

WESTERN WESTMORELAND MUNICIPAL AUTHORITY

REGULAR MONTHLY MEETING – OCTOBER 16, 2008

The Board of Directors of the Western Westmoreland Municipal Authority held a regular monthly meeting on Thursday, October 16, 2008 at 7:00 P.M. in the Authority conference room, duly advertised, as required, and with the following persons in attendance:

1. Roll Call:

Board Members in Attendance:

Mr. Larry Chrzan	Mr. Dan Hall	Mr. Charles Konkus
Mr. Anthony Marks	Mr. Robert Pioth	Mr. Robert Zentner

Absent:

Ms. Pat Altman	Mr. John Shepherd	Mr. Sam Testa
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Others in Attendance:

Mr. John Campfield, Solicitor
Mr. Dan Goodwin, Consulting Engineer
Mr. Kevin Fisher, General Manager
Mrs. Johanna Wtorkowski, Assistant Secretary-Treasurer/Recording Secretary

2. Mr. Pioth led the Pledge of Allegiance and moment of silence for troops overseas.
3. Public Comments: None – Mr. Rudy Brnilovich, Mr. John Thornton, and Mr. Shawn Stitely visitors, were in attendance.
4. Communications:
 - A. Mr. Pioth referred to the CHAR Reports for July and September 2008.
 - B. Mr. Pioth referred to the CET Engineering Services Newsletter dated September 2008.
5. Secretary's Report – Mr. Marks – A motion was made by Mr. Marks, and seconded by Mr. Chrzan, to approve, as presented, the minutes of the September 18, 2008 Regular Meeting. The motion passed unanimously.

Mr. Marks reported that he attended the 10th Annual Wet Weather Sewerage Conference. He will discuss this topic during the executive session.
6. Treasurer's Report – Mr. Zentner – Nothing was added to the report that was previously distributed.
 - A. A motion to approve for payment Revenue Fund Requisition No. 95, in the amount of \$139,408.71 was made by Mr. Zentner, and seconded by Mr. Chrzan. The motion passed unanimously.
7. General Manager's Report – Kevin Fisher:

- A. Mr. Fisher referred to treatment of gas well water, stating that he will discuss this issue with any interested parties after the regular meeting.
- B. Mr. Fisher reported that the Authority has not received a response from the PaDEP regarding the status of WWMA's NPDES permit renewal application.
- C. Mr. Fisher referred to the Valley Landfill second quarter leachate analysis, which was attached to the General Manager's report. The only parameters that exceeded WWMA's discharge limits were Iron and Boron. Mr. Fisher is awaiting word from Valley Landfill about whether they want to change their permit requirements. Even though their limits are slightly higher than WWMA's limits, the Authority is not taking action against Valley Landfill at this time.
- D. Mr. Fisher requested Board approval to purchase sixty (60) Centaur HP activated carbon canisters. These canisters are manufactured by Calgon Corporation, who is the sole supplier of this type of activated carbon canister. The canisters will replace canisters for the Phoenix air handling units for the wet well, primary clarifier, and grit building. Mr. Fisher would like to place the order once Calgon Corporation provides written verification that these canisters are proprietary items. A motion was made by Mr. Zentner, and seconded by Mr. Chrzan, to authorize the purchase of sixty (60) Centaur HP activated carbon canisters from Calgon Corporation, at a cost of \$595.00 per canister, for a total cost of \$35,700.00. Mr. Hall presented a question on the motion. Mr. Hall asked if the canisters could be recharged, rather than purchasing a new set. Mr. Fisher explained that he would have to pull the canister out of the unit. The motion passed 5-2, with Mr. Hall and Mr. Konkus voting against the motion.
- E. Mr. Fisher reported that he will be purchasing four hydromatic sump pumps for the control building and the sludge processing building, at a cost of \$861.00 per unit, or a total cost of \$3,544.00. Original replacement Aurora sump pumps cost \$12,925.00 for each duplex station, for a total of \$25,850.00.
- F. Mr. Fisher reported that Authority employees will be replacing two light poles and installing two point bullhorns and flood lights for the primary clarifiers, at a total cost of \$3,933.40. Mr. Fisher stated that the Authority will also be replacing two pole lights around the back of the sludge building/thickener with wall mount flood lights, at a cost of \$1,654.50.
- G. Mr. Fisher requested Board approval of the revised Non-Smoking Policy, in order to comply with the Pennsylvania Clean Indoor Air Act (Act 27 of 2008). This act became effective on September 11, 2008. The Act states that smoking is prohibited in any public place or workplace, with a few exceptions. The Authority's policy will further define workplace areas, and designate an authorized smoking area. Mr. Pioth asked if it would be more practical to designate the parking area as the smoking area. Mr. Fisher explained that the Act recommends that the smoking area not be within twenty (20) feet of any opening. Mr. Pioth invited comments from the public. There were no comments. A motion was made by Mr. Chrzan, and seconded by Mr. Konkus, to approve the revised Non-Smoking Policy, as written. The motion passed unanimously. A copy of this policy is attached to these minutes.
- H. Mr. Fisher stated that issues pertaining to Trafford Borough, North Huntingdon Township, and Penn Township will be discussed during the executive session.

