

APPROVED

MUNICIPAL UTILITIES AUTHORITY
TOWNSHIP OF RARITAN
COUNTY OF HUNTERDON
STATE OF NEW JERSEY

In the Matter of: TRANSCRIPT OF
PUBLIC RATE HEARING PUBLIC HEARING

 ORIGINAL

Raritan Township
Municipal Utilities Authority
365 Old York Road
Flemington, New Jersey
Thursday, December 15, 2016
Commencing at approx. 5:00 p.m.

B E F O R E :

MUNICIPAL UTILITY AUTHORITY COMMISSIONERS

- MR. PETER KINSELLA, CHAIRMAN
- DR. EDWARD DOUGHERTY, VICE CHAIRMAN
- MR. JOHN T. KENDZULAK, JR., TREASURER
- DR. LORI BUZA, ASST. SECRETARY/ASST. TREASURER

A L S O P R E S E N T :

- MR. GREGORY LA FERLA, CHIEF OPERATOR
- MS. REGINA NICARETTA, EXECUTIVE SECRETARY
- MS. NANCY WOHLLEB, P.E., HATCH MOTT MACDONALD
- MS. CAROL McALLISTER, AUDITOR, BOWMAN & COMPANY, LLP

REPORTED BY: JOANNE L. SEKELLA, C.R.R.

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1 A P P E A R A N C E S :

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WATTS, TICE & SKOWRONEK, ESQUIRES

3

171 Main St

4

Flemington, New Jersey 08822

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908-782-5315

BY: C. GREGORY WATTS, ESQUIRE

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Appearing on behalf of the Authority

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1 (Whereupon, the following is
2 transcribed.)

3 CHAIRMAN KINSELLA: The meeting has
4 been called to order at 4:58. This meeting has been
5 advertised in accordance with the Open Public
6 Meetings Act setting forth the time, and Raritan
7 Township Municipal Utilities Authority as the place
8 of said meeting. A copy of this agenda has been
9 posted on the office bulletin board.

10 Attendance roll call, please.

11 MS. NICARETTA: Dr. Buza?

12 COMMISSIONER BUZA: Here.

13 MS. NICARETTA: Dr. Dougherty?

14 COMMISSIONER DOUGHERTY: Here.

15 MS. NICARETTA: Mr. Kendzulak?

16 COMMISSIONER KENDZULAK: Here.

17 MS. NICARETTA: Mr. Kinsella?

18 CHAIRMAN KINSELLA: Here.

19 MS. NICARETTA: Mr. Tully?

20 CHAIRMAN KINSELLA: Please rise for
21 the flag.

22 (Flag salute)

23 CHAIRMAN KINSELLA: Okay, first on the
24 agenda is an application for Sewer Service
25 Class II - A, 22 Royal, LLC, Gotta Have it Pool and

1 Spa Supplies.

2 Do you want to mention that, Greg?

3 MS. NICARETTA: We have resolutions
4 for those.

5 MR. LA FERLA: Okay, everything is in
6 a resolution.

7 CHAIRMAN KINSELLA: Okay. All right.
8 And so we are not going to vote or anything. Okay.

9 And the second application is
10 application for Preliminary Sewer Service Class II -
11 B, Linque Flemington II, LLC (Pulte Homes of New
12 Jersey, LP,) (Block 36, Lot 17.)

13 MR. WATTS: When that resolution comes
14 up, I'd like -- I'd ask the board to defer that to
15 the end of the regular session so we can go into
16 closed session briefly so I can explain the
17 circumstances surrounding that resolution, because
18 it will be part of the termination of the
19 litigation. But I need to explain certain aspects
20 of that before you vote on the resolution.

21 COMMISSIONER KENDZULAK: The only
22 question that I have that maybe I see the capacity
23 requested was 226 EDUs, and then on the second page,
24 it says amount of capacity requested was 243. I
25 don't know why they are not the same.

1 MS. NICARETTA: One is what they have
2 and one is what they asked for, maybe. I think one
3 is what they have allocated and one is for --

4 MR. WATTS: I think they have more
5 than what they actually needed.

6 MS. NICARETTA: Yeah, yeah.

7 COMMISSIONER KENDZULAK: Okay.

8 MS. WOHLLEB: The second page, page 2,
9 is their allocation of what they actually have. The
10 amount that they are requesting, which is also
11 reflected on the TWA, is what they are actually
12 proposing to build.

13 COMMISSIONER KENDZULAK: Okay.

14 CHAIRMAN KINSELLA: Okay. All right.

15 Public rate hearing to commence at
16 5:00 p.m. as advertised. Chairperson will announce
17 the opening of the public rate hearing regarding
18 possible modification of heretofore established
19 schedule of sewer use charges and connection fees.

20 MS. NICARETTA: Carol is here.

21 MR. LA FERLA: Carol.

22 MS. McALLISTER: So we prepared the
23 calculation for the connection fee based on the
24 records at the authority and we were provided
25 with -- first of all, we used amounts taken from the

1 prior year's audit to record the principal payments,
2 the increase and the capital base and the interest
3 payments on the debt.

4 And then we were given the EDUs by the
5 office to use in the calculation, and the
6 calculation is based on the statutes. We take the
7 total capital base divided by the EDUs to come up
8 with the connection fee per EDU. So that amount
9 calculated this year to \$3,961, which is a decrease
10 from the prior year.

11 A couple points on that is there was an
12 increase in the total number of EDUs, mainly based
13 on the calculation of how it's done for the
14 industrial base because they are not -- it's not one
15 particular dwelling. It's based on their billings.
16 So that amount did increase for the prior year.

