

EAST WINDSOR MUNICIPAL UTILITIES AUTHORITY

Minutes of Regular Meeting
Thursday, November 20, 2014

The regular monthly meeting of the East Windsor Municipal Utilities Authority was held on Thursday, November 20, 2014 at the Administration Building on Wiltshire Drive and called to order by Chairperson Moore at 7:30 p.m.

The following Members were present:

Linda L. Moore
Marc Platizky
Leonard Millner
William Lawler (arrived late)
Michael Shifman

Absent: Steven Kurs
Marc Lippman

Also present:

Edwin Schmierer, Esq., of Mason Griffin & Pierson
James Farry, of Hatch Mott MacDonald
Ronald Ghrist, Finance Officer
Richard Brand, Executive Director
Clark Wolverton, Wastewater Superintendent
Skip Lovejoy, Water Superintendent

Chairperson Moore read the Public Notice stating that the agenda for this meeting was mailed to the Windsor Hights Herald, Trenton Times and Trentonian on November 14, 2014. An agenda was posted on the official bulletin board of the Authority and delivered to the Township Clerk for posting on the bulletin board at the East Windsor Township Municipal Complex on November 14, 2014. Chairperson Moore then asked for a roll call after which she asked if any Member had an objection to holding this meeting as advertised. No one objected.

Chairperson Moore asked if there was anyone in the audience that would like to discuss a matter which was not on tonight's agenda and hearing no one Chairperson Moore moved to the first item on the agenda the Conair Capacity Allocation Agreement. Mr. Brand stated that there was a tentative agreement with Conair. Mr. Brand stated that the project was going to mimic the existing building. The only exception to the plans was that the new building would not include a lunch room. Mr. Millner asked if the off and on tract improvement fees were calculated using the same formula used for other development projects or was there some special consideration given in the fees. Mr. Brand explained the only difference was that because they have an identical existing building the fees were calculated based on actual flow instead of DEP requirements. Mr. Brand reassured the Members that the MUA was getting a good agreement

which was fair. Chairperson Moore called the roll to accept and approve the resolution approving Conair's Capacity Allocation On and Off Tract Agreement which was unanimously approved and carried.

Resolution 2014-36

Resolution Approving A capacity Allocation Agreement and Developer's On-Tract and Off-Tract Agreement with Conair Corporation

WHEREAS, Conair Corporation (hereinafter the "Developer") is the owner of a parcel of land located within the Township of East Windsor more particularly described as Block 20.06, Lot 4 on the Official Tax Map of the Township of East Windsor consisting of 27.568 acres of land on Milford Road; and

WHEREAS, the Developer has submitted to the East Windsor Municipal Utilities Authority (hereinafter "Authority" of "EWMUA") for approval Plans and Specifications for the construction of certain water and sanitary sewer facilities to be located on and in the immediate vicinity of Block 20.06, Lot 4 on the Official Tax Map of the Township of East Windsor for providing sanitary sewer and water service to that development known as "Conair Warehouse Building" (the "Development"), consisting of a combined office/warehouse use composed of 20,000 sq. ft. of office use, 20,000 sq. ft. of warehouse/record storage, 3,500 sq. ft. of dock office use and 430,533 sq. ft. of warehouse use, more particularly described on plans entitled "Conair Proposed Warehouse Building" prepared by Maser Consulting, P. A. dated October 10, 2003 with latest revision dated October 7, 2014, as approved by the Authority ("Approved Plans and Specifications") and any other governmental entity having jurisdiction thereover; and

WHEREAS, the Planning Board of the Township of East Windsor ("Approving Board" or "Board") granted amended preliminary and final site plan approval on July 2, 2012, and memorialized on July 16, 2012 for the subject property; and

WHEREAS, the Developer and the Authority desire to enter into an agreement setting forth the rights, duties and obligations of the parties in connection with the construction of the water and sanitary sewer utility improvements related to said Development, including off-tract improvement obligations of the Developer.