This concluded Mr. Fisher's General Manager's report. The complete report is attached to these minutes.

8. Consulting Engineer – Dan Goodwin, HDR Engineering Co., Inc. (HDR):

Mr. Goodwin reviewed the written report dated October 16, 2008, which was presented to those in attendance. The complete report is attached to these minutes.

A. Wet Weather Improvements Project:

Mr. Goodwin reported that there are some legal developments, which will be discussed by Mr. Campfield during the executive session. Mr. Goodwin reported that he is still working with William T. Spaeder Company in an effort to resolve the outstanding issues. Mr. Goodwin stated that HDR received the shop drawing on the butterfly valves. The drawing was approved with a few minor adjustments, and Mr. Spaeder has been released to order the valves. Mr. Goodwin anticipates that the valves will be ordered and installed in the near future.

Mr. Goodwin reported that there are no pay estimates to be submitted for this project this evening.

B. Long-Term Control Plan/COA/NPDES Compliance Schedule:

1. Mr. Goodwin reported that there have been no comments received from PaDEP since submission of the Final Long-Term Control Plan in October 2007.

C. Mr. Goodwin reported that there have been no comments received from the PaDEP regarding the Plant's NPDES Permit Renewal Application.

D. WWTP Facilities Planning Study: Mr. Goodwin reported that a Legal and Engineering Services Committee meeting was held on October 7, 2008, at which time HDR presented additional information that requested of them. The committee has requested some time to review the new information. A meeting has been scheduled for October 29, 2008, at 6:00 P.M. The goal of the meeting is to come up with a recommendation for the Board.

This concluded Mr. Goodwin's Engineer's report. The complete report is attached to these minutes.

9. Solicitor's Report – John Campfield –

A. Mr. Campfield reminded the Board that a new Authority has been created by the State, which will provide \$800,000,000.00 for projects. He stated that the Board may want to consider this funding source. Mr. Campfield stated that the project must come from WWMA's funds. He stated that there is a heavy political component, and that any one member of the Board is permitted to veto a request for funding. Mr. Campfield suggested that the Board keep this funding source in mind. He also reminded the Board that a referendum is coming up for a vote at the November 4th election.

B. Mr. Campfield referred to a complaint that was served on WWMA by Westmoreland Electric. An answer must be filed within twenty (20) days. This

issue will be discussed further during executive session. Mr. Campfield stated that all other items must be discussed during executive session.

This concluded Mr. Campfield's report.

10. Reports of Committees:

A. Grounds and Maintenance Committee – Dan Hall – No report.

B. Personnel Committee –

1. Mr. Chrzan recommended the following shift schedule for 2009:

Nine plant employees will work from Monday through Friday, 7:00 A.M. – 3:00 P.M.

