

The November 16, 2009 meeting was called to order by Chairman, Dave Boyer at 7:00 P.M. Members present: Nelson Brenneman, Jose Carrio and Keith Hunnings. Also present: Attorney Craig Sharnetzka, Engineer Terry Myers and the Recording Secretary, Brenda Trowbridge and Township Manager, Mark Derr. Also present: approximately 85 guests.

I. CALL TO ORDER

- A. Meeting opened at 7:00 P.M. with the Pledge to the Flag.

II. MINUTES

MOTION by Nelson Brenneman second by Keith Hunnings to approve the minutes from October 19, 2009 as presented. All members voted aye; motion carried.

Dave Boyer addressed the audience and announced that the order of the Agenda would be changed to address the Budget.

III. COMMUNICATIONS

A. The DMR Report was given that the WWTP is operating well at this time, processing 103,000 gallons per day and there are no violations reported for the month. There are questions that have been identified by the Authority members and will be followed up with the operator with regard to sewage sludge disposal and a metering flow rate at the pump station.

B. M&T Bank has requested a copy of the Engineer=s Certificate along with a copy of the budget that will be addressed tonight.

IV. PUBLIC COMMENT

A. Dave Boyer welcomed everyone to the meeting with an invitation to attend often to understand what the Authority deals with throughout the year. The information shared with the public and posted in the Newspapers has raised everyone=s concern regarding the misinformation that has reported that the sewer rates would be increased to \$350 per quarter. Sewer rates will need to be adjusted but the Authority has no intention to raising the rates to \$350 per quarter. The Authority wishes to maintain the cost as low as possible. Mark Derr, Township Manager, was then asked to reiterate the information shared at Township Board of Supervisor=s meeting last Thursday. He explained the circumstances surrounding the Authority and the events that brought us to the current situation. DEP required the Township to address the sewage needs with a public sewer.

In early 2000 the Township began the process of preparing an Act 537 Plan. This is a plan that all municipalities must prepare to identify where all the sewage generated in the Township goes, whether it=s on-lot systems, private treatment facilities or public sewer system. Around the same time, Cornerstone Development Group, Inc. was in the process of preparing subdivision plans for Colonial Crossings. In 2001, CMV Sewage Company, Inc. a company related to Cornerstone Development Group filed with the Public Utility Commission to supply sewage service to a portion of North Codorus Township.

The Act 537 Plan that the Township was preparing identified the area in the Township that would require public sewer service. The Colonial Crossing Subdivision was within this area. However, because the Township=s treatment plant would not be completed within the timeframe that the developer wanted to start the development, the developer suggested that they be allowed to complete a temporary wastewater treatment facility that had already been started on the property. The temporary facility would be abandoned upon the completion of the Township=s facility and all residents would connect to the Township=s plant and pay the current rates in effect at the time. The Township agreed, and entered into an agreement with the developer in 2003. The agreement was recorded at the Court House so that all future property

owners would be put on notice that they would be required to connect to the Township/Sewer Authority=s system and pay the current fees. During this period the Sewer Authority was formed.

Cornerstone Development Group constructed Colonial Crossings and the Authority continued with the construction of their wastewater treatment plant and collection system at a cost of about \$15 million. Upon completing their system, the Sewer Authority notified Cornerstone Development Group that it was time to abandon their temporary plant and connect to the Authority=s system. Cornerstone informed the Authority that because CMV Sewage Company was PUC(Public Utility Commission) regulated, they would be required to get the PUC=s approval prior to abandoning the treatment plant. The PUC held a hearing and rendered the decision that the treatment plant serving the Colonial Crossings subdivision could not be abandoned. The basic reason for the decision was that the sewer rates paid by the residents of Colonial Crossings were less than the rates paid by the North Codorus Township residents. The PUC & OCA (Office of Consumer Advocate) is protecting 400 customers. The losses of these customers have caused a loss of \$720,000 in tapping fees and another \$320,000 per year in user fees causing the Sewer Authority a \$500,000 short in paying expenses and debt service. The Sewer Authority borrowed \$15,000,000 to be paid out over thirty years. This came up at a Township budget meeting because the Township backed the Authority bonds and ultimately the Township would be liable if the Authority defaults on its payments. The Authority=s only source of income is the user rates and the Township has taxing power to tax all the residents of the Township and can raise real estate taxes to pay the debt also. The Township has become a distressed township and no longer has the funds to assure the Authority=s debt. The Authority had originally purchased an insurance policy from Exell Capital Insurance who had backed the worthless mortgages and who are now out of business. The Township and the Authority are in serious financial difficulty. There is no desire of the Authority to raise the rates to \$350 which is what would be needed to balance the budget. Colonial Crossings is proposing becoming a bulk customer which would reduce the amount collected.

Many of the residents at this point questioned why the PUC had no concern for the residents of the Township. It was explained that the PUC is charged with protecting the customers of public utilities. Their decision was doing just that, they were protecting the customers of CMV Sewage Company, the regulated public utility - not the residents of North Codorus Township. Another resident questioned why the Authority wasn=t PUC regulated. The explanation was that Municipal Authorities are not regulated by the PUC.

