



LAMBERTVILLE MUNICIPAL UTILITIES AUTHORITY

Regular Meeting

September 5, 2023, 6:00 pm

Lambertville Wastewater Treatment Facility,
3 Bridge Street, Lambertville

In Person/ Conference Call Meeting Minutes

Call In # 978-990-5000 Access Code: 2646329

The meeting was called to order at 6:01 p.m. by Chairwoman MacGregor who read the statement of compliance with the Open Public Meetings Act, by adoption of *Resolution 005-2023* setting forth meeting dates for 2023-2024. Notification was published on February 23, 2023, to the Hunterdon County Democrat and noticed in the Times of Trenton. A copy of the notice and agenda were posted on the web sites of the LMUA www.lambertvillemua.com and the City of Lambertville www.lambertvillenj.org.

Pledge of Allegiance.

Roll Call. Ms. Parsons called the roll as follows:

LMUA Board:

Present: Janine MacGregor-Chairwoman, Vincent Uhl-Vice Chairman, Russell Lambert-Secretary, Helen Pettit-Member, Jacqueline Middleton-Alternate I, Holly Havens-Alternate II (entered after roll call at 6:05 p.m.)

Absent: Paul Rotondi-Treasurer

Also Present: Thomas F. Horn, P.E.-Executive Director, Kathy Leary-CFO, Diane Alexander, Esq. of Maraziti Falcon, LLP

Minutes.

The minutes from the July 13th, special & closed session meeting were approved in a motion made by Ms. Pettit and seconded by Mr. Uhl and followed by a unanimous roll call vote except for Mr. Lambert & Ms. Middleton who abstained as they were absent. MOTION CARRIED

Governing Body Member	<u>Recorded Vote:</u>		Abstain	Not Voting	Not Present
	Aye	Nay			
Janine MacGregor	X				
Vincent Uhl	X				
Paul Rotondi					X
Russell Lambert			X		
Helen Pettit	X				
Jacqueline Middleton			X		
Holly Havens				X	

The minutes from the August 1st, regular session meeting was approved in a motion made by Ms. Pettit and seconded by Mr. Lambert and followed by a unanimous roll call vote except for Mr. Uhl who abstained as he was absent. MOTION CARRIED

Governing Body Member	Recorded Vote:		Abstain	Not Voting	Not Present
	Aye	Nay			
Janine MacGregor	X				
Vincent Uhl			X		
Paul Rotondi					X
Russell Lambert	X				
Helen Pettit	X				
Jacqueline Middleton	X				
Holly Havens				X	

Correspondence.

Delevan Street Emergency Repair: A reimbursement demand letter was sent on August 2, 2023, to the property owner, Mr. Nicholas Nassiff, for the damage made to the Authority’s sewer line on June 19, 2023. Mr. Horn updated the Board stating that the owner would need some time to raise the funds. There was a discussion between the Board and Ms. Alexander on possible options for seeking reimbursement. The Board authorized Mr. Horn to advise Mr. Nassiff that he may pay the assessed amount of the damages in full now, or negotiate a payment plan with the Authority, however, interest on the unpaid costs for the damages incurred by the LMUA will accrue at the statutorily established rate of 1.5% per month (18% per annum). IN the event of a default on payment, the Board will undertake such action as are necessary to collect this debt, including placing a lien upon the property. By agreement with the City of Lambertville, no certificate of occupancy will be issued until the LMUA’s costs are reimbursed in full.

Commented [ME1]: Changes per Diane Alexander, Esq.

Chairperson’s Report.

Mrs. MacGregor did not have anything to report.

Executive Directors Report-Thomas Horn.

1. **Operations Report:** Mr. Horn reported that staff have been working on normal operations and maintenance although the summer weather has limited their outside maintenance.

There were no calls concerning odor issues.

CWA Union: Mr. Horn has heard that the employees have received a letter confirming that they will no longer be represented, but the Union has yet to send a follow-up correspondence to the Authority.

JCP&L Energy Audit: Mr. Horn has reviewed the report which provides some savings. They recommended the remainder of florescent lighting be upgraded to LED and the wall HVAC units be replaced with more efficient ones.

Personnel Manual: The required revisions have been made to the manual and Mr. Horn has asked our Labor Attorney, Kathleen Hatfield, to review it.JIF Renewal: Our insurance is up for renewal by the end of the year. Mr. Horn has included a resolution authorizing the membership renewal.

The NJ Pollutant Discharge Elimination System (NJPDES) permit application is currently under technical review but has been considered administratively complete.

