

BCWSA



MINUTES OF THE REGULAR BOARD MEETING
July 13, 2022

PRESENT: Dennis Cowley, Patricia Poprik and George Hutt

Benjamin W. Jones, CEO; Jason Hillaert, CFO; Scott Holbert, Esquire; Russell Dunlevy, P.E.; Nathaniel Rafalski, CTO and Anne M. O'Toole, Executive Assistant

VIA ZOOM: Bryan Allen

NOT PRESENT: John Cordisco

VISITORS:

Mark Lucca, Aqua
Vincent Miele, BCWSA
Barbara Mills, 56 Bennett Dr. Doylestown
Art Heileman, BCWSA
Rob Neilson, BCWSA AFSCME
Jim Irwin, AFSCME
Denise Luna, AFSCME
Len Hughes, AFSCME
Lynette Luna, AFSCME
Brian Deyoc, AFCME
Ross Mather, AFSCME
Christopher Luna Aqua
Ginny Marcille Kerslake, Eastern PA Organizer Food and Water Watch

Keith Lehman, BCWSA 835
Paul Scheb, Local 835
Ryan Connors, NE Research
Jason Connors, BCWSA
Jason Eves, BCWSA
Jeff Bender, BCWSA
Jim Wharton, BCWSA
Zac Stone, BCWSA
Joe Scobonia, AFSCME
Chris Ullery, BC Courier Times
Andrew Maykuth, Phila Inquirer
Christopher Franklin, Aqua

CALL TO ORDER:

PLEDGE OF ALLEGIANCE:

Those present, pledged allegiance to the flag.

BCWSA's Treasurer, Dennis Cowley called the Regular Meeting of the BCWSA to order at 9:40 am.

Mr. Hutt moved, Ms. Poprik seconded the motion that unanimously approved amending the BCWSA Board Agenda to include the Exclusivity Agreement with Aqua with respect to the potential sale of the BCWSA sewer system.



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MINUTES

July 13, 2022
Page 2

Ms. Ginny Marcille Kerslake Eastern PA Organizer with Food and Water Watch addressed the Board stating that the board has failed the public and they should have been informed before considering privatization, it will mean increased rates to ratepayers and she asked the Board reject the deal.

Paul Scheb, Business Manager Local 835 asked the Board consider extending the BCWSA Union Contracts.

Len Hughes, Supervisor attending as a Lower Southampton customer questioned the press conference that was set up Tuesday afternoon and asked why it was changed to a zoom meeting, and accessible to only certain reporters.

A question was asked to the solicitor if adding the Exclusivity Agreement to the Agenda complied with the Sunshine Act?

Scott Holbert, Esquire explained that the Board of Directors properly amended the Agenda to add the Exclusivity Agreement as it met multiple exceptions including that it was de minimis and was brought to the Authority's attention within 24 hours of the meeting.

Mr. Cowley had asked that everyone with questions refer to the Exclusivity Agreement. Any other questions will be addressed under Public Comment.

A comment was made regarding the amended agenda, there was no vote or public notice. Mr. Cowley stated that the agenda was amended to approve the Exclusivity Agreement. There is no vote on the table regarding the potential sale. Mr. Cowley hopes that the public hearings will be well attended. There is no decision to sell at this time.

It was asked when the vote was taken to amend the agenda. Mr. Cowley stated after the pledge of allegiance.

Mr. Cowley again stated this is not a vote to sell the BCWSA system. There will be public meetings with municipalities and customers. The Chairman, John Cordisco had fallen ill and was unable to attend in person. Mr. Cowley asked the audience again to include questions as they relate to the Exclusivity Agreement. All other questions will be addressed at Public Comment.

Mr. Cowley stated the Exclusivity Agreement is not to vote to sell the authority system but the authority agrees to negotiate exclusively with Aqua. During the exclusivity period, both BCWSA and Aqua agree to continue to discuss on an exclusive basis for a year.

Mr. Hughes stated that negotiations with Aqua representatives were done in Executive Session and that the practice was illegal. Mr. Cowley stated the statement was untrue and that there were no discussions with Aqua in Executive Session.



