

BORDENTOWN SEWERAGE AUTHORITY  
MEETING MINUTES  
March 20, 2017

The meeting was called to order by Chairwoman, M. Ellen Gulbinsky at 6:00 p.m. in the Conference Room of the Authority located at 954 Farnsworth Avenue, Bordentown, New Jersey.

In compliance with the Open Public Meetings Act, adequate notice of this meeting was provided in the following manner:

- a. Posting written notice on the Official Bulletin Board of the Bordentown Sewerage Authority on February 24, 2017,
- b. Mailing written notice to THE TIMES and BURLINGTON COUNTY TIMES on February 24, 2017; and
- c. Filing written notice with the Clerks of the City of Bordentown and Township of Bordentown and mailing written notice to all persons who requested and paid for same on February 24, 2017.

The following persons were in attendance: Board Members M. Ellen Gulbinsky, James E. Lynch, Jr., Joseph R. Malone III, Leonard J. de Groot, Stephen Monson, and Zigmont F. Targonski. Also in attendance were: Executive Director Richard D. Eustace, Administrative Manager Elizabeth J. Kwelty, the Authority's Solicitor Thomas J. Coleman, III, and the Authority's Engineer Richard B. Czekanski.

On motion by Lynch, seconded by Targonski, it was moved to approve the regular meeting minutes of the February 21, 2017 meeting.

No discussion on the minutes.

Recorded vote:

Ayes:	Gulbinsky, Lynch, Malone, de Groot, Monson, Targonski
Nays:	None
Abstained:	None
Absent:	None

On motion by de Groot, seconded by Monson, it was moved to adopt Resolution 2017-031, approving the March payment of bills from the Operating Fund in the amount of \$182,323.65 of which \$105,066.77 is a payroll transfer.

No discussion on this Resolution.

Recorded vote:

Ayes: Gulbinsky, Lynch, Malone, de Groot, Monson, Targonski  
Nays: None  
Abstained: None  
Absent: None

On motion by Targonski, seconded by de Groot, it was moved to adopt Resolution 2017-032, approving the payment of March bills from the Escrow Fund in the amount of \$21,812.01.

No discussion on this Resolution.

Recorded vote:

Ayes: Gulbinsky, Lynch, Malone, de Groot, Monson, Targonski  
Nays: None  
Abstained: None  
Absent: None

On motion by de Groot, seconded by Targonski, it was moved to adopt Resolution 2017-033, approving the credits and/or refunds of customer accounts in the amount of \$2,812.48.

Recorded vote:

Ayes: Gulbinsky, Lynch, Malone, de Groot, Monson, Targonski  
Nays: None  
Abstained: None  
Absent: None

PUBLIC PARTICPATION:

Mrs. Gulbinsky opened the floor to the public. In attendance were, Township Committeeman Jim Cann, Township Committeewoman Jill Popko, and Township resident Martha Veselka of 23 Gloucester Court. Mr. Cann spoke first about the recent settlement between Bordentown Township and TransCo Williams in which the Township sold property to the pipeline. The Township was advised to settle by its general counsel. The court had already provided indications that FERCs (Federal Energy Regulatory Commission) standing was accepted, and by settling the Township would be avoiding costly legal fees. Mr. Cann's understanding is an agreement now exists, as part of the settlement, that Transco Williams agreed not to do anything on the ground until all final approvals are given. The Township still has an appeal into FERC. Committeeman Cann also noted that the Township is not backing down from their opposition in any way, but also the Township does not want to hurt the residents in any way. The real fight is with the application of the EPA Fresh Water Act sections 401 (wetlands free moving water) and 404, standards, standards which the Township does not believe TransCo can meet.

Members of the board in turn asked questions of Mr. Cann about the location of the compressor station, and whether the compressor station was under state or Federal jurisdiction. Mr. Cann also expressed his thoughts on the potential negative impact to

the environment. Mrs. Popko also contributed her thoughts about the negative impact of the pipeline and requested that this Authority approve the resolution to oppose the pipeline. Martha Veselka asked a few questions about the wastewater treatment plant, and invited everyone in the room to a meeting that evening at 6:30pm. Mrs. Popko thanked the Authority's Board for their support in opposing the pipeline. All three attendees left to attend the aforementioned 6:30pm meeting.

