



## **Berkeley Township**

### **MUNICIPAL UTILITIES AUTHORITY**

42 Station Road  
Bayville, NJ 08721  
(732) 237-0100  
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A Caucus Meeting of the Berkeley Township Municipal Utilities Authority was held on **Thursday, August 11, 2011** at 7:00 pm at the Berkeley Township Municipal Utilities Authority located at 42 Station Road, Bayville, NJ 08721. Presided by Chairman Sudia-present, Mr. Olsen-absent, Mr. Thiemer-present, Mr. Pizzi-present, Mr. Mullikin-present.

Also present: Ms. Conoshenti-Attorney, Mr. Fallon-Accountant, Mr. Chiaravallo-Engineer, and Mrs. Nugent-Executive Director.

Motion to approve the minutes from the Regular Meeting of July 28, 2011: Mr. Pizzi, second, Mr. Mullikin. The motion was approved by voice vote. There were no "nay" votes. Mr. Thiemer abstained. Motion Carried.

#### **Treasurer's Report:**

Mr. Pizzi stated that he and Mr. Thiemer reviewed the payroll and operating expenses for (07/30/11-08/12/11) two weeks. The payroll expenses were in the amount of \$15,421.21. The operating expenses were in the amount of \$26,359.44.

Motion to approve the Treasurer's Report: Mr. Mullikin, second, Mr. Thiemer. The motion was approved by voice vote. There were no "nay" votes. Motion Carried.

#### **Executive Director's Report:**

Mrs. Nugent referred to her progress report and stated that there is a meeting scheduled with Crystal Lake Convalescent Center on August 16, 2011 at 10:00 am. Mrs. Nugent stated that she is able to invite two commissioners and that she will provide an update after the meeting for those who are unable to attend.

Mrs. Nugent stated the meeting will be at the Authority office and their administrator along with the contractor or engineer with their plans will be attending. Mrs. Nugent stated that Mr. Chiaravallo, Mr. Blair and herself will be attending the meeting also.

Mrs. Nugent stated that the second quarter billing was delayed and went out on July 20, 2011. Mrs. Nugent stated the Authority has billed out 3,224 customers and the amount billed out was for \$466,361.18. Mrs. Nugent stated this is a very good amount for second quarter billing. Mrs. Nugent stated that seventy million gallons of water was consumed, which is 30% more than last year at this time.

Mrs. Nugent stated the League of Municipalities (NJSLOM) Conference is scheduled for November 15 – 17, 2011 at the Atlantic City Convention Center. Mrs. Nugent stated this falls on Tuesday through Thursday and requested the commissioners to check their schedules and let her know if they are interested in attending.

Ms. Conoshenti stated for the record that Mr. Olsen has joined the meeting at 7:04 pm.

### **Engineer's Report:**

#### **Central Regional School District:**

Mr. Chiaravallo stated that CRSD continues with the installation of the water main throughout the campus. Mr. Chiaravallo stated all of the water mains installation is almost completed and that the wet tap was made last week (week of 08/01/11). Mr. Chiaravallo stated that everything will soon be ready to start testing, chlorinating, and bacteria testing within the next week (week of 08/15/11).

Mr. Mullikin questioned if this meant the lines are filled with water? Mr. Chiaravallo stated no, all the valves are still closed. Mr. Chiaravallo stated the lines are also connected at the intersection of the main entrance to the high school, but the valve is closed there also. Mr. Chiaravallo stated the loop is all the way around the middle school and they are up to the west half on the other side, but both valves are still closed.

Mr. Thiemer questioned if CRSD got the three sections of pipe that they were short? Mrs. Nugent stated that it was expected today (08/11/11) but cannot confirm that that main was installed today. Mr. Thiemer noted that they had covered the hole that was right by the entrance going in. Mr. Chiaravallo stated that it has been closed since Wednesday, August 10<sup>th</sup> and that the contractor will need to re-open the trench for those sections to be installed.

Mr. Mullikin questioned if the wet tap was done over at the eastern entrance of the school as it looks as if the driveway has been all dug up? Mr. Chiaravallo confirmed that was correct because there was not a stub there. Mr. Chiaravallo stated that it had been planned ahead to have the stub placed at the driveway to the main entrance of the school. Mr. Chiaravallo stated CRSD is finishing up a couple of fire hydrants and that they will be starting the hydrostatic testing next week (08/15/11) and bacteria testing.

