

PLAINFIELD MUNICIPAL UTILITIES AUTHORITY

**Minutes of a Board of Commissioners Regular Meeting
Tuesday, April 8, 2014**

**127 Roosevelt Avenue
Plainfield, New Jersey**

I. OPEN PUBLIC MEETINGS LAW (STATEMENT OF COMPLIANCE)

Commissioner Mitchell, Chairman, called the meeting to order at 6:05 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 @6:15pm
Commissioner Harold Mitchell
Commissioner Cecil H. Sanders, Jr.
Commissioner Charles Tyndale
Alt. Commissioner Charles Eke

Also Present

Mr. Daniel A. Williamson, Executive Director
Mr. Duane Young, Chief Financial Officer
Ms. Leslie London, Board Attorney
Mrs. Roslyn Mathis, Board Secretary
Staff and Public

Commissioner Malcolm R. Dunn absent

During the Roll-Call, Commissioner Mitchell advised the Board that Commissioner Brokaw would be late.

IV. APPROVAL OF MINUTES – March 11, 2014 Regular Board Meeting Minutes and March 6, 2014 Committee Meeting Notes.

Commissioner Tyndale moved, seconded by Commissioner Sanders, approval of the March 11, 2014 Regular Board Meeting Minutes. The motion carried, on a roll-call vote, with four members in favor and none opposed.

<u>RECORDED VOTE</u>	March 11, 2014 Regular Board Meeting Minutes				
	YES	NO	ABSTAIN	PRESENT NOT VOTING	NOT PRESENT
Carol Ann Brokaw					X
Malcolm R. Dunn					X
Harold Mitchell	X				
Cecil H. Sanders, Jr.	X				
Charles Tyndale	X				
<u>Alternate</u> Charles Eke	X				

Commissioner Mitchell called for a motion regarding the March 6, 2014 Committee Meeting Notes. Ms. London advised that Commissioner Sanders and Alt. Commissioner Eke were not present at that meeting so there aren't enough members present at this time to vote on this set of minutes.

Commissioner Mitchell said they would return to these minutes for the vote after Commissioner Brokaw arrives.

V. COMMUNICATIONS

None.

VI. REPORT OF COMMITTEES

None.

VII. EXECUTIVE DIRECTOR'S REPORT

A. Attorney's Report

Ms. London reported that the Authority is waiting to hear from the counsel for the Roselle Board of Education regarding the shared services agreement.

B. Finance Report and Bills List Approval

Mr. Young reported that they reviewed a number of reports in the Committee Meeting. He said he distributed to the Board copies of the fourth quarter compilation, which gave the Board information concerning the Authority's year for 2013. Mr. Young stated that the bottom line came to where it had been projected, roughly \$1 million to "the good" in budget versus actual. He said that's not cash in hand, that's how the Authority did with respect to the budget for the year. Mr. Young indicated that sewer did about \$400,000 and solid waste, about \$600,000. Mr. Young reminded the Board that the Authority budgets enough revenue to cover expenses. He didn't want the Board to have false thoughts that the Authority would always have \$1 million in revenue over expenses every year. He said that last year was an abnormal year.

Mr. Young stated that the auditors are here now at the PMUA, they will probably be here for a week or two, and by the May meeting the Board will receive the Annual Audit Report.

Mr. Young indicated that at the Committee Meeting one of the Board members requested they put a number besides the items on the bills list so it could be identified. He said that will be done for the next Board packet; there will be an itemization of the bills so it will be easier to reference if there are questions.

Mr. Young said, as he indicated in the Committee Meeting, in the monthly budget status reports for the two months ending February 28, 2014 there is a negative on the sewer side of \$74,938.00 and staff is in the process of evaluating the reason why that happened; he said it appears to be driven by lower than projected revenue for the sewer and that is driven by the water usage, and that is something the Authority can't control.

Commissioner Tyndale inquired about the discussion regarding the repairs and if the Authority is progressing with the lease option.

