

AT A MEETING OF THE MIDDLESEX WATER AUTHORITY HELD IN THE
BOARD ROOM OF THE HISTORIC COURTHOUSE AT 6:00 P.M. ON
WEDNESDAY, MAY 18, 2022:

Present: Greg Chambers, Chair
Carlton S. Revere, Secretary
James Michael Reed, Treasurer

Absent: Janet Riggs, Vice Chair
Lud Kimbrough

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

CALL TO ORDER

The meeting was called to order by the Chairman, Greg Chambers, at 6:00 p.m.

PUBLIC COMMENT

Mr. Chambers opened the meeting for public comment.

Barry Thomas, representing the Wilton Creek Homeowners Association, was present to speak. Mr. Thomas noted that the Association represented 50 lot owners, with 42 homes, and expressed thanks to the Authority for including their development in the water project. The Association contends that there have been damages and impairments to their private road caused by installation of the waterline to serve their community and does not know what their next steps need to be to have them corrected. Meetings pre-construction and during construction went well, however, post construction meetings to address what they believed was happening or had happened to the road have not been conducted. Per Mr. Chamber's suggestion, Mr. Thomas stated that their concerns and requests were formally presented in a letter dated May 3, 2022, that has yet to receive a response; this had been preceded by a general letter dated March 24, 2022, requesting a meeting. Mr. Thomas noted that the HOA wants to be a cooperative and positive partner to have their portion of the project completed, however, their situation may be a little different from other areas where there is a private road involved that was not originally constructed to State standards. Mr. Thomas noted that in March of 2021, there was a letter from Bowman that pointed out expectations that there would be extensive damages to their road that would need repair. Mr. Thomas again asked for the proper protocols and parties for them to work with to see resolution and encouraged the Authority to not release the retainage to the contractor until their concerns are addressed and corrected.

Mr. Chambers commented that the issues are being addressed through the engineer and inspection teams. Retainage will not be released to the contractor until the Authority's punch list is complete.

Mrs. Lewis reminded the Chair that proper procedure would be to hear all public comment and then if the Authority wished to respond, they could.

Mr. Thomas finished his comments by stating that if the Association was ahead of procedures for having their concerns addressed, then they apologized. However, if they were behind, they wanted to do everything they could to catch up.

There being no further comments, the public comment portion of the meeting was closed.

ELECTION OF OFFICERS

Because all members were not present, the motion to defer action on the election of officers was made by Mr. Revere, seconded by Mr. Reed and carried unanimously.

CONSENT AGENDA

The motion to approve items included in the Consent Agenda was made by Mr. Reed, seconded by Mr. Revere and carried unanimously. The Consent Agenda included the minutes from the March 16 and April 14 meetings, checks numbered 3280 – 3323, totaling \$2,030,313.16, and Budget Supplements numbered 2022-15, -16, and -17:

BS FY 2022-15	3-021-024040-0001 and 3-1-041050-1101 (\$894,724.84)	4-21-099010-0045 and 4-1-099010-0042 \$894,724.84
Appropriating USDA Funds received in March to fund Requisition #16 for February pay applications and reimbursements.		
BS FY 2022-16	3-1-11030-0001 Connection Fee Deposits (Post) (\$112,348.17)	4-1-099010-42 Construction, \$112,348.17
Appropriating a portion of original project connection fees to be used for Feb Pay Applications submitted and paid in March 2022.		
BS FY 2022-17	3-1-11030-0001 Connection Fee Deposits (Post) (\$1,003,220.24)	4-1-99010-0042 Construction, \$1,003,220.24
Appropriating a portion of original project connection fees to be used for March Pay Application submitted and paid in May 2022.		

REPORTS FROM OFFICERS AND STAFF

Construction Update:

Charlie Beam, Project Manager with Bowman Consulting, presented updates on each construction phase. Mr. Beam announced that Phases 1A, 1B & 2 were complete, were in service and funding closed out. Phases 3A and 3B have been accepted by the Department of Health for temporary operations permits while the remaining punch list items are being completed.

