

**EAST BRANDYWINE TOWNSHIP MUNICIPAL AUTHORITY**  
**Tuesday, April 8, 2008**  
**7:30 A.M.**

**Those in Attendance:**

Michael Corbin, Chairman  
Gerald Kirkpatrick, Vice-Chairman  
Joseph Anthony, Secretary  
Sandra Moser

**Absent:**

David Summers, Treasurer

**Also in Attendance:**

Scott T. Piersol, Township Manager  
Matthew T. VanLew, Roadmaster  
Thomas Oeste, Esq., Municipal Authority Solicitor  
Joseph Boldaz, Municipal Authority Engineer  
Justin Scarth, CMX Engineering  
John Hammell, CMX Engineering  
Mary Beth Smedley, Secretary/Treasurer

The Municipal Authority met on Tuesday, April 8, 2008 at the East Brandywine Township Municipal Building. Mr. Corbin called the meeting to order at 7:35 A.M. There were five visitors present.

**Minutes: March 11, 2008**

Approval of the March 11, 2008 minutes was deferred until the May 13, 2008 meeting.

**Treasurer's Report**

Mrs. Smedley reviewed the Treasurer's Report and Account Balances as of April 7, 2008. Mr. Anthony made a motion to approve both Treasurer's Reports and authorize payment of bills. Mrs. Moser seconded the motion, with all voting Aye.

First quarter user fees remain unpaid from Best Specialty Foods, Duane Oakes, and Craig Redden, all in the Guthriesville Sewer District, and Brian McAnally and Tom Slate in the Keats Glen development. The certified letters to Oakes and Redden were unclaimed, as a result, the delinquent notices were sent by the Authority again by first class mail on March 31, 2008. The new payment due date for these two delinquencies is April 10, 2008. Municipal claims will be filed against those who remain unpaid after that date. Also, invoices to Pulte for four model homes at Applecross remain unpaid. Late fees have not been added at this time in order to give Pulte some time to approve and process payments.

Invoices for the second quarter 2008 were mailed on March 31, 2008. The payment due date is May 1, 2008.

In March, nine more properties at Applecross were added to the customer list. There are now 22 customers at Applecross. This total includes five model homes.

Mrs. Bednarchick and Mrs. King are working with John Curtin at Applecross to see if they can provide advance notice of upcoming settlements so that pro-rated invoices can be prepared for payment at settlement.

### **Installation of Hydrogen Peroxide Feed – Update**

Mr. Piersol reported that he has received two emails from residents complaining about odors. It appears that one of the problems may be caused by an internal plumbing problem. The other odor problem doesn't seem related to odors usually associated with a sewer treatment plant.

Mr. VanLew reported that the V-Rae meter was apparently in need of repairs to function properly. The meter malfunctioned last week, indicating an "LEL" fault, which could not be cleared.

Mr. VanLew sent the meter to Pine Environmental in New Jersey for repairs. They provided an initial estimate of \$630.00 to replace the CO, O<sub>2</sub> & LEL sensors.

This unit is a 4-gas meter, monitoring carbon monoxide (CO), methane, hydrogen sulfide (H<sub>2</sub>S), and oxygen levels, along with lower explosive limits. When the unit was previously sent to Pine Environmental for service, Mr. Piersol indicated we only needed the unit to monitor H<sub>2</sub>S. Mr. VanLew called and was told they can disable the LEL sensor, but the unit must monitor oxygen in order to properly monitor H<sub>2</sub>S. Their revised repair cost is \$240 plus shipping.

Mr. Piersol received a proposal from the FireStore for a new MSA ALTAIR Pro single gas detector. The unit cost is \$270.00, with the software for data logging \$216.00.

Mr. Piersol has also contacted another firm who previously sent information and is waiting for a reply from their sales representative.

After review of the information the Authority agreed that after Mr. Piersol receives all the information, he should decide whether to repair the V-Rae meter or purchase a new gas detector.

### **Applecross Development (AKA Overlook Road Farm)**

The applicant is proposing to build a combination of single family homes, carriage homes, and townhouses for a total of 655 units on both the north and south side of East Reeceville Road. The plan also shows an 18-hole Jack Nicholas-designed golf course with a clubhouse. The property encompasses approximately 621.74 acres of land, comprised of 307.58 acres north of East Reeceville Road and 314.16 acres south of East Reeceville Road. The southern portion of the proposed development is a 310 acre tract located in the R-2 Zoning District and proposes single family homes on individual lots and approximately half of the golf course. The portion of the property north of East Reeceville Road was granted preliminary plan approval in March of 2004.

The "North Tract" is being reviewed under the "Clustered Residential Development" regulations of the R-3 Residential Zoning District in conjunction with the Settlement Agreement dated April 1, 2004. The "South Tract" is being reviewed under the "Clustered Residential Development" regulations of the R-2 Residential Zoning District. The project is proposed to be constructed in four phases. The applicant received final plan approval, with conditions, for Phase 1 of the development on November 2, 2006. Plans for Phases II through IV were recently submitted. Mr. John Curtin attended the meeting on behalf of the Pulte Homes.

