

**MINUTES
HARDYSTON TOWNSHIP
MUNICIPAL UTILITIES AUTHORITY
January 4, 2010**

The regular meeting of the Hardyston Township Municipal Utilities Authority was held on Monday, January 4, 2010 at the Municipal Building located at 149 Wheatsworth Road. Members present were Mr. Kievit, Mr. Cicerale, Mr. Verrilli, Mr. Kula and Ms. Leatham. Also present were Mark Hontz, Mike Vreeland, Paul Cuva, Marianne Smith, Bob Shultz, and Ron Schneider.

After salute to the flag, Mr. Kievit stated compliance with the Open Public Meetings Act.

Minutes: A MOTION was made by Leatham and seconded by Cicerale to approve the minutes of the December 7, 2009 meeting. In favor: Kievit, Cicerale, Verrilli, Kula and Leatham.

OLD BUSINESS:

Indian Field:

Payment status – Gail stated the present quarter plus interest owed since receipt of last payment for a total of \$48,622.95. Payment is due January 15, 2010.

Corrosion Control – Mike stated we were waiting for the results from the last sample field. The preliminary results were received and copper was exceeded. The State had said that we had three good sampling events, if we were good again this half of the year we could go to reduced sampling. But, we were above the 90 percentile so at this point in time we can pursue the corrosion control action plan by increasing the pH.

Phase II As-Built Plans – Mike stated nothing has been received to date.

Phase III Conveyance – Mike stated nothing has been received to date.

Phase IV Sewer Main Extension Permit – Mike stated he received a call back from the applicants engineer. He stated he was aware of the changes that needed to be made but he was in the middle of contractual issues with his client. He was going to get back to his client with regards to the direction of the changes that were suggested on the application.

Phase V Sewer Service – Mike stated we have not received a response to our review report.

Escrow – Gail stated we have not received any payment to replenish the sewer account. Funds were transferred from the water to the sewer account to satisfy outstanding vouchers on the account.

Crystal Springs:

Ardleigh & Shotmeyer Housing Sections – Mike stated nothing new to report.

Village Center South – Newton Hospital Wellness Center – Mike stated nothing new to report.

High Ridge Properties:

Payment status – Gail stated six full quarters and one partial quarter plus interest is due for a total of \$133,560.76. A replenishment check in the amount of \$5,000 for the sewer escrow account was received today.

Sussex Borough – Mark stated nothing has been heard from either Sussex Borough or High Ridge Properties in regards to the status of the litigation. Pursuant to your direction and motion last meeting a letter was sent to Patrick Dwyer indicating that they are in default of the developer's agreement for failure to make the required payment in a timely matter. As indicated, the status of the agreement would be under discussion tonight. It is our understanding that High Ridge would be sending a representative to tonight's meeting. Pursuant to the agreement one of the options for default of the agreement is revocation.

Mr. Kievit invited the representative for High Ridge Properties.

Brent Carney Esq., of Maraziti, Falcon & Healey, and special counsel for High Ridge Properties stated we received a late e-mail with the letter from Mr. Hontz; litigation has been filed against the Borough of Sussex of which a case conference on the 14th of January is to occur. Borough of Sussex filed for a motion for dismissal which was defeated by High Ridge. Borough of Sussex and High Ridge has now entered into negotiations.

The amount of money that was mentioned as due to HTMUA is the amount which is in dispute in litigation. The escrow I am not aware of. The amount of money which is in dispute he was very careful to only mention it is in regards to Borough of Sussex. There is a TWA application and all engineer issues have been resolved to his knowledge.

Mike stated that yes the TWA application was received, reviewed and presented. The revised application is in the correspondence packet for tonight's meeting. All the technical aspects of the application from an engineering standpoint have been addressed but there are still five administrative issues which are outstanding.

Mr. Carney stated he is here tonight to request the HTMUA endorse the TWA application and move it on to the SCMUA as the litigation continues with the Borough of Sussex. Tonight, I would ask to take a vote to endorse the TWA application.

