

**SOUTHWEST LICKING COMMUNITY WATER & SEWER DISTRICT
P.O. BOX 215, ETNA, OH 43018**

SPECIAL BOARD MEETING MINUTES

May 19, 2022

1. OPENING

The May 19, 2022, Special Board Meeting of the Southwest Licking Community Water and Sewer District was called to order by Mr. Kretzmann at 2:00pm. The Pledge of Allegiance was led by Mr. Kretzmann. Mr. Kretzmann, Mr. Platte, and Mr. Stepp were present at roll call. Also present were CJ Gilcher, Andrew King, Josephine Carrelli and those members of the public who signed the sign in sheet.

2. ADOPTION OF AGENDA

Mr. Kretzmann made a motion, second by Mr. Platte, to approve the agenda as presented. Upon roll call vote, all voted aye. Motion carried. Agenda adopted.

3. PUBLIC COMMENTS

Mr. Gilcher stated there was a public comment submitted online through the Webex meeting. Mr. Platte asked him to read it.

The comment was from Deb Moore and is as follows: I will be late and will miss public comments so I would like to submit one here. I would like to again thank the trustees and their staff for their integrity and continued diligence to the issues discussed today. Thank you.

Mr. Gary Burkholder stated he would like to see the Board Meetings be recorded and archived and not just streamed so people can go back and watch at their convenience. He said it would help facilitate bringing all the different entities together and to have the ability to receive the information that was presented in the event that someone wasn't able to attend the meeting would be helpful.

4. EXECUTIVE SESSION

Mr. Platte made a motion, seconded by Mr. Stepp to enter into executive session Pursuant to ORC 121.22 (G)(1) To consider the appointment, employment, dismissal, discipline, demotion, or compensation of John Carlisle as related to the General Manager position for the Southwest Licking Community Water and Sewer District, and the investigation of charges or complaints against John Carlisle in that capacity AND Pursuant to ORC 121.22 (G)(3) Conferences with an attorney for the public body concerning disputes involving the public body that are subject of pending or imminent court action and consistent with the injunctive relief ordered by the court in the lawsuit captioned of Carlisle V

SOUTHWEST LICKING COMMUNITY WATER & SEWER DISTRICT

P.O.Box 215 Etna, Ohio 43018
69 Zellers Lane Pataskala, Ohio 43062
Phone (740)927-0410 Fax (740)927-4700

Southwest Licking Community Water and Sewer District Board of Trustees, being Case No. 2020 CV 00575.

The three board members, Mr. King, Mr. Steve Teetor and Mr. Matt Teetor were invited into the executive session.

Upon roll call vote, all voted aye.

Entered executive session at 2:05pm.

Mr. Stepp made a motion, second by Mr. Platte to return from executive session.

Upon roll call vote, all voted aye.

Returned from executive session at 2:54pm

Mr. Platte stated No resolution, rule, or formal action was taken during the executive sessions.

5. TRUSTEE COMMENTS

- Public discussion and consideration of the investigation conducted by attorney Janica Pierce Tucker concerning John Carlisle and his claims to the General Manager position, the recent court ruling of April 22, 2022, in the lawsuit captioned Carlisle V Southwest Licking Community Water and Sewer District Board of Trustees, being Case No. 2020 CV 00575, and any potential board action that may be appropriate concerning John Carlisle and the General Manager position.

Mr. Platte stated the board and the attorneys of the board reviewed information regarding the case and the attorneys provided information to the board. Ultimately the attorneys offered various offers for the board to consider regarding the case.

RESOLUTION:

Mr. Platte made a motion, second by Mr. Kretzmann.

R 2022-042

WHEREAS THE LICKING COUNTY COMMON PLEAS COURT RECENTLY ISSUED A DECISION REGARDING COMPETING SUMMARY JUDGEMENT MOTIONS SUBMITTED IN *CARLISLE V. SOUTHWEST LICKING COMMUNITY WATER AND SEWER DISTRICT BD. OF TRUSTEES*, CASE NO. 2020 CV 00575, A LAWSUIT FILED BY FORMER BOARD MEMBER JOHN CARLISLE; AND