Mr. Sudia questioned if everything is in place between the two attorneys? Ms. Conoshenti replied that is one of the reasons why there is no water flow. Ms. Conoshenti stated that after discussing it with Mr. McClelland, Mr. Chiaravallo, Mrs. Nugent, and Mr. Blair, the water flow will be allowed for the purpose of the bacteria testing, but there is no water flowing yet. Ms. Conoshenti stated that everyone worked together to get the wet tap completed quickly, but that her request was to not let the water flow until some of the other work has been completed.

Ms. Conoshenti stated there are four issues in dealing with the attorneys that must be addressed. Ms. Conoshenti stated that one is a letter from CRSD's insurance company who told the Authority that it was in the mail two months ago and that it was not received until August 5<sup>th</sup> or 8<sup>th</sup> 2011. Ms. Conoshenti stated the letter did not say what the insurance company said it was intended to say. Ms. Conoshenti stated the letter said "we understand about the difference in the fire flow and that this won't affect your (CRSD) insurance coverage". Ms. Conoshenti stated CRSD's insurance coverage is not a concern to the Authority. Ms. Conoshenti added that CME suggested the letter from CRSD's insurance company should state "we understand that the BTMUA can not provide the fire flow that is being requested and that the BTMUA will not be held liable for that". Ms. Conoshenti stated she had her doubts that the insurance company would say this, but the insurance company had stated the letter was in the mail and that when it finally came, it really did not say much of anything to that effect. Ms. Conoshenti stated that since then, the insurance company has been asked to revise the letter, but there has been no response as of yet.

Ms. Conoshenti stated because of this the wet tap can be done as long as there is no water flow. Ms. Conoshenti stated that the money has come in, but there was a question about surety bonds and what CRSD and the MUA could agree to. Ms. Conoshenti stated that they are done with construction and that the next step is the maintenance bonds. Ms. Conoshenti stated CRSD agreed to have the maintenance bonds issued in the name of the BTMUA or at least in both the names of CRSD and the BTMUA.

Ms. Conoshenti stated the last issue is the dedication of the system to the Authority which can not be done until after construction is completed. Ms. Conoshenti stated that she spoke with CRSD's attorney about what they intend to do and how they intend to do it. Ms. Conoshenti stated they are going to give the Authority a blanket easement over the entire property based upon the metes and bounds description. Ms. Conoshenti stated that by way of bill of sale, CRSD will actually give the Authority ownership of the pipes. Ms. Conoshenti stated she will be working with Mr. Chiaravallo when the Authority receives the bill of sale.

Mr. Sudia questioned if the existing wells are off line? Mr. Chiaravallo stated the Authority line is not connected to the school yet, but that the existing wells are still connected.

Mr. Sudia questioned if the school will be connected by the time school is in session? Mrs. Nugent stated that the goal is for Labor Day and that CRSD would like to have everything completed.

Mr. Mullikin stated that no matter how cooperative the Authority is with CRSD, the state has to give the final approval with the water quality issues and it is not clear how long that takes.

Mrs. Nugent stated that if the deadline is not made both schools can still open on time because they still have water from the existing wells.

Mr. Mullikin questioned if anyone could do a wet tap on a job that is this unique. Mr. Chiaravallo stated that most contractors would bring in subcontractors who do this kind of work and is their specialty. Mr. Chiaravallo stated this is what Caruso (the general contractor) has done and hired a wet tap company to do the work. Mr. Chiaravallo stated that the issue for them was that this had to be scheduled in advance and if the schedule was changed it could cause a delay.

Ms. Conoshenti stated that thanks to Mr. Chiaravallo, Mr. Blair, and Mrs. Nugent the wet tap was completed quickly so as to not cause any delay.

Mr. Chiaravallo stated that the paperwork is falling into line and the separate services for each of the buildings are in process. Mr. Chiaravallo stated it is estimated that within the next several weeks the CRSD project will be completed. Mr. Chiaravallo stated the CRSD Engineer stated that there is no foreseeable problem with getting CRSD on line before the school year begins.

Mr. Mullikin questioned if the water quality testing will be completed prior to making the physical connection to the school? Mr. Chiaravallo confirmed that was correct. Mr. Mullikin questioned if that would be done during the intake? Mr. Chiaravallo stated that yes, they will be able to test the system, pressure test it, and do the bacteria test all before the existing well is disconnected from the school. Mr. Chiaravallo stated that once the switch over is accomplished, the existing well will be cut, capped, and will not be connected to the school at all.

