

The regular meeting of the Ewing-Lawrence Sewerage Authority was held on Tuesday, April 19, 2011 at 600 Whitehead Road, Lawrenceville, New Jersey 08648.

Present: Messrs. Colavita, DiFrancesco, Geter and Vereen and Mrs. Zamonski, Vance Stephens, ELSA Administrative Officer and W. Barry Rank, Esquire.

Absent and excused: Mr. Cermele.

Also attending: Allan Jacobs of Jacobs Environmental Consulting

Mr. Colavita called the meeting to order and Mr. Stephens gave the invocation. After the Pledge of Allegiance, Mr. Colavita advised that all requirements of the Local Public Meetings Act have been met. He also advised that any contracts awarded this evening would comply with the requirements of P.L. 1975, c. 127 (N.J.A.C. 17:27).

Approval of the minutes was postponed until the May 17, 2011 meeting

Res. 43:11. On motion of Mrs. Zamonski and seconded by Mr. Vereen the March 2011 Flow, Maintenance and Connection Reports were ordered filed:

The above resolution was adopted on the following roll call vote:

Ayes: Messrs. Colavita, DiFrancesco, Geter and Vereen and
Mrs. Zamonski.

Nays: None.

Absent: Mr. Cermele.

Res. 44:11. On motion of Mr. DiFrancesco and seconded by Mr. Vereen and unanimously carried, the Schedule of Bills in the total amount of \$1,394,705.30 was accepted.

The above resolution was adopted on the following roll call vote:

Ayes: Messrs. Colavita, DiFrancesco, Geter and Vereen and
Mrs. Zamonski.

Nays: None.

Absent: Mr. Cermele

There was no public participation.

Res. 45:11. On motion of Mr. DiFrancesco and seconded by Mrs. Zamonski the following resolutions were presented for adoption:

**RESOLUTION OF THE EWING-LAWRENCE
SEWERAGE AUTHORITY MAKING
APPLICATION TO THE LOCAL FINANCE BOARD
PURSUANT TO N.J.S.A. 40A:5A-6 AND N.J.S.A.
58:11B-9(a)**

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WHEREAS, the Ewing-Lawrence Sewerage Authority (the "Authority") desires to make application to the Local Finance Board for its review and findings in connection with a proposed resolution authorizing the financing of certain improvements through the New Jersey Environmental Infrastructure Trust Financing Program;

WHEREAS, the Authority believes that:

- (a) it is in the public interest to accomplish such purpose;
- (b) said purpose or improvements are for the health, welfare, convenience or betterment of the inhabitants of the local unit or units;
- (c) the amounts to be expended for said purpose or improvements are not unreasonable or exorbitant;
- (d) the proposal is an efficient and feasible means of providing services for the needs of the inhabitants of the local unit or units and will not create an undue financial burden to be placed upon the local unit or units;

NOW THEREFORE, BE IT RESOLVED BY THE EWING-LAWRENCE SEWERAGE AUTHORITY as follows:

Section 1. The application to the Local Finance Board is hereby approved, and the Authority's Bond Counsel and financial advisor, along with other representatives of the Authority, are hereby authorized to prepare such application and to represent the Authority in matters pertaining thereto.

Section 2. The Secretary of the Authority is hereby directed to prepare and file a copy of the proposed resolution with the Local Finance Board as part of such application.

Section 3. The Local Finance Board is hereby respectfully requested to consider such application and to record its findings and recommendations as provided by the applicable New Jersey Statute.

**RESOLUTION OF THE EWING-LAWRENCE SEWERAGE
AUTHORITY DECLARING ITS OFFICIAL INTENT TO
REIMBURSE EXPENDITURES FOR PROJECT COSTS FROM
THE PROCEEDS OF DEBT OBLIGATIONS IN CONNECTION
WITH ITS PARTICIPATION IN THE NEW JERSEY
ENVIRONMENTAL INFRASTRUCTURE TRUST FINANCING
PROGRAM**

WHEREAS, the Ewing-Lawrence Sewerage Authority (the "Borrower") is a public body corporate and politic of the State of New Jersey organized pursuant to the sewerage authorities law (N.J.S.A. 40:14A-1 et seq.) (the "Act"); and

WHEREAS, the Borrower intends to acquire, construct, renovate and/or install the environmental infrastructure project more fully described in **Exhibit A** attached hereto (the "Project"); and

WHEREAS, the Borrower intends to finance the Project with debt obligations of the Borrower (the "Project Debt Obligations") but may pay for certain costs of the Project (the "Project Costs") prior to the issuance of the Project Debt Obligations with funds of the Borrower that are not borrowed funds: and

WHEREAS, the Borrower reasonably anticipates that obligations, the interest on which is excluded from gross income under Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), will be issued by the New Jersey Environmental Infrastructure Trust (the "Issuer") to finance the Project on a long-term basis by making a loan to the Borrower with the proceeds of the Issuer's obligations (the "Project Bonds"); and

WHEREAS, the Borrower desires to preserve its right to treat an allocation of proceeds of the Project Debt Obligations to the reimbursement of Project Costs paid prior to the issuance of the Project Debt Obligations as an expenditure for such Project Costs to be reimbursed for purposes of Sections 103 and 141 through 150, inclusive, of the Code.

