Susan Gouveia

(c)

From: Lashway, Lisa
Sent: Tuesday, January 28, 2014 10:24 AM
To: Canning, Sean
Cc: Susan Gouveia
Subject: FW: MSA Meeting Minutes
Attachments: December 19, 2013 approved mtg mins.pdf

Correspondence

Lisa Lashway
Mt. Olive Twp. Clerk
973-691-0900 Ext. 7291
FAX 973-691-2080
PO Box 450
Budd Lake, NJ 07828

From: Susan Grebe [mailto:sgrebe@msa-nj.org]
Sent: Friday, January 24, 2014 2:40 PM
To: Amy Rhead; 'Catherine Gleason'; Dolores Dalessandro; Doris Flynn; Ellen Horak; Linda DeSantis; Lashway, Lisa
Subject: MSA Meeting Minutes

Attached are the approved minutes of the MSA December 19, 2013 meeting.

Susan Grebe,
Administrative Assistant
Musconetcong Sewerage Authority
110 Continental Drive, Budd Lake, NJ 07828
973-347-1525 ext. 201

REGULAR MEETING OF THE MUSCONETCONG SEWERAGE AUTHORITY

Chairman Rattner called the meeting to order at 7:30 PM. Following salute to colors, announcement was made that adequate notice of this meeting had been provided for as defined by the "Open Public Meetings Act".

MEMBERS PRESENT:	Donald Bates, Michael Grogan, David Hoyt, John Keiser, Melanie Michetti, Daren Phil, Michael Pucilowski, Steven Rattner, Joseph Schwab, John Sylvester
MEMBERS ABSENT:	James Benson, Edward Schwartz
OTHERS PRESENT:	Patrick Dwyer, Esq., Lee Purcell, PE, Fenton Purcell, PE, James Schilling Also Present: Stephen Donati, PE of CP Engineers

Chairman Rattner opened and closed the meeting to the public.

The meeting minutes of November 21, 2013 were approved on a motion offered by Mr. Hoyt seconded by Mr. Sylvester. Roll Call:

Mr. Bates	Yes	Mr. Phil	Yes
Mr. Grogan	Yes	Mr. Pucilowski	Yes
Mr. Hoyt	Yes	Mr. Rattner	Yes
Mr. Keiser	Abstain	Mr. Schwab	Yes
Mrs. Michetti	Yes	Mr. Sylvester	Yes

The Expenditures/Treasurer's Report was accepted on a motion offered by Mr. Hoyt seconded by Mr. Schwab and the affirmative roll call vote of members present.

Mr. Schwab noted that there were some corresponding e-mails regarding the vouchers under the renewal and replacement account. Chairman Rattner said those concerns were to be discussed with the engineer's report and suggested that approval of the pending vouchers should wait until after the engineer's report.

Mr. Pucilowski asked Mr. Purcell if he wanted to discuss item "A" under the correspondence. Mr. Purcell said he did not receive any information regarding that item. Mr. Sylvester noted that it was regarding Chatham Township and a proposed amendment to the WQPM.

The following correspondence for the month of December was received and filed on a motion offered by Mr. Hoyt, seconded by Mr. Schwab and the affirmative vote of members present.

A. 11/22/13 Morris County PB – Request for Consent Resolution for Proposed Amendment to Upper Delaware, Upper Raritan & Northeast WQMP
B. 11/6/13 LTPA – Change Order # 2 for Contract No. 250, Handrail Repairs
C. 12/9/13 NJDEP Division of Water Quality – Amendment to Phosphorus Evaluation Study, MSA NJPDES Permit No. NJ0027821
D. 12/10/13 LTPA – 2014 Professional Services Agreement
E. 12/13/13 LTPA – CFM Payment Requisition No. 4 for Contract No. 250 Handrail Repairs
F. 12/10/13 Passaic Valley Sewerage Commission – Transmitting New Contract Agreement
G. 12/16/13 CFM Construction – Contract #250 Handrail Repairs Additional Work Completed

Mr. Schilling asked if the commissioners had reviewed his monthly report and if anyone had any questions. Mr. Pucilowski asked about the service from Communications Systems and what the problem was. Mr. Schilling explained that somebody had hacked into the phone system to make international calls. He had Communications Systems put a block on the system to prevent future fraud problems.

Mr. Schilling also noted that the MSA had not appointed a labor attorney for 2013 and that it may be appropriate to appoint a labor attorney for 2014.

The Repairs and Maintenance Report was accepted on a motion offered by Mr. Hoyt, seconded by Mr. Pucilowski and the affirmative vote of members present.

