

**MINUTES OF THE BOARD MEETING
THE SOMERSET RARITAN VALLEY SEWERAGE AUTHORITY
April 22, 2019**

Minute 1 – Opening of Meeting

The Board Meeting of the Somerset Raritan Valley Sewerage Authority was called to order at 7:30 P.M. by Chairperson Carolann Garafola

Minute 2 – Open Public Meetings Announcement

The Open Public Meeting Announcement was read by the Executive Director, Ronald S. Anastasio.

Minute 3 – Roll Call

Todd Hay	<i>Absent</i>	Peter Stires	<i>Absent</i>
Louis Esposito, Jr.	Present	Randy Smith	Present
Philip Petrone	<i>Absent</i>	Michael Impellizeri	Present
Edward Machala	Present	Gail Quabeck	Present
Steven Mlenak	<i>Absent</i>	Robert Albano	Present
Richard Mathews	Present	Joseph Lifrieri	Present
		Carolann Garafola	Present

Authority Staff

Ronald Anastasio, P.E., Executive Director	Present
Sherwin Ulep, P.E., Facility Engineer	Present
Anthony Tambasco, Plant Superintendent	Absent
Michael Ingenito, Chief Plant Operator	Present
Dennis Smith, Supervisor Liquid Division	Absent
Ellie Hoffman, P.E., RCO/Asst. Engineer	Present
Linda Hering, Human Resources Manager	Absent
Michele Haynberg, Administrative Asst.	Present
Peter Wozniak, Chief Financial Officer	Present

Professional Staff

Thomas Laustsen, P.E., CDM Smith	Present
Brent Carney, Esq., Maraziti Falcon, LLP	Present

Minute 4 – Pledge of Allegiance

All in attendance saluted the flag.

Minute 5 – Approval of Minutes

Board Meeting Open Session Minutes – March 25, 2019

With the Motion of Mr. Impellizeri, Second of Mr. Albano, the Minutes of the March 25, 2019 Meeting (Open Session), were approved by the following roll call vote:

Roll Call Vote:

Todd Hay	<i>Absent</i>	Peter Stires	<i>Absent</i>
Louis Esposito, Jr.	<i>Abstain</i>	Randy Smith	Yes
Philip Petrone	<i>Absent</i>	Michael Impellizeri	Yes
Edward Machala	Yes	Gail Quabeck	Yes
Steven Mlenak	<i>Abstain</i>	Robert Albano	Yes
Richard Mathews	<i>Absent</i>	Joseph Lifrieri	Yes
		Carolann Garafola	Yes

Minute 6 – Public Hearings – NONE

Minute 7 – Public Participation –

At 7:33pm Chairwoman Ms. Garafola opened up the meeting to the public for anyone that would like to speak on any agenda items.

- A. Mr. Greg Trif, Esq. of O’Toole Scrivo Fernandez Weiner Van Lieu, LLC., 14 Village Park Road, Cedar Grove, NJ 07009, counsel for PKF Mark 3. Mr. Trif introduced himself and stated he was present to speak regarding Res. No 19-0422-1 awarding the Storm Control Treatment Facility Construction Project Contract No. C-17-1 to Tomar Construction Services, Inc. (TCS Inc.) He represents PKF Mark 3 in reference to this bid that occurred roughly 30 days prior. Mr. Trif stated that several communications were sent to the Authority’s counsel explaining why the contract should not be awarded to Tomar Construction Services, Inc. Mr. Trif wanted to speak about the two issues why the Bid should not be awarded to TCS Inc. Mr. Trif gave background and stated “This project was determined that qualifications had to be met. The Authority sought approval from the State in order to allow for certain qualifications and the specific qualifications was: three projects in excess of \$10 million that the bidder had to have performed within the last 15 years.” Mr. Trif stated that PKF obtained information to warrant the protest through OPRA request to various authorities. “Specifically, those that Tomar Construction Services Inc. had represented to the Authority as having completed.” Mr. Trif further states: “In truth TCS Inc. has not and did not complete the jobs identified. In fact, in a communication from earlier today they conceded that it wasn’t them who completed those jobs. Those jobs were completed by a company called Tomar Construction LLC, totally two different entities with different ownerships.” Mr Trif then goes on to detail the differences in ownership in TCS, Inc. and Tomar