Three employees will work Saturday and Sunday, 7:00 A.M. – 3:00 P.M., and Monday through Wednesday, 3:00 P.M. – 11:00 P.M. There will be no third shift. Mr. Chrzan

stated that he spoke with Mr. Kevin Thornton, of the Utility Workers Union of America, AFL-CIO, Local 487, who had no objection to the shift schedule. Mr. Pioth stated that,

before this schedule can be approved, the employees must agree to modification of the second shift. Mr. Chrzan stated that he spoke with the Union President, as well as the

Authority's Union Steward, and that both accepted the proposed schedule. Mr. Pioth stated that the schedule adversely affects three employees. A motion was made by Mr. Chrzan,

and seconded by Mr. Zentner, to approve the shift schedule for 2009. A roll-call vote was requested.

Mr. Chrzan – yes

Mr. Hall – yes

Mr. Konkus – yes

Mr. Marks asked Mr. Fisher for his input regarding the proposed schedule. Mr. Fisher stated that the schedule is fine, as it covers the weekends. Mr. Fisher stated that several shift options were reviewed.

Mr. Marks – yes

Mr. Pioth – yes

Mr. Watson – yes

Mr. Zentner – yes

The motion passed unanimously.

C. Finance and Budget Committee –

1. Mr. Chrzan reported that the Authority received \$24,788.99 in interest in the month of September, bringing the year-to-date total to \$208,804.71. He explained that the Authority recently purchased several certificates of deposit, in an effort to realize higher interest income. A six-month certificate of deposit for the Penn Township Expansion Guaranteed Fund Project Area II, in the amount of \$113,500.00 was purchased from the First Commonwealth Bank on September 22, 2008, at the rate of 2.95%.

2. Mr. Chrzan reported that the Finance and Budget Committee met on October 6, 2008. There will be one more meeting before final approval in November. Mr. Chrzan stated that he does not anticipate a rate increase for 2009.

- D. Insurance Committee – Mr. Watson stated that the Authority has not yet received a final price for pollution liability insurance coverage. Mr. Fisher stated that he is expecting a final quote from Mr. Ron Flick, of FWF Insurance Agency.
- E. Sludge Committee – There was nothing to add to the report that was previously submitted.
- F. Legal and Engineering Services Committee –
 - 1. Mr. Hall stated that the committee has scheduled a meeting for October 29, 2008, at 6:00 P.M. He stated that the meeting was scheduled for the evening, in order to provide all Board Members an opportunity to attend the meeting, and he requested that this meeting be scheduled, in order to comply with Sunshine Laws. Mr. Pioth asked why the committee was asking the entire Board to meet, stating that he would trust any recommendations that the committee would have. Mr. Hall stated that he does not think that everyone will attend. Mr. Konkus stated that he, also, would trust the committee’s recommendations. Mr. Pioth stated that if we continue to have meetings, we will “beat this thing to death.” Mr. Hall stated that he is encouraging the Board Members to attend the meeting. Mr. Pioth stated that he would prefer that just the members of the Legal and Engineering Services Committee attend the meeting. Mr. Hall stated that the Finance and Budget Committee will be impacted by this. It was decided that just the Legal and Engineering Services Committee will attend the meeting.

This concluded Mr. Hall’s report.

11. Change Orders and Pay Estimates – None

12. Requisitions:

Mr. Pioth presented the following requisition with the motion to approve as follows: 2005 Construction Fund Requisition No. 2005-42 in the amount of \$4,242.27. Motion to approve was made by Mr. Zentner, and seconded by Mr. Chrzan. The motion passed unanimously.

13. Board Member Comments:

- A. Mr. Pioth asked Mr. Hall why he was bringing outside engineers to the Authority. Mr. Hall stated that wants a second opinion, because he is not very comfortable with the consulting engineer’s recommendations. Mr. Pioth stated that his actions, specifically the manner in which he is obtaining opinions from outside consultants, undermine the Board. Mr. Hall stated that he disagreed completely, stating that, as a member of the Board and a member of the community, he has a right to solicit second opinions. Mr. Hall suggested that Mr. Pioth express his displeasure in writing, specifically identifying his actions, and send it to the Penn Township Commissioners. Mr. Hall stated that he has “played this game a long time, and it’s not an unusual circumstance.” Mr. Pioth stated that he is “playing games” again. Mr. Hall then explained to the Board that, because he has serious reservations about the engineering services that the Authority is receiving and the prices that are being charged, he spoke with “various representatives,” and obtained some names of consulting