I. AGENDA ITEMS FOR DISCUSSION AND/OR ACTION:

A. GENERATOR PREVENTATIVE MAINTENANCE:

On motion by Targonski, seconded by de Groot, it was moved to adopt Resolution 2017-034, approving Contract 2017-C11, authorizing the award of contract to Bauer Gen Systems for emergency generator preventative maintenance, in the amount of \$8,010.08 for one year commencing April 1, 2017.

No discussion on this Resolution.

Recorded vote:

Ayes:	Gulbinsky, Lynch, Malone, de Groot, Monson, Targonski
Nays:	None
Abstained:	None
Absent:	None

B. DEFERRED CONNECTION FEE AGREEMENT DISCUSSION:

The board agreed last meeting to discuss the Authority's deferred connection fee agreement language, specifically Mr. de Groot's recommendation to change "Interest" to "Charge" to prevent arbitrage issues in the future.

The Authority's arbitrage accountant, Mr. Neeld who performs the arbitrage calculation every five years, wrote a letter to the board stating deferred connection fee agreements are a way for the Authority to facilitate payment from customers and are not related to the investment of tax exempt bond proceeds. The arbitrage rules are not applicable. The Authority's auditor, Mr. Maley also provided a written opinion where he confirmed his agreement with Mr. Neeld.

Mr. Coleman started the conversation acknowledging concern from the last meeting. Mr. Coleman explained the deferred connection fee agreement is an agreement the Authority is legally allowed to enter into. If the board feels the need to change the agreement, it can be done with a rate hearing. Mr. Coleman does not see a need for any changes based on his own professional opinion and the opinions provided by the Authority's arbitrage accountant and auditor both stating arbitrage is not an issue with the deferred connection fee agreement.

Mr. de Groot expanded the discussion with his comments. The arbitrage calculation is done every five years, and the next calculation may not be necessary because the Authority will be out of the requirements of the bonds.

Mr. Malone questioned that he felt Mr. de Groot's concern was the percentage charged for the deferred connection fee agreement, and both the Authority's arbitrage accountant and the Authority's auditor said there is not an arbitrage issue.

Mr. de Groot says that he agrees with both professionals. Mr. Coleman then asked if the question on arbitrage was off the table. Mr. de Groot stated arbitrage exists any time a governmental entity collects interest.

Mr. Malone disagreed. Mr. de Groot stated that he agrees with the Authority having the deferred connection fee agreements, but suggests writing the agreement to include the one percent charge labeled as a charge and not interest. Mr. Malone asked if the original issue could be discussed, and stated there is no arbitrage issue.

Mr. de Groot disagreed. Mr. Malone asked Mr. de Groot what authority he has that this is an arbitrage issue. Mr. de Groot asked to see the two letters from the financial professionals. While he was reviewing the letters, Mrs. Gulbinsky asked if anyone else thought arbitrage was still an issue when reading the letters. Mr. Lynch confirmed the letters seem clear. Mr. Monson stated it seems the Authority's auditor, Mr. Maley agreed with Mr. Neeld the Authority's arbitrage accountant. Mr. Maley included a definition for arbitrage bond. Mr. Monson asked Mr. Coleman if the term arbitrage as Mr. de Groot is describing falls under this term.

Mr. Coleman stated he is unsure what context Mr. de Groot is talking about. The deferred connection fee agreements are not borrowed money, the Authority is not borrowing money.

Mr. de Groot confirmed this is where the main point of issue is. The reason we have the requirement for arbitrage review is because we have borrowed money, not that this is borrowed money, there is a difference. If at some point, doing business as an Authority we lend money out, there is no way to differentiate where the source of those funds came from. Mr. Coleman disagreed and said the accountant will wholeheartedly disagree with you. Mr. de Groot disagreed. Mr. Malone commented Mr. de Groot is not a person of credentials to disagree or provide that opinion. Mrs. Gulbinsky spoke over the members to not worry about that and Mr. Monson said he had a question. Mr. Monson asked Mr. Coleman to confirm the change to the agreement would require a rate hearing. Mr. Coleman explained any changes to Authority fees or charges need to be done with a rate hearing.