17 Generally, everything else remained the
18 same. We have done the calculation the same as it
19 has been done in the prior years.

20 Questions?

21 CHAIRMAN KINSELLA: So the formula is
22 the same as it was for prior years?

23 MS. McALLISTER: Yes. The formula is
24 based on --

25 MR. WATTS: Set by law.

1 MS. McALLISTER: Yes.

2 MR. WATTS: You have to go through the
3 same calculation every year.

4 CHAIRMAN KINSELLA: Okay.

5 MS. McALLISTER: Any questions?

6 MR. WATTS: Before you get -- I think
7 the resolution, you should move to adopt it or at
8 least vote on it for the connection fee once you --
9 because we are in public session, we have the court
10 reporter here, I don't want to get out of that and
11 then have you do the resolution.

12 So it would be appropriate to consider
13 the Resolution 2016-88. And prior to doing that, it
14 would be a good idea to ask if there is any member
15 of the public that has any questions about the
16 establishment of the connection fee.

17 CHAIRMAN KINSELLA: Are there any
18 questions from the public here tonight concerning
19 the connection fee?

20 Hearing none.

21 So we will go to a vote at this point.

22 MR. WATTS: What you're asking for
23 would be to -- you need a motion and a second to
24 adopt that resolution.

25 CHAIRMAN KINSELLA: Yes. Okay, is

1 there a motion to accept?

2 COMMISSIONER DOUGHERTY: So moved.

3 COMMISSIONER KENDZULAK: Second.

4 COMMISSIONER BUZA: Second.

5 MS. NICARETTA: Dr. Buza?

6 COMMISSIONER BUZA: Yes.

7 MS. NICARETTA: Dr. Dougherty?

8 COMMISSIONER DOUGHERTY: Yes.

9 MS. NICARETTA: Mr. Kendzulak?

10 COMMISSIONER KENDZULAK: Yes.

11 MS. NICARETTA: Mr. Kinsella?

12 CHAIRMAN KINSELLA: Yes.

13 MR. WATTS: As far as the user fees
14 are concerned, they're based on the budget that was
15 adopted and approved. We have our professional here
16 to explain anything about that, but really there is
17 no room to change it at this point. It is what it
18 is because the state approved our budget.

19 CHAIRMAN KINSELLA: I see.

20 Any comment? Anything?

21 COMMISSIONER KENDZULAK: No, I think
22 this is what we had talked about. It's a 7 percent
23 increase and results in a net position of zero to
24 the Authority. And Mike from your office was here
25 and presented it and felt that it was appropriate,

1 sound financial decision.

2 MS. McALLISTER: Yes.

3 CHAIRMAN KINSELLA: Okay, thank you.

4 No one from the audience, so is there a motion to
5 approve?

6 COMMISSIONER DOUGHERTY: So moved.

7 COMMISSIONER KENDZULAK: Second.

8 MS. NICARETTA: Dr. Buza?

9 COMMISSIONER BUZA: Yes.

10 MS. NICARETTA: Dr. Dougherty?

11 COMMISSIONER DOUGHERTY: Yes.

12 MS. NICARETTA: Mr. Kendzulak?

13 COMMISSIONER KENDZULAK: Yes.

14 MS. NICARETTA: Mr. Kinsella?

15 CHAIRMAN KINSELLA: Yes.

16 MR. WATTS: I believe that concludes
17 the public portion of the rate hearing portion of
18 our meeting.

19 (Whereupon, the proceeding is
20 adjourned at 5:07 p.m.)

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C E R T I F I C A T E

I, JOANNE L. SEKELLA, a Certified Realtime Reporter and Notary Public of the State of New Jersey, do hereby certify that the foregoing is a true and accurate transcript of the hearing as taken stenographically by and before me at the time, place and on the date hereinbefore set forth.

I DO FURTHER CERTIFY that I am neither a relative nor employee, nor attorney or counsel to any of the parties involved; that I am neither related to nor employed by such attorney or counsel, and that I am not financially interested in the outcome of the action.

Notary Public of the State of New Jersey



JOANNE L. SEKELLA, C.R.R.
License No. 30XR00019300

APPROVED

RARITAN TOWNSHIP MUNICIPAL UTILITIES AUTHORITY
REGULAR MEETING MINUTES

December 15, 2016

365 Old York Road, Flemington, New Jersey
(908) 782-7453 Office (908) 782-7466 Fax

Resolution #2016 - 83 Establishment of Administrative Salaries

Dr. Buza made a motion to approve Resolution #2016 - 83, Mr. Kendzulak, Jr. seconded the motion.

Roll call vote:

Dr. Buza	-	Yes
Dr. Dougherty	-	Yes
Mr. Kendzulak, Jr.	-	Yes
Chair Kinsella	-	Yes
Mr. Tully	-	Absent

Resolution #2016 - 90 Approval of Sanitary Sewer Service, Class II – A, 22 Royal, LLC (Gotta Have it Pool and Spa Supplies) (Block 36.03 Lot 5)

Dr. Buza made a motion to approve Resolution #2016 - 90, Dr. Dougherty seconded the motion.

Roll call vote:

Dr. Buza	-	Yes
Dr. Dougherty	-	Yes
Mr. Kendzulak, Jr.	-	Yes
Chair Kinsella	-	Yes
Mr. Tully	-	Absent

Resolution #2016 - 91 Designation of Affirmative Action Compliance Officer

Dr. Buza made a motion to approve Resolution #2016 - 91, Mr. Kendzulak, Jr. seconded the motion.

