

The regular meeting of the Ewing-Lawrence Sewerage Authority was held on Tuesday, May 18, 2010 at 600 Whitehead Road, Lawrenceville, New Jersey 08648.

Present: Messrs. Cermele, DiFrancesco, Geter and Vereen and Mrs. Zamonski; S. Robert Filler, Executive Director and W. Barry Rank, Esquire.

Absent and excused: Mr. Colavita

Also attending: Allan Jacobs of Jacobs Environmental Consulting; David Sopronyi, ELSA Staff Engineer; Vance Stephens, ELSA Administrative Officer; Warren Broudy and Anne Zawartkay of Mercadien, P.C.

Mr. DiFrancesco called the meeting to order and Mr. Filler gave the invocation. After the Pledge of Allegiance, Mr. DiFrancesco advised that all requirements of the Local Public Meetings Act have been met. He also advised that any contracts awarded this evening would comply with the requirements of P.L. 1975, c. 127 (N.J.A.C. 17:27).

Res. 56:10. On motion of Mr. Geter and seconded by Mrs. Zamonski it was moved that the minutes of April 20, 2010 be approved as presented.

The above resolution was adopted on the following roll call vote:

Ayes: Messrs. Cermele, DiFrancesco, Geter and Vereen and Mrs. Zamonski.

Nays: None.

Absent: Mr. Colavita.

Res. 57:10. On motion of Mr. Cermele and seconded by Mr. Geter it was moved that the April 2010 Flow, Maintenance and Connection Reports be filed.

The above resolution was adopted on the following roll call vote:

Ayes: Messrs. Cermele, DiFrancesco, Geter and Vereen and Mrs. Zamonski.

Nays: None.

Absent: Mr. Colavita.

Res. 58:10. On motion of Mr. Cermele and seconded by Mr. Geter it was moved that the Schedule of Bills in the total amount of \$1,228,684.05 be accepted.

The above resolution was adopted on the following roll call vote:

Ayes: Messrs. Cermele, DiFrancesco, Geter and Vereen and Mrs. Zamonski.

Nays: None.

Absent: Mr. Colavita.

There was no public participation.

Mr. Filler reported that the Regional Sludge Management Committee met on April 29, 2010. They are still waiting to hear from NJDEP and once they do they will move forward with a contract.

Res. 59:10. On motion of Mr. Geter and seconded by Mrs. Zamonski it was moved that the employment agreement with W. Barry Rank to serve as Attorney shall continue until the Authority's February 2011 Reorganization meeting in accordance with the terms of his proposal dated January 4, 2010 without the Annual Cost of Living Increase for Non-Union Employees.

The above resolution was adopted on the following roll call vote:

Ayes: Messrs. Cermele, DiFrancesco, Geter and Vereen and  
Mrs. Zamonski.

Nays: None.

Absent: Mr. Colavita.

Mr. Broudy and Ms. Zawartkay presented the Audit for the year ending December 31, 2009.

Res. 60:10. On motion of Mrs. Zamonski and seconded by Mr. Cermele the following resolution was presented for adoption:

WHEREAS, N.J.S.A. 40A:5A-15 requires the governing body of each local authority to cause an annual audit of its accounts to be made, and

WHEREAS, the annual audit report for the fiscal year ended December 31, 2009 has been completed and filed with the Ewing-Lawrence Sewerage Authority pursuant to N.J.S.A. 40A:5A-15, and

WHEREAS, N.J.S.A. 40A:5A-17 requires the governing body of each authority to, within 45 days of receipt of the annual audit, certify by resolution to the Local Finance Board each member thereof has personally reviewed the annual audit report, and specifically the sections of the audit report entitled "General Comments" and "Recommendations", and has evidenced same by group affidavit in the form prescribed by the Local Finance Board, and

WHEREAS, the members of the governing body have received the annual audit and have personally reviewed the annual audit, and have specifically reviewed the sections of the annual audit report entitled "General Comments" and "Recommendations" in accordance with N.J.S.A. 40A:5A-17,

NOW, THEREFORE, BE IT RESOLVED that the governing body of the Ewing-Lawrence Sewerage Authority hereby certifies to the Local Finance Board of the State of New Jersey that each governing body member has personally reviewed the annual audit report for the fiscal year ended December 31, 2009, and specifically has reviewed the sections of the audit report entitled "General Comments" and "Recommendations", and has evidenced same by group affidavit in the form prescribed by the Local Finance Board.