Mr. Monson expressed his shared concern with Mr. de Groot about putting the Authority at risk for using the term interest. He would prefer that the word interest not be used in the agreement. Mr. Coleman stated that if he thought there was the slightest chance the Authority could be exposed, he would have taken steps to make changes

immediately. Mr. Coleman again stated that this is a common practice not just for this Authority but many Authority's across the state of New Jersey. If the board wants the change, it can be done, but Mr. Coleman does not see a benefit.

Mr. de Groot asked Mr. Eustace if it would be a financial benefit to the Authority to not have an arbitrage calculation every five years. Mr. Eustace said he would need to review what the Authority paid for the most recent review, but it didn't give us a problem. Mr. de Groot then asked what requires the Authority to have an arbitrage calculation. Mr. Coleman and Mr. Eustace said it is the bond resolution. Mr. de Groot said that is exactly the point, five years from now the Authority will be at the point where an arbitrage review is no longer required to complete the review. When you charge on an annualized basis 12.83% there is no question in any agency that that is arbitrage, especially when you are borrowing at 2, 3, 4 percent. Mr. Coleman respectfully disagreed.

Mrs. Gulbinsky stated we are going in a circle and was interrupted by Mr. Malone. Mrs. Kwelty answered yes to Mr. Malone's question if the Authority charges interest on unpaid sewer bills. Mr. Malone continued his statement, confirming municipal entities charge interest on unpaid property taxes and utility bills. Bordentown Township and Bordentown City have both borrowed money. In Mr. Malone's forty years' experience he has never heard this argument, and it is pretty obvious from the accredited, credentialed professionals, that this is not an arbitrage issue. Mr. Malone is unsure what the five year arbitrage review has to do with the deferred connection fee agreement, because the arbitrage review only has to do with the bond covenant and the borrowed money.

Mr. de Groot stated that when a governmental entity charges a penalty or a late charge it is not listed as interest.

Mr. Malone said that the annual resolution for municipalities states a municipality can charge up to eighteen percent interest. Mr. Malone summarized Mr. de Groot's statement as the Authority is comingling monies received through interest and monies borrowed from the Federal government.

Mr. de Groot: I have never seen a charge by government for late taxes, etc. that is not labeled a late fee or a late charge or a penalty.

Mrs. Gulbinsky stated a motion is needed or this discussion is to be curtailed.

On motion by Lynch, seconded by Malone, it was moved to keep the agreements as written. No changes to the wording of the deferred connection fee agreement.

Recorded vote:

Ayes:	Gulbinsky, Lynch, Malone, Targonski
Nays:	de Groot, Monson
Abstained:	None

Absent: None

C. RELEASE OF PERFORMANCE BOND:

On motion by Targonski, seconded by Lynch, it was moved to adopt Resolution 2017-035, approving the release of the performance bond for Holiday Inn Express.

In answer to Mr. Monson's inquiry, Mr. Czekanski confirmed a two year maintenance bond is a condition of the performance bond release. In answer to Mr. de Groot's question, Mr. Czekanski confirmed that there is a pad site at the hotel, but nothing has been submitted yet.

Recorded vote:

Ayes:	Gulbinsky, Lynch, Malone, de Groot, Monson, Targonski
Nays:	None
Abstained:	None
Absent:	None

D. OPPOSITION OF PIPELINE:

On motion by Targonski, seconded by Malone, it was moved to adopt Resolution 2017-036, opposing the Southern Reliability Link Pipeline project and calling for a moratorium on any and all planning, proposal, surveying or construction of the Southern Reliability Link Pipeline project.

Mr. Monson began the discussion by proposing an amendment to resolution 2017-036 as written. Mr. Monson would like the Sewerage Authority's resolution to mirror the resolutions passed by Bordentown City and Bordentown Township. In addition to matching the City and Township resolutions, Mr. Monson would like to add to the list of people who will receive a copy of the resolution to include "Speaker of the Assembly" and "President of the Senate".

