

BORDENTOWN SEWERAGE AUTHORITY  
MEETING MINUTES  
May 15, 2017

The meeting was called to order by Chairwoman, M. Ellen Gulbinsky at 6:00 p.m. and led a salute to the flag 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, and Zigmont F. Targonski. Also in attendance were: Executive Director Richard D. Eustace, Administrative Manager Elizabeth J. Kweilty, the Authority's Solicitor Thomas J. Coleman, III, the Authority's Engineer Richard B. Czekanski, and the Authority's Auditor John J. Maley, Jr.

Mrs. Gulbinsky explained Stephen Monson resigned his position on the Authority's board because he and wife have moved out of the area. Mrs. Gulbinsky expressed gratitude to Mr. Monson for all of his time and dedication to the Authority over the years and wished both Mr. Monson and his wife a happy time in their new residence. There is an empty chair at this time that will need to be filled by an appointment from Bordentown Township.

On motion by Lynch, seconded by Malone, it was moved to approve the regular meeting minutes and executive session minutes of the April 17, 2017 meeting.

No discussion of the minutes.

Recorded vote:

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

On motion by Targonski, seconded by de Groot, it was moved to adopt Resolution 2017-044, approving the May payment of bills from the Operating Fund in the amount of \$230,357.72 of which \$106,963.02 is a payroll transfer, and \$7,225.30 is a capital expense.

No discussion on this Resolution.

Recorded vote:

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

On motion by Lynch, seconded by Malone, it was moved to adopt Resolution 2017-045, approving the payment of May bills from the Escrow Fund in the amount of \$25,482.98.

No discussion on this Resolution.

Recorded vote:

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

On motion by Targonski, seconded by Malone, it was moved to adopt Resolution 2017-046, approving the credits and/or refunds of customer accounts in the amount of \$430.60.

No discussion on this Resolution.

Recorded vote:

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

I. AGENDA ITEMS FOR DISCUSSION AND/OR ACTION:

A. VOLUNTEERS OF AMERICA:

Mrs. Gulbinsky asked if anyone from the public was here to discuss the Volunteers of America Project. Owen McCabe from Volunteers of America stepped forward to address a few open issues including the TWA permit,

NJ Transit line sewer permit, non-profit status, and any other outstanding issues from the permit application.

The NJ Transit permit for sewer under the railroad tracks: Mr. McCabe said the Township will be helping take ownership of the permit.

Bordentown Township Committeeman Jim Cann was asked to confirm the status of the Township taking ownership of the permit. Mr. Cann said it was agreed by the Township governing body at the most recent meeting, but he is not sure what has been officially put into place. The Township attorney spoke with the Township risk manager who has no problem with the Township taking ownership of the permit for the private lateral.

Mr. McCabe reviewed the outstanding issues that were discussed with Authority staff earlier that afternoon and resolved to get the Treatment Works Approval (TWA) application submitted to the state of New Jersey.

Fred Turek, Bordentown Township's engineer spoke about the Township's concern this Affordable Housing Project could be at risk because the Township construction official will not review any plans without the Sewer Authority's approval of the project. Mr. Eustace confirmed that the Authority will approve the footings and foundations only until the TWA is approved by NJ DEP.

Mr. Cann, Mr. Eustace, and Mr. Lynch all contributed reasons for the footings and foundations only being issued as stated in DCA law and DEP regulations not allowing any pipes to be constructed outside the footprint of the building.

On motion by de Groot, seconded by Targonski, it was moved to adopt Resolution 2017-047, authorizing the Executive Director of the Bordentown Sewerage Authority to sign the endorsement portion of the Treatment Works Approval application.

Mr. Malone asked of Mr. Coleman if he prepared the paperwork. Mr. Coleman said that he did prepare the resolution, but he was unable to attend the meeting earlier that day, and suspects that he, and Mr. Eustace and Mr. Czekanski will get in touch with the township the following day to get the permit in the Township's name. Mr. McCabe interjected that Volunteers of America has already requested NJ Transit draft a permit for Bordentown Township. As soon as the permit is received by VOA, it will be forwarded to the Authority.

Mr. Czekanski confirmed the Treatments Works Application open issues were discussed and resolutions are being worked on. Mr. Malone wanted

to clarify the motion is contingent on all factors being approved by Authority professionals. Everyone agreed.

Recorded vote:

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

B. SALARY RESOLUTION:

On motion by Lynch, seconded by de Groot, it was moved to adopt Resolution 2017-048, authorizing an hourly increase for Emily Gehm.

No discussion on this Resolution.

Recorded vote:

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

C. 2016 ANNUAL AUDIT REPORT:

On motion by Malone, seconded by Lynch, it was moved to adopt Resolution 2017-049, certifying the board the Bordentown Sewerage Authority has received and reviewed the report of audit.

Mr. Maley explained the resolution states the board is at minimum review the findings and recommendations portion of the audit report. Mr. Maley provided a brief review of results of operations to the board from the 2016 annual audit report. Mr. Maley then reviewed the accountant's report of findings and recommendations, stating this report is for items that have been found either to be out of compliance with the law, or an issue with internal controls. The 2016 annual audit has no findings and recommendations and Mr. Maley told the board they can feel confident in signing the resolution.

Recorded vote:

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

## II. PROFESSIONAL REPORTS:

### A. EXECUTIVE DIRECTOR:

#### OPEN SEWER CONNECTION ACCOUNTS:

Team Campus Phase II sent in a letter about constructing 200,000 square feet of office space across the street from their current facility. We received a will serve request that was provided to Mr. Czekanski for his review.

#### OPERATIONS ITEMS:

The executive director spent 20.00 hours and the administrative staff spent 15.00 hours on developer projects.

