

**MINUTES
HARDYSTON TOWNSHIP
MUNICIPAL UTILITIES AUTHORITY
January 10, 2011**

The meeting of the Hardyston Township Municipal Utilities Authority was held on Monday, January 10, 2011, at the Municipal Building located at 149 Wheatsworth Road. Members present were Mr. Kievit, Mr. Cicerale, Mr. Verrilli and Mr. Kula. Also present were Mike Vreeland, Mark Hontz, 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 Kula and seconded by Verrilli to approve the minutes of the December 6, 2010 meeting. In favor: Kievit, Cicerale, Verrilli, and Kula.

OLD BUSINESS:

Indian Field:

Corrosion Control – Mike stated Ron has received additional information for purchasing equipment. DEP has since approved the permit. Three quotes were obtained for the chlorine pH analyzer. Both R&R and HFH water quality escrow funding will be used for the purchase. The lowest quote received was from Accent Control for \$7,650.00 plus an additional \$1,000 for start up and calibration. The HFH water quality escrow account includes enough funds to cover this purchase. A recommendation is made to purchase this equipment.

A MOTION was made by Verrilli seconded by Cicerale to purchase the chlorine pH analyzer for the Indian Fields development corrosion control system not to exceed \$8,650.00. The lowest quote submitted will be utilized and the funding will be derived from the HFH Escrow account and the R&R. In favor: Kievit, Cicerale, Verrilli and Kula.

Phase II As-Built Plans – Mike stated nothing new at this time.

Phase III Conveyance – Mike stated nothing new at this time.

Crystal Springs:

Ardleigh & Shotmeyer Housing Sections – Mark stated the updated Title commitment was recently received. He will review, to ensure that all the conditions are met prior to the closing.

A MOTION was made by Cicerale seconded by Kula the water and sewer improvements and easements in Country Club Ridge are now in an acceptable state for acceptance by the HTMUA, provided that proper documentation is exchanged and a title policy

delivered to the HTMUA insuring its easement rights. In favor: Kievit, Cicerale, Verrilli, and Kula.

Boulevard Pump Station – Mike stated we have been having an ongoing operational issue at the pump station. We have replaced the pump several times. When it comes on there is a surge which occurs. To alleviate the problem a VFD could be placed on the pump instead of starting and shutting off the pump rapidly, the VFD would allow it to come on and turn off slowly. This would be the first step to alleviate the problems. Ron obtained three quotes with the lowest from R&R Pump & Controls for \$6,425.00 as presented in the handout. A recommendation was made to purchase this item from the lowest priced supplier. Additional items may need to be replaced. It will save the life of the pump.

A MOTION was made by Verrilli seconded by Kula to purchase the VFD's for the Boulevard Pump station #6 from R&R Pump & Controls in the amount of \$6,425.00. In favor: Kievit, Cicerale, Verrilli, and Kula.

K. Hovnanian / Tannery Hill, The Cedars – Mike stated coordination to make a site inspection has been made in order to respond to the bond request. Unfortunately, due to the weather this has not occurred as of yet.

Generator – Tannery – Ron stated the generator presently at the Tannery has been diagnosed with no oil pressure when it is running. The whole generator has to be ripped apart to diagnose the problem. The issue is that the generator is quite old and it is quite possible that parts are no longer available. It may be more worthwhile to purchase a new generator which would be water cooled and natural gas. The lowest price obtained from Frank's Generator is \$13,795.00 which includes the generator, installation and removing the old generator. Bob stated the service calls which have occurred are in the \$700 & \$800 range several times over. It may be to our advantage to replace the generator instead of continually repairing one which is over twenty years old.

A MOTION was made Kula seconded by Verrilli to authorize the purchase and installation of a replacement generator for the Tannery section of Crystal Springs not to exceed the purchase price of \$13,795.00. In favor: Kievit, Cicerale, Verrilli and Kula.

Water Tank – Ron stated there has been water running at a coupling inside. A call will be made to a supplier to inquire as to if there is a coupling which can be used to alleviate the leak. Mike stated it is not a major leak and is on the tank side of the valve. For the time being if we can get a repair completed it would be beneficial.