Roll call vote:

Dr. Buza	-	Yes
Dr. Dougherty	-	Yes
Mr. Kendzulak, Jr.	-	Yes
Chair Kinsella	-	Yes
Mr. Tully	-	Absent

Resolution #2016 - 92 Renewal of Insurance Services
(for the amount of \$192,126.48)

Dr. Dougherty made a motion to approve Resolution #2016 - 92, Mr. Kendzulak, Jr.

Roll call vote:	Dr. Buza	-	Yes
	Dr. Dougherty	-	Yes
	Mr. Kendzulak, Jr.	-	Yes
	Chair Kinsella	-	Yes
	Mr. Tully	-	Absent

Resolution #2016 - 93 Appointment of Risk Management Consultant

Dr. Buza made a motion to approve Resolution #2016 - 93, Mr. Kendzulak, Jr. seconded the motion.

Roll call vote:	Dr. Buza	-	Yes
	Dr. Dougherty	-	Yes
	Mr. Kendzulak, Jr.	-	Yes
	Chair Kinsella	-	Yes
	Mr. Tully	-	Absent

Resolution #2016 - 94 Amendment of Personnel Policies and Procedures
Manual and Employee Handbook

Dr. Dougherty made a motion to approve Resolution #2016 - 94, Mr. Kendzulak, Jr. seconded the motion.

Roll call vote:	Dr. Buza	-	Yes
	Dr. Dougherty	-	Yes
	Mr. Kendzulak, Jr.	-	Yes
	Chair Kinsella	-	Yes
	Mr. Tully	-	Absent

Resolution #2016 - 95 Approval for Contract Modification #4 Motor Control
Center Replacement Project
(in the amount of \$3,133.73)

Dr. Buza made a motion to approve Resolution #2016 - 95, Mr. Kendzulak
Jr. seconded the motion.

Roll call vote:	Dr. Buza	-	Yes
	Dr. Dougherty	-	Yes
	Mr. Kendzulak, Jr.	-	Yes
	Chair Kinsella	-	Yes
	Mr. Tully	-	Absent

Resolution #2016 – 96 Hunterdon Central Regional High School Route 31
Interceptor Sewer Relocation, Block 27 Lot 3

Mr. Watts – The final Agreement was emailed to my office today while I
was at a closing. I haven't had an opportunity to review it so I would recommend
that the resolution be modified slightly to authorize the Chairman to sign it when
I've had a chance to look at it and sign off on it. I think the resolution should be
modified slightly to "at such time as any Commissioner's questions have been
answered and I have been able to issue a letter saying it's appropriate."

Dr. Dougherty made a motion to approve Resolution #2016 - 96, Dr. Buza
seconded the motion.

Roll call vote:	Dr. Buza	-	Yes
	Dr. Dougherty	-	Yes
	Mr. Kendzulak, Jr.	-	Yes
	Chair Kinsella	-	Yes
	Mr. Tully	-	Absent

Resolution #2016 - 97 Approval of Preliminary Sanitary Sewer Service, Class II-B, TWA Required and Authorization to Sign TWA, Linque Flemington, II, LLC (Pulte Homes of NJ, LP) (Block 36 Lot 17)

Mr. Watts - I suggest you discuss this briefly in Closed Session before the Work Session before you take any action.

Resolution #2016 - 98 Authorization to Accept Proposal for Engineering Services for Pump Station #1 Sewer Basin Evaluation from Johnson, Mirmiran & Thompson (for the amount of \$9,900.00)

Mr. Kendzulak, Jr. – As a continuation of the inflow issues at Pump Station #1, there was a proposal that JMT had submitted that Mr. Tully and I looked at. We had discussions with Mr. LaFerla in regards to Phase II where they were proposing to review the TV inspections and we decided to forego that and move to Phase III, which would be a smoke testing inspection in the area of the Commerce Street Trunkline.

Mr. Kendzulak, Jr. made a motion to approve Resolution #2016 - 98, Dr. Buza seconded the motion.

Roll call vote:	Dr. Buza	-	Yes
	Dr. Dougherty	-	Yes
	Mr. Kendzulak, Jr.	-	Yes
	Chair Kinsella	-	Yes
	Mr. Tully	-	Absent

Resolution #2016 - 99 Resolution of Appreciation Dr. Edward J. Dougherty for Service to Raritan Township Municipal Utilities Authority

Chair Kinsella – LBJ used to say “Ladies and Gentlemen I come here tonight with a heavy heart” and that’s how we feel. You did a good job here and your service to the community for everything you’ve done is pretty outstanding stuff. It’s been a pleasure to know you here, to work with you and we’re going to miss your counsel, you’re sense of humor and your insight. You’re going to be a hard person to replace and we’re very fortunate to have had you here.

Dr. Dougherty – It's been a pleasure. Between us there are three former Mayors, we've all paid our dues and understanding the bottom line is the taxpayer and in this case the ratepayer. I think the community can be proud of the fact we've really kept our fingers on the pulse of what's really happening at the sewage authority, we've done everything we could to get the biggest bang for our dollar for our ratepayers and I'm proud of that. The other thing that has been really impressive is the staff bar none. There have been no major scandals here, people take their job seriously, this organization works like a family, and they are dedicated to what they do here.

Mr. Kendzulak, Jr. – Going through the resolution, you were here 1993 through 1994, that was pre – me but going through the 2001 through 2016, with the exception of one year, you and I were on this path together. Your experience and reasonableness and challenging and understanding the issues always impressed me and you are going to be sorely missed here; from your personality, your standpoint and your knowledge, I'm going to miss you. It's been a great learning experience for me just to see how you attack issues and how you looked at stuff.