NOW, THEREFORE, BE IT RESOLVED BY THE EAST WINDSOR MUNICIPAL UTILITIES AUTHORITY as follows:

1. The EWMUA hereby approves the Capacity Allocation Agreement and Developer's On-tract and Off-tract Agreement with Conair Corporation, and
2. The EWMUA directs the EWMUA Chairperson and Secretary to execute the aforementioned Agreement on behalf of the EWMUA and cause the same to be delivered to the Developer and all other parties having jurisdiction in this matter, and
3. The EWMUA further directs that a certified copy of this resolution be delivered to The New Jersey Department of Environmental Protection as evidence of its approval of the Development, and
4. The EWMUA further directs that the Executive Director shall take all necessary steps to expedite the directions specified in this resolution, as appropriate, and
5. This resolution shall take effect immediately.

Chairperson Moore asked for a motion to approve the Wastewater Budget. Mr. Shifman made the motion seconded by Mr. Millner. Mr. Millner asked what condition the wastewater lines were in. Mr. Brand stated that because sewer mains are made of concrete and sewer lines are not under pressure they don't have the same structural issues as seen with water mains. Chairperson Moore took a roll call vote and the Wastewater Budget for 2014-2015 was unanimously approved.

Resolution To Approve 2014-2015 Wastewater Budget

WHEREAS, the Annual Budget and Capital Budget/Program for the East Windsor Municipal Utilities Authority for the fiscal year beginning December 1, 2014 and ending, November 30, 2015 has been presented for adoption before the governing body of the East Windsor Municipal Utilities Authority at its open public meeting of November 20, 2014; and

WHEREAS, the Annual Budget and Capital Budget as presented for adoption reflects each item of revenue and appropriation in the same amount and title as set forth in the introduced and approved budget, including all amendments thereto, if any, which have been approved by the Director of the Division of Local Government Services; and

WHEREAS, the Annual Budget as presented for adoption reflects Total Revenues of \$4,476,318, Total Appropriations, including any Accumulated Deficit, if any, of \$4,527,146 and Total Unrestricted Net Assets utilized of \$50,828, and

WHEREAS, the Capital Budget as presented for adoption reflects Total Capital Appropriations of \$756,000 and Total Unrestricted Net Assets planned to be utilized of \$556,000; and

NOW, THEREFORE BE IT RESOLVED, by the governing body of East Windsor Municipal Utilities Authority, at an open public meeting held on November 20, 2014 that the Annual Budget and Capital Budget/Program of the East Windsor Municipal Utilities Authority for the fiscal year beginning, December 1, 2014 and ending, November 30, 2015 is hereby adopted and shall constitute appropriations for the purposes stated; and

BE IT FURTHER RESOLVED, that the Annual Budget and Capital Budget/Program as presented for adoption reflects each item of revenue and appropriation in the same amount and title as set forth in the introduced and approved budget, including all amendments thereto, if any, which have been approved by the Director of the Division of Local Government Services.

While discussing the 2014-2015 Water Budget Mr. Millner asked about condition of water mains in Twin Rivers area. Mr. Brand stated that due to the corrosive soils in the area several water mains will need to be replaced. Mr. Brand informed the Members that there were 5 main breaks in the Twin Rivers area in the last month. Mr. Brand added that because the work would be done in house the biggest expense would be in road restoration. Mr. Brand was asked if the MUA could coordinate replacement with the Township or Trust road restoration program to reduce MUA cost. Mr. Platizky suggested Mr. Brand speak with the Trust. When asked if \$400,000 in budget would be enough to cover cost Mr. Brand stated that we may need another \$200,000. He continued by saying they were reviewing the situation in the Twin Rivers area and trying to come up with a list of mains that will need to be replaced. Mr. Brand stated that he believed because of the cost of the project the MUA would need to look at some type of rate adjustment in the near future in order to undertake this project. Mr. Platizky made a motion to

approve the 2014-2015 Water Budget, seconded by Mr. Shifman and unanimously approved.