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Mr. Cowley stated that in 2020 he was contacted by Aqua and asked if the Board would be interested in the possible sale of the Authority. He spoke to the Board of Directors at that time and there was no interest in 2020.

Mr. Jones explained events: In late 2020 Mr. Cowley, Chairman at that time, received a letter from Aqua with a preliminary interest in the potential sale of the BCWSA. There was an offer of 600 Million Dollars and the Board of Directors at that time decided not to explore the offer. In March of 2021 the Board decided to evaluate the BCWSA's entire system and proceeded with a preliminary process. We had professionals appraise the system. They then came back to the board with an analysis of our facilities. The Board determined that the estimates were accurate. Two companies showed interest in acquiring the system. Aqua and PA American Water Company. The Board put the term sheets together. The terms were important for customers rate structure, employees, retirees and citizens of Bucks County. There will be hearings to answer all the questions, however no decisions have been made to sell at this time.

Preliminary numbers were established and Aqua came back with the best offer to meet all of the needs outlined. They submitted an Asset Purchase Agreement, signed by Aqua only. The BCWSA Board did not sign the agreement. The Exclusivity Agreement with Aqua will be granted to Aqua for a year.

Mr. Jones addressed Mr. Hughes's comment and stated that selling of real estate is not done in a public forum.

A question was asked if the Authority considered all of Aqua's rate increases are roughly 50% We are aware of Aqua's rate structure. Mr. Jones said he feels we they have a very competitive rate structure.

Mr. Cowley addressed the audience again and asked to please keep all questions to the Exclusivity Agreement and all other questions will be answered under Public Comment.

There were discussions with PA American Water and Aqua and Aqua. Both companies are regulated by PUC and the largest in the nation.

Len Hughes asked why was there a private press conference? Mr. Jones stated that the press conference was called to inform the reporters who have been attending the Board Meetings. The meeting was changed to a zoom meeting because the chairman fell ill. It took place at 3:15 pm on July 12th.

PUBLIC COMMENT:

Len Hughes again asked about the zoom meeting and questioned why only certain reporters were invited and not open to the public. Mr. Jones responded that the meeting was changed to zoom because the chairman had some medical conditions and was ill. The press who have been covering the potential sale were the ones notified. The intent of the Board was to tell everyone at the Board Meeting and in public hearings.



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There are concerns regarding the employee pensions. Mr. Cowley stated that when the public meetings come up they will be able to answer the questions.

Fred Gains, Chairman, Warrington Township addressed the Board of Directors regarding the Warrington Township sale to BCWSA within the last few years, and in the contract, Warrington Township has the right to 1st refusal. He was there to give public notice of the intent to buy back the Warrington Township Sewer System.

Barry Lubber, Manager of Warrington Township addressed the Board of Directors and stated that Warrington went in good faith negotiations with BCWSA. Warrington will look into whether it can buy back the system under the contract provisions that gives the right of 1st refusal. During negotiations there was no mention of the potential sale and he was disappointed that he did not receive notice of this meeting. He continued, Warrington received an offer from Aqua for almost double the amount but the Warrington Township Board of Directors felt a duty to the ratepayers to sell to BCWSA. During negotiations they were assured that BCWSA would not be sold to a private entity.

David McMahon was in attendance, representing his mother who is currently a BCWSA customer. He was also in attendance on behalf of Springfield and Upper Dublin Townships. He lives in Norristown and stated he was part of movement that successfully stopped the sale of the Norristown Sewer System to Aqua. He voiced concerns about the potential sale to a private organization who are beholden to shareholders first, neighbors, friends and ratepayers last. He asked why the board thought it was necessary to sell and if the Board feels they are unable to fulfill the charter commission they should seek out people who can. He stated that this is not in the best interest of the community and feels that the process has not been transparent. In addition to the hearings to discuss with the ratepayers and municipalities, he had asked that the Board commit to a ratepayer referendum. This is not in the public interest to proceed with the privatization of the system.

