

MINUTES
HAMMOND SANITARY DISTRICT
BOARD OF COMMISSIONERS MEETING
JANUARY 24, 2017
www.hammondsd.com

The Board of Sanitary Commissioners of the Sanitary District of Hammond, Lake County, Indiana held a regular meeting at 4:10 p.m. in the Conference Room of the Administration Building located at 5143 Columbia Avenue, Hammond, Indiana.

President Button called the meeting to order at 4:15 p.m. He stated that the Board held an Executive Session from 3:45 p.m. until 4:10 p.m. to discuss personnel and litigation matters in accordance with Indiana codes.

Commissioners Present: Button, Dye, Hawkins, Muta

Commissioners Absent: Dimopoulos

District Personnel: Marty Wielgos, District Manager
Rachel Montes, Business Manager
Joe Allegretti, Attorney
Donald Woodard, HSD
Rick Sutton, HSD
Jeff Massey, HSD
Jack Smith, Sewer Department
Rebecca McKinley, GIS Department
Justin Stowe, HSD

Others Present: Mike Hickey, AB&H Donohue
Karl Cender, Cender & Company

The meeting started with the Pledge of Allegiance.

President Button stated that the first order of business was the consideration of the January 10, 2017 board meeting minutes.

Muta **moved** and Dye **seconded** to approve the January 10, 2017 Board Meeting Minutes.

Ayes: Button, Dye, Hawkins, Muta

Nays: None

Motion **carried** 4-0. A copy of the January 10, 2017 Board Meeting Minutes are attached to and made a part of these minutes.

District Manager's Report

District Manager, Marty Wielgos, stated that there are a couple of things that he would like to address. Today is a very important day for the Hammond Sanitary District, specifically for the board and more specifically for the board president, as they are going to be voting on the

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Consent Decree. This is something that we have worked long and hard on for the last five plus years; it actually goes back to 1999 when the last decree was signed and Mr. Allegretti was involved at that time. A lot of court time, a lot of battles, people that are no longer here, but stories that he has been told and know. He thinks it is also important to know that we are the last wastewater treatment plant in the State of Indiana to actually sign (if it is approved today) this historic document which will lead to probably the largest Public Works program in the City of Hammond that it has seen since probably the 40s. Good and bad because those programs are costly and those programs that used to be bonded out and it went on the tax rolls are no longer going to happen. They are going to have to be rate based, which makes our job and the board's job a little more difficult. He thinks along with that and continuing with a really good staff that worked really long and hard and diligently on that. At the same time the board had made a decision that the contracts that it has with its customer communities were also not fair and so it took on that second battle because of the fact that we knew that we needed to try and make a change and do something that got them on board with some of the things that we were going to be asking our local residents to have with rates. It was a long struggle- many meetings, court proceedings, and a lot of staff involvement- and lo and behold we are at a time where we are looking at a consent decree that has been finalized and looking for your approval, looking at agreements that we have come to with the Town of Griffith, agreements that we have come to with the Town of Highland. Unbelievable that all of this is meshing together at just about the same time when I can tell you that somebody asked me a year ago as the Mayor duly reminds me at our meetings when is this going to happen, when are you going to come to agreements with our customer communities. So, all of that hard work is finally paying off and it would never happen without the work of this board. He has to say to Commissioner Hawkins that he was involved heavily representing the board at every one of these meetings; not only the meetings in Chicago with the agencies, but also the independent meetings that we had with customer communities starting with Whiting who we met with the longest time, many hours and we thought that they would be the first on board, but actually they are going to be the last. If somebody were to ask him as a betting man, he would have said Whiting is there, but that didn't happen. He just wants to let everybody know that all of the hard work and all of the time spent- he has a very good staff and a lot of hours put into this along with their other jobs. It is not like this is all that we have been doing. It is also doing that and continuing to run this Plant and he thinks everybody should be complimented for that.

President Button replied that this is also to Marty's credit and thanked him for his leadership and guidance and organizing all these things and keeping them on track. He appreciates all of his kind comments and he is very appreciative of staff and all their assistance and help.