Mr. Williamson responded that he is going to contact the members on the committee, which includes Commissioner Tyndale and Commissioner Sanders, to establish a meeting date for further discussion and the Board should receive more information after that meeting. Mr. Williamson stated that Commissioner Tyndale and Commissioner Sanders are on the Transportation and Facilities Committees and a meeting will be scheduled for both of those committees.

Commissioner Sanders said that he wanted the Board to know, regarding the Interceptor, the Authority was going out to bid this month, however due to questions from potential bidders, and there were approximately 20 – 22 people, who picked up packets, and there were questions regarding contaminated soil and other things, the bid opening had to be rescheduled.

Mr. Williamson said the bid opening was adjusted from April 15th to the 17th. He said the questions that were raised were substantial enough that the engineers and the consultant felt it required an amendment. Mr. Williamson said all of the interested individuals will have the same information and the bid opening will be on the 17th.

(Commissioner Brokaw arrived at 6:15 p.m.)

Commissioner Tyndale inquired if the Special Meeting is still scheduled for April 15th.

Mr. Williamson replied that yes, the April 15th Special Meeting is still on; one item on the agenda is the Roselle Board of Education shared services agreement, and another item will be the health benefits, which is the primary reason for the special meeting because the Authority would like to have the health benefits in place by May 1st.

Mr. Young continued his report and said the most expensive item the Authority had for the month was \$637,596.00, which was for the New Jersey State pension, and that is paid once a year. He said the other large expense for the month was for debt service in the amount of \$466,661.00. Mr. Young said those two expenses totaled over \$1 million, and the Authority doesn't have any control over them. He said those two expenses, along with salaries and wages, represented approximately 76 percent of the monthly disbursements.

Ms. London presented **resolution #39-2014 authorizing the payment of bills**. Commissioner Brokaw moved, seconded by Commissioner Sanders, approval of the resolution. The motion carried, on a roll-call vote, with five members in favor and none opposed.

RECORDED VOTE**Resolution #39-2014 Payment of Bills**

	YES	NO	ABSTAIN	PRESENT NOT VOTING	NOT PRESENT
Carol Ann Brokaw	X				
Malcolm R. Dunn					X
Harold Mitchell	X				
Cecil H. Sanders, Jr.	X				
Charles Tyndale	X				
<u>Alternate</u> Charles Eke	X				

With the arrival of Commissioner Brokaw, the Chairman requested the Board return to the March 6, 2014 Committee Meeting Notes.

Commissioner Brokaw moved, seconded by Commissioner Tyndale, approval of the March 6, 2014 Committee Notes. The motion carried, on a roll-call vote, with three members in favor and none opposed.

RECORDED VOTE**March 6, 2014 Committee Notes**

	YES	NO	ABSTAIN	PRESENT NOT VOTING	NOT PRESENT
Carol Ann Brokaw	X				
Malcolm R. Dunn					X
Harold Mitchell	X				
Cecil H. Sanders, Jr.				X	
Charles Tyndale	X				
<u>Alternate</u> Charles Eke				X	

C. Resolution Authorizing Award of a Contract for Virtualization Server & Storage System

Mr. Williamson said there was an inquiry at the Committee Meeting raised by at least two Commissioners regarding the savings the Authority would receive as it related to this purchase; he said the amount would be approximately \$48,000.00.

Mr. Williamson said a memo was sent to the Commissioners explaining the savings the Authority perceives as it relates to this system. Mr. Williamson said the Authority will save anywhere from \$20,000.00 to \$28,000.00; four servers the PMUA has that are outdated will not need to be replaced; the software is going to be uploaded onto this virtualization server. He said this box has the capability of taking in and absorbing up to 60 servers on this one unit. Mr. Williamson said that over time it will save a tremendous amount of money; not only having to purchase servers, but also the maintenance that is required for the upkeep of the servers as well. Mr. Williamson said that the administration is asking the Board to approve the purchase of the system.

Ms. London presented **resolution #40-2014 authorizing the award of a contract for a Virtualization Server and Storage System with Net Connect, Inc.** Commissioner Brokaw moved, seconded by Commissioner Tyndale, approval of the resolution. Before the vote, Commissioner Tyndale wanted it noted that it was a bid contract and there were other bidders. The motion carried, on a roll-call vote, with five members in favor and none opposed.