Mr. Jones read a statement on behalf of John Cordisco:

- I want to update everyone on where we stand with the initial acquisition offer, and all the work that has taken place over the last few months.
- As I previously stated, we had a fiduciary responsibility to examine every detail and determine the most beneficial decision for all concerned.
- We conducted a thorough assessment of our entire operations and looked at how we could ensure everyone would benefit before we could move forward, which included:
 1. First and foremost, our customers would have rate protections
 2. Municipalities and their taxpayers would realize significant financial benefits
 3. Programs would remain in place to achieve the highest environmental standards, and
 4. No current or former employees' pay and benefits would be negatively impacted.



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- After agreeing to our terms, we received a formal offer of \$1.1 billion from Aqua Pennsylvania to acquire our wastewater operations only. (BCWSA would continue to own and provide water service).
- Receiving the formal offer allows us to present it to the public and receive feedback. LET ME BE CLEAR, WE HAVE NOT MADE A FINAL DECISION ON THE OFFER.
- As I've said, we will conduct this process in a transparent process and we want stakeholders, customers and community members to have an opportunity to review the terms.
- Here is where we stand with the formal offer before us:
 5. **Customers** – the sale proceeds could be contributed to a fund to minimize rate increases over the next 10 years, with a complete rate freeze in the first year.
 6. **Community** – Bucks County government and its residents would receive about \$1 billion in new revenues.
 7. **Employees** – all employees (union and non-union) would maintain their jobs, salaries and benefits.
 8. **Environmental** – all necessary environmental permits would be required and they would seek PUC approval for the ability to replace damaged customer wastewater laterals – which is something we are not permitted to do.
- We will hold public meetings next week on in the morning and the evening in various locations in the county. (BCCC campuses in Upper and Middle/Lower)
- We have created a site to provide information and meeting location information – www.BCWSAcommitment.org

Mr. Jones stated that we received an offer from Aqua for the sewer system in the amount of 1.1 Billion Dollars for the sanitary system and we would continue to own and operate the water system. The Authority will remain as a water authority.

Mr. Hughes stated that Aqua has a clear track record. There is no way that Aqua will take over system without taking over and raising rates. He stated this is a disgrace. Mr. Cowley stated that this is not a “done deal” but the public will be able to voice their opinions at the upcoming meetings.

An attendee asked why the purchase is only for the sewer system. Mr. Jones stated that the main reason was the rates. In addition, we must remain a municipal entity to address the pension issues of employees.

Mr. Jones stated as a municipal entity we are not able to make improvements to private laterals on private property that are causing overflows and polluting the waterways. As a private entity Aqua will be able to do so.

Ms. Marcille Kerslake stated that there are federal funds that will not be available if we sell.



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Keith Lehman, BCWSA employee Local 835 asked if Bristol Borough has the Right of 1st refusal as Warrington has if we possibly sell the system. He also asked if Bristol Borough was aware of the potential sale of BCWSA.

Mr. Jones said that there was discussion of the possibility of a sale. Bristol Borough could have a rate stability package that could be put in place for ten (10) years would be open to all customers.

Mr. Luber said the PUC would not consider a 10-year rate lock. Mr. Jones stated that this board will determine the rate stability fund and it will be paid out of the proceeds from the sale of the Authority. Mr. Jones stated they were looking for public input.

Mr. Hughes asked Ms. Poprik for her opinion regarding the potential sale. Ms. Poprik stated she is listening and that no decision has been made.

Barbara Mills from Doylestown asked what the vote was for the Exclusivity Agreement. 3-1. With one board member not in attendance.

It was asked who set up the negotiations with Aqua. Negotiations were done through a law firm.

Mr. Cowley voted no to the sale, however with the people that were negotiating did a really good job and focused on the employees. Mr. Cowley has a union background and has negotiated many contracts and wanted it on the record that all have done a good job on negotiating for the employees.

Barry Luber, Warrington Township is not in favor of the sale and has met with seven (7) managers throughout the county to express opposition to this. The potential sale will be discussed at their respective Board Meetings and will be sent to the commissioners regarding their opposition.

It was asked what has changed with Aqua. Mr. Jones stated the requirements we need to follow regarding the Consent Decree and all of the improvements that will need to be made with the televising of all of our lines in accordance with the Consent Decree which will cost millions of dollars. Aqua is a much bigger Company and PUC regulated companies have different restrictions.

