

EAST BRANDYWINE TOWNSHIP MUNICIPAL AUTHORITY
Tuesday, July 12, 2011
7:30 A.M.

Those in Attendance:

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

Also in Attendance:

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

The Municipal Authority met on Tuesday, July 12, 2011, at the East Brandywine Township Municipal Building. Mr. Corbin called the meeting to order at 7:30 A.M. There were four visitors present.

Minutes: June 14, 2011

Approval of the June 14th minutes was deferred until the August 9th meeting.

Treasurer's Report

Mrs. Smedley provided the Treasurer's report and a list of invoices for payment. Mr. Anthony made a motion to approve the Treasurer's report and authorize payment of the invoices as presented. Mr. Kirkpatrick seconded the motion, with all voting Aye.

Mrs. Bednarchik provided a list of delinquent customers for the second quarter 2011. Municipal claims will be filed against these customers if payment is not received by July 21, 2011. Invoices for the 3rd quarter were mailed on June 29, 2011.

There were nine settlements at Applecross in June. The total number of occupied homes is 161, plus the Applecross Country Club.

Applecross

June and July 2011 Hydraterra Correspondence

Mr. Boldaz reported that construction continues at the wastewater treatment plant. Several letters were issued during the month of June regarding shop drawings, the HVAC unit and the control building. The control building is basically an extra building that provides visual

screening and contains a lab and storage areas, is under roof; electric wires and HVAC equipment are being installed. Mr. Boldaz attended a progress meeting last week. He expects testing to commence at the end of August or beginning of September.

Pump Station A Acoustical Evaluation Update/BRD Proposal

Mr. Boldaz received the revised acoustical evaluation proposal for Pump Station A yesterday and has forwarded it to Mr. Creeger of Pulte. Since the scope of work has increased the cost for testing and analysis, the proposal is now for \$2,450. Mr. Creeger said that Pulte is in agreement with the revised proposal and costs. Initially, BRD, to who the Authority will consider awarding the project, wrote the proposal stating that they planned to perform a portion of the testing at night. Mr. Boldaz thought it more appropriate to do the testing during the day. Authority members concurred with Mr. Boldaz.

Testing will include recording frequency-based sound levels at strategic locations about the property, in addition to overall A-weighted sound levels. Testing will also include “post-remediation” measurements (if appropriate) to verify the results of any changes made or structural additions to the existing pump station infrastructure.

Analysis will include reference to pertinent compliance criteria and will also offer specific recommendations and costs for remediation. Remediation may include baffling the intake and/or exhaust of the building, enclosing the unit, a barrier wall or door seals.

Mr. Summers asked how long the testing will take. Mr. Boldaz said that it should only take a few hours. However, compiling the data and receiving a final report will probably take several weeks.

After review of the proposal Mrs. Moser made a motion to accept the June 13, 2011 BRD proposal in the amount of \$2,450.00. Mr. Summers seconded the motion, with all voting Aye.

Wastewater System Operations Request for Proposals (RFP)

Mr. Boldaz provided a draft of the Wastewater System Operations RFP for the Authority to review and provide comments. To date, Mr. Corbin has provided extensive comments, and Mr. Kirkpatrick some minor suggestions, which Mr. Boldaz will incorporate into the document. Once it is revised, Mr. Boldaz will forward it to Authority members for a final review.

Mr. Corbin asked if we are closer to an agreement on costs for the wastewater treatment plant. Mr. Boldaz said that there appears to be agreement that the costs for the drip disposal beds and Pump Station B should not be included in the overall costs for the wastewater treatment plant. Based on Mr. Boldaz’s comments, most of the hard costs don’t appear to be an issue. However, there have been discussions about some of the soft costs such as bonding/security, engineering and administrative costs that may or may not be included as

reimbursable expenses. Although closer to agreeing, there are still several areas that warrant further discussion between Pulte and the Authority.

Mr. Boldaz is recommending that the Authority move forward with the RFP for treatment plant operations in the event that the Authority needs to provide operation and maintenance services for the treatment plant. Mr. Corbin asked how soon an operator might be needed. Mr. Boldaz said that it could be as soon as September 2011. Mr. Corbin then asked how many bids might be received. Mr. Boldaz estimated it would be less than ten. He asked that the Authority consider approving offering the RFP subject to a final revision. Mr. Summers agreed that the RFP needed to be offered sooner rather than later since Mr. Boldaz will need to check references and qualifications and thoroughly evaluate each proposal submitted. Mr. Boldaz said that the number of qualified bidders may be narrowed prior to checking references.

