



**Berkeley Township**  
**MUNICIPAL UTILITIES AUTHORITY**

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A Caucus Meeting of the Berkeley Township Municipal Utilities Authority was held on **Thursday, October 13, 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-present, Mr. Thiemer-present, Mr. Pizzi-present, Mr. Mullikin-present.

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

Motion to approve the minutes from the Regular Meeting of September 22, 2011: Mr. Pizzi, second, Mr. Mullikin. The motion was approved by voice vote. There were no "nay" votes. Mr. Olsen abstained. Motion Carried.

Motion to approve the minutes from the Executive Session of September 22, 2011: Mr. Pizzi, second, Mr. Mullikin. The motion was approved by voice vote. There were no "nay" votes. Mr. Olsen abstained. Motion Carried.

**Treasurer's Report:**

Mr. Pizzi stated that he and Mr. Thiemer reviewed the payroll and operating expenses for (09/24/11-10/14/11) three weeks. The payroll expenses were in the amount of \$15,366.55. The operating expenses were in the amount of \$16,755.54.

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

**Executive Director's Report:**

**NJSLOM Conference:**

Mrs. Nugent stated that the BTMUA is registered to attend the League of Municipalities. Mrs. Nugent stated that everyone who is attending will receive a packet containing badges, the agendas for the attendance of the meetings, etcetera, at the BTMUA meeting (11/10/11) that is scheduled before the conference.

**Semi-Annual Hydrant Flushing:**

Mrs. Nugent stated the operational crew has started the semi-annual hydrant flushing. The flushing began October 3, 2011 and will run through November 4, 2011.

2010 Audit:

Mrs. Nugent stated the 2010 Audit is in preparation.

2010 Lien Sale:

Mrs. Nugent stated Berkeley Township has performed the 2010 Tax Lien Sale on October 5, 2011. Mrs. Nugent stated the Authority will be receiving payment for seventy accounts that went to Lien Sale.

3<sup>rd</sup> Quarter 2011 Billing:

Meter reading and billing were completed on September 28, 2011. The amount billed was \$431,203.51 for 3,228 customers.

Exterior Painting:

Mrs. Nugent stated the operational crew is painting the exterior section of the Authority building that was not refurbished during the expansion. Mrs. Nugent stated that an alternate price for this exterior painting that came in with the bid at \$10,000.00. It was decided that the operational crew would perform the job for only the cost for the supplies, which is in the amount of \$1,200.00.

2012 Budget:

Mrs. Nugent stated that the Authority is in preparation for the 2012 budget, and inquired if there are any anticipated needs or suggestions for the coming year. Mrs. Nugent stated that these suggestions will be prepared in a draft which will be presented at the next meeting (10/27/11).

Phase IV:

Mrs. Nugent stated that Central Regional School District has presented plans for the Authority's review for the high school connection.

Mrs. Nugent stated that guidance from the Board is needed regarding the Crystal Lake Rehabilitation Center. The project is still ongoing and has not been completed.

Mrs. Nugent stated CLRC is still not connected to the public water system. Mrs. Nugent stated that in April of 2009 they were officially notified to connect to the BTMUA water system. Mrs. Nugent stated that from 2009 to January 2011 CLRC received several extensions.

Mrs. Nugent stated that in January 2011 CLRC began paying the five year installment plan for their connection fee of \$11,100.00 on a quarterly basis. Mrs. Nugent stated that in April of 2011 CLRC began paying almost \$3,000.00 for their quarterly service fee.

Mrs. Nugent stated CLRC told the Authority at an August 16, 2011 meeting that there has been no progress to connect and nor do they have a budget in place for the construction. Mrs. Nugent added at that same meeting the Authority reviewed the plans the contractor had for the project. Mrs. Nugent stated that there were some revisions required; specifically that CLRC was using the Authority as a back-up to their fire flow protection. Mrs. Nugent stated that originally, CLRC was only going to use the Authority water system for potable water and keep their old system for fire flow. Mrs. Nugent stated that CLRC needs to revise those plans.

Mrs. Nugent stated that at the August 16, 2011 meeting CLRC informed the Authority that they would be presenting a revised plan by September 8, 2011. On September 8, 2011 they did not send a response to the Authority office, so a phone call was placed to them. Mrs. Nugent stated that CLRC has not been responding to any phone calls or e-mails since then.

Mrs. Nugent stated that she has been in touch with CLRC's contractor and was informed that the revised plans will be presented to CLRC on September 13, 2011. Mrs. Nugent stated that as of September 22, 2011 the Authority still has not received a response from CLRC. A written request was sent by certified mail to CLRC informing them that some type of response was required by October 6, 2011. Mrs. Nugent stated that CLRC has not responded to this request.

