

PLAINFIELD MUNICIPAL UTILITIES AUTHORITY

**Minutes of a Board of Commissioners Meeting
Tuesday, August 4, 2009**

**127 Roosevelt Avenue
Plainfield, New Jersey**

I. OPEN PUBLIC MEETINGS LAW (STATEMENT OF COMPLIANCE)

Commissioner Brokaw, Chairperson, called the meeting to order at 6:00 p.m. by reading the Statement of Compliance.

II. SALUTE TO THE FLAG

The Pledge of Allegiance was said by all.

III. ROLL CALL

Present

Commissioner Carol Ann Brokaw
Commissioner David Beck
Commissioner Harold Mitchell
Commissioner Alex Toliver
Alt. Commissioner Tracey L. Brown

Also Present

Mr. Eric Watson, Executive Director
Mr. David Ervin, Assistant Director
Mr. James Perry, Chief Financial Officer
Mrs. Lana Carden, Manager of Human Resources
Mrs. Leslie London Board Attorney
Ms. Dollie S. Hamlin, Recording Secretary
Mr. Joseph Gemmell, T & M Associates
Public and Staff

Alt. Commissioner Eugene Dudley absent

IV. APPROVAL OF MINUTES (July 21, 2009 Rescheduled Board Meeting Minutes)

Commissioner Mitchell moved, seconded by Commissioner Brown, approval of the minutes. The motion carried, on a roll-call vote, with five members in favor and none opposed.

RECORDED VOTE July 21, 2009 Minutes

| | YES | NO | ABSTAIN | PRESENT NOT VOTING | NOT PRESENT |
|--|-----|----|---------|--------------------|-------------|
| Carol Ann Brokaw | X | | | | |
| David Beck | X | | | | |
| Harold Mitchell | X | | | | |
| Alex Toliver | X | | | | |
| <u>Alternate</u> Rev. Tracey Brown | X | | | | |
| <u>Alternate</u> Eugene Dudley | | | | | X |

V. COMMUNICATIONS

Mr. Eric Watson noted the passing of former Plainfield Mayor Richard Taylor and requested a moment of silence. Commissioner Brokaw noted that Mr. Taylor's memorial service was scheduled this evening from 7 p.m. to 9 p.m. at the Rose of Sharon Community Church and the regular service was scheduled on tomorrow morning at the Cathedral International in Perth Amboy at 10 a.m.

VI. REPORT OF COMMITTEES

None.

VII. EXECUTIVE DIRECTOR'S REPORT

A. Attorney's Report

Ms. London reported that at the last meeting Mr. Kruse asked about the status of the Coppola Services contract. The information was sent to Mr. Kruse in a letter and he has responded by letter to Mr. Watson.

Ms. London stated for the record what had transpired between Coppola and PMUA. She said that Coppola Services, Inc. was the lowest responsible bidder in response to the Request for Proposal and was awarded a contract at the Board meeting. After the bid process and the award of the contract, representatives from PARSAs contacted PMUA to discuss the possibility of a joint venture - a regional pump station. During the interim period, when the request was being presented, Coppola Services had signed the contract; however PMUA had not signed the contract. It was determined that it was good economic sense to go forward with the joint venture and rescind the Coppola Services contract award so that a joint venture could be pursued. At the subsequent meeting of the Board, a resolution was passed to rescind the contract. Ms. London explained that Mr. Kruse felt that there was a penalty involved and that his understanding of the facts was totally incorrect. She further explained that Coppola had incurred some start up costs after signing the contract. PMUA determined that the costs were reasonable and Coppola was reimbursed for those costs around \$6,000.00. Coppola was not given any preference going forward to a new contract which seemed to be inferred in Mr. Kruse's letter - that we're dangling a carrot in front of Coppola so that the next time around they would get the contract. The next contract that goes out has to be bid and the lowest responsible bidder will be awarded the contract. Ms. London concluded that she wanted to state the facts for the record since this matter had been going on for the past three meetings.

Commissioner Brokaw stated that the question was answered. Ms. London responded a couple of times and that we can provide Mr. Kruse with the minutes for his understanding.