Mr. Kirkpatrick made a motion to authorize Mr. Boldaz to proceed with issuing the RFP subject to a final review by Authority members. Mr. Summers seconded the motion, with all voting Aye.

Mr. Creeger asked if the Authority has any objections if the operator of Pump Station A, Private Utility Enterprises, were to become familiarized with the treatment plant in the event that Pulte operates it and not the Authority. This training would be at Pulte's expense. That way Pulte, with Private Utility Enterprise's assistance, can be in a position to remove the frac tanks earlier and cease the pump and haul operation. This would be a considerable savings to Pulte. Mr. Creeger was asked who would train the next operator if it weren't Private Utility Enterprises. Mr. Creeger said he doesn't have an answer right now and it would need to be discussed in more detail. Mr. Anthony thought Mr. Creeger's suggestion was a good one and it might make for a smoother transition. Mr. Creeger said that he has prepared a proposal. Mr. Boldaz asked if he could receive a copy of it. Mr. Creeger will forward it to Mr. Boldaz for his review and comment. Mr. Corbin commented that it was important that any transition be seamless so there are no plant upsets or permit violations at the treatment plant.

First Amendment to Agreement for Construction and Operation of Community Sewage Facilities

Mr. Creeger said that Pulte's attorney, Joe Riper has been on vacation but he expects to see a revised document within the next two weeks. Mr. Corbin asked Mrs. Smedley to schedule a meeting with the Board of Supervisors and Authority to discuss operation of the wastewater treatment plant and this agreement.

Giannone Property

Mr. Piersol, Mr. Boldaz, and Mr. VanLew met at the Giannone property at 329 S. Caldwell Circle in the late spring to take a look at the situation regarding the close proximity of the sanitary sewer easement to the Giannone home which precludes the owner from being able to build a deck. Details have been worked out to allow the Giannones to construct a deck and

patio which would be located partially within the sewer easement, but not over the sewer main itself. Pulte has been asked to provide an additional five feet in width of the easement across the Giannone property, for a total width of twenty-five feet rather than twenty feet. The additional width on the lower side of the Giannone property will allow the Municipal Authority a reasonable work area on this property, should a need arise in the future for excavation of the sewer line. In exchange for Pulte providing an additional triangle of land to resolve the setback issue, the Giannones have agreed to sign a document to be prepared by Mr. Oeste acknowledging that, in the event the Authority needs to enter upon the easement to do repair work, they will not hold the Township or Authority responsible for any repairs to their deck or patio.

The legal easement description is being prepared by Wilkinson Builders. Mr. Oeste is waiting for a plan from Pulte showing the easement and encroachment in that area. Harry Pettyjohn from Pulte is to provide that information. Mrs. Giannone's contractor will provide the deck and patio plans and building permit. Mr. Creeger said that he will have Mr. Pettyjohn follow up with Mr. Piersol.

Brandywine Center (Giant)

Agreement Regarding Preliminary Approval of the Carlino East Brandywine, L.P. Development of the Watters Commercial Property

Mr. Corbin said that all Authority members have looked at the Agreement and provided their comments. As a condition of preliminary plan approval, the East Brandywine Township Board of Supervisors is requiring the Developer, Authority and Township to enter into an Agreement to construct the connector road and connect to the public sewer system. The Municipal Authority is a party to the Agreement related to the sewer connection.

The Authority will reserve 6,000 gallons per day of sewage conveyance for the Developer and disposal capacity in the sewer system. At the time the Developer connects they will pay approximately \$34.00 per gallon (subject to revisions based on final costs). The Agreement also discusses reserving capacity for and connection of the Brandywine Village Associates to the public sewer system, if permitted by law. Mr. Oeste is recommending the Authority approve the Agreement subject to execution by the East Brandywine Township Board of Supervisors, the Developer and final review of the Exhibits by Mr. Oeste.

Mr. Corbin wondered whether the Township should consider requiring the developer to provide drip field capacity if they acquire more land. Mr. Oeste commented that the developer would likely rather pay money than provide land for drip fields. Mr. Corbin thought that in the event additional land comes under their control the Township would want to evaluate the feasibility of installing drip disposal fields. Mr. Oeste said he would discuss this with the developer. Mr. Piersol pointed out that this was recently added in the Subdivision Ordinance. Although it won't affect the land the developer currently owns, it will affect any future purchases or land development filings.

