

Board of Municipal Utilities
Meeting Minutes
June 4, 2019
201 Miller Road
Avon Lake, Ohio

Call to Order – Roll Call

The meeting was called to order at 6:30 PM.

Present: Mr. Abram, Mr. Dzwonczyk, Mr. Rush, Mrs. Schnabel, and Mr. Phillips.

Also present: CUE Danielson, CUO Munro, Community Outreach Specialist Arnold, Mayor Zilka and Councilperson Fenderbosch.

Approve Minutes

Chairman Dzwonczyk presented the minutes of the May 21, 2019, work session and regular meeting. With no changes, additions or corrections noted, he ordered that the minutes stand and be distributed as presented.

Public Speakers

No Public Speakers

Correspondence

No Correspondence

Expenditures

Following review of expenses dated June 4, 2019, for funds and amounts as follows, Mr. Abram moved, Mr. Rush seconded to approve the expenditures of June 4, 2019:

Water Fund 701	\$	187,760.85
Wastewater Fund 721	\$	191,115.28
MOR Fund 703	\$	13,768.55
MOR Fund 762	\$	16,663.70
LORCO Fund 749	\$	1,276.82
Lateral Loan Fund 765	\$	12,435.00
Water Construction Fund 704	\$	40.00
Wastewater Construction Fund 724	\$	241,767.30

Ayes: Abram, Dzwonczyk, Rush, Schnabel, and Phillips.

Nays: None

Motion carried.

Lateral Separation Update

The CUO informed the Board that arraignments and pre-trials were held on May 30, 2019, for customers who had not removed clean water from their sanitary laterals and did not have a

contract. He stated that of those customers, four properties still remained outstanding. The Chairman asked if the details of the remaining customers not in compliance warranted an executive session at the end of the meeting. The CUO stated that an executive session was not necessary.

The CUO stated that May 30, 2019, was the end of the 30-day grace period for the nine homeowners who had contracts as of April 30, 2019, but did not have the work completed. He said that during the 30 days, five of the nine came into compliance. He informed the Board that on May 31st, the CUE filed criminal complaints on the four who had not come into compliance. Arraignments are scheduled for June 20, 2019.

Group	April 30, 2019 Need to do work to comply	May 16, 2019 Need to do work to comply	May 30, 2019 Need to do work to comply	Under Contract	Deadline
A	15	13	8	5	April 30, 2019
B & C	134	117	111	74	June 30, 2019

The CUO said that staff has continued to focus on Groups B&C homes to help ensure that as many as possible will be in compliance by the June 30, 2019, deadline. He also informed the Board that staff will be knocking on the doors of the uncompliant customers during the weekends to prompt as many as possible to get the work done before the deadline. The Chairman thanked the staff for all of their hard work to date and their continued hard work.

GO Bond Sale

The CUE reminded the Board that at the January 15, 2019, meeting, Finance Director Presley and representatives from Sudsina & Associates briefed the Board about the upcoming conversion of Bond Anticipation Notes to General Obligation Bonds for the outstanding debt for the Walker Road Water Line and the Moorewood Combined Sewer Separation. He stated that this will be issued as one general obligation offering and is scheduled to be sold on June 6, 2019. The breakdown of the offering will be as follows: the Walker Road portion issued for \$1,800,000 (plus issuance costs), to be paid over 10 years; and the Moorewood portion issued for \$4,750,000 (plus issuance costs), to be paid over 30 years and can be called for redemption after 2024.

Employee Step Increase

The CUE informed the Board Nicole Huerner successfully completed her first year as Customer Service Representative on May 1, 2019. He stated that, as per her contract, she will increase from Step 1A to Step 1B and will receive differential pay retroactive to her anniversary date of May 1, 2019.

Legislative Update

The CUE informed the Board that he has been tracking bills currently under consideration by the Ohio legislature. He stated that as the Chairman of the Water Utility Council of the Ohio Section of the AWWA, he commented on H.B. 163, which intends to legislate how utilities can charge for water sales to other jurisdictions. The CUE informed the Board that the bill is currently being considered by the Public Utilities Committee.

Mr. Abram asked what are the figures being used as predatory charges in the bill. The CUE stated that the bill was being used to target larger jurisdictions that are believed to take advantage of smaller ones and that there was no exact figure in the legislation pointing to what qualifies as a predatory practice. He went on to say that some larger jurisdictions did charge a 50% surcharge to their customers outside of their jurisdiction. However, Avon Lake Regional Water only charges 10% to its customers. He said that according to the bill, municipal corporations could not charge their customers outside of their jurisdiction more than they charge their customers within their jurisdiction.