Mrs. Nugent asked the Board for guidance on how the Authority should proceed. Mrs. Nugent stated that CLRC is paying their quarterly fee, but that the Authority is not making revenue from usage. Mrs. Nugent stated that if the next step is to get the lawyers involved, it may lead to court cases.

Mr. Olsen questioned since the Authority is not receiving anything for usage, is the payment for service. Mrs. Nugent replied that the Authority receives the flat rate service fee, but is not getting revenue from the usage portion, however the Authority is not treating water to go out to CLRC.

Mr. Mullikin stated that water has been reserved for CLRC that is not being used and that because of this it may not be used for somebody else who may need it. Mr. Mullikin stated that it might be time to consider informing CLRC of the possibility of legal action.

Mr. Sudia stated that the Authority has informed CLRC several times that legal action could be taken.

Ms. Conoshenti stated that the Authority has corresponded with CLRC several times regarding this. Ms. Conoshenti added it is concerning that CLRC is paying substantial amounts of money for the connection fee and quarterly flat rate coupled with the fact that they have stopped communicating with the Authority.

Ms. Conoshenti stated that there is a mandatory connection ordinance in town and CLRC is required to connect. The problem is that the Authority and CLRC are not in agreement

with the way CLRC has proposed to connect. Ms. Conoshenti stated CLRC will be given additional delays once this goes through municipal court. If the Authority delays taking it to court, CLRC will still be given that extra amount of time.

Ms. Conoshenti stated direction from the Board is needed if the Authority wants CLRC to move forward on this because there is the risk CLRC may stop paying the quarterly fee and the installments on the connection fee. Ms. Conoshenti questioned if CLRC has signed the installment agreement. Mrs. Nugent stated that CLRC has complied with all of the Authority's requests within the agreement, but that to the best of her knowledge it has not been signed.

Mrs. Nugent stated that CLRC has never been overdue with any of the payments and that the connection fee and the quarterly rate fees are up to date. Ms. Conoshenti questioned when the next connection payment is due? Ms. Segreto stated the next connection fee for CLRC is due on October 21, 2011. Ms. Conoshenti stated that if the Authority insists CLRC must move forward, it could make a difference if the connection fee gets paid. Mrs. Nugent stated that CLRC reiterated at the 08/16/11 meeting that they have been making those payments.

Ms. Conoshenti questioned if CLRC changed engineers during all of this. Mrs. Nugent stated that they lost the engineer that proposed the original plan because he is no longer with the company itself and that CLRC wants to hire a new engineer.

Mr. Sudia reiterated that the Authority is only losing out on the revenue generated by the water usage. Mr. Mullikin stated that it could be a substantial amount.

Mr. Sudia questioned the estimation of how much water CLRC would use if they were connected to the water system. Mrs. Nugent stated that it would be a substantial amount of water usage. Mr. Mullikin stated that they would be the Authority's biggest customer.

Mr. Mullikin stated the Authority needs reassurance that CLRC is at least moving in the right direction. The fact that they are ignoring the Authority's attempt to communicate is troublesome. Mrs. Nugent stated an example of that is the requirement for the revision of the plan to remove the Authority as a back up for CLRC's fire flow which will have to be sent to the DCA again. Due to this procedure, it will buy CLRC an additional six months. Ms. Conoshenti added that it was unknown if those plans have actually been revised or not.

Mr. Sudia questioned if CLRC is being required to connect to the water system will the Authority be required to provide them with fire flow protection also.

Ms. Conoshenti stated if it comes to the point where the Authority is enforcing the ordinance, CLRC may agree to it and then question the Authority on what it wants them to do to connect. Ms. Conoshenti added that CLRC may state they have the fire flow and potable water, and may not want to give the Authority the fire flow because it runs into their allocation for water. Ms. Conoshenti stated this could present a problem for the

Authority because it will require them to connect but, the BTMUA cannot provide the fire flow protection at this point. Mr. McClelland stated that the Authority had the unlimited ability to provide fire flow protection for CLRC back when this was originally discussed. Ms. Conoshenti reiterated that if the Authority insists on CLRC connecting at this point and they request fire flow protection it will present the Authority with a dilemma because of the inability to provide the water needed for fire flow.

Mrs. Nugent stated that it was CLRC's request that they only wanted potable water from the Authority and that they keep their original fire protection. Mrs. Nugent stated at the (08/16/11) meeting CLRC was informed that if they wanted the fire flow protection from the Authority it is a separate application which the Authority would have to review. Mrs. Nugent stressed that CLRC was not told that the Authority would not provide fire flow. Mrs. Nugent stated this is why CLRC removed the fire flow because they did not want to have the extra connection and the extra application.

Mr. Mullikin questioned the difficulty involved from the engineering aspect of it. Mr. Mullikin stated CLRC has been providing their own fire flow protection and therefore, all of their plumbing is already in place for that. Mr. Mullikin questioned how that would be isolated from the potable water needs which must be provided from those same lines right now. Mr. Mullikin added that for Central Regional School District it is simply a matter of cutting the line, but for CLRC it is a bit more complicated.

