



BAYSHORE REGIONAL SEWERAGE AUTHORITY

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Robert C. Fischer
EXECUTIVE DIRECTOR

MINUTES BAYSHORE REGIONAL SEWERAGE AUTHORITY PUBLIC HEARING & REGULAR MEETING MAY 21st, 2012

At 7:00 PM on Monday, May 21, 2012 Vice Chairman Cohen called the Public Hearing on the 2012/2013 Connection Fee to order. The Meeting announcement reads: "I hereby announce that pursuant to Section 5 of the Open Public Meetings Act and N.J.S.A. 40:14A-8, adequate notice of this meeting has been published in *The Asbury Park Press*, on the BRSA website, and has been sent to the Clerks of the Aberdeen, Hazlet, Holmdel, Keansburg, Keyport, Matawan, Union Beach, Marlboro; and the W.M.U.A., This notice is also posted in the lobby of the Bayshore Regional Sewerage Authority Administration Building."

Vice Chairman Cohen called for a **PLEDGE OF ALLEGIANCE** and a Moment of Silence for the US Troops serving around the world. The Executive Director called the roll of attendees recorded as follows:

Present: Commissioners DiNardo, Sutton, Tedeschi (7:10) Vella and Vice Chairman Cohen (Quorum)
Absent: Chairwoman Parsells

Also in Attendance:

Louis E. Granata, Esq. General Counsel
Jerry Mitchell, P.E. for Manuel Ponte, P.E., Consulting Engineer
Michael J. Bart, CPA, Auditor of the firm Bart & Bart
Peter J. Canal, Staff Engineer
James Wancho, P.E., PS&S Consulting Engineers, Contract 54
Stephanie Towns, Certified Court Stenographer
Robert C. Fischer, Executive Director

Commissioner Sutton **OFFERED** a **MOTION** to suspend the **Regular Order of Business** to recognize Mr. Garcia's 25 years of service (by way of Resolution No. 58/12). The was **SECONDED BY** Commissioner Vella and carried by unanimous voice vote recorded as follows: Ayes: Commissioners DiNardo, Sutton, Vella and Vice Chairman Cohen.

Mr. Fischer provided the Board with a review of Mr. Orlando's twenty-five year history with the Authority. He served in a number of positions over the past twenty-five years; and for quite some time he has been Laboratory Technician at BRSA. Vice Chairman Cohen read the following Resolution before the public, and the Board congratulated and thanked Mr. Garcia for his service.

Committed to a Clean Environment for Today, Tomorrow and Generations to Come

BRSA staff, November 2006

Resolution No.: (58/12) To congratulate Mr. Noel Orlando Garcia for 25 years of service to the Bayshore Regional Sewerage Authority.

WHEREAS, The Bayshore Regional Sewerage Authority and its Commissioners wish to formally acknowledge the contributions of their longstanding employees; and

WHEREAS, Mr. Noel Orlando Garcia has served the public as an employee of the Bayshore Regional Sewerage Authority for twenty-five years; beginning in March of 1987; and

WHEREAS, Noel Orlando Garcia has served the Authority in many ways and continues to serve in his capacity as Laboratory Technician

NOW THEREFORE BE IT RESOLVED, the Bayshore Regional Sewerage Authority, its Commissioners, and employees hereby express sincere appreciation to Mr. Garcia and gratitude for his many years of service with the Authority and present him with a 25 Years of Service Appreciation Award of \$500.00.

BE IT FURTHER RESOLVED, a copy of this Resolution will be entered into the permanent records of the Authority.

Mr. Garcia thanked the Board and Staff for the recognition and gift. Vice Chairman Cohen then turned the meeting over to the General Counsel to have the professionals sworn in by the Certified Court Stenographer. Testimony regarding the 2012/2013 Connection Fee was provided by Jerry Mitchell, P.E. for Manuel Ponte, P.E., Consulting Engineer, Michael J. Bart, CPA, Authority Auditor, and Robert C. Fischer, BRSA Executive Director.

Official transcript of the Public Hearing was recorded separately by the Certified Court Stenographer. A full transcript of these proceedings is available upon request.