engineers, in order to obtain a second opinion. Mr. Pioth asked for confirmation that Mr. Hall took this action upon himself. Mr. Hall concurred, stating that there is nothing wrong with getting a second opinion. Mr. Hall stated that he does not care if Mr. Pioth has a problem with his getting a second opinion. Mr. Pioth stated that there is a Board here, whom Mr. Hall is “smacking in the face.” Mr. Hall disagreed, and asked Mr. Campfield if he has the right, as a Board member, to seek second opinions. Mr. Campfield stated that the questions that is being raised is, should this be a Board decision to bring another engineering firm in here to look at the feasibility plan, or does every Board member have the right to bring in an engineer. Mr. Hall stated that he “wanted to get an opinion from somebody who doesn’t show up and say ‘Ok, the meeting’s over. Let’s go to the bar.’” Mr. Campfield stated that the question is whether you do that by saying “I would like the Board to take a vote on whether we bring in another engineering firm, two engineering firms, ten engineering firms, to look at this.” Mr. Hall stated that he “knows what the results are going to be.” Mr. Pioth responded, stating that regardless of the other nine Board votes, “Dan Hall’s vote says we’re bringing someone in.” Mr. Hall stated that he conferred with the people who put him on this Board, and they said “Go to it.” Mr. Pioth responded, stating that Penn Township does not run this Board. Mr. Hall agreed, but stated that “Penn Township pays a significant amount of the financing which does run this Board, and runs this Authority.” Mr. Hall apologized, and stated that his perspective on getting engineering consulting services, because that is what he does for a living, is a little different, and stated that he “lives and dies by the bid.” Mr. Pioth repeated his displeasure in Mr. Halls actions, and invited any other Board member in attendance to add his comments at this time. Mr. Pioth stated that he does not think that this is an ethical practice on the part of a Board member to take actions upon himself. He stated that the Authority could end up with each Board member bringing in his own consultants. Mr. Pioth stated that he was sorry if Mr. Hall felt that the Board would not agree with him, stating that there have been many things that Mr. Hall has presented to the Board, that have been approved.

At this time, Mr. Konkus stated that he thought that a vote was presented to the Board about seeking proposals from other engineering firms, and that the vote did not pass. Mr. Konkus stated that he had voted in favor of that motion, and asked if the motion was brought up every year. Mr. Pioth stated that it was his understanding, that that motion led to the understanding that this issue would be brought up again, in the fall of 2008. Mr. Konkus suggested bringing up this item to the Board again. Mr. Pioth stated that it was his understanding that this item comes up for a vote every year.

Mr. Hall again suggested that any Board member who disagrees with his actions submit a letter to the Penn Township Commissioners, recommending that they not reappoint him for the next term. Mr. Pioth stated that he feels that Mr. Hall’s actions are not an ethical practice. Mr. Hall disagreed, stating that he has over thirty years in this business.

Mr. Campfield asked whether this consultant will be charging fees for their services. Mr. Hall stated that their services are at no cost to the Authority. Mr. Hall stated that, by bringing in other engineers, when the Authority is ready to bid the job, they will have more than one engineer who is familiar with the specifics of the project.

Mr. Marks stated that it is his opinion that it is not only ethical, but prudent, for any Board member to bring anyone in, when he wishes to have any form of consulting services on almost any matter, because this is a public entity. He gave the example of Mr. Konkus reviewing electrical equipment that is being installed, and asking for an outside opinion on an unfamiliar piece of equipment, adding that doing so is not an affront to the Board. Mr. Konkus asked Mr. Pioth if his objection was that Mr. Hall did not provide the Board with advance notification of his intentions. Mr. Pioth stated that, if Mr. Hall came to the Board, saying that he would like to bring in someone at no expense to the Authority, he doesn't think that any Board member would object. Mr. Pioth stated that, when Mr. Hall calls the General Manager to say that he is bringing in another engineer, and if Mr. Fisher doesn't like it, he can confront Mr. Hall, he is not conducting business properly. Mr. Konkus agreed with Mr. Pioth, stating that a courtesy call is appropriate, adding that things must "go through a chain of command." Mr. Pioth stated that these things must go through the Board. He stated again that, while he feels that no Board member will say no, these requests must go through the Board. Mr. Hall conceded that he should have notified the Board of his intentions.

