

HAMILTON TOWNSHIP MUNICIPAL UTILITIES AUTHORITY
Regular Meeting – September 14, 2011

1. The regular meeting of the Hamilton Township Municipal Utilities Authority was called to order by the Chairman at 7:30 PM. The meeting was held in the HTMUA Administration Building located at 6024 Ken Scull Avenue, Mays Landing, Atlantic County, New Jersey.

2. Flag Salute.

3. The Open Public Meeting Law compliance statement was read.

4. **ROLL CALL OF THE MEMBERS**

PROFESSIONALS/STAFF IN ATTENDANCE

Robert Mattle	Present	Stephen Blankenship, MUA Executive Director
James Sacchinelli	Present	Nancy Camey, MUA Deputy Executive Director of Admin.
William Mangels	Present	Raghu Pandurangan, Asset Program Manager
Aline Dix	Present	Rebecca Lafferty, MUA Solicitor
Richard DeFeo	Present	Ron Curcio, ARH – MUA Engineer
Brenda Morrison	Present	Randolph Lafferty, MUA Solicitor (arrived 8:32 PM)

5. **ADDITION / DELETION OF LATE AGENDA ITEMS**

A. Add 13.A: Hamilton Pointe Home Owner's Association Sprinkler Account

B. Add 13.B: Shore Health Enterprises Sprinkler Account

C. Add 14.A: Shared Services

6. **ANNOUNCEMENTS/ SPECIAL PRESENTATIONS/ PUBLIC PARTICIPATION:** None

7. **FORMAL ACTION ITEMS**

A. **Resolution Awarding Potable Water Chemical and Electrical One Man Crew Contracts:**

*** *It was moved by Mrs. Dix and seconded by Mr. DeFeo to award FY 2011-2012 Contracts for Potable Water Chemicals and Electrical One Man Crew as noted on the Bid Results tabulation*

ROLL CALL VOTE: Mrs. Dix – Aye; Mr. Mangels - Aye; Mr. Sacchinelli – Aye; Mr. DeFeo – Aye; Mr. Mattle – Aye
SAID MOTION APPROVED 5-0-0

B. **Resolution Authorizing Purchases Under State Contract:**

*** *It was moved by Mrs. Dix and seconded by Mr. Sacchinelli to authorize purchases of Goods and Services under NJ State Contracts as follows: T-1316 Telecommunications Equipment – Wired, T-0123 Tires and Tubes, T-2754 Light Duty Trucks and Cargo Vans, M-0052 Staples Office Supplies and Equipment and M-0483 WSCA Computer Contract*

ROLL CALL VOTE: Mrs. Dix – Aye; Mr. Mangels - Aye; Mr. Sacchinelli – Aye; Mr. DeFeo – Aye; Mr. Mattle – Aye
SAID MOTION APPROVED 5-0-0

C. **Account 312-0 Request for Waiver of Excess Water Charges:** Customer submitted correspondence disputing the account's meter read(s) and requested a waiver of July's excess water charges. Staff outlined the actions taken and discussion ensued. The Board declined to grant the waiver requested. Staff to inform customer of the denial.

D. **Western Tower Cell Lease:** The Alternate Solicitor reviewed the lease agreement revisions and recommends acceptance.

*** *It was moved by Mrs. Dix and seconded by Mr. Mangels to authorize the execution of a lease with the new Cingular Wireless PCS, LLC (AT&T) for Leasing a Portion of the Western Tower and Adjacent Property for the Installation and Operation of Telecommunications Antenna and Equipment.*

ROLL CALL VOTE: Mrs. Dix – Aye; Mr. Mangels - Aye; Mr. Sacchinelli – Aye; Mr. DeFeo – Aye; Mr. Mattle – Aye
SAID MOTION APPROVED 5-0-0

E. **Release of Performance Bonds for Timber Glen Phases III & IV**

*** *It was moved by Mr. Sacchinelli and seconded by Mrs. Dix to authorize the release of the Phases III & IV Water and Sewer Infrastructure performance bonds for the Timber Glen III/IV Residential Project.*

ROLL CALL VOTE: Mrs. Dix – Aye; Mr. Mangels - Aye; Mr. Sacchinelli – Aye; Mr. DeFeo – Aye; Mr. Mattle – Aye
SAID MOTION APPROVED 5-0-0

8. **CONSENT AGENDA ITEMS:** None

9. **PERSONNEL**

A. **Union Negotiations** – The first negotiation meeting is scheduled for September 19, 2011.

10. **APPROVALS: MEETING MINUTES**

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A. Regular Session – July 13, 2011.

