

FINAL COPY

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

Wednesday, March 27, 2019

Plant Administration Building

Members Present: George Kolba, Jr., Chairman *Pro Tem*
Edward Crumb
Steve Andrew VIA SKYPE
Ray Standish
Ronald Davis

Also Present: Michele Cuevas, Confidential Secretary
Charles Pearsall, Business Manager
Alfred Paniccia, Jr., Esq., Co-Counsel
Laura Lee Perkins, Transcriptionist

Five Board Members were present. It is noted that the Board is still without a third representative from the City of Binghamton.

Attendance sheet was passed for signatures. Fire exits were identified.

George Kolba stated that from what he understands, if the Board hires Cathy Young's company, Worth Environmental, the City of Binghamton, according to the Inter-Municipal Agreement, will refuse to pay her. Mr. Paniccia stated it was the first he had heard that. Mr. Kolba stated that Mr. Frank's last (correspondence) hints at that. Mr. Paniccia states that the Fiscal Officer can't refuse to make the payments. Charles Pearsall stated that he had talked to Chuck Shager who states he will defer to Ken Frank on whether to pay an invoice from Worth Environmental. Steve Andrews inquired as to what did Ken Frank have to do with the Joint Sewage Board. Mr. Pearsall states that Mr. Frank represents one-half (54.8%) of the Owners. He (Ken Frank) was under the impression that the Board was using the City's Procurement Policy (which is not correct, given the Board has its own Procurement Policy). Mr. Paniccia stated that under the IMA, the Board would not be able to compel payment despite the contract. As a practical matter, if the Fiscal Officer refuses to pay, the Board can't sue him to force him. Ken Frank states his opinion that the contract with Worth Environmental wasn't engaged correctly according to the Procurement Policy, but the Board's Procurement Policy has soft language "should" or "where practicable", "with justification", and "by vote". Mr. Pearsall stated he tried to reach out to laboratories for quotes; but some of the Plant samples have a very short hold time (6 hours) so

we would have difficulty getting it to a test lab (unless we have a courier). But that would cost, just assuming mileage, approximately \$7,000 to get the product delivered. Plus there is no one at the Plant office on Saturday and Sunday to oversee shipments. He does not believe it is a practical solution to send out all the samples. Mr. Andrews stated that sending out the samples when we have an onsite lab does not make sense; it is not the procedure; it is the verification. Mr. Pearsall stated there must be a quality analysis officer to verify. Mr. Kolba stated that next week we will be without a licensed person qualified in the lab and asked who would be paying the fines.

The meeting called to order by Mr. Kolba at 4:40 PM.

First order of business is a discussion of Interim Supervisory/QA-QC Tasks/Services needed to bridge gap in Plant Personnel certifications in order to continue to meet NYS Dept. of Health and/or NYS Dept. of Environmental Conservation requirements for on-site laboratory testing/reporting.

Mr. Crumb stated that it is incumbent on the Board to have an RFQ/RFP for Laboratory Supervisory/QA-QC Services developed that outlines what the tasks are. Mr. Crumb states that he spoke to Charles Pearsall on February 7th and again last week and Mr. Pearsall told Mr. Crumb that Mr. Kolba had directed him not to proceed with developing an RFQ/RFP. Mr. Crumb thinks the Board needs to do that to put out a proper RFQ/RFP. Mr. Pearsall told Mr. Kolba that it was his understanding that everything was under control. Mr., Kolba stated that the Board approved the hiring of Worth Environmental at the last meeting for a limited time period and that, in the meantime, it would give Mr. Pearsall time to draw up the RFQ/RFP to go out for bid. He also stated that there was an agreed upon price of a not-to-exceed \$20,000 for 13 weeks. Mr. Pearsall states that he still does not have the information needed to know what services have to be professionally provided. Mr. Crumb recommended that Mr. Pearsall sit down with Cathy Young and the Lab Director before the end of the week. Mr. Paniccia stated that we needed to hire a qualified person; that 'person' could be someone within a company. Mr. Standish pointed out that the person is not doing the testing but doing the supervising. It was pointed out that Cathy Young had all the certifications needed; if she hadn't, then the Plant would have had to hire someone previously to oversee the lab. Mr. Paniccia stated we could hire someone part-time. Mr. Standish pointed out that they had difficulty finding the person they had. Mr. Paniccia stated that to be certified to the Department of Health, they must have a certain amount of time and experience with the actual testing of the wastewater that is done in the lab. Mr. Crumb states that we are the only wastewater plant in the area that does this type of testing and therefore the chance of finding someone locally will be low. Hiring a company that has a certified person in their employ gives the option of having that person based in Binghamton. Mr. Kolba pointed out that there was one other qualified candidate, but he required \$20,000 to \$30,000 more in annual salary than the Superintendent was making. Mr. Paniccia asked where we would find a candidate. Mr. Crumb stated that the job of the Board is to develop the specifications and advertise to see what responses we get. Mr. Paniccia asked what the Board does in the interim and Mr. Standish stated that the interim basis was taken care of, but that she can't be there for 6 months; only 3 under the temporary arrangement approved by the Board. Mr. Andrew states that we implemented this stopgap measure up to a certain amount of money. That is not going to last, so we must get something out to even see if there is someone else to hire. Mr. Andrew asked