Mark stated the administrative items, as noted in Mike Vreeland report of December 23, 2009 read as follows:

1. The limits of ownership and responsibility relating to the proposed force main connection need to be determined and should be clearly noted on the plans. We recommend that this item be discussed with the Borough of Sussex since the connection will be made to their force main. *Mark stated who owns what and the connection needs to be worked out.*
2. An easement on Lot 1.05 has been illustrated on the plan. We recommend that this item be discussed with the SCMUA to determine if they would be amenable to conveying the proposed easement. The form and content of the easement should be reviewed by our office and the Authority's attorney. *Mark stated this has to be done between SCMUA and the applicant.*
3. Note 7 have been amended on the plans to indicate "subject to an executed agreement with the developer proposed public water system to be owned and maintained by the Hardyston Township Municipal Utilities." We defer to the Authority's attorney regard the contents of this note. *Mark stated this is another conditional item. There needs to be a public water system agreement.*
4. During previous meetings with representatives from the SCMUA, the HTMUA was informed by the SCMUA that service contract amendments between the SCMUA and Sussex Borough and the SCMUA and the HTMUA regarding the allocation for this project need to be executed. We defer to the Authority's attorney regarding these contracts. *Mark stated he is right on this, we have been told under no uncertain terms by SCMUA that in the absence of joint and separate service contract amendments SCMUA is not going to endorse anything until such time that the allocation is moved from Sussex Borough to HTMUA through service contract amendments. When we learned this many months ago we shared this with High Ridge.*
5. We do not believe that written consent from Sussex Borough for the proposed connection to its force main has been provided to the Authority. We defer to the Authority's attorney regarding this matter. *Mark stated this remains true.*

Mark stated while we are at a point that we have never been before and technical issues have been resolved, the administrative issues still remain. Mark has conferred with Mike whether or not we can treat the technical approval separate from a complete approval endorsement so the applicant can move forward with the application.

Mark stated review of the New Jersey Administrative code provisions, which would be applicable in this situation, concludes that we cannot sign the TWA permit. If we sign as a municipal utility we are concurring that not only are we stating that it meets all our technical requirements but it also complies with all our rules and regulations. It is an unqualified endorsement at this point. With these five issues at minimum outstanding we cannot do that. We don't want to hold them up either. We have a couple of options. We can approve it, which we do not recommend. We can deny it or we can do nothing. If we do nothing we are not speeding the applicant on its way. If we do nothing after a period of time elapses, DEP may look at it anyway wondering why we did not approve

the applicant and then dialogue begins. What if we give a conditional approval, technically it is fine but the administrative end is not complete. In the Administrative Code there is no conditional approval it is treated the same as a non-endorsement. What if we denied the endorsement but list why we can't endorse? That has the effect of speeding up the process. By resolution we can deny the endorsement and state the reasons for the denial. The applicant can then send it on to the DEP look at the reasons why the denial but reviews the technical aspects. The DEP has the option of looking at it as necessary. This is the course which we recommend by allowing the application to flow.

Mr. Carney stated after hearing all the conditions there is a letter from Mr. Byer which makes these issues a mute fact. We will need to leave it up to SCMUA and then the DEP. I would recommend a conditional approval as opposed to a denial. It is my understanding that our escrow account is up to date.

Further discussion ensued.

Mark stated that he cannot advise to endorse or consent to this application, he then read from the New Jersey Administrative code "any document issued by sewage Authority or Municipality which is tentative, conditional or preliminary approval shall not be considered a statement of consent." Anything other than "we consent" is a "non-consent." We can either do nothing or state your non-consent.

A question was presented to Mr. Carney as to whether or not his client, High Ridge Properties, would like the HTMUA to do nothing for thirty days and defer a decision until the February meeting. This will allow further progression in conferencing with the litigation portion between Sussex Borough and High Ridge Properties. Mr. Carney excused himself from the meeting to allow time to contact his client.

The meeting continued as per the listed agenda.

YMCA:

Mike stated we have not received the flows for December yet. In November the sewer meter was changed out and at that point in time the flows were still running high. Once we receive the December data we can better analyze the situation at the facility. Marianne stated depending on what the data shows, which has been an overage, we will reach out to the YMCA. We have not received any indication from the YMCA that they have reached out to the Wallkill Water & Sewer Company. If in fact the data does show what has been an overage we will reach out to them and stress the need to purchase additional allocation.

Ridgefield Commons Emergency Interconnection:

Mike stated, as reported at the last meeting, an operations manual was received. Due to the holidays and weather, we were unable to begin the inspection. We will be going out

as soon as possible with the manual, perform inspections and produce a punch list within the next couple of months. At which time we will report back with the findings.

Marianne stated that it may be a good time to hold a meeting with the each of the developers, Crystal Springs, Indian Fields, Ridgefield Commons, and the professionals as a New Year update. With the economy the way it has been there have been moderate levels of commitments. With permission from the commissioners we would like to try to meet with the developers during the month of January.

A MOTION was made by Kula seconded by Verrilli for the strategic planning committee to establish a meeting with the developer's to cover the present and future plans of both parties. In favor; Kievit, Cicerale, Verrilli, and Kula. Abstain Leatham.

