

Philadelphia Water, Sewer and Storm Water Rate Board
October Monthly Meeting Notes
11/8/2023, by Zoom (Online and Telephone) Only
Open for public participation via Zoom

Board Members Present

Irwin “Sonny” Popowsky, Chair
Abby Pozefsky, Secretary
Debra McCarty
Mac Williams
Tony Ewing

Others Present

Robert Ballenger
Kevin Birriel
Marcy Chestnut
Brooke Darlington
Andre Dasent
Daniel W. Cantú-Hertzler
Carl Shultz
Deland L. Bryant (Zoom Administrator)

Mr. Popowsky called the meeting to order at 3:01 p.m.

1. Mr. Popowsky asked Ms. Pozefsky to present the draft minutes from the October 11, 2023 meeting of the Water Rate Board. Ms. Pozefsky moved to approve the minutes, with no additions or corrections. Mr. Ewing seconded the motion. The minutes were approved 5-0.
2. Mr. Popowsky asked Mr. Cantú-Hertzler to update the Board Members on the Request for Proposals process for the upcoming contract year, starting in December 2023. Mr. Cantú-Hertzler stated that the Rate Board’s existing contracts for Hearing Officer, Technical Consultant, and Public Advocate all expire December 1. At its June 14 meeting, the Board authorized and directed Mr. Popowsky and Mr. Cantú-Hertzler to issue requests for proposals for new contracts for each of those positions. RFPs were posted for each of those positions and timely responses were submitted, which were circulated in confidence to all Board members. Mr. Popowsky had asked Board members for volunteers that would each review and discuss one set of proposals. Three members volunteered, and Mr. Cantú-Hertzler and Mr. Popowsky met separately with each of them, so only two Board members participated in each conversation at a time. In each case, the other member and Mr. Popowsky came up with recommendations for further negotiation. Mr. Popowsky also met separately with another member of the Board to discuss the proposals.

Mr. Popowsky asked Mr. Cantú-Hertzler to clarify the rules that govern the award of City professional services contracts. Mr. Cantú-Hertzler stated that applicants and members of the public are all supposed to receive notice at the same time as to

- Who applied for each position,
- Which applicant the City agency intends to contract with, and
- The reasons for that choice if the applicant’s proposal was not the least expensive.

That notice is given by posting a notice of intent to contract on the City's eContract Philly website, <https://philawx.phila.gov/econtract/>. That means Board members cannot state in this meeting who applied, or how many applicants there were for each position; and cannot identify any applicants, even the ones they intend to choose.

3. Mr. Popowsky reiterated that it was his understanding that each of the members has reviewed all of the proposals, although the Board members have not talked about them together except in those two-member meetings. Mr. Popowsky asked the Board, after reviewing all of the proposals, whether any member objects to making an award to a specified applicant for each of the contracts or whether there is any dispute as to which applicant should receive a contract, assuming final details can be negotiated. Mr. Popowsky invited a motion authorizing Mr. Popowsky on each of the contracts, to do the following:

- Work with counsel to post notice of intent to award a contract to the applicant we select;
- Work with counsel to negotiate an acceptable contract within the Board's budget; and
- Execute a contract, or, if we can't come to acceptable terms, abandon negotiations, and restart the contract procurement process and, if necessary, make a temporary award and execute a temporary agreement in the meantime.

Mr. Cantú-Hertzler stated he would work to try to get new contracts in place by the time of the Board's December meeting if possible. He stated that he would post notice as to each contract as soon as possible and let the Board members know of those postings. The notices will be on the website philawx.phila.gov/econtract/; click on "Notice of Intent to Contract."

Ms. McCarty moved to authorize Mr. Popowsky and Mr. Cantú-Hertzler to continue the contract process under the terms set forth by Mr. Popowsky above, with Mr. Ewing seconding the motion. The motion passed 5-0 with no objections.

4. Mr. Popowsky opened the meeting to members' comments regarding any other matters and then, there being none, to members of the public.

5. Mr. Popowsky asked if there were any other matters to be brought before the Board. There were none.

6. Mr. Williams moved to adjourn, and Mr. Ewing seconded the motion. The Motion was approved 5-0. Mr. Popowsky thanked the Board Members for their assistance in the contracting process and the meeting was adjourned at 3:30 PM.