NOW, THEREFORE, BE IT RESOLVED by the governing body of the Borrower as follows:

Section 1. The Borrower reasonably expects to reimburse its expenditure of Project Costs paid prior to the issuance of the Project Debt Obligations with proceeds of its Project Debt Obligations.

Section 2. This resolution is intended to be and hereby is a declaration of the Borrower's official intent to reimburse the expenditure of Project Costs paid prior to the issuance of the Project Debt Obligations with the proceeds of a borrowing to be incurred by the Borrower, in accordance with Treasury Regulations §150-2.

Section 3. The maximum principal amount of the Project Debt Obligations expected to be issued to finance the Project is \$2,000,000.

Section 4. The Project Costs to be reimbursed with the proceeds of the Project Debt Obligations will be "capital expenditures" in accordance with the meaning of Section 150 of the Code.

Section 5. No reimbursement allocation will employ an "abusive arbitrage device" under Treasury Regulations §1.148-10 to avoid the arbitrage restrictions or to avoid the restrictions under Sections 142 through 147, inclusive, of the Code. The proceeds of the Project Bonds used to reimburse the Borrower for Project Costs, or funds corresponding to such amounts, will not be used in a manner that results in the creation of "replacement proceeds", including "sinking funds", "pledged funds" or funds subject to a "negative pledge" (as such terms are defined in Treasury Regulations §1.148-1), of the Project Debt Obligations or another issue of debt obligations of the Borrower, other than amounts deposited into a "bona fide debt service fund" (as defined in Treasury Regulations §1.148-1).

Section 6. All reimbursement allocations will occur not later than 18 months after the later of (i) the date the expenditure from a source other than the Project Debt Obligations is paid, or (ii) the date the Project is "placed in service" (within the meaning of Treasury Regulations §1.150-2) or abandoned, but in no event more than 3 years after the expenditure is paid.

Section 7. This resolution shall take effect immediately.

The above resolutions were adopted on the following roll call vote:

Ayes: Messrs. Colavita, DiFrancesco, Geter and Vercen and
Mrs. Zamonski.

Nays: None.

Absent: Mr. Cermele

Mr. Jacobs reported that he has reviewed the application submitted by Anthony Genovesi for construction of a 4200 square foot warehouse addition to a 5100 square foot warehouse located at 126 Winterwood Avenue in Ewing Township. Mr. Jacobs recommended granting final approval subject to the comments in his letter dated March 25, 2011.

Res. 46:11. On motion of Mrs. Zamonski and seconded by Mr. DiFrancesco it was moved that the following resolution be adopted:

WHEREAS, Anthony Genovesi proposes construction of a 4200 square foot warehouse addition at 126 Winterwood Avenue in Ewing Township; and

WHEREAS, the EWING-LAWRENCE SEWERAGE AUTHORITY (the "Authority") considered the application of the Developer to connect its proposed facility to the Authority's sewerage system:

NOW, THEREFORE BE IT RESOLVED that the proposed connection for the Developer's proposed Development to the Authority's sewerage system is approved, subject to the following conditions:

1. The connection to the Authority's sewerage system is subject to a determination by the Authority and any responsible regulatory agency (e.g., the United States Environmental Protection Agency and the New Jersey Department of Environmental Protection) at the time of connection that there is adequate capacity in such system to serve the Developer's proposed Development.

2. In the event that the Authority is unable to serve the Developer's proposed development at the time of connection because of inadequate capacity or for any other reason, the Developer shall have no right of action or recourse against the Authority.

3. The Developer, at its own cost, shall provide "as-built" plans for the sewerage system in a manner acceptable to the Authority's Engineer prior to the issuance of a Certificate of Occupancy by the Township.

4. The Developer, at its own cost, shall provide all necessary easements to the Authority upon the request of the Authority.

5. The Developer shall revise its utility plans in accordance with such recommendations as the Authority's Engineer shall specify.

6. The Executive Director is hereby authorized to execute all forms necessary to obtain a NJDEP Permit.

7. The Authority hereby endorses this project and further certifies that said project meets the 201 Agency requirements and expects to continue to meet the NJPDES Permit requirements.