RECORDED VOTE**Resolution #40-2014 Net Connect**

	YES	NO	ABSTAIN	PRESENT NOT VOTING	NOT PRESENT
Carol Ann Brokaw	X				
Malcolm R. Dunn					X
Harold Mitchell	X				
Cecil H. Sanders, Jr.	X				
Charles Tyndale	X				
<u>Alternate</u> Charles Eke	X				

D. Resolution Authorizing Award of a Contract for Risk Management Services

Mr. Williamson said this is a non-fair and open contract to be awarded to the Reliance Insurance Group to provide services to the Authority.

Ms. London presented **resolution #41-2014 authorizing the renewal of the Authority's contract with Reliance Insurance Group as the Authority's Insurance Risk Management Consultant.** Commissioner Brokaw moved, seconded by Commissioner Sanders, approval of the resolution. The motion carried, on a roll-call vote, with five members in favor and none opposed.

RECORDED VOTE**Resolution #41-2014 Reliance Insurance Group**

	YES	NO	ABSTAIN	PRESENT NOT VOTING	NOT PRESENT
Carol Ann Brokaw	X				
Malcolm R. Dunn					X
Harold Mitchell	X				
Cecil H. Sanders, Jr.	X				
Charles Tyndale	X				
<u>Alternate</u> Charles Eke	X				

E. Resolution Authorizing Award of a Contract for Employee Term Life & Disability Insurance

Mr. Williamson said this is a non-fair and open contract that administration is asking the Board's approval for a contractual relationship with Mutual of Omaha, which is located in Warren, New Jersey for employee term life and disability coverage.

Ms. London presented **resolution #42-2014 authorizing the award of a contract with Mutual of Omaha for employee term life and disability insurance benefits.** Commissioner Sanders moved, seconded by Commissioner Tyndale, approval of the resolution. Commissioner Tyndale inquired when the Board approves contracts is there backup showing the benefits for future reference to the public the positive reasons why these contracts are being approved.

Mr. Williamson replied yes, that information would be made available if requested.

Commissioner Tyndale inquired if the information is in the file.

Mr. Williamson replied yes, and it is available.

Mr. Young said that he was part of the reviewing committee along with the Human Resources Manager; a report was put together regarding all of the companies that applied to be the Authority's health insurance carrier and a comparison was done regarding what the rate structure was and the reasons why certain ones were chosen. He said that's all in the file. Mr. Young said one of the things that comes up is the State Health Plan, he said that was also in the column that shows what that would be compared to Aetna and Ameri Health and about three others the Authority received proposals from.

Mr. Williamson said he wanted the public and the Commissioners to know in reviewing the State Health Benefits Plan; it would be more expensive for the Authority.

After the discussion, the resolution passed, on a roll-call vote, with five members in favor and none opposed.

RECORDED VOTE**Resolution #42-2014 Mutual of Omaha**

	YES	NO	ABSTAIN	PRESENT NOT VOTING	NOT PRESENT
Carol Ann Brokaw	X				
Malcolm R. Dunn					X
Harold Mitchell	X				
Cecil H. Sanders, Jr.	X				
Charles Tyndale	X				
<u>Alternate</u> Charles Eke	X				

F. Resolution Authorizing Award of a Contract for Sewer Repair Services

Mr. Williamson said this is a non-fair and open contract for Montana Construction, Inc. located in Lodi, New Jersey. He said there is presently a need for a repair of an eight-inch sewer line at Hillside and Putnam Avenues as well as at Sloane Boulevard and Vivian Street. Mr. Williamson said the Authority went out for quotes and this company has a very good reputation and the PMUA has used them before. Mr. Williamson said the information in the Board's packet will show that Montana Construction had the lowest cost in the amount of \$21,500.00, and the administration is asking the Board to approve the award of the contract to them.

