

The regular meeting of the Little Egg Harbor Municipal Utilities Authority was held on July 9, 2013 at 5:00 P.M. at the Authority headquarters, 823 Radio Road, Little Egg Harbor Township, New Jersey.

MEMBERS PRESENT: Joseph Mezzina, Chairman; Joseph Koptic, Vice Chairman; Margaret DePergola, Secretary; Richard Crea; Earl Miller, Treasurer; Richard Robins; Marie Skelly

MEMBERS ABSENT: None

OTHERS PRESENT: David V. Johnson, Executive Director; Michael DiFrancia, Superintendent; Colleen Kleinow, Administrative Assistant; Nicole Mezzina, Executive Secretary; Alan Dittenhofer and Felipe Contreras, Authority Engineers; Christopher Connors, Authority Attorney

OTHERS IN ATTENDANCE PER SIGN-IN SHEET: None

Mr. Mezzina opened the meeting and led the Pledge of Allegiance.

Mrs. Kleinow read the following announcement:

“In accordance with the Open Public Meetings Law, this meeting has been duly advertised in the Atlantic City Press and Asbury Park Press, also posted and filed in the Office of the Clerk of the Township of Little Egg Harbor.” Resolutions are posted on the bulletin board.

APPROVAL OF PRIOR MINUTES

A motion was made by Mr. Koptic, seconded by Mrs. DePergola to approve the minutes of the regular meeting held June 11, 2013. Roll call vote, Earl Miller – yes, Margaret DePergola – yes, Richard Crea – yes, Joseph Koptic – yes, Joseph Mezzina – yes.

TREASURER’S REPORT

A motion was made by Mr. Koptic, seconded by Mr. Miller to approve the Treasurer’s Report as submitted. Roll call vote, Earl Miller – yes, Margaret DePergola – yes, Richard Crea – yes, Joseph Koptic – yes, Joseph Mezzina – yes.

BILLS RESOLUTION

A motion was made by Mr. Koptic, seconded by Mrs. DePergola to approve the operational account bills resolution. Roll call vote, Earl Miller – yes, Margaret DePergola – yes, Richard Crea – yes, Joseph Koptic – yes, Joseph Mezzina – yes, but abstained on check #19436.

ENGINEER'S REPORT

Mr. Dittenhofer stated that the Engineer's Report for July 2013 was forwarded to the Board for their review and approval. He would like to comment on a few of the items under the General heading.

Mr. Dittenhofer stated with respect to Item #1d - electrical repairs at various locations, the project was awarded in May, but there is no start date as yet. A pre-construction meeting is scheduled for July 11, 2013. After the pre-construction meeting, a start date should be scheduled.

Mr. Dittenhofer also stated that his office inspected and recommended the use of the Emergency Repair contract for the leak at 450 Radio Road, which is also addressed under the Executive Director's Report.

Mr. Dittenhofer advised that the Well #8 and #9 Redevelopment project is addressed under the Superintendent's Report.

Mr. Mezzina stated with respect to Item #2f – Calvary Church, that he didn't understand how one applicant withdrew the application.

Mr. Contreras stated that the applicant withdrew the water application.

Mr. Mezzina stated that the report says one applicant withdrew it, meaning there is more than one applicant.

Mr. Contreras stated that is a typo. It should say, "The applicant withdrew the water application".

Mr. Mezzina asked what the reason was for withdrawing the application.

Mr. Contreras stated that the applicant couldn't commit to a water extension of that length. They are looking into running a culvert, and that is only for the water.

Mr. Robins stated that the report notes that the sewer approval still stands.

Mr. Mezzina stated that he was focusing on what one applicant meant.

Mr. Mezzina inquired as to the length of the extension and was advised by Mr. Johnson that it is about 1,100 feet and needs to go under a culvert.

Mr. Mezzina asked why a culvert.

Mr. Johnson stated because it goes across Railroad Drive.

Mr. Mezzina asked whether there was anything on the other side.

Mr. Contreras advised that it is farther away. Mr. DiFrancia advised that there is another culvert there as well.

There were no other comments or questions on the report.

A motion was made by Mr. Koptic, seconded by Mr. Miller to approve the Engineer's Report as submitted and amended. All in favor.

EXECUTIVE DIRECTOR'S REPORT

1 – Mr. Johnson stated, as most people probably know, the Mystic Island Branch of Sun National Bank is closing July 12, 2013. Everything has to be transferred to the Tuckerton Branch on Route 9, and a new night deposit agreement for that branch is required so our deposits can be made at that night deposit facility. Resolution #2013-51 is on the agenda for action.

A motion was made by Mr. Koptic, seconded by Mrs. DePergola to approve Resolution #2013-51 authorizing night depository agreement with Sun National Bank. Roll call vote, Earl Miller – yes, Margaret DePergola – yes, Richard Crea – yes, Joseph Koptic – yes, Joseph Mezzina – yes.