SOUTHWEST LICKING COMMUNITY WATER & SEWER DISTRICT

P.O.Box 215 Etna, Ohio 43018
69 Zellers Lane Pataskala, Ohio 43062
Phone (740)927-0410 Fax (740)927-4700

WHEREAS THE COURT HAS CONCLUDED THAT JOHN CARLISLE DOES NOT HAVE AN ENFORCEABLE CONTRACT WITH THE BOARD SINCE HIS RELATIONSHIP WAS NOT ONE OF CONTRACT BUT RATHER *EX LEGE*; AND

WHEREAS AN INDEPENDENT INVESTIGATION REPORT WAS ISSUED BY ATTORNEY JANICA PIERCE TUCKER CONCERNING THE UNFAIR HIRING PROCESS OF JOHN CARLISLE; AND

WHEREAS THE COURT HAS CONCLUDED THAT THE PRIOR BOARD ACTION OF MARCH 26, 2020, WAS INEFFECTIVE SINCE THE BOARD WENT INTO EXECUTIVE SESSION ON THAT DATE WITHOUT INCLUDING REFERENCE TO THE CONSIDERATION OF THE APPOINTMENT, EMPLOYMENT, DISMISSAL, DISCIPLINE, PROMOTION, DEMOTION, OR COMPENSATION OF A PUBLIC EMPLOYEE OR OFFICIAL AS ONE OF THE REASONS FOR EXECUTIVE SESSION. ON THAT DATE, THE BOARD WENT INTO EXECUTIVE SESSION TO DISCUSS “THE INVESTIGATION OF CHARGES OR COMPLAINTS AGAINST A PUBLIC EMPLOYEE, OFFICIAL, LICENSEE, OR REGULATED INDIVIDUAL” CONCERNING THE INDEPENDENT INVESTIGATION COMPLETED BY JANICA PIERCE-TUCKER WITH RESPECT TO A COMPLAINT ABOUT JOHN CARLISLE THAT THE BOARD HAD RECEIVED FROM DEBRA MOORE.

THEREFORE BASED UPON THE INDEPENDENT INVESTIGATION OF ATTORNEY JANICA PIERCE-TUCKER AND THE OPINION SET FORTH BY JUDGEMENT ENTRY ISSUED BY LICKING COUNTY COMMON PLEAS COURT DATED APRIL 22, 2022, ALONG WITH THE INFORMATION DISCOVERED DURING THE LAWSUIT FILED BY FORMER BOARD MEMBER JOHN CARLISLE, THE BOARD HEREBY FINDS AND DETERMINES THAT THE EMPLOYMENT PROCESS WHEREBY JOHN CARLISLE WAS HIRED AS THE GENERAL MANAGER FOR THE DISTRICT WAS NOT AN OPEN OR FAIR PROCESS AND BOTH THE CLAIMED EMPLOYMENT CONTRACT AND CLAIMS OF CONTINUED EMPLOYMENT BY JOHN CARLISLE ARE UNENFORCEABLE, NULL, AND VOID *AB INITIO* AND

THAT IT IS FOUND AND DETERMINED THAT ALL FORMAL ACTIONS OF THIS BOARD OF TRUSTEES CONCERNING AND RELATING TO THE ADOPTION OF THIS RESOLUTION WERE ADOPTED IN AN OPEN MEETING OF THIS BOARD OF TRUSTEES, AND THAT ALL DELIBERATIONS OF THIS BOARD OF TRUSTEES AND OF ANY OF ITS COMMITTEES RESULTING IN SUCH FORMAL ACTION, WERE IN MEETINGS OPEN TO THE PUBLIC, IN COMPLIANCE WITH THE LAW, INCLUDING SECTION 121.22 OF THE REVISED CODE OF OHIO.