Dr. Buza – I personally learned so much from you and I'm going to miss you and I wish you well.

(Chair Kinsella presents Dr. Dougherty with a service award plaque)

Mr. Kendzulak, Jr. made a motion to approve Resolution #2016 - 99, Dr. Buza seconded the motion.

Roll call vote:	Dr. Buza	-	Yes
	Mr. Kendzulak, Jr.	-	Yes
	Chair Kinsella	-	Yes
	Mr. Tully	-	Absent

6. Approval of Minutes: Minutes of November 17, 2016

Dr. Buza made a motion to approve the minutes from the November 17, 2016 meeting. Mr. Kendzulak, Jr. seconded the motion. All were in favor. Dr. Dougherty abstained.

7. Treasurer's Report / Payment of Bills:

Mr. Kendzulak, Jr. - The bills totaled \$681,056.92. All appears to be in order. There are actually two parts to this. If you go to the last red page, at the bottom you'll see it says 91.28%; one thing to keep in mind is that isn't the end of it, that number is going to go up because until the Audit is done, there's going to

be stuff that we're currently paying for, if you flip through the green pages that are ultimately going to get transferred back to this budget but that won't be reconciled until after the Audit is done. If you go to the last green page, you'll see that we're at 6.56% and we're one twelfth of the year so that's a good number. When we compared to where we were last year, at 2.85%, at this time last year, what that number had been was 6.52% so the 2.85% is the reconciled number. So the number of 6.56% is going to come down.

Dr. Buza made a motion to approve the payment of bills. Dr. Dougherty seconded the motion.

Roll call vote:	Dr. Buza	-	Yes
	Dr. Dougherty	-	Yes
	Mr. Kendzulak, Jr.	-	Yes
	Chair Kinsella	-	Yes
	Mr. Tully	-	Absent

8. Citizens' Privilege:

None

9. Adjourn into Closed Session by Motion, if Needed

Chair Kinsella – We will be going into Closed Session to discuss current litigation with Linque and Pulte Homes. Action will most likely be taken once we come out of Closed Session.

Dr. Buza made a motion to adjourn into Closed Session for the above stated purpose and Dr. Dougherty seconded the motion. Closed Session was from 5:32 pm – 5:40 pm.

Resolution #2016 - 97 Approval of Preliminary Sanitary Sewer Service, Class II-B, TWA Required and Authorization to Sign TWA, Linque Flemington, II, LLC (Pulte Homes of NJ, LP) (Block 36 Lot 17)

Dr. Dougherty made a motion to approve Resolution #2016 - 97, Mr. Kendzulak Jr. seconded the motion.

Roll call vote:	Dr. Buza	-	Yes
	Dr. Dougherty	-	Yes
	Mr. Kendzulak, Jr.	-	Yes
	Chair Kinsella	-	Yes
	Mr. Tully	-	Absent

10. **Adjournment of Regular Meeting:**

Dr. Buza made a motion to adjourn the Regular Meeting. Dr. Dougherty seconded the motion. All were in favor.

RARITAN TOWNSHIP MUNICIPAL UTILITIES AUTHORITY
WORK SESSION MINUTES

DECEMBER 15, 2016

365 Old York Road, Flemington, New Jersey
(908) 782-7453 Office (908) 782-7466 Fax

APPROVED

1. **The Work Session** of the Raritan Township Municipal Utilities Authority will be called to order upon the adjournment of the Regular Meeting.

2. **Correspondence:**

None

3. **Old Business:**

None

4. **New Business:**

None

5. **Professional Reports:**

a) Attorney - none

b) Engineer –

Mrs. Wohlleb – There is an issue with the Motor Control Center Project that I think when we have the discussion with DeMaio momentarily I can include it there.

6. **RTMUA Reports:**

a) ADMINISTRATIVE / OPERATIONS REPORT

1. a) Overtime Recap
- b) Septage / Greywater Recap
2. Laboratory Summary
3. Maintenance Summary
4. Readington Flows

b) COMMISSIONERS' COMMENTS

7. **Discussion:**

a) Pact Two, LLC

Mr. Watts – Just by way of background, Pact Two had asked to review this matter directly with the Board. As you recall, you received a request from the Contractor for a substantial payment based upon delays during the project on costs that they incurred. We did a lot of background work through our engineers and at the last meeting the Board's position was that any delays that were created were the responsibility of Elizabethtown Gas and based upon the Contract form that we use, delays in the project that are caused by the utility company are not within the purview of our responsibility and the specific language of the Contract is the Contractor therefore does not have a claim for those additional costs against the Authority, the claim would have to be against the Gas Company. So we met with Pact Two between this meeting and last meeting and we explained the position of the Board and Pact Two has asked to address the Board tonight with regard to that.

Mr. Gordon – I'm Duncan Gordon from Pact Two. I sent Mr. Watts an email with the process on the verbal agreement that we presented to the engineer, who sent it over to the Board, I believe in September. The verbal agreement was everything in a lump sum. The Board then picked out of that lump sum what they were going to pay.

Mr. Watts – The advice we received from our engineer is when they met with you and things were taken out, it was not with the understanding that you would be paid everything else. The things that were taken out were things that legitimately should have been taken out. So you understand that Pact Two when they negotiated giving up on certain things in the Contract, their understanding was that all the rest of it would be included and paid and now to their detriment we're telling them "well, you know what, we don't want to pay the \$51,000.00 for the delay because it's not our responsibility." So that's the issue where we are now; with all the credits, the net amount that's being sought additionally is roughly \$28,000.00.