Mr. Pizzi wanted to clarify if CRSD is giving the piping to the Authority. Ms. Conoshenti confirmed that is correct. Ms. Conoshenti stated she and CRSD's attorney discussed what paperwork the Authority would actually receive to have the dedication of the system to the BTMUA. Ms. Conoshenti stated that if the property were a public street the dedication could be accomplished by a deed to the town or MUA. Ms. Conoshenti stated that since this is not the case, it was discussed that the dedication will be accomplished by the use of a bill of sale. Ms. Conoshenti stated that on the bill of sale will be the description of all the piping.

Mr. Pizzi questioned if any of the correspondence or communication between the Authority and CRSD goes through their school board? Ms. Conoshenti answered no, that none of it goes through the school board. Mr. Pizzi stated that the board of education is the overall authority for the school, regardless of what the superintendent or the engineers are doing. Mr. Pizzi added it is still the board of education that will be making the decisions and that the Authority is aware of this.

Ms. Conoshenti stated because she is bound by ethical considerations, that if there is an attorney representing a client, even though that client is an entity, she must deal with that attorney and she can not contact that person's client directly. Ms. Conoshenti added that

CRSD's attorney can not either, though their board of education can contact Mrs. Nugent. Ms. Conoshenti further explained that CRSD's attorney can not contact Mrs. Nugent to get some sort of agreement or non-agreement from her without herself present because it is unethical to do so. Ms. Conoshenti clarified that Mrs. Nugent's letters can be addressed to the school board, but that her letters can not.

Mr. Pizzi stated that he would like this issue to be addressed because his concern is that possibly the superintendent and the school board members might not be on the same page. Mr. Pizzi added that he wished to be sure that both are of the same mind set and that they can commit together in regard to the dedication of the pipes to the Authority. Mr. Pizzi stated that he would like a letter sent out to the CRSD administration, with a copy to each of the CRSD Board Members, restating the attorney's concurrence to the four major issues and asked for written confirmation from the Board that they are also in agreement.

Ms. Conoshenti asked Mr. Pizzi to clarify if he wants any correspondence from the BTMUA to go to all the individual school board members because if it is sent to the board it will go the superintendent anyway?

Mr. Pizzi answered that yes it should go the superintendent, but suggested at the minimum to send a copy of all correspondence to the board president.

Mr. Mullikin questioned Mrs. Nugent who she has been corresponding with at CRSD? Mrs. Nugent replied that the superintendent and CRSD's business administrators have been at all the progress meetings and heard everything first hand. Mrs. Nugent stated that the superintendent along with the business administrators reported to the Authority that they go before their school board with all of these concerns and that their board has approved all of the expenses that are related to the project so their board is receiving updates. Mrs. Nugent stated that the only correspondence that she had with the school board was the letter stating the requirement for CRSD to connect to the Authority's water system. That formal notice was sent to each individual board member.

Mr. Pizzi stated that he would like to see something from the school board that they are giving ownership of the pipes to the Authority.

Ms. Conoshenti stated that there has been no meeting of the school board between Monday and Tuesday (08/08/11-08/09/11). Ms. Conoshenti stated that in order to get CRSD's project to continue to move forward, which is the Authority's desire as long as it is done correctly, all that that could be done was to get the written statement from CRSD's attorney that this is their board's intention.

Ms. Conoshenti stated that a letter could be drafted to CRSD's board requesting them to confirm the dedication of the pipes and what their attorney put in the letter by way of resolution at the next meeting. Ms. Conoshenti reiterated that she can not draft the letter, but that the Authority may.

Mr. Pizzi agreed and stated that since the school board is the final authority he would like to be sure that the final ok comes from them as opposed to the superintendent.

Ms. Conoshenti stated that she advised CRSD's attorney that she needed a formal letter stating CRSD's intention to dedicate the piping to the Authority. Ms. Conoshenti added that because of CRSD's emergent nature she had wanted something more than a formal letter. Ms. Conoshenti stated that she did not want the Authority to be in the position that the BTMUA caused a delay.

Mr. Pizzi stated that this did not have to be done right away, but ultimately somewhere before CRSD turns over the pipe there needs to be something formal in writing.

Mr. Sudia agreed and stated that the Authority needs a notice of CRSD's intention in regard to this from their board.

Mr. Olsen agreed with Mr. Pizzi and stated that it is not just following up, but it is getting something in response from the school board and memorialized that they are in agreement with the Authority on the piping.

Mr. Mullikin questioned if CRSD needed something formal from the Authority also?

Mr. Pizzi stated that anytime the Authority decides to act on anything officially a resolution is drawn which is signed by the board members.