Vice Chairman Cohen called for a **MOTION** on the following:

1. RESOLUTION: (57/12) To adopt the revised Connection Fee of \$ 6,518.00 per equivalent Dwelling Unit.

WHEREAS, in accordance with the Sewerage Authorities Law, N.J.S.A. 40:14A-1 et seq., governing B.R.S.A., as amended, N.J.S.A. 40:14A-8 I and the Rules and Regulations of the Bayshore Regional Sewerage Authority, the B.R.S.A. has conducted a Public Hearing on its Revised Connection Fee based on the 2011 Audit and Flow Report, and will provide a transcript of said Hearing to any interested party; and

WHEREAS, the B.R.S.A. specifically finds it to be reasonable and necessary to adopt the annexed connection fee charge;

NOW THEREFORE BE IT RESOLVED by Bayshore Regional Sewerage Authority, that the Revised Connection Fee of the Authority and the same is hereby adopted and approved; and

BE IT FURTHER RESOLVED that the Connection Fee on the attached Exhibit "E" (partial) be, and is hereby incorporated and made part of the Section 7 "Fees" of the Rules and Regulations of the Authority until such time that a revised connection fee is adopted by the Authority.

E X H I B I T "E" (partial)

Connection Fees

In accordance with NJSA 40:14A-8, the Bayshore Regional Sewerage Authority hereby establishes connection fees for a direct or indirect connection with, or the use of services of the Sewerage system for the year 2012.

Connection Fee: for the year 2012 fiscal year is \$6,518.00 per unit or equivalent

OFFERED BY: Commissioner Sutton and **SECONDED BY:** Commissioner DiNardo and carried by roll call vote recorded as follows: Ayes: Commissioners DiNardo, Sutton, Tedeschi, Vella and Vice Chairman Cohen.

At 7:23 PM, Vice Chairman Cohen called for a **MOTION to adjourn the Public Hearing.**

OFFERED BY: Commissioner Vella and **SECONDED BY:** Commissioner Tedeschi and carried by roll call vote recorded as follows: Ayes: Commissioners DiNardo, Sutton, Tedeschi, Vella and Vice Chairman Cohen.

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Vice Chairman Cohen then called the **Regular Meeting of the Bayshore Regional Sewerage Authority** to order and called for **MOTIONS** on the following Resolutions.

APPROVAL OF MINUTES – Regular Minutes of April 16th, 2012

OFFERED BY: Commissioner Tedeschi and **SECONDED BY:** Commissioner Sutton and carried by roll call vote recorded as follows: Ayes: Commissioners DiNardo, Sutton, Tedeschi, Vella and Vice Chairman Cohen.

MOTION - to accept the **TREASURER’S REPORT** of April, 2012

OFFERED BY: Commissioner Vella and **SECONDED BY:** Commissioner Tedeschi and carried by roll call vote recorded as follows: Ayes: Commissioners DiNardo, Sutton, Tedeschi, Vella and Vice Chairman Cohen.

STATEMENT OF CASH RECEIPTS AND CASH DISBURSEMENTS

TD BANK	Balance
TRUSTEE ACCOUNTS	4-30-12
<u>UNRESTRICTED</u>	
Revenue Fund	\$ 1,681,954.63
General Fund	\$ 4,125,255.75
Total Unrestricted	<u>\$ 5,807,210.38</u>
<u>RESTRICTED</u>	
Bond Service Fund	
1985 Bond Service Fund	\$ 817.08
2002 Bond Service Fund	<u>\$ 0.00</u>
Total Bond Service Funds	\$ 817.08
Bond Reserve Funds	
1985 Bond Reserve Fund	\$ 6,243,068.89
Total Bond Reserve Funds	\$ 6,243,068.89
<u>2010 NJEIT BONDS</u>	
Revenue	\$ 0.00
Construction	\$ 1,159,792.28
Bond Service	<u>\$.05</u>
TOTAL NJEIT	\$ 1,159,792.33
TOTAL TRUSTEE ACCOUNTS	<u>\$13,210,888.68</u>

AUTHORITY ACCOUNTS

Incoming Revenue Account	\$ 1,329,474.69
Operating Regular Account	\$ 60,723.77
Operating Payroll Account	\$ 81,356.91
TOTAL AUTHORITY ACCOUNTS	<u>\$ 1,471,555.37</u>
TOTAL	<u>\$14,682,444.05</u>

