

AT A MEETING OF THE MIDDLESEX WATER AUTHORITY HELD IN THE BOARD ROOM OF THE HISTORIC COURTHOUSE AT 6:00 P.M. ON WEDNESDAY, JUNE 16, 2021:

Present: Greg Chambers, Chair
Janet Riggs, Vice Chair
James Michael Reed, Treasurer
Lud Kimbrough
Carlton S. Revere, Secretary

Matt Walker, Executive Director
Betty Muncy, Staff Secretary
Heather Lewis, Authority Attorney

CALL TO ORDER

Mr. Chambers called the meeting to order at 6:00 p.m. This was a regular meeting of the Middlesex Water Authority.

PUBLIC COMMENT

Mr. Chambers opened the meeting for public comment. There being no comments, the public comment period was closed.

AMEND AGENDA

There being no objections, Mr. Chambers noted that Item 5H, a resolution for Cross Rip Road was being removed and adding Item J, a discussion regarding the potential of creating a consent agenda for specific items, and Item K, Interim Financing Discussion to the meeting agenda.

MINUTES

Minutes from the meeting of June 16, 2021, were considered. One minor correction was made and the motion to approve the minutes as corrected was made by Mr. Reed, seconded by Mr. Kimbrough, and carried unanimously.

FINANCIAL

The motion to approve checks written since the last meeting, numbers 3070-3082, totaling \$1,755,177.90, was made by Mr. Revere, seconded by Mrs. Riggs and carried unanimously.

The motion to approve Budget Supplement FY 2021-08 was made by Mr. Revere, seconded by Mr. Reed and carried unanimously.

BS 2021-08: 3-1—41050-1101 Transfer from Construction Fund	-\$1,753,247.13
4-1 – 99010-0042 Construction	\$1,753,247.13

Appropriating a portion of USDA funds received 5/24/21 (total \$1,754,525.13) to fund Requisition #6 for Construction and Inspection Services.

REPORTS FROM OFFICERS AND STAFF

Easement Update:

Mrs. Lewis reported that only one easement has been received since the last meeting and there are several additional easements that are required.

Construction Update:

Ken Baybutt, Bowman Consulting, reported on construction. Phase 1A – 33% complete based on invoicing. There is still no word on when the ground storage tank will be delivered; it appears to be a problem with steel issues. This is not holding up progress, as work is proceeding with the building. Split face block is going up; a slab will be poured next week. The vertical pump skid is on site; the generator and roof trusses will arrive next week. Phase 1B – 91.6% complete; working on meter vaults and putting in tracer wire test boxes along the route. Phase 2 – 72% complete; most of this is 8" line. Phase 3A – 4% complete. Two crews still working installing 12" pipe. They will complete the work on General Puller and then come back and do Wilton Creek Road. Still working on lay-down area issue. Phase 3B – 17% complete; will pour building foundation and hydro tank piers next week. Have extended the waterline back to approximate area of new proposed solenoid structure. Ready to order regular block; hydro tank should be coming in next couple of weeks. Phase 4 – 25% complete; they got rid of one of their subs and are picking up with use of other subcontractors. In next 60 days: Honeysuckle into Timberneck; finish up Tranquility Lane and Berryville Shores and connect to Fishing Bay and go down Fishing Bay Road.

Modeling:

In response to an inquiry from the MWA about modeling, Mr. Baybutt reported that he has a conference call with Azhur Mirza with the Department of Health tomorrow to review. Bowman will also be responding with a report that would show each fire hydrant and what the expected flows from each is to be. A question has also come up about isolation valves. Mr. Baybutt reported there are isolation valves throughout the distribution system, at all branches off of the main line and at all intersections where the lines cross over the road. Garney, the Phase 3A contractor, had expressed concern about the lack of valves. Mr. Baybutt noted that Garney would not see many because there is only one branch off the main line in Phase 3A, at Wilton Creek Road, which has three valves. There are four valves where the line crosses Route 33 to go to the schools. Mr. Baybutt added that it would not be a bad idea to add additional valves along the route. Mr. Walker asked that isolation valves be a topic of discussion at the next engineers meeting. Mr. Chambers added that the isolation valves at the Route 3/33 intersection are on the west side of Route 3, the Phase 2 side.

UNFINISHED/NEW BUSINESS

Authorization for Approval:

The motion to accept the easement received for Tax Map 41-64A, Mill Creek Harbor Association for Tranquility Lane, and to authorize the signing of this and any standard easements received prior to the next meeting by the chair or vice chair was made by Mrs. Riggs, seconded by Mr. Kimbrough, and carried unanimously.