SCHOLARSHIPS: Tiana Ramirez Environmental and Hannah Heberling for Doreen B Moore business scholarship. Mrs. Gulbinsky has agreed to attend the Bordentown Regional School District awards night to award the scholarships. Mr. Eustace asked the board for any questions about the monthly financial report.

Mr. de Groot inquired as to when the next bond rating review will take place. Mr. Eustace explained Standard & Poor's will reach out to the Authority requesting information to complete their review. At this time, Standard & Poor's has not requested any information.

### B. GENERAL COUNSEL:

Mr. Coleman explained he worked on several of the items previously discussed on the agenda and suspects he will continue discussion in the public portion. Time was spent with Mr. Eustace and Mrs. Kwelty throughout the month on regular business items.

### C. ENGINEER:

Mr. Czekanski briefly spoke about the meeting that took place earlier that day with Volunteers of America, a meeting took place two weeks ago regarding the Rising Sun Road force main which should be complete this fall, and the submitted PCB minimization plan approval from the State of New Jersey requiring PCB sampling annually on a regular basis. The full report is attached to these minutes and made a part thereof.

## III. PUBLIC PARTICIPATION:

The Following Individuals addressed the board regarding Building 3 in Central Crossings Business Park owned by Exeter Property Group:

Susan Brasefield, Maser Engineering Consultants, (Engineer for Exeter Property Group)

Jason Honesty, Exeter Property Group

Alexander Edgar, Project Manager, ARCO Design Build Northeast

Michael Floyd, Archer & Greiner, (Attorney for Exeter Property Group)

Jim Caan, Bordentown Township Committeeman

Fred Turek, Bordentown Township Engineer

Mr. Floyd opened the discussion on the connection of Building 3 and the current status of the Rising Sun Road pump station. Mr. Floyd stated they feel Exeter is legally entitled to connect to the existing pump station. All of the infrastructure has been installed, and Ms. Brasefield will confirm there is no concern for public health welfare and safety if Exeter is allowed to connect. All of the infrastructure was installed, inspected, there is no issues with infrastructure. The connection fee was paid to the Authority. This is now a pump and haul every three days a couple thousand dollars per month on top of the connection fees already paid. Raw data is now available to back up the prior memos regarding the actual flow. 800 gallons every three days or 267 gallons every day of flow. The raw data is now available to show a connection should be allowed, and there will be no impact to the pump station. Ms. Brasefield will also speak about the NJDEP regulations about that peaking factor that applies to new stations but not existing stations. Mr. Floyd states legally they believe they are entitled to connect not only as a matter of law, but because of equity and fairness based on

1. infrastructure already installed
2. the infrastructure has been inspected with no issues
3. the connection fees have been paid

Mr. Floyd then asked Ms. Brasefield to provide information to the board.

Before Ms. Brasefield could take the floor, Mr. Malone requested the Authority professionals update the board before the professionals of the applicant update the board. Mr. Coleman recommended letting Ms. Brasefield speak first as she has knowledge of where the remaining improvements stand at this point.

Ms. Brasefield explained GS Realty was the original property owner of Building 3. The gravity sewer extension was done by Amboy, and the second phase off-site force main, was done for building 1. The remaining phase is replacing the remainder of the 6 inch force main with 12 inch force main and some upgrades to the Rising sun Road pump station which includes the replacements of the pumps and the control panel. The force main and control panel is actually being completed by Trammell Crow Company. The project is about to start, and a contractor needs to be selected so the insurance and bonds can be posted.

The Building 3 TWA approval was for a flow of 2225 gallons per day. 1.55 gallons per minute. The reason building 3 was not approved to connect to the pump station is because the peak factor was higher or lower. When a new pump station is designed, the NJDEP rules stated enough capacity for a 2.5 peaking factor. The rules do not state that peaking factor is required as the pump station ages. The existing peaking factor is

2.44 and that is not in violation of DEP regulations. The Building 3 flow would only be adding 1.55 gallons per minute to the 135 gallons per minute that is there currently. And it is still a 2.44 peaking factor. It would not overload the pump station in any negative way. This is our basis for why we think a connection should be allowed. There would not be an immediate change. The highest pump out in recent weeks was 800 gallons. That is much lower than the DEP regulations for the maximum build out of that building and the maximum number of employees present.

Mr. Malone: What is the potential total flow coming out that facility?

Ms. Brasefield: Based on DEP regulations is 2,225 gallons per day.

Mr. Malone: What is the current capacity at the pump station or in the line currently? Could we meet that gallonage flow?

Ms. Brasefield: Yes, yes it was designed to meet that flow.

Mr. Malone: Could our facilities that are currently designed, handle that flow.

Ms. Brasefield: Yes, it reduces the peak factor for the extra available capacity, but yes there is capacity for it currently.

Mr. Floyd: even if the 2.44 factor became an issue, the attorney for Amboy Bank wrote a letter to the Authority on February 24, 2017 stating that the bank would take any responsibility for any problems, and again I am just putting that out there for the sake of argument.

Mr. Malone: What exactly do you mean by that?

Mr. Floyd: A letter from Bill Moran

Mr. Malone: What problems could they foresee, or do you foresee?

Mr. Floyd: We don't foresee any problems whatsoever.

Mr. Malone: Would additional flow be a problem?

Mr. Floyd: No.

Mr. Malone: So, there is not a flow issue going into any of the facilities or piping that currently exist.

Mr. Floyd and Ms. Brasefield: Correct

Mr. Malone: For the maximum flow that you can possible get out of that facility.