SCHEDULE OF ACCOUNTS RECEIVABLE

SERVICE CHARGES:	Balances as of <u>April 30th, 2012</u>
Hazlet Township Sewerage Utility	\$ 699,602.25
Township of Holmdel	\$ 0.00
Borough of Union Beach	\$ 0.00
Borough of Keyport	\$ 0.00
Borough of Keansburg	\$ 0.00
Borough of Matawan	\$ 0.00
Western Monmouth Utilities Authority	\$ 0.00
Township of Aberdeen	\$ 0.00
TOTAL	\$ 699,602.25

OUTFALL AUTHORITY CHARGES

Hazlet Township Sewerage Utility	\$ 59,954.48
Township of Holmdel	\$ 0.00
Borough of Union Beach	\$ 0.00
Borough of Keyport	\$ 0.00
Borough of Keansburg	\$ 0.00
Borough of Matawan	\$ 0.00
Western Monmouth Utilities Authority	\$ 0.00
Township of Aberdeen	\$ 0.00
TOTAL	\$ 59,954.48

Balance of Rent Reserve Accounts as of April 30th, 2012

Hazlet Township Sewerage Utility	\$ 1,520,469.99
Township of Holmdel	\$ 724,201.13
Borough of Union Beach	\$ 417,284.18
Borough of Keyport	\$ 624,500.19
Borough of Keansburg	\$ 602,784.97
Borough of Matawan	\$ 821,614.53
Western Monmouth Utilities Authority	\$ 190,296.02
Township of Aberdeen	\$ 822,427.74
TOTAL	\$ 5,801,578.75

Detail of the Trustee accounts, receipts and disbursements, including investment activity, are on file in the Administrative Office of the Bayshore Regional Sewerage Authority.

Vice-Chairman Cohen opened the meeting to the public for comments or questions regarding the following Resolutions. And reminded all members of the public wishing to speak to be mindful of limiting comments and time accordingly. No one from the public chose to comment.

2. RESOLUTION (59/12) To approve the Safety Incentive Award recommendations for 2011.

WHEREAS, the Bayshore Regional Sewerage Authority has initiated a Safety Incentive Program as part of their ongoing efforts to establish a safe workplace; and

WHEREAS, a Safety Incentive Program has been established for members of the Operating, Maintenance, Laboratory and Administrative Staff; and

WHEREAS, the Safety Incentive Program makes available to all members of the Authority Staff who choose to participate, a Personal Day off if they achieve a proven level of commitment to their own safety, the safety of others and the enhancement of safety practices at the Authority facilities; and have demonstrated through active, continuous involvement, a desire to maintain the Authority as an accident-free workplace

WHEREAS, each year by April 1, the Safety Committee evaluates all points awarded during the prior year and establishes a list of members eligible for award; and

WHEREAS, the Safety Committee Chairman has presented such a list to the Executive Director for the Year April 1, 2011 to March 31, 2012 which eight (8) members of the Staff are eligible; and

WHEREAS, the Executive Director has reviewed the list and recommends the Board adopt a Resolution providing award to all those who have successfully demonstrated their commitment to their own safety, the safety of others and the enhancement of safety practices at the Authority facilities as indicated in a memorandum to the Executive Director from the Superintendent dated May 3, 2012.

NOW THEREFORE BE IT RESOLVED, the Commissioners of the Bayshore Regional Sewerage Authority hereby endorses the Safety Incentive Program for the year April 1, 2011 to March 31, 2012 and congratulates and encourages all employees to continue to practice safety consciousness.

OFFERED BY: Commissioner Vella and **SECONDED BY:** Commissioner DiNardo and carried by roll call vote recorded as follows: Ayes: Commissioners DiNardo, Sutton, Tedeschi, Vella and Vice Chairman Cohen.

