

PASSAIC VALLEY WATER COMMISSION SPECIAL MEETING OF

MAY 21, 2014

PAY-TO-PLAY

(OPEN SESSION)

C O M M I S S I O N E R S P R E S E N T :

GLORIA KOLODZIEJ, President

ROBERT VANNOY, Vice-President

JEFFREY LEVINE, Treasurer

MENACHEM BAZIAN, Secretary

THOMAS P. DeVITA

RIGO SANCHEZ

CHRYSTAL A. CLEAVES

A L S O P R E S E N T :

JOSEPH A. BELLA, Executive Director

GEORGE T. HANLEY, Counsel

JAMES G. DUPREY, Director of Engineering

YITZ WEISS, Comptroller (Absent)

LOUIS AMODIO, Administrative Secretary

MR. AMODIO: Call the meeting to order.

Time is 10:10.

All of the requirements of the Open Public Meetings Act have been met. Notices have been furnished to all Commissioners; City Clerks of Paterson, Passaic, and Clifton; North Jersey Herald News; The Record - Passaic County edition and the Commission's Executive Staff with a copy posted at the main bulletin board at the Clifton facility.

Will you please rise.

Mr. Hanley.

(A moment of silence was taken for Memorial Day)

PRESIDENT KOLODZIEJ: We have a member of the public here who wishes to speak to us in regards to what's on our agenda.

MR. WEINBERG: Thank you very much.

A very brief question and a question we actually asked once before, that I asked once before but I think this is probably the right context for it.

PRESIDENT KOLODZIEJ: Okay.

MR. WEINBERG: And it's a twofold question.

PRESIDENT KOLODZIEJ: I'm sorry, name and address, for the record.

MR. WEINBERG: Yes, I apologize.

Alan Weinberg. My address is 32 Spruce Street in Paterson.

I have just two comments that are germane to this.

The first is: In the Resolution it says, and I'll just read from it towards the end here: "Procured through the fair and open process and awarded without competitive bids must be publicly advertised."

If someone could just briefly describe the fair and open process and what it means, that it's, you know, not competitively bid.

And then the second question is, you know, that it complies with the pay-to-play law.

So I just want to better understand what that means and what happens to contractors in here that receive this and how they're precluded from pay-to-play.

It's a two-part question.

PRESIDENT KOLODZIEJ: I know we've

addressed this before but it's very confusing to the average person and Mr. Hanley has explained it before and I'm sure he'll be happy to explain it again.

MR. HANLEY: I am sure, you know, the - quote - pay-to-play law - the common-law --

COMMISSIONER SANCHEZ: Can you speak a little louder?

MR. HANLEY: Yeah.

The - quote - pay-to-play laws - which is their nickname, were adopted, probably, now, I would guess, ten years ago or so where there's some reforms.

There are two kinds of processes that you need to follow. One is pay-to-play where you do not have to follow the sealed bid process, but the people who are awarded those contracts are subject to other restrictions.

The open and fair process - quote - which we follow, is the most rigid standard. And what that means is: There's a recognition by the legislature that professional services are not something that accommodate themselves to sealed bid where quantities and specific jobs can be specified, but there's still a process you can

follow if you choose, which they have chosen to do, where you try to put everyone on an even footing and everything is public from the very beginning.

And in those instances, you create a scope of services by category. And you'll see there's quite a list here that evolved over the years. We've gotten a little more sophisticated at figuring that out for different kinds of specialties and for more general services, all of which are professionals, which means that they have a license from the State and that they are part of what the Courts have called, over the years - quote - the learned professions. So engineers in our case, lawyers, certain information technology specialists, and so on. Those kinds of things are -- accountants. They have to meet certain standards which we set forth in the Request For Proposal, where there's a license required, of course, that's the minimum, but they have to also demonstrate their experience in the area, their staffing, and so forth. And so anyone in the state who meets those qualifications can submit a proposal.

