

MINUTES OF THE SPECIAL MEETING OF THE MIDDLESEX COUNTY UTILITIES AUTHORITY – THURSDAY– SEPTEMBER 8, 2016 – 4:00 P.M.

A Special Meeting of the Middlesex County Utilities Authority was held at the Authority Board Room, Main Street Extension, Sayreville, New Jersey on Thursday, September 8, 2016.

Notices of the meeting were mailed to the three counties and the News Media - The Courier News, The Star Ledger and The Home News Tribune in compliance with the Open Public Meetings Law and New Jersey Statutes.

The meeting was called to order by Chairman Ted Light at 4:00 P.M.

Present were: Chairman Ted Light; Vice Chairman John Wiley; Commissioners: Jerome Convery, Wayne Hamilton, Allan Jacobs, Joseph Juliano, Raymond Murray and James Zullo.

Absent was: Commissioner Linda Carter and Antonio Cruz.

Also present were: Executive Director, Richard L. Fitamant; John Hoffman, Esq., Construction/General Counsel; Dan Tanzi, Wastewater Division Manager and Karen Sissick, Comptroller.

REGULAR MEETING

The meeting opened with the Pledge of Allegiance.

EXECUTIVE SESSION

A motion was made by Commissioner Hamilton to enter into Executive Session to discuss:

1. Bids received for Contract 14-1-4(SPS)(Rebid)-Flood Mitigation and Permanent Restoration of Sayreville Pump Station and letter indicating bid protest
2. Bid Protest for Contract 16-7-1(AC) – Liquid Sodium Hypochlorite 15%
3. Status of lawsuit challenging award of Contract 14-3-2(EPS)-Restoration and Flood Mitigation for the Edison Pump Station.

The motion was seconded by Commissioner Murray and carried.

Upon completion of the Executive Session, Mr. Hoffman, Esq. reported that during Executive Session discussion on the two (2) resolutions on the agenda for today regarding Contracts 14-1-4(SPS) and Contract 16-7-1(AC) were discussed and action will be taken at today's meeting.

PUBLIC PORTION ON RESOLUTIONS

Chairman Light asked if anyone from the Public wished to address the Board regarding on any of the resolutions and recognized Mr. Jon Chipps- New Haven. Mr. Chipps questioned if the Board was going to reject the bids for Liquid Sodium Hypochlorite 15% and wanted to know if the board had any questions on the information conveyed to them at the prior meeting.

Chairman Light responded that there were no questions and yes the board was going to take action on the Resolution regarding the Liquid Sodium Hypochlorite contract.

RESOLUTIONS

Resolution No. WW-9-16-1-S

Contract Award – Contract 14-1-4(SPS)(Rebid) – Flood Mitigation and Permanent Restoration of Sayreville Pump Station – Northeast Remsco Construction, Inc. – Not to Exceed \$67,398,000.00

Resolution WW-9-16-1-S – Contract Award – Contract 14-1-4(SPS)(Rebid) – Flood Mitigation and Permanent Restoration of Sayreville Pump Station – Northeast Remsco Construction, Inc. – Not to Exceed \$67,398,000.00 was presented and moved for adoption by Vice Chairman Wiley. The motion was seconded by Commissioner Hamilton and the following members voted Aye:

Chairman Light; Vice Chairman Wiley; Commissioners: Convery, Hamilton, Jacobs, Juliano, Murray and Zullo.

Nays: None

(See Appendix No. 1)

Resolution No. WW-9-16-2-S

Rejection of all Bids – Contract 16-7-1(AC) – Supply and Delivery of Liquid Sodium Hypochlorite 15% - 2017.

Resolution WW-9-16-2-S – Rejection of all Bids – Contract 16-7-1(AC) – Supply and Delivery of Liquid Sodium Hypochlorite 15% - 2017 was presented and moved for adoption by Vice Chairman Wiley. The motion was seconded by Commissioner Murray and the following members voted Aye:

Chairman Light; Vice Chairman Wiley; Commissioners: Convery, Hamilton, Jacobs, Juliano, Murray and Zullo.