***** It was moved by Mr. Sacchinelli and seconded by Mr. DeFeo to approve the Regular Meeting Minutes for July 13, 2011.**

ROLL CALL VOTE: Mrs. Dix – Abstain; Mr. Mangels - Aye; Mr. Sacchinelli – Aye; Mr. DeFeo – Aye; Mr. Mattle – Aye
SAID MOTION APPROVED 4-0-1

B. Regular Session – August 10, 2011

***** It was moved by Mr. Mangels and seconded by Mr. DeFeo to approve the Regular Session Minutes for August 10, 2011.**

SAID MOTION ADOPTED WITH FIVE MEMBERS VOTING “AYE”; NO “NAY”

C. Executive Session – August 10, 2011

***** It was moved by Mr. Mangels and seconded by Mrs. Dix to approve the Executive Session Minutes for August 10, 2011.**

SAID MOTION ADOPTED WITH FIVE MEMBERS VOTING “AYE”; NO “NAY”

D. Rate Hearing Transcript – August 10, 2011

***** It was moved by Mr. Mangels and seconded by Mr. Sacchinelli to approve the transcript of the Public Rate Hearing Held August 10, 2011.**

ROLL CALL VOTE: Mrs. Dix – Aye; Mr. Mangels - Aye; Mr. Sacchinelli – Aye; Mr. DeFeo – Aye; Mr. Mattle – Aye
SAID MOTION APPROVED 5-0-0

11. REPORTS

A. Administrative

- 1. League of Municipalities (November 15-17, 2011):** Board members interested in attending should contact the Deputy Executive Director.
- 2. Section 125 Plan (Flexible Spending Account):** Changes to State Health Benefit and Pension Laws require local agencies to establish a Section 125 Plan with a Flexible Spending Account (FSA). The Deputy Executive Director will attend a FSA seminar on September 20, 2011.
- 3. Utility Body Quote Award:** The cab/chassis, purchased under state contract, was received. Dejana Truck and Utility Equipment will install the utility body at a cost of \$14,663.00 (low Quote).
- 4. Fall Hydrant Flushing:** Hydrant flushing and “ring” installation will take place between October 3rd and 17th.

B. Solicitor Nothing at this time.

C. Engineer

- 1. (ARH) Well 11 Pilot Well:** Pinelands Commission approval is expected within the next month. The NJDEP water supply permit is on hold pending Pinelands Commission approval.
- 2. (ARH) Harding Highway Sewer Main Replacement Project:** All permits have been received with the exception of the Atlantic County Road Opening Permit. The NJDEP Municipal Finance & Construction Element is performing a final review of the bid documents, which upon approval should result in an authorization to advertise.
- 3. (ARH) High Pressure Zone Service from Well 10 Project Update:** Pinelands Commission approval is still pending. The Executive Director detailed the issues to be resolved.
- 4. (ARH) NJDOT Route 40/Cologne Avenue/Babcock Intersection Reconstruction Project: Relocation of HTMUA Force Mains:** Work, including hydrant relocation, is complete.
- 5. (ARH) Well 8 Inspection/Rehab – Facility Evaluation Report:** The Engineer’s proposal to perform a facility evaluation, dated September 8, was reviewed.

***** It was moved by Mrs. Dix and seconded by Mr. Mangels to accept ARH’s September 8, 2011 proposal, in the amount of \$6,200.00, to perform a facilities evaluation of Well No. 8.**

ROLL CALL VOTE: Mrs. Dix – Aye; Mr. Mangels - Aye; Mr. Sacchinelli – Aye; Mr. DeFeo – Aye; Mr. Mattle – Aye
SAID MOTION APPROVED 5-0-0

- 6. (T&M) Arc Flash Study:** The draft report was reviewed and Staff will contact T&M to finalize the report.