And those proposals are submitted sealed.

And then they're opened all at the same time. And in fact, frankly, this year, there were one or two that were disqualified because they were late, which wasn't typical back in the day.

And then all those proposals are made available to every Commissioner. And, of course, depending on the expertise, Jim Duprey in his department would review the engineers and those kind of technical. I review the legal. And then there are certain other special things like rate consultant and so on, auditors, which the Director of Finance, Mr. Weiss, would review and so forth.

Okay. So now, all that's been done. There's sufficient time for the Commissioners to review -- how many are there total?

MR. AMODIO: There's 55 in total.

MR. HANLEY: So all of those have now been reviewed by the Commissioners and by the appropriate inhouse professionals.

And then they will meet, first, in closed session, because this is also contractual negotiations. But then in open session and make the appointments for those professionals that are needed.

And, again, they are subject to all of the

special rules, election law, finance rules so on that apply to the pay-to-play law.

I apologize for going on so long.

MR. WEINBERG: That's very helpful.

MR. HANLEY: This is, in my opinion, I think in most people's opinion, this is the most - quote - literally, open and fair way to do it and transparent to the public.

And any member of the public has the opportunity to request copies of or to review them as well.

PRESIDENT KOLODZIEJ: I'm sorry, Commissioner DeVita is first.

COMMISSIONER DeVITA: One more thing if I might.

COMMISSIONER SANCHEZ: I was first, you know, Tom.

COMMISSIONER DeVITA: Just to add, the attorneys in the categories all get paid the same. It's not like somebody saying: I'm going to charge this. I'm going to charge this. We establish the rate and it's a reduced rate and that's what they all --

COMMISSIONER SANCHEZ: That was my point.

MR. HANLEY: At a lower rate, relatively

speaking.

PRESIDENT KOLODZIEJ: All right.

Commissioner Vannoy is next.

COMMISSIONER VANNOY: My question was: The explanation that Mr. Hanley provided to you, is that sufficient? Do you understand it, not just you, but other people?

They almost, like, accuse us of doing something unfair. We try our best to follow each and every rule. So I want to make sure that it was actually clear the way it was explained.

MR. WEINBERG: Very clear.

If I can say one other thing. It seems like some towns just pick people and don't do the process.

MR. HANLEY: And that's not illegal.

MR. WEINBERG: Right.

MR. HANLEY: But we chose to go a different direction, you know, in the interest of integrity of the process.

MR. WEINBERG: Thank you very much.

PRESIDENT KOLODZIEJ: And I'm sure Commissioner Sanchez would like to sum up. Right?

COMMISSIONER SANCHEZ: Everybody has, it's a flat rate and we just choose.

MR. HANLEY: There are one or two exceptions with highly, highly specialized in terms of very limited parameters.

PRESIDENT KOLODZIEJ: And how would we handle those exceptions?

MR. HANLEY: We still do it pursuant to the open and fair process.

PRESIDENT KOLODZIEJ: Right. I wanted to get that on the record, that we still do it to the open and fair process even though the pool is limited. But we still have to go through that scrutiny that we're going to go through, that will take us at least an hour.

Yes.

COMMISSIONER DeVITA: And understand when we get these in, there are boxes and boxes, believe me, I know, that are kept on the other side. And it takes a long time to go through them; it really does.

PRESIDENT KOLODZIEJ: I have to give kudos to Commissioner DeVita because he's one of the Commissioners that will go through that box himself, even though the Administration has gone through it. So we take our charge very, very seriously.

Are you okay with that?

MR. WEINBERG: I'm okay.

PRESIDENT KOLODZIEJ: All right. Then, I'd just, for the record, like to have a motion to close the public portion.

COMMISSIONER SANCHEZ: So move.

COMMISSIONER VANNOY: Second.