Resolution To Approve 2014-2015 Water Budget

WHEREAS, the Annual Budget and Capital Budget/Program for the East Windsor Municipal Utilities Authority for the fiscal year beginning December 1, 2014 and ending, November 30, 2015 has been presented for adoption before the governing body of the East Windsor Municipal Utilities Authority at its open public meeting of November 20, 2014; and

WHEREAS, the Annual Budget and Capital Budget as presented for adoption reflects each item of revenue and appropriation in the same amount and title as set forth in the introduced and approved budget, including all amendments thereto, if any, which have been approved by the Director of the Division of Local Government Services; and

WHEREAS, the Annual Budget as presented for adoption reflects Total Revenues of \$3,059,845, Total Appropriations, including any Accumulated Deficit, if any, of \$3,838,249 and Total Unrestricted Net Assets utilized of \$778,404, and

WHEREAS, the Capital Budget as presented for adoption reflects Total Capital Appropriations of \$1,411,000 and Total Unrestricted Net Assets planned to be utilized of \$861,000; and

NOW, THEREFORE BE IT RESOLVED, by the governing body of East Windsor Municipal Utilities Authority, at an open public meeting held on November 20, 2014 that the Annual Budget and Capital Budget/Program of the East Windsor Municipal Utilities Authority for the fiscal year beginning, December 1, 2014 and ending, November 30, 2015 is hereby adopted and shall constitute appropriations for the purposes stated; and

BE IT FURTHER RESOLVED, that the Annual Budget and Capital Budget/Program as presented for adoption reflects each item of revenue and appropriation in the same amount and title as set forth in the introduced and approved budget, including all amendments thereto, if any, which have been approved by the Director of the Division of Local Government Services.

Mr. Brand informed the Members that during a recent storm lightning stroke a generator at the wastewater plant which required the MUA to rent a replacement. The cost to rent the replacement generator was \$36,000. A claim was presented to our insurance company and they will be sending us \$41,228.04 to pay for the rental generator and cost to repair the MUA generator.

Chairperson Moore requested that Mr. Brand update the Board on the recent issue with the contractor painting the Twin Rivers Tank. Mr. Brand stated that the contract calls for the contractor to use a 5,000 psi power washer to clean the tank. The contractor has been using a 4,000 psi power washer and has refused to follow the specifications in the contract. Mr. Brand stated that Corrosion Control had been contacted and asked them to explain the difference between a 4,000 psi and a 5,000 psi power washer. Corrosion Control stated that the 5,000 psi does a better job stripping and cleaning the tank especially when there is paint peeling on the tank. Mr. Brand added that since we do not want a problem with the tank painting after the fact we want the stripping and cleaning done properly. Mr. Brand gave Pro Spec 7 days to comply or the job would be shut down. Tomorrow is the seventh day. If Pro Spec does not come into compliance the job will be shut down, the MUA will pursue legal action and move quickly to go

after their Performance Bond. The Board asked what the expense would be to the Authority to finish the job and pay legal fees. Mr. Schmierer responded that the Authority would be no worse off cost wise because the bonding company would have to hire a contractor to finish the job and be required to pay the difference between Pro Spec bid price and the new company cost as well as legal fees. The Members asked what the inspector's position was on this issue and Mr. Brand stated he was in full agreement that Pro Spec has to follow the contract specifications and use the 5,000 psi power washer.

During the General Discussion/Topics from the Board Chairperson Moore requested Board approval to appropriate \$550.00 toward the Employee Appreciation Party. A motion approving the appropriation for an Employee Appreciation Party was made by Mr. Platizky, seconded by Mr. Lawler and unanimously carried.

Chairperson Moore requested a motion to accept the Operating Report. A motion to approve was made by Mr. Lawler, seconded by Mr. Platizky and unanimously carried.