Ms. London also reported that they were in court on Friday and Judge Cassidy's decision granted most of the counts in the favor of PMUA. The counts that were not granted required discovery, they are issues that need to be deliberated through summary judgment before the matter could proceed.

One of the issues, reflected in Resolution 60-2009, deals with codifying what to do when a resident calls and procedures being posted on the Authority's website.

Commissioner Mitchell asked if the plaintiff's were represented by an attorney. Ms. London indicated that that was a question asked by the Judge and that Mr. Charles would have to explain.

B. Finance Report and Bills List Approval

Mr. Perry said that they went through the information in the committee meeting; all of the requisite reports and ratifications were in order. He stated that he would be happy to answer any questions that the Board may have.

Commissioner Brokaw noted that we made a substantial payment to PARSA, \$700,000.00 this quarter as well as the City in the amount of 1 million plus; UCUA charges has also been substantial over the year. It is important to be mindful of where the bulk of the money being spent goes. Commissioner Mitchell concurred with the statement. He also commended the Commissioners for resolving a lot of the problems in their work sessions and effectively taking care of business at their Regular Board Meetings. Commissioner Mitchell said that this allows for more time for the residents to speak. He also thanked the staff and the Commissioners for due diligence.

Mr. Perry confirmed that the statement Commissioner Brokaw made regarding the amount of money being paid to PARSA was typical in a month. Commissioner Beck stated, for the record, that the cash receipts for 28 properties from Connolly were about \$1 million in arrears and that the loss of the sewage income from Muhlenberg Hospital totaling \$260,000.00 had a direct impact on our business.

Ms. London presented **resolution # 64-2009 authorizing the payment of bills**. Commissioner Mitchell moved, seconded by Commissioner Toliver approval of the resolution.

RECORDED VOTE

Resolution # 64-2009 Payment of Bills

| | YES | NO | ABSTAIN | PRESENT NOT VOTING | NOT PRESENT |
|--|-----|----|---------|--------------------|-------------|
| Carol Ann Brokaw | X | | | | |
| David Beck | X | | | | |
| Harold Mitchell | X | | | | |
| Alex Toliver | X | | | | |
| <u>Alternate</u> Rev. Tracey Brown | X | | | | |
| <u>Alternate</u> Eugene Dudley | | | | | X |

C. Resolution to Correct the Numerical Order of PMUA Adopted Resolutions

Ms. London presented **resolution # 65-2009 authorizing the correction of resolutions.** Commissioner Toliver moved, seconded by Commissioner Mitchell approval of the resolution.

RECORDED VOTE Resolution # 65-2009 Correct the Numerical Order

| | YES | NO | ABSTAIN | PRESENT NOT VOTING | NOT PRESENT |
|--|-----|----|---------|--------------------|-------------|
| Carol Ann Brokaw | X | | | | |
| David Beck | X | | | | |
| Harold Mitchell | X | | | | |
| Alex Toliver | X | | | | |
| <u>Alternate</u> Rev. Tracey Brown | X | | | | |
| <u>Alternate</u> Eugene Dudley | | | | | X |

D. Resolution to Codifying Customer Inquiry Procedure

Ms. London presented **resolution # 66-2009 authorizing the customer inquiry procedure.** Commissioner Mitchell moved, seconded by Commissioner Brown approval of the resolution.

RECORDED VOTE Resolution # 66-2009 Procedures

| | YES | NO | ABSTAIN | PRESENT NOT VOTING | NOT PRESENT |
|--|-----|----|---------|--------------------|-------------|
| Carol Ann Brokaw | X | | | | |
| David Beck | X | | | | |
| Harold Mitchell | X | | | | |
| Alex Toliver | X | | | | |
| <u>Alternate</u> Rev. Tracey Brown | X | | | | |
| <u>Alternate</u> Eugene Dudley | | | | | X |

E. Resolution to authorize a contract with Gabel Associates

Ms. London stated that this resolution is in regards to the litigation. Typically in matters where you are trying to show the reasonableness of rates, you need an expert, someone independent to provide services and consultation to use in litigation. We have a proposal from Gabel Associates located in Highland Park. Their proposal sets forth that they will provide the services needed for this litigation.