2 – Mr. Johnson advised that we received our adopted budgets back from the State, which is much faster than last year.

3 – Mr. Johnson stated that our Engineer already mentioned this item regarding the Emergency Repair on Radio Road. There is a resolution on the agenda to be acted upon.

4 – Mr. Johnson advised the Board that we received a letter of termination from T-Mobile terminating their lease agreement with the Authority for the Mathistown water tower site. It was sent to our Attorney for review.

Mr. Connors stated that T-Mobile gave us a 30-day notice of termination effective July 14, 2013. In reviewing the current lease agreement, he prepared a letter back to T-Mobile that it is our understanding that the notice doesn't comply with the lease agreement. The agreement provides for a term of five years with three additional five-year renewal terms. The lease is automatically renewed unless they provide a letter of no intention to renew no later than 90 days prior to expiration of current term. That was not provided to the Authority upon expiration of the first five-year term expiring December 31, 2012. There are approximately four conditions to be met. None of them were outlined in the termination notice so they are bound by the lease agreement until they provide us the 90-day notice prior to the end of the second renewal period. We will probably get a letter from T-Mobile telling us why they are not doing it.

5 – Mr. Johnson stated that our Attorney is researching the Oswald issue, which was brought up last month. This is the home on E. Delaware Drive that went up for tax sale, and several years ago the Township foreclosed on it. He spoke to the Township Business Administrator about it. The Administrator is waiting for information from their Attorney to see what happened. The home has probably been vacant for 20 years.

Mr. Johnson also stated that the Township sold it at auction in 2007. We were not aware that it was sold. Two people bid on it, and the person that didn't get it went to court. A couple of months ago the Township made an agreement with the purchaser to wipe off the interest and just pay principal. We were never notified of anything, and the Township sent us a voucher to sign for a little over \$7,000, which is our principal until 2007 without interest. He advised the Township that he couldn't sign the voucher and accept that amount. That amount was not on our books.

Mr. Johnson further stated that he asked our Attorney to see whether we could accept this and whether the Township could consent to something without our knowledge and consent.

Mr. Connors advised the Board that he is still researching the matter.

Mr. Mezzina stated that he believes the Township was out of order making a deal on our behalf.

Mr. Connors stated that one of the difficulties under the statute is that the municipality controls the tax foreclosure process, and our liens are piggybacking on that. This leaves the Authority where something like this could happen. There is not a lot of law pertaining to this. We have to provide a better system for this. Liens are sent to the Town for collection, and there have been problems with how the money is disbursed back to the Authority.

Mr. Connors suggested that he and the Director meet with the Township officials to discuss the foreclosure process to make sure the Authority is fully protected.

Mr. Mezzina stated that he thought our liens were in parity with the Town. He didn't think they had to piggyback.

Mr. Connors stated that we do not operate the process.

Mr. Mezzina stated that is true, but they are only doing the administrative part of collection. That doesn't give them the right to make a decision on our behalf.

Mr. Connors stated that the other question is can they foreclose on property for water and sewer liens only.

Mr. Johnson stated that he thought they could foreclose for us or that we could because it is our lien also.

Mr. Connors stated that we would have to do it independently, but in this case, it was not done independently.

Mr. Johnson stated that the Town got their money and also got paid for current taxes from 2007. We were not allowed to take payments from 2007 to present because the Township held the tax lien.

Mr. Johnson also stated that the Tax Collector told the new owner he had to pay from 2008 to the present to the Authority. The owner feels that since the Collector gave him a clear bill, that is all he has to pay.

Mr. Johnson advised the Board that he spoke with the new owner and gave him the information that we have related to this. The new owner was going to pass the information to his Attorney. We haven't heard from him or his Attorney as yet.

Mr. Mezzina stated that he agrees with Counsel. Maybe we should sit down with the Township Committee.

Mr. Connors advised that he is suggesting we sit with the Administrator and their legal counsel; not the governing body.

Mr. Mezzina stated that the Township can't do things like this. We have to either accept it or reject it with possible ramifications attached to it. This has to be handled as quickly as possible. They put themselves and us in an embarrassing position.

Mr. Johnson stated that we have refused to give the new owner a demolition permit to knock the house down.

Mr. Koptic stated that this looks like it might be another court case. It'll be either against us or against the Township because they gave him a clean bill of health.

Mr. Mezzina asked whether they did a title search with the Authority.

Mr. Johnson advised that the Authority doesn't do searches. The Township does the searches. The Town asks us for the search information, and we give the information to the Town.

Mr. Mezzina asked what we gave the Township and was advised by Mr. Johnson that we provided them with the amount that was due the Authority.

Mr. Johnson stated that no one purchased the lien so the Township kept it as a Township lien.