Mr. Gordon – The \$28,000.00 is on top of the additional Contract stuff. I sent you that table.

Mr. Watts – Is this the table you are referring too?

Mr. Gordon – It's a very simple table, summarizing dates and Change Orders.

Mr. Watts – I printed everything off but I don't think I have that one.

Mr. Gordon – It was what was submitted over the course of ten months; that shows the final Contract Value.

Mr. Watts – And you're seeking an additional \$28,000.00 to get to that amount.

Mr. Gordon – The Change Order that would take me up to that would be the Contract Value plus \$28,000.00.

Mr. Watts – But the amount now in discussion is the \$28,000.00 figure.

Mr. Gordon – No. You take everything, except these two here, so the money as it is standing is \$51,000.00. So you add that all in plus Contract Value, and you get the same number, \$51,000.00.

Mr. Watts – But the issue, as I understood it, with the various credits, you are seeking, now, an additional payment of some \$28,019.41.

Mr. Gordon – After Modification #1; the Contract Value is somewhere around about \$669,000.00. I'm seeking payment up to \$720,000.00; another \$51,000.00, which is itemized on that spreadsheet there.

Mr. Watts – I think we're saying the same thing. You had \$51,000.00 additional money you were seeking because of delays, but there was a total of \$63,223.04; \$51,000.00 of that was the delays. Credits that came through were \$35,203.63, so the difference is the \$28,019.41. So you can say it's getting you up to the full Contract price but the dollar amount that we're talking about tonight is the \$28,019.41. If we pay you that figure that gets you up to the full Contract price.

Mr. Gordon – No.

Mr. Watts – Yes, it does. \$692,730.00 plus the \$28,019.41 gets you up to \$720,749.98.

Mr. Costa – That's what we're looking for, the \$720,000.00, so how you get there doesn't matter to us.

Mr. Watts – The way to get there is the \$28,000.00 figure.

Mr. Costa – If that adds up to whatever gets paid to us.

Mr. Watts – Yes, it does. So that's the issue for the Board and there was a substantial cost that was involved, slightly over \$50,000.00 because of delays from the Gas Company and we've been through the email chain that arose out of two things. Number one their failure to allow us to have the gas line put in the existing easement, they wanted a new easement and Mr. Christopher Wohlleb of Mott MacDonald argued and sent emails back and forth, and many emails went unanswered and finally they acceded to our wishes and allowed us to do it there but there was a big delay and number two, on top of that, the Gas Company removed a meter that had already been installed and there was a delay in them coming back to reinstall either that meter or a different meter which added to Pact Two's delay as in the overall delay. The issue is, Pact Two gave on certain other items and they think they are entitled to this money, the Authority's position up until now has been "listen, we had no control over the Gas Company, they didn't do a good job, they were delinquent and negligent". I saw emails that went

for weeks and weeks unanswered and they never gave a reason why we couldn't put the gas line in our easement, they just wanted a new easement. It went to Georgia and went into a black hole and nobody got back to us and that's really the issue for these gentlemen.

Chair Kinsella – Have you discussed anything with the Gas Company?

Mr. Gordon – They were not part of my Contract. I was to coordinate with the utilities who are under contract with RTMUA. The problem was the Gas Company contract was not in place in order to work with them.

Mr. Costa – This wasn't a utility conflict, we didn't run into something that held us up, it has nothing to do with that. This is a new service that had to be brought in by you guys, not us, it's not in our Contract to bring it in.

Mr. Watts – It's our responsibility to get the gas service to the project and that's where we had the problem.

Dr. Dougherty – If it's our responsibility, can we go after the Gas Company?

Mr. Watts – Yes, I mean to the extent that we pay money that we don't feel we have to pay. I hate to say this, but it would be better if Pact Two sued us then we would third party in the Gas Company and say "if we have to pay Pact Two this money, then you have to reimburse us". Again, we have to weigh if that's how you want to handle it. That would be the cleanest way to handle it.

Mr. Kendzulak, Jr. – You reviewed the construction Contract and the terms of the construction Contract say what with regards to this issue?

Mr. Watts – "If the Contractor is delayed at any time in the progress of the work for any of the following reasons, the time of completion may be extended for such reasonable time as the Owner may decide, provided however, that in no case shall the additional time exceed the time of delay but the Contractor shall have no right to, nor shall he make any claim whatsoever for damages, additional compensation or cost of any type by reason of the delay if caused by the negligence, tortious conduct, or other wrongful acts or default of other contractors, subcontractors, utility companies or other companies or businesses or their employees, agents or assigns involved in the project".

Dr. Buza – They can go directly after the Gas Company?

Mr. Costa – We can't, we don't have a contract with them.

Mr. Watts – I don't know that they could.

Dr. Buza – It's not our negligence.

Mr. Gordon – If you read the next paragraph "In the event that the delay is caused by the Owner's negligence, bad faith, active interference, or tortious conduct, then the Contractor may make a claim for its damages cause by said delay".

Dr. Buza – How did we allegedly do that?

Mr. Gordon – You weren't able to get the Contract with the utility company. If your Contract was in place...

(many voices speaking at once)

Dr. Buza – Read that again.

Mr. Gordon – “In the event that the delay is caused by the Owner's negligence, bad faith, active interference or tortious conduct...”

Dr. Buza - ...right, but none of those happened. We didn't have bad faith, weren't negligent, etc.

Mr. Costa – But it's the Authority's “responsibility” to get the gas there.

Dr. Buza – The words that you just read are not the same as whose responsibility it is. “Tortious conduct, negligence, bad faith”, none of those things apply to us.