#### Escrow Release Request

Mr. Boldaz has requested some additional information for the Pulte escrow release request and has asked Pulte that it be provided to the Authority in a different format.

#### Applecross Sewer System Update

Mr. Curtin provided a plan of Phase I that shows where the sewers lines have been installed. Essentially, all of Phase I lines and pump station have been installed and most of the lines have been tested.

Pulte reported that the meetings have continued to take place with West Brandywine Township with regard to Pulte's Active Adult Community. Mr. Curtin stated that approvals are going well for this development with the exception of discussion about the sewer connection.

### **Weaver Tract**

The applicant is proposing to build 273 units (184 – 35 foot wide units and 89- 40 foot wide units). The subdivision is on a 140.458 acre lot located at the southeast corner of Bollinger Road and Horseshoe Pike. The lot is being developed under the R-3 Zoning District requirements per a settlement agreement. The Settlement Agreement with the Township was approved on November 2, 2006.

Sewage will be treated offsite in an SBR treatment plant (conceptually agreed to be the Pulte-constructed plant) and the treated effluent will either be disposed of on-site in subsurface disposal systems or off-site where the sewage is treated at the Applecross Wastewater Treatment Plant. Hydraterra Professionals and CMX Engineers are reviewing the sanitary sewer design.

Michael Macaninch, Esq., Jim Flanagan, Area Vice President, Doug Leach, Community Manager, and Tony Marques, Land Development Manager attended the meeting on behalf of K. Hovnanian.

Mr. Macaninch reported that he and Mr. Oeste have been working on the Sewer Capacity Reservation Agreement. Mr. Macaninch hoped that the suggested language addresses the Authority's concerns about the East Brandywine Township Municipal Authority and residents of East Brandywine Township subsidizing K. Hovnanian's sewer costs. The Agreement still needs to be reviewed by K. Hovnanian's CEO. Mr. Macaninch hopes to have the Agreement finalized and executed by the May 13<sup>th</sup> Municipal Authority meeting.

Mr. Macaninch discussed several issues regarding the agreement.

1. K. Hovnanian would like to have the ability to sell excess capacity that they have purchased. The Authority has several concerns about losing control of who buys the excess capacity and strongly feels that the Authority doesn't want to relinquish their rights to approve who will be able to purchase it. Mr. Oeste suggested the following language:

"Further with the written consent of the Authority, not to be unreasonably withheld, Applicant may sell some or all of the Excess Capacity to potential users within the East Brandywine Facility public sewer service area. The Excess Capacity may be sold at a cost not to exceed the amount per gallon paid by the Applicant to the Authority for the Excess Capacity."

2. There were questions about twelve resident connections along East Reeceville and Bollinger Roads. Mr. Oeste provided the following language for consideration:

"If some or all of the twelve (12) existing residences connect to the East Brandywine Facility, the Authority shall reimburse Applicant in the amount per gallon paid by the Applicant for the capacity for the existing residence(s)".

The Authority wanted clarification as to whether K. Hovnanian agreed to provide hook-up for these residents, or actually connect them to the sewer system. Mr. Piersol and Mrs. Smedley will investigate this.

3. The first sentence of paragraph 8 on page 6 of the Agreement shall state "As the sewer fees referenced herein are paid, the Applicant may request that the

Authority release or authorize the release, from time to time, of such portions of the letter of credit used to secure the Sewer fees that have been paid.”

4. Mr. Macaninch asked that the following language be added to the agreement “all approvals necessary to allow the Applicant to obtain a building permit”. The Authority is very concerned because they do not have control over outside agencies and do not want to take on the risk that K. Hovnanian might not follow through with obtaining certain permits. Mr. Macaninch assured the Authority that K. Hovnanian plans to build the community. He stated that language could be added that the applicant would make “*their best efforts to secure all permits.*” The Authority thought that the term “best efforts” wasn’t measurable and as a term of art, was unclear and allowed ambiguity. Mr. Macaninch stated that the term is in fact a “real” standard in case law.

The applicant is waiting for the following permits: The Part II permit from PADEP, the NPDES Permit, a dam permit and the HOP permit. Mr. Macaninch stated that they are very close to obtaining approvals; he expects to have comments from the Chester County Conservation District within the next 30 days. The Authority is concerned that if any of the approvals prove difficult to obtain, or additional lots were lost, that applicant might decide not to build the development. Mr. Macaninch stated that K. Hovnanian would be obligated to accept reasonable conditions on the permits.

Mr. Corbin asked that the current draft Agreement, with the most recent revisions be forwarded to the Authority members for review.

Mr. Corbin also noted that if outstanding issues with the Sewer Reservation Agreement are not resolved, it is unlikely that the Planning Commission will make a recommendation for final plan approval. In any event, the Municipal Authority recommends that final plan approval be withheld until this issue is resolved.

Mr. Kirkpatrick suggested that the applicant wait to give the final draft to Mr. Hovnanian to review until the above outstanding issues are resolved. Mr. Flanagan agreed, and said that he thought Mr. Hovnanian would be able to review the document within the next few weeks.