Mr. Mezzina stated that this happened before. The circumstances might not be exactly the same, but they are similar. A percentage of the lien was divided between the Township and the MUA. He doesn't believe that was the case here. He knows from sitting on the Board here that something similar to this happened many years ago.

Mr. Johnson stated that was correct. It was the Raczka property that the Chairman is referring to.

Mr. Mezzina stated that even though we do not have all the details, we should put something in writing to the effect that we do not feel this was an appropriate disbursement of funds.

Mr. Mezzina asked how is it that this is coming up now and was advised by Mr. Johnson that we'd have to ask the Township.

Mr. Connors stated that this is very convoluted, and we have to gather all the details.

6 – Mr. Johnson stated he was asked to find a consultant to guide us in the right direction with respect to companies that purchase cell tower leases. I found two consultants, and one was more knowledgeable than the other. I asked the consultant to provide the Authority with a contract, which our Attorney is reviewing. There are a couple of State statutes that we need. Our Attorney will prepare a contract for everyone to sign.

Mr. Johnson advised that there are no performance guarantees due to expire, but there are a few maintenance guarantees expiring. Our Engineer provided the Authority with a letter stating that everything is fine with the Calabreeze Pump Station Lining project, and the guarantee can be released after expiration. Same thing with Well #12.

Mr. Johnson also advised that our Engineer provided the Authority with a letter regarding the maintenance guarantee expiring in August for K. Hovnanian Four Seasons at Sea Oaks Water Treatment Plant advising that there are several items to be corrected before expiration of bond or the Authority will make a call on the bond.

Mr. Mezzina inquired whether there are resolutions and was advised by Mr. Johnson that there is no need for a resolution. The maintenance guarantee automatically expires in two years unless we notify the applicant that something has to be done.

Mr. Mezzina inquired of Counsel whether that is the proper way to do this. There is no record other than the minutes.

Mr. Connors stated that this is a way of doing it, and it is proper and legal.

Mr. Johnson stated that it is on his report, and the Members vote on it.

Mr. Mezzina stated that when we vote, we are acknowledging and accepting his report, but there is no recommendation other than the one for Calabreeze Pump Station. Why is there a recommendation for one but not the others?

Mrs. Kleinow advised that the recommendation letter from our Engineer was just received today for the K. Hov Four Seasons at Sea Oaks Water Treatment Plant. It was provided to the Members at their seat today.

Mr. Connors stated that our Engineer provides a summary of each of the guarantees to the Authority. When the expiration date is approaching, our Engineer inspects the project while the maintenance guarantee is still intact. If there are items to be corrected, a letter is sent to the applicant advising what needs to be corrected. If not corrected, we will take action against the maintenance guarantee.

Mr. Johnson advised that we ask the Engineer 90 days prior to expiration of the maintenance guarantee to inspect the project and provide us with a letter of recommendation.

Mr. Mezzina stated that we must make sure there is a letter that recommends whether the maintenance guarantee can be released.

There was nothing further for the report.

A motion was made by Mr. Koptic, seconded by Mr. Miller approving the Executive Director's Report as submitted and amended. All in favor.

SUPERINTENDENT'S REPORT

1 - Mr. DiFrancia advised the Board that the Redevelopment of Well #8 and #9 on Center Street is ongoing. Well #8 has been redeveloped and is back on line. Well #9 started last week. At the time of the chemical treatment of Well #9, Well #8 couldn't be run. We monitored everything to make sure all was okay. Well #8 was back on line before the 4th of July weekend. Well #9 is scheduled for TV inspection and should be completed by the week of July 15, 2013.

2 – Mr. DiFrancia stated that the Consumer Confidence Report was mailed out as required and confirmation of mailing was provided to the State.

Mr. DiFrancia advised that there were five leaks as noted on his report.

Mr. Johnson advised that our Superintendent and his personnel, but mostly the Superintendent, have been adjusting the system with booster pumps to make sure that we were in good shape while the well was down. They did a great job on that, and it should be noted.

Mr. Crea asked the Superintendent whether he started the training program discussed last month.

Mr. DiFrancia stated that he has, and it is working out very well.

There was nothing further for the report.

A motion was made by Mr. Koptic, seconded by Mrs. DePergola to approve the Superintendent's Report as submitted. All in favor.

PERSONNEL COMMITTEE

Mr. Johnson advised the Board that he has attended the Sensus conference in the past but believes it would be more beneficial now for our Operations and Maintenance Coordinator and our Superintendent to attend in lieu of the Director. Sensus has a new system, and he believes it would be more beneficial for them to go to the conference and see how the new system works. He and the Committee recommend that the Superintendent and the Operations and Maintenance Coordinator attend the conference under the same conditions he was sent with no time lost. We have a written policy approved several years ago with respect to travel.