Mr. Marks asked if Board members were required to notify the Board any time a Board member seeks outside consulting services. Mr. Pioth stated that the Board should be aware of all such occurrences. Mr. Pioth asked Mr. Konkus if he had received notice of Mr. Hall's intentions. Mr. Konkus replied that he did. Mr. Hall stated that he does not want to put any Board member in the position that he or she must obtain approval of this Board to bring somebody else in. Mr. Pioth stated that Mr. Hall was not listening, and repeated his expectations that any Board members makes aware to the Board of his or her intentions. Mr. Hall stated that he appreciated where Mr. Pioth was coming from, and he referred to a prior incident, in which Mr. Hall was brought before a committee for reviewing the consulting engineer's invoices. Mr. Pioth stated that he did not recall that incident. Mr. Hall stated that he would have to search his records. He said that, during an executive session, he was charged with "jeopardizing this man's opportunity to make a living."

Mr. Marks stated that notifying the Board is a courtesy, but he reserves the right of any Board member to bring in an outside consultant to question any issue. Mr. Pioth stated that he was not questioning anyone's right to consult with other professionals, but there are certain procedures that must be followed.

Mr. Zentner stated that he has been on the Authority Board for twenty-five years, and the Board has never had a problem with Board members coming to meetings with their own agendas, objecting to almost every item that comes up for a vote, and now the Board has someone who does that. He addressed Mr. Hall, stating that he objects to everything that comes up for a vote, and he is getting tired of it. Mr. Hall stated that if Mr. Zentner doesn't like it, he should write a letter to the Penn Township Commissioners. Mr. Zentner replied, stating that Mr. Hall's job here is to work for the common good (of the Authority), and not to "throw a road block to everything that comes up for a vote."

A motion was made by Mr. Chrzan, and seconded by Mr. Marks, to enter into an executive session to discuss matters of potential litigation with Trafford Borough, North Huntingdon Township, and Westmoreland Electric. The motion passed unanimously. The time was 7:54 P.M.

A motion to return to the regular order of business was made by Mr. Konkus, and seconded by Mr. Marks. The motion carried unanimously. The time was 8:38 PM.

A motion was made by Mr. Zentner, and seconded by Mr. Chrzan, to authorize Mr. Campfield to file an answer and counterclaim against Westmoreland Electric, and to authorize Mr. Campfield to join William T. Spaeder in the lawsuit. The motion passed unanimously.

A motion was made by Mr. Chrzan, and seconded by Mr. Hall, to authorize Mr. Fisher to communicate with Kate Petrosky, of the North Huntingdon Township Municipal Authority, to request a meeting with Authority representatives. The motion passed unanimously.

Mr. Marks asked Mr. Goodwin if HDR was going to sort through the sequence of events relating to the Wet Weather Improvements Project. Mr. Goodwin stated that HDR was currently researching the sequence of events. Mr. Marks suggesting having “things in place,” to avoid violating the Domestic Steel Procurements Act. Mr. Goodwin explained that the contract specifications, as well as Spaeder’s bid specifications, defined the type of valves that must be used, and Spaeder used valves that did not comply with the specifications. This responsibility lies with Spaeder. Mr. Marks asked who caught the error with the valves. Mr. Goodwin stated that Mr. Fisher discovered the error. Mr. Marks asked if there was an administrative control that could have stopped this occurrence. Mr. Goodwin replied that there was not.

15. A motion to adjourn the meeting was made by Mr. Zentner, and seconded by Mr. Konkus. The motion carried unanimously. The time was 8:44 P.M.

Anthony Marks
Secretary