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D. Committee Reports

1. Construction Committee : Nothing further at this time

2. Operations Committee

a. Authorization to Purchase Two ¾-Ton Utility Body Trucks under State Contract (One truck per this year's capital budget and one to replace a "totaled" truck from a recent accident):

**** It was moved by Mrs. Dix and seconded by Mr. Mangels to authorize the purchase of two ¾-Ton Utility Body Trucks under State Contract.*

ROLL CALL VOTE: Mrs. Dix – Aye; Mr. Mangels - Aye; Mr. Sacchinelli – Aye; Mr. DeFeo – Aye; Mr. Mattle – Aye *SAID MOTION APPROVED 5-0-0*

3. Finance Committee

a. Payment Report – In Person – 819; Credit Cards – 201

b. Approval of Bills and Payroll:

1. FY 2010-2011

**** It was moved by Mrs. Dix and seconded by Mr. Mangels to authorize payments from the FY 2010-2011 Fiscal Year Operating Fund in the amount of \$199,648.10.*

ROLL CALL VOTE: Mrs. Dix – Aye; Mr. Mangels - Aye; Mr. Sacchinelli – Aye; Mr. DeFeo – Aye; Mr. Mattle – Aye *SAID MOTION APPROVED 5-0-0*

2. FY 2011-2012

**** It was moved by Mrs. Dix and seconded by Mr. Mangels to authorize payments from the FY 2011-2012 Fiscal Year Operating Fund in the amount of \$69,080.15.*

ROLL CALL VOTE: Mrs. Dix – Aye; Mr. Mangels - Aye; Mr. Sacchinelli – Aye; Mr. DeFeo – Aye; Mr. Mattle – Aye *SAID MOTION APPROVED 5-0-0*

3. General Fund

**** It was moved by Mrs. Dix and seconded by Mr. Mangels to authorize payments from the General Fund in the amount of \$45,152.50.*

ROLL CALL VOTE: Mrs. Dix – Aye; Mr. Mangels - Aye; Mr. Sacchinelli – Aye; Mr. DeFeo – Aye; Mr. Mattle – Aye *SAID MOTION APPROVED 5-0-0*

4. Well #11 Construction Fund

**** It was moved by Mrs. Dix and seconded by Mr. Mangels to authorize payments from the Well 11 Construction Fund in the amount of \$6,175.00.*

ROLL CALL VOTE: Mrs. Dix – Aye; Mr. Mangels - Aye; Mr. Sacchinelli – Aye; Mr. DeFeo – Aye; Mr. Mattle – Aye *SAID MOTION APPROVED 5-0-0*

5. Developer's Escrow

**** It was moved by Mrs. Dix and seconded by Mr. Mangels to authorize payments from the Developer's Escrow in the amount of \$877.50.*

ROLL CALL VOTE: Mrs. Dix – Aye; Mr. Mangels - Aye; Mr. Sacchinelli – Aye; Mr. DeFeo – Aye; Mr. Mattle – Aye *SAID MOTION APPROVED 5-0-0*

6. General Fund – Township Request for Funds

**** It was moved by Mrs. Dix and seconded by Mr. Mangels to authorize the payment to the Township of Hamilton in the amount of \$250,000.00.*

ROLL CALL VOTE: Mrs. Dix – Aye; Mr. Mangels - Aye; Mr. Sacchinelli – Nay; Mr. DeFeo – Aye; Mr. Mattle – Aye *SAID MOTION APPROVED 4-1-0*

c. Authorizing Billing and Balance Adjustments

**** It was moved by Mrs. Dix and seconded by Mr. Mangels to authorize the Billing and Balance Adjustments for the month of August 2011.*

ROLL CALL VOTE: Mrs. Dix – Aye; Mr. Mangels - Aye; Mr. Sacchinelli – Aye; Mr. DeFeo – Aye; Mr. Mattle – Aye *SAID MOTION APPROVED 5-0-0*

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4. Personnel/Administration Committee: Nothing at this time.

5. Policy Committee:

- a. Commercial Usage – One Year Review: A memorandum regarding the MUA’s current commercial usage policy was presented and reviewed by the Solicitor. The underlying premise is to fairly spread the costs among the entities. The Chair requested comments from the board.

