

REGULAR MEETING MINUTES
May 21, 2018

The Regular Meeting of the Lehigh County Authority was called to order at 12:10 p.m. on Monday, May 21, 2018, Chairman Brian Nagle presiding. Other Members present at the commencement of the meeting were: Linda Rosenfeld, Kevin Baker, Jeff Morgan, Richard Bohner, and Ted Lyons. Deana Zosky was present on the conference phone throughout the entire meeting. Authority Staff present were Liesel Gross, Ed Klein, Pat Mandes, Brad Landon, Chuck Volk, Chris Moughan, Susan Sampson, John Parsons, and Lisa Miller.

REVIEW OF AGENDA

Chairman Nagle announced that today's Board meeting is being videotaped and streaming live and recordings will be posted to the Authority's website.

Chairman Nagle also announced that an Executive Session was held prior to the regular meeting, starting at 11:04 a.m. to discuss potential litigation. The Executive Session ended at 11:50 a.m.

Liesel Gross noted there are no additional changes to the agenda and no additional executive sessions planned for this meeting.

APPROVAL OF MINUTES

April 23, 2018 Regular Meeting Minutes

Richard Bohner noted one spelling correction to the Minutes of April 23, 2018.

On a motion by Richard Bohner, seconded by Linda Rosenfeld, the Board approved the Minutes of April 23, 2018 meeting as corrected (6-0). Ted Lyons abstained.

May 14, 2018 Regular Meeting Minutes

On a motion by Richard Bohner, seconded by Linda Rosenfeld, the Board approved the Minutes of May 14, 2018 meeting (7-0).

PUBLIC COMMENTS

None.

ACTION AND DISCUSSION ITEMS

Chairman Nagle announced that he is changing the order of the agenda, saving the item regarding monthly billing under Finance and Administration for last.

MONTHLY FINANCIAL REVIEW

Ed Klein gave an overview of the April 2018 financial report that was sent out with the Board packet. The cash flow variance is due to the reduction in capital spending. Chuck Volk reported that Suburban Water is on schedule in terms of completing the projects that will utilize bond funds that were secured in 2017.

MONTHLY SYSTEM OPERATIONS OVERVIEW

John Parsons reviewed the Monthly System Operations Overview report for April 2018. Chairman Nagle questioned the completion of the Heidelberg Heights sewer project and the status of ongoing sanitary sewer overflows in that system. Chuck Volk reported that the project is ongoing and should be complete within a month. The project is replacing 1100' of sewer main and laterals.

Glenn Hunsicker of Allentown, asked about capacity regarding water production in Allentown. How much is being produced versus what is permitted, and what is the Authority's projection looking ahead regarding selling excess water capacity. John Parsons answered some of the questions about production and sales, but explained the Authority does not have a specific plan for selling excess water capacity at this time.

LCA Billing Procedures – Allentown Division – Adoption of Monthly Billing

Liesel Gross gave an overview of the public input received regarding monthly billing and rates in the Allentown Division via multiple methods over the past several weeks. Methods of collecting public input included an online form, email, phone calls, English and Spanish customer communication and a public input hearing held on May 17, 2018 at the Lehigh County Government Center in Allentown. More than 200 comments were provided, and the Board was provided with a complete listing of all public comments prior to the meeting for their review.

Ms. Gross also gave a PowerPoint presentation highlighting alternative rate structures that may address citizens' concerns regarding the large increase in fixed charges under the monthly water and sewer rate structure. However, she also explained that using an alternative rate structure is not provided for under the terms of the lease agreement with Allentown and would require City willingness to discuss such alternatives.

She further explained that based on the financial needs of the system and timeliness of requirements for revenue enhancements to address system expenses for debt service and system improvements, the recommendation at this time from the staff is to implement monthly billing using the City's existing rate schedule already in the lease. As part of the staff recommendation the Authority will remain open to discussion with the City on alternatives for the future which could help citizens, but that require a review/amendment of the lease documents.

Ted Lyons commented that there are other ways and options but because of the lease agreement, the Authority's hands are tied in terms of how to implement them. If given more flexibility, the Authority could seek those other alternatives.

Richard Bohner commented that the other two competitors bidding on the lease had rates structures that were significantly higher than the Authority because they are governed by the Public Utility Commission (PUC).

Ted Lyons also commented that the monthly billing rates were created by the City of Allentown long before the lease. Liesel Gross said that the rate structure can be seen in the City's ordinances dating back almost twenty years, possibly longer.

Jeff Morgan commented that when a capital project is completed at the water or wastewater plant, those costs are spread out to all customers, not just city customers. Liesel Gross explained capital cost recovery charges on the water side where the volume charge to city customers includes a recovery charge that also passes through to municipalities, other than the LCA bulk purchase rate that does not include this same type of charge but there is a peripheral charge that is meant to cover capital costs. On the wastewater side, the city customers and municipalities pay for capital

improvements based on how much of the plant capacity is owned by each municipality, so costs are spread out accordingly.