what was there to discuss. Mr. Paniccia stated that Fiscal Officer Chuck Shager won't approve any payments to Worth Environmental even on a temporary basis. Mr. Andrew stated that Chuck Shager was going to have to pay and asked who would be paying the fine. Mr. Standish stated it would be the Board. Mr. Crumb stated the fine could be more than what the temporary contract is for.

Edward Crumb made a motion for the Board to direct the Business Manager to promptly develop a list of required tasks/services in order to meet the Department of Health requirements with a draft RFQ/RFP and to submit to the Board for review.

Steve Andrew seconded the motion

Motion carried 5/0/1 vacant

Steve Andrew made a motion for the Board to have Co-Counsel Paniccia to write a letter to the City of Binghamton testifying to the impractical/impossible position they would be putting the Board in if the City refuses to allow the Fiscal Officer to pay Worth Environmental for services rendered.

Ray Standish seconded the motion

Motion carried 5/0/1 vacant

The next item was a motion to amend the November 2, 2018 Motion to transfer funds for Digester repairs.

Edward Crumb made a motion for the Board to amend the Budget transfer/modification motion approved at the November 2, 2018 Special Meeting to fund Digester Repairs (set forth in the box below):

November 2, 2018 Special Meeting Motion to Fund Digester Repairs {pages 1-3 of Minutes}

Edward Crumb made a motion for the Board to approve the transfer of \$100,000.00 from budget line J8130.51000 (Personal Services) to a budget line to be designated by the Fiscal Officer for transfer to the Lead Agency expressly for repair and coating of Digesters 1 and 2.

Steve Andrew seconded the motion

Discussion

Steve Andrew stated that the fact that makes this expedient has nothing to do with the Board.

The fact that the Contractor(s) have fallen behind, so the Board is willing to take what action has been deemed necessary because it will interfere with the Contract and Consent Order schedule otherwise. He believes the work should be done in the way it was planned and understands that the DEC is breathing down our necks, but believes it is not the Board's fault.

George Kolba wanted it noted that the designs were not what Steve Andrew believed they were; Digester 3 was a completely different project.

Edward Crumb stated that the other thing that is very important from a fiscal standpoint is that the Contractor (#10) is reluctant to do this work because it doesn't feel like it was engaged to perform the work and the price they proposed was exorbitant, which is why the City is looking

for an alternate means to fund and accomplish the work.

Cathy Young stated it was a convoluted path that got us here. The work was originally intended to be in Contract 10, but then it was removed from Contract 10 (Contract 10 was not even bid out yet) and it was decided it would be expedient to take this part out. The Contractors that were onsite were asked for prices. That was how Streeter got the work for Digester #3. Streeter used all of the allotment for Digester 3; there was nothing left for 1 and 2. Edward Crumb stated that there is still money in Streeter's Contract for Digester #3, but Cathy Young pointed out that Construction Management took the job away from Streeter, thinking they could get a better price. But no one wants to do it. She does not believe the Board has an alternative and this will get us to proceed with the some of the work in Contract 10 but then in 3 to 5 years, the Board will have to take each Digester down to perform complete coating work.

Steve Andrew stated that the Board has a terrible record of trying to get a Digester coated; just not able to do it. Edward Crumb stated that Cathy Young's point is very important. In the future, the Board, if it continues to hold off this work, will be looking at least \$10,000,000 each to replace the Digesters.

Cathy Young stated that she hoped that in the 2020 Budget there would be a line created expressly for this work; and the Owners need to be made aware.