Mr. McClelland stated CLRC's original plan was to use the existing system to provide the fire flow protection. When the plans came in, CLRC had that plus the connection to the water system for fire flow. Mr. McClelland stated that it looked like they were not going to use their existing system at all and they would have to rely on the Authority to provide them with fire protection. The problem the Authority had with CLRC is that they never sent the calculations for what was really needed. Mr. McClelland stated that CLRC is a very high building with six stories and that the existing system they have is an internal suppression system. This would have meant the Authority would have had to come in to meet their requirements for fire flow.

Mr. Mullikin stated that CLRC was actually built in the 1920's and is at least thirty years older than Central Regional. Mr. McClelland stated that CLRC is basically a hospital with a tank on the roof that is used for fire suppression.

Mr. Sudia stated if the Authority is going to pursue CLRC to move forward, then it needs to ensure that adequate fire flow can be provided to them.

Mr. Mullikin questioned how CLRC would be able to separate their potable water supply needs from their fire suppression requirements.

Ms. Conoshenti stated that CLRC does have potable and fire suppression needs separate in the original plans that had been discussed.

Mr. Chiaravallo stated that CLRC has a fire water tank on site that they pump. CLRC wants to remove the tank that is on the roof and make their potable water system a closed system with a pump system on site which would pressurize their potable system. Their fire water system is actually separated from that. Mr. Chiaravallo stated that what CLRC has shown on their plans is a connection from the potable water system to the fire water system to fill their tank. What type of controls, how it would be opened-closed, and back flow prevention are where the concerns are. Mr. Chiaravallo stated that CLRC has not provided any fire water flow calculations; therefore they were never told that the Authority could not provide fire flow. CLRC was informed that they had to provide the Authority with that information in order to determine if there was a possibility for providing the fire flow.

Ms. Conoshenti suggested she needs to discuss with Mr. McClelland and Mr. Chiaravallo about the specifics in terms of what CLRC has failed to supply. Ms. Conoshenti stated that she needs to inform their attorney that the installment plan agreement for the connection fee needs to be signed and that a date needs to be set for the revised plans showing the items that have been missed. Ms. Conoshenti stated that if a date is given to CLRC's director there may be more of a response in regard to this from their attorney. Ms. Conoshenti added that CLRC being without an engineer is part of the problem.

Mr. Sudia questioned if CLRC was brought to court to be forced to connect to the water system, is the ultimate outcome to be the connection itself.

Ms. Conoshenti stated that would happen in municipal court. If one looks back into similar cases, CLRC would be granted several extensions to connect, and being that it is a business/commercial entity and not residential, they would be given a longer amount of time than the normal residential connection. Ms. Conoshenti added that CLRC could possibly be given up to three extensions which would bring it up to at least one year from now (October 2012).

Mr. Olsen questioned if the courts would be affording the Authority the collection of the quarterly payments that is being received now or could the courts say no that they can not be connected now.

Ms. Conoshenti stated that the courts would inform CLRC that they have to connect and that those quarterly payments have to be made, but the connection fee may be a whole different issue. CLRC could be made to pay the connection fee all at once because the installation agreement has not been signed, but that does not mean that they are going to pay it.

Mr. Sudia questioned what the outcome of all this will be a year or so from now. Ms. Conoshenti stated that the issue is if CLRC is forced to connect and agrees to do so, they could present a plan that is unacceptable to the Authority which will put us back in the same position.

Mr. Sudia questioned if there are rules or regulations that state the Authority must give them a certain amount of time at that point again. Ms. Conoshenti stated that there is no set time frame. The ordinance states simply that you must connect, there is nothing in it that says if you don't connect and go to court, that the judge has to impose a six month limitation or a six year limitation, there is nothing of that in writing. Ms. Conoshenti added that there are no regulations to back up the ordinance

Mr. Sudia questioned if CLRC could just keep going with this indefinitely. Ms. Conoshenti stated that this could be delayed for a long time and since they are close, the revisions that are needed, that if they had their original engineer on site it would probably have been done already. This is a minor revision which needs approval from the DCA, but in terms of actually making the engineering revision, the Authority was of the impression that it was not a complicated revision, that it could be completed and submitted to the DCA. Ms. Conoshenti stated that the problem is that the original engineer is not there to make the revision, and whether they have retained a new engineer is not known.

Mr. Sudia questioned if CLRC stops the installment payments on the connection, has that money been figured into the budget. Mr. Fallon stated it would not affect the Authority materially, because the connection fees are for the short term and that it would be limited to five years.

Mr. Mullikin stated that Mrs. Nugent has been the only one that has been communicating with CLRC and that it has not been easy. Mrs. Nugent agreed.

