

FINAL COPY

MINUTES OF A REGULAR MEETING OF THE BINGHAMTON - JOHNSON CITY JOINT SEWAGE BOARD

Tuesday, October 10, 2023

Plant Administration Building

Members Present: George Kolba, Chairman
Edward Crumb
Chris Papastrat
Stephen Andrew
Ron Lake
Bruce King

Also Present: Elliott Wagner, Superintendent (Exited 5:35pm)
Billie J. Goodson, Business Manager (Remote) (audio)
Alfred Paniccia, Jr., Esq., Co-Counsel
Chuck Robinson, Asst. Comptroller, City of Binghamton (Exited 4:50pm)
Makayla Jackson, Mechanical Engineering EIT, Ramboll (Exited 4:10pm)
Daniel Harter, P.E., Ramboll (Exited 4:10pm)
Ron Harting, Ramboll (Exited 4:10pm)
Bryan Witbeck, CMMS Clerk, CSEA President
Ron Warwick, Asst. Superintendent
Howard Reeve, Facility Engineer (Exited 4:45pm)
Larry Travis, Electrical Engineer
Jason Greene, P.E., GHD, (Remote) (Entered 3:50PM; Exited 4:40PM)
Michele Cuevas, Confidential Secretary

Chairman Kolba called the meeting to order at 3:30PM. Sign in sheet was passed. Confidential Secretary Cuevas made roll call aloud. All six (6) Board members were present. Chairman Kolba confirmed all present signed in, identified fire exits and requested cell phones be turned off or silenced during the meeting. All stood to recite the Pledge of Allegiance.

Privilege of the Floor

No one wished to speak.

Ramboll Engineers -- Micro-Turbines Discussion

Chairman Kolba turned the floor over to Ramboll Engineers Ron Harting, Daniel Harter & Makayla Jackson to discuss the Micro-Turbines cooling water evaluation.

Ramboll Engineers have three (3) recommendations for the Micro-Turbines.

- (1) Replace larger pump control valves into proper pipe size. Should have known about the discrepancies. 4” pipe now 3” and goes down to 2”; goes through the wall, then up to 3”. 75 feet is underground.
- (2) First approach put above ground. No upset. No digging required. New Pump above grade -- Higher costs.
- (3) Using heat recovery to create a new sludge heating system.

Lengthy discussion about all three options. All options are close to the same costs. Superintendent Wagner noted that there are no reports from RSP, the microturbine manufacturer.

Jason Greene GHD

Chairman Kolba then gave the floor to Jason Greene.

Mr. Greene overviewed the submitted IWPP Report for September 2023, copies of which were distributed in the Board’s folders stating there were no major notices of violations, but he is still reviewing and that there are no outstanding fines or fees tracking now and the only outstanding issue is the Frito Lay Permit Renewal.

September IWPP

Jason reported that there were no major concerns for this month for the IWPP.

Frito-Lay

Mr. Greene, Mr. Wagner, and Mr. Wood have had some discussions, but Mr. Wood indicated today that he could not attend the meeting. Mr. Greene stated that he has looked at past loadings and surcharges from Frito-Lay and this type of request from Frito-Lay doesn’t need an IWPP permit modification. A direct meeting needs to be held and iron out the details of the request. Mr. Greene to copy board members and superintendent of any developments.

Board Member Crumb raised the IRS “Private Use Rule” and questioned whether the discharge limits allowed to Frito-Lay under a prior or the existing agreement are “grandfathered” for purposes of “private business use” analysis under the *Internal Revenue Code* and/or Treasury Regulations or, if not, is the JSB prohibited from increasing Frito-Lay’s permitted discharge above the current agreement’s allowance of an average 7,300 pounds per day BOD and 4,000 pounds per day TSS, due to the

applicability of:

- Internal Revenue Code §141(b)(1) and/or Treasury Regulation 1.141-3(a)(1) which deems use of **more than 10 percent** of the proceeds of a governmental debt issuance to constitute “private business use” (*from the cited regulation*: “the use of financed property is treated as the direct use of proceeds”) – the 7,300 pounds per day CBOD₅ allowance is **22.8%** of the current daily GHD *Basis of Design* for the JSTP as to **CBOD₅**; the 4,000 pounds per day TSS allowance is **12.9%** of the current daily GHD *Basis of Design* for the JSTP as to **TSS**?, and/or
- Treasury Regulation 1.141-3(c)(3) which makes clear that an arrangement (such as the Frito-Lay Agreement) with a term “**greater than 200 days**” (*including all renewal options*) is not treated as “general public use” (and, hence, constitutes “private business use”)?, and/or
- Treasury Regulation 1.141-3(c)(2) which provides that “use under an arrangement that conveys **priority rights or other preferential benefits**” (such as the preferential excess-strength wastewater surcharge rates afforded Frito-Lay under its Agreement) is not use on the same terms as the general public (and, hence, constitutes “private business use”)?, and/or
- Is the JSTP, **in fact**, “reasonably available” for use on the same basis by natural persons not engaged in a trade or business [*cf.*, Treasury Regulation 1.141-3(c)(1)]? -- *for example*, if Frito-Lay’s use is “grandfathered”, do subsequent changes in the *Internal Revenue Code* and/or Treasury Regulations make it the case that, **presently**, the terms and conditions available to Frito-Lay are no longer available to other users (whether natural persons, general public, and/or private businesses)?

Transcriptionist Resignation

Mrs. Cuevas gave an update on the transcriptionist status that Janet Smith has resigned effective October 4, 2023, due to health reasons. The Board and Plant extend Mrs. Smith get well wishes. Mrs. Cuevas stated to the Board that she will continue doing the transcriptionist duties going forward.

Meeting Minutes Approval

Edward Crumb made a motion that the Board approves the submitted September 12, 2023, Regular Meeting Minutes with the suggested changes as contained in the Board Folders.

Motion seconded by Steve Andrew.

Motion carried. 6/0

Fiscal Officer's Report

Chuck Robinson briefly overviewed the Treasurer's Report prepared by Clarence Shager and distributed in the Board's folders. Mr. Robinson stated that the approved audit copies will be sent out digitally to all interested parties. The 4th quarter billings were mailed out and the City of Binghamton, Town of Fenton, and Town of Union took credits for the 2022 Final Billing.

Superintendent's Report

Superintendent Wagner overviewed his Superintendent's Report below which included graphs and charts, copies of which were distributed in the Board's folders. The face page of the report is set forth below.

September Superintendent Report
October 10, 2023

September saw 2.97 inches of precipitation; Total plant flow was 477.69 MG with an average daily flow of 15.92 MGD. CBOD of 9 mg/L, TSS of 6 mg/L, TN of 2.6 mg/L with 4 data points to go, PHOS of 0.47 mg/L, AMMONIA of 0.143 mg/L.

Welliver and plant staff began working on the H-Line repair and support. 10/05/2023 was the 8th day of cure time for Channel #1 (North CN Influent channel) Covering was started and on 10/06 we should be ready to set the Stop Logs for South Influent Channel. The work on Channel #9 started concurrent with Channel #1 work after inspections by RE Kelley on Channel #1, #9, #3, #4 & #5 on Tuesday October 3rd. The plant operators set Welliver up for a confined space entry to block off flow to Channel #9. Plant operators worked on Sunday & Monday to prepare the tanks and provided the time calculation and eyes on tank Tuesday in support of Welliver's work effort.

On Tuesday, September 5th the DEC approved the work plan to limit influent to 55 MGD for work on Channels #1 & #2 Only.

The special board meeting resulted in the board authorizing the use of Welliver and the ok to use \$250,000 from contingency to a line to be used to pay the contractor. Also authorized the use of the Professional Services Line to pay GHD for its engineering of the pumping plans required for this work.

The DEC will also require a periodic review and status update by an engineer as the work progresses.

They also require the plant superintendent to provide a daily report containing what work has been accomplished, the daily process data and all processes that are in service or bypassed. This

Superintendent's Report-cont.

is like the reporting after the February 18th event.

Micro-Turbine underground piping leak was repaired by plant mechanics. Currently the system is working better after RSP responded to requests for them to repair the issues.

Mr. Wagner stated that currently there are interviews being scheduled for the Instrumentation Technician position. We have advertisements in to NYWEA, City of Binghamton, Broome County, Indeed & our website.

*****end of report*****

Business Manager's Report

2023 Phosphoric Acid Extension

Ms. Goodson is requesting Board approval to extend the Phosphoric Acid contract for one 1 year with the current supplier Amrex Chemical: October 31, 2023, to October 31, 2024, with no changes in terms or conditions.

