

DELAWARE COUNTY REGIONAL
WATER QUALITY CONTROL AUTHORITY
100 EAST FIFTH STREET
CHESTER, PENNSYLVANIA 19013

MINUTES

JANUARY 18, 2022 (VIRTUAL)

The Regular Meeting of the Delaware County Regional Water Quality Control Authority was held on Tuesday, January 18, 2022, at 3:30 P.M. The meeting was held virtually via Zoom.com. REGULAR MEETING

Messrs. Kern, Knapp, Monaghan, Moss, Mullen, Nagle, and Madames Billings, Nichols, and Sage, Board Members, constituting a quorum were present. ROLL CALL

Messrs. Cherico, DiSantis, Garner, Hurst, Lehman, Lenton, McNichol, Willert, and Mesdames Bonnett, Byrd, Caulk, and Cummings were also present.

PUBLIC ATTENDANCE: The following were present: Samantha Newell, Darrell Jones, Will Richan, Thom Nixon, ZT Mayfield, Mike Ewall of Energy Justice Network, Eleese Elam, and Carol Kazeem. No other members of the public were present. PUBLIC

Mr. Monaghan, Vice Chairman, called the meeting to Order.

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance was recited by all parties present. PLEDGE OF ALLEGIANCE

ORDER OF BUSINESS

COMMENTS FROM THE PUBLIC: Ms. Cummings read aloud two comments that were received via email on the DELCORA website. PUBLIC COMMENT

Comment from Mr. Willard Richan of 1704 Modesto Circle, Chester, PA 19013 regarding "January 18 agenda item New Business, 2B, regarding proposed feasibility study: I am opposed to the proposed feasibility study by The National Municipal Stormwater Alliance (NMSA), or any other initiative that would seek to solve environmental health, climate, and social justice problems by the relocation of Chester residents. If residents wish to relocate because of health concerns, that initiative should come from them, not from Covanta, DELCORA, CEP, or the Chester Stormwater Authority. Instead, the focus should be on ways of cleaning up or closing those industries that are the sources of the health problems."

Comment from Mr. Darrell V. Jones, President, NAACP Chester Branch, P.O. Box 863, Chester, PA 19016 regarding "Agenda Item B – New Business, 2B, Re: Proposed feasibility study: Without participation and input of Chester residents in all studies and

discussions, the NAACP Chester Branch opposes the proposed feasibility study proposed by the National Municipal Stormwater Alliance which seeks to relocate and displace residents that reside on the west end of the City of Chester. Residents should be a part of these discussions prior to any study undertaken. Further, discussions should begin with finding ways to clean up and close facilities and industries that pose a danger to residents in the City of Chester. Chester has been the recipient of health hazards for far too long. The time to correct environmental racism is long overdue. We implore you to consult with the residents and others before any action is taken and allow us to become a part of these discussions.”

Mr. Knapp requested that those emails be sent to the Board. Mr. Willert stated that the comments would be addressed later in the agenda and that Mr. DiSantis can update the Board on the public participation of a meeting held earlier today.

2022 REORGANIZATION:

2022
REORGANIZATION

A. Election of Temporary Chairman. Mr. Monaghan requested a nomination for Temporary Chairman. Mr. Kern nominated Mr. Nagle as Temporary Chairman for the purposes of reorganization. Motion was seconded by Mr. Moss and unanimously carried.

Election of
Temporary
Chairman

B. Election of Temporary Secretary. Mr. Nagle requested a nomination for Temporary Secretary. Mr. Kern nominated Ms. Billings as Temporary Secretary for the purposes of reorganization. Motion was seconded by Mr. Moss and unanimously carried.

Election of
Temporary
Secretary

C. Election of Authority Officers for 2022.

Election of Authority
Officers for 2022

1. Chairman. Mr. Nagle requested a nomination for Chairman. Ms. Nichols nominated Jim Kern as Chairman of the Authority. Motion was seconded by Ms. Billings.

Chairman

Mr. Knapp nominated Mr. Mullen as Chairman of the Authority. Motion seconded by Mr. Monaghan.

The following voted in favor of electing Mr. Kern as Chairman: Mr. Nagle, Mr. Kern, Mr. Monaghan, Mr. Moss, Ms. Billings, and Ms. Nichols.