The phasing plan for Phase 4 has been accepted by the Department of Health, with their only requirement being that VDH be called in for inspection of each sub-phase as it is ready to be brought on-line. Estimated flushing dates for sub-phases proposed are as follows:

- A – Main trunkline (General Puller Hwy) – June 4
- B – Fishing Bay/Stove Point – June 17
- C – Roads on north side of Route 33 – July 5

Sub-phases D and E are reversed since the previous meeting, with E now being Stingray Point, estimated for flushing July 28 and D – roads on the southside side of Route 33, estimated for August 22.

Time extensions for the schedule have been requested, but at this time have not been granted. There may be ways to make up time if work is concentrated in individual areas rather than being spread throughout the entire system.

Water is available for all customers in Phases 1A, 2 and 3A. Mrs. Lewis noted that there is still restoration that needs to be completed in 3A. Mr. Beam reminded all that there are two punch lists for Phase 3A, one for the Department of Transportation and one for USDA. Remaining funds will not be released until these are completed. Regarding Phase 4 restoration, Mr. Beam is pushing the contractor to restore as they go with meter installation, so that individual sub-phases can be completed; he is keeping separate punch lists for each sub-phase. Mrs. Lewis wanted the public to be aware that although the contractor may leave an area, he will be required to restore the area before project completion. Mr. Beam noted that individual lines will have to be uncovered again to run laterals to the meter boxes, at which time final restoration should be done.

Mr. Beam stated that he is working on a draft response to the Wilton Creek Homeowners Association and is gathering additional information from the contractor and inspection team for inclusion.

Outstanding Connection Fees:

Mrs. Muncy reported that an additional \$272,058.00 in connection fees had been collected since the March 11, 2022, report. To date, there is \$451,907 remaining due from 92 subscribers.

Mrs. Muncy noted that she has received compliments on some of the contractors that are working on the Phase 4 construction. Some of the complaints being received now are from subscribers being billed that have not been able to get a plumber to make their final connection.

UNFINISHED/NEW BUSINESS

Easement Acquisition:

The motion to endorse retroactive approval authorizing the Chair or Vice Chair to accept and sign the settlement agreements for the following properties, at costs of \$700 or less was made by Mr. Revere, seconded by Mr. Reed and carried unanimously: Temporary easements for Tax Map numbers 39-59G, 41-25-A-7C and 41-4-1. The motion to accept an additional settlement agreement for a Temporary easement at Tax Map 40-179C for \$400 was made by Mr. Revere, seconded by Mr. Reed and carried unanimously. Mrs. Lewis has received verbal approval on an additional temporary and permanent easement, which would bring the count of easements needed from known property owners down to 3. The number of private road easements needed has increased to 17. Some of the roads are owned by two families with seven heirs, most of whom are surprised to find that they have ownership. All but one of the property owners has agreed to settle, however unanimous agreement is required, and negotiations have stalled.

Mr. Revere questioned how people could get to their property if they did not own their access. Mrs. Lewis explained in some cases there were deeded accesses given; in other cases, prescriptive easements were given.

Acceptance Letters:

Mr. Chambers noted that he had signed letters accepting portions of the project – Phases 3A and 3B as noted at the previous meeting. The motion to endorse retroactive approval for the Chairman to sign the acceptance letters was made by Mr. Revere, seconded by Mr. Reed and carried unanimously.

Backflow Prevention and Cross Connection Policies:

The MWA System Operator, Mr. Finch, noted that these were guidance policies from the Health Department to protect the MWA system. The motion to accept the policies was made by Mr. Reed, seconded by Mr. Revere and carried unanimously.