In response to questions from Mr. Rush, the CUE indicated that the legislation would require the utility to follow generally accepted rate-setting methodology. Because Avon Lake Regional Water established justifiable expenses for the ETLs, the question is whether Avon Lake Regional Water could charge the 10% more than it charges customers within the City. The CUE indicated that he would be doing additional research to determine if the additional 10% could fall within generally accepted rate setting.

The Chairman asked if the bulk customers of Avon Lake Regional Water are generally in support of the current rate structure used by the municipality and are not proponents of bill H.B. 163. The CUE stated that the bulk customers do believe that Avon Lake Regional Water is treating them fairly and that they value the service they are being provided. Mr. Phillips asked if there was any language within the bill that addresses existing contracts and the language in those contracts violating the bill. The CUE stated that there is no language in the bill that deals directly with existing contracts with out of town customers. He said the bill states that the municipality can only charge what is fair and appropriate. Mr. Phillips asked if, according to the bill, the utility must be the one to justify the rates they are charging. The CUE confirmed that that is what the bill states.

Mr. Rush asked when the bill was initially proposed, and he asked that in the future bills of a similar nature should be brought to the attention of the Board quickly so they can be addressed. The CUE informed the Board that this bill in particular was introduced a few months ago, and it has been sitting in the committee for some time. He also stated that in the future he will bring similar bills to the Board's attention as soon as possible. Mr. Phillips asked if the CUE knew who the biggest proponents of the bill. The CUE stated that the Town and Townships Association is one of the proponents, but he also said that there weren't many proponents that submitted testimony in favor of the bill.

The Mayor asked that the CUE detail the penalties associated with bill H.B. 163. The CUE informed the Board that if a utility was found to be in violation of the law, they would lose their local government funding, which would affect the City of Avon Lake, and that funding would then be given to the areas that have been improperly charged by the utility. Mr. Phillips asked who exactly would be the party to bring the initial complaint. The CUE stated that it would be the customers of Avon Lake Regional Water, but he was not certain if it was the jurisdictional bulk customers or if it would be individual customers who believe they are being charged unfairly. The Chairman asked if there was any objection from Avon Lake Regional Water's bulk customers that would indicate any support of the bill. The CUE stated that he meets regularly with most of the bulk customers, and he said that they are happy with the services they receive. He said they also understand that the rate increases are due to improving the system's resiliency and redundancy.

Councilwoman Fenderbosch read two paragraphs from a publication that she received about H.B.163 expressing concern about the wide ranging impact it could have on the City of Avon Lake. Mr. Rush asked if the Board should begin looking for outside counsel to assist in the next steps regarding the bill. The CUE informed the Board that number of trade associations and major organizations have publicly come out opposed to the bill. He said that he will be reaching out to those organizations to partner with them on opposing the bill. The CUE also stated that a case came before a judge in the past regarding a similar issue and the court ruled that the nature of the rates charged is subject to contract. He went on to say that despite the precedent that was set, the legislature could still enact the bill.

Mr. Rush stated that according to Avon Lake Regional Water's contracts with its bulk customers, there is a set process and procedure in the rates that are charged in accordance with Ohio law. The CUE agreed and stated that while he didn't have the exact language of the AWWA rate-setting standards, he believed that Avon Lake Regional Water follows the industry standards for rate practices. The Chairman asked if Avon Lake Regional Water has any rights regarding its home rule and the rates it charges to its customers. Mr. Phillips stated to the Board that he believes if the legislation passes into law that it will be met with a large number of legal claims in opposition. The CUE stated that he will be watching the bill closely, and he will inform the Board on any progress that is made. He also reached out to Representative Gayle Manning regarding the bill to alert her to Avon Lake Regional Water's opposition if the bill comes out of committee.

The CUE is also tracking S.B. 2, which would create a statewide watershed planning and management program that would help identify sources and areas of water quality impairment and create programs that minimize non-point impacts to water quality. He stated that the bill appears to be intended to complement the H2Ohio Fund proposed by the governor and has been referred to the Agriculture and Natural Resources Committee.

NOAA Algal Bloom Predictions

The CUE informed the Board that the National Oceanic and Atmospheric Association (NOAA) is making their predictions regarding the 2019 Lake Erie algal bloom severity. He stated that based upon the spring rains so far, 2019 may rival some of the worst Lake Erie blooms in recent past. The CUE presented the NOAA predictions to the Board showing that the severity has increased with each updated prediction. The CUE informed the Board that staff has made preparations for and is ready to respond to anticipated blooms in order to assure our customers continue to be provided high-quality drinking water. He also stated that the algal blooms that the Lake Erie central basin has are not nearly to the level of toxicity that the western basin experiences.