Edward Crumb made a motion that the Board accepts the Amrex Chemical Phosphoric Acid contract offer for a one 1-year extension from October 31, 2023, to October 31, 2024, with no change in terms or conditions and authorizes the Chairman to sign the contract.

Motion seconded by Steve Andrew.

Motion carried. 6/0

Board Committee Reports

Construction: Ron Lake & George Kolba said that all business was discussed.

Finance: Edward Crumb noted about the audit wrap up and thanked everyone involved.

Flow Management: Edward Crumb – Nothing to report.

Personnel: Steve Andrew noted just a reminder that next month CPI is actually due on or about the 15th. The Board would need a special meeting scheduled to address the lump sum adjustment for union employees.

Ad Hoc: Bruce King – Nothing to report.

Correspondence: Michele Cuevas – Nothing to report.

Old Business: Nothing to report.

New Business:

Non-Renewal of MEGA Alliance Contract in Favor of NYSE&G Agreement

Edward Crumb made a motion that the Board does not renew the electric supply contract with MEGA Alliance and that the Board enters into contract with NYSE&G for the JSTP main facility and the Terminal Pumping Station on Gates Road for electricity supplier.

**Seconded by George Kolba.
Motion carried. 6/0**

Proposed Health Benefits for 2024

Edward Crumb made a motion that the Board accepts the Aetna 2024 financial terms and conditions via the City of Binghamton Medicare (MAPD P01 ESA PPO Plan) with a \$10/\$25/\$40 prescription copay and an \$8,000 maximum Out-Of-Pocket Threshold as set forth in its September 2023 Proposal and authorizes the Chairman to sign the requisite documentation for the same on behalf of the Board in a form approved by counsel.

**Motion seconded by Bruce King.
Motion carried. 6/0**

Edward Crumb made a motion that the Board sets the 2024 Plan Year maximum health reimbursement from a Health Reimbursement Account to be \$7,400 per covered “Member”, but not to exceed \$14,800 per multi-person “Subscriber Unit”.

**Motion seconded by Steve Andrew.
Motion carried. 6/0**

Edward Crumb made a motion that the Board authorizes extension of the Professional Services Agreement with Haylor, Freyer & Coon, Inc. (HFC) for one year, covering Plan Year 2024 services, upon the same terms and conditions as presently in force, and authorizes the Chairman to sign an extension agreement on behalf of the Board in a form approved by counsel.

**Motion seconded by Bruce King.
Motion carried. 6/0**

Proposed Health Benefits for 2024 - cont.

Edward Crumb made a motion that the Board accepts the Excellus 2024 renewal proposal (dated September 2023) for SimplyBlue Bronze 4 Health Insurance coverage and authorizes the Chairman to sign the quote sheet or other acceptance form provided by Excellus on behalf of the Board in a form approved by counsel.

**Motion seconded by Bruce King.
Motion carried. 6/0**

Edward Crumb made a motion that the Board accepts the Excellus 2024 renewal proposal for Dental Blue Options (Excellus Plan Code DBOV-1E-26/26) Dental Insurance coverage, as presented on page four of HFC's September 2023 Confidential Proposal and authorizes the Chairman to sign the requisite documentation for the same on behalf of the Board in a form approved by counsel.

**Motion seconded by Steve Andrew.
Motion carried. 6/0**

Edward Crumb made a motion that the Board accepts Guardian's proposal for 2024 to extend Vision Insurance coverage, on the same financial terms as presently in force, as presented on page five of HFC's September 2023 Confidential Proposal and authorizes the Chairman to sign the requisite documentation for the same on behalf of the Board in a form approved by counsel.

**Motion seconded by Bruce King.
Motion carried. 6/0**

Executive Session: None

The next regular Board meeting is November 14, 2023, at 3:30PM.

Adjournment

**Bruce King made a motion to adjourn.
Motion seconded by Chris Papastrat.
Motion carried. 6/0**

Meeting adjourned at 6:00PM.

Michele Cuevas
Confidential Secretary

cc: Board Members
Mayor Kraham, City of Binghamton
Mayor Meaney, Village of Johnson City
City Clerk, City of Binghamton
Village Clerk/Treasurer, Village of Johnson City
Alfred Paniccia, Esq.
Clarence Shager, Fiscal Officer
Elliott Wagner, Superintendent
Brown & Brown Empire State
Haylor, Freyer & Coon
Joshua Holland, Village of Johnson City Director of Public Services
Ronald B. Lake, P.E., City of Binghamton Engineer
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