#### **Applied Water Management Operation and Maintenance Agreement**

Mr. Thomas Czop provided a contact renewal for the operations and maintenance of the Keats Glen Wastewater Treatment Plant and the Guthriesville Pump Station. He also attached a cost breakout to compare with the last contact. The new contract, if accepted, will expire in December of 2009. At that point it is likely that the Authority will be looking for a contract operator for the Applecross Wastewater Treatment plant, in addition to Keats Glen and Hopewell.

Per his discussions with Mr. Boldaz, coverage was increased to include additional analyses required for the new NPDES Permit. The contract also includes the coordination of bi-annual cleaning of the Bondsville Road Pump Station wet well, and the purchasing of maintenance supplies and consumables. Mr. Boldaz said that additional sampling would include Total Phosphorous, Nitrogen, Nitrates and Nitrites.

The Authority will review the contact and consider it for approval at the May Municipal Authority meeting.

### **Keats Glen/DCCC Treatment Plant**

#### Aeration/Recoating Project

Mr. Boldaz stated that he is working on the technical specifications and should have information for the Authority to review by next month. Mr. Boldaz expects that the work can be done this summer since this is the best time for completing maintenance projects; flows are lower as the Community College has a reduced schedule. and it will be minimally disruptive to all users..

### **Guthriesville Sewer District Chapter 94 Report**

Mr. Boldaz stated that although PADEP doesn't require a Chapter 94 report for the Guthriesville Sewer District, Gambone Development is requesting a Chapter 94 Certification of flow capacity in order to submit their Sewage Facilities Planning Module.

It was remarked that on a technical basis, a preferred method for Gambone to connect to the sewer system is via gravity through a manhole that is part of the Guthriesville Sewer System, and this routing could be used for the Planning Module. Mr. Corbin pointed out that there is another routing for the collection line (crossing Rt. 322) that is also viable and that a decision would be made at the time of final design. Mr. Boldaz will provide a draft Chapter 94 Report for the Authority to review and then it will be submitted to PADEP for their review and approval.

### **AWI/Croppers**

After last month's meeting Mrs. Smedley contacted Deborah Shulski, Esq., attorney for AWI/Croppers, and asked that the following note be added to the plan:

The existing package sewer treatment plant shall be decommissioned, and sewage from the Brandywine Village Shopping Center shall be treated at the Applecross treatment plant as soon as treatment capacity and conveyance is available and permitted.

Ms. Shulski discussed this with Sean O'Neill, Esq., attorney for Brandywine Village Shopping Center. He provided alternative language, which was on the recorded Brandywine Village Shopping Center land development plan. Mr. Oeste and Mr. Boldaz reviewed the revised note and offered the following revision:

Within sixty (60) days of written notice from the Township to the owner of Parcel A, the sanitary sewer laterals and collection system on Parcel A shall, at the owner's expense, be re-routed, in an approved manner to the Authority's sanitary sewer system in accordance with the East Brandywine Township Municipal Authority Water and Sewer Specifications and Details.

The owner of Parcel A (Brandywine Village Associates) shall obtain in a timely manner all necessary permits, including but not limited to Act 537 planning module approval, and pay all necessary connection, tapping, sewer rental, and other fees required to make the connection, and purchase and utilize the treatment capacity, according to the Authority's reservation formula

Upon connection as aforesaid, Parcel A shall disconnect from, discontinue use of, and permanently relinquish the right to use the private sewer treatment plant located on Parcel B (Watters Tract). Within sixty (60) days of the last of Parcels A and B to connect to the Treatment Plant, the owner of Parcel B shall decommission, dismantle and remove from Parcel B the private sewer plant and all associated piping, equipment and fixtures in accordance with all applicable statutes, ordinances and regulations.

This suggested note will be forwarded to Ms. Shulski and Mr. O'Neill for their review. Once finalized, this note should be added to both the Watters Tract and Brandywine Village Land Development plans.

### **Act 537 Revision**

Mr. Boldaz suggested that the Authority might consider a major revision to the Township's Act 537 Plan. This could be used as a planning tool in conjunction with the revision to the Township's comprehensive plan. Mr. Piersol thought that the current 537 Plan was adopted in 2001. Mr. Corbin stated that this might be something the Authority would consider for next year since the cost isn't budgeted for 2008. Mr. Boldaz stated that the Authority could expect to receive 50% reimbursement from the State once the plan was adopted.

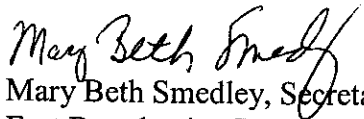
### **Public Comment on Non-Agenda Items**

Mr. Corbin asked if there were comments on non-agenda items. There were none.

### **Adjournment**

There being no further business, Mrs. Moser moved to adjourn the meeting at 9:00 A.M.  
Mr. Corbin seconded the motion, with all voting Aye.

Respectfully submitted,



Mary Beth Smedley, Secretary/Treasurer  
East Brandywine Township