Revocation and Transfer of Subscriber Agreements:

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

- A. Revoke 10072 General Puller Highway and transfer to 5041 General Puller Highway
- B. Revoke 10062 General Puller Highway and transfer to vacant lot at Tax Map 37-60C
- C. Revoke vacant lots Tax Map 40-15-4 and 40-15-6 and transfer deposits to 398 Honeysuckle Lane (Tax Map 40-15-5). The signer of the two vacant lot agreements was not the legal owner, so these agreements should not have been accepted by the Authority. The Water Authority will pay the recording fee for recording these revocation agreements.
- D. Revoke the Agreement signed for 19463 General Puller Highway at Tax Map 41-44-253 and transfer the agreement to Tax Map 41-44-257.

Audit:

The motion to accept the audit prepared by Robinson, Farmer, Cox Associates for FY 21, was made by Mr. Reed, seconded by Mr. Revere and carried unanimously.

Draft FY 23 Budget:

Mr. Walker noted that the budget being presented could be adopted in the current form, however, there would need to be adjustments to reflect changes in carry-over amounts once the fiscal year ends. Mr. Walker has projected a conservative operations budget of \$813,660, that includes user fees in the amount of \$555,660, late fees of \$1,000 and the County availability fee of \$257,000. On the expense side, for operations, the construction line has been left vacant, as those funds are transferred in from USDA monies. All USDA loans have closed and interest debt service payments are being paid. Funds for two co-funded positions, the engineer and administrative assistant, are included; funds are also included to fund the current director and administrative assistant for three months, if needed. Mr. Walker and Mr. Finch have estimated costs for a full year of operations. As the Authority transitions into full operations, money has been budgeted for part-time legal services. Mrs. Lewis will continue to finish out the easement work, and Mr. Walker added that enough cannot be said for the work she has done. Some funding has been included for travel, subsistence, and lodging, for attending association meetings. The line item for General Liability Insurance will be increasing as the Authority takes ownership of the system. Line items for Maintenance Service Contracts and Contracted Services (a new line) have significant increases, to cover potential hiring of additional personnel, maintenance of the system and installation of new services. Remaining monies have been lumped in the contingency line to allow for transfer to other lines if needed throughout the year.

Mr. Chambers noted that this proposed budget will capture revenue from a full operations year with expenses including interest only payments on debt service. Any additional revenues need to be set aside to be able to cover the \$700,000+ principal payments that will be coming up in future years. Mr. Chambers does not want the public to conclude that the MWA has revenue to spare or the ability to lower rates, because the

FY 23 budget will still not be reflective of a full year of operation with total debt costs. The FY 24 operations budget will increase dramatically to include the principal payments.

The reserve revenue shows a carryover of \$1,393,100 that includes deposits paid as of May 14, 2022 by both original project subscribers and \$203,375 from post-signing subscribers. A budget amount of \$452,000 is included for remaining connection fees/deposits to be paid, \$61,237 of which are from post-signing subscribers. These post-signing revenues are not committed to the current construction project by the Letter of Conditions with the USDA. There is \$12,000 remaining of the first installment of the River Counties Community Foundation grant. A second installment will be requested in the FY 23 year to accommodate more low-moderate income applicants that need sewer services but have not subscribed to water yet.

Mr. Revere questioned when capital improvement/replacement costs will begin to be budgeted. Mr. Walker stated that these will be worked on with the new director with review of financial model but would probably begin to be included in years 4-5 of operations. As needed, monies held in reserve will be moved into the capital improvement line. There is also an additional \$362,000 being held in a reserve construction account. Mr. Revere suggested not waiting as long as five years to begin setting aside for capital replacement, because even new equipment breaks. After completion of the system, adjusting entries can be made to incorporate at least a portion of the \$455,000 post signer reserves along with the \$362,000 construction reserves into the capital improvement line.

Mr. Chambers noted that additional capital expense could be incurred as new subscribers are brought on, although connection fees would help to off-set those costs, and also for lines being run to new service locations.