Mr. Mullikin questioned if it would be appropriate for the Authority to prepare a list of items that need to be completed and have it sent to CLRC through from the Authority's attorney to their attorney.

Ms. Conoshenti stated that she has communicated with CLRC's attorney in the past. At the last meeting with CLRC they arrived, with their attorney, unbeknownst to the Authority. She happened to not be available on that particular day. Ms. Conoshenti added that CLRC's attorney was not supposed to be there. Ms. Conoshenti stated that he made assurances to her that he was only there, and to quote him, "baby-sit" and that he did not interject any legalities during the meeting. Ms. Conoshenti reiterated that CLRC made it difficult for the meeting to be arranged and they show up with their attorney. Ms. Conoshenti stated there has been communication in the past and that the way to approach this with CLRC is that the Authority needs to give them the specifics as to what they need to get back with us and when.

Mr. Mullikin suggested that a date needed to be set for CLRC. Mr. Sudia stated they might look at the list and realize that there is not that much left to complete.

Ms. Conoshenti stated that she could send a letter to CLRC's attorney using her letterhead.

Mr. Pizzi agreed and suggested that Ms. Conoshenti should send a letter to CLRC's attorney stating the facts needed, and that the Authority has tried to correspond with them on numerous occasions, but has not received any information in return from CLRC. Mr. Pizzi emphasized that a stern letter need not be sent, but that it should state some of the Authority's concerns in regard to going forward with the connection. Mr. Pizzi stated if there is still no response, then the Authority can take a stronger stance on this matter.

Mr. Pizzi stated that going through the court system is a long drawn out process and that the Authority has gone through it with a homeowner. Mr. Pizzi stated that it took over a year to get them to connect, and then they appealed it. This involved quite a bit of money in legal fees for the professionals, and the Authority never recouped that money.

Mr. Thiemer stated CLRC is paying \$11,980.00 per year for the quarterly service fee and \$44,000.00 for the installment plan for the connection.

Mr. Sudia questioned what happens with the allocation that is set aside for CLRC if something else should come along and that allocation is needed.

Mr. McClelland stated that the allocation has already been granted to CLRC and that the Authority is committed to that.

Ms. Conoshenti agreed and stated the Authority did not foresee anything in its franchise area that other than a few residential issues that would want to connect, that would cause the Authority not to have the allocation to those future applications.

Ms. Conoshenti stated that if there were other commercial establishments that were either in the prospect or older commercial establishments there that needed to connect, than this could pose a problem for the Authority. Ms. Conoshenti stated that when this started with CLRC, there was an issue in regard to the amount for the allocation. The Authority had looked into this and had decided that there was enough because there was not any large connection coming up in the foreseeable future. Ms. Conoshenti stated that Quick Chek came in, but it will not be a problem in regard to this.

Mr. Olsen stated he completely agrees with Mr. Pizzi about sending the letter to CLRC. Mr. Olsen informed the Board that he recently found out that there are dwellings along Route 9 that should be required to connect, but have not; because they are opposite our main on Route 9 and the piping would have to go underneath Route 9. Mr. Olsen questioned how that would affect the Authority if a commercial facility on the west side of Route 9 should inquire why a property is not connected and it goes to court.

Mrs. Nugent stated that in the particular case that Mr. Olsen is referring to is that the main is on the east side of Route 9 and the property that he is referring to is on the west side of Route 9. Mrs. Nugent stated for the Authority to drill across the street of Route 9, it would have to be in an encased service line which is very costly. Mrs. Nugent stated there are several properties in that section of Route 9 such as Altieri Chiropractors and two or three properties closer to Buckley Lane.



Mr. Olsen questioned how that would pertain to the Authority legally. Mr. Olsen added that could put the Authority in a precarious position legally. Ms. Conoshenti stated that is correct because the Authority required CLRC to connect. Mr. Olsen stated that the Authority giving a by [exclusion] to the commercial properties east of Route 9 could be an issue.

Mr. Sudia questioned if those properties east of Route 9 were required to connect. Mrs. Nugent stated they were never required to connect because of the expense related to getting an encased service line under Route 9. Ms. Conoshenti questioned if this would give those property owners a by.

Mr. Olsen stated that he agreed with sending the letter to CLRC, but if it gets to the point with court there could be a problem. Ms. Conoshenti agreed and stated that CLRC could say that if the Authority did not require a property to connect and there is a line, which leads to a valid question being how many properties are there, whether the Authority has the allocation of doing all of those properties, and why it was decided not to do it in the first place.

Mrs. Nugent stated that one was before she was Director for the BTMUA and estimates that there are three houses that were part of Phase IV because the Authority went around on the east side of Route 9 and those properties are on the west side.

Ms. Conoshenti stated the decisions regarding those properties not to connect were made some time years past and we need to look at what caused those decisions to be made at that time.

