

EAST BRANDYWINE TOWNSHIP MUNICIPAL AUTHORITY
Tuesday, January 12, 2010
7:30 A.M.

Those in Attendance:

Gerald. Kirkpatrick, Vice-Chairman
David Summers, Treasurer
Joseph Anthony, Secretary
Sandra Moser, Member

Also in Attendance:

Scott T. Piersol, Township, Manager
Thomas Oeste, Esq., Municipal Authority Solicitor
Joseph Boldaz, Municipal Authority Engineer
Mary Beth Smedley, Secretary/Treasurer

Absent:

Michael Corbin, Chairman

The Municipal Authority met on Tuesday, January 12, 2010 at the East Brandywine Township Municipal Building. Mr. Kirkpatrick called the meeting to order at 7:30 A.M.

Minutes: December 8, 2009

Mr. Kirkpatrick asked if there were any additions or corrections to the above minutes. There were none. Mr. Anthony moved to approve the minutes of the meeting as presented. Mr. Summers seconded the motion, with all voting Aye.

Treasurer's Report

Mrs. Bednarchik provided a list of customers who remain delinquent for the 4th quarter. Two certified notices were unclaimed and were sent again via first class mail on January 8, 2010. Invoices for the 1st quarter were mailed on December 30, 2009.

The former Redden property at 13 Grovehill Court went to settlement on December 10, 2009, and all delinquent fees are now paid. The former Leech property at 22 Grovehill Court is scheduled for settlement on January 29, 2010 and delinquent fees will be paid at that time.

There were five settlements at Applecross in December bringing the total number of occupied homes to 94, in addition to 13 model homes and the community and fitness centers. There are no settlements scheduled so far in January.

As a follow-up to last month's meeting, the Authority discussed amending the late fee policy. This issue will be tabled until next month.

Relative to other Authority fees, Mr. Oeste is investigating charging applicants for plan reviews and will make a recommendation within the month. Mr. Anthony made a motion to approve the Treasurer's report and authorize payment of bills. Mr. Summers seconded the motion, with all voting Aye.

Reappointment of Municipal Authority Solicitor and Engineer

Mr. Summers made a motion to reappoint Thomas Oeste, Esq., of Parke, Barnes, Spangler, Oeste and Wood as Municipal Authority Solicitor for 2010 and Joseph Boldaz, P.E., from HydraTerra Professionals as Municipal Authority Engineer for 2010. Mr. Anthony seconded the motion, with all voting Aye. A letter will be sent to CMX Engineering to inform them that they were not reappointed as Associate Engineer for Business Year 2010.

Downingtown Area School District

Lee Snodgrass and Joe Fraim from the School District and Fred Ebert from Ebert Engineering attended the meeting to discuss the Sewer Reservation and Purchase Agreement. A copy of the Sewer Agreement was sent to the School District's Solicitor for his review in early November. Mr. Snodgrass indicated that the School District would be sending a counter-proposal to the Agreement by the end of the week.

Mr. Snodgrass said that the School District wants to advertise that the Township is accepting comments for 30 days on the proposed adoption of the Revision to the Act 537 Plan. The plan revision is for the Downingtown Area School District Third Middle School, which is proposing to connect to the Applecross Sewage Treatment Plant for treatment of sewage, with the treated sewage being returned to the site for community drip irrigation disposal. A revised Sewage Facilities Planning Module was provided to the Authority Engineer and Authority members for review based on Mr. Boldaz's previous comments.

Mr. Boldaz said that his comments on the previous submission had been addressed in the revised Module, which includes showing the drip disposal area as previously presented by K. Hovnanian for 63,177 gpd. Although the school will provide space for that volume of recharge from the Applecross Sewage Treatment Plant, the School District will only be required by the Authority to construct drip fields for 12,000 gpd at this time (as previously agreed upon with the Authority).