Kevin Baker asked for clarification regarding the landlord tenant-issue in Allentown. The Authority has the ability to bill the landlord or tenant which generally applies to smaller units. Many of the situations are with larger apartment buildings that use a single service line and a larger single meter where the landlord gets a single monthly bill and is already paying the monthly rate. Therefore, it's important to keep in mind when talking about affordability, some percentage of low income households are renters in apartments that are already being billed monthly. Ms. Gross confirmed Mr. Baker's statement as being accurate in terms of how tenants are affected.

Glenn Hunsicker of Allentown gave the Board and Staff a handout entitled Notes to Financial Statements and Facts about the Proposed Long-term of the City's Water and Sewer Utility Systems and reviewed how the lease was set up to generate excess cash flow to pay for debt.

Tom Hahn of Allentown questioned if the ratio of Board members representing Suburban and Allentown should be more equal. Chairman Nagle responded that currently, there are three Board members who are from the City of Allentown. Mr. Hahn suggested that a separate Board to review the Allentown Division would be appropriate.

Jennifer McKenna, Compliance Office City of Allentown, clarified how the rate structure came about in Allentown stating that the rates were based upon what it would cost to use meter readers that were put in place for businesses or residents that would want to go to monthly billing and capture the business costs in doing so. Ms. McKenna also clarified the capital expenses stating the difference between City water and sewer charge components in bills to LCA's Suburban Division. The 7 million gallons of water billed to LCA's Suburban Division is $\frac{1}{3}$ of the city's water plant production and although there are some costs included, those costs don't begin to pay for the infrastructure improvements which are placed on the shoulders of the city rate payers. On the sewer side, the fund has a lot of contributors to cover those costs from the region, which is more equitable. Ted Lyons said the Board is aware of these perspectives, and Liesel Gross commented that the Authority should remain open to discussing such issues, but that it is inappropriate to select only one issue to focus on when there are numerous other issues that need to be discussed.

Liesel Gross said the suggested actions for implementing monthly billing are listed in the memo to the Board. Ms. Gross reminded the Board that the rates are already adopted and on our website because they are part of the concession rate schedule, so the action request is simply an authorization to implement the process to change implementing the rates that were adopted previously. There is also a budget amendment representing the costs that would be incurred to implement the monthly billing on this increased scale.

Jennifer McKenna asked if the budget amendment included recovery of implementation costs through additional rate increases. Ms. Gross explained the budget amendment is a required process to authorize the expenditures, and that the monthly rates included in the lease were the rates that LCA would implement.

Ted Lyons made a motion, seconded by Linda Rosenfeld, that recognizing that nearly 2½ years have passed with no forward movement on resolving the disputes LCA has raised with the City about matters that affect financial viability of the lease, including LCA's claim that the City fraudulently induced LCA to enter into the agreement by misstating its actual operating expenses that impact sewer revenues under the lease, among other disputes, and recognizing the City's public statements regarding legal action it plans to take against LCA to further restrain LCA from taking actions to improve its financial position under the Lease, the Board authorizes the management staff to file for arbitration with the American Arbitration Association regarding these disputes as soon as

possible. This authorization includes approval for litigation expenses associated with the filing include, without limitation, filing fees and arbitration charges, litigation fees of McNees Wallace & Nurick, and expert witness fees of Asterion Inc. for forensic accounting services (7-0).

Glenn Hunsicker of Allentown, asked if the Board would issue an amendment to limit the cost of the arbitration, He also asked for more clarification and for LCA to try to negotiate with the City. Chairman Nagle said we have tried to negotiate to no avail. Linda Rosenfeld added that this included going through the mediation process to try to resolve the arbitration issue with the City.

Liesel Gross said the second motion needs to include (i) authorization to implement the monthly billing rates that were previously adopted and (ii) adoption of the 2018 Budget amendment for the Allentown Division. On a motion by Ted Lyons, seconded by Richard Bohner, the Board approved the process change to monthly billing in the Allentown Division and the 2018 Budget Amendment – Allentown Division (7-0).

STAFF COMMENTS

Liesel Gross called attention to the Monthly Project Updates for May that were included with the packet.

Linda Rosenfeld asked for an update on the Hamilton Street Bridge. Chuck Volk stated the project is expected to be completed later this summer.

SOLICITOR'S COMMENTS

None.

PUBLIC COMMENTS / OTHER COMMENTS

None.

EXECUTIVE SESSION

No additional Executive Session.

ADJOURNMENT

There being no further business, the Chairman adjourned the meeting at 1:26 p.m.

Richard H. Bohner
Secretary