DISCUSSION:

Rob Platte stated, recently the Licking County Court of Common Pleas found John Carlisle’s employment contract invalid under Ohio law, but also found this board’s March 26, 2020 resolution did not conform to Ohio’s open meeting act. The court’s decision did not condone the conduct of John Carlisle’s attempt to procure employment with the District while he was still a Board member, but simply found that there may have been a technical failure to comply with Ohio’s open meetings act. The Board meets today to address this technical mishap and misstep and reconsider the matter based on the investigative report of attorney Janica Pierce Tucker as well as the additional information that has been uncovered during Mr. Carlisle’s lawsuit against the board as determined by attorney Pierce Tuckers investigation, Mr. Carlisle’s hiring was “clearly not a fair

SOUTHWEST LICKING COMMUNITY WATER & SEWER DISTRICT

P.O.Box 215 Etna, Ohio 43018
69 Zellers Lane Pataskala, Ohio 43062
Phone (740)927-0410 Fax (740)927-4700

employment process” and Mr. Carlisle, “inappropriately interfered with that process”. Mr. Carlisle misused his position as a board member to try to obtain a lucrative, golden parachute at the expense of the taxpayers/customers of this District. Since Ms. Pierce Tucker’s March 26, 2020 report, additional information concerning Mr. Carlisle’s purported hiring as General Manager has come to light. The collective information includes in part;

- A. That Mr. Carlisle expressly refused to interview any of the initial applicants for the General Manager position while he was a board member and voted to try to change the job requirements to make himself eligible to apply for that position.
- B. That while he was still a board member, Mr. Carlisle informed multiple individuals that he planned and expected to be the next General Manager of the District.
- C. That Mr. Carlisle resigned one evening, applied for the job the next morning and was contingently hired the very next day.
- D. That Mr. Carlisle expressly recommended his good friend Charles Hagy to replace him on this board as Etna’s appointee the day before Carlisle applied for the General Manager position.
- E. That Mike Fox, the father of Mr. Carlisle’s live in girlfriend, unilaterally arranged interviews for the General Manager position the very same day that Mr. Carlisle applied despite the agreement that interviews would only be conducted if all board members agreed.
- F. That Mike Fox personally posted the notice for the meeting at which Mr. Carlisle was interviewed despite the fact that he had never personally posted a meeting notice before and
- G. That the meeting where Mr. Carlisle was conditionally hired was Mr. Hagy’s very first meeting as a board member and he approved the hiring of Mr. Carlisle as General Manager of the District despite having failed to
 - A. review the bylaws of the District.
 - B. meet or speak with any employees of the District.
 - C. Meet or speak with the prior General Manager of the District or
 - D. Review the job description for the General Manager position before that meeting.

It is not merely coincidental that Mr. Carlisle resigned one evening, applied for the General Manager position the following morning and was hired the very next day with no other personal interviews conducted during the entire proceeding 6 months. It should be noted that additional interviews scheduled for only 4 days later were unilaterally cancelled by Mr. Fox even before a contract was proposed. Despite Mr. Carlisle’s claim that the employment contract was substantially the same as the one held by the prior General Manager, that is undeniably not true. Mr. Carlisle was permitted to draft his own contract and he put in substantially different terms than those in the prior General Manager’s contract. The Board’s own employment specialist who

SOUTHWEST LICKING COMMUNITY WATER & SEWER DISTRICT

P.O.Box 215 Etna, Ohio 43018
69 Zellers Lane Pataskala, Ohio 43062
Phone (740)927-0410 Fax (740)927-4700

was hired to review Mr. Carlisle's draft contract, told the Board not only that the proposed contract was not only not in the Board's best interest but determined that it's termination provisions were ridiculous. The contract under which Mr. Carlisle was originally hired was subsequently approved by Mr. Fox and Mr. Hagy, the only 2 individuals who refused to participate with the independent investigation conducted by attorney Pierce Tucker. The Licking County Common Pleas Court has since determined that Mr. Carlisle's written employment contract is unenforceable as a matter of law. This type of political gamesmanship by the prior Board has no place in the world of public employment where public funds are involved. The court found a technical violation of Ohio's open meetings act when the Board previously considered this matter on March 26, 2020, so this meeting is intended to comply with the court's ruling. Mr. Carlisle has demanded the Water and Sewer District pay him over half a million dollars for a total of only 11 days of work. I suggest that would be a colossal misuse of public funds.

UPON ROLL CALL VOTE, ALL VOTED AYE. RESOLUTION NO. 2022-042 WAS APPROVED.

6. GENERAL MANAGER REPORT

RESOLUTION TO APPROVE GALE ROAD ENVIRONMENTAL CONTROL FACILITY BIOSOLIDS REMOVAL PROGRAM CONTRACT:

Mr. Gilcher stated there was only one bidder on the contract and it was from the company who currently handles the biosolids.