The following voted in favor of electing Mr. Mullen as Chairman: Mr. Mullen, Mr. Knapp, and Ms. Sage.

Mr. Nagle stated the majority of votes were for electing Jim Kern as Chairman of the Authority.

Mr. Nagle relinquished the meeting to Mr. Kern.

2. Vice-Chairman, Secretary, Treasurer, Assistant Secretary-Treasurer. Mr. Kern requested a nomination for Vice Chairman. Ms. Nichols nominated Mr. Nagle as Vice Chairman. Motion was seconded by Mr. Moss and unanimously carried.

Vice Chairman,
Secretary,
Treasurer,
Assistant
Secretary/Treasurer

Mr. Kern requested a nomination for Secretary. Mr. Nagle moved to re-elect Paul Mullen as Secretary. Motion was seconded by Mr. Moss and unanimously carried.

Mr. Kern requested a nomination for Treasurer. Ms. Nichols nominated Anthony Moss as Treasurer. Motion was seconded by Ms. Billings and unanimously carried.

Mr. Kern requested a nomination for Assistant Secretary/Treasurer. Ms. Nichols moved to re-elect Gina Sage as Assistant Secretary/Treasurer. Motion was seconded by Mr. Moss and unanimously carried.

D. Chairman – Committee Appointments for 2022. Mr. Kern announced the following:

Committee
Appointments for
2022

- Mr. Mullen will be Chairman of the Operations & Engineering Committee.
- Mr. Knapp will be Chairman of the Finance Committee.
- Ms. Nichols will be Chairman of the Human Resources & Administration Committee.
- Ms. Billings will be the Legal Liaison Chairman, including Mr. Kern and Mr. Mullen as members.
- Mr. Nagle will be Chairman of the Strategic Planning and Goals Committee.
- Mr. Monaghan will be Chairman of the Pension Board, including Mr. Nagle and Mr. Moss as members.

Mr. Kern noted that he would like to have Pension meetings more often in order to offer updates to the employees as to the status of the Pension Plan.

Other individual Committee members were not announced.

APPROVAL OF MINUTES: It was moved by Ms. Nichols, seconded by Mr. Nagle, and unanimously carried, that the minutes of the Regular Meeting of December 21, 2021, be approved as submitted.

APPROVAL OF
MINUTES

In response to a question from Mr. Kern about retaining the audio recordings of the meetings, Ms. Bonnett stated that two to three years are kept, then deleted.

REPORTS:

REPORTS

1. COMMITTEES:

COMMITTEES

a. Human Resources and Administration. Mr. Monaghan stated that the Committee met on January 10, 2022. There were no additions to the meeting minutes.

Human Resources
and Administration

b. Strategic Planning and Goals. Ms. Sage reported that the Committee met on January 10, 2022. There were no additions to the meeting minutes.

Strategic Planning
& Goals

c. Operations and Engineering. Mr. Mullen stated that the Committee met on January 11, 2022. He noted items requiring Board action would be considered later in the agenda. There were no additions to the meeting minutes.

Operations and
Engineering

d. Finance. Mr. Knapp stated that the Committee met on January 12, 2022. There were no additions to the meeting minutes.

Finance

e. Pension. Mr. Kern stated that there was no formal meeting of the Pension Committee and had nothing to report at this time.

Pension

2. CHAIRMAN: Mr. Kern stated that he had no items to report at this time.

CHAIRMAN

3. EXECUTIVE DIRECTOR: Mr. Willert stated that there were no additions to the written report.

EXECUTIVE
DIRECTOR

4. DIRECTOR OF ENGINEERING: Mr. Hurst stated that there were no additions to the written report.

DIRECTOR OF
ENGINEERING

5. DIRECTOR OF OPERATIONS & MAINTENANCE: Mr. DiSantis stated that there were no additions to the written report.

DIRECTOR OF
OPERATIONS &
MAINTENANCE

6. SOLICITOR: Mr. McNichol had no items to report at this time; however, he did mention that a tentative agreement was reached with the union with annual increases of 3% for three years. The union vote was 49-3 in favor. Mr. McNichol recommended approval of the Union Agreement be placed on next month's agenda.