Mr. Thiemer questioned if the water main dead ends at Buckley Lane. Mr. McClelland stated that it does dead end at Buckley Lane and is there for future extensions. Mr. Thiemer added that the water main does not come up Sloop Creek Road.

Mr. Pizzi suggested that Ms. Conoshenti send the letter to CLRC's attorney and that the Authority needs put a list together identifying the properties in question. Mr. Pizzi stated that the Authority can then review it to determine if further action needs to be taken.

Ms. Conoshenti stated that she does not think that a judge in a municipal court setting will, based upon the connection ordinance, say that if the Authority did not require property "A" to connect, then we can not require property "B", being CLRC, to connect. Ms. Conoshenti stated that she does not believe this is a precedent. Ms. Conoshenti stated that she needed to investigate it further and find out why the decision was made when those lines were put in, not to have those properties connected or when those properties were developed, why they weren't required to connect. Mrs. Nugent stated that it might have been because of the expenses related to crossing Route 9.

Mr. Mullikin stated that CLRC may not present a problem to the Authority in regard to connecting. It may just be a matter of stating to them what needs to be done to get the connection to move forward.

Ms. Conoshenti stated that she will ensure all the information needed from Mrs. Nugent and CME will be gathered and then a letter will be sent to CLRC's attorney giving them a date to respond.

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

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

Mr. Chiaravallo stated his office received a plan from the CRSD engineer regarding the meter installation at the high school. CME has been reviewing this plan and has had discussions with Mrs. Nugent, Mr. Blair, and Ms. Conoshenti to prepare comments for CRSD's engineer regarding that plan. Mr. Chiaravallo stated there is information not included on the plan regarding the details for the meter installation such as providing the locations of the meters how they are installed, and where they are installed, which must be included so that CME can prepare comments for that.

Mr. Chiaravallo stated that the high school and middle school are connected, but the field house and maintenance building has not yet been connected. The two administrative offices have not been connected with their new services and they are still being fed back through the high school building.

#### **Node "C" development:**

Mr. Chiaravallo stated a letter report was sent to Mrs. Nugent regarding the Node "C" development and the build out analysis and has been discussed with her. Copies of this report have been provided to the Board members at tonight's meeting (10/13/11).

#### **Quick Chek:**

Mr. Chiaravallo stated CME and the BTMUA staff were on site to observe the relocation of the existing hydrant along Central Pkwy. The water service to the Quick Chek has not been installed yet.

#### **Pine Crest Developers:**

Mr. Chiaravallo stated there was a pre-construction meeting today (10/13/11) with Pine-Crest Developers. They are proposing to extend the existing water main approximately 200 ft along Livingston Avenue for four single family homes to be built one at a time. Mr. Chiaravallo stated they should be starting this project within the next several weeks.

Mr. Pizzi questioned if Livingston Avenue will have the water main dead end. Mr. Chiaravallo stated yes, that it is an existing dead end now and will have the four houses which will extend it another 200 ft. It will have a hydrant at the end of it.

Mr. Mullikin questioned if Quick Chek is going to have gasoline. Mr. Mullikin stated that it appears to be far away from the Authority facility. In Lacey Township a miniature golf course was put in with go-carts in the back next to one of their well fields. Mr. Mullikin stated there was a big concern regarding fuel leaks due to fueling the go-carts. Mr. Mullikin questioned if there is a protective radius around the Authority's perimeter where it will be discouraged to have underground storage and different things like that. Mr. Mullikin stated the pumping wells are within a certain radius where one is more diligent, though it is fortunate for the Authority that it is in a confined aquifer. Mr. Mullikin stated that Aqua Water Company has wells that are susceptible to gas leaks, such as something on the roads making a spill, but that the Authority is somewhat protected from that. Mr. Mullikin questioned if there is something in place that the Authority would have the ability to scrutinize what is coming into our franchise area. Mr. Mullikin stated the Authority did not have any say over Quick Chek and what they are offering there. This is not a problem due to their proximity and the way the ground water flows south.

Mr. Sudia stated that any new gas installations would require much more scrutiny than most businesses.

Mr. McClelland stated that the Rules and Regulations are in the process of being revised and that could be included in there. Mr. McClelland stated in regard to the aquifer, it is unclear to where the outfall really is. There have been discussions that it may be quite a way out in the Pine Barrens. Mr. Mullikin agreed that it is out to the west of the Pine Barrens. Mr. McClelland stated that the water comes through the Pine Barrens. Mr. McClelland stated that it is a good idea to include reviewing possible contamination in the Rules and Regulations, but that the Authority needs to be careful not to impose any regulation that supersedes the DEP. Mr. McClelland stated that he also worries about gasoline stations around the Authority's water lines, even though they are all regulated.

Mr. Mullikin stated that they should be in a position to demonstrate that the issue of gasoline will not pose a problem for the Authority.