Mr. Targonski mentioned having a resolution worded and constructed in a different format may actually mean the judge reads the resolution.

Mr. Monson expanded his amendment to also include a paragraph explaining the Authority's concern with potential water pollution when it gets to the plant, and therefore changing the resolution from the same format.

Mrs. Gulbinsky explained that the Authority does not know for sure how pollution will arrive at the plant and doesn't recommend stating anything we are not sure about. Mr. Malone agreed with Mrs. Gulbinsky that technical expertise attesting to pollution effects has not been presented.

Mr. Eustace was asked if the Authority can claim the plant will be affected by pollution from the compressor station. Mr. Eustace said he cannot claim the plant will be negatively affected by the Chesterfield NJ compressor station.

Mr. Lynch recommended leaving out the additional paragraph stating the Authority is concerned, and pass the resolution mirroring the Township and City resolutions.

On motion by Monson, seconded by Malone is was moved to edit Resolution 2017-036 to exactly mirror the Bordentown City and Bordentown Township resolutions, and have it written into the resolution to copy the speaker of the assembly and president of the senate.

Recorded vote:

Ayes:	Gulbinsky, Lynch, Malone, de Groot, Monson, Targonski .
Nays:	None
Abstained:	None
Absent:	None

Mr. Monson withdrew his recommendation of the additional paragraph stating concerns of pollution at the advice of Mr. Eustace and Mr. Czekanski.

## II. PROFESSIONAL REPORTS:

### A. EXECUTIVE DIRECTOR:

#### OPEN SEWER CONNECTION ACCOUNTS:

Bordentown Waterfront escrow fund refund in the amount of \$3,860.85 will be issued to bring the escrow balance to \$5,000.00.

The Apco Petroleum service station, Valero and 7-11 located at the intersection of Route 130 and Farnsworth S-4, connection permit issued. 840 Route 206, LLC, hotel and car wash, S-3 and S-4 approval and connection permit issued.

#### 101 BURLINGTON ROAD:

There is a single family home located on the Bordentown Township side of Steppen Chemical in Fieldsboro. This property is in the BSA service area, but there is no ability to connect at this time. The homeowner would like to connect to the Fieldsboro sewer system. Mr. Eustace asked the board for a motion to allow Mr. Coleman to draft a letter to the homeowner indicating what needs to be done to connect to a neighboring sanitary sewer system.

Mr. Malone started the discussion by stating he would like monetary compensation from Fieldsboro for this property to connect into Fieldsboro's system. Mr. Monson asked of Mr. Malone what type of

recompense we are looking for. Mr. Malone would like a precedent set requiring monetary compensation in the form of Fieldsboro paying a portion of the connection fee received as well as a quarterly amount to Bordentown Sewerage Authority for allowing a property to leave the service area.

On motion by Lynch, seconded by, Monson it was moved to allow Mr. Coleman and Mr. Eustace to work on allowing 101 Burlington Road to leave the BSA waste water management plan and connect to Fieldsboro, subject to a charge.

Recorded vote:

Ayes:	Gulbinsky, Lynch, Malone, de Groot, Monson, Targonski
Nays:	None
Abstained:	None
Absent:	None

Mr. Malone amended that it be added at such time in the future that BSA sewer becomes available to the front of their property that they may be required to connect to BSA.

Mr. Targonski mentioned there are other Township properties surrounding 101 Burlington Road. At a time in the future a developer may come along and extend the sewer main, making it feasible to then tie into BSA.

IDI Gazeley escrow fund refunds in the amount of \$3,800.28 for Grainger infrastructure and \$637.54 for Grainger building 1 of Central Crossings Business Park will be issued to close both accounts.

The executive director spent 13.00 hours and the administrative staff spent 14.00 hours on developer projects. Mr. Eustace said the Authority will be a part of an energy auction on April 13, asked if anyone has any questions about the monthly financial report, and requested a Finance Committee meeting take place prior to the April meeting.