Mr. Purcell reported on the handrail repairs for Contract #250. The contractor, CFM Construction, has completed the project as of November 22nd. LTPA has certified payment to CFM for the work completed in the amount of $29,782.20. Mr. Purcell explained that the contract completion date was supposed to be November 7th. He said that LTPA suggested to the contractor that he add more staff to the project so that he could complete the project by the completion date. The contractor indicated that work on the project may go a few days past the contract completion date. Mr. Purcell said that the project

specifications specify that if a contractor's work is not completed by the project completion date then the owner could assess liquidated damages and could back charge for engineering services beyond the contract completion date. LTPA had advised the Authority at a prior meeting that the contractor was going to overrun his contract completion time and when asked about the extra fees for engineering inspection time Mr. Purcell had estimated a budget not to exceed $3,000.00. After the project was completed, LTPA's extra inspection cost totaled $2,775.00. He recommended that the Authority deduct that amount from the contractor's payment. The contractor wrote a letter in response indicating that he completed his work and requested the Authority to extend his completion date for 15 days to November 22nd and not to charge him for the inspection services during that time. However, the situation went beyond that request. The Mr. Schilling, MSA Director, asked the contractor that he dollar quantify any extra costs incurred for the project. The contractor indicated that he would be asking for extra compensation if the Authority did not extend the contract completion time and pay the full contract amount with no back charges. The contractor indicated that he had three issues. The first issue was that his staff did extra work. Mr. Purcell indicated that the contractor's staff started work in an area that was not on the plans and since they started the work they had to finish the repair work which was an extra cost of $1,500.00. The second issue was that the contractor did not base his proposal on the lump sum required to do the seal coating work as specified in the contract documents and is requesting the extra fee for that work. The third issue was concerning the base plates. Mr. Purcell indicated that the contractor did not field measure correctly and ended up using more base plates then he estimated in his lump sum proposal. The total extra cost the contractor is claiming is approximately $7,000.00. Mr. Purcell said that the contractor never indicated that he would be requiring extra costs during the project until LTPA recommended that the MSA could back charge the contractor for the overage time for engineering inspection fees and he felt that the contractor had embellished his claims. Mr. Schilling explained that he received a letter from the contractor on December 16th and forwarded to Mr. Purcell's office. He said that the letter from the contractor indicated that he takes exception to LTPA's recommendation and should the MSA follow through with LTPA's recommendation, he would request a joint review with the commissioners and LTPA to accurately review the work completed and determine the quantities. Chairman Rattner further explained the situation and reiterated the facts and discussions from past meetings concerning the project issues. He also mentioned that the extra costs are not that high and would not be significant enough to require legal actions. Chairman Rattner asked the commissioners and Mr. Joss what their opinions and thoughts were with regard to the issues. Mr. Pucilowski said he believed there should be some discussion with the contractor and that the MSA Attorney should further review the specifics of the contract. He suggested that the commissioners approve the contract up to this point and pay the contractor for the work completed. Mr. Sylvester said he believed that the contractor owed the MSA for the inspection fees required to complete the project past the completion date. Mr. Bates said the additional work done by the contractor that was not in the contract would most likely be required sometime in the future anyway. Mr. Grogan did not think it was proper to pay the contractor for the extra time and work. Mrs. Michetti agreed with Mr. Pucilowski and indicated that the additional work and inspections should be reviewed further. She asked Mr. Purcell if some of the extra work was indicated in the specifications and the proposal submitted by the contractor. Mr. Purcell said all contractors bidding on the project were responsible for field measuring their quantities and submitting a lump sum bid. Mr. Schwab questioned Mr. Purcell about the quantities on the plans and if a lump sum bid was required for those quantities. He suggested that the requirements could be conflicting. Mr. Schwab said that he thought it would be fair to pay the contractor for the full contract and grant him a no cost change order. He noted that the inspection fees should be discussed further because they were a much higher percentage than originally estimated. Mr. Hoyt felt that the contractor should be back charged for the extra inspection fees needed to complete the project past the completion date. Mr. Phil suggested that the contract documents should have been more accurate with the quantities that were measured in the field, although he did understand that the extra inspection fees were required for the project over run. He said that the contractor is a good contractor and is well known and experienced in the area. The project work was acceptable and he thought the contractor should be paid the full contract amount. He suggested that LTPA manage their inspectors a little better with regards to their time. Mr. Keiser agreed with Mr. Schwab. Chairman Rattner took an unofficial vote on whether or not to pay the contractor the full contract amount without withholding any money. Roll call:

Mr. Bates	Yes	Mr. Phil	Yes
Mr. Grogan	No	Mr. Pucilowski	No
Mr. Hoyt	No	Mr. Rattner	No
Mr. Keiser	Yes	Mr. Schwab	Yes
Mrs. Michetti	Yes	Mr. Sylvester	No