Mr. Gordon – Well, in the event that the delay is caused by the Owner's failure.

Dr. Buza – Keep reading; failure to what?

Mr. Gordon – Failure than the Contractor may make a claim for its damages caused by said delay.

Dr. Buza – No, that's not what you read the first time. Mr. Watts, can you read the wording please?

Mr. Watts – “In the event that the delay is caused by Owner's negligence, bad faith, active interference, or tortious conduct, then the Contractor may make a claim for its damages caused by said delay”.

Dr. Buza – So you just changed the words Mr. Gordon, it's not “failure”, it's whether owner did any of the things that Mr. Watts just read. And none of those words apply.

Mr. Watts – So Pact Two would have to show that we were negligent in not getting the gas service and having been through the file, I don't see that. I see that Mott MacDonald took all reasonable steps to have it done and the Gas Company just didn't respond. We have no control over the Gas Company; we do only to a point.

Mr. Costa – You're the owner, how do we have control over the Gas Company when it's not even in our Contract.

Mr. Watts – I don't think you do.

Mr. Costa – So we're at an impasse here but the money we are owed is already a negotiated settlement we had with the Authority and with Mrs. Wohlleb the engineer and Mr. Wohlleb of Mott MacDonald; it was a done deal so I don't know why we're here.

Dr. Buza – You negotiated with Mrs. Wohlleb?

Mr. Gordon – Mrs. Wohlleb, Mr. LaFerla, Mr. Wohlleb.

Mr. Costa – We had several negotiated meetings where we came to a negotiated settlement.

Dr. Buza – You couldn't have come to a settlement without the okay of the Authority's Board.

Mrs. Wohlleb – You are correct Dr. Buza. We met with Mr. Gordon and in his letter that he sent, Mr. Watts enumerated the meetings that we met with Mr. Gordon, we discussed his claims. We looked at each one of your claims. We reviewed the timeline of the Contract, we looked at the labor information you presented, the equipment information you presented, material information, you presented your computation, you presented rental fees, and you presented your mark up. Those were things we reviewed. When we met, we met to evaluate the validity of each one of your claims. We met to establish whether or not you presented the labor, material, and equipment correctly in accordance with the Contract. There were some things that were not presented correctly, and we asked you to revise them. There were some mistakes and discrepancies that we noted; you had made some modifications when we met later on, you had some things that were not marked up correctly in accordance with the Contract for example, computation of a rental fee or a subcontractor's mark up and we brought those to your attention. There were some claims that we did not feel had any merit. You presented those items, we discussed them, we reviewed them, we presented to the Board what we thought was valid and what was computed correctly in accordance with the Contract. So we did not bargain or negotiate, I made it very clear in my meetings that we were there to review claims for validity and that it's only my recommendation that goes to the Board. It's not my money, it is not for me to negotiate or decide. We went through the claims you presented and we looked at them for their technical merit and accuracy. We presented the summation of that to the Board and made that as a recommendation and I made that clear that it was a recommendation, that's all that it is.

Mr. Costa – Correct and we sat down in a good faith effort and gave up a lot of things to get to where we got.

Mrs. Wohlleb – I don't see what you gave up, if you gave up a claim because we said it's not valid.

Mr. Costa – There's some...

Dr. Buza - ...May I interrupt? My suggestion is that you get counsel because this is sounding more like a hearing and this is not the appropriate forum. We have counsel here; you do not have counsel here. To the extent that you think there may be a legal claim, I want to put on the record that we are suggesting that you do get counsel to represent your best interests.

Mr. Costa – We were here just to try to get what we negotiated already.

Dr. Buza – I want to make sure it's on the record because I think we're getting to in-depth. Our attorney's review of the Contract is that we are not at fault, I happen to agree with that from what the language is that I just heard at

least, there may be other language I didn't see. According to our legal counsel, we are not responsible for that cost pursuant to the Contract. It's the Gas Company's fault, I understand what you're saying, now the question and why you should seek an attorneys help is because whether you can go after the Gas Company, you probably can't under a contractual basis because you don't have a contract with them but maybe you can under a negligence basis or do you go after us directly and we pull them into it because we are not at fault but that's not up to us to advise you, you need your own counsel. Nonetheless, we are not in breach of the Contract directly, it's someone else that caused the problem. You quoting the language as our "failure", but there was no failure and that word is not correctly cited.

Mr. Costa – The specs are very, very thick and he quoted a couple sentences out of the Contract. There's a lot of language in it that I'm sure will support where we stand but like I said we were here in a good faith effort and we thought we had already come to an agreement on a negotiation and that's all we're here for and trying to be fair.

Mr. Watts – I agree with Dr. Buza.

Chair Kinsella – It's not easy but it may be the only way to do this.

b) DeMaio Electrical Co., Inc.

Mr. DeMaio – My name is Sal DeMaio from DeMaio Electric and I'm here with Andrew DeMaio from DeMaio Electric. The issue comes from a line item from our Bid that is now being rejected as being paid for.

Mr. Watts – There was a line item in the Contract with DeMaio Electric for televising a sewer line; Mr. LaFerla and Mrs. Wohlleb can speak more to what happened but apparently there was a meeting and it was the Authority's understanding at that meeting that the Authority would undertake to do the TV'ing; that the line item would be removed, the Authority could do it quite cheaply, I think for an estimate of \$800.00, the Authority did the TV'ing and now DeMaio is, I think, taking the position that they're entitled to the \$3,000.00 plus line item to be paid and out of those monies pay the Authority back the \$800.00. The Authority's position, I believe, is that line item was removed from the Contract and it should not be considered at this point and there was no contract entered into between the Authority and DeMaio for the Authority to perform those services at a cost. It was done by the Authority to get it done quickly, and with the understanding the line item would be removed and I think DeMaio's position is not that.