Nays: None

(See Appendix No. 2)

Mr. Fitamant reported that the bid documents for the Sodium Hypochlorite 15% will be readvertised shortly and changes in the contract documents for bid will be modified.

PUBLIC

Chairman Light asked if any of the members wished to address the Board and recognized Mr. John Chipps – New Haven. Mr. Chipps questioned the reason that the bids were rejected and what change is going to be made in the bid specifications.

Mr. Hoffman responded stating that there is an ambiguity with the ph specification language and that could have prevented other bidders from bidding so to be fair the decision was made to reject all bids and rebid.

Mr. Chipps explained that his company could save the MCUA \$140,000 and cannot understand rejecting the bid to leave it open for the MCUA to receive higher prices. This is something that New Haven cannot walk away from since this was not handled on a level playing field.

Mr. Hoffman responded stating that this was handled fairly.

Mr. Chipps spoke about emails between New Haven and MCUA staff stating that New Haven would be awarded this bid and then was told right before the board meeting that the contract was not going to be awarded due to a bid protest. Discussions between New Haven and MCUA Commissioners regarding emails went back and forth and the reason for bid rejection and rebidding and New Haven setting forth their reasons for a contract award.

Mr. Chipps further reported his confusion as to why the bid specifications used in previous bids were fine and now that New Haven was the lowest bidder and saved the Authority money, it is now being challenged.

Mr. Fitamant explained to New Haven that the MCUA received a bid protest and counsel reviewed this protest and determined that the ph issue was a problem and counsel advised the best course of action for MCUA to reject and rebid due to the ambiguity in the specification.

Mr. Chipps questioned if it is the practice of the authority to not inform the bidder for a month that a formal bid protest has been received.

Chairman Light stated that the MCUA is more cautious due to past experience and needs to rely on counsel for what is in the best interest of the Authority.

Mr. Murray further explained that the MCUA's objective is to receive the lowest price and keep a level playing field. Unfortunately in this situation due to the ph level, there may have been bidders out there that will bid once the ph level is addressed.

Mr. Chipps stated his dissatisfaction of being kept in the dark from July 26th to August 25th.

Mr. Linton, WGS, explained that the MCUA received a bid protest on July 26, 2016. Mr. Linton spoke with MCUA technical staff and rejected the reasons for the protest explaining that there was an ambiguity in bid specs. Because of the ambiguity, the MCUA attorney recommended that the work be rebid. It was a technical decision.

Mr. Chipps stated that the same bid was used in previous years, word for word and feels that the other company is disrupting the bid process. Mr. Chipps further stated that his frustration lies with his competitor and stated that someone has to stand up and stop this from happening again and feels the bidding process is tainted and if they rebid they will be right back at this point again and may not participate in the rebid.

Commissioner Murray stated that you are rewarding the competitor by walking away. The only reason this needs to be rejected is a question was raised about the ambiguity in the ph level requirement and this must be addressed.

Commissioner Zullo stated that his hope is that New Haven considers bidding again.

After a repeat of same questions, Commissioner Convery called for a motion to adjourn. Motion was seconded by Commissioner Jacobs and the following members voted Aye:

Commissioner Convery, Jacobs and Juliano.

Nays: Chairman Light; Vice Chairman Wiley; Commissioners: Hamilton, Murray and Zullo.

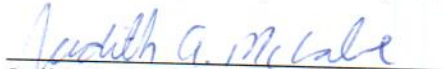
Majority voted to keep the meeting open.

Further discussions took place regarding the rejection of the bid.

Mr. Linton further explained that the MCUA received a protest and that warranted a response. The protest brought out the ambiguity with the ph requirement and this needs to be addressed in a rebid.

There being no further business, Chairman Light called for a motion to adjourn. Motion was made by Commissioner Convery at 5:05 p.m, seconded by Commissioner Jacobs and carried.

I hereby certify that these minutes are a true and accurate summary of that which transpired at the MCUA board meeting of September 8, 2016 at which I was present.



Judith A. McCabe