George Kolba stated that Streeter had given the City a price of \$970,000 to do 1 and 2, but they were not able to do the work this year because of the weather. It is too expensive to try to tarp and heat it. By doing the \$100,000 transfer now, we get the most needed portion of the work done now and speed up future progress on the Lead Agency's contracts.

Bruce King is interested in bottom line numbers. He asked that if we do Digester 1 in 4 years – how much will it cost? How long will down time be and how efficient will the Plant be with just Digesters 2 and 3?

Cathy Young stated that the Plant could run with just Digester 3 but Contract 10, the Solids Handling Contract, would have to wait to put the equipment in that they are supposed to be putting in now. She asked if there is an idea of costs, but the engineer did not want to ponder that.

Bruce King inquired as to whether the Contractor had already removed the damaged coating, and what is going to be done with Digesters 1 and 2.

Cathy Young stated they will be online in the Fall. All 3 Digesters will be online.

George Kolba – what was seen in Digester 3 is the opposite of 1 and 2. When everything is shut down and empty, you get groundwater coming in. Hopefully, with the hydraulics, it keeps the outer pressure from flowing in.

Cathy reminded the Board that Digester 3 was rehabbed similarly in 2006 and 07 and when they went to fill it, it leaked profusely.

Steve Andrew reported that was when the Board tried to rehab it, but the Contractor did not use the right material. George Kolba stated it was not put on correctly. Steve Andrew stated they could run into the same problem.

Edward Crumb stated this is not a long-term fix, and it may not be everything we hope for. According to what the Engineer reports, there is a reasonable likelihood that it will keep progress going on the Lead Agency's Solids Handling Improvements contracts.

Steve Andrew stated that if the Owners are willing to do this, then he has no problem with the transfer. He just wanted to state his concerns.

Motion carried 4//0/1 (RS absent)/1 (vacant)

End of Excerpt from November 2, 2018 Special Meeting Minutes (Motion to Fund Digester Repairs)

to increase the amount to be transferred to \$180,000.00 (\$30,000.00 of which is included as a contingency allowance) from 2018 Budget line J8130.51000 (Personal Services) to a Capital Fund budget line to be designated by the Fiscal Officer for transfer to the Lead Agency expressly for leak repair and coating of Digesters 1 and 2, with any unspent funds to be returned to the Capital Fund budget line upon completion of the Lead Agency's work.

Ray Standish seconded the motion

Motion carried 5/0/1 (vacant)

Edward Crumb brought up the matter of additional work on Digesters 1 and 2 beyond what could be paid for with the funding approved in the prior motion; need additional \$750,000.00 per Digester to have a complete coating placed, as was done with Digester No. 3. Mr. Kolba stated that when the Board was going to pay for the coating and crack repairs on Digesters 1 and 2 it was feasible, the City was going to have Quandel put the equipment back in, put the roof back on and it would run until it stopped holding liquid. GHD gave a presentation on what was going to be done. The RFL went to the City of Binghamton City Council and it was tabled and never voted on. Mr. Kolba understood, from Chuck Shager, that we (the Board) would pay for the roof to be reinstalled since it didn't make sense to turn around and have Quandel put the roof on, then we have to take it back off and dismantle it. This is what was decided. Mr. Kolba asked who was paying for putting the roof on and was told "we [the City] will". He knows that \$93,000 was transferred; now the cost is up to \$150,000.

George Kolba inquired about the additional invoice for Drain Brain in the amount of \$13,937.50. He was told that the City was going to handle it another way, so the Board would not be asked to pay for the additional work. When Ron Lake was there, he said they (the City) would find a different way. This was on Monday when he met with Ron Lake who told him he knows it needs to be paid; then Ron called him on Tuesday and told Mr. Kolba to forget about the initial request that the Board make the payment.

Ray Standish made a motion for the Board to adjourn.

Steve Andrew seconded the motion

Motion carried 5/0/1 vacant

Meeting adjourned at 5:15 PM

Respectfully submitted,

Laura Lee Perkins
Transcriptionist

cc: Board Members
Mayor Rich David, City of Binghamton
Mayor Greg Deemie, Village of Johnson City
City Clerk, City of Binghamton
Village Clerk/Treasurer, Village of Johnson City
Alfred Paniccia, Esq.
Chuck Shager, Fiscal Officer
Catherine Young, Superintendent
Brown & Brown Empire State
Haylor Freyer & Coon
Robert Bennett, P.E., Village of Johnson City, Engineer
Ray Standish, P.E., City of Binghamton, City Engineer
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