Marty added that he would now like to talk about one last hurdle that we have to get through and it involves us and our sister community, the Town of Munster. We have accomplished all of these other great hurdles, but now the last one that we have to tackle and as important as the other two is a rate that will sustain us. Right now we run between four and a half and five million dollars in the red and the reason why we are still afloat is that Rachel has been able to juggle a lot of things, but mostly to the credit of Rick Sutton who operates and is the Superintendent of

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Maintenance. We have had to ask him several years ago to do more with less and he and everybody in this room knew that it was a poker game because of the fact that we are a very old facility and things run 24/7. Nothing is shut off at five o'clock. He knew when they were asking Rick to do that and as adamant as Rick was, he knew that at any given time we could have a hiccup and if we did we would be in deep trouble. Because of the fact that we got these two major things done (the Consent Decree hopefully accepted and voted by the board tonight and also agreements with Highland and Griffith) our last one is the cleaning of our own house. He is going to ask Karl to give the board a brief synopsis of the rate proposal that we put together and he just wants to say with the rate that he is going to talk about today it is less than what we originally proposed- the original proposal included the amounts that we are going to have to spend in the Long Term Control Plan- and so we backed all of that out and right now we have come up with a rate to be able to get us to flush from now until 2020. He and Rachel both feel comfortable with that, we have been paying all of our bills, we are not behind with all of our vendors who are being paid between 30-45 days. Thank God for Scott Chinn and Max and that great law firm, but we have been able to pay all of those bills on top of everything, so we have come a long way without having to ask you to do this yesterday or today we are asking you that we need this now because of the fact that we have been operating in the red and will continue to operate in the red unless we do something. He is going to turn it over to Karl to go over all of that.

Karl Cender of Cender & Company stated that as Marty mentioned we need to address our rates. In October we approved a two phase rate increase that will raise over 15 million dollars annually in those two phases. What we are proposing today is to cut that back because we do not want to include all of the Long Term Control Plan projects now to wait and see how we negotiate with EPA on the finalization of the Long Term Control Plan. We are raising approximately 4.7 million through our rates that would give us revenue requirements out of our operating budget of 21.9 million dollars annually of which will generate additional 4.7 million new revenues for us through the rates. The flow charge will go from \$1.55 to what we are proposing of \$2.31 per 1000 gallons and the bimonthly administrative charge would go from \$11.25 to \$16.79. What that means for a homeowner and user of 5000 gallons a month they will go from \$13.38 to \$19.95 and that is \$6.57 per month increase for a 5000 gallons user. He does have some charts and graphs that they prepared before and he has updated them, but it shows that the Hammond Sanitary District will still be the lowest in the surrounding area if not in the state next to East Chicago who is slightly higher. So right now if we are at \$13.38 we are going to go up to \$19.95 the next lowest rate in the area is Schererville at \$20.51 and East Chicago is at \$20.60. If you look at combined water and sewer, we would still be lower than even East Chicago. This still helps our bottom line through operating the Plant and providing some replacement money, but it does not provide all the capital needed to comply with the Long Term Control Plan. That is what they put together and he believes Marty and administration is recommending for your consideration. He would be happy to answer any questions.

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Commissioner Hawkins asked if he can have a copy of whatever updated financial documents that he has. He received an email and tried to open it which he believes they were in, but he was unable to open it.

Karl replied that he has summary copies here to hand out.

Commissioner Dye thanked Karl for preparing this for them and making it very easy to read and understand.

President Button thanked Karl for his hard work to getting them to this point.

Commissioner Hawkins asked that there are a considerable amount of funds included in the October rate for both Sewer and backflow prevention over the minimum backflow prevention plan that we have now, are those funds still in there.

Karl answered that they are not.

President Button stated that they had passed a Resolution last year that set a two tier rate process in place and his question is that they are basically resetting the clock where this would be first reading of the proposed new rate and with that basically we are just making sure that we meet the public hearing requirements and having a second public hearing as a result of these newly corrected rates regardless if they are less than the rates previously proposed.

Marty replied that is correct.

President Button clarified that they will have a second and final reading or third and final reading as they call it at the next board meeting scheduled.

Attorney Allegretti stated that those are the terms for introduction of ordinances. The statute only speaks in terms of introducing the Resolution, not voting on it. Today it will be introduced and directing it that a notice of the statutory public hearing be published by staff and scheduling the public hearing for the first meeting in February. Maybe there should a motion accepting the introduction of the Resolution and directing staff to publish the statutory notice for the public hearing and consideration of that Resolution at the next meeting.

RESOLUTIONS

The Board considered Resolution No. 6-2017: RE: A Resolution Amending and Fixing the Schedule of Sewer Rates and Charges to be Collected by the Hammond Sanitary District from the Owners of Property Served by the Sewage Works of the District and the Publication of the Statutory Notice of a Public Hearing by Staff.

Dye **moved** and Muta **seconded** to approve Resolution No. 6-2017.