Paul Prince, Esq., attorney for Brandywine Village Associates commented that in his opinion that this Agreement interferes with his client's property rights and he characterized executing the document as a dereliction of the law. Mr. Oeste reminded Mr. Prince that the Agreement clearly states that the Brandywine Village is to connect to the public sewer system if allowed by law. Mr. Prince also said that the Township's current Act 537 plan doesn't authorize this, so the Authority is acting contrary to the current plan. Furthermore, he indicated that he hasn't seen the document and his client hasn't been invited to any of the discussions about connection to the public sewer system.

Mr. Prince thinks that his client will be financially penalized because of the connection. As an example, he said that Carlino development will install oil and grease interceptors for their property, however, his client will have to pay for their own grease trap installation. Mr. Oeste said that the Authority has certain regulations, as does PADEP, and Mr. Prince's client would have to be responsible for meeting those regulations in any event.

It is Mr. Prince's opinion that Mr. Kaplin and his client are using the Agreement as a way of providing legitimacy to their development plan. Mr. Oeste said that the Authority has indicated they want the Giant to be connected to the public sewer system. The Authority determined that it made sense from a planning standpoint for them to connect.

Mr. Prince said he believes any revision of the Act 537 plan will require additional public comment. He wanted to put the Authority on notice that he will provide comments during that time.

Mr. Kirkpatrick made a motion to approve the Agreement regarding Preliminary Approval for the Carlino East Brandywine, L.P. Development of the Watters Commercial Property subject to incorporation of Mr. Corbin comments regarding additional drip disposal, execution by the Board of Supervisors and Developer and final review and approval of all exhibits. Mr. Anthony seconded the motion, with all voting Aye.

July 6, 2011 Hydraterra Preliminary Wastewater Conveyance Review

Mr. Boldaz provided a review with respect to wastewater conveyance issues. He said there were general comments on the basic design. There are no major issues of consequence.

Brandywine Village Shopping Center – Discharge Monitoring Report

Mr. Boldaz reported that there was yet another NPDES permit violation in May for excess ammonia. He expects to see the June report shortly to see if this is corrected. The operator reported that repairs are underway at the treatment plant. PADEP is aware of the issues. The plant was shut down for maintenance and was operating under a pump and haul permit. According to the operator, attempts were made to get the plant in compliance without shutting it down without success.

Mr. Summers said that contrary to the violations, according to Mr. Prince, the plant was in tip-top shape. He noted this is the 3rd or 4th month where there is a violation.

Mr. Prince said that Mr. Boldaz and PADEP are aware that the plant is under reconstruction. Mr. Boldaz said there isn't a total revamping of the plant. He also said that the plant is using a pump and haul because they can't meet permit limits, not because of the construction.

Act 537 Special Study

Mr. Boldaz reported that no revisions have been made to the Act 537 Special Study as he was waiting for an updated plan for connection of the Brandywine Center and the Downingtown Area School District property. The deadline for re-submittal is September 9, 2011. He thought that the Township may need to request an extension, which should probably be done no later than the end of August.

Notice

The East Brandywine Township Municipal Authority will meet in Executive Session directly following this meeting to discuss legal issues.

Comments from the Audience

Mr. Arnie Kring informed the Authority that the sewer odor issues are on-going in the Timbers Development. Aqua Pennsylvania is required to contact an expert with experience in controlling wastewater odors to assist in resolving this issue. The study is to be completed within 90 days, with the report issued within 180 days. Once completed, Mr. Kring said that Aqua Pennsylvania will provide a copy of the report to East Brandywine Township.

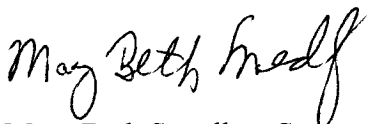
Mrs. Moser remarked that this appears to be a similar order to what was issued with the last rate increase. Mr. Kirkpatrick asked what would happen if Aqua doesn't comply with the PUCs directive. Mr. Oeste said that a contempt order could possibly be filed, but penalties for non-compliance would be up to the PUC.

Mr. Kirkpatrick asked Mr. Kring to describe the recent sewer odors. Mr. Kring said that residents smell "raw sewage" and that the odor was not a "rotten egg" smell.

Adjournment

There being no further business, Mr. Corbin made a motion to adjourn the meeting at 8:35 A.M. Mrs. Moser seconded the motion, with all voting Aye.

Respectfully submitted,



Mary Beth Smedley, Secretary/Treasurer