The existing Act 537 Plan regulations require an applicant submit a Sewage Facilities Planning Module to demonstrate that an agreement is in place to accept the produced effluent, in this case, from the school. The School's Planning Module will not be complete without that agreement. Mr. Oeste said that the public notice allows the public

to comment on the Planning Module and requires that those comments be addressed in some fashion prior to submitting the completed Planning Module to PADEP.

At the last Authority meeting Mr. Boldaz's opinion was that the public comment period could commence as long as there was a draft sewage agreement being developed that was agreeable between the two parties. This included flow volumes, and an understanding of the general rates that would be paid for disposal. Mr. Oeste said that at this point there is no agreement and it appears that there are several areas where the two parties are quite distant from reaching an agreement. Mr. Summers said that in past meetings the School District has repeatedly represented that they would meet K. Hovnanian's obligations with regard to the Sewer Agreement. Now, it appears that isn't the case.

Mr. Oeste said that there were three major areas in the Agreement of potential disagreement. The first is the size of the drip field, the second is partial payment of construction costs and the third is payment of excess capacity carrying costs until other users connect to the system. As part of their counter-proposal, the School District will acknowledge that land will be set aside for drip fields that can treat 63,177 gpd and payment of their proportionate share of the construction costs.

The major sticking point at this point appears to be the payment for the excess capacity O&M and the attending sinking fund fees for the sewer treatment plant. Mr. Snodgrass said that the School District has agreed with two of the three conditions and would have discussed the third condition sooner, but they didn't really understand all the potential financial ramifications until now. He went on to say that the School Board was hesitant to sign the Sewer Agreement without knowing the specific costs.

Mr. Kirkpatrick said that he took the time to review his notes and did some research. He noted that the School District has had the Agreement since November 5th. In notes taken in February of 2009 it appears Mr. Donatelli said that the District is prepared to "*step into K. Hovnanian's shoes.*" Furthermore, notes Mr. Kirkpatrick took in March, July, October and December of 2009 all indicate that the District committed to the same thing. Until yesterday, January 11th, the Authority heard nothing different from the School District. Mr. Kirkpatrick said that he thinks an Agreement, at least in principle, needs to be in place before the public notice is advertised.

Mr. Kirkpatrick is hesitant to approve the advertisement publication for the planning module at this time. Mr. Kirkpatrick went on to say that he thinks the process has been a little disappointing. Mr. Anthony said that his notes agree with Mr. Kirkpatrick's. He thought that the School District's obligations were clear from the very first discussions.

Mr. Snodgrass said that the School District did understand that there was a financial obligation, but as a public entity the district is reluctant to pay for something they aren't using. He agreed that Mr. Donatelli made the representations discussed by Mr. Kirkpatrick and Mr. Anthony, but that those comments do not mean that the School

District has a blank check to use for paying sewer fees. Mr. Snodgrass said that ultimately it is up to the School Board to approve the Agreement.

Mr. Oeste said that the amount to be paid by the School District must be sufficient so that the plant isn't operating in a deficit. This was discussed in the Pulte Sewer Reservation Agreement. Mr. Oeste believes that a copy of this agreement was given to Mr. Donatelli to review. Mr. Boldaz and Mr. Ebert will need to refine the costs so that the School District has a better understanding of their financial obligations.

The Municipal Authority members agreed that they did not want the Public Notice to be advertised until the Township, Authority and School District are closer to resolution of this issue. Mr. Snodgrass was told that it didn't mean that the notice couldn't be advertised prior to the next Authority meeting, but an agreement needs to be reached regarding ownership of the excess capacity.

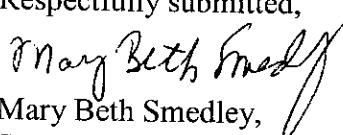
Public Comment on Non-Agenda Items

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

Adjournment

There being no further business Mr. Summers made a motion to adjourn the meeting at 8:15 A.M. Mr. Anthony seconded the motion, with all voting Aye.

Respectfully submitted,


Mary Beth Smedley,
Secretary/Treasurer

The Municipal Authority adjourned to Executive Session to discuss the Sewer Reservation Agreement with their Solicitor.