Mr. Phillips asked if Avon Lake Regional Water has already purchased the activated carbon necessary to offset the algal blooms or if the chemicals are bought on a month-by-month basis. The CUE informed the Board that chemicals are bought through yearly contracts at a fixed price. The CUE stated that the chemical contracts are based on an estimated use for that year. The Chairman and Mr. Phillips stated that they believe Avon Lake Regional Water may want to consider purchasing more activated carbon in anticipation of offsetting the predicted algal blooms. The CUE informed the Board that he will begin looking into the matter before the contract closes.

Mr. Abram asked if there was any work done regarding the use of fossil fuels and the reduction of algal blooms. The CUE informed the Board that there has been a considerable amount of

research on algae for biofuel. He said that according to a previous study, the concentration of algae in Lake Erie is not enough for biofuels. However, there are a number of vendors that are attempting to utilize these algal cells in contained units at water reclamation facilities. Mr. Rush asked if there was any way that Avon Lake Regional Water could sell the water to those areas affected by the severe algal blooms. The CUE informed the Board that the biggest cost comes to transporting the water, and, he believes that the economies of scale prohibit the sale of water to those distant communities at this time.

Project Updates

45 Project: The CUO informed the Board that the crew continues to make progress on the driveway apron restoration on Forest. Also, the crew has begun tree lawn restoration. Milling and grading have begun on Tomahawk to widen the street.

Jaycox & Lake Water Lines: The CUO stated that HDR delivered its draft final plans on May 31st. He stated that it is staff's intention to issue a request for bids soon and seek project award in July or August.

Mr. Rush asked about the status of the Avondale project. The CUO informed the Board that the bid was awarded to UUI, and that staff is working with First Energy regarding an easement. He also stated that they are working with Joe Reitz and Ted Esborn of the Economic Development to secure the easement. He informed the Board that the project will require the securing of an easement on Lake Road as well. The CUO stated that it will take about three weeks for everything to be approved.

CUE and CUO Reports

The CUE informed the Board that staff has sent out a postcard reminding customers about their backflow testing requirement. He said that Avon Lake Regional Water will be sending out another postcard, and potentially a letter, to let customers know that they will be charged \$50.00 if the testing is not completed by July 1st.

The CUE also stated that there will be three retirements at the Water Filtration Plant this year. In anticipation of these retirements, staff has already begun hiring and conducting a search for additional candidates. The CUE informed the Board that the Civil Service Commission's exam for the Technical Support Specialist position is taking place at the time of the Board meeting. He said that there were a total of nine applicants, and the Civil Service Commission will be meeting on June 20th to certify the list.

The CUE brought to the Board's attention the visit from the Ohio EPA Director. He said that the tour and the meeting went very well, and that he informed the Director of the tremendous savings provided to the customers of Avon Lake Regional Water because of the incentivized loans and programs. He stated that the meeting also detailed a need for reciprocity regarding operator licensing from other states. The Chairman said that he was encouraged by the visit from the Ohio EPA Director, and that he emphasized the work being done by the Board and staff to show that Avon Lake Regional Water's unique structure effectively benefits public health, welfare, and the environment.

Member Reports

Mrs. Schnabel informed the Board that she met with the graduate students working on the biomimicry program, along with Greg Yuronich and the CUE. She stated that they discussed the progress made with the program and what work still needed to be completed. She said that she will continue to work closely with the students to assist them and to be a conduit for the Board.

Mr. Rush asked about the Class IV Operator license and which staff members have them. He also asked if there were any other staff members working on achieving that level of licensing. The CUO stated that the license itself is similar to a doctoral thesis and it requires a large amount of approval by the EPA. He also informed the Board that, in addition to the Class IV Wastewater Operator Steve Baytos, Greg Yuronich has a Class IV Water Operator license. The CUO stated that there were not any other staff members working towards their Class IV license at this time. The CUE informed the Board that there are incentives in the union contract and they have additional plans to encourage staff to seek the more advanced levels of licensing. Mr. Rush stated that he believes it would benefit Avon Lake Regional Water to have the City recognize that the licensing process should warrant more efforts to retain those who are qualified for employment.

Miscellaneous

None

Public Speakers

No Public Speakers

Adjourn

As there was no further business, Mr. Abram moved, Mr. Rush seconded, that the meeting adjourn at 7:29 PM.

Ayes: Abram, Dzwonczyk, Rush, and Schnabel

Nays: None

Motion carried.

Approved _____ 2019.

John Dzwonczyk, Chairman

Todd A. Danielson, Clerk