The Authority is frustrated with the actions of the PUC. The developer has a temporary treatment plant and the permit to operate expires in November 2010. The developer applied for renewal of their operating permit and has been denied by DEP and this denial has been appealed by the developer. This is a battle between two state agencies. DEP will not reissue an operating permit and the PUC will not allow Colonial Crossings to abandon the plant. This is a situation that is not going to resolve itself without further legal action which the Authority cannot afford to add to the strained budget.

The Authority with assistance from Senator Waugh and DEP has met with PUC and OCA multiple times explaining the Township agreement with the developer to abandon the plant and connection to the Township sewer lines. The developer is unwilling to negotiate further. The option proposed by the developer is less than what other residents have paid but the alternative leaves the Authority with no income from the development and results in a \$500,000 shortfall this year and shortages in subsequent years as well

After a great deal of discussion with the public, the Authority discussed several options. Terry Myers explained the proposal issued to Colonial Crossings (CMV) eliminating the tapping fee; turning the collection system and the customers over to the Authority and adjusting the user fees from their current average of \$520 up to \$900 over a three-year period. That proposal will have resulted in a \$200,000 deficit for a short time and by the year 2014 would have been able to create enough revenue to cover expenses. Their response to that was no, and they would not support that offer. Another option would be without Colonial Crossings and raising the user fees to \$900 borrowing \$400,000 to \$500,000 a year until the revenue from

Colonial Crossings could be replaced. This results in 3,600,000 borrowed with a \$300,000 short fall in revenue each year. Taking the user fees to \$1200 without Colonial Crossing would still need \$600,000 borrowed over the next four years to 2013 to meet cost. Last option was to increase development from 40 to 100 per year, no Colonial Crossings, user fees \$900 and borrowing \$2,500,000 over four years.

Using the CMV proposal and increasing the user fee for existing customers to \$900 per year would still require borrowing roughly \$1,500,000 through 2017 and thereafter continuing with a deficit of \$190,000 per year. Three years at \$900 and then raising user fees to \$1,000 requires borrowing \$150,000 per year. Last option would be keep the sewer rates at \$900, adding 200 new connections within the next two years would allow the rate to remain at \$900 and this was with accepting CMV=s proposal. This would also eliminate the possibility of suing. The agreement would need to be with CMV and then get approval of the PUC. Discussion of the options followed. Review of the updated proposed budget reviewing the accounts changed from the previous meeting was a total of operating expenses \$421, 485. The chairman called for a motion to adopt the budget on the expense side or give a motion with the revenue side. The revenue side question is to budget with or without Colonial Crossings. Keith Hunnings asked the room if they felt Colonial Crossing=s offer should be accepted or not. A show of hands was asked of those in favor of pursuing legal action and not anticipating any revenue from them. Dave Boyer asked who was in favor of accepting the Colonial Crossings offer of \$257,400 and \$108,000 for connection fees and \$114,400 for user fees. Additional questions followed. The residents present were not in favor of giving Colonial Crossings a Cut-Rate-Deal! The majority present voted to not accept the Colonial Crossing proposal and proceed with the Township lawsuit. **MOTION** by Keith Hunnings second by Jose Carrio to not increase user fees, keep the rates at \$200 per quarter and proceed with borrowing of the shortfall, not include a revenue proposal from Colonial Crossings and participate in legal action should the Township file suite. All members voted aye; motion carried. The audience also voted aye loudly.

Dave Boyer thanked the audience for their input and support. This was a difficult decision and no one was in favor of giving Colonial Crossings a cut-rate-deal. He encouraged everyone to attend the Board of Supervisors meeting tomorrow night to show their support. The PUC, OCA encourages the deal in spite of the request for protection of existing customers. The Authority will meet again with Senator Waugh to solicit his help to encourage the department of the PUC and DEP to keep assessing the situation work toward a solution.

B. Jerry Stahlman presented a proposal to extend the public sewer to the Lynwood Development to include 25 units. He was asking input on the best way to obtain a connection to the sewer lines and the availability of EDUs. The reserve capacity fee resolution is in place. Mr. Stallman=s request was for assistance to obtain a right of way to access the existing sewer lines.

V. TREASURER=S REPORT

A. Short Term Financing. Jens Damgaard and Rick Cooper didn=t seem to think there was a problem with obtaining a loan. Atty. Sharnetzka was directed to contact them and submit a copy of the proposed budget. The insurance carrier is to be notified that the Authority will not be able to meet their obligation without borrowing funds.

B. The operation and maintenance invoices will be addressed later in the meeting.

C. Copies of the M&T statement were distributed to members for their review. Jose Carrio reviewed the M&T statements for September and October.