Mr. Pizzi questioned if the Authority has the ability to go before the Planning Board to inform them of our concerns be known, would they apply for application.

Mr. Mullikin stated that when the Authority was being built, one of the concerns was that this was a superfund site because of the x-rays on Hickory Lane and that there might have been sulfite and uric acid being put into the ground.

Ms. Conoshenti questioned if Hickory Lane was a superfund site. Mr. Mullikin stated that was correct and that there are three superfund sites here in Bayville.

Mr. Mullikin stated they took the old x-rays and removed the silver from the plastic. The problem was that when they were done with the processing, they were piling up the shredded plastic in the back of the site and the ground water was leaching all this sulfuric acid, mercury, etcetera into the ground. Mr. Mullikin stated that most of it dispersed and that fortunately for the BTMUA it is not being drawn here because there is nothing pulling it in. Mr. Mullikin stated that it is important for the Authority to be in the position to have the ability to state its concerns before anything is put in that could be concerning.

Mr. McClelland referred to his report and stated the re-development project is being broke down into two parts, part A referring to Node "C" the residential section and part B referring to the industrial section. There was discussion of the demands and what the unit counts are so that this really was an intent to memorialize what the Board was informed of and to get it into writing for future use.

Mr. McClelland stated that it was indicated that the peak day demand for the redevelopment project would be about for 468,000 gallons per day.

Mr. McClelland stated regarding the build-out analysis, CME estimates that the ultimate water demands based upon what peak rate are using and the peaking factor that are mandated by the regulations.

Mr. McClelland stated the build-out analysis has been put into writing, and indicates what the developable units are in town and what can be added to the service area.

Mr. McClelland stated that now with the build-out and the redevelopment area, now it can be calculated for what the future peak day demands are, and then compare that to what the firm capacity is.

Mr. McClelland stated that an estimate for the future peak day demand is five million gallons per day, based upon the limiting factor of firm capacity which is the source capacity. Source capacity is about two million gallons available per day, which means there that is a deficit of three million gallons per day. Mr. McClelland stated the available allocation is based on the information that his office has. Mr. McClelland referred to the chart on page four which comes down to three million gallons.

Mr. McClelland stated that what is left is for the approximately 430 residential units can be constructed in the system before there is a problem with water allocation or 1.3 million square feet of commercial, or a combination thereof.

Mr. McClelland stated that CME's recommendation is that the Authority should begin to apply as soon as possible for an allocation source other than the Piney Point Aquifer. Mr. McClelland stated that Lacey Township is going for a public hearing regarding a diversion of water from the Atlantic City Aquifer to Upper Township PRM.

Mr. McClelland stated that this report memorializes what the Board was informed of verbally. The idea behind this is that the Board would have this in writing from CME

recommending that the Authority should really consider this allocation sooner rather than later. Mr. McClelland stated that three million gallons of water translates to about 2,100 gallons per minute well. Mr. McClelland stated that CME's suggestion is that the Authority should try to go in for an allocation that would bring it to as close an ultimate build-out as possible. Mr. McClelland suggested that once the Authority gets the allocation it should build two wells to blend the water. The Authority will then have two sources that will provide the ability to blend the water and if one should go, the other well can be used as a back up.

Mr. Pizzi questioned if there is a time frame for the Authority once it gets the allocation before you must access it.

Mr. McClelland stated that he was not sure and suggested that the Authority may want to blend it through Piney Point with the allocation. Mr. McClelland stated with the data we have now it can be demonstrated that this is the ultimate goal. It does not include the development of wet lands and does not encourage the development of sensitive areas. Mr. McClelland stated this is the reality of what is feasible and is the proper planning for water. Not many utilities are doing this and that the Authority is ahead of the other facilities in this regard.

Mr. McClelland stated that the Authority does not have a real option to buy water, which had been discussed earlier. Though there are other options, this seems to be the least expensive and is the way the Authority should go. Mr. McClelland stated other options that were discussed were the reservoir, desalination, and etcetera. There is also the potential of dropping a well on site at the Authority. It is just the use of a different aquifer that is the concern.

Mr. McClelland stated that based upon the information that CME has received from wells that were drilled into the PRM; the water quality is very close to that of the Authority's.

Mr. Pizzi questioned the name of the aquifer that was being referred to. Mr. Mullikin stated it is the Upper PRM also known as the Magothy Formation. Mr. Mullikin clarified that PRM stands for Potomac-Raritan-Magothy, the lower aquifer which is above what they call the "basement block". Mr. Mullikin stated the Potomac is hit or miss in that you never know what you may see when you go into that. Mr. Mullikin stated the Raritan really doesn't exist here. The Raritan is an aquifer and is all clay, but the Magothy is fairly predictable and that the wells start south of there.