Ms. London presented **resolution #43-2014 authorizing the award of a contract for Sanitary Sewer Repair Services to Montana Construction, Inc.** Commissioner Tyndale moved, seconded by Commissioner Brokaw, approval of the resolution. The motion carried, on a roll-call vote, with five members in favor and none opposed.

RECORDED VOTE**Resolution #43-2014 Montana Construction, Inc.**

	YES	NO	ABSTAIN	PRESENT NOT VOTING	NOT PRESENT
Carol Ann Brokaw	X				
Malcolm R. Dunn					X
Harold Mitchell	X				
Cecil H. Sanders, Jr.	X				
Charles Tyndale	X				
<u>Alternate</u> Charles Eke	X				

Mr. Williamson said that Counsel wanted to go back to item C. regarding the contract for the Virtualization Server & Storage System.

Ms. London said that, so the record is clear, this was not a fair and open contract, she said it was an open bid. Ms. London said that the resolution will be corrected to reflect that there were three bids that were submitted and Net Connect was the lowest bidder.

Mr. Williamson said that it was also done by the committee process that the Purchasing Agent uses for all contracts.

G. Resolution Authorizing Award of a Contract for State Contract Vendors

Mr. Williamson said that this is a resolution that is submitted annually regarding State contractors that have been approved by the State of New Jersey, which allows the Authority to engage in services without having to go out to bid. Mr. Williamson said administration is asking the Board to approve this list of State contract vendors.

Commissioner Mitchell inquired if approving this list would mean the Authority would not need to come back to the Board for approval of a contractor.

Mr. Williamson replied that no, the Authority won't have to go through the bid process with these contractors because they have been pre-approved by the State; he said that administration would come back to the Board for their approval.

Ms. London said that the Local Public Contract Law allows entities to utilize the State vendors. She said that the State goes out to bid for various services and they solicit in such a way that it could be used by any public entity.

Ms. London said the provision of the Local Public Contract Law allows the Authority to use a vendor from this list, but the analysis would be taken into consideration that if the PMUA needs something, they would look at the State list to see if it could be obtained cheaper there or if it would be better to go out to bid. She said it depends on the item.

Mr. Williamson said that the Authority would not do anything without advising the Board what they are doing and what is involved.

Ms. London said that using the State contractor, the pricing is already there, the Authority can't negotiate with the vendors that are on the list.

Commissioner Brokaw said that if the Board pre-approves a list of vendors, it doesn't mean there isn't going to be a due diligence process to determine whether or not that's the best way to spend the Authority's money.

Ms. London presented **resolution #44-2014 authorizing the execution of contracts or use of contractors for certain approved State contract vendors.** Commissioner Brokaw moved, seconded by Commissioner Tyndale, approval of the resolution. The motion carried, on a roll-call vote, with five members in favor and none opposed.

RECORDED VOTE**Resolution #44-2014 State Contract Vendors**

	YES	NO	ABSTAIN	PRESENT NOT VOTING	NOT PRESENT
Carol Ann Brokaw	X				
Malcolm R. Dunn					X
Harold Mitchell	X				
Cecil H. Sanders, Jr.	X				
Charles Tyndale	X				
<u>Alternate</u> Charles Eke	X				

H. Resolution Authorizing the Approval of a Sanitary Sewer Connection

Mr. Williamson said that staff from the Authority's Sewer Department attended the Committee Meeting and advised the Board that the Habitat for Humanity was building five homes on West Seventh Street. He said the Habitat has agreed to be responsible for repair and maintenance of the trunk line and the lateral line. He said the Commissioners have been provided a copy of the letter that shows the agreement in writing. Mr. Williamson said administration is asking for the Board's approval.

Ms. London presented **resolution #45-2014 approving preliminary sanitary sewer connection for Habitat for Humanity.** Commissioner Sanders inquired who is monitoring their work. Mr. Williamson said that Mr. Rakowski and Mr. Dessino discussed it at the Committee Meeting. Commissioner Sanders apologized and said he wasn't at the meeting. Commissioner Sanders moved, seconded by Commissioner Brokaw, approval of the resolution. The motion carried, on a roll-call vote, with five members in favor and none opposed.