Chairman Rattner asked for another unofficial vote from the commissioners to see if they agreed that the extra engineering inspection fees should be paid at this time. Roll call:

Mr. Bates	Yes	Mr. Phil	No
Mr. Grogan	Yes	Mr. Pucilowski	Yes
Mr. Hoyt	Yes	Mr. Rattner	Yes
Mr. Keiser	Yes	Mr. Schwab	Yes
Mrs. Michetti	Yes	Mr. Sylvester	Yes

Chairman Rattner recommended that LTPA should get paid for the extra engineering inspections fees for Contract #250 handrail repairs. He also suggested that it would be proper to pay the contractor the full bid amount awarded to him and that it would be costly to pay legal fees to pursue the issues to have the matter settled. Mrs. Michetti discussed the specifications and lump sum bids requested in the contract documents and how lump sum bids can be conflicting. She agreed that the contractor is due the

money for the work done on the project. Mr. Schwab agreed that lump sum bids can be unfair. Chairman Rattner indicated that in the past some of the commissioners had requested lump sum bids be required for past projects. Mr. Pucilowski had a concern that all the facts were not presented and the true value of the change order was not known. He suggested that theses issues be kept in mind for the future reference on future projects.

Lastly, Mr. Purcell also noted that LTPA is available to assist the MSA in developing an Asset Management Plan.

The Engineer's Report was accepted on a motion offered by Mr. Hoyt, seconded by Mr. Pucilowski and the affirmative vote of members present.

The commissioners discussed Resolution No. 13-34. Mrs. Michetti asked Mr. Purcell if there would be any future additional charges for Contract #250. Mr. Purcell responded not unless the contractor pursues his claims.

Resolution No. 13-34 Amending a Contract to Lee T. Purcell Associates for Design Period Services, Bid Period Services and Part-Time Resident Engineering for Inspection During Construction for Handrail Repairs to the Sewage Facilities of the Musconetcong Sewerage Authority Pursuant to Contract No. 250 without Public Advertising as a Professional Service, was moved by Mr. Hoyt, seconded by Mr. Sylvester and the affirmative. Roll call:

Mr. Bates	Yes	Mr. Phil	No
Mr. Grogan	Yes	Mr. Pucilowski	Yes
Mr. Hoyt	Yes	Mr. Rattner	Yes
Mr. Keiser	Yes	Mr. Schwab	No
Mrs. Michetti	Yes	Mr. Sylvester	Yes

RESOLUTION NO. 13-34

**Resolution of the Musconetcong Sewerage Authority
Amending a Contract to Lee T. Purcell Associates
for Design Period Services, Bid Period Services
and Part-Time Resident Engineering for Inspection
During Construction for Handrail Repairs to the
Sewage Facilities of the Musconetcong Sewerage Authority
Pursuant to Contract No. 250
without Public Advertising as a Professional Service**

WHEREAS, on March 28, 2013, the Musconetcong Sewerage Authority (hereinafter "MSA") by Resolution No. 13-10 awarded a Contract for Professional Services to Lee T. Purcell Associates (hereinafter "Engineer") for engineering services to provide Design Period Services, Bid Period Services and Part-Time Resident Engineering for Inspection during construction for the handrail repairs to the sewage facilities of the MSA; and

WHEREAS, on November 21, 2013, the MSA by Resolution No. 13-33 authorized an increase from $8,000.00 by $11,485.00 for Modification Order No. 1 to Contract No. 250 for a total amount of $19,485.00 for the Part-Time Resident Engineering and Inspection during Construction;

WHEREAS, Lee T. Purcell Associates has requested by Modification Order No. 2 an increase of $2,775.00 for necessary inspection services beyond the construction contract completion date of November 7, 2013; and

WHEREAS, the MSA believes that the proposed amendment is fair and reasonable.

NOW, THEREFORE, BE IT RESOLVED, by the Commissioners of the Musconetcong Sewerage Authority that the above referenced Contract previously awarded for Design Period Services, Bid Period Services and Part-Time Resident Engineering and Inspection Services during Construction be increased from $19,485.00 by $2,775.00 for Modification Order No. 2 to Contract No. 250 for a total amount of $22,260.00 for the Part-Time Resident Engineering and Inspection during Construction; and be it

FURTHER RESOLVED, that the amount for Part-Time Resident Engineering and Inspection during Construction shall not exceed $22,260.00 without further authorization from the MSA.