Mrs. Dix indicated that she researched her personal archives and reviewed documents that speak about the MUA’s 1-year review and the “new” commercial rate schedule from 2005. She didn’t see any discussion at a meeting regarding the “new” commercial rate schedule from 2005 upon a quick review of the MUA’s minute books, but acknowledged that she didn’t have time to go back to prior month’s meeting minutes to see if there was discussion on this issue.

Mrs. Dix met with the Deputy Executive Director last week to review extensive records (recordings, minutes, resolutions and solicitor files) from the 90’s.

Mrs. Dix feels the Solicitor’s opinion strayed into a different topic from what the Board had talked about at the last meeting. She questioned the comparisons made to Egg Harbor Township MUA and Buena MUA utilized by the Solicitor. Mrs. Dix then noted she only used 20.5% of her allocation in FY 2011 and 24.25% in FY 2010. She then read the following statement:

The issue presented is the Commercial Rate Service Charge which was first adopted by the HTMUA as part of the Fiscal Year 2006 Budget. The July 2005 and August 2005 Minutes do not show discussion of this new rate and the background for this rate. There was no opinion sought in advance of the new rate’s adoption. I have not seen any information that includes or excludes any class of ratepayer. This troubles me as we were told “government” is excluded. Government has been the biggest violator of its allocation.

The Deputy Executive Director and I reviewed prior year’s legal opinions, minutes & meeting tapes. We included the details of the Atlantic County Jail’s repeated assignment of additional sewer DCU’s. The only connection fees collected were in the jail expansion of June 1991. Subsequent increases (1995 & 1997) were limited to increasing the quarterly charges. This action was based on Engineer’s reports and memorialized in the Minutes and Resolution Books.

The Solicitor was requested July 13, 2011 to prepare a legal opinion. Said opinion is dated September 12, 2011. The Solicitor has expanded the request to now include the Engineer’s Reports filed for projects proposed in Hamilton Township. Unfortunately, the Solicitor does not show interviews with the people and/or professionals directly involved with the genesis of this issue (mid-90’s). There seems to be a direct connection between the two issues: assigning additional DCU’s with collection of additional connection fees versus the one year review as recommended by the Engineer.

On February 1, 1996, the Engineer’s report for Chili’s does not show the one year review requirement. On June 27, 1996, the McKee Center review contains the one year review. This requirement is also seen in the Tunney Car Wash of December 1996, Englehard Warehouse January 1998, Atlantic Electric July 1998, Shore Health Park August 1998 and DeMoulin Chiropractic September 1998. The Administrator’s Monthly Reports also show her reporting to the Board on the results of the one year review.

While I have a long history of working to collect every dime owed to the HTMUA, I also have a clear record of refunding when charges were in error. This is a two-way street. If there is to be classes and reviews, perhaps we are overdue to look at the Senior Citizen Rate that NJ enacted years ago but the HTMUA opted not to go to classes. Using myself as the example I have used 21% in FY 2011 and 24% in FY 2010. It looks to me at this point that the

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commercial private sector which creates jobs, pays property taxes, sales and use taxes is the one sector negatively impacted by this rate schedule. This is clearly not acceptable to me.

The Executive Director noted the following regarding Mrs. Dix's statement:

- The issue was to review commercial accounts; Mrs. Dix raised the MUA's 1-year review after 1-year of occupancy. That was done by the Solicitor and it was noted that there is no statutory requirement to perform a 1-year review. The MUA is and will continue to require the 1-year review.
- The Solicitor's opinion, based on Mrs. Dix's concerns on excess usage that requires a commercial entity to purchase additional DCUs if their usage exceeds 125% or more of their assigned allocation for 6 months – i.e., continuous, indicates that based on State laws and statutes the MUA is within its rights to do so. For Mrs. Dix to say that a public rate hearing is "not good enough" is offensive to him. The proposed change was advertised in the newspaper and no one from the public spoke about it at the rate hearing. The public did have a chance comment on the proposed change.
- Regarding "classes" (within the rate schedule), the Executive Director noted that issues were brought before the Board on many occasions and were not acted upon by the Board. Mrs. Dix now brings up something that has been historical for the whole time she has served on this Board and now she wants to take a different look at it. That is fine. If that is the case, it should be made as a recommendation to the Policy Committee. If she is asking the Policy Committee to look at that in her statement and if she wants it to address the "Residential" class or other classes within the rate schedule. The MUA does have different classes and is allowed to have them.
- Mrs. Dix did not provide Staff with any advance notice regarding her "statement".
- The Executive Director did speak with Mr. Rehmann, ARH, regarding the MUA's excess usage policy for commercial accounts. After explaining the rationale behind the policy to him, he believed that it was a fair measure because it treated everyone within that class in a fair way. He also noted that the 12-month (i.e., 1-year) review was implemented by the MUA to deal with issues it was experiencing at the time.

