

Date of Meeting: May 10, 2007

Kind of Meeting: Business

Place of Meeting: Village Hall

Members Present: Robert Murphy, Chairman
Robert Liffland
Tracy Durkin
Wayne Osborn

Members Absent: Allen Rundall
Mike Montemarano

Others Present: David Wise of Gellert & Klein
Seth Sheraden of Environmental Consultants
Steve Mance of Environmental Consultants
Rich Kane of Environmental Consultants

At 7:00 p.m. the regular business meeting of the Pawling Joint Sewer Commission was called to order by Chairman Robert Murphy with the Pledge of Allegiance.

MOVED by Tracy Durkin, SECONDED by Wayne Osborn to accept the minutes of the April 12, 2007 Organization Meeting. All were in favor and motion carried.

MOVED by Robert Liffland, SECONDED by Tracy Durkin to accept the minutes of the April 12, 2007 regular business meeting. All were in favor and motion carried.

MOVED by Tracy Durkin, SECONDED by Wayne Osborn to approve the April, 2007 vouchers as presented. All were in favor and motion carried.

MOVED by Robert Liffland, SECONDED by Tracy Durkin to accept the treasurer's report of April 1, 2007 through April 30, 2007 as presented. All were in favor and motion carried.

MOVED by Tracy Durkin, SECONDED by Wayne Osborn to accept the Correspondence Log of May 4, 2007 as presented. All were in favor and motion carried.

Chairman Robert Murphy said number 7 on the Agenda is the discussion of the sewer system expansion study and hook up rates and then the first bulleted item under number 8 is the Sewer Commission engineer. He said he would like to table these discussions until there is a full board present.

MOVED by Tracy Durkin, SECONDED by Wayne Osborn to table the discussion of the Sewer Commission engineer and the system expansion study and hook up rates until a full board is present. All were in favor and motion carried.

Attorney Report

David Wise passed around a revised draft resolution concerning the hook up fees which includes both, those in district and those out of district. Dave said the biggest change in it is there was some discussion last month about the automatic increase of the hook up fees every January, so he put in a proposed escalator clause by which the hook up fees would increase every January 1st. He said he had put in a particular CPI that is often used with water rates in other municipalities. Dave said he called the comptrollers office to get some guidance on what to do about the different CPI's and the automatic increase. He said the comptroller gave Dave some heads up that there was some very recent litigation that hasn't even been reported yet, which has been critical about certain automatic increases tied to a CPI when there may be a capital component to a number. He said based on that he thought, instead of using one of the CPI as apposed to doing some automatic increase, he feels the thing to do is to establish the hook up fees by resolution and then every year as part of the Commissions organizational meeting this becomes a standing agenda item to study and see if the fees should be increased for that year. Dave said typically most municipalities raise their hook up fees every five years.

Dave explained there really is no statute to hook up fees. He said hook up fees have been a creation of time as appose to a creation of statute, there is not a whole lot of statutory guidance on hook up fees. He said typically most municipalities pick up on a fee which had some relation to what the user would be paying if they had to put in their own system and there also is usually some consideration of the potential capital component. Dave said the best bench mark, when you look at a hook up fee, is the purchase of capacity. What the line is worth based on the estimated usages.

Chairman Robert Murphy said he'll probably ask Dave to go over the same thing next month when there is a full board.

Chairman Robert Murphy said he had a conversation with Dave on the phone about Baxter Green because he is kind of concerned because Stuart Berelson has not been responding to letters. He said he does want to resolve the pump station situation at Baxter Green before there is a problem. Chairman Robert Murphy said Stew was going to do the work and the Commission was going to split the cost. He said he doesn't understand why Stew hasn't done anything. Chairman Robert Murphy said he thought all of the lots at Baxter Green were sold. Linda said there are a couple of lots in Baxter Greens name still. Dave said he believes the issue that Stew has is the last couple of letters sent to Stew did make it clear that the Commission would engage in the discussion of the pump station after which the escrow account was paid and an additional \$10,000 put into the escrow for future work and given the fact that the pump station has been working, it's off his radar screen at the moment.

Chairman Robert Murphy said they should reach out to Stew with a phone call. He asked Dave to set that up for some late afternoon. Rob said if the Commission actually knows what they will pay they can let Griffen Pump know, maybe he'd feel comfortable to get this done if he knows he'll get some money. Dave said he doesn't believe that is the issue, that the issue is the escrow money. Chairman Robert Murphy said he just doesn't want the pump problems to come first, he would like this resolved.

Steve Mance asked if the change in the pump station has been approved by the regulatory agency. Chairman Robert Murphy said he didn't know and he will ask the engineers. Dave said he'll set up an appointment with Stew for he and Chairman Robert Murphy to talk with him.

Chairman Robert Murphy said the third item on the agenda is to discuss the negotiating procedure. He said there had been a couple of visits this past week from Allison Close Estates. Chairman Robert Murphy said they dropped off some checks for application fees. He said he is kind of confused as to why they were dropping off the checks when they don't even have any kind of approvals yet. He said there seems to be a difference of opinion on what is going to be constituting hook up fees and who they should be talking to. Chairman Robert Murphy asked Dave to clarify who should be negotiating with possible tenants to Pawling Joint Sewer Commission to try to avoid some confusion because there is a lot of it out there between not only Commission members but some of the possible applicants are getting a confused.

Dave said in terms of the negotiating procedure, typically negotiating should be done by the Sewer Commission so that you don't get the troublesome and embarrassing experience of having separate members out, even unwittingly making representations and then the developers come back saying so and so said this and then somebody else said this and it is an impediment to business of the Commission and again it is potentially destructive in the eyes of the public because it looks like your fragmenting and it just makes it very, very difficult to conduct smooth negotiations. He said he really thinks what the Commission should do is designate one or two members acting in concert as the point persons for dealing with developers or the potential users of the system.