A motion to accept the Development Report was made by Mr. Shifman, seconded by Mr. Lawler and unanimously carried.

Chairperson Moore asked why the Cycle B receivables were double in 2014. Mr. Ghrist responded that there had been a problem with the seasonal averaging for sewer and the bills were sent out late. Mr. Ghrist added that the issue should be cleared up next month between regular payments and tax sale payments. A motion to accept Finance Officer's Report was made by Mr. Platizky, seconded by Mr. Lawler and unanimously carried.

Mr. Millner requested an update on the ongoing litigation and Mr. Schmierer responded that there was a trial date in January but the insurance carrier was hoping they would have a settlement before the case went to trial. Mr. Shifman made a motion to accept the Attorney's Report, seconded by Mr. Platizky and unanimously carried.

The Engineer's Report was accepted with a motion made by Mr. Platizky, seconded by Mr. Lawler and unanimously carried.

Mr. Platizky made a motion to approve the Payment of Bills for \$281,572.98; Payroll for 10/15/14 in the amount of \$65,022.28; Payroll for 10/29/14 in the amount of \$70,163.87; Payroll for 11/12/14 in the amount of \$67,597.82; and Prepaid – State of NJ Div. of Taxation – Water System Tax – July through September 2014 in the amount of \$2,513.70. The motion was seconded by Mr. Lawler and unanimously carried.

Chairperson Moore asked if there was any discussion of the May 15, 2014 Regular Meeting Minutes and hearing none requested a motion to accept. Mr. Platizky made a motion to accept, seconded by Mr. Lawler and unanimously carried.

A motion to accept the June 19, 2014 Regular Meeting Minutes and Executive Session Minutes was made by Mr. Platizky, seconded by Mr. Millner and unanimously carried.

A motion to accept the July 9, 2014 Special Meeting Minutes was made by Mr. Lawler, seconded by Mr. Shifman and unanimously carried.

A motion to accept the July 17, 2014 Regular Meeting Minutes was made by Mr. Platizky, seconded by Mr. Millner and unanimously carried.

A motion to accept the August 21, 2014 Regular Meeting was made by Mr. Lawler seconded by Mr. Platizky and unanimously carried.

There being no additional items to discussion in the regular session Chairperson Moore asked for a motion to enter into Executive Session to discuss personnel. A motion was made by Mr. Platizky, seconded by Mr. Shifman and unanimously carried.

Executive Session Resolution

WHEREAS, Section 7 of the Open Public Meetings Act, ("Act") C. 231, P.L. 1975 the (N.J.S.A. 10:4-12B) permits the exclusion of the public from a meeting of the East Windsor Municipal utilities Authority ("Authority") under certain circumstances; and

WHEREAS, the Authority is of the opinion that such circumstances presently exist and desires to authorize the exclusion of the public from that portion of the meeting in accordance with the Act.

NOW, THEREFORE, BE IT RESOLVED by the East Windsor Municipal Utilities Authority, in the county of Mercer, State of New Jersey, as follows:

1. The public shall be excluded from discussion and action upon the specified subject matter as set forth in Exhibit "A" attached hereto and made a part hereof.
2. The general nature of the subject matter to be discussed as set forth in Section 7b of the Act (N.J.S.A. 10:4-12b) is set forth next to the subject matter in the attached Exhibit "A".
3. It is anticipated at this time that the stated subject matter will be made public on or about the time set forth next to the subject matter in attached Exhibit "A".
4. This Resolution shall take effect immediately.

Exhibit "A"

<u>General Subject Matter</u>	<u>Basis Under For Exclusion of Public</u>	<u>Anticipated Date when Discussion Will Be Disclosed to Public</u>
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Personnel

Attorney/Client
Privilege

Certain
information at
the discretion of
the Board tonight.
Other information
will remain
confidential.

Respectfully submitted,

Marc Platizky, Secretary