Mrs. Dix indicated that she is not making a recommendation to the Policy Committee. The intent was to put her feelings on to the "record". Ever since she found out about the "class thing", she has objected to it. She believes the "government" class drowns the MUA the most. She received a list of the commercial accounts and thinks it is blatantly unfair that other classes like her, are not getting a rebate. If the MUA wants to totally change the rates to go to a flow basis, she doesn't want to go there. Her concern is - is the MUA harming the commercial class, the group that gives the most to the town, i.e. commercial rate payers that are creating jobs? If the MUA is hurting them, what is the correlation between the excess flow billings? How much money is that generating, side by side, if they were treated like the Atlantic County Jail where they exceeded their flow (Engineer reports form 1995 & 1997)? Would the MUA be better off do to it the way the MUA did the Jail? If an account is consistently out of allocation, then their (service) charges would go up. She can't believe the excess flow charge could be more than what the service charge would be. She would like to see a correlation on the excess billings.

Mrs. Dix noted that in 1997, the Jail was using 100 DCUs more than the facility was allocated. In September of 1997, the MUA passed a resolution, the MUA was not allowed to charge connection fees or the MUA would have charged them, implementing the 1-year review as noted in

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her statement above. The MUA would make more money by charging the “whole” service charge, not the excess.

The Executive Director outlined the differences between connection fees and service charges. He believes that Mrs. Dix is confusing the two issues (i.e., charges). If she wants the MUA to create something in the class labeled “public”, the MUA can do that as long as everyone in that class is treated the same way. What the MUA decided to do in 1995/1997, the Board did. The Board got opinions from their professionals and did what the Board felt was right at that time. You asked for a clarification at the last meeting because you believed an opinion existed from 1995/1997 that didn’t allow for the MUA to request additional connection fees after the 1-year review. You and the MUA Staff were unable to find or locate that opinion. The Chair & the Board asked the Solicitor to review the statutes that are in place now. The Solicitor did that and his opinion indicates that the MUA is within its rights to request the purchase of additional DCUs based on the current rate structure. What may have been in place before may not be in place now. When talking about fairness, the MUA has always been fair to commercial applicants with regard to allocation. The applicant is invited to review their proposed allocation against actual consumption for similar facilities rather than the higher NJDEP standards. The MUA informs the applicant that they will be required to buy a minimum amount of allocation rather than the higher amount. The Executive Director believes the MUA has bent over backwards to help businesses a lot more than other places. The MUA is trying to treat every commercial account equally, if an applicant buys a certain allocation and starts using a lot more, they should be required to pay for the additional allocation. How is it fair if two entities buy the same allocation, but after two years one entity increases their usage, why shouldn’t they buy additional DCUs.

Mrs. Dix noted that she didn’t see a government rate, which is a sticking point for her. The Executive Director noted that she has been here for many years and that is how the rates were set when he started 11 years ago and noted that the Board could create a “government” rate if they wanted to. Mrs. Dix asked why the “government” class is treated differently and wasn’t included in the excess calculation - why was the “government” exempted? Mrs. Dix noted the industrial/commercial is largely the private sector, people running their business so they make a profit, not take a loss. In the case of the government, everyone knows the people who work for the government could care less if they walk away like they did at the Hess School. She thinks the government should be subject to the excess charge rate. The Executive Director noted that the MUA hasn’t had a problem with government accounts; rather the problem lies with commercial accounts – specifically restaurant type accounts. The MUA is within its rights and if the Board wants to do something different, it is within its rights.