LLC. and that there are advantages and disadvantages to both types of entities. He stated “The reality is that the ownership of Tomar had decided to create two separate entities to do two separate types of work, presumably. The problem is that the entity who submitted the bid here did not perform the work they claimed to have performed. I know that there were 2 other bidders that submitted bids that were lower in price, number 1 and number 2 both of which were determined to not have met the requirements. So, the Board has determined not to award it to those entities. Tomar falls into the same category. It does not meet those requirements.” Mr. Trif adds that Tomar indicated in a communication that “they performed the work anyway”. Mr. Trif states that “One, we don’t know that and the Board doesn’t know that because when we look at the documents the public agency that hired the entity that performed the work, it wasn’t the bidder on this job. It was a different entity.” Mr Trif adds “that they then looked at the bid proposals that were submitted on those jobs, where you have to identify the subcontractor. TCS, Inc. was not identified. They were not a subcontractor, they couldn’t have been a subcontractor, they couldn’t have performed the work and even if they did perform the work as a subcontract price would have been less than the contract price. So, either way they don’t meet the requirements and TCS, Inc can’t benefit from work performed by Tomar, LLC. If that were true then every other bidder could have submitted bids to this Board saying that they are related to this entity. That is not how the local public contracts law works.”

Attorney Carney, counsel for the Authority, asked to interrupt. Mr. Carney informs that the letter that was provided by the firm representing TCS Inc. states that TCS, Inc equivocally meets the qualification requirements of the bid solicitation, which request information in reference to the execution of projects, all projects referenced in TCS, Inc bid package were executed by TCS, Inc and they certified to in the mandatory minimum qualifications under oath to the Authority in the bid and amplified by their letter to The Authority.

Ms Garafola asks that Mr. Trif continue with his presentation.

Mr. Trif continues. “Even though TCS Inc. submitted a document under oath, the purpose of the Board is look at the document, to do its due diligence. It has an opportunity under the local public contracts law to have a hearing and allow TCS Inc. to explain the documentary evidence before this committee and the documentary evidence is that they did not do that work. The resolutions that were passed by the PVSC (Passiac Valley Sewerage Commission) indicates that it was not Tomar Inc. and to the extent that Tomar Inc. claims that it was a subcontractor the documents that were submitted don’t jive with that representation and the dollar value doesn’t jive. So TCS, Inc represents that their contract value was \$12.4 million. Which is the contract value that the contracting party had and in their own documents they indicated that they had other subcontractors; Thomas Controls and Hanna’s Mechanical. So, accepting the representation would require this Board to ignore this document, this affidavit signed by Tomar LLC indicating that TCS Inc did not perform work on this job and the contract values just doesn’t add up. So yes, there was a representation made and our contention is that this representation is inaccurate and as a result of that; that is a basis to not only disqualify this bidder for having submitted a false certification but also rejecting it as nonresponsive. If the certification has to be accepted on their face then anyone could have submitted a certification, lied under oath which is what happened here only to get the job. At the end of the day, this Board has determined is they set forth criteria, there are bidders who didn’t bid on this job because they couldn’t meet that requirement, there were bidders who were disqualified for failing to meet this requirement,

namely number 1 and number 2. The fact that Tomar provided information that is inaccurate they shouldn't be rewarded for that. We have information to show that they didn't meet it. You can hold a hearing in order to determine whether they are or are not responsive, in order to run down some of these issues." Mr Trif adds that secondly, "this is a state funded project, under the specifications it did require that all bidders meet the specifications required for state projects which includes registration and classification under certain categories, Tomar is not registered at all, what so ever. We are personally concerned that if Tomar is awarded this project there is a risk of not receiving those state funding, because that requirement is not met. We indicated that in our letter." Mr Trif asked if there were any questions, he would be happy to answer.