Employees have concerns about being sold and if they will be able to look at the contract. The website will be up and operating this afternoon and will be posted

Art Heilmann, BCWSA asked what the difference will be with the Law Suit if Aqua acquires the Authority. Aqua is held to different restrictions

It was asked what happens after one year Aqua has an exclusive agreement for one year.



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-Exclusivity Agreement-

Ms. Poprik moved, Mr. Hutt seconded the motion to approve the Exclusivity Agreement between BCWSA and Aqua Pennsylvania Wastewater, Inc. Mr. Cowley voted no.

MINUTES:

Ms. Poprik moved, Mr. Hutt seconded the motion that unanimously approved the Minutes of the BCWSA held on June 22, 2022. (Minutes are attached to the Minute Book)

REPORT OF THE CEO: *Benjamin W. Jones*

-Bid Award-

Ms. Poprik moved, Mr. Hutt seconded the motion that unanimously approved awarding the purchase of Regular Unleaded Gasoline and Ultra Low Sulfur Diesel to the lowest responsive bidder, Riggins Inc. The contract will cover a one (1) year period and was awarded in conjunction with the Bucks County Consortium. (memo from BWJ is attached to the Minute Book)

-Additional Sewer Service No Improvements Agreement; Bensalem Township -

Ms. Poprik moved, Mr. Hutt seconded the motion that unanimously approved the Additional Sewer Service No Improvements Agreement between BCWSA and SRI Gyatri Corp associated with the demolition of an existing hotel and the construction of a new 3 story 75 room hotel on Bristol Pike in Bensalem Township. (Agreement is attached to the Minute Book)

-Reservation of Capacity Agreement; Solebury Township-

Ms. Poprik moved, Mr. Hutt seconded the motion that unanimously approved the ROC Agreement between BCWSA and One Solebury Properties, LLC., associated with the proposed construction of a senior care facility and a medical office requiring the purchase of 32 EDUs in Solebury Township. (Agreement is attached to the Minute Book)

ENGINEERS REPORT: *Gilmore & Associates*

Russell Dunlevy P.E., reviewed the Engineer's Report dated July 6, 2022.

St Stephens Green STP; Contract WVT-1-EC

Ms. Poprik moved, Mr. Hutt seconded the motion that unanimously approved the Application for Payment No.1 for Contract WVT-1-EC in the amount of \$38,525.00 be paid to Wise Electrical Contractors, LLC, as recommended by the Consulting Engineer.



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SOLICITOR'S REPORT: *Scott Holbert, Esquire*

The Solicitor stated that the Board of Directors met in Executive Session for approximately Thirty-Five Minutes to discuss matters of Authority property and the Exclusivity Agreement which required Board action.

Easement Agreement; Lower Southampton Township

Ms. Poprik moved, Mr. Hutt seconded the motion that unanimously approved the Easement Agreement between BCWSA and the PA Turnpike Commission associated with an aerial easement from the Water Station 5 location on Pennsylvania Blvd in Lower Southampton Township. (Agreement is attached to the Minute Book)

CFO's Report: *Jason Hillaert, CFO*

-Bills for Payment-

Jason Hillaert, CFO presented a List of Bills and Requisitions that were prepared by in-house staff and he recommended Board approval.

Ms. Poprik moved, Mr. Hutt seconded the motion that unanimously approved the Bills for Payment dated July 13, 2022. (bills are attached to the Minute Book)

-2021 Financial Statements-

The Chief Financial Officer presented the 2021 audited Financial Statements to the Board of Directors.

The Board of Directors acknowledged receipt of the report.

OTHER OLD BUSINESS:

OTHER NEW BUSINESS:



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Minutes

**July 13, 2022
Page 9**

ADJOURNMENT:

There being no further business to be presented to the Board, Ms. Poprik moved, Mr. Hutt seconded the motion that unanimously adjourned the meeting.

7-27-2022
DATE

PK Poprik
SECRETARY

NEXT REGULAR BOARD MEETING: WEDNESDAY JULY 27, 2022 9:30 AM



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