Mr. Kendzulak, Jr. – Again, I'll go back to what does the Contract say with DeMaio as far as removing items, is it okay to remove an item?

Mr. Watts – Only by Change Order.

Mr. DeMaio – If I may, there's a little more to it than that. We did have a meeting where it was discussed; it was actually my suggestion that you take that line item out of my bid, my Contract because you did have the equipment to perform it, and we would have had to hire someone to TV; but there were some discussions that we weren't even sure it could be done because of the nature of the storm line. The storm line is an eight inch pipe, it's a small pipe, it's not a real big pipe, something that you are capable of TV'ing but it goes through catch basins that have a one foot sump in the bottom and we weren't really sure if you were going to be able to get your camera through it with that sump because you come out of an eight inch pipe and it goes into a twenty four inch basin and it drops a foot and then it has to come up a foot to get into the next pipe, and we weren't sure it could be done. So we left the meeting that day, everybody was supposed to get back to us, we were going to take it out of our Contract, based upon you were going to find out if you could actually do it. That's where it sat and never moved from there. So when it came time and this TV'ing had to be done before we paved, in case there was an issue with the storm sewer, we had to excavate it, fix it, whatever, before we paved. So when we got our schedule for paving, nothing had happened, so we contacted Mr. LaFerla for the proposal for the TV'ing part of it, which he gave us and we issued a purchase order to RTMUA for that work. We then made the arrangements to get it done, we flushed the line, we came to the conclusion that the best way to do it was to fill the basin with stone so the camera would go right across from one pipe to the other; so we filled the basin with stone, had the TV'ing done, got the video, reviewed it, submitted it, got comments back from the engineer and one of the comments was based on the work that was done to perform the TV'ing to make sure that we took care of getting the stone and everything cleaned out, which to me, again, acknowledged that everybody knew that it was never really taken out of our Contract.

Mr. LaFerla – We cleaned out the stone.

Mr. DeMaio – You cleaned out the stone with Mr. Liedl.

(many voices speaking at once)

Mr. DeMaio – We flushed the line for TV'ing, we supplied the stone and installed it, Mr. Liedl worked with RTMUA to get the TV'ing done because we wanted to get it done within the four hour window from the proposal we got and Mr. Liedl worked with them to remove the stone; yes, RTMUA did remove the stone with our equipment but my point is, because it was never removed from our Contract we still had an obligation to make sure it was taken care of and we did work that we knew we had to do as part of that TV'ing so it's not just the cost of the TV'ing and the video, it's everything that was associated with it. So it was never taken out of our Contract, we still had to fulfill it. My thing back to Mr. Wohlleb was, my understanding was the Authority wasn't going to bill us for it,

just deduct the \$800.00 out of our line item and I think we eliminated the mandrel, which I think I gave you the pricing on that, and we'll bill the balance or the Authority can bill us and we can pay them.

Dr. Dougherty – How much money are we talking about?

Mr. DeMaio – Under \$4,000.00.

Dr. Dougherty – Less the \$800.00?

Mr. DeMaio – Less the \$800.00 plus a little more and it came to \$3,100.00, around there, I'm not exactly sure of the exact number. It's the \$800.00 plus the mandrel deduction that I gave a price for.

Mr. Kendzulak, Jr. – If you had a private entity go out and inspect it what would the cost have been?

Mr. DeMaio – That was a good price, \$800.00; we would have had to pay between \$1,600.00 and \$2,000.00.

Mr. Kendzulak, Jr. – Well, keep that in mind that if you were going to do that and all the time with you looking at the video and all of that, where's all that credit coming? You're looking to get it and that would have cost you more money. It works both ways.

Mr. DeMaio – No that's not how this works in a public bid. Now you're trying to tell me if that if I bid something and I and do it cheaper, I'm supposed to give you a credit. So let's turn it back the other way, suppose I do something that costs more money, so if we look at it that way then I should be paid more money on the other end.

Mr. Kendzulak, Jr. – All I would say is that in writing, justify why you think you're entitled to that. I don't know if that already came in writing but break it down, like Mr. Kinsella was saying, if there are certain hours that you come up with that you can justify, then we have something tangible in front of us to look at, then we entertain it.

Dr. Dougherty – The other issue too Mr. Kendzulak, Jr., is we used our vactor? What's that cost?

Mr. LaFerla - \$200.00 per hour, four hour minimum; \$800.00.

Dr. Dougherty – I really recommend to the Chairman, that you have a sub-committee sit with these gentlemen and work this out if that's practical.

Mr. DeMaio – Remember, you gave me the proposal to do the work and I gave you a purchase order for it. That's the problem.

Mr. Watts – The question is, was it changed? You're saying it wasn't changed because there wasn't a Change Order.

Mr. DeMaio – We talked about this two weeks before we did it and they were supposed to go back and see if they could actually do it and to see what they needed to do to get the TV'ing done. Before we got the proposal, it was looked at, I assume, by RTMUA, they gave us the proposal knowing what needed to be done. That's where I'm kind of confused here as to what the issue

is. Otherwise I would have just gone to our normal TV'ing guy but we were offered those services from RTMUA.

Dr. Buza – I don't know what proposal you're talking about. Can you get that information to me?

Mr. DeMaio – The proposal from you?

Dr. Buza – Yes.

Mr. LaFerla – They asked what we charge for the vector; and that's what Mr. Schneider sent them.

Mr. Kendzulak, Jr. – So there was a written proposal?