RECORDED VOTE**Resolution #45-2014 Habitat of Humanity**

	YES	NO	ABSTAIN	PRESENT NOT VOTING	NOT PRESENT
Carol Ann Brokaw	X				
Malcolm R. Dunn					X
Harold Mitchell	X				
Cecil H. Sanders, Jr.	X				
Charles Tyndale	X				
<u>Alternate</u> Charles Eke	X				

Commissioner Mitchell requested that item I be removed from the agenda until the meeting in May because all of the Commissioners have not had an opportunity to review it.

Mr. Williamson said it will be removed until the May 13, 2014 meeting.

Mr. Williamson advised the public and the Commissioners that for the citizens of Plainfield who have in-ground or above-ground swimming pools the Authority is going to be purchasing meters, and setting up a process that allows for them to fill their pools and not be charged pursuant to the normal sewer charges process. He said the Authority is also preparing a methodology for the citizens who have underground sprinkling systems and allow them to take advantage of the program the PMUA is devising. He said the underground sprinkling system will be different because they can't use a meter for that. Mr. Williamson said there may be the option to allow the property owner to install their own meter on their property that regulates their sprinkler usage, or come up with a flat credit from June 15th to the end of August. He said the Authority will be doing that very shortly; the PMUA has been working on that for a while.

VIII. UNFINISHED BUSINESS

None.

IX. NEW BUSINESS

None.

Alt. Commissioner Eke inquired regarding the issue of the meter, he said in 2007 the idea was the residents would pay for the meter or is there anyway to offset the cost for the meter.

Mr. Williamson replied that the Authority looked at a couple of things; one, was to purchase about five of the meters, the cost would be about \$700.00, set up a system where the Authority would go out with the home owner, make an appointment, read the meter, they would acknowledge where it starts and when it's finished, they acknowledge where it ends.

Mr. Williamson said that's the number that will be credited to the overall bill for a pool. He said it could take up to three to four hours to fill a pool, but it's going to require the Authority's staff to go out and monitor that it's done appropriately. Mr. Williamson acknowledged that the Authority is still developing how it will be done.

Commissioner Mitchell said that with the changing of the color of the building, the shrubs, etc., he wants to know what the cost will be before it's done.

Mr. Williamson said, as it was discussed in the Committee Meeting, the cost will be a consideration, he said the color won't be changed, the building will be the same color, he said the only difference is the blue stripe that goes across a portion of the building and the PMUA sign would be similar with the lighting to reflect the change. Mr. Williamson said whatever the cost, administration would come to the Committee and let the Board know what the cost involved would be and that's true with the trucks as well.

X. PUBLIC HEARING

Commissioner Mitchell said they have come to the portion of the meeting where the public is allowed to speak; please stand, give your name and address, and they will have two minutes.

Alan Goldstein – 939 Madison Ave. Mr. Goldstein said that one of the things that irks him, particularly last month the Board did the budget, which wasn't available on the website, the public can only comment after the fact, there is no opportunity to influence the Board before hand. He said at least at the City Council there's an agenda setting session where the public can speak before hand and they have the business meeting where they would have an opportunity to speak before action is taken. He said there's not a lot of public here in most instances, but he said it would be fair to provide the few of them that do show up, and they feel a desire to comment before the Board actually takes a vote, they could do so.

He said last month he talked about some comments that Glen Scotland had made a long time ago at a hearing with the Interlocal Agreement that was presented to the public. He said in every one of the Board's resolutions, or most of them, where the Board is contracting with vendors, there's a litany of pay-to-play that's repeated. He said that just for the Board's information, the City in November 2011 instituted its own pay-to-play ordinance, which he claims, supersedes the State; once the municipality does that, he further claimed that NJ Elec washes their hands of it. Mr. Goldstein said one of those aspects, he didn't have the exact ordinance number, but it prohibits contractors that are currently working under a contract from making any contributions to any municipal candidates, Mayor or City Council, yet the Board's attorneys, four of the partners there are persons of interest who, he claims, appear on the State form because they own 10 percent or greater of the company, and make these contributions. He also claims that the Authority's auditor, Mr. Lerch, also made a contribution and according to statute, it is his opinion that this would preclude any part of the City, or agency, or municipality, from entering into a contract with them.