James Wancho, P.E. of PS&S was in attendance to provide the Board with an overview of the proposed Change Order to Contract 54 and recommended approval. Commissioner Sutton questioned why the Authority was responsible for storage fees prior to delivery. Mr. Wancho said typically under a construction contract, if you approve the monies under the contract, you can pay monies for stored items. In addition to this, the Contractor's contract with the supplier (General Electric) was for a set date to be delivered to the Authority. That delivery was compromised by transportation permit delays not caused by and beyond the control of the Contractor. The Contractor had no ability to know during the bidding of the contract that these delays would occur. Additionally, the turbine's delivery needed to be accepted in order to maintain its warranty and other coverage protection under the purchase from General Electric. Mr. Granata said the reason we are required to pay for the storage is because the storage was not a specification of the original contract. The delays caused by the Union Beach Planning Board and the individuals opposed to the construction of the turbine have costs associated with them that are not a part of the contract, not the fault of the Contractor and not the fault of the Authority, but the Authority must bear the responsibility of the Contractor being unable to complete his contract in a timely fashion as it was specified. This is contract law for public agencies. The ratepayers are going to have to pay for the delays that these organizations opposed to the turbine have caused. The Authority

would love to pass along these expenses to those who are responsible for the delays, and not the ratepayers, but we can't. Vice Chairman Cohen asked if anyone else had any questions or comments. Commissioner Sutton said he would reserve further discussion of the matter for Closed Session. Vice Chairman Cohen then called for a MOTION on the following:

3. RESOLUTION (60/12) To authorize Change Order No. 4 to Contract 54.

WHEREAS, the Bayshore Regional Sewerage Authority awarded Contract 54, Wind-to-Energy Project to Conti Enterprises, Inc., ("the Contractor") by way of Resolution No. 02/10; and

WHEREAS, the Contractor is required to comply with multiple permit approval requirements from Aberdeen, Keyport, Union Beach, Marlboro and Matawan through which the turbine components will be conveyed as well as multiple permit requirements set forth by the Monmouth County Division of Engineering to satisfy the criteria for a Special Use Transportation Permit to be issued by the Monmouth County Division of Engineering; and

WHEREAS, the Contractor continues to work on satisfying the transportation permit requirements; and

WHEREAS, a Progress meeting was held on April 26, 2012 between BRSA, PS&S, Engineering Consultants to Contract 54, and the Contractor wherein the Contractor submitted Change Order (No. 4) request in an amount of \$291,874.00 for reimbursement of costs associated with acquiring the transportation permits, Township escrows, bond premiums, engineering services, pre and post video pipe inspections, etc., as well as additional storage costs while they await final transportation approval, and,

WHEREAS, the Change Order (No. 4) was reviewed by PS&S and the BRSA and deemed to be acceptable in accordance with the terms and conditions of Contract 54

NOW THEREFORE BE IT RESOLVED, the Commissioners of the Authority hereby accept Contract 54 Change Order (No. 4) in the amount of \$291,874.00

OFFERED BY: Commissioner Tedeschi and **SECONDED BY:** Commissioner DiNardo and carried by roll call vote recorded as follows: Ayes: Commissioners DiNardo, Tedeschi, Vella and Vice Chairman Cohen. Nays: Commissioner Sutton.

4. RESOLUTION (61/12) To authorize the Authority to advertise requests for quotations for the Repair of the Concrete Floor in Return Sludge Pump Station #1.

WHEREAS, the Bayshore Regional Sewerage Authority awarded Contract 59, Repairs to Reinforced Concrete Beam in Return Sludge Pump Station #1, by way of Resolution 107/11 and that work is in progress; and

WHEREAS, in the course of the beam repairs it was discovered that reinforcing steel in the concrete floor adjacent to the beam also exhibits signs of corrosion and is also in need of repair; and

WHEREAS, this additional work would likely require a Change Order above the allowable 20% threshold of NJAC 5:30-11.9; and

WHEREAS, Changes Orders above the 20% limitation shall not be permitted when factual circumstances make it reasonably possible to execute a new contract for the additional work; and

WHEREAS, the Authority requires authorization to prepare specifications and advertise for the solicitation of quotes for this additional work,

NOW THEREFORE BE IT RESOLVED, the BRSA Consulting Engineer, Engineer and Qualified Purchasing Agent are hereby authorized to prepare specifications for Requests for Quotes

for the Repair of the Concrete Floor in Return Sludge Pump Station #1, in accordance with Public Contracts Law

BE IT FURTHER RESOLVED, upon review and approval of the Executive Director, a Notice for Request for Quotations may be placed in the Authority's official newspaper for solicitation of Repairs to the Concrete Floor in Return Sludge Pump Station #1.