Budget – FY 22:

Mr. Walker noted that the Authority has started using its second loan from the USDA and would need interim financing to complete the project. Debt service payments to CO-Bank as well as USDA should begin around September. There is \$110,000 in the proposed budget for debt service payments and additional monies in the contingency line that could be used if necessary.

Regarding the interim financing, a preliminary check from CO-Bank was made in 2017 to determine credit worthiness. Updates to the documents and submittals are being made by the MWA and USDA staff to submit for “pre-approval”. Interest rates are looking to be 1.25% - 1.28% for interim financing which will be done on a draw basis, so interest is only paid on the amount drawn down, not the total amount available. There will be bond counsel work needed and Mr. Walker has been in touch with Dan Siegal from Sands Anderson for this. More will be presented to the Authority at the July meeting.

The motion to approve the FY 22 MWA Budget was made by Mrs. Riggs, seconded by Mr. Reed and carried unanimously.

New Neighborhood Connection Fee Policy:

As requested at the last meeting, Mr. Walker has prepared a “temporary” policy for handling neighborhood connection requests on a case-by-case basis that can be used until a more formal policy manual is developed. This incorporates the idea that was promoted during the initial time of “selling” the system, that existing developments could be brought on and offered incentivized connections. Mr. Walker added that there were several developments that had been cut from the initial design because there was not enough initial interest from property owners to make it financially feasible. Connection to these areas could be reconsidered on a case-by-case basis.

Mr. Chambers noted that there are two different scenarios that could be addressed – one where a developer comes in and builds his own infrastructure and wants to connect, and the second where there is a pre-existing development with their own system.

Confirmation was given that the 50% floor for incentivization does not create a better deal than was offered initially to the earliest potential customers. This policy also reserves the right to request that the developer or development cover additional costs

of adding them to the system. Mr. Chambers added that each case has to be approved by the Authority and it should make the system financially better. Mr. Walker added an example that if a storage tank is needed in order to service a neighborhood, then the development may be asked to either cover that cost or install the tank themselves as a condition of being brought on to the system; each scenario is handled on a case-by-case basis.

The motion to adopt the following policy was made by Mr. Revere, seconded by Mr. Kimbrough and carried unanimously.

Middlesex Water Authority
Neighborhood Connection Fee Policy
Adopted June 16, 2021

Generally, unless approved by the Board otherwise, it is the responsibility of the Owner (Property Owner, Developer, or Homeowners Association) to make all improvements, both on-site and off-site, to the water and sanitary sewer systems necessary to develop a property. Owners shall be responsible to construct and pay for all Connection and Customer Facilities. The owner shall also be responsible for obtaining any right of entry, such as easements or private property agreements that may be required to connect service. Generally, the Authority does not construct or fund local lines (water or sewer) for the purpose of serving existing neighborhoods, lots or undeveloped areas. The Authority constructs Water Transmission Mains and Sewer Interceptors to support water and sewer system operations. Generally, the extension of service is the responsibility of the Owner.

However, if it is determined to be in the best interest of the Authority, at its sole discretion, the Authority may partner with owners to invest in and construct such improvements. In such cases, the Authority shall evaluate the costs and benefits of partnering with the owner and the specific circumstances involved in the connection.

In these circumstances the Authority may offer the following benefits to an owner:

- 1) Connection fee incentivization: The Authority may adjust current connection fees by as much as 50% to encourage or cover costs of connection by the owner.
- 2) Facility and availability costs reduction: The Authority may recover the cost of construction of new facilities or capacity development needed to serve the owner.
- 3) Ownership, operation, and maintenance: The Authority could acquire existing water works by gift or agreement to relieve the community from operation and maintenance of their system.
- 4) Redevelopment: The Authority may assist owner in redeveloping aging infrastructure, expand capacity or line size for fire protection provision, expand capacity or line size for future development, or abate a public health need.

The Authority shall coordinate with the owner to develop a written agreement specifying any of the above benefits and establishing the commitment by each party to facilitate connection to and incorporation into the Authorities system.

Urbanna Harbor Request for Connection

Mr. Chambers stated that he has been in discussions with the Urbanna Harbor HOA, whose members appear serious about connecting their existing system to the MWA system. This is a development with 29 residential connections plus two larger connections that serve a bathhouse and docks that is located just north, approximately 1/2 mile from the Rosegill well site. The development has shared their current and

historical usage data and a very preliminary look indicates that an 8" line would suffice, however, a 12" may be run to allow for future expansion that would be stepped down to an 8", connecting to their system with a 6" line and stepping down further to a 4" line with several hydrants added. Also, preliminary discussions have indicated that the Authority could offer an incentivized connection fee. The HOA is in the process of collecting subscriber agreements from all the homeowners.