Ms Garafola asked if there were any questions for Mr. Trif. No questions were asked. Mr. Trif was thanked by the Board and Mr. Trif also that the Board for the opportunity to speak today. Ms Garafola asked if there were anyone else from the public that wished to speak regarding any issue. With no additional public participation, the meeting was continued.

Minute 8 – Consent Resolutions for Consideration and Possible Formal Action

A. Ms. Garafola ask that we move on the Consent Resolutions; Res. No. 19-0422-2 and Res. No. 19-0422-3. Res. No. 19-0422-01 will be voted on separately.

- (1) **Res. No. 19-0422-2** – Resolution Awarding the Contract for Furnishing and Delivery of Sodium Chlorite-Based Odor Control Chemical and Dosing System
- (2) **Res. No. 19-0422-3** – Resolution Authorizing the Executive Director, Plant Superintendent, Facility Engineer, Chief Plant Operator, Liquid Division Supervisor, RCO/Assistant Engineer and Two Commissioners to Attend The 104th New Jersey Water Environment Association (NJWEA) Annual Conference in Atlantic City, NJ to be held on May 6-10, 2019

Upon Motion of Mr. Machala, Second of Mr. Lifrieri, the above Resolutions were approved by the following roll call vote:

Roll Call Vote:

Todd Hay	<i>Absent</i>	Peter Stires	<i>Absent</i>
Louis Esposito, Jr.	Yes	Randy Smith	Yes
Philip Petrone	<i>Absent</i>	Michael Impellizeri	Yes
Edward Machala	Yes	Gail Quabeck	Yes
Steven Mlenak	<i>Absent</i>	Robert Albano	Yes
Richard Mathews	Yes	Joseph Lifrieri	Yes
		Carolann Garafola	Yes

A copy of the Resolution is attached hereto and made part of the Official Minutes.

Minute 9 – Board Committees –

A. Finance Committee: Ms. Quabeck, Mr. Albano, Mr. Mathews, Mr. Machala, Mr. Mlenak, Mr. Impellizeri).

(1) Report on the Renewal of the Employment Contract with Executive Director Anastasio
[Closed Session – Personnel Matters]

a. **Res. No. 19-0422-4** - Resolution Authorizing Execution of an Employment Contract with Ronald S. Anastasio, Executive Director

(2) Report on Discussion of Tuition Reimbursement for the Facility Engineer
[Closed Session – Personnel Matters]

B. Nominating Committee: (PETRONE, Lifrieri, Smith, Machala)

(1) Report of Nomination of Chairperson and Secretary – Mr. Ed Machala reports that Commissioner, Mr. Todd Hay will be nominated for Chairperson. Additionally, Mr. Impellizeri wishes to resign his position as Board Secretary and Commissioner Mr. Joe Lifrieri will be nominated to the position as Board Secretary.

A Vote was called to approve the nominations made by the Nominating Committee to approve Commissioner Hay for Chairperson and Commissioner Lifrieri for Secretary. Upon Motion of Ms. Quabeck, Second of Mr. Impellizeri, the above recommended officers were approved by “aye” or “no” vote as follows:

Todd Hay	<i>Absent</i>	Peter Stires	<i>Absent</i>
Louis Esposito, Jr.	Yes	Randy Smith	Yes
Philip Petrone	<i>Absent</i>	Michael Impellizeri	Yes
Edward Machala	Yes	Gail Quabeck	Yes
Steven Mlenak	<i>Absent</i>	Robert Albano	Yes
Richard Mathews	Yes	Joseph Lifrieri	Yes
		Carolann Garafola	Yes

Minute 10 – Chairperson – Ms. Garafola wanted to thank the Board for the lovely plant that was sent to her on behalf of the Authority.

Minute 11 – Reports

A. Executive Director’s Report

(1) **Update on SSO Project:** Executive Director Anastasio stated that we are looking forward to moving ahead with this project and get the financing complete. The risk management training video will be postponed to the May meeting. Mr. Anastasio had

nothing else to report at this time. A question was asked if the risk management training course could be done online. Mr. Anastasio said that yes it could be done independently online.

