



# **UNION COUNTY UTILITIES AUTHORITY**

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## **Union County Utilities Authority December 29, 2010 Special Public Meeting**

Chairman Kulish called the meeting to order at 5:50 p.m., in the meeting room of the Union County Utilities Authority, 1499 Routes 1 & 9 North, Rahway, New Jersey.

Notice of Compliance with the Open Public Meetings Act was read by Joseph C. Bodek, Clerk of the Authority.

A roll call of the Commissioners showed the following present: Chairman Kulish, Vice-Chairman Jackus (via teleconference), Treasurer People, Secretary Rachlin, Commissioners Badri, Huff, Kahn (via teleconference) and Kennedy. Also present were alternate Commissioners Jorn and Lombardo.

Commissioners Absent: Commissioner Erdos.

Others Present: Denise Santiago of the Authority's staff; Jonathon Williams and Gina Bilangi of DeCotiis, Fitzpatrick, and Cole; Kraig Dowd and Guido Weber of Weber Dowd Law; Dennis Enright of NW Financial (via teleconference); Richard Bauch of Bauch, Zucker and Hatfield; Freeholder Daniel Sullivan; Rick Sander of Covanta; Deputy Clerk Lisa Miskiewicz and Clerk Joseph C. Bodek.

Chairman Kulish led the Pledge of Allegiance.

Mr. Bodek provided Proof of Notice of the meeting.

Chairman Kulish designed alternate Commissioner Jorn to act for Commissioner Erdos.

Chairman Kulish asked Mr. Bauch to give a report on the first resolution being presented.

Mr. Bauch informed the Commissioners that a lawsuit had been filed, which was recently unsealed, by the Federal Court, by Dr. Garg. The lawsuit presents a conflict situation, for Dr. Garg, with regards to the ongoing restructuring. He referred to a prior resolution appointing a project team, and that Dr. Garg had been assigned several functions under that resolution. As a result of the filing of the lawsuit, the Local Government Ethics Law makes it clear that a conflict exists for Dr. Garg with regards to the functions he had been previously assigned. He explained why, and that it was best if Dr. Garg did not participate in these negotiations. Because of the discussions, this evening, he recommended passing of a resolution directing Dr. Garg to recuse himself from participating in the ongoing negotiations. The resolution of the Authority, regarding the project team and Authority negotiations with Covanta Union, Inc., was moved by

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Commissioner Rachlin. The motion was seconded by Commissioner Badri. Commissioner Kahn noted that he had not received the resolution, as did Commissioner Jackus. Mr. Dowd advised them that they should abstain on the vote on this resolution. The resolution was approved with all voting in favor, except Commissioners Jackus and Kahn, who abstained.

#### Public Comment

There was no public comment.

#### Reports of Committees, Staff & Counsel – Executive Session

*Whereas, the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq., permits the exclusion of the public from a public body meeting in certain circumstances; and*

*Whereas, the Union County Utilities Authority Board of Commissioners is of the opinion that such circumstances presently exist; and*

*Whereas, the Board of Commissioners wishes to discuss the following issues:*

- 1) *Contracts: Covanta Services Agreements.*
- 2) *Attorney Client Privilege*

*Whereas, minutes will be kept of the executive session and once the matter above no longer require confidentiality, the minutes, or appropriate portions thereof, of the executive session will be made available to the public; and*

*Now therefore be it resolved by the Union County Utilities Authority Board of Commissioners that the public be excluded from this meeting.*

Commissioner Jorn moved the resolution for executive session. The motion was seconded by Commissioner Badri and was unanimously ordered approved by a roll call vote. The Authority convened into executive session at 5:57 p.m. Mr. Sandner was asked to leave for the executive session.

Commissioner Badri moved to return to public session. The motion was seconded by Commissioner Rachlin and was ordered approved by a roll call vote. The Authority returned to public session at 6:30 p.m. Commissioner Jackus had left the meeting during the executive session.

Chairman Kulish appointed Alternate Commissioner Lombardo to act for Commissioner Jackus.

#### Report of Committees Staff & Counsel – Public Session II

Commissioner Kennedy moved the resolution approving and authorizing the execution of a second amendment to the amended and restated waste disposal agreement and a first amendment to the facility lease agreement by and between the Authority and Covanta Union, Inc. The motion was seconded by Commissioner Badri. Mr. Dowd thanked Commissioner Kahn for going out of his way to participate this evening, but recommended that the Commissioner abstain from voting this evening and explained why. The motion was approved by a roll call vote, with all voting in favor, except Commissioner Kahn, who abstained.

Public Comments by Commissioners/Freeholder Liaison Daniel Sullivan

Freeholder Sullivan thanked the Commissioners, and staff, for all of their efforts. He spoke about what these accomplish would mean to the taxpayers of Union County.

Mr. Sanders also spoke about the agreement and thanked the Commissioners.

There being no further business to come before the Authority, Commissioner Badri moved to adjourn the meeting. The motion was seconded by Commissioner Rachlin and was unanimously ordered approved by a voice vote. The meeting was adjourned at 6:38 p.m.

Respectfully submitted,

Joseph C. Bodek  
Clerk

John Kulish  
Chairman

Robert Rachlin  
Secretary