A MOTION was made by Kula seconded by Cicerale to further investigate and report to the HTMUA the condition of the Water Tank at the Crystal Springs development. In favor: Kievit, Cicerale, Verrilli, and Kula.

High Ridge Properties:

Payment status – Gail stated eight full and 1 partial quarter is due with interest calculated thru December 31, 2010 for a total due of \$213,523.00.

Civil Action – Will be discussed during executive session. A MOTION was made by Cicerale and seconded by Kula to adjourn to executive session.

The minutes from the executive session will be presented at a later time.

A MOTION was by Verrilli seconded by Cicerale to return to regular session.

A MOTION was made by Cicerale and seconded by Kula to authorize the HTMUA Attorney to investigate and pursue the internal appeals process for seeking reconsideration of the declination of insurance coverage recently issued by the HTMUA's insurer for the purposes of litigation against the HTMUA, the Borough of Sussex and the Sussex County Municipal Utilities Authority by High Ridge Properties, LLC. In favor: Kievit, Cicerale, Verrilli, and Kula.

A MOTION was made by Verrilli seconded by Kula to authorize the HTMUA Attorney in joining the summary judgment motion to dismiss with the co-defendants in the litigation. In favor: Kievit, Cicerale, Verrilli, and Kula.

YMCA

Developer agreement – Mark stated the agreement has been sent to the clerk for filing purposes.

Ridgefield Commons Emergency Interconnection:

Mark Hontz recused himself.

Mike stated draft documents were received from the attorney for the bill of sale and deed of easement to convey the emergency interconnection. A meeting was held and the draft documents are being revised since there are multiple owners involved and Wallkill Water & Sewer Company was recently sold to Aqua America.

North Church Technical Center

Marianne stated the meeting which was held approximately two years ago with all the property owners and the owners of NASP was intended on being responsible and was working with Riverdale Quarry while trying to come up with a long term solution. Time has gone by and the bottom line is Mr. Hess is going on in years. Mike and I met with NASP recently regarding the requirement of the Hess's to abide by the developers agreement. The HTMUA has the ability to operate the system and the township has the ability to impose special assessments. There may be an opportunity where the developer

wants to no longer be a part and owners want the system to work properly. The township has the ability to impose a special assessment over a period of time for the purpose. But, our rate payers do not derive any benefit from it. It may be an option for additional revenues for the HTMUA. There is a tentative meeting scheduled for February with Fred Semrau, township attorney and Mark Hontz. Escrow funds are available in the Riverdale Quarry account.

A MOTION was made by Cicerale seconded by Kula to authorize the Administrator, HTMUA Engineer, and HTMUA attorney to discuss solutions to the North Church Technical Center with the appropriate parties. In favor: Kievit, Cicerale, Verrilli, and Kula.

New Business

Mark stated that it was brought to his attention by the management that upon review of the audit we had been advised in June to cancel out an account receivable from HFH in June in the amount of \$50,456.87. We adopted a resolution on June 7, 2011 and it now appears we have charged it off our books from HFH and we have forgiven this debt and it does not coincide with us to propose a lien on the properties involved.

A MOTION was made by Kula seconded by Cicerale at its regularly scheduled meeting of June 7, 2010, the HTMUA adopted a Resolution entitled, "CANCELLATION OF ACCOUNT RECEIVABLE" to remove a \$50,456.87 account receivable from HFH Development Corporation ("HFH") arising from unpaid quarterly charges; and

WHEREAS, HTMUA had previously and correctly acknowledged said \$50,456.87 account receivable and had requested that Hardyston Township impose a lien for said indebtedness against the real property of HFH for which the indebtedness was incurred; and

WHEREAS, HTMUA'S intention in adopting the June 7, 2010 Resolution was to honor a perceived bookkeeping propriety, as recommended by the Chief Financial Officer, and was not intended to substantively or legally cancel the actual indebtedness of HFH to HTMUA for said \$50,456.87; and

WHEREAS, the 2009-2010 HTMUA annual audit report has brought to the attention of the HTMUA and its professionals that its June 7, 2010 Resolution could have the substantive effect of an actual cancellation and/or forgiveness and/or exoneration of the \$50,456.87 debt from HFH to HTMUA if no corrective action is taken by the HTMUA; and