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Commissioner Hawkins commented that the prior rate proposal of the Resolution that was passed in October he frankly voted no with the methodology used and the amount of the rate increase and made comments to that. Today we have a revised rate increase and looking at this it is considerably less. This rate he proposes that it is called an interim rate and he would like to make a motion to change that terminology and the reason is because we know that we are going to need more money down the line with the Consent Decree and the Long Term Control Plan, but we do not know exactly to the extent but there is an educated guess by our legal counsel and the Long Term Control Plan has to be funded for eighteen years. That is a considerable amount of money and may be the largest project of its kind in the Hammond Sanitary District and by the voters and partners of Munster and Hammond. Funding is needed by the Hammond Sanitary District for maintenance and operations and it is acknowledged. Time is of the essence. HSD needs funds. This is a flat, across the board rate increase. This flat increase is on the administrative fee which is not a flow fee, but essentially a base charge on people's bills for the District. The commercial rate which was adopted in 2014 this flat rate is also applied to that and is to the residential rate. There has been consideration and discussion on a cost of service study for our customer communities and there was discussions some time back with the District going to the IURC for a rate case, doing a cost of service study and this cost of service study was set to include the customer communities. It was also then discussed to use this cost of service study to not only look at customer community issues but the issues of Hammond and Munster and HSD and the customer communities. He is the representative for the Town of Munster and born and raised in Hammond so he has special feelings for both. The Hammond Sanitary District and the Town of Munster for decades since he believes 1948 have got along and profited from the District and they will continue to in the future. Saying that, the Town of Munster and its rep realizes that the Hammond Sanitary District is in dire financial need and badly requires funds for its operation and maintenance and future consent decree work. The Hammond Sanitary District has some of the lowest sanitary charges in the State of Indiana and that is something to be proud of and that shows that this district is a well-managed district and it is not a small district that not only serves Hammond and Munster, but three customer communities. An agreement needs to be set and looked at that is right and fair and just for the future. A cost of service study between Hammond, Munster and the customer communities for HSD can look at many different issues and can be initiated to assess and examine system financials and engineering rates study to determine Hammond, Munster, HSD and HSD customer communities' parts, responsibilities and procedures and financial responsibility. Munster and HSD and Hammond can participate in a fact based meaningful customer sort of study and Munster looks forward to a role selecting the appropriate individuals in the process. Customer service study provider can be involved to set parameters and involvements with the process. An agreement needs to be struck between all of us to look at a customer service study. Also, Munster and he as the rep have presented a list of issues and problems that need to be addressed. When he was appointed by Dave Nellans he was told two things. He said they are interested in a well-funded District and they are interested in a properly funded District because they both need it for the long time future and its survival and that is all he was told. Saying all this, in the spirit of cooperation he will vote yes. If HSD passes what he likes to call the interim rate resolution, both councils must approve it. They look forward to properly funding this District.

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Attorney Allegretti stated that he knows there has been a motion and second, but we are not really going to vote to pass this Resolution today. We are just introducing it and as he said direct appropriate staff to publish the publication for a public hearing. So what he is saying is they do not want to take a vote on the motion now.

President Button said there is a motion on the table to direct staff to make up a solicitation. There is no voting required.

Attorney Allegretti thought the motion was on the Resolution and we are just introducing it. Now, just acknowledge that the Resolution has been introduced and that notice of a public hearing will be published. We can set the public hearing which he thinks is going to be in three weeks from today on the 14th of February. That is what we will do. Acknowledge the introduction of the Resolution, schedule the public hearing for February 14th at 4 o'clock.

Dye **moved** and Muta **seconded**.

Ayes: Button, Dye, Hawkins, Muta

Nays: None

Motion **carried** 4-0.

President Button called for Old Business

There was no old business.

President Button called for New Business

The Board considered Resolution No. 7-2017: RE: A Resolution by the Board of Sanitary Commissioners of the Sanitary District of Hammond, Lake County, Indiana, Approving Clean Water Act Consent Decree.

Dye **moved** and Hawkins **seconded** to approve Resolution No. 7-2017.

President Button stated that he had a prepared statement that he would like to read for the record.

President Button read that-

1.) The purpose of the Consent Decree ensuring that any cost for capital improvements that result in an increase for HSD customers are no higher than necessary. The consent decree that the federal EPA has mandated along with the State of Indiana have asked HSD to approve represents an unfunded mandate. Federal and state governments require that local sewer authorities like HSD spend many millions of dollars on capital improvements to reduce combined sewer overflows. This means rate increases for HSD customers. That is why HSD fought hard against the EPA and the State of Indiana to ensure that any consent decree and capital improvement plan is affordable. HSD fought for more than five years for appropriate terms and an acceptable

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approach to addressing these issues. HSD believes it has achieved the best deal it can with federal and state regulators. Under the arrangement:

- a.) HSD will avoid a lawsuit threatened by the federal and state governments that would have claimed tens of millions of dollars or more in penalties under the Clean Water Act. Not a dollar of any of those penalties, if ever recovered by the regulators, would have benefitted HSD customers or the environment. That lawsuit is now off the table.
 - b.) HSD will settle for the reduced amount of \$561,000 in an existing enforcement action brought by the EPA and the State of Indiana in 2011 in which the regulators had sought more than three million dollars in penalties. The regulators brought that enforcement action 2011 in an effort to force HSD to sign an earlier version of the Consent Decree that HSD believed was unfair to our customers.
 - c.) To appropriately safeguard HSD ratepayers from dramatic rate increases all at once, HSD will have more than eighteen years from the signing of the Consent Decree to complete the mandated capital improvements to reduce combined sewer overflows.
- 2.) Ensuring that the customer communities pay their fair share for HSD's operations and capital improvement costs. HSD has continually maintained that its customer communities of Highland, Griffith, and Whiting should pay their fair share of HSD's operating costs and of capital costs, including those associated with the costs of reducing combined sewer overflows since sewage flows from Highland and Griffith contribute to such overflows. HSD and its customer communities even were involved in litigation over these points. But now HSD is pleased that at the same time it is signing the Clean Water Act Consent Decree with federal and state regulators, it is making significant progress with its customer communities to obtain fair payments from them.
- a.) HSD and the Town of Griffith both approved an agreement in late 2016 for Griffith to increase rates paid to HSD, pay back amounts owed to HSD for operations and capital improvements, and to pay its fair share of the capital costs associated with the capital projects to reduce combined sewer overflows.
 - b.) HSD and the Town of Highland are set to approve an agreement almost identical to the HSD-Griffith agreement in February 2017.
 - c.) HSD will continue its discussions with the City of Whiting to resolve their outstanding fiscal issues. Whiting's sewer flows do not currently affect the combined sewer overflow problem.
- 3.) Making improvements that improve water quality and the environment. It is unfortunate that federal law requires local governments and local ratepayers to be on the hook for unfunded mandates like this, but it is also true that there are substantial environmental benefits to be achieved from reducing the amount of sewage that flows into the Grand Calumet and Little Calumet Rivers. Building sewers that combined storm water and sewage was commonplace 100 years ago- but we would never do that today and we do need to reduce the amount of sewage overflow into those rivers so residents and wildlife can better utilize our precious natural resources. That's what the mandated capital improvements will do- and that is the right thing for the environment and the health of our communities. It was important that HSD make sure that the projects do not cost more than is necessary to achieve that environmental benefit and that they are timed in a way to protect ratepayers. Indeed, even before signing the present Consent

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Decree, as a demonstration of good faith to comply with an earlier 1999 Consent Decree. In 2015, HSD completed the Columbia Avenue CSO basin to substantially reduce the number of combined sewer overflow events.

Ayes: Button, Dye, Hawkins, Muta

Nays: None

Motion **carried** 4-0. A copy of Resolution No. 7-2017 is attached to and made a part of these minutes.

President Button called for Reports from Commissioners

President Button asked Commissioner Hawkins that he was made aware that there was a request from the US EPA to the Town of Munster for what is called a 308 Request which requires a number of responses. He is just wondering how the Town of Munster is moving forward with that.

Commissioner Hawkins replied that the Town of Munster will be having a conference call with the representatives of the EPA in the next couple of days and they will go from there. He thinks some information will be needed from the Hammond Sanitary District.

President Button replied that he in his past experience has had to do responses to requests like that and he knows how hard, long and protracted they can be so good luck with that. If there is something that we can do, please let us know.

Rachel Montes added that the claims approval docket was not on the agenda. It was in the packet, but it was not on the agenda.

President Button asked for a motion to add the Claims Approval Docket 01-24-17 to the agenda.

Dye **moved** Muta **seconded** to add Claims Approval Docket 01-24-17 to the agenda.

Ayes: Button, Dye, Hawkins, Muta

Nays: None

Motion **carried** 4-0.

The Board considered the Claims Approval Docket 01-24-17.

Dye **moved** Muta **seconded** to approve Claims Approval Docket 01-24-17.

Ayes: Button, Dye, Hawkins, Muta

Nays: None

Motion **carried** 4-0. A copy of Claims Approval Docket 01-24-17 is attached to and made a part of these minutes.

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President Button called for Public Expression

There was no public expression.

President Button called for a motion to adjourn the meeting

Dye **moved** and Muta **seconded** for adjournment.

Ayes: Button, Dye, Hawkins, Muta

Nays: None

Motion **carried** 4-0. The meeting was adjourned at 4:50 p.m.



Dean Button, PE, President



Matthew J. Muta, Vice President



Sam Dimopoulos, Member

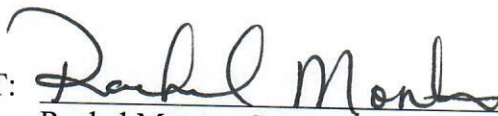


Michael Hawkins, Sr., Member



Michael Dye, Member

ATTEST:



Rachel Montes, Secretary

Kaleigh Boyle, Assistant Secretary

Board Minutes Prepared By: Kaleigh Boyle