**B. GENERAL COUNSEL:**

Mr. Coleman briefly updated the board on the month's activities. Mr. Coleman's time was spent on a number of issues previously covered in the meeting. Mr. Coleman worked with Mr. Eustace on the Petro Site 314 connection and Rising Sun Road connection correspondence making sure all developers in that area are aware the improvements needs to be constructed before anything else can happen. Mr. Coleman also spent time on general Authority matters.



C. ENGINEER:

Mr. Czekanski reported briefly on the month's activities and his report is attached to these minutes and made a part thereof.

On motion by Monson, seconded by Targonski, it was moved to adjourn the meeting at approximately 7:20 p.m.

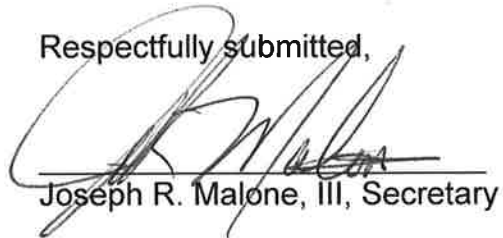
Recorded vote:

Ayes:	Gulbinsky, Lynch, Malone, de Groot, Monson, Targonski
Nays:	None
Abstained:	None
Absent:	None

Respectfully submitted,

APPROVED ON:

April 17, 2017

  
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Joseph R. Malone, III, Secretary

**BORDENTOWN SEWERAGE AUTHORITY  
ENGINEER'S STATUS REPORT FOR MARCH 2017 MEETING PREPARED BY  
REMINGTON VERNICK & ARANGO (RV&A) ENGINEERS**

**DEVELOPMENT TOPICS:**

● **Bordentown Waterfront Phase II: River Side of River Line Tracks:**

- ▶ **Apartments/Townhouses:** There are three NJDEP treatment works permit applications associated with this development namely, the Authority's portion of the sanitary sewer collection system located within the Township's right of way along with the pump station force main piping; the Authority's pump station; and the privately owned portion of the sanitary sewer system. All three permits were issued in the past month. There are still miscellaneous design issues to resolve. **No activity this month except to provide an updated "to do" letter to the Applicant.**
  
- ▶ **Volunteers of America on Burlington Road:** This proposed private conveyance system has its wastewater discharge flowing into the Phase II complex. **We have had numerous communications with the applicant's engineer and there is still required drawing information that must be submitted.** This development will be paying the 2017 connection fee rate.

● **Rising Sun Road Pump Station Improvements:**

- ▶ **Force Main System:** The Authority has received the NJDEP treatment works permit. The Applicant's engineer is progressing with the design modifications to the pump station. In order to replace the force main, easements must be obtained by the Applicant for access to the construction area.
  
- ▶ **Rising Sun Road Petro Restaurant:** We recommended a conditional S3 approval for the "Arby's" restaurant. This addition on the I-295 side of the facility will not be able to receive a certificate of occupancy until the Rising Sun Road force main/pump station improvements are constructed and operational.

- ▶ **Central Crossing Building No. 3 Warehouse:** The Applicant was put on notice that wastewater could not be conveyed into the Authority's downstream sewer system until the Rising Sun Road Pump Station/Force Main improvements were completed. However the Applicant proceeded with both paying the connection fee and completing the building construction. At the present time the Applicant is hauling the generated wastewater to the plant.
- **Enterprise Rent A Car:** The Applicant proposes to convert a portion of their office building to a hand wash car wash area. This project has been approved for construction.
- **Route 206 Marriott/Car Wash Site:** This project has been approved for construction.
- **Matrix Warehouse on Georgetown Road (569,000 SF):** We are proceeding with our review.
- **40 Highbridge Road: Single Family Home Connection:** We are waiting for connection information from the Applicant's engineer before finalizing our review.

#### **PLANT TOPICS**

- **PCB Minimization Plan:** The required samples have been obtained and we are awaiting the results. Simultaneously, we are developing the required report.

**End of Report - Prepared by Richard B. Czekanski, PE, BCEE, CME  
Remington Vernick & Arango Engineers**