BE IT FURTHER RESOLVED that the secretary of the Authority is hereby directed to promptly submit to the Local Finance Board the aforesaid group affidavit, accompanied by a certified true copy of this resolution.

The above resolution was adopted on the following roll call vote:

Ayes: Messrs. Cermele, DiFrancesco, Geter and Vereen and  
Mrs. Zamonski.

Nays: None.

Absent: Mr. Colavita.

Mr. Filler advised that the Authority is required to adopt resolution in connection with filing of the application to the Local Finance Board for the New Jersey Environmental Infrastructure Trust Financing Program.

Res. 61:10. On motion of Mrs. Zamonski and seconded by Mr. Vereen the following resolution was presented for adoption:

**RESOLUTION OF THE EWING-LAWRENCE  
SEWERAGE AUTHORITY MAKING  
APPLICATION TO THE LOCAL FINANCE BOARD  
PURSUANT TO N.J.S.A. 40A:5A-6 AND N.J.S.A.  
58:11B-9(a)**

**WHEREAS**, the Ewing-Lawrence Sewerage Authority (the “Authority”) desires to make application to the Local Finance Board for its review and findings in connection with a proposed resolution authorizing the financing of certain improvements through the New Jersey Environmental Infrastructure Trust Financing Program;

**WHEREAS**, the Authority believes that:

- (a) it is in the public interest to accomplish such purpose;
- (b) said purpose or improvements are for the health, welfare, convenience or betterment of the inhabitants of the local unit or units;
- (c) the amounts to be expended for said purpose or improvements are not unreasonable or exorbitant;
- (d) the proposal is an efficient and feasible means of providing services for the needs of the inhabitants of the local unit or units and will not create an undue financial burden to be placed upon the local unit or units;

**NOW THEREFORE, BE IT RESOLVED BY THE EWING-LAWRENCE SEWERAGE AUTHORITY** as follows:

**Section 1.** The application to the Local Finance Board is hereby approved, and the Authority's Bond Counsel and financial advisor, along with other representatives of the Authority, are hereby authorized to prepare such application and to represent the Authority in matters pertaining thereto.

**Section 2.** The Secretary of the Authority is hereby directed to prepare and file a copy of the proposed resolution with the Local Finance Board as part of such application.

**Section 3.** The Local Finance Board is hereby respectfully requested to consider such application and to record its findings and recommendations as provided by the applicable New Jersey Statute.

The above resolution was adopted on the following roll call vote:

Ayes: Messrs. Cermele, DiFrancesco, Geter and Vereen and  
Mrs. Zamonski.

Nays: None.

Absent: Mr. Colavita.

Res. 62:10. On motion of Mrs. Zamonski and seconded by Mr. Vereen the following resolution was presented for adoption:

**RESOLUTION OF THE EWING-LAWRENCE SEWERAGE  
AUTHORITY DECLARING ITS OFFICIAL INTENT TO  
REIMBURSE EXPENDITURES FOR PROJECT COSTS FROM  
THE PROCEEDS OF DEBT OBLIGATIONS IN CONNECTION  
WITH ITS PARTICIPATION IN THE 2010 NEW JERSEY  
ENVIRONMENTAL INFRASTRUCTURE TRUST FINANCING  
PROGRAM**

**WHEREAS**, the Ewing-Lawrence Sewerage Authority (the "Borrower") is a public body corporate and politic of the State of New Jersey organized pursuant to the sewerage authorities law (N.J.S.A. 40:14A-1 et seq.) (the "Act"); and

**WHEREAS**, the Borrower intends to acquire, construct, renovate and/or install the environmental infrastructure project more fully described in **Exhibit A** attached hereto (the "Project"); and