A motion was made by Mr. Miller, seconded by Mr. Koptic to approve the recommendation of the Personnel Committee that the Superintendent and the Operations and Maintenance Coordinator attend the Sensus conference October 27, 2013 through October 30, 2013 with no time lost. Roll call vote, Earl Miller – yes, Margaret DePergola – yes, Richard Crea – yes, Joseph Koptic – yes, Joseph Mezzina – yes.

ATTORNEY'S REPORT

Mr. Connors advised the Board that mediation is ongoing with respect to Winding Run Estates. Trial is scheduled for August 15, 2013.

Mr. Connors stated that the current status of Harbors at Stage is as noted in the report. All parties executed the settlement agreement. The developer should complete the punch list by August 15, 2013. If not, the Authority can reinstitute the suit.

Mr. Connors stated that trial date is set to commence July 15, 2013 for Sica/South Shore Properties. The Authority is dismissed from the suit but remains bound to the order of the court. All other matters are the same.

Mr. Mezzina stated that there was still a resolution on the agenda to be acted upon.

A motion was made by Mr. Miller, seconded by Mr. Koptic to approve Resolution #2013-52 declaring emergency with regard to repair of leaking abandoned water service saddle at 450 Radio Road. Roll call vote, Earl Miller – yes, Margaret DePergola – yes, Richard Crea – yes, Joseph Koptic – yes, Joseph Mezzina – yes.

Mr. Mezzina asked whether there were any other matters to come before the Board.

Mr. Johnson advised the Board that he had been speaking with the Chairman about different charges and our dwindling revenues. He will prepare a report next meeting for the Commissioners.

Mr. Mezzina stated that we are looking at FEMA to get money for our revenue, but there is no type of time frame anticipated as to when we can expect it.

Mr. Johnson advised that we received \$412,000.00 from FEMA for meters.

Mr. Mezzina stated that money is for repair and replacement. He is talking about loss of revenue.

Mr. Johnson advised that we have received money for some of the items we repaired. We still have a substantial amount of money outstanding. We did receive notification that we'll get 90% back now from FEMA. We thought it was 75%.

Mr. Johnson also advised the Board that six of the seven pick-up trucks are in. We are only getting actual value for the totaled trucks though. We are not getting replacement value.

Mr. Mezzina recommended a chart be created for the Board's information that deals with revenue, replacements, and repairs.

Mr. Johnson advised that our Executive Secretary has that information.

Mr. Mezzina stated that the Board should get that monthly with their other reports. We should be well informed at this point.

Mr. Johnson stated that it will be provided as part of the monthly meeting package.

Mr. Mezzina advised that our Attorney provided the Members with a copy of the resolution adopted by title last month waiving certain fees due to the storm. No action is necessary.

Mr. Koptic stated, looking at the resolution, only water fees were addressed. He and Mr. Miller wondered whether sewer fees would be addressed such as a fee for closing off the sewer.

Mr. Johnson advised that the Authority does not have a service fee for that. The Authority only turns off or turns on the water service.

Mr. Koptic stated that customers are cutting and capping their sewer service.

Mr. DiFrancia advised that we do not charge for the cut and cap inspection, but we have to inspect it to make sure it is capped properly so nothing goes into our system.

Mr. Miller stated that we should charge a service fee for that, but if it is storm related, we could waive it.

Mr. Mezzina stated that we should look into the fact that we do not charge a fee related to a cut and cap. We could look at what other towns do. This might be a fee that we should have in place.

Mr. DiFrancia stated that he would look into this and report back to the Board.

A motion was made by Mr. Koptic, seconded by Mr. Miller to accept and file all correspondence. All in favor.

A motion was made by Mr. Koptic, seconded by Mrs. DePergola to open this portion of the meeting to the public. All in favor.

There being no public in attendance, a motion was made by Mr. Koptic, seconded by Mr. Miller to close the public portion of the meeting. All in favor.

Mr. Johnson advised that there is a personnel matter for closed session.

A motion was made by Mr. Koptic seconded by Mr. Miller to enter executive session regarding personnel and approve corresponding resolution. Roll call vote, Earl Miller – yes, Margaret DePergola – yes, Richard Crea – yes, Joseph Koptic – yes, Joseph Mezzina – yes.

The Engineers excused themselves from the meeting.

After return from executive session, the Board acted on the personnel matter as follows:

A motion was made by Mr. Koptic, seconded by Mr. Crea granting Paula Urezio an extension to her Leave of Absence through September 4, 2013 and also advising her that she is to return to work on September 5, 2013 to her full-time position. Roll call vote, Earl Miller – yes, Margaret DePergola – yes, Richard Crea – yes, Joseph Koptic – yes, Joseph Mezzina – yes.

There being nothing further, a motion was made by Mr. Koptic, seconded by Mr. Miller to adjourn. All in favor.

SECRETARY

Approved on (date)