Mr. Sacchinelli noted that the Solicitor answered the issues that were requested by the Board. If Mrs. Dix wants to now look at another issue, then the Board could look at the different classes. He reiterated that the issue was excess usage on the commercial accounts. Mrs. Dix indicated she agreed with that. He reminded Mrs. Dix about Taco Bell and how the MUA informed them that they could provide information on 2 to 3 years’ worth of water demand. If Mrs. Dix wants the Board to look at government, residential, commercial..., then he has no problem with that.

Mr. Mattle noted that he also believes the Solicitor answered the issues that were requested by the Board. With regards to policies and inequities in policies, maybe it is time for the Policy Committee to review the current policies.

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It was noted that the past opinion by the MUA's prior Solicitor (Mr. Patterson), as noted by Mrs. Dix, could not be located. Based on that, Mr. Lafferty noted that his office looked at two issues: the legality of re-evaluation and when the MUA can re-evaluate. The MUA is perfectly within its rights to perform a re-evaluation. The 1-year review rule and its origin could not be located. The MUA is not bound to the 1-year rule. The MUA is bound to be fair and equitable with all of the MUA's rate payers. If the MUA has a rate payer that substantially changed the use of their property so as to increase the demand on the system, thereby requiring additional infrastructure, the MUA owes it to all rate payers to do a re-evaluation. The MUA policy on this is more than fair. What Mrs. Dix is proposing is to redo it all. Mrs. Dix noted that she specifically would like to include the government.

The consensus of the Board was that the Solicitor addressed the issues the Board asked him to address at the last meeting.

Discussion ensued. The nuances of rate structures based on usage were discussed and Mrs. Dix reiterated that she doesn't like the current commercial excess policy, that the "government" should be included in the excess policy and that the "government" accounts should be evaluated for excess usage.

Mrs. Dix asked that the existing policies (not personnel or the recently adopted financial policy) and by-laws be copied and distributed to the Board Members. The Policy Committee will review the commercial excess and other policies.

b. Commercial Excess Sewer Charges: The Executive Director requested a meeting to review landscape waivers and the associated impact on excess sewer charges.

6. Conservation Committee: Nothing at this time.

7. Safety Committee: Next meeting is scheduled for Wednesday, December 7, 2011 at 8:30 AM.

12. PUBLIC COMMENTS: None.

13. OLD BUSINESS

A. Hamilton Pointe Home Owner's Association Sprinkler Account: Staff met with the HOA President to discuss the sprinkler meters' actual installations. Operations staff will uncover two of the existing meters to determine how they are connected.

B. Shore Health Enterprises Sprinkler Account: The owner was given the option of requesting a waiver for landscape irrigation and installing a meter at the existing connection point or installing a private well. The owner elected to install a private well and the MUA will bill the owner for water used based on the MUA's bulk water rates.

14. NEW BUSINESS

A. Shared Services: The Executive Director noted the Township is bidding "overflow services". The MUA could benefit by sharing some of the Township's "overflow services" along with utilizing the Township's fleet and equipment maintenance provider. The Board expressed an interest in pursuing a shared service arrangement where possible.

15. REVIEW OF PRIOR RESOLUTIONS

A. August 2011 Resolutions: No comment.

16. CONFIRM EXECUTIVE SESSION (8:55 PM): Mrs. Dix requested an update on the Haskell Bankruptcy.

*** It was moved by Mrs. Dix and seconded by Mr. DeFeo to authorize an Executive Session to discuss Haskell's pending Bankruptcy.*

SAID MOTION ADOPTED WITH FIVE MEMBERS VOTING "AYE"; NO "NAY"

The Board returned to the regular meeting at 8:57PM. The rest of the meeting was not recorded.

17. ADJOURNMENT (8:57 PM)

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**** * * It was moved by Mr. Mangels and seconded by Mrs. Dix to adjourn the meeting at 8:57 PM.
SAID MOTION ADOPTED WITH FIVE MEMBERS VOTING “AYE”; NO “NAY”***

Respectfully submitted,

Susan Boyce
HTMUA Recording Secretary

Nancy Camey
Deputy Executive Director