WHEREAS, the HTMUA is informed that the \$50,456.87 lien has not, to date, been imposed on HFH by Hardyston Township; and

WHEREAS, at its regularly scheduled meeting of January 10, 2011, the HTMUA discussed its substantive intentions not to have cancelled the actual indebtedness of HFH

to HTMUA in the amount of \$50,456.87 and instead to collect said indebtedness through the imposition of a lien on real property through the Township of Hardyston;

NOW, THEREFORE, BE IT RESOLVED by the Commissioners of the HTMUA as follows:

1. HTMUA rescinds its Resolution dated June 7, 2010 entitled, "CANCELLATION OF ACCOUNT RECEIVABLE" in its entirety; and
2. HTMUA affirms, states and/or reinstates the still-unsatisfied account receivable from HFH to HTMUA in the amount of \$50,456.87; and
3. HTMUA certifies the accuracy of this \$50,456.87 outstanding indebtedness of HFH to HTMUA and requests and authorizes the Township of Hardyston to impose a lien on the real property of HFH in Hardyston Township for the satisfaction of said indebtedness.

In favor: Kievit, Cicerale, Verrilli, and Kula.

PAYMENT OF BILLS:

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

CORRESPONDENCE:

A MOTION was made by Verrilli and seconded by Kula to accept the correspondence as presented. In favor: Kievit, Cicerale, Verrilli, and Kula.

OFFICER'S REPORTS:

Nothing at this time.

2009-10 ANNUAL AUDIT:

Paul presented the HTMUA annual audit for the year 2009-10. Revenues were up a little and the budget was amended allowing us to see an increase. We were pretty close to the budgeted amounts. The budget had a deficit of \$41,000 but sewer allocation was sold and realized. Discussion followed regarding the previously discussed capital items being purchased. No comments or recommendations were made as a result of the audit performed. If there are any questions Paul will be present at the next meeting if necessary for the adoption of the audit.

A MOTION was made by Kula seconded by Cicerale to amend the original motions as necessary for purchasing of the items #2 and #1 with the additional condition that it be authorized to be funded through the renewal and replacement funds. In favor: Kievit, Cicerale, Verrilli, and Kula.

INTERLOCAL CONTRACTS:

Tabled for next meeting

PROFESSIONAL'S REPORTS:

Administrator – Nothing further

Operator – Nothing further

Billing Clerk – Gail stated next month is the reorganization meeting. Proposals will be needed from the professionals.

A call was received from the property owner for 13 & 15 Windsor Court. The owner is requesting a deferment of his quarterly bills as the two units sustained extraordinary water damage and the homes are being completely gutted. Further discussion ensued.

A MOTION was made by Kievit seconded by Cicerale HTMUA bills for 13 and 15 Windsor Court shall be temporarily deferred by the payment of ONE HUNDRED DOLLARS (\$100.00) per bill per quarter per property until such time as a new Certificate of Occupancy is issued for said property. The balance of each bill so deferred shall be due and payable at the time of the issuance of each such Certificate of Occupancy or until each unit is habitable, whichever occurs first. There shall be no interest charged for each property's account on the amount of billing deferred. In favor: Kievit, Cicerale, Verrilli, and Kula.

CFO – Not present

Accountant – Nothing further

Attorney – Nothing further

Engineer – Nothing further

OPEN PUBLIC PORTION:

The meeting was opened to the public.

No comments were heard from the public. The meeting was closed to the public.

There being no further business, A MOTION to adjourn was made by Verrilli, meeting adjourned.

Respectfully submitted,

Gail Hensal
Recording Secretary

Executive Session
HARDYSTON TOWNSHIP
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Mark Hontz held discussion regarding the current civil action pending with High Ridge Properties, LLC. We filed our response to the suit as presented. Sussex Borough filed a motion to dismiss. SCMUA filed a more aggressive motion to dismiss. We are not sure if the dismissal will be met with success. We are expecting a motion to amend the filing as Pilz was added to filing. Mark suggested placing an appeal with the Insurance Company based on their decision not to cover the case.