Ms. Conoshenti stated that although it may be for construction reasons also, that this is the reason there is no water in the pipes. The water was put there to do the testing, the question was "can we shut the water off and not affect anyone else on that line?" and the Authority got the information on this first.

Ms. Conoshenti stated the letter received from CRSD's attorney (which she will provide the board members a copy of each) stated "the Authority may turn the water off, if CRSD does not turn the system over". Ms. Conoshenti added that the Authority cannot legally turn the water off.

Mr. Olsen stated that the historical nature of this project supports what Mr. Pizzi is saying. Mr. Olsen added that two years ago the Authority notified CRSD to connect to the water system and that about a month ago they came to the Authority and basically stated that they had no idea that we were required to hook up because there was nothing in writing.

Ms. Conoshenti stated CRSD faxed a letter to her office on Monday, August, 11 2011 at 3:50pm which she then called everybody and stated that the Authority is not running the water.

Mr. Mullikin questioned if the Authority's customers were impacted by this connection? Mr. Chiaravallo replied no, that a wet tap does not affect anything because nothing has to be shut down for it and that everything stays on line during it.

Node "C" Development:

Mr. Chiaravallo stated the preliminary mapping for the Build-out analysis of the Authority's service area was discussed at the 07/14/11 meeting. Mr. Chiaravallo stated his office has completed the mapping and is preparing a report to summarize the findings of the Build-out analysis. Mrs. Nugent requested an electronic copy of the map from Mr. Chiaravallo.

**Accountant's Report:**

Mr. Fallon stated in his report:

Cash Position Report for June 2011:

Total All Cash Fund Balance:	\$3,644,947.43
Total Restricted Balances:	\$2,418,027.78
Total Fund Available for Disbursement:	\$1,226,919.65

Cash Position Report for July 2011:

Total All Cash Fund Balance:	\$3,711,148.00
Total Restricted Balances:	\$2,410,582.18
Total Fund Available for Disbursement:	\$1,300,565.82

Mr. Fallon stated at the (07/14/11) meeting he gave out copies of the draft report for the rate study. Mr. Fallon stated the projection showed that the Authority will break even over the next five years so the rates will not need to be raised, but they cannot be lowered either. Mr. Fallon stated this does not leave a lot of room to have additional debt service to do additional construction projects without raising rates.

Mr. Fallon stated the current rate structure is very close to where it should be and that it would not make sense to change it.

Mr. Fallon stated that he does not have a final report done yet, but it will be ready for the September meeting.

Mr. Mullikin questioned if the money coming in is in line with what it should be? Mr. Fallon replied yes. Mr. Mullikin questioned if the Authority is building up a reserve for future projects? Mr. Fallon stated the only reserve that is in there now is \$50,000.00 to paint towers. Mr. Fallon stated there is over \$1,000,000.00 in surplus right now, but that over the next five years it is not expected to be substantial. Mr. Fallon stated the budget is going forward so the Authority will break even.

Mr. Mullikin stated that \$1,000,000.00 should be enough to pay for a well. Mr. Fallon agreed and stated the Authority will not need to borrow any money if a well needs to be drilled.

Mr. Mullikin questioned if there is that amount in surplus is this why the Authority does not need to raise its rates?

Mr. Fallon stated within Authority budget the goal is to break even; you want the rates to be equal to what the costs are. Mr. Fallon stated that it is good if the rates are higher than the costs are because then you can build up the surplus. In the past seven years the Authority has been building up surplus, until the last three projects that were just completed. Mr. Fallon stated that now the Authority has added enough debt service to offset this, so it is not building up any surplus right now. Mr. Fallon stated there is \$1,000,000.00 in surplus that can be used capital projects, but if there is an \$8,000,000.00 capital project there is not enough money to borrow and take on additional debt service without raising the rates. Mr. Fallon stated within the final report that will be very clear.

Mr. Olsen questioned how that affects our responsibility to put pipe into the ground of those areas which are currently serviced by individual wells and not public water? I know that CME had looked into that and tried to anticipate what would be required to complete the service in those areas. Are we in a situation where we are not going to be able to do that type of project? Should the Authority be looking to raise rates to position ourselves to do something later on?

Mr. Fallon stated for example, the NJ Turnpike Authority eventually did have to raise rates and that there is nothing wrong about doing this, it is just a decision that has to be made. Mr. Fallon stated if there was an emergent situation then the benefits would outweigh the costs. Mr. Fallon stated the Authority would have to review what the engineer estimates how much a project is going to cost, then it would have to look at what affect it would have on the rates and then a decision would have to be made to see whether it is worth to do the project or not.