OFFERED BY: Commissioner Vella and **SECONDED BY:** Commissioner Tedeschi and carried by roll call vote recorded as follows: Ayes: Commissioners DiNardo, Sutton, Tedeschi, Vella and Vice Chairman Cohen.

MOTION - to approve payment of bills listed on:

Operating Fund Req. No. (Regular) \$ 320,259.54

Payroll Account Req. No. P129 \$ 290,682.14

Mr. Granata said the approval of the Treasurer's Report moved this **MOTION** which was recorded as follows: **OFFERED BY:** Commissioner Vella and **SECONDED BY:** Commissioner Tedeschi and carried by roll call vote recorded as follows: Ayes: Commissioners DiNardo, Sutton, Tedeschi, Vella and Vice Chairman Cohen.

The Vice-Chairman opened this portion of the meeting to the public for comments or questions. The public was reminded, only questions or comments not previously addressed; and specific to the scope of BRSA's operations or projects will be addressed. As a courtesy to all members of the public wishing to speak, the Vice-Chair asked the public to be mindful of limiting comments and time accordingly.

Mr. Eugene Geer of Hazlet, NJ took the floor. He said there were three new Commissioners on the Board and the Authority claims to have conducted thorough studies on the installation of this turbine and have provided some reports to that end. Mr. Geer offered documents of his own to the new members. He said he felt they should be reviewed to give them an idea of the kind of arguments to the turbine installation that they have been making. He had two sets of documents with him and gave them to Commissioners Tedeschi and Vella. Mr. Granata asked "where are documents for Commissioner Sutton?" Mr. Geer said Commissioner Sutton was more familiar with this information than the other two new Commissioners. Mr. Granata said Commissioner Sutton and all Commissioners should be provided with anything he is offering to the two other new Commissioners. Commissioner Sutton said he may not have seen the materials Mr. Geer was offering. Mr. Geer said he thinks Commissioner Sutton may have them.

Mr. Geer spoke about proper setback of turbines, and noise disturbances in Massachusetts, Freeholder Bury's statement on negative impact to property values, Union Beach petitions to the Governor and the noise shield created by the highway near the ACUA turbines.

Mr. Geer spoke about the Conti website stating the turbine was installed and the ARRA Fraud line that he had notified about the website posting.

Commissioner Vella asked why Mr. Geer had not brought all of this out when the project was being initiated instead of after the Authority was so far into it. Mr. Geer stated he thinks the Authority had already decided to move forward prior to him having any knowledge of it.

Commissioners Vella and Tedeschi stated that they may have thought differently about the project if the public came out strongly against it in the beginning of the project.

Mr. Geer said he believes the project turns out to be a big mistake because the research done by the Authority was inadequate and the Commissioners made their decisions based on information that was inaccurate. Tedeschi said that Mr. Geer's opinions were subjective, because he did not know what expertise the people who were here at the time may have had. Mr. Geer referenced the research and said the documents were compiled by a bunch of PhD's who were hired by the wind industry. He likened them to "biostitutes" who sell their expertise and get paid to make fallacious claims. Mr. Granata asked if he was suggesting the individuals produced fraudulent documents? Mr. Geer said, yes. Mr. Granata asked Mr. Geer if he called the DEP or EPA with this claim as well. Mr. Geer said, yes, he did.

Commissioner Tedeschi said he agreed with Commissioner Vella on this situation. If the public came out strongly against it at the very beginning and not the final stage of the project, he may have thought differently, but there has been a significant time lapse between then and now. He said, the project is upon us and the Authority has committed financially to this project. He said possibility of major financial repercussions; especially under the present economic conditions would be substantial and translate to the ratepayers. Mr. Geer said the possible negative health effects to the people living nearby and the possible loss of property values could also be significant. Commissioner Tedeschi said, you are using the word "possibly" is completely subjective. Mr. Geer said he tries to keep things scientific because that's the way he thinks. Commissioner Tedeschi said science also has a margin of error inherent to it. Vice Chairman Cohen said he was going to cut this conversation off at this time because we've had this conversation dozens of times. Mr. Geer said sure you are. Mr. Geer said he wanted the new Commissioners to realize the potential impact of this thing. He added, the Minutes of the BRSA Meetings are woefully inadequate in many areas.

