

**OLD BRIDGE MUNICIPAL UTILITIES AUTHORITY
REGULAR MEETING
January 4, 2012**

Call to Order: The Regular Meeting of January 4, 2012 was called to order at 7:00 p.m. with the Pledge of Allegiance by Vice Chairman Testino.

Announcement: Vice Chairman Testino announced that this meeting is being held in conformance with the Open Public Meetings Act. Notice has been given to the newspapers and notice of the meeting has been posted in public places.

Roll Call: Present:
Edward Testino, Vice Chairman
Nicholas Smolney, Treasurer
Kiran Desai, Secretary (arrived at 7:09 p.m.)
Rocco Donatelli, Commissioner
Reginald Butler, 1st Alternate – Assistant Secretary
Richard Greene, 2nd Alternate – Assistant Treasurer

Absent:
Thomas Galante, Chairman

Also present:
Guy Donatelli, Executive Director
Michael Roy, P.E.
Stephen A. Florek II, Comptroller
Louis E. Granata, Esq.

Executive Director's
Report: Guy Donatelli, Executive Director
None

Mr. Greene requested a clarification of the expiration date of an appointment to the MUA. He stated that the Township Clerk has recorded the expiration term of MUA Commissioners as of December 31, 2011, and he believes this to be incorrect.

Mr. Granata responded that a term expires on January 31, but the appointment continues until the Reorganization Meeting after February 1st.

2012 Regular Meeting Schedule

A motion to adopt the 2012 Regular Meeting Schedule was made by Mr. Smolney and seconded by Mr. Butler.

The roll call was as follows:

AYES: Donatelli, Smolney, Testino, Butler, Greene

NAYS: None

ABSENT: Galante

5 Ayes 0 Nays 1 Absent

Chairman’s Report: Thomas Galante, Chairman
None

Previous Minutes: None

Engineering Reports: Michael Roy, P.E.
Report on Developers for Approval
None

Superintendent’s Report: Al Lunkenheimer, Superintendent Sewer Division
None.

Engineering Reports: Michael Roy, P.E.

1. Sewer Division SCADA – Award Contract No. 2011-3 to MBE – Mark III Electric.

Mr. Roy reported that on December 20, 2011, five bids were received for this project. The apparent low bidder was Optimum Controls Corporation (OCC) of Reading, PA, with a total bid price of \$1,893,075.00. The second lowest bidder was MBE Mark-III Electric (MBE) of Madison, NJ, with a total bid price of \$2,180,000.00. Both bids were below the current engineer’s opinion of construction price, but it has been determined that the low bid contains a fatal flaw.

Mr. Granata stated that MBE filed a protest letter denoting three categories in which the apparent low bidder was deficient in complying with the bid specifications. One objection was the omission of a New Jersey Business Certificate, which can be cured; the other was the omission of subcontractors, but OCC stated that subcontractors were not necessary.

A third objection related to the bond submitted which did not meet the bid specifications or the statutory requirements. The bond was required from a bonding company that has the financial "size" of what is described as a Category VII; theirs was a Category V. Under the bidding statute, there are certain things that may be waived, and those that cannot be waived. The bid bond requirements must meet the bid specifications, and statutorily that deficiency may not be waived.

Mr. Greene expressed his disappointment in having to award this contract to a bidder with a price in excess of \$300,000 of the lowest bid.

Vice Chairman Testino asked if OCC responded to the bid challenge.

Mr. Roy stated that OCC has only been told that the bid is under attorney review.

Mr. Granata stated that the Commissioners are being asked to reject the apparent low bid due to a fatal deficiency to which OCC has the right to voice its objection.

Vice Chairman Testino suggested that prior to awarding the contract, OCC be notified about the deficiency to determine what their position will be.

Mr. Roy reminded the Commissioners that the deadline for awarding the contract is prior to January 13, 2012, because the DEP must approve our award prior to January 13th. His intention was to hand deliver the MBE bid to the DEP on Monday.

Mr. Granata recommended notifying OCC of Counsel's decision to award the contract to MBE based on the statute with respect to the material defect.

Mr. Roy stated that the NJEIT will approve the award subject to outstanding bid protests.

Vice Chairman Testino stated that if OCC does not respond by Friday, the contract will be awarded to MBE.

Mr. Granata stated that if OCC is notified that the contract is about to be awarded to MBE and that the information has been delivered to the DEP, OCC may still file an order to show cause to restrain the award of the contract. They will have to go to court.

Vice Chairman Testino added that he believes it is wise for them to have to go to court. If the judge rules that one bonding company is the same as the other, the Commissioners will be out of the decision making process.

Mr. Granata requested a letter be sent to OCC with a request that their legal counsel contact him.

Mr. Samuel asked what contact, if any, should be made with MBE.

Mr. Granata responded that MBE should be sent the same letter as OCC.

Vice Chairman Testino opened a public portion.

Dr. Greenberg inquired about the deadline.

Mr. Roy explained that the request to award the contract must be approved by the DEP (that is where the money is coming from). Their approval of our award must be done prior to January 13, 2012. Whether or not OCC goes to court, he will begin the process in order to meet the deadline. According to the DEP, a bid protest is a qualification to their approval, but the award will have already been granted, and the money will be available. The DEP will approve either OCC or MBE because both bid prices are below the engineer's estimate.