8. This final approval granted pursuant to this Resolution shall expire two (2) years from the date hereof.

9. The developer shall pay the appropriate connection and inspection fees.

10. The sewers shall conform to the Authority's Rules and Regulations.

11. This approval is subject to acceptance of the comments and conditions outlined in Jacobs Environmental Consulting's letter dated March 25, 2011.

The above resolution was adopted on the following roll call vote:

Ayes: Messrs. Colavita, DiFrancesco, Geter and Vereen and

Mrs. Zamonski.

Nays: None.

Absent: Mr. Cermele

Mr. Rank advised that the Ewing-Lawrence Sewerage Authority has been assessed \$22,312.00 as its portion of the settlement in the BEMS Landfill litigation.

Res. 47:11. On motion of Mr. DiFrancesco and seconded by Mr. Geter it was moved that the Authority approve payment of \$22,312.00 as settlement in the BEMS Landfill litigation.

The above resolution was adopted on the following roll call vote:

Ayes: Messrs. Colavita, DiFrancesco, Geter and Vereen and

Mrs. Zamonski.

Nays: None.

Absent: Mr. Cermele.

Mr. Jacobs reported that he reviewed the application submitted for the Senior Star Adult Medical Day Care at 1676 North Olden Avenue. The site presently contains a vacant one-story warehouse and a two-story child care center. The project consists of construction of a new four-story building in the rear of the site which will house the relocated child day care operation on the first two floors and 20 one bedroom apartments on the third and fourth floors. The warehouse will be converted to house the senior day care and the vacated two-

story child day care will be converted to offices. Mr. Jacobs recommended granting final approval subject to the comments in his letter dated April 19, 2011.

Res. 48:11. On motion of Mrs. Zamonski and seconded by Mr. DiFrancesco the following resolution was presented for adoption:

WHEREAS, SENIOR STAR ADULT MEDICAL DAY CARE proposes construction of a new four-story building which will house the relocated child day care operation on the first two floors and 20 one bedroom apartments on the third and fourth floors and conversion of a warehouse into the senior day care and conversion of the existing two-story child day care into offices at 1676 North Olden Avenue in Ewing Township; and

WHEREAS, the EWING-LAWRENCE SEWERAGE AUTHORITY (the "Authority") considered the application of the Developer to connect its proposed facility to the Authority's sewerage system;

NOW, THEREFORE BE IT RESOLVED that the proposed connection for the Developer's proposed Development to the Authority's sewerage system is approved, subject to the following conditions:

1. The connection to the Authority's sewerage system is subject to a determination by the Authority and any responsible regulatory agency (e.g., the United States Environmental Protection Agency and the New Jersey Department of Environmental Protection) at the time of connection that there is adequate capacity in such system to serve the Developer's proposed Development.

2. In the event that the Authority is unable to serve the Developer's proposed development at the time of connection because of inadequate capacity or for any other reason, the Developer shall have no right of action or recourse against the Authority.

3. The Developer, at its own cost, shall provide "as-built" plans for the sewerage system in a manner acceptable to the Authority's Engineer prior to the issuance of a Certificate of Occupancy by the Township.

4. The Developer, at its own cost, shall provide all necessary easements to the Authority upon the request of the Authority.

5. The Developer shall revise its utility plans in accordance with such recommendations as the Authority's Engineer shall specify.

6. The Executive Director is hereby authorized to execute all forms necessary to obtain a NJDEP Permit.

7. The Authority hereby endorses this project and further certifies that said project meets the 201 Agency requirements and expects to continue to meet the NJPDES Permit requirements.

8. This final approval granted pursuant to this Resolution shall expire two (2) years from the date hereof.

9. The developer shall pay the appropriate connection and inspection fees.
10. The sewers shall conform to the Authority's Rules and Regulations.
11. This approval is subject to acceptance of the comments and conditions outlined in Jacobs Environmental Consulting's letter dated April 19, 2011.

The above resolution was adopted on the following roll call vote:

Ayes: Messrs. Colavita, DiFrancesco, Geter and Vereen and

Mrs. Zamonski.

Nays: None.

Absent: Mr. Cermele.

Res. 49:11. On motion of Mr. DiFrancesco and seconded by Mr. Geter it was moved that the Chairman be authorized to execute the contract with Underground Utilities for the Mountain View Force Main project.

The above resolution was adopted on the following roll call vote:

Ayes: Messrs. Colavita, DiFrancesco, Geter and Vereen and

Mrs. Zamonski.

Nays: None.

Absent: Mr. Cermele.

Res. 50:11. On motion of Mr. Colavita and seconded by Mr. Vereen and unanimously carried, the meeting was adjourned at 12:19 PM

Anne M. Zamonski, Secretary