Mr. Revere questioned how their system differs from the MWA construction design standards. The next step would be to undertake an engineering study to review their current system; Mr. Walker has obtained a copy of their system plans. Mr. Walker noted that given the age of the system, he believes that it will be in pretty good shape and commensurate with the Harbor House development in Deltaville that has been added to the MWA system. There may be some maintenance issues sooner than with the new system, but that is to be expected. Mr. Walker added that there will be more studies, approvals required from the Health Department to disconnect their current system, and meters will need to be replaced so they can be read with the MWA system.

The chairman requested the authorization to proceed with preliminary engineering and he would share the adopted policy with the development so that subscriber agreements can be obtained. Mr. Walker will also investigate using interim financing to finance the project. Mr. Chambers noted that he would prefer to have a stack of agreements in hand to show their commitment before proceeding with the engineering. The Authority can pull away and refund their deposits if it is determined not to be financially feasible or tell them what it will take to make it feasible. A different fee could be negotiated if necessary and new agreements signed. By his initial calculations, it is financially viable.

There is the risk of incurring the cost of the study and then having them pull away. Mr. Revere suggested obtaining a quote for the study and having the development share in that cost. Mr. Chambers noted that is why he wanted to have signed agreements in hand, to establish their seriousness with connecting. The Authority will have an opportunity to review the costs involved to decide whether to proceed. Mr. Walker also noted that the costs for doing the work will probably never be cheaper, since there are contractors currently involved with the project that are already mobilized and could bid on and do the work. Mr. Walker would also like to check on adding this project on as a change order to an original contract, which would allow for system pricing for labor and pipe. Mr. Baybutt indicated a timeline of approximately 30 days to complete a preliminary engineering study. Mr. Chambers also noted that once this is tied in, along with the rest of Phase 1, which is already at 90% complete, these could be the first paying customers for the system and a source of revenue.

There being no opposition, the Chairman and Mr. Walker would proceed with obtaining the costs for establishing the connection and collecting subscriber agreements.

Billing, Operation & Maintenance Services

Four (4) responses to the Request for Proposals for billing, operation and maintenance services were received. Mr. Walker reported that all proposals were reviewed and ranked by the review committee, with a recommendation to negotiate with R. P. Finch, Inc. of Toano, the highest ranked proposal. It is hoped to have a contract negotiated by the July meeting, and to have a firm on board by September.

The motion for the Director and the selection committee to negotiate a contract with R. P. Finch, Inc. for billing, operation and maintenance services was made by Mr. Revere, seconded by Mrs. Riggs and carried unanimously.

Insurance Renewal

The motion to renew insurance coverage for FY 22 with Virginia Risk Sharing Association was made by Mrs. Riggs, seconded by Mr. Revere and carried unanimously.

Request to Transfer Connection

The motion to allow the transfer of a connection from 215 Riverside Drive to 66 Sunsan Beach Road as requested by the property owner, provided that the owner grant any easements, if required, and also cover any recording fees for the revocation and new subscription, was made by Mr. Revere, seconded by Mr. Kimbrough and carried unanimously.

Request for Easement Compensation

Mr. Lee was not able to be present for the meeting. In November 2019, Mr. Lee signed and returned an easement for no compensation. In May 2020, a written offer of \$850.00 for compensation was made by Bowman Consulting, the firm that was working to negotiate and obtain easements, which Mr. Lee signed and returned. Mr. Lee has asked for his compensation.

Mrs. Lewis stated that the file does contain the documents that Bowman used for obtaining the easement but suggested that staff research this request more. It is unclear how this property got on the easement acquisition list for Bowman. The Authority received the easement in December 2019. On January 31, 2020, it appears on the Bowman side and after that, there is no action in the file until May 2020 when Mr. Lee signed the easement paperwork again. Mrs. Lewis suggested waiting until the easement acquisition team has some time to review their records.

Mr. Walker noted that the Authority obtained the easement voluntarily, as requested by the USDA. The Authority was forced to contract outside services to obtain easements that were not obtained voluntarily. The Authority should not be compensating for an error made by the consulting group, and the Authority appreciates the donation of Mr. Lee's easement as support toward the project. This would set a precedent if the Authority paid for an easement that was obtained voluntarily.

Action will be tabled until the July meeting.

Resolution – Melvin and Edmond Avenue

Mrs. Lewis asked the Authority to adopt a resolution that amends a portion of the resolution adopted on April 20, 2020, originally authorizing the condemnation and implementation of quick take powers to condemn approximately 4,000 square feet of Melvin Avenue. Mrs. Lewis explained that it was discovered that a portion of Melvin Avenue incorporated in the original resolution was technically a road by another name, Edmond Avenue, although it does not appear as a road, but as a pine-straw covered path. The road was posted and the public hearing for the total square footage was held and resolution adopted. Melvin Avenue is actually only approximately 1,100 square feet and Edmond Avenue is the remaining approximately 3,000 square feet and is owned by EWH LLC, with a value of \$25.00. There has been no success in obtaining the easement from the property owner.