MR. AMODIO: Pursuant to the Open Public Meetings Act, Commissioner Kolodziej offers the following Resolution for adoption:

WHEREAS, Section 8 of the Open Public Meetings Act, permits the exclusion of the public from meeting in certain circumstances; and

WHEREAS, the public body is of the opinion that such circumstances presently exist;

NOW, THEREFORE, BE IT REVOLVED, by the Commissioners of Passaic Valley Water Commission:

1. The public shall be excluded from discussion of the hereinafter specified subject matters; the general nature of subject matters being: Professional services for extraordinary unspecified services and any other such matter as may come before the Commission for consideration.

2. It is anticipated at this time that the above-stated subject matters will be ratified

during public meeting following or as soon thereafter as the reason for discussion no longer exists.

3. This Resolution shall take effect immediately.

Second by Commissioner Vannoy.

On the roll.

(Roll call was taken, all Commissioners respond in the affirmative)

MR. AMODIO: Roll call.

(Roll call was taken, all Commissioners respond in the affirmative)

MR. AMODIO: Time is 11:17 a.m.

PRESIDENT KOLODZIEJ: I'm going to ask your courtesy for the regular meeting because Lynann has a disciplinary hearing at 1:30. So, hopefully, the public will be merciful and we can get them done. Our regular meeting should not take us longer than that.

Roll call. We're ready to go.

MR. AMODIO: Mr. Hanley, would you please?

MR. HANLEY: Yes. This would be a blanket Resolution to approve the appointment of professionals pursuant to the pay-to-play open and fair process as listed on the agenda and as listed in your packages.

All of the Commissioners are thoroughly familiar with the categories and individuals they wish to appoint to the positions.

We will recite them by number only unless there are objections from the public or from the Commissioners themselves. But at my understanding from what you've told me is that you are all familiar with the numbers and what categories they are related to. So unless there's other objections from the public, the Resolution will be to authorize the list as recited by your Administrative Secretary in numerical order.

MR. AMODIO: Okay.

MR. HANLEY: That's the vote.

COMMISSIONER VANNOY: Moved.

MR. AMODIO: Moved by Commissioner Vannoy.

PRESIDENT KOLODZIEJ: Second?

COMMISSIONER DeVITA: Second.

MR. AMODIO: Second by Commissioner DeVita.

Project 14-P-1. Recommendation to award to Johnson & Johnson, Esqs. as the primary and the Law Office of Michael Rubin as a backup at \$160 per hour.

14-P-3. Recommendation to award to Maser Consulting; GOAD Corporation; and Remington, Vernick.

COMMISSIONER SANCHEZ: Hold on. Can you do it all once?

PRESIDENT KOLODZIEJ: No. The answer is: He's got to read this into the record. When we vote, we're going to vote on it all at once. If you listen, you would know that.

MR. AMODIO: 14-P-4. Recommendation to award to Richard Mohr at \$160.

14-P-5. Recommendation is Gluck, Walrath at \$200 per hour.

14-P-6. Recommendation is PFM Asset Management at \$276 per hour.

14-P-7. NW Financial; 60,000, T & M.

14-P-10. Recommendation is Welt & Kuzemczak; Buglione, Hutton & DeYoe; The Law Office of James Fine on a rotating basis.

MR. HANLEY: Excuse me, T & M means time and materials.

MR. AMODIO: That's at \$160 per hour.

14-P-13. Recommendation is Pashman Stein at \$160 per hour.

14-P-16. Recommendation is Cleary, Giacobbe, Alfieri & Jacobs; the firm of Damico, Del Sardo & Montanari; and the firm of Piro, Zinna, Cifelli, Paris & Genitempo at \$160 an hour and that also is rotating.

14-P-17. Recommendation is Leitner, Tort, DeFazio, Leitner & Brause as the primary and Florio & Kenny as the backup at 160.

14-P-18. The primary is Weber Dowd. The backup is Waters, McPherson, McNeill at \$160 per hour.