Ms. Brasefield: Correct

Mr. Czekanski: To give the board some history, when this project first started, we put in our review letters that this force main was an issue. We knew there is three to five other developers in the area who had similar flows, and in fact in 2005 or 2006 because of this issue there was not a hotel built on Rising Sun Road. So, it ends up that in our letters we put that you are building at your own risk, entirely at your own risk, and in fact the board will not sign off on a Certificate of Occupancy if this issue is not resolved. They built it on their own, they didn't call the Sewerage Authority to come out when they were installing their pump station as requested in the letters, and they came out and said "OK we are ready, let us in". The Authority through Rick agreed to allow the facility to pump and haul instead of stopping everything cold and having a building that no one can use, so there is two different letters over the last year and half explaining they were building at their own risk. The improvement of the entire system had nothing to do with any schedule from the Authority. The developers are controlling the schedule. At this time, building 3 is hauling wastewater, but at the same time, if you say ok to these

people (Building 3), the hotel owner would say "Why did you stop me", Trammell Crow, Petro, "Why did you stop me?". This has been going on for 15 years. There was an agreement with developers in past that fell through because it was flow based. The developers in past did not make the same improvements that we are talking about today that are finally going in 17-20 years later. We forewarned them you are building at your own risk.

Mr. Coleman: This has been the consistent message from the both of us for the past two years, that it was 'build at your own risk'. The concern is the precedence established because I know as soon as that Arby's is built, Petro will be in here saying wait a second, how did you let them in when you said we couldn't. Sue has been involved in this process for two years, so this is not the first time she has heard 'build at your own risk'. The clear understanding with GS Realty going back two years was that no one would get to connect until all of these improvements were done. This is also what I told Mr. Floyd. The information has been consistent.

Mr. Malone: Is what has just been relayed to all of us, what you understood?

Mr. Honesty: I'll call build at your own risk and the letters from R&V...

Mr. Malone: I am asking the... you're an attorney correct?

Mr. Floyd: Yes

Mr. Malone: And is this gentleman an attorney?

Mr. Floyd: No, but he is here on behalf of Exeter

Mr. Malone: Ok, let me ask you. You are the one that made the statement to us. Can you verify the two statements that were made by our two professionals?

Mr. Floyd: Yes, there have been letters from R&V stating that you are building at your own risk.

Mr. Malone: Did you protest those letters at that time?

Mr. Floyd: No

Mr. Honesty: No, The statement goes on to say that building at their own risk as Sue described was for Phase 1. At the time when we started we were building at our own risk because Phase 1 was not complete and there was nowhere for our sewage to go should we have a completed building. Amboy Bank completed all of the work necessary for Phase 1, the only Phase that impacts our building. In connection with the downstream work, there is no change in our operation for that work. Its people on the other side of station, the Pilot, the Arby's and everybody like that so our understanding was that yes, we were starting construction before the bank had finished Phase 1, and that's all that affected us. Phase 2 is doesn't affect our site or our operations at all.

Ms. Brasfield: May I say one more thing? The other thing that makes this site different than all the other sites that are coming in later, is that the original owner has posted the bonds to do the force main and pump station work off site. So, he is not going to walk away from those bonds. They have agreed to do that and posted the money to show they were going to stand by that.

Mr. de Groot: How quickly can that be done?

Ms. Brasfield: We are hoping it will be completed by the Fall. At this point we have all of the approvals in place it is just a matter of getting the construction going.

Mr. Malone: The build at own risk letters, did they include any permits from us to build?



Mr. Czekanski: They mentioned we would not approve the certificate of occupancy.

Mr. Malone: Did we inspect the facilities that were there while they were being constructed.

Mr. Czekanski: No, in the letters it talked about could you please call us when they were being constructed. No calls were made.

Mr. Malone: So we don't even know what's out there

Mr. Czekanski: We know now, but they didn't tune us in when the work was going on, they just called on a Thursday and said they are opening on the following Monday, get us the Certificate of Occupancy.

Mr. Malone: Is this the way that you would normally operate, both of you? (to Mr. Floyd and Ms. Brasefield)

Mr. Floyd: No I think there is a little bit of, I don't want to say miscommunication, but I agree that letters were sent by R&V stating 'build at your own risk', but I think that does over-simplify the issue and that's why I want to have Jason Honesty to discuss the Phase 1, Phase 2. We are not disputing that we were building at our own risk with respect to the Phase 1 improvements. When the offer was made to pump and haul..

Mr. Malone: I guess what I am asking is as an attorney, did you understand what was said to you by these two gentlemen as to the conditions of you building out there.

Mr. Floyd: Yes, with respect to Phase 1, absolutely

Mr. Malone: As an engineer, did you understand in your past experiences what was told to you by these two gentlemen.

Ms. Brasefield: Yes, but I think there was a communication issue, that my initial understanding and I will say I did not read all of the agreements that are in place and all of the correspondence especially after we got our design approval, I think there was a misunderstanding, that we thought once the gravity sewer was installed that they would be able to connect Building 3, but that if.. sorry, to back up a little bit. When the first phase of the pump station was done, we were hoping, Rick and I had done calculations together and cooperated on how..

Mr. Malone: this Rick, or that Rick, or both Ricks

Ms. Brasefield: How we were, what improvements to do to increase the flow from the Rising Sun Road Pump Station, unfortunately when it was done and put into operation it wasn't as high as we had hoped it would be, sometimes that just happens the existing equipment is old and it doesn't react exactly how you think it is going to. So we did understand due to that, there was other developers involved the in the agreements, and Amboy Bank was agreeable to doing it. The miscommunication was that they thought that they would still be able to connect once the gravity sewer went, but they would still do the pump station and force main upgrades.

Mr. Floyd: Again, I am not disputing what was in the R&V review letter, and Tom and I started talking about it right after but, I think it is important to make a distinction as we heard from Jason about Phase 1 and Phase 2.

Mr. Malone: I guess, you know you all are involved in these talks and we are not involved in the talks, from my understanding, going way way back with this, was that if it all wasn't completed nothing was going happen. Is that the generalized understanding of what the story is?