He claims that it's not just they get it read each time, there's no mention at all about the contract they're working under during which time they're making those contributions and in his opinion that has to be noted.

He claims that some of the vendors, which very few, are actually giving money, and he claims that they seem to ignore that entirely, he said maybe this should be mentioned in any contracts they enter into down the road so vendors are aware of that aspect.

Mr. Goldstein claims that one of the contractors, Reliance, does work for the PMUA, and works for the City, and works for the schools. Mr. Goldstein made further claims about one of the principals in the company and contributions that he claims were made.

Ms. London said that Mr. Goldstein is not correct regarding the City's pay-to-play ordinance and its applicability to the Authority. She said under the Local Public Contracts Law there is a section that permits municipalities, counties, independent authorities, and school boards to elect to follow their own pay-to-play. Ms. London said the State's pay-to-play statute is under Chapter 19. If one of the other entities mentioned does not have their own pay-to-play, they have to follow the State statute. She said Plainfield has opted as a municipality to have its own pay-to-play and not follow the State's statute, and that is permitted. Ms. London said since the Authority is an independent agency, under the Public Contracts Law, the PMUA can decide whether to adopt their own pay-to-play ordinance, follow the City's pay-to-play, or follow the State statute. She said the PMUA decided to follow the State pay-to-play statute. She said at some point the City, after they adopted their own pay-to-play ordinance, asked the Authority if it would follow the City's ordinance. She believes they were at a meeting on this issue. There were a couple of questions she said she had with the language, and asked for clarification so she could advise the Board. She said she wrote to Mr. Williamson, who was the City's counsel at the time, asking for clarification. She said the matter was brought back to the Board and the Board at that time decided to continue to follow the State's pay-to-play statute.

Ms. London said the State's pay-to-play statute restricts contributions for non-fair and open contracts, she said it restricts contributions by elections to \$300.00 per candidate, per election. She said under the City's ordinance the restriction is \$300.00 for the whole year.

Ms. London said that since the Authority has opted to follow the State's pay-to-play statute, that's the reason why the resolutions read the way they are.

Mr. Williamson said another of Mr. Goldstein's arguments is that the Authority is an instrumentality of the City, but Mr. Williamson said that is not true, the Authority is not an instrumentality of the City; he said therefore they are not bound by the City's ordinance.

Ms. London added that when the City's ordinance is read, it has to be in its totality, not just one portion. She said she believes the intent of the ordinance, based on the language in it, was to control vendors who work for the City and to regulate their contributions.

Commissioner Sanders said one point Mr. Goldstein made related to the opportunity to speak before the final decisions are made, he said Mr. Goldstein could attend the Committee Meetings and he would have prior notice on these items.

Commissioner Mitchell said the Board has Committee Meetings, if Mr. Goldstein has questions, he could come to the Committee Meetings.

Bernice Paglia – 124 E. Seventh St. Ms. Paglia wanted to know how the Authority was going to advertise the information regarding the swimming pools.

Mr. Williamson said it will be on the website, the blogs and they will utilize the block associations.

Ms. Paglia has seen activity in her driveway and the arrival of this big cubic yard dumpster and smaller ones for the paper and the bottles, but whichever one that was open that's where they threw the trash. She said maybe they need a little bit of education concerning the proper way they were supposed to be used.

Mr. Williamson replied that one of the problems the Authority is having is with the landlords. He said there is a fine imposed for the violation of mingling garbage in the recyclables, and the landlords say they can't handle their tenants. Mr. Williamson said the Authority knows it's a problem and they are going to continue to try and fix it.

There wasn't a need for an Executive Session, so Commissioner Mitchell called for a motion to adjourn; moved by Commissioner Sanders, seconded by Commissioner Tyndale, and unanimously approved by the Board, to adjourn the meeting at 7:05 p.m.

Recorded by:

Roslyn Mathis, Board Secretary