**WHEREAS**, the Borrower intends to finance the Project with debt obligations of the Borrower (the "Project Debt Obligations") but may pay for certain costs of the Project (the "Project Costs") prior to the issuance of the Project Debt Obligations with funds of the Borrower that are not borrowed funds; and

**WHEREAS**, the Borrower reasonably anticipates that obligations, the interest on which is excluded from gross income under Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), will be issued by the New Jersey Environmental Infrastructure Trust (the "Issuer") to finance the Project on a long-term basis by making a loan to the Borrower with the proceeds of the Issuer's obligations (the "Project Bonds"); and

**WHEREAS**, the Borrower desires to preserve its right to treat an allocation of proceeds of the Project Debt Obligations to the reimbursement of Project Costs paid prior to the issuance of the Project Debt Obligations as an expenditure for such Project Costs to be reimbursed for purposes of Sections 103 and 141 through 150, inclusive, of the Code.

**NOW, THEREFORE, BE IT RESOLVED** by the governing body of the Borrower as follows:

**Section 1.** The Borrower reasonably expects to reimburse its expenditure of Project Costs paid prior to the issuance of the Project Debt Obligations with proceeds of its Project Debt Obligations.

**Section 2.** This resolution is intended to be and hereby is a declaration of the Borrower's official intent to reimburse the expenditure of Project Costs paid prior to the issuance of the Project Debt Obligations with the proceeds of a borrowing to be incurred by the Borrower, in accordance with Treasury Regulations §150-2.

**Section 3.** The maximum principal amount of the Project Debt Obligations expected to be issued to finance the Project is \$10,000,000.

**Section 4.** The Project Costs to be reimbursed with the proceeds of the Project Debt Obligations will be "capital expenditures" in accordance with the meaning of Section 150 of the Code.

**Section 5.** No reimbursement allocation will employ an "abusive arbitrage device" under Treasury Regulations §1.148-10 to avoid the arbitrage restrictions or to avoid the restrictions under Sections 142 through 147, inclusive, of the Code. The proceeds of the Project Bonds used to reimburse the Borrower for Project Costs, or funds corresponding to such amounts, will not be used in a manner that results in the creation of "replacement proceeds", including "sinking funds", "pledged funds" or funds subject to a "negative pledge" (as such terms are defined in Treasury Regulations §1.148-1), of the Project Debt Obligations or another issue of debt obligations of the Borrower, other than amounts deposited into a "bona fide debt service fund" (as defined in Treasury Regulations §1.148-1).

**Section 6.** All reimbursement allocations will occur not later than 18 months after the later of (i) the date the expenditure from a source other than the Project Debt Obligations is paid, or (ii) the date the Project is "placed in service" (within the meaning of Treasury Regulations §1.150-2) or abandoned, but in no event more than 3 years after the expenditure is paid.

**Section 7.** This resolution shall take effect immediately.

### **EXHIBIT A**

This Project will consist of the Costs of the construction of approximately 10,300 linear feet of new 18-inch force main and the rehabilitation of approximately 5,600 linear feet of existing 20-Navy Line within Ewing Township and all work ancillary thereto, as more fully described in the application for financial assistance submitted by the Authority to the New Jersey Department of Environmental Protection dated February 26, 2010,

The above resolution was adopted on the following roll call vote:  
Ayes: Messrs. Cermele, DiFrancesco, Geter and Vereen and

Mrs. Zamonski.

Nays: None.

Absent: Mr. Colavita.

Mr. Jacobs reported that he has reviewed the final application submitted by Rider University for a New Academic Building and BLC Theater Addition. The project consists of construction of a 21,845 sf, two-story academic building and renovation of the two-story 11,000 sf theater located on their campus in Lawrence Township. Mr. Jacobs recommended granting final approval subject to the comments in his letter dated May 13, 2010.