Mr. Coleman: that has been the understanding with Amboy Bank and GS Realty from the start, and I think Sue that is still your client, is that correct?

Ms. Brasefield: Yes

Mr. Targonski: So, the C.O. was a concession on our part, right? To help them along?

Mr. Eustace: In some ways, they are bringing it to our plant, we still have them bring it to the plant. That is how we satisfied the C.O. problem was to bring it to the plant.

Mr. Targonski: Otherwise, it would just be a dusty building out there.

Mr. Eustace: Yes

Mr. Malone: How far is the rest of this along the way from getting the whole thing resolved?

Ms. Brasefield: Once they have an agreement with a contractor, they have a very short timeline for the contractor to be done. They have a forty-five day contract period.

Mr. Malone: The whole thing should go away in a month and half?

Ms. Brasefield: Three months

Mr. Coleman: The Fall, Joe

Ms. Brasefield: Once the pumps are upgraded also

Mr. Czekanski: In the report, I said December but that was based on a sixteen week pump delivery time, I am told now it may only be seven weeks, so we are pulling back to somewhere around October 1<sup>st</sup>.

Mr. de Groot: is there any reason to doubt that?

Mr. Czekanski: the contractor has to sign a contract, he has to be not busy enough to come out here to do the work, we need cooperation from a local land-owner here to remove vehicles off an easement, there is things that have to happen but are not unsurmountable. There was a question raised the other day, Can they work on the force main without getting the Turnpike permit? That is all true they can work on one side if they want to, but it's all the contractor getting out there and being able to do the work. Again there is no contract signed yet, there is no shop drawings sent in or approved, they have not made a decision on a contractor yet, so you will know more by the next meeting, but right now, it is still the way it was six months ago, there is no contract signed to move forward with a contractor.

Mr. de Groot: Is that resolvable before the next meeting?

Mr. Honesty: We are not party to the actual...

Mr. Honesty: it's Trammel Crow that's doing that

Mr. Czekanski: Yeah, it's another developer who is in charge of that portion of the contract

Mr. Honesty: What I can tell you, as Sue mentioned earlier, Amboy has been great for us to work with as a team. They put up a \$2M bond, I think some in cash, and some as a bond, so they are not walking away from this project, they haven't since they successfully performed Phase 1 at our behalf, obviously when they sold us our lot they came through, I acknowledge the engineer's letters that say proceed at our own risk. At our own risk, not a Phase 2, you know worrying about a if/when/maybe if Trammell Crow gets their funding or Arby's gets their funding. We invested \$12M in your town, and Amboy Bank came and we performed and we did the work, you more than graciously accepted the \$275,000 check which I would argue that yes we understood we were building at our own risk, and you accepted a check for Phase 1 of the connection fee, unless there was some other reason you accepted the check, and were going to put that into escrow forever, so it's a little bit disconcerting that there is a distinction there of slippery slope of folks that are again, the if/but/maybes. Amboy

performed, they spent hard money, putting in Phase 1, connected it to the plant. The engineer reviewed the details, I got to tell you, if it came out at 2.5 for the same effect of the new one, we probably wouldn't be having this conversation because it was going that route. So, something along the way changed, where don't know what it was, don't know if something happened with Amboy, but Sue was working diligently in the trenches, and like I said had that same factor would have come, the switch would have been flipped. It's that simple, we didn't imagine this kind of scenario where we were performing in a vacuum. The work was inspected, by Maser's site crews. The Town didn't want to come out. You had the opportunity to go to inspection so we are not foolish and put infrastructure in the ground on a multi-million dollar project, that would be insane.

Mr. Lynch: Why wouldn't the Township want to come out and inspect it?

Mr. Edgar: We made the call to the Sewerage Authority, they actually told us that Maser was to inspect for them, because they are the engineer of record, Mark Janiszewski who is a professional engineer inspected the pump, everything's okay, I assume that's...

Mr. Lynch: are you talking about the Township or are you talking about the Sewer Authority?

Mr. Edgar: Sewer Authority

Mr. Lynch: Sewer Authority

Mr. Edgar: The Township has been inspecting the entire time.

Mr. Honesty: Right, again...

Mr. Lynch: Rick, why wouldn't we want to inspect?

Mr. Eustace: It's a private sewer system, Sue would have to sign off that it was built as per the TWA.

Mr. Lynch: That answers that question then right?

Mr. de Groot: Rick, at what point..

Mr. Lynch: That answers that question why the township didn't come out

Mr. Edgar: Well there was the insinuation that we didn't

Mr. Lynch: Alright, I'm just trying to get to the bottom of it and you have your answer now.

Mr. Honesty: At some level, and again as the owner and developer across South Jersey and some of your sister municipalities here, the last place we wanted to end up, in front of the board here. For us the developers its embarrassing. We don't want to have to play this grandstanding game of showing up but, we have built the building, we have paid considerable fees, our colleagues our teammates at Amboy Bank they've spend good money putting in Phase 1, we have tenanted the building with a first-class tenant that will do business in Bordentown, I don't know that that matters in the sewerage world, but they are ready to operate. There is no physical reason other than a potential slippery slope for future litigants, but again, some of those are if/perhaps/maybes right? Have they written their \$275,000 sewer fees, have they built a \$12M building, have they partnered with the bank to put Phase 1 infrastructure in? I think we have a pretty clear and convincing case here. As Sue said, we have calculated this just about every way that could be requested, so we would appreciate your consideration. The tenant we have in the building is a third-party logistics firm, they are providing third party logistics for a very prominent hospital system out of the city of New York. We do need to achieve

certain milestones for them to perform their operations and do it dutifully. They have to have their C.O.s, we need to stop this pump and treat operation that arguably is going on for no reason when the pipe that is going down has plenty of capacity. We would respectfully ask that the board would move to acknowledge the data and facts. There are hard facts here. I get that Arby's and Pilot, our pipe is in, we've tested it, the station is there, and we respectfully request that you guys reverse this decision and let us stop pumping and let us utilize the equipment.