Chairman Robert Murphy said the gentleman from Allison Close, Bruce Major indicated that he felt the \$3,000 hook up fee would apply to them because they came before the Bed & Breakfast. He asked Dave if he could also clarify that and basically lay out when the fee structure takes affect.

Dave said it is his understanding that there isn't even subdivision approval for Allison Close yet. Chairman Robert Murphy said he thinks they have preliminary approval on it. Dave said the earliest he's ever seen hook up fees become payable is upon final approval of the plans, but even then it could be two years away from the hook up. He said what the Commission did with Polesovsky's hook up a couple of years ago was their hook up fee became payable at the time the work was done and at the time the engineers gave the thumbs up on the work. It was really the last act prior to them being allowed to use the system. Dave said he thinks at the very least what should happen is if you have a tenant user the fee becomes locked in as of the time the agreement is signed. That is when the monetary amount becomes locked in and then the time for payment is built into the terms of the tenancy agreement.

Chairman Robert Murphy asked Dave if he could put this in memo form real quick because there are a couple of board members missing and he wants them to have a copy of it.

Dave said he had a draft tenancy agreement with him tonight. He said it is only a draft because there are some details he needs to get from the engineers. Dave said one thing he wants to call to the attention of the Commission is the rate they will be paying for the actual use of the system. He said that out of district users typically pay more than what the in district users pay for their rate. Chairman Robert Murphy asked what determines the rate. Dave said typically it's between 125% to 150% of what in district users pay. He said it's not uncommon or improper and what usually determines it is for the most part, along with that cash infusion of the hook up fee, it's recapture of some of the prior capital expenses which they now get to benefit from. Dave said it is up to the Commission if they choose to do so. Chairman Robert Murphy said the Commission did discuss adding an amount to the bill each quarter for future pump replacement. He said they will probably just add it to the quarterly bill.

Chairman Robert Murphy asked the members how they feel about charging the B&B the extra fee on top of the pump station. Tracy said she does agree with adding it to the quarterly bill instead of charging them in one lump sum for future pump replacement. Chairman Robert Murphy said he feels they should charge them only for future pump replacement.

Engineering Report

Chairman Robert Murphy said the only thing of note is the memo received today from Jim Fitzsimmons on the plant expansion, it's obvious it needs to be revised and he wants to talk to Ron Gainer about it. Chairman Robert Murphy said he is contemplating getting a second opinion from another engineer. He will let the members know how his meeting with Ron goes.

Sewer Operator Report

Seth said the general operations of the plant are fairly well. He went over his report. Seth explained how and where they cleaned out the lines. He said they did a video and Linda said it is up in the office. Seth said they didn't find any leaking or breaks. Rich said A+ needs to come back to do some minor repairs and the other company needs to come out because they were just a little sloppy.

Seth said they had the annual inspections done down at the plant for the backflow preventers. Linda said she received the report last month.

Seth said over at Pawling Corporation, at the first parking lot area there is a manhole that goes down towards the stream down at the railroad tracks. He said what happened was the flow that comes through the steam there actually came up so high it washed out the retaining wall and around the manhole. Seth said upon inspection he noticed there was a slide gate for the screen which was only opened a couple of inches. He said he worked with Stantec and was told that it is Pawling Corporations responsibility to fix.

Seth said he doesn't understand why that gate wasn't opened all the way.

New Business

MOVED by Robert Liffland, SECONDED by Tracy Durkin to approve roll over of principal and interest of CD #31003916472118 to new CD for 30 days. All were in favor and motion carried.

Commission Member Comments:

Rob Liffland said who ever is going to do the negotiating with John Boyle and Bruce Majors if they could keep in mind that they did not sign the lease agreement for the well yet and he didn't know where this would play into it. Rob said that should be looked at because it's water for the tax payers. Chairman Robert Murphy said what Rob is asking the Sewer Commission to do is give up something that would benefit the water department and he has concerns about that because the water district and sewer district don't necessarily service the exact same people. He said it wouldn't be fair on the sewer customers that are not on the water. He feels it should be looked at separately. Rob said he got a call from Bruce Major and came in and talked to Linda about it. Linda said she has it on tape that John Boyle was told his hook up fee would not be the old one of \$3,000, that it will be higher. Chairman Robert Murphy said if they insist on a lower fee, maybe the water department can pay them something for the land so that they come out even. Rob said the other thing he wants to say is that he spoke to a couple of the large parcel owners about bringing the district out to them and then they would pay the debt portion to sewer. He said they were agreeable to it. He told them it would be about \$300 a year. Chairman Robert Murphy asked Dave as they move forward on the negotiations with the commercial developers, does the Commission have any flexibility to give them some sort of reduction in their operation and maintenance after they took care of improvements over and above what their responsibilities are. Dave said yes, he believes so. Rob asked what he should tell the developers he spoke with. Chairman Robert Murphy said to tell them to give him a call and he will try to get an accurate billing amount. Linda said if she had the assessments on the properties she can get those figures in the next billing calculation. Rob said one last thing is that Toll Brothers pulled out. Chairman Robert Murphy asked if they said why. Rob said they just couldn't wait for any more answers on what's going to happen. Chairman Robert Murphy asked with the zoning. Rob said with the zoning and with the sewer. Tracy said the economy is bad now. Chairman Robert Murphy said they just reported their earnings the other day and things are not good.

MOVED by Robert Liffland, SECONDED by Tracy Durkin to close the meeting and adjourn. Time: 7:58 p.m. All were in favor and motion carried.

Tracy Durkin, Secretary