Mr. Olsen questioned if this was the well Lacey drilled into. Mr. McClelland stated there is a public hearing scheduled for this. Mr. Mullikin stated that the two Magothy wells that were put in must work well because they are talking about putting all their existing wells on stand by and just running off these two wells. Mr. Mullikin stated this is just under consideration as they still need the capacity and there is the possibility of them making water available to the surrounding communities.

Mr. Pizzi stated that he agreed with Mr. McClelland regarding present and future water supply and that the Authority needs to move towards that. Now is the perfect opportunity to give Mrs. Nugent the authority to start gathering the information to see what is needed and to advance the project if possible.

Mr. Mullikin stated to put a new well in is going to take years and that the Authority needs to look at its future needs.

Mr. Pizzi stated that starting the process will let the Authority be aware of what needs to be done and should start moving forward.

Mr. Mullikin stated that one problem for the Authority is that the first one has the greatest right to a source and that anything we do can not adversely affect Lacey now.

Mr. Pizzi stated that it makes it more important that the Authority comes in second.

Mr. Mullikin stated that he pushed years ago for a third well to be put in by the tank near Northern Blvd knowing that there was a good chance that Beachwood was going to build a new aquifer, which they did. Mr. Mullikin added that if the Authority were to go in there we would have to ensure that it would not adversely affect Beachwood.

Mr. McClelland suggested that we set up a pre-application meeting with the DEP so that there can be a discussion first regarding these issues and that CME will come back to the Authority after each meeting with updates. Mr. McClelland stated there is usually a test well requirement and a lot of other things that need to be accomplished.

Motion to authorize the Authority and it's professionals to take necessary action to start the process of an allocation application: Mr. Pizzi, second, Mr. Olsen. All in favor. Roll Call. Mr. Olsen-yes, Mr. Thiemer-yes, Mr. Pizzi-yes, Mr. Mullikin-yes, Mr. Sudia-yes. Motion Carried.

**Accountant's Report:**

Mr. Fallon stated in his report:

**Cash Position Report for August 2011:**

Total All Cash Fund Balance:	\$3,926,740.69
Total Restricted Balances:	\$2,430,548.80
Total Fund Available for Disbursement:	\$1,496,191.89

**Cash Position Report for September 2011:**

Total All Cash Fund Balance:	\$3,915,855.98
Total Restricted Balances:	\$2,404,049.85
Total Fund Available for Disbursement:	\$1,511,806.13

Mr. Fallon stated that the Authority budget is actually due by the end of the month (October). Mr. Fallon stated that during the week of 10/17/11 he will be in the Authority office helping Mrs. Nugent put together the budget which will be completed prior to the 10/27/11 meeting. Mr. Fallon stated that this is required because it is the last meeting of the month and the budget needs to be adopted ("**approved**") by then. Mr. Fallon requested the Board members look it over once they are in receipt of it in case there are any questions or changes.

### Attorney's Report:

Ms. Conoshenti stated that she and Mrs. Nugent reviewed the status of the Foxmoor at Tallwoods Development which is behind the Tallwoods Convalescence Center. There has been no activity there since the original developer lost that property. Ms. Conoshenti stated that the bank is in the process of taking over through foreclosure. There is also a buyer interested in proceeding with the development and the Authority has relayed to the buyer's requirements with regard to bonding and cash escrows, etcetera. Ms. Conoshenti stated the new buyer requested to see if they could use the bond that is currently in place and that her answer is a definite no. Ms. Conoshenti stated the same is true for a cash escrow unless they get authorization from the original developer.

Ms. Conoshenti stated that she understood the interest, but that the buyer does not have a problem with doing the new bonding requirements. Mrs. Nugent added that they are very eager.

Ms. Conoshenti recalled that Kara Homes went into bankruptcy. The Authority called in the surety company and they completed the punch list requirements in that development off of Buckley Lane (Lenesy Estates). Ms. Conoshenti stated that there is a little over \$4,000.00 that the Authority is holding in their escrow account and that money can not be dispersed, the Authority hasn't, nor has there been any request for it. Ms. Conoshenti stated that the Authority has been holding the money and now wants to transfer it from TD Bank to Ocean First Bank. This is going to be done, but Ocean First Bank has informed the Authority that the tax ID number for Kara Homes is not valid. Ms. Conoshenti stated that she has written Kara Homes to inform them that the Authority has the money and is transferring it from one bank to the other, and that we are requesting a new tax ID number. Ms. Conoshenti added that she is still waiting for a response from them and that it is assumed that they will be requesting their money back once they are aware it still is being held. Ms. Conoshenti stated that the Authority needs to know where Kara Homes is at in the bankruptcy court before that can be accomplished.

Mr. Mullikin questioned if in regard to the Node "C" development, in particular the town center, if there would be something in place requiring funds to be dedicated towards a water tower or new well construction.