Mr. Coleman: I guess what's really disconcerting this evening is that these questions weren't raised two years ago. And now at the 23<sup>rd</sup> and half hour, you are being asked to change your position. If there was some misunderstanding or just the scintilla of a question that they shouldn't be allowed to connect, they should have asked long ago. I'm just shocked that these questions weren't raised two years ago. And now you are coming in this evening and telling us, 'well that wasn't our understanding', well maybe you should have raised that with us two years ago.

Mr. Honesty: It's a ridiculous understanding that two phases are tied together that aren't tied in any relation engineering-wise.

Mr. Coleman: So you built along assumptions, I'm not going to go back and forth with you, but you built along the assumption that you were just going to get to build your building and just connect.

Mr. Honesty: Not true

Mr. Coleman: That's what you told us tonight

Mr. Honesty: We spent thousands of dollars in engineering for proving that Phase 1 was completed. We weren't doing anything across the line on the other side of the station.

Mr. Coleman: We didn't know that, Ok.

Mr. Honesty: You absolutely did and your engineer knows, he is the same engineer that have used both sides of it. He clearly knows that Phase 1 is Phase 1, and our building services that.

Mr. Coleman: Did you ever at any point Rick, think that once Phase 1 was completed, they would get to connect?

Mr. Czekanski: I am unaware of that unless it is in the agreement. Sue and I went out and we looked at the pump test, and

Mr. Honesty: Which agreement?

Mr. Czekanski: the GS Realty agreement, and I don't even know in the GS Realty agreement if it says when Building 3 is constructed, Building 3 is specifically for Phase 1.

Mr. Honesty: They (Amboy) clearly thought that they satisfied their obligation as part of selling the lot for 3 by installing it expeditiously.

Mr. Coleman: Well then Mike needs to take that up with Bill Moran who drafted the agreement, because he dropped the ball in drafting the agreement then, because that is not what the agreement says.

Mr. Honesty: Again to the members of the board, the solicitor, and the engineer, this is why we appeared in this room tonight. We have come to actually see the members for some action here that would actually make sense here because this is the circular conversation we have had here for the last four months at the cost of about \$6,000. We have an operational property that was approved by the Town, which we built, which the engineers inspected and reviewed the data..

Mr. Czekanski: our engineers didn't inspect, some other engineers inspected

Mr. Honesty: Well that was what we were told to do. And now all of the sudden, the bank posted the money, there is no risk from walking away, I get that there may be a global economic crisis when the previous owner let the lot go fallow, but the bank has been a stand up operator here, posting their money, selling the lot to us, performing Phase 1. I am not sure what the aversion is for the board here at this point for this particular applicant.

Mr. Floyd: Despite what Tom said, Exeter is not coming in here trying to pull wool over anyone's eyes, they are coming in here with clean hands. They moved forward in good faith based upon their deal with Amboy and their understanding of the R&V letter in Phase 1 Phase 2. And to think that they would make all of these improvements and install all of these improvements and find a tenant for the building, at their own risk, and pay \$275,000 to the Authority just, it's incredible. No rational and experienced developer would do that. You are dealing with a developer here that is experienced and has done projects throughout the state of New Jersey. You are not going to hear any problems about them from any other Municipality or with any other Utilities Authority. Again the slippery slope argument that you heard, there is no slippery slope here at all. Again, the Phase 1 improvements are in, Building 3 is connected, there are no issues with capacity and we are just asking to connect. I understand that all of the other improvements are going to go in. Even if the bank and their contractors drop the ball, you have sufficient funds in escrow, a bond, to call if necessary, but again all of the past history with this project indicates that the parties to that agreement of which Exeter is not, they are going to move forward and install the improvements. They already did it with Phase 1 they are going to do it with Phase 2. Nothing you heard from the Authorities professionals indicate otherwise. Correct?

Mr. Coleman: Mike, is it fair to let everyone else in to connect at this point?

Mr. Floyd: Who else right now in Phase 1 is ready...

Mr. Coleman: That's not what I asked you. If they were all ready today, everybody gets to connect, despite the fact that Phase 2 isn't done?

Mr. Floyd: That is a completely different set of facts

Ms. Brasfield: The other developers didn't post the bonds and commit to doing the construction project.

Mr. Czekanski: Well, GS Realty posted the bonds, and they posted the bonds on behalf of anybody who writes them a letter, whoever wants to construct in the area. They have an agreement with your corporation, they may have an agreement with Petro, I think they do have an agreement with Petro, they may have agreements with Equus, the hotel people, so there's agreements..

Ms. Brasfield: But their agreements are to be reimbursed after the fact, after those improvements are constructed. Their agreements with them are separate to be reimbursed for the construction costs, or a portion of the construction costs.

Mr. Czekanski: Well their agreement is different because GS Realty sold the land to them, so that might have been in their purchase of sale, something with the price that is not the same as other developers.

Ms. Brasfield: Well no, they went forward, Amboy Bank has two pieces of property, one is Building 3, they also have a future development they fully understand they can't connect until final construction is done. So, they were involved because they have two

pieces of property, they initially have a three party agreement with Equus for the hotel and Trammell Crow to build this force main and pump station improvements. The other developers that are coming in, that agreement is a whole separate, from the three party agreement

Mr. de Groot: What is the down side for us?

Mr. Czekanski: You got eight other people saying 'Why not me? Why did you hold me up for 15 years? I have a similar flow'

Mr. de Groot: I do understand their argument saying there is a bond being posted and that bond legally actionable.