For the record Mark Hontz and Candace Leatham reclude themselves from discussion.

North Church Technical Center:

Mike stated nothing new at this time.

Shotmeyer Brothers Site Plan:

Mike stated nothing new at this time.

New Business

Nothing new at this time.

PAYMENT OF BILLS:

A MOTION was made by Leatham and seconded by Kula to pay the bills as per the bill list. In favor: Kievit, Cicerale, Verrilli, Kula and Leatham.

CORRESPONDENCE:

No discussion at this time.

OFFICER'S REPORTS:

Nothing at this time

RATES & BUDGET AMENDMENT PROPOSAL:

Paul Cuya stated he has worked up some figures on the proposed amended budget for 2010 to include an item of surplus anticipated in the amount of \$44,415 and increased sewer rents at \$12.50 for each of the two remaining quarters for this fiscal year. On the expenditure side we made cuts in the amount \$44,895. The SCMUA contract with the

additional bill shows by quarter. When you take all those changes into consideration the developers quarterly charges will increase as follows; Indian Fields increased from \$46,431 to \$50,789, Crystal Springs continues to not have a charge for the R&R portion of the developers agreement or \$661; Anton Pilz increased slightly from \$3,961 to \$4,704; Wallkill Valley Regional High School decreased slightly based on usage allocation from \$4,262 to \$4,037 and the YMCA increased from \$10,172 to \$11,856. We will only realize two quarters of it in this fiscal year. The overall surplus is not going to change because Crystal Springs overall is putting money back into our surplus. It may only change about \$20,000. That is not too much of an impact.

Marianne stated our surplus is about \$1,000,000. In general, we are funding the increase with \$44,000 of surplus, with \$24,000 coming back into the surplus from Crystal Springs. In addition, \$44,000 in budget changes with an increase in the rate. The rate will change giving us \$25.00 per customer for the remaining quarters in this fiscal year and \$50.00 for the total of next year. The large balance will come from Indian Fields. We know we have problems collecting with Indian Fields but we are holding a large portion of guaranteed allocation. It is coming at a same rate as our customers, but because they are sitting on so many future customers, they are getting a big hit.

Paul stated we are planning to adopt the rate increase at the next meeting. We have to advertise it twenty days prior to the meeting date. We are good for the next meeting to have the rate adoption. The Associations will be notified via letter. The good news the additional charge from SCMUA was \$16,000.

2008-09 AUDIT REPORT

Paul presented the audit report which shows how we did on a budgetary basis. Revenues versus expenditures, the first column represents the 2009 budget and 2009 budget after modification, 2009 actual and 2008 actual revenues. Developer charges went up slightly because we needed to collect more because of SCMUA. User charges are over a million dollars in revenues. Miscellaneous we are about the same as compared to prior years. This is mainly cell tower revenue and does not change much from year to year. Expenditures we are pretty close to providing services.

Paul continued to state, we budgeted \$923,000 and we expended \$933,000. In the service contract line item for the Borough of Sussex, we basically showed it as an expense what we billed. We owe them more than \$113,000 and it should actually be about \$250,000. I did not book the \$250,000 because it is in negotiations. To have a receivable and a payable for \$250,000 did not make sense. We only booked the amount we paid Sussex and what we billed them; it is only a pass through. It does not affect the bottom line. Administrative costs budgeted \$182,000 and we expended \$168,000, we did quite well on the expenditure side. \$226,000 was moved in to our renewal and replacement account for the year. We increased our surplus \$115,146 because our revenues were more than our expenditures.

The remaining items are general accounting adjustments which are not budgetary. Overall at the end of the year, we ended up with an undesignated surplus of \$1,007,000, designated surplus, which is our R&R fund of \$1,512,000. The report shows disclosure on the \$475,000 we owe as a pass through for the by-pass project, which we have been receiving with no issues. There are no comments or recommendations; we have done a good job on the records. This will go out to Trenton tomorrow or the next day.

EXECUTIVE SESSION

A MOTION was made by Verrilli seconded by Kula to go into executive session to discuss possible litigation as put forth by High Ridge Properties. In favor; Kievit, Cicerale, Verrilli, Kula and Leatham.

The minutes of executive session will be presented at a future time.

The meeting was returned to regular session.

