

Meeting of February 20, 2014 Maintenance

A meeting of the Joint Meeting was held on the above date at the Maplewood Municipal Building at 4:00 p.m. Chairperson Florio in the Chair.

The Executive Director read the following statement:

Pursuant to Section #5, Chapter 231, P.L. 1975, notice of this meeting has been provided to the public by posting the notice of the meeting of the Joint Meeting on the bulletin board of the Maplewood Municipal Building; by mailing the notice of the meeting to the Star Ledger, The Home News Tribune and to the offices of the Municipal Clerks of the 11 member municipalities of the Joint Meeting and to the City Clerk of the City of Elizabeth and to the County Clerks' Offices of Essex and Union, all on December 30, 2013.

On roll call the following members were present: Messrs. Hughes, Rice, Levison, McTernan, Florio, Ms. Saxton, Jones, Leventhal and Haimoff. Mr. Kelly arrived at 4:02 p.m. and Ms. Spango arrived at 4:05 p.m.

Also in attendance were Messrs. McGhee, Dowhan, Terrezza, Sforza, Phillips and Barry of Joint Meeting; E. Webster and J. Noble Esq. of Genova, Burns, Giantomasi and Webster et al., Joint Meeting's Consultants CME Associates (CME), AVA Consulting LLC (AVA) and Global Logistics Group (GLG).

The Chairperson led the pledge of allegiance.

On motion by Mr. Rice, seconded by Mr. Levison, the minutes of the last meeting were approved as printed. On roll call; ayes, Messrs. Hughes, Rice, Levison, McTernan, Florio, Ms. Saxton, Jones, Leventhal and Haimoff; nays, none.

It now being 4:02 p.m. Mr. Kelley arrived.

On motion by Ms. Jones, seconded by Ms. Saxton, the **Treasurer's Reports** having been mailed to the Board members was received and ordered printed. On roll call; ayes, Messrs. Hughes, Rice, Kelly, Levison, McTernan, Florio, Ms. Saxton, Jones, Leventhal and Haimoff; nays, none.

On motion by Ms. Leventhal, seconded by Mr. Rice, Resolution 020, Committee Appointments made by the Chairperson was adopted. On roll call; ayes, Messrs. Hughes, Rice, Kelly, Levison, McTernan, Florio, Ms. Saxton, Jones, Leventhal and Haimoff; nays, none.

It now being 4:05 p.m. Ms. Spango arrived.

The following verbal report was given:

Personnel & Procurement Committee: Ms. Leventhal, Chairperson of the Committee, stated that the Committee had met, discussed and recommends authorization of the following: award of a contract to CME Associates for Licensed Site Remediation Professional Services for the Edward P. Decher Secondary Wastewater Treatment Facility (R-021); award of a contract to CDM Smith Inc. for professional engineering services for Filament Analysis and Consulting (R-022); receipt of bids for Various Services, Equipment and Materials (R-023); award of a contract to JSH International for furnishing and delivering Non Bacterial Biological Enhancer for Anaerobic Digester Gas Production (R-024); Purchase Order to WSG & Solutions for Two WSG Gear Box Reducers (R-025) and Purchase Order to WSG & Solutions for US Filter COG Rake Parts (R-026).

On motion by Ms. Saxton, seconded by Ms. Jones, Resolution 021, awarding a contract to CME Associates for Licensed Site Remediation Professional Services for the Edward P. Decher Secondary Wasterwater Treatment Facility was adopted. On roll call; ayes, Messrs. Hughes, Rice,

Kelly, Levison, McTernan, Florio, Ms. Saxton, Jones, Leventhal, Haimoff and Spango; nays, none.

On motion by Ms. Leventhal, seconded by Mr. Rice, Resolution 022, awarding a contract to CDM Smith Inc for Professional Engineering Services for Filament Analyses and Consulting was adopted. On roll call; ayes, Messrs. Hughes, Rice, Kelly, Levison, McTernan, Florio, Ms. Saxton, Jones, Leventhal, Haimoff and Spango; nays, none.

On motion by Ms. Jones, seconded by Ms. Spango, Resolution 023, authorizing the Procurement by Public Bidding of Various Services, Equipment and Materials was adopted. On roll call; ayes, Messrs. Hughes, Rice, Kelly, Levison, McTernan, Florio, Ms. Saxton, Jones, Leventhal, Haimoff and Spango; nays, none.

On motion by Ms. Saxton, seconded by Ms. Spango, Resolution 024, awarding a contract to JSH International for Furnishing and Delivering Non Bacterial Biological Enhancer for Anaerobic Digester Gas Production was adopted. On roll call; ayes, Messrs. Hughes, Rice, Kelly, Levison, McTernan, Florio, Ms. Saxton, Jones, Leventhal, Haimoff and Spango; nays, none.

On motion by Mr. Hughes, seconded by Mr. McTernan, Resolution 025, authorizing a Purchase Order to WSG & Solutions for Two WSG Gear Box Reducers was adopted. On roll call; ayes, Messrs. Hughes, Rice, Kelly, Levison, McTernan, Florio, Ms. Saxton, Jones, Leventhal, Haimoff and Spango; nays, none.

On motion by Ms. Saxton, seconded by Mr. Rice, Resolution 026, authorizing a Purchase Order to WSG & Solutions for US Filter Cog Rake Parts was adopted. On roll call; ayes, Messrs. Hughes, Rice, Kelly, Levison, McTernan, Florio, Ms. Saxton, Jones, Leventhal, Haimoff and Spango; nays, none.

On motion by Ms. Jones, seconded by Mr. Hughes, Resolution 019, approving payment of bills was adopted. On roll call; ayes, Messrs. Hughes, Rice, Kelly, Levison, McTernan, Florio, Ms. Saxton, Jones, Leventhal, Haimoff and Spango; nays, none.