Mr. Smolney added that OCC may choose not to protest.

Mr. Granata stated that the Commissioners' action is conditioned on the DEP approval. Once the DEP approves the loan money, OCC may still challenge the award.

Seeing no further hands Vice Chairman Testino closed the public portion.

A motion to award Contract No. 2011-3 Sewer SCADA System to MBE Mark-III Electric (the second lowest bidder) due to non-

compliance with statutory requirements on the part of the apparent lowest bidder, Optimum Controls Corporation as recommended was made Mr. Butler and seconded by Mr. Smolney.

The roll call was as follows:

AYES: Desai, Smolney, Butler, Greene, Testino

NAYS: None

NO PARTICIPATING: Donatelli

ABSENT: Galante

5 Ayes 0 Nays 1 No Participation 1 Absent

2. Demolition of Abandoned Water Plants – Award Contract No. 433 to Aurora Environmental.

Mr. Roy stated that this project entails the demolition of two water treatment sites – one on Prospect Avenue; the other on Joseph Court (former Brunetti site). Hazardous studies have been performed by Naik, and a contract was awarded to perform additional soil investigations. This project is not funded by NJEIT, but rather from MUA general funds.

Six bids were received on December 6, 2011. The apparent low bidder for this project was Aurora Environmental Inc. (Aurora) of Union Beach, NJ with a base bid price of \$289,145.00. Based on the recommendation of CME, the contract should be awarded to Aurora Environmental Inc.

A motion to award Contract No. 433 Demolition of Abandoned Water Plants to Aurora Environmental Inc. as recommended was made by Mr. Desai and seconded by Mr. Greene.

The roll call was as follows:

AYES: Desai, Smolney, Butler, Greene, Testino

NAYS: None

NOT PARTICIPATING: Donatelli

ABSENT: Galante

5 Ayes 0 Nays 1 No Participation 1 Absent

3. Waterworks Road Rehabilitation – Final Quantities Change Order.

Mr. Roy reported that the Final Quantities have been determined, and there is a \$30,242.50 reduction in the contract, a two point three percent (2.3%) decrease from the amended contract amount of \$1,327,890.00 to a new contract amount of \$1,297,647.50.

A motion to approve Waterworks Road Rehabilitation – Final Quantities Change Order as recommended was made by Mr. Smolney and seconded by Mr. Desai.

The roll call was as follows:

AYES: Desai, Donatelli, Smolney, Butler, Testino

NAYS: None

ABSENT: Galante

5 Ayes 0 Nays 1 Absent

4. Higgins Road GS Realty – Developer Agreements.

Mr. Roy reported that the Water and Sewer Developer Agreements for the referenced applications have been prepared and signed in accordance with the Final Water and Sewer Approvals granted on October 19, 2011 by the Developer.

The Developer Agreements consist of the standard language, and the conditions of the Final Water and Sewer Approvals to construct approximately 25 LF of eight inch (8”) water main to connect into an existing water main in Higgins Road and approximately 1,345 LF of eight inch (8”) PVC sewer main to connect into an existing privately owned sewer main in Ticetown Road to service seven (7) single family units.

Based upon the foregoing, Mr. Roy recommended the Water and Sewer Agreements be countersigned by the Authority.

A motion to authorize the Authority to countersign the Higgins Road GS Realty Developer Agreements as recommended was made by Mr. Smolney and seconded by Mr. Butler.

The roll call was as follows:

AYES: Desai, Smolney, Butler, Testino

NAYS: None

ABSTAIN: Greene

NOT PARTICIPATING: Donatelli

ABSENT: Galante

4 Ayes 0 Nays 1 Abstain 1 No Participation 1 Absent

Financial Report: Stephen A. Florek II, Comptroller
None

Legal Report: Louis Granata, Esq.

Summerfield Gravity Sewer

Mr. Granata reported that the Summerfield project is progressing. Surveys have been completed; agreements have been prepared for the slope/wall easements for each of the property owners, and meetings will be scheduled with the property owners.

Brunetti Litigation

Mr. Granata reported that there is a motion before Judge Hurley to limit the experts' reports and to compel discovery.

Old Business: **Brunetti Oaks at Glenwood Development – Status**
As previously discussed

Recharge Basin – Status

Mr. Roy stated that a permit application was being prepared, and a soil study has to be conducted.

MCUA Sewer Rates

Mr. Greene requested a discussion

Executive Director Donatelli stated that the committee, which was established at the last meeting, is to meet to review the MCUA charges. There was one MCUA anomaly quarter about which the Authority can do nothing. Because of greater concentrations at a consistent rate, the estimate will have to be reevaluated for the balance of the forthcoming year. The shortage will have to be made up.

Mr. Shah – 24 Ashley Drive – High Billing Problem

Mr. Desai reminded the Commissioners that a discussion took place during the meeting of December 21, 2011 wherein Mr. Shah made a presentation with respect to a suspected water meter defect resulting in an exorbitant bill. He suggested that Mr. Granata review the documents presented and prepare a response to Mr. Shah.

New Business: None

Open to the Public: Seeing no hands Vice Chairman Testino closed the public portion.

Adjournment: A motion was made to adjourn at 7:28 p.m. Mr. Smolney and seconded by Mr. Donatelli.

The motion was approved by an ALL AYES vote.

Respectfully submitted:

Kiran Desai, Secretary