Res. 63:10. On motion of Mr. Cermele and seconded by Mr. Vereen the following resolution was presented for adoption:

WHEREAS, RIDER UNIVERSITY proposes construction of a new Academic Building and BLC Theater Addition to their site in Lawrence Township; and

WHEREAS, the EWING-LAWRENCE SEWERAGE AUTHORITY (the "Authority") considered the application of the Developer to connect its proposed facility to the Authority's sewerage system;

NOW, THEREFORE BE IT RESOLVED that the proposed connection for the Developer's proposed Development to the Authority's sewerage system is approved, subject to the following conditions:

1. The connection to the Authority's sewerage system is subject to a determination by the Authority and any responsible regulatory agency (e.g., the United States Environmental Protection Agency and the New Jersey Department of Environmental Protection) at the time of connection that there is adequate capacity in such system to serve the Developer's proposed Development.

2. In the event that the Authority is unable to serve the Developer's proposed development at the time of connection because of inadequate capacity or for any other reason, the Developer shall have no right of action or recourse against the Authority.

3. The Developer, at its own cost, shall provide "as-built" plans for the sewerage system in a manner acceptable to the Authority's Engineer prior to the issuance of a Certificate of Occupancy by the Township.

4. The Developer, at its own cost, shall provide all necessary easements to the Authority upon the request of the Authority.

5. The Developer shall revise its utility plans in accordance with such recommendations as the Authority's Engineer shall specify.

6. The Executive Director is hereby authorized to execute all forms necessary to obtain a NJDEP Permit.

7. The Authority hereby endorses this project and further certifies that said project meets the 201 Agency requirements and expects to continue to meet the NJPDES Permit requirements.

8. This final approval granted pursuant to this Resolution shall expire two (2) years from the date hereof.

9. The developer shall pay the appropriate connection and inspection fees.

10. The sewers shall conform to the Authority's Rules and Regulations.

11. This approval is subject to acceptance of the comments and conditions outlined in Jacobs Environmental Consulting's letter dated May 13, 2010.

The above resolution was adopted on the following roll call vote:

Ayes: Messrs. Cermele, DiFrancesco, Geter and Vereen and  
Mrs. Zamonski.

Nays: None.

Absent: Mr. Colavita.

Mr. DiFrancesco advised that he will be appointing an Ad Hoc Committee to review the court case relative to the connection fee issue.

Mr. Filler reported that Arcadis has reviewed the revised application submitted by 1<sup>st</sup> Constitution Plaza (formerly Moriello Plaza, LLC). The revised application is for a proposed mixed use commercial/residential project consisting of one two-story structure. The first floor will consist of 7,700 sf of stores and shopping center use and the second floor will consist of six apartment units (5 2-bedroom and 1 1-bedroom). Mr. Filler advised that Arcadis' recommendation will be changed from 6 EDU's to 7 EDU's. Arcadis recommends granting final approval subject to the comments in their letter dated May 13, 2010 with the change from 6 to 7 EDU's.

Res. 64:10. On motion of Mr. Cermele and seconded by Mr. Vereen the following resolution was presented for adoption:

WHEREAS, 1<sup>st</sup> CONSTITUTION PLAZA (formerly MORIELLO PLAZA, LLC) proposes a mixed use commercial/residential project consisting of a two-story structure at their site in Lawrence Township; and

WHEREAS, the EWING-LAWRENCE SEWERAGE AUTHORITY (the "Authority") considered the application of the Developer to connect its proposed facility to the Authority's sewerage system;

NOW, THEREFORE BE IT RESOLVED that the proposed connection for the Developer's proposed Development to the Authority's sewerage system is approved, subject to the following conditions:

1. The connection to the Authority's sewerage system is subject to a determination by the Authority and any responsible regulatory agency (e.g., the United States

Environmental Protection Agency and the New Jersey Department of Environmental Protection) at the time of connection that there is adequate capacity in such system to serve the Developer's proposed Development.

2. In the event that the Authority is unable to serve the Developer's proposed development at the time of connection because of inadequate capacity or for any other reason, the Developer shall have no right of action or recourse against the Authority.

3. The Developer, at its own cost, shall provide "as-built" plans for the sewerage system in a manner acceptable to the Authority's Engineer prior to the issuance of a Certificate of Occupancy by the Township.