Mr. Czekanski: Right, but then we have to go through that procedure of calling the bond in while again, all of these people are saying, 'why did you let them in instead of me?'

Mr. de Groot: Do we have any waiting now?

Mr. Czekanski: There is Petro, there is a landowner in front of Prince factory who has interests you've mentioned the name Equus, they come to the meetings, Trammell Crow there is a warehouse at the exit of 295 who is fronting the money, just so the board understands Phase 1 and Phase 2; Phase 1 is the sanitary sewer here on Route 206, Phase 2 is the 3,000 feet of force main and pump station improvements.

Mr. Honesty: Are any of those connecting into Phase 1, or are they all connecting into the force main in Phase 2?

Ms. Brasefield: Technically it all also flows through Phase 1.

Mr. Honesty: They are trying to connect into a pipe that doesn't exist.

Ms. Brasefield: Not exactly

Mr. de Groot: Here is what I do not understand, We are as a board financially strapped until 2020 because of our bond rating, our bonds. If we don't get the hook-up fees and the goodwill of the business community, we aren't going to get that money in future.

Mr. Malone: I think there is something that supersedes that is a potential legal liability.

Mr. Czekanski: Just so you understand, they do have, I am not sure when you say Certificate of Occupancy how much farther you need to go, but the building is occupied and they are hauling sewage to the Sewerage Authority. It is just a question that they want to discontinue because they don't want to haul every day or every other day instead of once per week, but the building is occupied.

Mr. de Groot: I understand that, but I will say goodwill in business is worth money and that money will assist the governments of this area, the City, the Township, the School Board, and the Sewer Authority. I think we want to punish for past transgressions when there has been an attempt to make whole, and I would go along with their request.

Mr. Malone: I don't know whether I understand the punishment here, I think there has been a clear message conveyed by this Authority from the inception of this project.

Mr. de Groot: Well the punishment being..

Mr. Malone: I think there has been an understanding on this board about these parcels of property that probably is, God knows how long. The thing is, if we now go backwards and possibly get ourselves into a legal bind for moving ahead, I do have concerns about that. Before I would take any action, I would like to have somebody give me some serious legal opinions as to what our legal obligations are on actions we have taken in the past, as to how we move forward.

Mrs. Gulbinsky: And if there is any wiggle room out of this. If anybody has any good idea down the middle of this, we just have to put it on the table and take a look at it, and see what we can do with it.

Mr. Targonski: We've been through this same kind of situation before, I have been on the Authority since it's inception, and people come to the Authority, they make representations, and they don't follow through on the representations, and what do they do? And we say it right here, Joe and I say it to each other, You know what they're going to do, they are going to go to the Township, they are going to say the Sewerage Authority is a bunch of bad guys and bad girls, and we don't want to provide them service, when in fact we treat everybody the same. That has been our hallmark here. We treat everybody the same and we go according to the Rules and the Agreements that everybody has. As soon as you start climbing that slippery slope, other people are going to say 'You cost us money, you're costing us revenue and the development of our project and you're letting these other people go' and I don't really want to get into a situation like that. Now, somebody should be putting the pressure on the people who are going to take care of the Phase 2 thing. Put the pressure on them, you got to get going. So, maybe you have to haul until next month, come back next month, and we'll take a look at and see where that is, if somebody put a couple shovels in ground out there, and they are ready to go with construction and start to do the improvements, then maybe there is a little wiggle room there. I don't see it right now.

Mr. de Groot: To what extent is that bonding applicable?

Mr. Floyd: We didn't post a bond, that was posted by Amboy Bank/GS Realty.

Mr. de Groot: What are the balance of that?

Mr. Floyd: I do not represent GS Realty, but it is my understanding that the bond was posted for Phase 2 improvements, the downstream improvements, but there was a tri-party agreement with GS Realty, Amboy Bank, Equus, and Trammell Crow, but Exeter is not a party to that agreement, we had nothing to do with the posting of the bond. I had stated earlier, this is a fact that I know from my conversations with Tom, the bond has been posted and there is a cash component as well and it's for the improvements.

Mrs. Gulbinsky: You had something to add?

Mr. Turek: If I could, Fred Turek, Township engineer. I am just catching up and I'm hearing things for the first time at the meeting, but I am here to help support my friends at Exeter and Amboy. Just as a logic of it, from sitting back here, I heard the question 'What is the downside to the sewer authority?', and what I heard as an answer was that there are these eight other people coming in, and how do we explain the answer to the people we told to go away 15 years ago? But I see the logic of you have things that have been constructed, you have bonds in place, and we are being told that this is a month or several months away, so what are we going to tell the other warehouse? Well, that warehouse won't even be built for nine, twelve months, so I don't see the logic in that argument or that explanation, so I don't see even the Arby's, which they are saying Petro, it's really the Arby's, there is a restaurant coming and I see what's coming on the Township end as the planning board, and anything that is coming is many months if not years away when you start sticking a shovel in the ground. Trammel Crow somebody mentioned 440,000 square feet, they just finished some site work because they finally received their DEP permit, so that's it, they are now walking away and they are going to make a decision in sometime in mid-June or into August, they said where

they may build a spec building or they're may just going to go away. By that time, from what I'm hearing again, just in this room this is almost a moot point and I undersand the Rules and Regs and 2.4 versus 2.5, I live my life with these theoretical, hypothetical numbers and as engineers, everything has a safety factor, we are the most conservative people that you'll find. Storm water basins, you see them, we build them everywhere, have you ever seen one spilling over? No, we are so conservative. And I won't speak to Sue, or I am not a sewer engineer, but I am just I guess looking to the logic of the board's decision when, again Tom with the legal issues I am sure there may be some implications that were mentioned. But, the reality of the sewer flowing in there, I spoke to Susan several times, and it's really pittens of flow, and I know they are desperate to get a C.O., we have a bond in place, apparently, I am being told tonight, right? there is a bond in place for these improvements, so I don't again, I heard 'Where's the down side?' the downside I guess all turns to just a legal issue, but physically there is no downside, it, I guess there were flow calculations that you guys came up with