Chairman Rattner discussed Resolution No. 13-35 and a conference call that was held with U.S. Bank. U.S. Bank will no longer be the MSA Trustee after January 1, 2014 since the bonds the MSA held with the bank will be paid in full. The three new accounts with TD bank with be for transferring funds from other accounts held with U.S. Bank. Mr. Pucilowski asked if there would be fees associated with the new accounts. Chairman Rattner responded that regular bank fees would be charged, but there would be no more trustee fees.

Resolution No. 13-35 Designating TD Bank, N.A. Depository as Trustee for the Musconetcong Sewerage Authority's Revenue Account, Debt Service Account and Renewal and Replacement Account Commencing as of January 1, 2014, was moved by Mr. Hoyt, seconded by Mr. Pucilowski and the affirmative roll call vote of members present.

RESOLUTION NO. 13-35

Resolution of the Musconetcong Sewerage Authority Designating TD Bank, N.A. Depository as Trustee for the Musconetcong Sewerage Authority's Revenue Account, Debt Service Account and Renewal and Replacement Account Commencing as of January 1, 2014

WHEREAS, the Musconetcong Sewerage Authority requires the services of a bank to operate as Trustee for its Revenue Account, Debt Service Account and Renewal and Replacement Account; and

WHEREAS, the Commissioners of the Musconetcong Sewerage Authority believe that T.D. Bank N.A., will best be able to serve as Trustee for the accounts of the Musconetcong Sewerage Authority.

NOW, THEREFORE, BE IT RESOLVED, by the Commissioners of the Musconetcong Sewerage Authority on this 19th day of December, 2013, that TD Bank, N.A., be appointed as Trustee for the 1) Revenue Account; 2) Debt Service Account; and 3) Renewal Replacement Account of the Musconetcong Sewerage Authority commencing January 1, 2014.

Resolution No. 13-36 Authorizing Transfer Between Accounts, was moved by Mr. Hoyt, seconded by Mr. Schwab and the affirmative roll call vote of members present.

RESOLUTION NO. 13-36

Resolution of the Musconetcong Sewerage Authority Authorizing Transfer Between Accounts

WHEREAS, Musconetcong Sewer Authority ("MSA") maintains separate accounts which include, but are not limited to, an operating account and a renewal and replacement account; and

WHEREAS, because there were insufficient funds in the renewal and replacement account certain payments were made from the operating account toward renewal and replacement obligations in the total amount of $193,750.07; and

WHEREAS, the MSA now desires to transfer monies from its operating account in order to reimburse the renewal and replacement account;

NOW, THEREFORE, BE IT RESOLVED, by the Commissioners of the Musconetcong Sewerage Authority that a transfer shall be made from the operating account to the renewal and replacement account in the amount of $193,750.07. This amount takes into consideration $41,333.46 paid for work completed for Contract #250.

FURTHER RESOLVED, that the Treasurer, accountants, bookkeepers and/or such employees as are responsible for maintaining the accounts shall take such steps necessary to effectuate the transfer set forth herein.

Resolution No. 13-37 Adopting MSA Budget for the Fiscal Year 2014, was moved by Mr. Hoyt, seconded by Mr. Schwab and the affirmative roll call vote of members present.

RESOLUTION NO. 13-37

Musconetcong Sewerage Authority Adopted Budget Resolution Fiscal Year: From January 1, 2014 To December 31, 2014

WHEREAS, the Annual Budget and Capital Budget for the Musconetcong Sewerage Authority for the fiscal year beginning January 1, 2014 and ending December 31, 2014 has been presented for adoption before the governing body of the Musconetcong Sewerage Authority at its open public meeting of December 19, 2013; 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 introduced reflects Total Revenues of $4,414,099, Total Appropriations including any Accumulated Deficit if any, of $4,414,099 and Total Unrestricted Net Assets utilized of $0; and

WHEREAS, the Capital Budget as introduced reflects Total Capital Appropriations of $190,000 and Total Unrestricted Net Assets planned to be utilized, of $0; and

NOW, THEREFORE BE IT RESOLVED, by the governing body of the Musconetcong Sewerage Authority at an open public meeting held on December 19, 2013 that the Annual Budget, and Capital Budget/Program of the Musconetcong Sewerage Authority for the fiscal year beginning January 1, 2014 and ending December 31, 2014 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.

The commissioners discussed the final payment to CFM, minus the retainage, listed on the pending voucher list. Mrs. Michetti suggested that an agreement letter should be sent to CFM Construction indicating that the final payment will be made providing there will be no additional costs for Contract #250. A motion was made by Mr. Hoyt to send the agreement letter to CFM Construction for Contract #250 requesting that it be signed and returned, seconded by Mr. Grogan and the affirmative roll call vote of members present.

