

LMSA AND LMPOI MEETING

Date July 7, 2021

Attendees

LMSA : Bob Hilty, Steve Kitler

Wade Trim : Brian Sousa, Damian Curry,- Sheila Hill (also the LMSA Office Manager)

Mika Meyers law firm: Richard Wilson

LMPOI: Dave Stinger, Jackie Erway, Dave Kuyers, Ron Moelker

Kuhn Rogers law firm: Dane Carey

Carey and Jaskowski law firm: Rich Jaskowski

Goal: the goal for the meeting was to resolve the issues as stated in our Class Action Complaint draft that was delivered to the sewer authority dated April 12, 2021. Our complaint centered around actions of the board and their failure to meet the fiduciary duty required of a board member.

1. Lack of representation of sewer users on the board.
2. Lack of transparency of all actions taken by the board.
3. Complete outsourcing of all aspects of the sewer authority to external firms without maintaining control.
4. Significant user fee increases that were billed as sewer improvement but instead seem to have gone to increases for management and a large reserve fund. Our rates are higher now than 90% of all communities in the state and going higher. No rate studies have ever been done.
5. Lack of contract bidding now and no formal requirements going forward with no in depth review by the board.
6. Lack of competitive engineering studies of the whole system before approval by the board to apply for a \$9.5 million dollar loan from the federal government.
7. Inability of the board to explain the unequal contribution by the townships which included a \$700k contribution from Cherry Grove with no similar contribution from Selma or Clam Lake Townships.
8. Why was a contract signed with the city for processing which is more than two times higher than the average city resident pays for their waste water treatment.

The sewer authority refused to meet with us without representatives from Wade Trim and EGLE. We finally agreed to that with the idea of doing everything we could to resolve the issues and avoid filing the class action lawsuit. When we did meet the three elected township board members from the largest representation of Lake owners, Selma and Cherry Grove Townships, were not in attendance.

Unfortunately, the answers we received were less than adequate.

Questions and response from the sewer authority representatives are as follows.

Question, Why did the board agree there should be sewer users on the board at the first open meeting regarding the sewer system upgrade then have the lawyer write new Articles of Incorporation making it more difficult to have sewer users on the board.

Answer, Lawyer didn't remember writing the recommendation regarding the rational for limiting the number of sewer users holding a board position.

Question, Why was the system completely outsourced and were the contracts bid?

Answer, Wade Trim indicated they signed a contract with the DPW (old Sewer management) in 2007 to be the Engineer of Record and a bid was not required. The current board has not considered other options.

Question Why did Wade Trim force a renegotiation of the contract for services after completing only 3 years of a 5 year contract?

Answer, Wade Trim answered yes but the new contract was for Operation Services, not Engineering Services. The name was changed less than two months later to Operations Services. New name, same people.

Question, Who is the owner of Operations services?

Answer, The reply was Chris Johnson the former executive vice president of Wade Trim.

Question, Why do we have significantly higher rates that we are told will continue to go up in the future?

Answer, Wade Trim answered the Sewer system was under funded.

Question, Why do you need such a large reserve fund \$1.1 million, where is it and who is the treasurer?

Answer, We might need it for the new system, and it is in a checking account. They did not seem sure but Shelia Hill thought the treasurer was Lynn Nixon. No answer by the board.

Question, Did the last four rate increases go toward repairing the system as stated, or go toward management and operation increases?

Answer, No one seemed willing to answer.

Question, Who from the board monitors Operation Services and contractor services

Answer, They at first didn't understand but then didn't answer.

Question, Does the board review all invoices and approve prior to the meetings?

Answer, Operation Services (Sheila) sends all invoices to the board before they meet for review, a board member, added that many are like Consumers Power and don't require review! He also stated that he should do a better job.

The meeting went on for two hours with many answers being, not sure or couldn't remember. There was little input from the two board members. The meeting did little to dispel our concern that the board has little knowledge of what is going on day to day. There was no evidence that they look for ways to reduce cost or consider the best approach when making a decision. In addition, they have turned the whole system over to one firm that has been involved with the system for over 15 years. The LMSA chair on the board couldn't remember how long he had been involved with the sewer system but did confirm he was there when it was with DPW many years ago.

There seemed to be little interest in looking at alternative companies or ways of doing business and one company dominates all aspect of the day to day as well as future engineering proposals. This is part of the reason cost has gone up while little improvement has taken place. In addition, they now confirm that the cost of the upgrades might go significantly higher due to Covid. While Wade Trim stated in April of last year that in order to be ready to move forward this spring that a contract should be approved, we are not aware of any bids being requested for work to be performed.

It is apparent to us that little will change with the current makeup of the board. It is our opinion that the makeup of the board has more to do with protecting the townships interest than good management of and aging system. The fiduciary responsibility of the board is under scrutiny.

We believe the fastest way to correct this is to get at least three sewer users on the board that will get involved, have skin in the game, and not turn everything over to external companies without appropriate over-site and cost justification. We have requested that this change be made to the sewer board. At the same time, we are continuing to explore legal avenues that are open to us that will initiate positive change and give a clear understanding of what path our fee money has been used for.

Lake Mitchell Property Owners Inc. Board