Mr. Czekanski: The downside is that contractor never signs, the Authority has to take it over, can we use Sue's plans, maybe, maybe not, do we have to redesign it ourselves, then do we have to go out to public bid

Mr. Turek: But they've posted a bond

Mr. Czekanski: Right, but I'm saying, we are still going through all of these steps

Mr. Turek: But if you've posted a bond, you've reviewed this already, so it's an acceptable design for you, so, yes you would use Susan's plans

Mr. Czekanski: Okay, but I am just saying her plans were just finalized this week, so okay so maybe I can, but then I go out to bid with them and things like that and it still takes time.

Mr. Turek: When you say time, going through pulling the bond, is that what you're concerned about, pulling the bond

Mr. Czekanski: pull the bond

Mr. Turek: It does take time, sure it does

Mr. Czekanski: And these other people

Mr. Turek: And you would tell them, this improvement has not been made, and the bond has not been, uh, is being pulled right now, so obviously there would be an issue with that.

Mr. Czekanski: Right, but it won't happen today, that we are pulling the bond. She's going forward with getting the contractor. When is the time that we would pull the bond? Two years from now? Three years from now?

Mr. Turek: You could set a time on them, if it's not completed by October 1<sup>st</sup>, you pull the bonds, you set some time.

Mr. Czekanski: That's a new..

Mr. Turek: physically there is no downside

Mr. Czekanski: That's a new contractual requirement that we would have to work out with GS Realty

Mr. Coleman: and the bond company

Mr. Czekanski: and the bond company

Mrs. Gulbinsky: I think that was what the suggestion was here, that we need some leadership to gather those who are going to come in afterward to help move the



infrastructure forward so it's there for everybody. So we need some support from the Township then, because there are limitations as I understand it as to what we can do from the Authority's point of view. Our folks can advise us on our Rules and Regulations but the part where we get people to work together to move their projects forward really needs, is on the Township end of the situation like that.

Mr. Turek: I understand

Mrs. Gulbinsky: And we can stay in good communication because one of the things I learned today is how many pieces of information were missing. And that had to be because there was a nice flow of communication happening when there was an individual from the Township who talked with Rick on regular basis they communicated almost every day. That being missing we need to replace that somehow, so that these kinds of things get discussed before we get here.

Mr. Turek: I understand that. But I believe again, what I am trying to express, and maybe it's not coming through is, you're talking about we'll have to pull a bond in three months, six months, the buildings that you are picturing going up aren't here yet, and they're not coming for a while, there is that Arby's that's lingering out there, but the other stuff is not even coming forward, so there's more than enough sufficient time to pull bonds, and to force the hand, or tell someone else they would have to post a bond when they come in, when Trammel Crow comes in. Right now there is no physical damage, there is no physical harm, from what I am hearing the mechanics work, it's just become a legal issue, but you are concerned about legal issues I think that are buildings that aren't here yet. And buildings take a long time to go up.

Mr. Czekanski: But when would they start if they don't know when we are pulling the bond. When would they start?

Mr. Turek: When would who start Rick?

Mr. Czekanski: The bonds, I mean the buildings. They never would start because there is no deadline on pulling the bonds.

Mr. Turek: Well, you wouldn't issue an S-4 or whatever it is to give them a building permit correct? If there's, here we have sewer approvals that places that have been built that's in the ground, if Trammel Crow comes forward Rick, Mr. Eustace would have to issue an S-4 correct, for our construction official to issue a building permit?

Mr. Eustace: That's correct.

Mr. Turek: That goes back to the first people who were in here V.O.A. who cannot get their building permit, because they don't have an S-4 and there is the whole TWA issue that I hoping we work through, and now we find out it's just a foundations and footings. So when you say what do we do to these people in the future, you don't issue an S-4 or an S-3 or whatever it is and they can't come in.

Mr. Czekanski: Well, I don't know if we would issue or not take their money, but we write them the same letter, you are working at your own risk until this force main is completed, put you on notice.

Mr. Cann: If I may, Ellen.

Mrs. Gulbinsky: Sure

Mr. Cann: Jim Cann. I think, if I'm hearing all this correctly, the only one of these unfinished projects that can connect into the Phase 1 and operate, is Exeter. The others cannot, they have to have that Phase 2 to connect in, did I hear that correctly?

Mr. Czekanski: I don't know that you did because it doesn't say in Phase 1 that this property, tell me if I'm wrong, because I don't have it in front of me, does it say in the agreement that Exeter's property is strictly in Phase 1 in that agreement? And that's where it applies to.

Mr. Turek: Which agreement?

Mr. Czekanski: the GS Realty/Authority agreement

Mr. Cann: That's not the point, the point is you're saying, what do you say to these other guys that come in, and the, what you say to them is, without this 3,000 foot of pipe, and the second pump station, we can't give you what you want. You have to finish it. These guys can connect in. They cannot connect where they can connect.

Mr. Czekanski: What makes them different?

Mr. Cann: Because their connection it to the Phase that is completed. The others are not.

Mr. Czekanski: Does it say that in the agreement?

Mr. Cann: Oh my goodness. That's so arbitrary and capricious it's ridiculous.

Mr. Malone: Let me make a suggestion

Mr. Coleman: I did not know Mr. Floyd and his client were coming this evening, so I am not prepared to give you a legal opinion.

Mr. Malone: My suggestion is that we need to have some type of legal..

Mrs. Gulbinsky: sit down

Mr. Malone: sit down, and discuss this whole matter

Mrs. Gulbinsky: Yes

Mr. Malone: and have some kind of interpretation by our professionals before we can make any kind of rational decision.