Mr. Walker stated that the Authority could adopt the budget, knowing that adjusting entries would be needed after July 1. Given that two members of the Authority were not present, Mr. Chambers believed the adoption should be postponed. There was no objection.

User Fees:

Mr. Chambers stated that there have been questions from subscribers receiving an invoice for usage before their plumber has made the final connection, so they have no usage. Mr. Chambers explained that this is the reality of how the subscriber agreement was written and was basically required by the lender as a guarantee of revenue. To not have it written that way would have allowed customers to renege on their commitment by just not hooking up. Once the water is available to the customer, they will receive a bill for a minimum \$45.00 per month. For most vacant lot owners, the minimum would be \$20.00 per month.

Holly Gailey spoke up that the ones calling in are very upset about this policy and she just wanted a clear response of what to tell customers. Some of them have called multiple times, to which she has told them if they really wanted to press the issue, then

they needed to address it to the Water Authority. Mr. Revere stated that the Subscriber Agreement is very clear that the usage billing would start as soon as water was available in the system. Mr. Revere noted that he just processed payments for eight connections that have not been made yet, but the water is available in the system.

Ms. Gailey noted that she takes a lot of calls and just needed to have a unified answer of what to tell customers so that it does not have to move further up to the Authority level. Some of the customers are stating that they are on the waiting list with their plumber, to which Ms. Gailey has encouraged them to possibly contact a plumber outside of this area.

PUBLIC COMMENT

The public comment session was opened. Claiborne Irby, representing the Stove Point Homeowners Association, commented that their association had a check list of their own concerns that they would like to discuss with the Authority. Mr. Irby had been working with Jake Porter, owner of the inspection firm, on several issues, but not recently. In his meetings with Mr. Porter, Mr. Irby indicated that the Association would not consider the project complete until each homeowner had signed off on the work that had been done.

Mr. Chambers responded that the Authority would continue to review and address concerns. The retainage will not be released until the project is complete. Mr. Revere noted that the Authority was not in the position to make sure that each homeowner was happy. Mrs. Lewis again asked that all comments be given before the Authority responded.

Mr. Irby said that their Association also wished to be good neighbors and remain supportive of the project. Mr. Irby has talked with the contractor and many sub-contractors for working in their area. He wanted to make sure, on behalf of the Association, that there will be an opportunity for their concerns to be addressed.

Mr. Revere noted that concerns would be addressed, and that the retainage would be held until the Authority's punch list items are completed. Mrs. Lewis added that that is what the public needs to hear, and that the Authority is aware of issues that will be addressed.

Mr. Walker encouraged Mr. Irby to continue to work with Mr. Porter, as that is the first step. After review with the inspection firm, issues are reviewed with the engineering firm, and the contractor before they even come to the Authority for consideration. Mr. Walker noted that unreasonable requests that were not caused by construction may not be considered for remediation.

There being no additional comments the public session was closed.

CLOSED SESSION

The motion to convene in a Closed Session, pursuant to Code of Virginia, §2.2-3711.(A)(1) for the consideration and discussion of hiring personnel, specifically legal counsel and pursuant to §2.2-3711(A)(8) for specific questions for counsel about hiring outside legal counsel, was made by Mr. Reed, seconded by Mr. Revere and carried unanimously. Upon reconvening in open session, the following motion was made by Mr. Reed, seconded by Mr. Revere, and carried unanimously:

To the best of the members' knowledge, only public business matters lawfully exempted by the motions for which they were called, were discussed or considered in closed session.

LEGAL COUNSEL

The motion to approve the contract with the law firm of Hefty, Wiley & Gore dated May 18, 2022, for legal services beginning July 1, 2022, at a rate of \$1,500.00 per month, was made by Mr. Reed, seconded by Mr. Revere and carried unanimously.

ADJOURN

There being no further business, the motion to adjourn until a special meeting to be held on June 15, 2022, was made by motion of Mr. Revere, seconded by Mr. Reed, and carried unanimously.

Greg Chambers, Chair