Commented [ME2]: Changes per Helen Pettit, Member

2. **Memo: N. Union Pump Station Replacement:** Carroll Engineering has completed the 90% drawings and the Treatment Works Approval (TWA) permit is still under technical review. Mr. Horn met with NJ-I Bank representatives to review plans, permits and procedures for moving the project along. Mr. Langhart, our Bond Attorney recommends the Authority approve the short-term bond resolution in October and wait until bids are advertised to close. Mr. Horn expects the project will be ready to advertise in January. Mr. Horn suggested the Authority may be able to bundle some of the Capital Projects along with the pump station project in the loan.

Mr. Horn contacted the City to ask about the possibility of obtaining a construction easement for their adjacent property. Ms. Middleton advised the Board that approval would need to be requested from Green Acres for the temporary use of the adjacent property. Mr. Horn will begin the process to request Green Acres' approval.

Mr. Horn has a meeting scheduled for the 11th with the Parks and Recreation Committee to discuss the possible use of the park as a temporary construction site. He explained that the most complicated part of the process will be demolition. Ms. Middleton and Ms. Pettit advised that, to avoid any delays with the construction easement problem, Mr. Horn should initiate the request for Green Acres review/ approval immediately.

Commented [ME3]: Changes per Helen Pettit

Ms. Middleton exited the meeting room at 6:31 p.m.

3. **Capital Project Status Update:** Mr. Horn and Mr. David Rose, Authority Operations Supervisor met with Carroll Engineering on August 21st to review and tour the proposed feasibility studies for the head works facilities, sludge dewatering facilities and emergency generator. Mr. Horn and Mr. Rose provided the engineer with copies of the equipment manuals and are providing flow and sludge data. The studies are anticipated to be finished by mid- October. Ms. Pettit requested that the engineers submit their invoices to show a 1:1 match up to compare the amount expended against the job percentage completed. She feels that the Authority needs to see the equivalent value for public funds spent.
4. **Water Systems PFAS Liability Protection Act:** Ms. Alexander started by stating that this is about CERCLA liability only. The Authority will of course "treat PFAS to the extent that we are able, but should not be held liable" for the costs of cleanup. The proposed legislation does not impact or limit our obligation to monitor and treat PFAS. PFAS will be addressed as part of the Authority's wastewater discharge permit requirements. Ms. Alexander added a few provisions to the model resolution and recommended the changed resolution for adoption by the Board. Mrs. MacGregor shared her concerns regarding any limitation upon liability and stated that PFAS is the most important environmental issue next to global warming. Seeing no further comment, Mrs. MacGregor requested a decision be made by the Board on the resolution before them.

Commented [ME4]: Changes per Diane Alexander, Esq.

Resolution 033-2023

RESOLUTION IN SUPPORT OF PROPOSED LEGISLATION ENTITLED "WATER SYSTEMS PFAS LIABILITY PROTECTION ACT"

WHEREAS, the mission of the Lambertville Municipal Utilities Authority ("LMUA") is to serve the people that live, work and

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visit our community, by providing effective wastewater treatment and disposal services through the use of sound management principles, modern scientific practices and effective planning, and to maintain our infrastructure and safeguard public health; and

WHEREAS, the United States Environmental Protection Agency (USEPA) has determined that perfluoroalkyl or polyfluoroalkyl substances (PFAS Substances) are a threat to human health and the environment; and

WHEREAS, the U.S. Environmental Protection Agency (EPA) proposes to designate certain PFAS Substances as hazardous substances under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA; a.k.a., Superfund Act); and

WHEREAS, under a broad definition of CERCLA, public and private drinking water utilities, wastewater agencies (POTW), stormwater utilities, and biosolids management programs are potentially subject to CERCLA liability with regard to PFAS Substances; and

WHEREAS, CERCLA was enacted to hold polluters responsible for environmental cleanups; and

WHEREAS, LMUA is a passive receiver of PFAS Substances and does not manufacture, use, or originate PFAS Substances. Being subject to such a CERCLA designation would ensnare public and private drinking water utilities, wastewater agencies such as LMUA, stormwater utilities, and biosolids management programs in endless litigation at the expense of taxpayers and ratepayers; and

WHEREAS, in the past, some New Jersey utilities have been drawn into Superfund actions even though they are not polluters; and

WHEREAS, USEPA assurances that it will rely on its enforcement discretion to keep POTWs from being forced to pay for cleanup under CERCLA may not provide a complete remedy to this issue because, 1) discretion can vary based upon the administration and EPA region, and 2) polluters may employ legal strategies that draw public and private drinking water utilities, wastewater agencies (POTW), stormwater utilities, and biosolids management programs into litigation based upon CERCLA liability; and

WHEREAS, taxpayers and ratepayers are “innocent bystanders” and should not be made to expend scarce resources to further subsidize remediation and other costs incurred by producers and manufacturers of PFAS Substances, nor should they be subject to the regulatory uncertainty associated with prosecutorial discretion; and

WHEREAS, the cost implications of the proposed CERCLA designation are complicated by the fact that PFAS Substances are not introduced into the environment in a single or several discreet “spills” that can be terminated and remediated, but are continually being introduced into the environment as a result of products that continue to be produced, manufactured and sold by others outside of the scope of LMUA regulations; therefore, protection from CERCLA liability is necessary.