B. Engineer/Consultants –Engineer Laustsen reported received the final change order for the GCC contract from the DEP, the approval for the final change order. We are just about there with all the paperwork

C. Attorney – Nothing to report.

D. Department Reports – No comments

- (1) Operations
- (2) Laboratory
- (3) Maintenance/Electrical
- (4) Special Projects

E. Facility Engineer Reports – No comments

- (1) Capacity Allocation
- (2) Capacity Assurance
- (3) Monthly Flow Report
- (4) Facility Engineer’s Monthly Report

Minute 12 – Communications

- A. NJDEP, Division of Water Quality; Residual Transfer Report; Re: Reporting Period: 1/01/19 through 1/31/19
- B. NJDEP, Division of Water Quality; Surface Water Discharge Monitoring Report; Re: Reporting Period: 1/01/19 through 1/31/19
- C. NJDEP, Division of Water Quality; Residuals Transfer Discharge Monitoring Report; Re: Reporting Period: 1/01/19 through 1/31/19

Minute 13 – Res. No. 19-0422-5 – Payroll

Upon Motion of Mr. Albano, Second of Mr. Esposito, the above Resolution was approved by the following roll call vote:

Roll Call Vote:

Todd Hay	<i>Absent</i>	Peter Stires	<i>Absent</i>
Louis Esposito, Jr.	Yes	Randy Smith	Yes
Philip Petrone	<i>Absent</i>	Michael Impellizeri	Yes
Edward Machala	Yes	Gail Quabeck	Yes
Steven Mlenak	<i>Absent</i>	Robert Albano	Yes
Richard Mathews	Yes	Joseph Lifrieri	Yes
		Carolann Garafola	Yes

A copy of the Resolution is attached hereto and made part of the Official Minutes.

Minute 14 – Cancelled Check(s) – None

Minute 15 – Res. No. 19-0422-6 - Bills

Upon Motion of Mr. Impellizeri, Second of Mr. Lifrieri, the above Resolution was approved by the following roll call vote:

Roll Call Vote:

Todd Hay	<i>Absent</i>	Peter Stires	<i>Absent</i>
Louis Esposito, Jr.	Yes	Randy Smith	Yes
Philip Petrone	<i>Absent</i>	Michael Impellizeri	Yes
Edward Machala	Yes	Gail Quabeck	Yes
Steven Mlenak	<i>Absent</i>	Robert Albano	Yes
Richard Mathews	Yes	Joseph Lifrieri	Yes
		Carolann Garafola	Yes

A copy of the Resolution is attached hereto and made part of the Official Minutes.

Minute 16 – Res. No. 19-0422-8 – Resolution Authorizing Closed Session for Discussions Regarding the Award of the Storm Control Treatment Facility Construction Project (Anticipated Litigation & Attorney-Client Privilege)

Upon Motion of Mr. Machala, Second of Mr. Albano, at 7:54 p.m., the above Resolution was approved by the following roll call vote:

Roll Call Vote:

Todd Hay	<i>Absent</i>	Peter Stires	<i>Absent</i>
Louis Esposito, Jr.	Yes	Randy Smith	Yes
Philip Petrone	<i>Absent</i>	Michael Impellizeri	Yes
Edward Machala	Yes	Gail Quabeck	Yes
Steven Mlenak	<i>Absent</i>	Robert Albano	Yes
Richard Mathews	Yes	Joseph Lifrieri	Yes
		Carolann Garafola	Yes

A copy of the Resolution is attached hereto and made part of the Official Minutes.

Minute 17 – Motion to Continue in Open Session

Upon Motion of Mr. Machala, Second of Mr. Lifrieri, the meeting reconvened in Open Session at 8:15 p.m. by the following roll call vote:

Roll Call Vote:

Todd Hay	<i>Absent</i>	Peter Stires	<i>Absent</i>
Louis Esposito, Jr.	Yes	Randy Smith	Yes
Philip Petrone	<i>Absent</i>	Michael Impellizeri	Yes
Edward Machala	Yes	Gail Quabeck	Yes
Steven Mlenak	<i>Absent</i>	Robert Albano	Yes
Richard Mathews	Yes	Joseph Lifrieri	Yes
		Carolann Garafola	Yes