The pending vouchers for the month of December were approved for payment on a motion offered by Mr. Hoyt, seconded by Mr. Schwab and the affirmative roll call vote of members present.

RENEWAL & REPLACEMENT	
CFM Construction	$29,782.20
Daily Record	$7.28
LTPA	$2,775.00
Nusbaum Stein	$572.00
OPERATING ACCOUNT	
ADP	$532.22
AllMax Software	$840.00
AmeriGas	$1,673.71
Vince Barbato (kerosene)	$47.00
Pat Biasi (work boots)	$149.99
Blue Diamond Disposal	$175.00
Cintas Corp.	$467.28
Communications Systems, Inc.	$436.00
Deli Delicious	$391.46
EMR Power Systems	$1,608.75
Federal Express	$154.41
Grainger	$412.36
Susan Grebe (petty cash)	$134.52
Susan Grebe (mileage)	$34.99
Hach Co.	$735.00
Independence Constructors	$8,996.00
JCP&L	$12,336.34
Kemira	$4,844.14
La Strada Ristorante	$750.00
Lowe's	$14.78
NJ American Water	$1,263.79
NJSHBP	$15,371.85
NJ State League of Municipalities	$195.00
Netcong Hardware	$53.95
Nusbaum Stein	$2,970.00
One Call	$5.70
PPL Energy	$17,902.40
Passaic Valley Sewerage Commission	$16,512.00
Polydyne	$2,052.00
QC Labs	$486.00
Rapid Pump & Meter Service	$9,177.05
Roxbury Township Water Dept.	$134.94
James Schilling (mileage)	$107.12
Shell Fleet Plus	$586.93
Spectraserve	$13,104.00
Staples	$67.27
Robert Still (work boots)	$139.95
USA Blue Book	$1,606.30
Verizon Communications	$49.99
Verizon Wireless	$225.32
Verizon	$686.73
WEF	$344.00

The proposed 2014 MSA meeting schedule was discussed. There was also discussion about paying any bills that would be required to be paid during the hold over time of January 31, 2014 to the February 27, 2014 reorganization meeting and if any professional services would be needed. The commissioners decided that the reorganization meeting would be held before the regular February meeting on the 27th.

Resolution No. 13-38 Establishing Meeting Dates for the Musconetcong Sewerage Authority for the Calendar Year 2014, was moved by Mr. Pucilowski, seconded by Mr. Bates and the affirmative roll call vote of members present.

RESOLUTION NO. 13-38

Resolution Establishing Meeting Dates
for the Musconetcong Sewerage Authority
for the Calendar Year 2014

WHEREAS, the Musconetcong Sewerage Authority hereby establish the following meeting dates for the Calendar Year 2014, which meetings will begin at 7:30 PM and held at the Water pollution Control Facilities located on Continental Drive in Mount Olive, New Jersey:

January 23rd
February 27th (Reorganization @ 7:00 PM followed by Regular Meeting)
March 27th
April 24th
May 22nd
June 26th
July 24th
August 28th
September 25th
October 23rd
November 20th
December 18th

Chairman Rattner asked if there was any other new business that anyone would like to discuss. Mr. Michetti asked for a time line to have a purchasing plan prepared and in place for the Authority. Chairman Rattner asked Mr. Schilling and Mr. Joss to send an e-mail some time the first week of January with an estimated date of when a purchasing plan can be presented for approval.

Motion made by Mr. Hoyt, seconded by Mrs. Michetti and the affirmative roll call vote of members present for the commissioners to go into closed session at 8:52 PM:

WHEREAS, Section 8 of the Open Public Meetings Act (N.J.S.A. 10:4-12 (b) (1-9) permits the exclusion of the public from meeting in certain circumstances;

WHEREAS, the Commissioners of the Musconetcong Sewerage Authority is of the opinion that such circumstances exist.

NOW, THEREFORE, BE IT RESOLVED by the Commissioners of the Musconetcong Sewerage Authority as follows:

1. The public shall be excluded from discussion of, action on and hearing the tape of closed session of the Musconetcong Sewerage Authority;
2. The general nature of the subject matter to be discussed is as follows: Litigation and Contracts

The above subject matter will be made public as soon therefore as it is deemed to be in the public interest.

Motion to reopen the meeting to the public at 9:27 PM was offered by Mr. Hoyt, seconded by Mr. Grogan and the affirmative vote of members present.

Motion made by Mr. Hoyt, seconded by Mr. Keiser and the affirmative roll call vote of members present, Chairman Rattner adjourned the meeting at 9:28 PM.

Respectfully Submitted:

Susan Grebe

Susan Grebe,
Administrative Assistant