Mr. Coleman: I trust Mr. Eustace, Mr. Czekanski, and I will discuss this first thing in the morning.

Mrs. Gulbinsky: Yes, should we look forward to the fact that you'll get together, put your heads together, figure out what can be done, what can't be done, and we can all talk about it later, or you settle, you decide you signed agreements as you agree.

Mr. Coleman: I think the Bank is the biggest factor here, because they are providing indemnity for everyone.

Mrs. Gulbinsky: The bank is, ok, so we need to know what they are thinking too.

Mr. Coleman: They provided that indemnity based upon the fact that no one was going to connect until all of these improvements were done. So, I am really concerned about not involving them in this conversation at this point.

Mrs. Gulbinsky: So, they need to be in, the bank

Mr. Coleman: I'm hearing a lot of clarity from the back, and, at least in their perspective clarity from in the back, if we had that clarity two years ago when we put the agreements together, we wouldn't be having this discussion now.

Mr. Floyd: There was a letter from Bill Moran for the Bank saying 'Please allow Building 3 to connect.'

Mrs. Gulbinsky: Ok

Mr. Floyd: So if there is a question about how the bank feels about the indemnity agreement, the bank has stated in writing to the Authority, please allow them to connect in a letter dated February 24, 2017.

Mr. de Groot: Would be able to the same thing, giving our executive director the discretion at approving when there has been a concurrence.

Mr. Malone: I think this is too serious an issue to have just, for us not to be party to this discussion, in my opinion.

Mr. de Groot: Well, then considering the seriousness of the issue, can we call an emergency meeting if there is a concurrence.

Mr. Malone: I wouldn't have any problem getting together

Mrs. Gulbinsky: I wouldn't either, so we could do that. Do we need a motion to empower?

Mr. Coleman: Why don't you have the executive director provide you with some guidance as quickly as we can before we have Liz run off to the paper and incur additional expense to notice a special meeting.

Mrs. Gulbinsky: Sure

Mr. Malone: I don't have any problem having a special meeting to clarify this so, it's not

Mr. de Groot: It seems to me everyone needs

Mrs. Gulbinsky: Okay, so everyone give their availability to, through Rick over here, put this meeting together and let's see what we can do.

On motion by Malone, seconded by Targonski, it was moved to approve Resolution 2017-050 and meet in executive session to discuss personnel issues.

Recorded vote:

Ayes:	Gulbinsky, Malone, de Groot, Targonski
Nays:	None
Abstained:	None
Absent:	Lynch (Mr. Lynch left the meeting at approximately 7pm)

On motion by Malone, seconded by de Groot, it was moved leave executive session.

Recorded vote:

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

On motion by Malone, seconded by Targonski, it was moved to allow Authority staff to advertise to fill the open sewer maintenance worker position.

Recorded vote:

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

RATE HEARING PREVIOUSLY AUTHORIZED FOR JUNE 19, 2017:

It was decided to postpone the rate hearing until the July 17<sup>th</sup> meeting to allow the newly appointed board member a chance to review Authority information with staff.

On motion by Malone, seconded by de Groot, it was moved to adjourn the meeting at approximately 7:15 p.m.

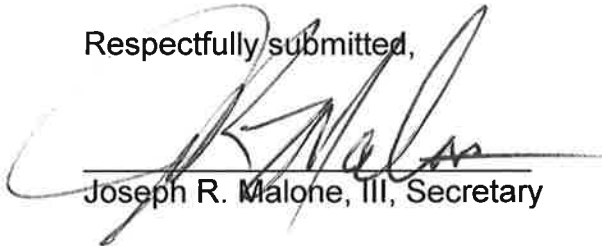
Recorded vote:

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

Respectfully submitted,

APPROVED ON:

June 19, 2017

  
\_\_\_\_\_  
Joseph R. Malone, III, Secretary

**BORDENTOWN SEWERAGE AUTHORITY  
ENGINEER'S STATUS REPORT FOR MAY 15, 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 have been received. There are still miscellaneous design issues to resolve. **No significant activity.**
- ▶ **Volunteers of America on Burlington Road:** This proposed private conveyance system has its wastewater discharge flowing into the Phase II complex. **Since last meeting it has been determined the project requires a NJDEP treatment works permit and the ability for Mr. Eustace to endorse the WQM-003 portion of the application is before the Board tonight. With a private development there are fewer portions of the application for the Authority to endorse. The project being submitted is the same as discussed at the last meeting with the sewer main aligned under the Riverline tracks.** This development will be paying the 2017 connection fee rate but the total fee will be reduced by 50% if Mr. Coleman agrees the organization is a non-profit entity.

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

- ▶ **Force Main/Pump Station System Improvements:** This week the proposed drawings/specs will be approved for construction by our office and based on these final documents the Applicant will request a best price from two contractors. Tentatively the new force main will be installed in the fall of this year with the pump station modifications occurring in December. Once the pump station modifications are complete utilization of the new force main will commence.
- ▶ **Rising Sun Road Petro Restaurant; Central Crossing Building No. 3 Warehouse and Trammel Crow Warehouse at I295 Exit:** These projects are prohibited from flowing into the Authority's conveyance system until the force main/pump station improvements are completed.

- **Maintenance Bond List:**

Bordentown Holiday Inn Express: Expires March 20, 2019: Per Resolution 2017-035

#### **PLANT TOPICS**

- **PCB Minimization Plan:** The mandated report was provided to both the NJDEP and DRBC. Upon their concurrence that the initial recommended plan for the Authority to perform annual PCB sampling is acceptable this concurrence establishes the start date for a one year annual update.
- **Building B3 Roof Replacement:** Project is in preliminary design stage.

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