SOLICITOR

OPERATING FUND PAYMENTS:

OPERATING
FUND PAYMENTS

1. MONTHLY FINANCIAL REPORT: Mr. Cherico stated that there were no additions to the written report.

CHIEF FINANCIAL
OFFICER

2. PAYMENT OF BILLS:

PAYMENT OF
BILLS

Approval of Operating Statement, Statement of Fund Balances and List of Bills for the month of December 2021.

It was moved by Mr. Knapp, seconded by Mr. Nagle, and unanimously carried that the statement and the list of bills in the amount of \$3,864,563.94 for the month of December 2021 contained in the Monthly Financial Report be approved.

CONSTRUCTION FUND PAYMENTS:

CONSTRUCTION
FUND PAYMENTS

1. ENGINEERING ADVISOR'S REPORT: Mr. Lehman stated there were no additions to the written report.

ENGINEERING
ADVISOR

2. CHANGE ORDERS: Mr. Kern stated that there were no Contract Change Orders at this time.

CHANGE ORDERS

3. CONTRACT CLOSEOUT AND FINAL PAYMENT APPROVAL: Mr. Kern stated that there were no Contract Close-Outs at this time.

CONTRACT
CLOSEOUT

4. PAYMENT OF BILLS:

PAYMENT OF
BILLS

It was moved by Mr. Knapp, seconded by Mr. Nagle, as follows: (a) that the bills of contractors, engineers and others for construction costs, engineering services and related costs under the Renewal & Replacement Fund in the amount of \$2,734,529.66, are hereby approved; and (b) the requisitions on the Renewal & Replacement Fund under the Trust Indenture with TD Bank, in payment of said bills, are hereby approved pending approval by the Treasurer, and the proper officers be and are hereby authorized and directed to execute same.

Mr. Kern stated that the monthly itemized list of capital fund expenses is available and can be sent to any Board member.

AUTHORIZATION TO ADVERTISE CONTRACTS: Mr. Kern stated that there were no Authorizations to Advertise Contracts at this time.

AUTHORIZATION
TO ADVERTISE
CONTRACTS

AWARD OF CONTRACTS: Mr. Kern stated that there were no Contract Awards at this time.

AWARD OF
CONTRACTS

OLD BUSINESS: Mr. Kern stated that there was no Old Business at this time.

OLD BUSINESS

NEW BUSINESS:

NEW BUSINESS

1. Authorization for Professional Services: (Capital Funds). Mr. Kern stated that there were no Authorizations for Professional Services using Capital Funds at this time.

Authorization for
Professional
Services

2. Authorization for Professional Services: (Operating Funds)

Authorization for
Professional
Services

A. Trinity Consultants – Proposal Dated January 6, 2022 – For Professional Services To Provide Assistance For The 2022 Title V Compliance And Reporting – Total Amount Not To Exceed \$22,900.00 (Operating Funds). Mr. Mullen stated that this item was discussed at the Operations and Engineering Committee meeting, and it was the consensus of the committee to recommend Board approval.

Trinity Consultants
2022 Title V
Compliance &
Reporting

It was moved by Mr. Mullen, seconded by Mr. Knapp, and unanimously carried to accept Trinity Consultants' Proposal dated January 6, 2022, for a total amount not to exceed \$22,900.00.

B. The National Municipal Stormwater Alliance (NMSA) Center Of Excellence – Proposal Dated January 7, 2022 – For Professional Services To Provide The Feasibility Study To Assess Environmental Health, Climate & Social Justice Risk Impacts And Community-Centered Improvements & Opportunities For Achieving A Healthy, Resilient Sustainable Chester, PA – Total Amount Not To Exceed \$50,000.00 (Operating Funds). Mr. Mullen stated that this item was discussed at the Operations and Engineering Committee meeting, and it was the consensus of the committee to recommend Board approval.

NMSA
Feasibility Study –
Environmental
Health

Mr. DiSantis stated that he attended a meeting earlier today with the Chester Environmental Partnership (CEP) and principals from the NMSA who explained how they would perform the study and part of the process would be to obtain residents input and hold more public meetings. In response to a question from Ms. Nichols, Mr. DiSantis stated that this feasibility study started with the CEP in order to perform a comprehensive study to evaluate the impact of industries on the residential areas in close proximity of those industries.