Minute 18 – Res. No. 19-0422-1 - Resolution Awarding Storm Control Treatment Facility Construction Project Contract No. C-17-1 to Tomar Construction

Upon Motion of Mr. Smith, Second of Mr. Machala, the above Resolution was approved by the following roll call vote:

Roll Call Vote:

Todd Hay	<i>Absent</i>	Peter Stires	<i>Absent</i>
Louis Esposito, Jr.	Yes	Randy Smith	Yes
Philip Petrone	<i>Absent</i>	Michael Impellizeri	Yes
Edward Machala	Yes	Gail Quabeck	Yes
Steven Mlenak	<i>Absent</i>	Robert Albano	Yes
Richard Mathews	Yes	Joseph Lifrieri	Yes
		Carolann Garafola	Yes

A copy of the Resolution is attached hereto and made part of the Official Minutes.

Minute 19 – Res. No. 19-0422-7 – Resolution Authorizing Closed Session for Discussions Regarding the Executive Director and the Facility Engineer (Personnel Matters)

Upon Motion of Mr. Impellizeri, Second of Mr. Albano, at 8:17 p.m., the above Resolution was approved by the following roll call vote:

Roll Call Vote:

Todd Hay	<i>Absent</i>	Peter Stires	<i>Absent</i>
Louis Esposito, Jr.	Yes	Randy Smith	Yes
Philip Petrone	<i>Absent</i>	Michael Impellizeri	Yes
Edward Machala	Yes	Gail Quabeck	Yes
Steven Mlenak	<i>Absent</i>	Robert Albano	Yes
Richard Mathews	Yes	Joseph Lifrieri	Yes
		Carolann Garafola	Yes

A copy of the Resolution is attached hereto and made part of the Official Minutes.

Minute 20 – Motion to Continue in Open Session

Upon Motion of Mr. Lifrieri, Second of Mr. Impellizeri, the meeting reconvened in Open Session at 8:44 p.m. by the following roll call vote:

Roll Call Vote:

Todd Hay	<i>Absent</i>	Peter Stires	<i>Absent</i>
Louis Esposito, Jr.	Yes	Randy Smith	Yes
Philip Petrone	<i>Absent</i>	Michael Impellizeri	Yes
Edward Machala	Yes	Gail Quabeck	Yes
Steven Mlenak	<i>Absent</i>	Robert Albano	Yes
Richard Mathews	Yes	Joseph Lifrieri	Yes
		Carolann Garafola	Yes

Minute 21 – Res. No. 19-0422-4 - Resolution Authorizing Execution of an Employment Contract with Ronald S. Anastasio, Executive Director

Upon Motion of Ms. Quabeck, Second of Mr. Esposito, the above Resolution was approved by the following roll call vote:

Roll Call Vote:

Todd Hay	<i>Absent</i>	Peter Stires	<i>Absent</i>
Louis Esposito, Jr.	Yes	Randy Smith	Yes
Philip Petrone	<i>Absent</i>	Michael Impellizeri	Yes
Edward Machala	Yes	Gail Quabeck	Yes
Steven Mlenak	<i>Absent</i>	Robert Albano	Yes
Richard Mathews	Yes	Joseph Lifrieri	Yes
		Carolann Garafola	Yes

A copy of the Resolution is attached hereto and made part of the Official Minutes.

Minute 22 – Elected Officials Training - NJMEL – Tabled until May 2019 meeting

Minute 23 – Adjournment

Upon Motion of Mr. Albano, Second of Mr. Esposito, the meeting was adjourned at 8:47 p.m. by the following roll call vote

Todd Hay	<i>Absent</i>	Peter Stires	<i>Absent</i>
Louis Esposito, Jr.	Yes	Randy Smith	Yes
Philip Petrone	<i>Absent</i>	Michael Impellizeri	Yes
Edward Machala	Yes	Gail Quabeck	Yes
Steven Mlenak	<i>Absent</i>	Robert Albano	Yes
Richard Mathews	Yes	Joseph Lifrieri	Yes
		Carolann Garafola	Yes

**NEXT REGULAR BOARD MEETING WILL BE HELD ON
MAY 29, 2019**