VI. SOLICITOR=S REPORT

A. Colonial Crossings was discussed. Garry Hepford, inhouse council with DEP was advised that our negotiations with CMV have broken down and that DEP needs to move forward. Atty. Sharnetzka explained

the process of getting the attention of the Commonwealth Courts in this matter. Atty. Sharnetzka will solicit other opinions and Garry Hepford will also research this viewpoint. A notice will be filed to be part of the case with DEP not renewing CMV=s operating permit. The Authority may also join with the Township as to what action they will take. The Authority will meet again with Senator Waugh to solicit his help to encourage DEP to keep assessing the situation and work toward a solution. Mark Derr suggested getting in touch with Governors Action Group to determine what they can do. Nelson Brenneman also suggested that Senator Mike Brubaker be contacted.

B. Monthly Status Report to be reviewed in an executive session.

C. Sewer Authority=s update on By-laws was presented. Section 10 was reviewed and should probably be reworded. Atty. Sharnetzka will get the proper wording to Brenda Trowbridge.

D. Connection fee resolution for the annual increase will be prepared for next month. Terry Myers will assist in the calculation the annual rate.

E. Brenda Trowbridge will make arrangement to have newly appointed member, Russell Fuhrman take the Oath of Office prior to the Authorities December meeting.

VII. ENGINEER=S REPORT

A. Mike Krout, Old Joseph Road connection fee paid by C. S. Davidson.

B. CONTRACTS:

- Construction - 100% complete -

1. Gregory Contractors, Inc.

- Gregory Contractors to complete punch list items.
- Final review to be done of punch list items
- Gregory Contractors retainage of \$15,900 will not be released until all of the punch list items are satisfied possible December.
- Question on the MetEd right of way washing out from the Little John Drive stormwater. Terry Myers will meet with Nelson Brenneman if needed about diverting water run off.

C. Salem Springs Flow Meter inspection report was given by Terry Myers. Monacacy Valley did the wiring for the meter and has been requested, under the two year maintenance guarantee, to investigate the electrical problem.

D. Engineer=s Agreement was presented for review for the next Authority meeting.

E. CSMHP Connection Design was reviewed permits will need to be picked up and inspection will be done for CCIS and the main line inspection will be done C. S. Davidson. All of C. S. Davidson work will be billed back to CSMHP. Terry Myers marked up a copy of the design drawings for the CSMHP indicating which lots will need permitted and inspected.

VIII. OLD BUSINESS

A. Budget was discussed showing a shortfall of \$511,651.00 although there are funds remaining at year end to offset some of this. **MOTION** by Keith Hunnings second by Jose Carrio to seek short term financing for in the amount of \$500,000 to balance the budget. All members voted aye; motion carried. The budget sheets will be revised accordingly taking out the income from Colonial Crossings and add in the financing.

B. The Kinsley agreement was presented by Terry Myers and Mr. Kinsley will begin grading in December and start the Sewer construction in January. The totals for construction cost should be reserved in the construction fund. Brenda Trowbridge was directed to prepare a letter to M&T to transfer funds to the construction fund to cover outstanding cost of Kinsley Rock depth, Old Joseph Road Stormwater, Gregory Contractors final payment.

C. Terry Myers has the Operating/Emergency Procedures for final review when time permits.

D. Old Joseph Road stormwater work was stopped; according to DEP the permit obtained was not the correct permit for this work.

E. Terry Myers submitted the CAD drawing with the information requested by the EPA relating to the TMDLs and the Chesapeake Bay.

F. New Salem Borough letter was reviewed regarding additional EDU allocation. Unless the Borough can show a section in the agreement to change the allocation of EDUS the Authority will standby their calculations. Cheryl Bahn responded that the Borough paid for a certain amount of capacity and should be allocated on actual flows. Terry Myers explained the calculations.

IX. NEW BUSINESS

A. M & T has requested Engineers Certificate and Terry Myers will prepare that with a copy of the budget.

B. Tapping Fee increase for 2010 will be calculated by Terry Myers and submitted to Atty. Sharnetzka for preparation of the resolution.

C. **MOTION** by Jose Carrio second by Keith Hunnings to approve the following bills:

<u>The Clearing Fund Requisition No. 28</u>		\$15,142.68
Adams Electric Co-op	\$	2,335.95
C. S. Davidson, Inc.	\$	734.39
Forbes Services LLC	\$	90.00
J. L. Martin & Sons	\$	325.00
LABS Inc.	\$	568.00
Locating Solutions LLC	\$	495.00
North Codorus Township	\$	2,594.01
Springettsbury WWTP	\$	3,590.85
Verizon	\$	228.30
W G Malden	\$	678.00
Walton Water Services LLC	\$	2,173.55
York Waste Disposal	\$	112.90
York Water Co.	\$	230.73
Pay 10/18-11/14/09	\$	1,664.00

All members voted aye; motion carried.

Meeting adjourned for an executive session at 10:50 P.M.

Meeting reconvened at 11:00 PM, no action was taken.

MOTION by Nelson Brenneman second by Keith Hunnings to adjourn the meeting.

Meeting adjourned at 11:00 P.M.

X. ANNOUNCEMENTS

A. Next Meeting will be December 21, 2009 at 7:00 P.M.

Respectfully submitted,
Brenda E. Trowbridge, Recording Secretary