Mr. Olsen stated so increasing rates now would not necessarily put us in a better position if we had a future catastrophe. Mr. Olsen stated for example, during one of the Authority's projects a plume was found which entailed a pipe to be installed which was not part of the plan and ultimately the construction crew completed it. Mr. Olsen questioned what would occur if this happened in an area where there is no development going on, no pipes in the ground, and suddenly the Authority is being asked to put pipes in that area because the water is contaminated.

Mr. Fallon replied that raising rates now when you don't have to, would not actually help the Authority in the future. The fact that there is over \$1,000,000.00 in surplus actually puts the Authority in a very good financial position to move on anything very quickly.



Mr. Mullikin questioned how many pockets are in the franchise area that do not have water?

Mrs. Nugent referred the Board to the map which highlights three blue squares, Reference 1,2, & 3, and stated that these are the three major areas that the Authority could build out for Phase V. Mrs. Nugent added that these numbers are just labels and not that one area is more favored over the other.

Mr. Chiaravallo stated that these areas have about 350 homes. Ms. Conoshenti stated she is aware of some pockets in the franchise area that have just four or six houses in the street.

Mr. Fallon stated that there are many more factors that go into developing an additional area besides just the financial. Mr. Fallon stated that although there are more areas to connect, there is also the possibility the Authority could run out of its water allocation.

Mr. Thiemer stated the area of Buckley Lane and Sloop Creek Road has approximately 77 homes that are not connected to the Authority's water system.

Mr. Fallon stated this should not have an impact on the Authority's finances in regard to the current rate payers. Mr. Fallon stated the Authority should never raise its rates if it does not have to. Mr. Fallon added that the Authority should have reactive thinking to cover its debt service.

Mr. Olsen questioned if it would be better to lower the rates now and then to raise them at a later date?

Mr. Fallon stated there is a rate hearing annually and that rates could be raised as nominally at 3% or 4% or as much 25%. Mr. Fallon stated it is better to plan for this than being reactive to it. Mr. Fallon stated that some Authorities raise their rates annually which would expand their budget.

Mr. Pizzi stated if there was an area that had contaminated wells the Authority could receive loans or grants through the state which would help offset costs.

Mr. Fallon stated the Authority may be able to receive funding from the USDA, but that the NJ Infrastructure would be able to give more, but the rates would still need to be raised. Mr. Fallon stated that it would be fine for the Authority to raise its rates as long as it is a little at a time and that this will not affect the rate payers as much if done in this way.

#### **Attorney's Report:**

Ms. Conoshenti stated as was discussed at the last meeting (07/28/11) the performance bond that was originally submitted to her from Pine Crest Developers was rejected because of its form. Ms. Conoshenti stated that she has received a fax of the revised

performance bond. She had an opportunity to review the fax and when the original comes in she will prepare a resolution and recommend acceptance of said bond.

**Committee Reports:**

New Business:

No Report.

Old Business:

No Report.

Motion to open the public portion: Mr. Pizzi, second, Mr. Olsen. The motion was approved by voice vote. There were no "nay" votes. Motion Carried.

Mr. Carmen Amato introduced himself and stated that he came to the meeting on behalf of CRSD. Mr. Amato requested of the Board if they could be lenient on their fee structure and explained that CRSD has not been able to pass a budget in twenty years. Mr. Amato asked if the Authority could work with the school district to keep fees to a minimum which would help decrease the impact to the tax payers.

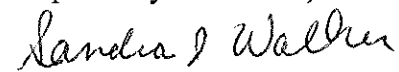
Mrs. Nugent assured Mr. Amato that the Authority has worked with CRSD and that it is doing all it can to keep the fees to a minimum.

Mr. Amato thanked the Board for their understanding in regard to CRSD.

Motion to close the public portion: Mr. Thiemer, second, Mr. Pizzi. The motion was approved by voice vote. There were no "nay" votes. Motion Carried.

Motion to adjourn: Mr. Pizzi, second, Mr. Olsen. The motion was approved by voice vote. There were no "nay" votes. Motion Carried.

Respectfully Submitted,

  
Sandra J Walker

The next meeting of the Berkeley Township Municipal Utilities Authority will be held on Thursday, August 25, 2011 at 7:00 pm at the Berkeley Township Municipal Utilities Authority located at 42 Station Road, Bayville, NJ 08721.