Mr. Mullikin stated that when the new homes were built off of Veeder Lane which are all the homes along the lagoons near the Potter Elementary School, they ended up working

into the costs of those homes which cost them a new water supply well and the water tank. Mr. Mullikin stated this is something the Authority weigh because of the possibility of future expansion and the costs that will go with it. Mrs. Nugent replied that she would provide Mr. Mullikin a copy of the BTMUA response to Berkeley Township in regard to Node "C" and the infrastructure concerns after the meeting.

### **Committee Reports:**

#### **New Business:**

Mr. Pizzi stated that in regard to CRLC and CRSD, the Authority has had difficulty in providing fire suppression and to adhere to the requirements that go along with it. Mr. Pizzi stated that he has always considered the Authority to be a potable drinking water company, rather than a fire suppression company. Mr. Pizzi questioned if it were possible for the Authority to change the Rules and Regulations to state that. Mr. Pizzi added that this would take the burden off of the Authority by stating that it is not in the business of supplying water to buildings for fire protection, even though the hydrants are provided for this purpose. This would alleviate the pressure on the Authority to provide this, especially with the Node "C" Development that is coming in.

Mr. Sudia questioned what is actually the problem in not providing the fire protection, or is it just the liability.

Ms. Conoshenti stated that it is the issue of allocation and that the reason the Authority does not want to do the fire suppression is because of the fire flow numbers along with the pressure and the ability to supply that amount.

Mr. McClelland stated that CRSD's numbers came out to over 5,000 gallons per minute. It was imposed on the model and it is doubtful that is a number that can be guaranteed, it is believed that the number is closer to 3,500. Mr. McClelland stated 5,000 gallons per minutes is a tight number. With those types of numbers for commercial use, the general recommendation is that we will give you this and that they will need to put in their own internal system. Mr. McClelland stated that CRSD never had an internal system put in, unless a new building was put in tomorrow and it supplemented the system. Mr. McClelland added that generally they don't want to pay for upgrades so they usually put an internal suppression system in.

Mr. McClelland stated they would rely on the Authority to provide the water that their internal suppression system would use and the other is a hose stream. Generally that number is about 500 gallons per minute for the hose stream. Mr. McClelland stated that he really has not seen numbers much over 1,000 gallons per minute for the internal suppression system; this is about 1,500 gallons per minute which the Authority probably could provide. It gets complicated when the fire department shows up. They put the pumpers on which is 2,000 gallons per minute and that plus the fire's internal system gives about 3,000 gallons per minute.



Mr. McClelland stated the issue is when you get unreasonable numbers beyond that, which is what CLRC and CRSD would have. Mr. McClelland stated that historically in regard to fire protection, it was never intended that any water system became the fire protection, but lacking something else, it became so by default. If the Authority does not provide fire protection it becomes complicated as to how they would supply the suppression for fire. Mr. McClelland stated the concern for him is that if the Authority does this as a service to these organizations, the fact is that they may not have enough, and then it becomes something that the Authority could be liable. Mr. McClelland stated that the water systems provide an analysis which, prior to that, the developers almost had to be forced to calculate it and that it becomes a very difficult issue to figure out.

Mr. Mullikin stated this will need to be discussed further when the issue of increasing the water allocation comes up.

Mr. Pizzi stated that in regard to gallons per minute, the Authority should be able to state that there is a maximum amount that can be supplied to you as opposed to the CRSD 5,000 gallons per minute requested, where 2,500 gallons per minute is a more reasonable amount.

Mr. McClelland stated there are handbooks which state there is an amount which there is a maximum that is reasonable that a water system can provide.

Mr. Sudia stated the Authority should stay ahead of this issue, in particular because of the Node "C" Development.

Mrs. Nugent questioned that if they built Node "C" and the town requires them to have fire protection, wouldn't they have the fire suppression inside the buildings which would lower the numbers for the Authority.

Mr. McClelland stated yes, unless that became higher than what the school's numbers are and what is reasonable to provide and if a tank is built, this would entail millions of dollars for a water storage tank. Mr. McClelland stated that there are industrial facilities up north that have these onsite tanks specifically for fire protection. Mr. McClelland stated that it needs to be put in the Rules and Regulations on how much can be allocated for fire flow protection.

Ms. Conoshenti stated that she will discuss this further with Mr. McClelland as to what needs to be put in the Rules and Regulations because the Authority can only provide "x" amount of gallons for fire suppression.

#### Old Business:

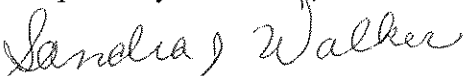
No Report.

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

Motion to close the public portion: Mr. Thiemer, second, Mr. Mullikin. 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, October 27, 2011 at 7:00 pm at the Berkeley Township Municipal Utilities Authority located at 42 Station Road, Bayville, NJ 08721.