Dr. Dougherty – I think there could be something comprised on; we could have our professionals sit down with you and work something out.

Mr. DeMaio – This is really a little thing and I was taken back that it was denied.

Chair Kinsella – It's a little thing; I know it's got time and material in it, there's no question about it. I don't think it's the full amount but in my head I'm thinking \$2,000.00.

Mr. Kendzulak, Jr. – That's where I am too and what I would suggest without belaboring this thing is maybe there's a little bit of dialog and we meet somewhere in the middle.

Mr. DeMaio – I hear what you're saying but when I tried to do that on the other items I was flat out rejected.

Chair Kinsella – I know it's a small item in the big picture of things, but we actually did do work that made your job easier. You're looking for \$3,100.00?

Mr. DeMaio – I'm not sure where the number is.

Chair Kinsella – How about \$2,000.00?

Mr. DeMaio – There is another small thing that came up.

Mrs. Wohlleb – When we went over my Engineer's Report, I mentioned that there was another issue, but before Mr. DeMaio brings up something else he wants to talk about, the issue I think is of more saliency is, they had the training today for the new switchgear. You can imagine this job, the old electrical panels and switchgear that's gone, and when we processed the Contract Modification a few months ago, which involved mainly underground feeders, it was left in that Change Order that when it was all said and done and that whole swarm of electrical stuff is all cleared away, there may be a few minor, small circuits that may need to be traced and finally tied in.

Chair Kinsella – Is there a lot of hot stuff lying around?

Mrs. Wohlleb – There's a few.

Mr. DeMaio – We found some of what we believe are SCADA control wires that went through some feeder conduits, went through the MCC; there's not a lot. There were so many old, unused conductors that were in the bottom of that MCC. When we did that last Change Order, we got as much of it as we could,

we exposed as much as we could for the engineer to review but we couldn't get them all.

Mrs. Wohlleb – So Mr. DeMaio sent me a little email today to give me a status update, he's got to finish some architectural work down below, he had the training today but to deal with these few remaining hot wires he wants to press forward and clean those up. He's estimated doing this on a time and materials basis but he's estimated about three days as a maximum to do this. We did receive his rate when he did some initial wire tracing way back at the beginning of the year, it would still be the same rate so I think it roughly works out to about \$6,000.00 or so dollars.

Mr. DeMaio – That's a rough estimate.

Mrs. Wohlleb – He has to have by Contract the lead electrician and the apprentice and he has to pay those rates so what he's basically saying is if he's authorized for the maximum of twenty four hours he will try to pick at it.

Chair Kinsella – Do you guarantee you're going to kill everything then or no?

Mr. DeMaio – If you go back there now, there's not much hanging anymore, there's very little, we're like right there. The biggest thing you're going to see hanging are the fiber optic cables as soon as you walk in; I think we're trying to schedule the SCADA integrator next week.

Mrs. Wohlleb – So that was the other issue I wanted to bring up. In the absence of Mr. DeMaio being here I would have mentioned it because he emailed me this morning and I thought that was important because that is the main electrical component of the job.

Mr. DeMaio – We'll be ready for our inspections in January.

Chair Kinsella – That stuff has to be cleaned up; we just can't have that.

Mr. DeMaio – We've already disconnected and temporarily rerouted them so we could get the old conduits out.

Mr. Kendzulak, Jr. – There are issues out there that need to get resolved; we can't just bury it up and walk away. It's got to be dealt with and it's something that was unforeseen that you came across and here's an opportunity to correct it and do it right.

Mr. DeMaio – We knew we were going to see this at the end, we discussed it all along and it's actually less than I had anticipated we would find because I had my guys take care of it as we went along.

Mr. Kendzulak, Jr. – And you're proposing time and material to take care of it and this is outside of the Contract Mrs. Wohlleb?

Mrs. Wohlleb – Yes.

Chair Kinsella – We'll have to discuss that.

Mrs. Wohlleb – Mr. DeMaio was concerned because he is getting close to the end in the next few weeks and the timing of it and him moving forward with it. I don't have anything in writing; like I said we literally just spoke about it a few hours ago. He has some hourly rates we previously approved in February.

Mr. DeMaio – It might get done in two days, I don't know but there's a chance it goes four days.

Chair Kinsella – You're proposing twenty four hours?

Mr. DeMaio – Yes, I think it's going to take three days.

Mrs. Wohlleb – Mr. LaFerla felt his guys, as Mr. DeMaio's guys signed in each day, would keep track and could say "yes, Mr. DeMaio's guys were here for eight hours today, they were here for four hours this day" so there would be some validation when Mr. DeMaio submitted his Pay Application.

Mr. Watts – I think we need something in writing, it can be fairly informal but we saw what happened with the TV'ing, I would suggest you authorize Mr. LaFerla to do something simple with Mrs. Wohlleb's help to enter into with DeMaio to do this additional work. Once we do that there set.

Mr. DeMaio – Mrs. Wohlleb, you and I will discuss the other thing, for the TV'ing?

Mr. Watts – The \$2,000.00 is good, right?

Mr. DeMaio – I have to look at that number but I'll make it work.

Mr. LaFerla – I just have one thing. I talked to Mr. Kendzulak, Jr., Dr. Dougherty and pretty much all of you already; I'd like permission to interview and offer the position for the open Maintenance position.

General consensus.

8. Adjourn into Closed Session by Motion, if Needed

9. Adjournment of Work Session:

Dr. Dougherty made a motion to adjourn the Work Session. Dr. Buza seconded the motion. All were in favor. The Meeting ended at 6:25 pm.