14-P-19. Recommendation is Judge Scancarella of the firm of Harold P. Cook & Associates and retired Judge Frank M. Donato at \$200 per hour.

14-P-22. Recommendation is Florio & Kenny; Weber Dowd Law; Damico, Del Sardo & Montanari; Nowell Amoroso, Klein & Bierman at \$160 per hour.

14-P-23. The recommendation is DeCotiis,

Fitzpatrick & Cole as the primary and Eric Bernstein as the backup. That is \$160 per hour also.

14-P-25. The recommendation is Louis R. Slaby Engineers as the primary and Remington, Vernick, Arango as backup. That is \$175 per hour for escrow projects and \$160 per hour for PVWC projects.

14-P-26. Recommendation is Howard J. Woods, Jr. Associates on a time and material basis of \$50,000.

14-P-27. Recommendation is Black & Veatch also T & M of \$80,000.

14-P-28. Recommendation is Black & Veatch Corporation with a T & M of 30,000 and process application with a T & M of 35,000.

14-P-29. Recommendation is Material Selection Resources. T & M of 60,000.

14-P-30. Hatch, Mott, MacDonald in the amount of T & M 60,000.

14-P-31. Howard J. Woods, Jr. Associates, T & M of 60,000.

14-P-32. Recommendation is Associated Technology as the primary and Remington, Vernick backup. That's a T & M of 90,000.

14-P-33. Primary: Hatch, Mott, MacDonald and the backup is Remington, Vernick with a T & M 50,000.

14-P-34. Recommendation is to award to Remington, Vernick for 60,000 T & M and French & Parrello, 20,000 T & M.

COMMISSIONER DeVITA: I think that's 80.

MR. AMODIO: No, I'm sorry, 60 for Remington.

COMMISSIONER DeVITA: I'm sorry. I'm sorry.

MR. AMODIO: And French is 20.

14-P-35. Recommendation is to award to CH2M Hill, T & M 80,000.

14-P-36. Hatch, Mott, MacDonald, T & M 60,000.

14-P-38. Jacobs Engineering Group with a T & M of 50,000.

14-P-39. Paparozzi & Associates, \$160 per hour.

14-P-40. Environmental Engineering & Technology, T & M of 90,000.

14-P-42. Award to French & Parrello Associates, T & M of 90,000.

14-P-44. Recommendation to award to Black

& Veatch, T & M of 60,000.

14-P-46. Recommendation is split between CH2M Hill 60,000 and HDR Engineering 30,000.

14-P-48. Recommendation to award to Superior Services in the amount of 78,000.

14-P-49. Recommendation to award to Staff Investigations, T & M of 29,500.

14-P-51. Recommendation to award to Black & Veatch Holding Company with a T & M of 50,000.

And last but not least, we have project 14-P-55. Recommendation to award to Weber Dowd and DeCotiis, Fitzpatrick & Cole in the amount of \$250 per hour.

On the roll.

(Roll call was taken, all Commissioners respond in the affirmative)

MR. AMODIO: Motion approved.

That will be it.

PRESIDENT KOLODZIEJ: That's the end of this meeting. Can we have a motion to adjourn.

COMMISSIONER BAZIAN: Motion to adjourn.

COMMISSIONER CLEAVES: Second.

MR. AMODIO: On the roll.

(Roll call was taken, all Commissioners
respond in the affirmative)

MR. AMODIO: The time is 11:26.

C E R T I F I C A T E

I, LYNANN DRAGONE, License No. XIO1388, a
Certified Court Reporter and Notary Public of the State
of New Jersey, certify that the foregoing is a true and
accurate transcript of the meeting at the time and the
date hereinbefore set forth.

I further certify that I am neither attorney
nor Counsel for, nor related to or employed by any of the
parties to the action in which this meeting was taken.

I further certify that I am not a relative or
employee of anyone employed in this case, nor am I
financially interested in this action.

LYNANN DRAGONE, CCR
Certified Court Reporter