4. The Developer, at its own cost, shall provide all necessary easements to the Authority upon the request of the Authority.

5. The Developer shall revise its utility plans in accordance with such recommendations as the Authority's Engineer shall specify.

6. The Executive Director is hereby authorized to execute all forms necessary to obtain a NJDEP Permit.

7. The Authority hereby endorses this project and further certifies that said project meets the 201 Agency requirements and expects to continue to meet the NJPDES Permit requirements.

8. This final approval granted pursuant to this Resolution shall expire two (2) years from the date hereof.

9. The developer shall pay the appropriate connection and inspection fees.

10. The sewers shall conform to the Authority's Rules and Regulations.

11. This approval is subject to acceptance of the comments and conditions outlined in ARCADIS' letter dated May 13, 2010.

The above resolution was adopted on the following roll call vote:

Ayes: Messrs. Cermele, DiFrancesco, Geter and Vereen and  
Mrs. Zamonski.

Nays: None.

Absent: Mr. Colavita.

Mr. Filler reported that the Authority received a proposal dated May 7, 2010 from Richard Grubb & Associates, Inc. (RGA) to perform a Stage II Cultural Resources Survey for the proposed Mountain View Force Main in the area of the former nineteenth century Village of Birmingham in the amount of \$34,459.

Res. 65:10. On motion of Mr. Cermele and seconded by Mr. Vereen it was moved that the Authority's agreement with Arcadis for the Stage II Cultural Resources Survey be



increased by \$34,459 to cover the work to be performed by Richard Grubb & Associates, Inc. (RGA).

The above resolution was adopted on the following roll call vote:

Ayes: Messrs. Cermele, DiFrancesco, Geter and Vereen and  
Mrs. Zamonski.

Nays: None.

Absent: Mr. Colavita.

Mr. Filler reported on the status of obtaining the easements for the Mountain View Force Main.

Mr. Filler also reported:

1. The Authority received a letter from Doug Eldridge from 16 Steinway Avenue saying that ELSA is doing their job and doing it very well.

2. Paul Pogorzelski advised that he will be ready to meet with the Engineering Committee next month.

3. ELSA is working with Princeton Junction Engineering on Project Freedom.

4. ELSA's Chronic Bio-Assay was satisfactory.

5. The paving on Riverview Drive should be completed some time later this summer.

6. Once ELSA's Attorney gives his approval, he will send the contract to ITT Gould/ITT Flygt for execution.

Mr. Filler requested an increase of \$5,000 in the budget allocation for Omni Environmental for the Phosphorous Study.

Res. 66:10. On motion of Mr. Cermele and seconded by Mr. Geter it was moved that the Authority approve an increase of \$5,000 in the budget allocation for Omni Environmental for the Phosphorous Study.

The above resolution was adopted on the following roll call vote:

Ayes: Messrs. Cermele, DiFrancesco, Geter and Vereen and  
Mrs. Zamonski.

Nays: None.

Absent: Mr. Colavita.

Mr. Filler requested a budget allocation of \$3,000 for Jacobs Environmental Consulting to prepare a request for qualifications and request for proposals for the Scotch Road Relief Sewer.

Res. 67:10. On motion of Mr. Geter and seconded by Mrs. Zamonski it was moved that the Authority approve a budget allocation of \$3,000 for Jacobs Environmental

Consulting to prepare a request for qualifications and request for proposals for the Scotch Road Relief Sewer.

The above resolution was adopted on the following roll call vote:

Ayes: Messrs. Cermele, DiFrancesco, Geter and Vereen and  
Mrs. Zamonski.

Nays: None.

Absent: Mr. Colavita.

Mr. Filler advised that he has received no cooperation from the College of New Jersey. Mr. DiFrancesco asked Mr. Filler to find out when their next Board meeting is and asked to be put on their agenda.

ELSA is waiting for comments from TRC on the Energy Audit.

Res. 68:10. On motion of Mrs. Zamonski and seconded by Mr. Vereen and so carried, the meeting was adjourned at 1:00 P.M.

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Joseph M. Cermele, Secretary