The motion to adopt the following resolution was made by Mr. Revere, seconded by Mr. Reed and carried unanimously:

At a meeting of the Middlesex County Water Authority held on June 16, 2021, at 6:00 p.m.: On a motion duly made by Mr. Revere and seconded by Mr. Reed the following Resolution was adopted by the following vote:

Greg R. Chambers	aye
Janet Riggs	aye
Carlton Revere	aye
James Reed	aye
Lud Kimbrough	aye

A RESOLUTION TO AMEND A PORTION OF THE RESOLUTION ADOPTED BY THE MIDDLESEX WATER AUTHORITY ON APRIL 22, 2020, AUTHORIZING THE CONDEMNATION AND EXERCISE OF QUICK-TAKE POWERS TO ACQUIRE PERMANENT EASEMENTS FOR CERTAIN PRIVATE ROADS BY REVISING THE TAKE FOR MELVIN AVENUE AND INCLUDING EDMOND AVENUE AS FOLLOWS:

WHEREAS, on April 22, 2020, the Middlesex Water Authority adopted a Resolution authorizing the condemnation and exercise of quick-take powers to acquire permanent easements for certain private roads identified as critical parts of the Authority’s Eastern Middlesex County Regional Water System (“Project”); and

WHEREAS, within the April 22, 2020, Resolution, approximately 4,008 square feet of Melvin Avenue was identified as necessary to the Project for which a permanent easement was needed to install the proposed water system; and

WHEREAS, the April 22, 2020, Resolution declared its intent to use its condemnation and quick-take powers to enter the Properties and take of Melvin Avenue; and

WHEREAS, the Authority’s consultant, Bowman Consulting, established the fair market value of \$25.00, for approximately 4,008 square feet of Melvin Avenue, which has been deposited with the Clerk of Middlesex County Circuit Court; and

WHEREAS, it has been found that the permanent easement necessary on Melvin Avenue has decreased to approximately 1,104 square feet, with the remaining approximately 2,905 square footage allocated to Edmond Avenue, a previously "Unknown Road/Driveway off Melvin Avenue", which has now been identified as a private road owned by EWH, LLC;

WHEREAS, the Authority's consultant, Bowman Consulting, has established the fair market value of \$25.00, for approximately 2,905 square feet of Edmond Avenue; and

WHEREAS, the Authority has been unable to acquire the necessary easements across Melvin Avenue and Edmond Avenue.

NOW, THEREFORE, BE IT RESOLVED by the Middlesex Water Authority this 16th day of June, 2021, that the Authority hereby does find that public necessity remains for the Authority's ownership of both portions of the permanent easement previously identified as all Melvin Avenue and now known as Melvin Avenue and Edmond Avenue; and

BE IT FURTHER RESOLVED that the Authority revises the portion of its April 22, 2020, Resolution authorizing the filing of Certificates of Take by dividing the property known as Melvin Avenue, 4,408 square feet into two properties - Melvin Avenue, approximately 1,104 square feet and Edmond Avenue, approximately 2,905 square feet.

A Copy Teste:

Greg Chambers, Chairman of the
Middlesex Water Authority

Consent Agenda

Mr. Chambers suggested the idea of using a consent agenda to approve those routine items that come before the Board. Mr. Walker noted that any Board member can request an item be removed from the consent agenda for discussion and separate vote. The motion to proceed with drafting a revision to the by-laws to incorporate a consent agenda of the following items: minutes, expenses, budget transfers and standard easements was made by Mr. Kimbrough, seconded by Mr. Reed and carried unanimously.

PUBLIC COMMENT

The public comment section was opened. No one presented a request to speak, and the public comment period was closed.

CLOSED SESSION

The motion to convene for a closed meeting pursuant to Code of Virginia Section 2.2-3711.A8 for consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel was made by Mr. Revere, seconded by Mr. Reed and carried unanimously.

Upon reconvening in the open meeting, the following statement was read by Mrs. Lewis, with a motion that the statement was true and certifiable was made by Mrs. Riggs, seconded by Mr. Revere and carried:

To the best of each members' knowledge, only matters lawfully exempted from the open meeting requirements and only matters that were identified in the motion by which the closed session was called, were discussed in said closed session.

There was no action as a result of the closed session.

ADJOURN

There being no further business, the motion to adjourn until a meeting scheduled for July 21, 2021, at 6:00 p.m. was made by motion of Mrs. Riggs, seconded by Mr. Reed, and carried unanimously.

Greg Chambers, Chair