NOW THEREFORE BE IT RESOLVED that the Lambertville Municipal Utilities Authority calls on the Hon. Cory A. Booker and the Hon. Robert Menendez to join Sen. Cynthia Lummis in sponsoring the “Water Systems PFAS Liability Protection Act” because it would explicitly exempt public and private drinking water utilities, wastewater agencies (POTWs), stormwater utilities, and biosolids management programs from CERCLA liability for costs arising from a release to the environment of a covered perfluoroalkyl or polyfluoroalkyl substance, unless liability for damages or costs associated with the

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release of a PFAS Substance is due to gross negligence or willful misconduct in the discharge, disposal, management, conveyance, or storage of a PFAS Substance.

I HEREBY CERTIFY that the foregoing is a true and accurate copy of a Resolution adopted by the Lambertville Municipal Utilities Authority on September 5, 2023.

Moved: Ms. Pettit
Seconded: Mr. Uhl

Governing Body Member	Recorded Vote		Abstain	Absent
	Aye	Nay		
Janine MacGregor		X		
Vincent Uhl	X			
Paul Rotondi				X
Russell Lambert	X			
Helen Pettit	X			
Jacqueline Middleton				X
Holly Havens	X			

- 1. City of Lambertville Volunteer Handbook:** In an email dated August 28th, Mayor Nowick sent the recently adopted Volunteer Handbook to be distributed to the Authority Board to meet the requirements of their insurance. A copy of the handbook was sent via email to the Board and a paper copy would be available to anyone who needed one.
- 2. Renewal of JIF Membership:** Mr. Horn advised the Board that our insurance membership is due for renewal before the end of the year. This is a three-year membership, and he has determined it is in the best interest of the Authority to renew the membership. He went on to explain that the Authority has been a member since the 1990’s and it has been more economical than private insurance.

Resolution 045-2023
Resolution for Renewal of Membership in the
New Jersey Utility Authorities Joint Insurance Fund

WHEREAS, the Lambertville Municipal Utilities Authority is a member of the New Jersey Utilities Authorities Joint Insurance Fund; and

WHEREAS, said renewed membership terminates as of December 31, 2023, unless earlier renewed by agreement between the Authority and the Fund; and

WHEREAS, the Authority desires to renew said membership;

NOW THEREFORE, be it resolved as follows;

1. The Lambertville Municipal Utilities Authority agrees to renew its membership in the New Jersey Utility Authorities Joint Insurance Fund and to be subject to the Bylaws, Rules and Regulations, coverages, and operating procedures thereof as presently existing or as modified from time to time by lawful act of the Fund.

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2. The Governing Body shall be and hereby are authorized to execute the agreement to renew membership attached by reference and made a part hereof and to deliver same to the New Jersey Utility Authorities Joint Insurance Fund evidencing the Authority’s intention to renew its membership.

Motion: Ms. Pettit

Second: Mr. Uhl

This Resolution agreed to this fifth day of September 5, 2023, by a vote of:

Governing Body Member	<u>Recorded Vote:</u>		Abstain	Not Voting	Not Present
	Aye	Nay			
Janine MacGregor	X				
Vincent Uhl	X				
Paul Rotondi					X
Russell Lambert	X				
Helen Pettit	X				
Jacqueline Middleton					X
Holly Havens	X				

Chief Financial Officer’s Report.

Mr. Lambert made a motion to approve the bill list for August. Mr. Uhl seconded the motion. An affirmative roll call was taken in favor of the motion by all members present. MOTION CARRIED

Governing Body Member	<u>Recorded Vote:</u>		Abstain	Not Voting	Not Present
	Aye	Nay			
Janine MacGregor	X				
Vincent Uhl	X				
Paul Rotondi					X
Russell Lambert	X				
Helen Pettit	X				
Jacqueline Middleton					X
Holly Havens	X				

Attorney Report.

Ms. Alexander did not have anything additional to report on besides the PFAS liability.

Public Comment.

At this time Ms. Parsons confirmed that there were no members of the public in attendance.

Adjournment.

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The meeting adjourned at 7:08 p.m. with a motion made by Mrs. MacGregor seconded by Ms. Havens and followed by a unanimous voice vote taken in favor of the motion by all members present. MOTION CARRIED.

Respectfully submitted,

Melissa S. Parsons

Melissa S. Parsons, Administrative Assistant

Approved at the regularly scheduled Lambertville MUA Board meeting held on October 3, 2023.