HIGH RIDGE PROPERTIES – SUSSEX BOROUGH – cont'd

Mark stated the timelines that have evolved in the consent phase of this. On December 21 our engineer received correspondence from Dykstra and Associates which transmitted the final and now complete documents for the Treatment Works Application (TWA). We have sixty days in which to act upon the application. Our engineer very thoughtfully and with great effort turned around in two days a preliminary technical report on December 23, 2009. Mr. Vreeland's report of the 23rd indicated five administrative outstanding issues which are beyond the power of the HTMUA. These issues are also standing in the way of the HTMUA giving this unqualified consent to the application.

Mark recommended to place this issue on the February regularly scheduled reorganization meeting agenda, which still falls within the sixty day required timeframe in which to act. To see if one or all of these issues have been settled by either party whether by settlement agreement or legislative action in the State of New Jersey this might alter the timescape that the applicant is pursuing. Recommendation is to not act upon this evening until all the necessary items are in place to make a qualified decision. Instead the applicant is invited back at the next meeting in February for the next discussion of this issue.

A MOTION is made by Cicerale seconded by Leatham to place the Treatment Works Application (TWA) submitted by High Ridge Properties on the agenda for the February 1, 2010 HTUA meeting. In favor; Kievit, Cicerale, Verrilli, Kula and Leatham.

UPDATED RULES & REGULATIONS – DRAFT:

Mark stated there are two suggestions which were brought forward.

Section 2.11 states interest will accrue 30 days from the due date. Clarification is needed in the wording so as to state interest will begin accruing the day after it is due. As an example; if the charges are due on day 30, interest will accrue on the 31st day for any unpaid balance. Interest is calculated using a simple method of computation, not compounded.

Section 3.5.4 states no fee during disconnection – “no ongoing water rate charges until service is re-established.” We don’t want to get in to this since we bill on a quarterly basis. This item was removed.

Section 1.2 – Meeting times are listed as 7:30 p.m. and should be changed to 7:00 p.m...

The presented Rules and Regulations will be placed on the agenda for the February meeting for adoption.

INTERLOCAL CONTRACT RENEWALS:

Marianne stated the interlocal contracts for Administrative, Secretary/Bookkeeper and Operations are as they were presented at the December meeting.

A MOTION was made by Cicerale seconded by Verrilli to accept the interlocal contracts for Administration, Secretary/bookkeeper and Operations as presented. In favor; Kievit, Cicerale, Verrilli, Kula and Leatham.

PROFESSIONAL’S REPORTS:

Administrator – Marianne stated would like to prepare another report to review our accomplishments and goals.

Operator – Bob stated a problem was just discovered in the water tank at Indian Fields. The alarm system is not working so we do not know what the level of water is in the tank. We would like to request a dollar limit of \$4,000 for approval for repairs based upon an initial quote. This will allow us to get moving on the repair. Three quotes will still be obtained but placing a dollar limit on it will allow us to go ahead with the project. There is a concern that the conduit will be completely inoperable. This is also a good opportunity to provide a better means of transmitting the signal.

A MOTION was made by Leatham seconded by Kula for authorization of \$4,000 for the possible replacement of the Indian Field water tower alarm signal for water levels. The expense will be pursued with all possible options available in addition to the obtaining of three (3) quotes for the purpose of comparison. \$500 allowances each for electrician

repair and unforeseeable circumstances will also be taken into consideration. In favor; Kievit, Cicerale, Verrilli, Kula and Leatham.

Billing Clerk – Gail stated next month’s meeting is reorganization; proposals will be needed from the professionals.

The public water tax payment and form was sent back again for the third time. According to their letter, the HTMUA does not exist. Mark was asked to contact the State and had not received and phone call in return.

CFO – not present

Accountant – nothing further

Engineer – nothing further

Attorney – nothing additional

OPEN PUBLIC PORTION:

The meeting was opened to the public. There were no members of the public present. There being no further business, a motion to adjourn was made by Leatham, meeting adjourned.

Respectfully submitted,

Gail Hensal
Recording Secretary

Minutes
Executive Session
January 4, 2010

The TWA application for High Ridge Properties is difficult for us. Mark stated Mr. Carney was unable to get an answer from High Ridge Properties at the last minute. Our options are to do nothing, kick it around for another sixty days. It is difficult for High Ridge to sue us for non-endorsement.

Mark suggested placing the application on the agenda for the next meeting in February. We either consent or not consent with reasons. Mike stated there are several different parts of consent needed from different parties. Mark stated we do not have to answer tonight. We have sixty days to react. They will most likely not loose sewer service area with the State. Mike was able to turn the application around in two days. We can either wait until we have further word on any legislative action or a settlement is enacted upon. Either way we are still within the sixty day window of the required application. This will allow any further movement on the administrative issues at hand between Sussex Borough and High Ridge Properties.