Mr. Steve Gabel is the main principal and, he is the former Director of the Board of Public Utilities; Mr. Bob Chilton is the assistant principal and rate consultant, they are well qualified. We do not expect their costs to exceed \$17,500.00. They quoted in their proposal \$15,750.00.

Ms. London presented **resolution # 67-2009 authorizing a professional service contract with Gabel Associates.**

Commissioner Beck requested that the cost of the contract be restated. Ms. London responded \$15,750; however, for purposes of the resolution the cost is not to exceed \$17,500. She explained that the services being provided involved looking at the documents, providing an expert report and testimony at the trial. Commissioner Brokaw explained that as an attorney she understands that litigations of this type, Mr. Beck, very often require you to have expert witnesses and unfortunately the testimony come at a price. Ms. London also explained that you have to have someone who is knowledgeable in the field to make that determination. Commissioner Brown asked if the Judge was requesting or demanding this type of witness. Ms. London replied that the Judge did not request this and it is not a requirement of us, it is just part of due diligence. If your rates are being challenged, you need a rate expert.

Commissioner Mitchell moved, seconded by Commissioner Beck approval of the resolution.

RECORDED VOTE Resolution # 67-2009

| | YES | NO | ABSTAIN | PRESENT NOT VOTING | NOT PRESENT |
|--|------------|-----------|----------------|---------------------------|--------------------|
| Carol Ann Brokaw | X | | | | |
| David Beck | | X | | | |
| Harold Mitchell | X | | | | |
| Alex Toliver | X | | | | |
| <u>Alternate</u> Rev. Tracey Brown | X | | | | |
| <u>Alternate</u> Eugene Dudley | | | | | X |

VIII. UNFINISHED BUSINESS

None.

IX. NEW BUSINESS

None.

X. PUBLIC HEARING

Commissioner Brokaw said that this part of the meeting was where the public was invited to make comments, but time was limited to two minutes. She asked that they stand and give their name and address.

Ariadis Charles, 965 Carnegie Avenue, commented on her role as the attorney representing herself and working with her husband on the litigation. She said that she was not representing Mr. Pierre at this time. She also commented on the cost of the litigation for the PMUA. She stated that they did not enter into this litigation without the full understanding that it would cost the PMUA money and that ultimately they, as the ratepayers of Plainfield, would pay for those costs. Mrs. Charles said that they did not go into this lightly and just wanted the Commissioners to be fully aware that they had always been willing to sit down with anybody who would talk to them to hear their concerns out. She said that the reason they filed litigation was only because first they were not being heard. She further explained that it was not that the PMUA was not listening but before the litigation nothing was changing. She said that now things were starting to change for the better for all of them - including the Board and other residents of Plainfield. Mrs. Charles said that many procedures already in place had been clarified. She said that the PMUA changed the open lid - which was a bone of contention with the public and the opt-out procedures which was a big bone of contention. Mrs. Charles said that she thinks there were positive moves toward reconciling and that that was the reason they went into litigation. They felt that they were not being heard and now they were being heard. She thanked the Commissioners for what was being done and for the moves that were made in that direction. She said that they still think that there were still some issues that needed to be resolved and if it had to be in the court system so be it. She said that they would prefer that it would not have to come that way. Mrs. Charles said that as she had said at the hearing on Friday, they have full time jobs and do not want to take vacation days to go to court.

Commissioner Mitchell said that he had no comment at this time but would comment after the litigation was over. He said that it was not proper for the Commissioners to speak until the litigation was finished.

Ms. London reiterated what Commissioner Mitchell said and said that they should not make comments to the press.

XI. EXECUTIVE SESSION (IF NECESSARY)

None.

XII. ADJOURNMENT

Commissioner Mitchell moved, seconded by Commissioner Brown and unanimously approved by the Board, to adjourn the meeting at 6:32 p.m.

Recorded by;

Ms. Dollie S. Hamlin, Recording Secretary