With regard to Resolution 027 Counsel Noble explained that Assembly Bill 4147 has been referred to the Assembly Housing Local Government Committee and to date the Bill has not come out of Committee. The Bill makes amendments to both the Local Public Contracts Law and the Statutes dealing with Schools and their contracting abilities. The Bill makes rejection of bids more difficult. Some changes for rejection addressed under the Bill are; if bids exceed the published and attested cost estimates or estimate ranges the municipalities or agencies now have to have an engineer actually certify or attest to their cost estimates of the project; bids that were allowed to be rejected if a contractor wanted to substantially revise their specification now would have to say substantially revise the scope and the specifications; with respect to publishing, if a project exceeds \$500,000.00, an actually certified cost estimate or formal statement has to be attested to as reasonable, that the cost estimates were reviewed and it's felt they are appropriate. An engineering firm would have to certify to this for any project that exceeds \$500,000.00. Since some of the changes might actually increase the cost of the bidding process it didn't seem like a good proposal to support.

Counsel Noble further explained she does not know what the League of Municipalities stand on the Bill is. She will find out and report back to the Board. However, she does know that Passaic County moved to oppose the Bill. Some of the reasoning for the Bill was that it was felt it is more open since a cost estimate has to actually be in place, and rejection of the bids has to be because they exceed the official cost estimate. Presently, many municipalities do a cost estimate but may not provide a final and formal attested cost estimate. The Bill sponsors believe it is more open since there is now a projected cost. Another reason bids are sometimes rejected is because the specifications have to be revised but not necessarily the scope of the project. However, under the new wording it would

have to be a broader reason. You would have to be addressing more than just the specifications and the scope of the project needs to be addressed also. The Bill restricts the ability to simply reject which they feel is a benefit. Counsel believes the issue is that most municipalities and agencies operating under the Statute feel it is too restrictive.

The Purchasing Agent stated that by publishing the estimated costs you effectively alter the competitive bidding process.

On motion by Mr. Levison, seconded by Ms. Leventhal, Resolution 027, opposing Assembly Bill No. 4147 which would require certain Contract Bid Advertisements contain Certified Cost Estimate Ranges, Specify the Grounds for the Rejection of All Bids and Require a 50% Guaranty on Certain Bids Not To Exceed \$100,000.00 was tabled. On roll call; ayes, Messrs. Rice, Kelly, Levison, McTernan, Florio, Ms. Saxton, Jones, Leventhal, Haimoff and Spango; nays, Mr. Hughes.

On motion by Ms. Spango, seconded by Ms. Jones, the **2013 Clean Water Enforcement Report, Treatment Plant Report and Industrial Pretreatment Report** having been mailed to the Board members were received and ordered printed. On roll call; ayes, Messrs. Hughes, Rice, Kelly, Levison, McTernan, Florio, Ms. Saxton, Jones, Leventhal, Haimoff and Spango; nays, none.

On motion by Ms. Jones, seconded by Mr. Levison, **Counsel, Conflict Counsel and the Engineer's Reports** having been mailed to the Board members were received and ordered printed. On roll call; ayes, Messrs. Hughes, Rice, Kelly, Levison, McTernan, Florio, Ms. Saxton, Jones, Leventhal, Haimoff and Spango; nays, none.

The correspondence will be printed in the minutes.

The Chairperson asked if there was anyone wishing to address the Board on any Joint Meeting matter with a five-minute limit. Hearing no one the Public Session was declared closed.

The Chairperson read the following statement which on motion by Ms. Jones, seconded by Mr. Hughes, was received and ordered printed. On roll call; ayes, Messrs. Hughes, Rice, Kelly, Levison, McTernan, Florio, Ms. Saxton, Jones, Leventhal, Haimoff and Spango; nays, none.

In accordance with Section 8 of the Open Public Meeting Act, Chapter 231, P.L. 1975, permitting the exclusion of the public from a meeting in certain circumstances and as the Joint Meeting is of the opinion that such circumstances presently exist as the general nature of the subject matter to be discussed is Personnel and Litigation and it is anticipated at this time that this subject matter will be made public at a later date.

Upon reconvening with regard to Counsel's Report on Joint Meeting's History, By Laws and the Statutes that govern the Agency's operation, Counsel Webster explained that although it's not a Statutory requirement, it seems to be a practice being generated out of the Comptroller Office that Board attorneys explain to their clients exactly what their roles and responsibilities are. Therefore, he prepared a memo with documents and attachments addressing the following: 1) the history of how the Joint Meeting of Essex and Union Counties came into existence, 2) the legal authority for the creation of Joint Meeting which talks about the State Statute that created it, 3) the Board and how it is constituted and references the Statute that constitutes it, 4) the liability and payments, how it encumbers, what it can and cannot do; 5) the laws and regulations governing Joint Meeting's operations, particularly the By-Laws, the Local Authorities Fiscal Control Law, the Local Public Contracts Law, the Paid to Play Regulations, the Open Public Meetings Act, the Open Public Records Act and most importantly, the Local Governments Ethics Law, what you can and can't do as local government officials appointed to Joint Meeting's Board. He recommends the Board members review it and if they have any questions contact him.

There being no further business on motion by Ms. Jones, seconded by Mr. Hughes, the

meeting then adjourned to meet again on Thursday, March 20, 2014, at the Maplewood Municipal Building at 4:00 p.m. unless called earlier by the Chair. On roll call; ayes, Messrs. Hughes, Rice, Kelly, Levison, McTernan, Florio, Ms. Saxton, Jones, Leventhal, Haimoff and Spango; nays, none.

Respectfully submitted,

Howard Levison
Secretary