Mr. Gilcher presented a resolution for the Board's consideration and approval:

RESOLUTION:

Mr. Kretzmann made a motion, second by Mr. Platte.

R 2022-043

- 1. WHEREAS THE DISTRICT IS IN NEED OF BIOSOLIDS REMOVAL FOR THE GALE ROAD ENVIRONMENTAL CONTROL FACILITY, AND**
- 2. WHEREAS THE GENERAL MANAGER SOLICITED BIDS FROM CONTRACTING COMPANIES AND THE DISTRICT RECEIVED BIDS FROM THE CONTRACTING COMPANIES AS SHOWN ON EXHIBIT A, AND**
- 3. WHEREAS THE GENERAL MANAGER HAS REVIEWED THE BIDS AND RECOMMENDS THAT THE DISTRICT ENTER INTO A CONTRACT WITH CARL WHEELER INC. TO COMPLETE THE PROPOSED PROJECT FOR THE GALE ROAD ENVIRONMENTAL CONTROL FACILITY BIOSOLIDS REMOVAL PROGRAM, AND**

SOUTHWEST LICKING COMMUNITY WATER & SEWER DISTRICT

P.O.Box 215 Etna, Ohio 43018
69 Zellers Lane Pataskala, Ohio 43062
Phone (740)927-0410 Fax (740)927-4700

4. **THEREFORE THE BOARD OF TRUSTEES APPROVES THE CONTRACT FOR CARL WHEELER, INC. TO PROVIDE THE GALE ROAD ENVIRONMENTAL CONTROL FACILITY BIOSOLIDS REMOVAL PROGRAM IN AN AMOUNT NOT TO EXCEED \$140,017.50 FOR THE DATES OF 4/15/2022 THROUGH 12/31/2023 WITH AN OPTIONAL THIRD YEAR PRICE OF \$70,008.75 FOR THE DATES OF 1/1/2024 THROUGH 12/31/2024 AND HEREBY AUTHORIZES THE PRESIDENT OF THE BOARD OF TRUSTEES TO SIGN THE AWARD ATTACHED HERETO AND THE NOTICE TO PROCEED, AND**
5. **THAT IT IS FOUND AND DETERMINED THAT ALL FORMAL ACTIONS OF THIS BOARD OF TRUSTEES CONCERNING AND RELATING TO THE ADOPTION OF THIS RESOLUTION WERE ADOPTED IN AN OPEN MEETING OF THIS BOARD OF TRUSTEES, AND THAT ALL DELIBERATIONS OF THIS BOARD OF TRUSTEES AND OF ANY OF ITS COMMITTEES RESULTING IN SUCH FORMAL ACTION, WERE IN MEETINGS OPEN TO THE PUBLIC, IN COMPLIANCE WITH THE LAW, INCLUDING SECTION 121.22 OF THE REVISED CODE OF OHIO.**

UPON ROLL CALL VOTE, ALL VOTED AYE. RESOLUTION NO. 2022-043 WAS APPROVED.

7. EXECUTIVE SESSION

Mr. Platte made a motion, seconded by Mr. Kretzmann to enter into executive session Pursuant to ORC 121.22 (G)(1) To consider the appointment, employment, dismissal, promotion, demotion, or compensation of a public employee or official.

The three board members were included, and Mr. King and Mr. Gilcher were invited in during various times in the executive session.

Upon roll call vote, all voted aye.

Entered executive session at 3:09pm.

Mr. Kretzmann made a motion, second by Mr. Platte to return from executive session. Upon roll call vote, all voted aye.

Returned from executive session at 4:45pm

Mr. Platte stated No resolution, rule, or formal action was taken during the executive sessions.

8. TRUSTEES' COMMENTS

There were no additional trustee comments.

SOUTHWEST LICKING COMMUNITY WATER & SEWER DISTRICT

P.O.Box 215 Etna, Ohio 43018
69 Zellers Lane Pataskala, Ohio 43062
Phone (740)927-0410 Fax (740)927-4700

9. ADJOURNMENT

Mr. Kretzmann made a motion, second by Mr. Platte that the meeting would be adjourned. Upon Roll Call vote, all voted aye. The meeting was adjourned at 4:45 p.m.

ATTEST:



Trent Stepp, Secretary