Commissioner Sutton asked to address Mr. Geer briefly and said Gene, all of that is good and he understands why he wants the new gentlemen to see it, however, the Authority is long past that and there is not a thing that can be done about it at this point. He added, if anybody is wondering he has a contrary opinion to most on this subject and he has reasons for that, if you really want to know; but it is not appropriate here ...there is nothing to be done about it, is the point. He said he knows Mr. Geer complained about it well before money went into the ground and the money was spent, and there were 75 people here in opposition at the beginning, that's accurate. The Vice Chairman repeated, he was going to cut this conversation off at this time because we've had this conversation dozens of times and this meeting is going on and on about the same thing and he's like to move on with the Board's agenda. Commissioner Vella said he would read the information Mr. Geer provided.

Commissioner Sutton said he would like to go into Closed Session to discuss certain matters. Mr. Granata said there are only certain reasons the Board can exclude the public from the discussion and asked what the nature of the topic would be. Commissioner Sutton said possible or potential litigation. Mr. Granata then asked if there was any further action that might be taken by the Board after Closed Session? The Board agreed they did not think so. Mr. Granata said he asked because as some Commissioners understand, Mr. Hoffman wrote in a letter, that when he is sitting outside, he can hear what is going on in Closed Session.

Mr. Hoffman was present and asked Mr. Granata if he wanted him to clarify that for him. Mr. Granata said no, he was just reiterating to the full Board what was said in the letter. Mr. Hoffman said, we can hear discussions, but we can't make out what is being said. Mr. Granata said, that does not make

any difference, Closed Session is just that – closed. Mr. Hoffman asked, then what are we supposed to do? Mr. Granata said, go outside...you are not supposed to be listening in on the conversation. Mr. Hoffman said, nobody told us to go outside and you should have asked us to do that. Mr. Granata said, nobody was aware that you were listening in. Mr. Hoffman said, nobody knew you were going to be talking that loud.

At 7:55 P.M. The Vice-Chair called for a **MOTION** to go into Closed Session at in accordance with Section 8 of the Open Public Meetings Act, Chapter 231, P.L. 1975, permitting the exclusion of the public from a meeting in certain circumstances. This action will be taken to discuss matters falling within attorney-client privileges, specifically, possible or potential litigation. It is anticipated at this time that the above stated subject matter shall be made public at such time as the need for non-disclosure no longer exists.

OFFERED BY: Commissioner Sutton and **SECONDED BY:** Commissioner Parsells (by teleconference) and carried by roll call vote recorded as follows: Ayes: Commissioners DiNardo, Sutton, Tedeschi, Vella and Vice Chairman Cohen.

Closed Session Minutes are recorded separately.

At 8:32 P.M., Vice-Chairman Cohen calls for a **MOTION** to end Closed Session.

OFFERED BY: Commissioner Vella and **SECONDED BY:** Commissioner Parsells and carried by roll call vote recorded as follows: Ayes: Commissioners DiNardo, Sutton, Tedeschi, Vella, Vice Chairman Cohen and Chairwoman Parsells.

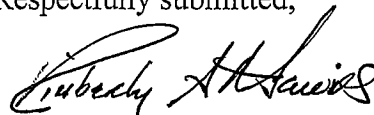
Mr. Granata congratulated Mr. Fischer on becoming the President of the New Jersey Water Environment Association. The Board, including Chairwoman Parsells, by telephone, did so as well. Vice Chairman Cohen said he wanted these comments reflected in the Minutes.

At 8:34 P.M., Vice Chairman Cohen called for a **MOTION** to Adjourn the meeting.

OFFERED BY: Commissioner Sutton and **SECONDED BY:** Commissioner Tedeschi and carried by roll call vote recorded as follows: Ayes: Commissioners DiNardo, Sutton, Tedeschi, Vella, Vice Chairman Cohen and Chairwoman Parsells.

The next Agenda Meeting of the B.R.S.A. is scheduled for **Monday, June 11th, 2012 @ 7:00 P.M.** The next **Regular Meeting** will be held on **Monday, June 18th, 2012 @ 7:00 PM.** All meetings take place in the Administration Building of the BRSA located at 100 Oak Street, Union Beach, NJ, 07735.

Respectfully submitted,



Kimberly A. Newins
Administrative Assistant
Board Recording Secretary