and Vendor

Mr. Flancbaum would like for himself, the executive director, to be able to pay vendors when there is an existing lease or finance agreement in place between them not to require a purchase order. Mr. Waxman asked if legally a purchase order is required. Mr. Flancbaum said that the statute states that in certain circumstances, the Board of Commissioners can exempt the purchase order. Mr. Smith explained that when certain conditions exist and they did not delineate the conditions where it seems appropriate based upon efficiency and market practices, you can dispense with the purchase order requirement. Where the Authority has a signed lease or purchase agreement and every month the Authority pays them a set amount of money, a purchase order is not needed every month. It is limited if there is a signed contract by both parties that has been previously approved by the Authority and the monthly rate is fixed at the same dollar amount. Mrs. Lapa read **Resolution # 14-40 Authorizing The Waiver Of Purchase Orders In Certain Circumstances.** Motion was made by Mr. Sernotti, seconded by Mr. S. Flancbaum. On a **roll call**, all members present voted, "**Yes**". **Adopted.**

3. Operations Department Hire

Mr. Flancbaum wanted to inform the commissioners of a slight change in direction. This year, the Authority had budgeted for a new licensed operator. As opposed to hiring a licensed operator, the Authority would like to hire a laborer/handyman type of employee.

As the commissioners were informed, two existing staff members are now getting licensed. We will utilize them as operators as opposed to hiring a new operator. The pay per hour for the laborer/handyman would be between \$13 and \$15. The advertisement is already prepared and we would like to advertise immediately for that position. Possibly by mid to late summer we would like to advertise for another employee with the same type of skill set.

4. **Developer Reviews**

Mr. Flancbaum would like to ask the commissioners to consider completely outsourcing all reviews for development. The Authority has a very aggressive five year in house capital improvement plan. Mr. Waxman questioned what about a tiny two to three lot subdivision. What is the definition of development? Mr. Flancbaum said that this includes all new development. Mr. Waxman questioned if someone has one lot, will they have to go an outside consultant. Senator Singer said that the Authority does not usually get one lot developers. Mr. Waxman asked if there is a store such as Rite Aid or Wawa. Mr. Flancbaum said that that is a big project. Senator Singer said to keep in mind that the applicant will pay for it. Mr. Waxman said that this is an added cost. Are the developers paying for it now? Senator Singer said that the Authority is backed up and they are paying for it now. This will help efficiency and getting things done in a timely manner. The engineering department had made this decision to work like this. If there is a slow time and Mr. Morrill would like to do it in-house, then it can be done in-house. The Authority does not want the applicants not have the work done in a timely manner. This will pre-empt phone call with complaints. A **motion** allowing when deemed proper by the engineering department and the executive director that the Authority can outsource developer's review was made by Mr. Waxman, seconded by Mr. Sernotti. On a **roll call**, all members present voted, "**Yes**". **Motion passed.**

X. **Instrumentation/IT Department Report**

1. The Leisure Village East Brick interconnect installation is complete and operational. The Authority's integrator is currently refining the program and completing the automation aspect of it.
2. The first pair of Shorrocks Street Water Treatment Plant VFD's set to be replaced was awarded to Meridian Property Services. That job is now in the process of being scheduled. Once the new units are complete and fully functional, we will address the second pair of units for replacement. The S.C.A.D.A main RTU panel and equipment replacements at Shorrocks Street are now being worked on and will be ongoing for the foreseeable future.
3. The Executive Director and I met with our Microwave contractor, LTW, last week to discuss a precise direction in which the Authority has requested to proceed forward. We were assured that our most problematic radios will be able to be traded in for the appropriate devices at a considerable trade in allowance. Every possible effort will be exercised in attempting to re-utilize all of the other smaller frequency band units as well. We have also requested from the contractor that we approach this effort in steps for the sake of properly managing it and to keep immediate costs reasonable. I would like to assure the Commissioners that we are doing everything possible to assure that we have taken into consideration all the available technologies along with its equipment that will best suit our organizations needs in addition to keeping those costs within reason.

4. Concerning our department's job applicant search, we have interviewed our two final selected candidates a second time. We have found it most difficult to find an applicant with a specific PLC background. So a decision has been made to try to select the individual with the most substantial electronic/electrical background. That person will be groomed with further education along with on the job training. This morning, our chosen candidate is meeting with our integrator, Mr. Calabrese. If we receive a successful report from that interview, we will then make the candidate an offer for employment.
5. We are nearly complete in our migration away from Windows XP, with the last two computers scheduled to be upgraded within the next week. We are well ahead of our own internal deadline. This will prove to be an upgrade in performance as well as security.
6. On February 11th, 2014 Mr. Flancbaum and Mr. Copeland attended an IT Manager's Breakfast sponsored by the Association of Environmental Authorities of New Jersey. At the breakfast, they made a presentation and took questions on topics ranging from office workflow to the future of IT in the water sector. It is hoped that meetings such as this one will lead to greater collaboration and sharing of solutions across utilities.

Senator Singer said that when a final selection for the IT position is made, it is not necessary to come back to the Board, you can just hire that person.

Mr. Theibault questioned what operating system the Authority is moving to from Windows XP. Mr. Copeland replied the Authority is switching to Windows 7.

XI. Commissioners' Report

XII. MEETING OPEN TO THE PUBLIC

There was no response from the public.

XIII. MEETING CLOSED TO THE PUBLIC

XIV. MOTION TO APPROVE THE OPERATING VOUCHERS

A **motion** was made by Mr. Sernotti and seconded by Mr. S. Flancbaum to approve the Operating Vouchers in the amount of \$ 467,985.38. On **voice vote**, all members present voted, "**Aye**". **Motion passed.**

Mr. Flancbaum introduced, Mr. Daniel Rappoccio, the new CFO to the commissioners. Senator Singer welcomed Mr. Rappoccio and looks forward to working with him.

XV. CLOSED SESSION

A **motion** was made by Mr. Sernotti, seconded by Mr. Waxman to go into closed session to discuss personnel and possible litigation at 10:42 A.M.

XVI. OPEN SESSION

At 10:53 A.M. the meeting went into open session. Possible litigation and contract negotiations were discussed in closed session. As litigation progresses and the contract negotiations come to fruition, we will advise.

XVII. ADJOURNMENT

A motion was made by Mr. Waxman, seconded by Mr. Sernotti to adjourn meeting. On a **voice vote**, all members present voted, "**Aye**". The meeting was adjourned at 10:54 A.M.

Respectfully submitted,

Nancy Lapa,
Secretary, LTMUA