Upon further discussion, it was determined to send the proposal to all Board members for their review; to establish a small sub-committee for further discussion about DELCORA's contribution; to have the principals of the NMSA (Ms. Lueckenhoff, former EPA official) possibly meet with the Board to provide further explanation of the study; and to encourage more public participation. Ms. Nichols commended Mr. DiSantis and Mr. Hurst for their efforts in responding to community concerns.

It was moved by Mr. Mullen, seconded by Mr. Nagle, and unanimously carried to table this proposal at this time.

C. Bradford Engineering Associates, Inc. – Proposal Dated January 13, 2022 – For Professional Engineering Services For The Preparation Of The 2021 Chapter 94 Report For Edgmont Township – Total Amount Not To Exceed \$7,000.00 (Operating Funds).

Bradford Eng.
Prepare Ch 94
Report for Edgmont
Twp.

Mr. Mullen stated that this proposal was added to the agenda and not previously discussed at the Operations and Engineering Committee meeting. Mr. Hurst stated that this proposal is for Bradford Engineering to prepare the Edgmont Township's Chapter 94 annual report for year 2021 as required by the PADEP.

It was moved by Mr. Mullen, seconded by Ms. Billings, and unanimously carried to accept Bradford Engineering's Proposal dated January 13, 2022, for a total amount not to exceed \$7,000.00.

Prior to adjournment, Ms. Billings requested that there be an option to hold the meetings on-site (observing social distancing and mask requirements) as well as virtually, at the discretion of the Board Chairman.

Ms. Billings also requested that a draft of the agendas be sent to all Board members, not just the Chairperson, for their review prior to the agendas being posted on the DELCORA website, possibly at the end of a committee meeting or some other time.

Ms. Billings also stated that the Legal Liaison Committee will be meeting and that now there is a majority of Board members who have concerns about the sale to Aqua; have concerns to the extent that we are legally able to do so; that we may in fact oppose the sale and oppose the Trust Agreement that went along with the sale; and we need new legal counsel to do so. She stated that we will be working on that immediately; looking at hiring new legal counsel; and firms will be interviewed by the Legal Liaison Committee. The new legal counsel will be engaged specifically for litigation and it will be up to that group to decide to replace existing counsel for the Authority. The Legal Liaison Committee will be meeting this week to begin that process. She may request a special Board meeting to discuss all of the Board's legal options. Ms. Billings also stated that the PUC has not yet approved the sale, but it will be back on their agenda at some point. Ms. Billings stated that a recommendation for a new solicitor will be presented at the February Board meeting. Mr. Monaghan questioned changing legal counsel at this time in the middle of the transaction with Aqua. Ms. Billings responded that the existing counsel has been supportive of the Aqua agreement and she feels that the majority of the Board is not in that same position right now. She stated that the Obermayer firm has been in the news in support of the deal stating that it is in the best interest of the rate payers of Delaware County. Ms. Billings stated that they cannot represent us adequately.

Mr. Monaghan expressed concern over the time and money already invested on counsel and the need to reinvest a large amount of

money for new counsel to review all of that information. He also noted that the appointment of the Solicitor was unanimously approved at the December 2021 Board meeting, as has been historically done. Mr. Monaghan requested any comments from the Board.

Mr. Kern stated that it is the option of the new Board to decide upon a new direction. Ms. Nichols stated that she welcomed the opportunity to explore other options since no other options for legal counsel were presented to the Board in December.

Following discussion, it was determined to consider the engagement of new legal counsel in an Executive Session.

Regarding the topic of holding meetings on-site at the Administration Building, Mr. Kern requested that all committee meetings continue to be held virtually but that members have the option to attend virtually or in-person for the Board meetings as long as social distancing is possible. The amended By-Laws allow for attendance via telecommunication.

Regarding the early review of the Board agenda, Mr. Kern requested that a draft of the Board agenda be sent to all Board members so they can review it immediately following the Finance Committee meetings.

EXECUTIVE SESSION: There was no Executive Session.

EXECUTIVE
SESSION

ADJOURNMENT: It was moved by Mr. Knapp, seconded by Ms. Nichols, and unanimously carried to adjourn the meeting at 4:13 P.M.

ADJOURNMENT

ATTEST
Secretary