

The regularly scheduled monthly meeting of the Municipal Authority of the Borough of Sinking Spring was opened on Tuesday, March 13, 2007, at 7:30 p.m., at the Sinking Spring Borough Hall, by Mr. Francis Butkus. The following Authority members were present:

Francis Butkus
Shawn Schwartz (absent)
Paul Roth
Richard Biggs
Dennis Leiby

Others present were: Mr. Alex Morrison, ARRO Consulting, Municipal Authority Engineer; Mr. John A. Hoffert Jr., Authority Solicitor; and Ms. Elizabeth White, Municipal Authority Secretary/Treasurer, who recorded the minutes of the proceedings. Council Representatives included; Mr. George Butkus.

APPROVAL OF MEETING MINUTES:

Mr. Butkus asked if everyone had a chance to look over last months meeting minutes and if there were any errors or corrections. Hearing none he asked for a motion to approve the minutes. Motion was made by Mr. Leiby; seconded by Mr. Biggs. Motion carried.

ENGINEERS REPORT:

Mr. Morrison presented the Engineers Report dated March 13, 2007. Copy attached.

Sewer System Televising Project:

Mr. Morrison stated that this project is primarily complete and that ADS had come back and completed the last seven runs which had been missed. He did mention however that they requested a time extension change order to get that work completed and to do their close out paperwork. Mr. Morrison stated that we have four copies of the Change Order requesting a time extension until March 9th and that ARRO recommends that the Authority execute the Change Order. Mr. Leiby made the motion; seconded by Mr. Biggs to execute the Change Order. Motion carried.

Mountain Home Road Sanitary System Additions Project:

Mr. Morrison mentioned that APR Supply Company has received the new agreement and that they are reviewing the terms. He also mentioned that the status of Mr. Guitieri's agreement is unknown at this time. He stated that Mr. Guitieri would sign another copy if needed and that

ENGINEERS REPORT: (Cont.)

he thought that he had already signed it and sent it back. Mr. Morrison mentioned that he had two blank copies here tonight and asked if he should send them out or give them to Mr. Hoffert. Mr. Hoffert stated that Mr. Morrison's associate was going to run a copy out to Mr. Guitieri tomorrow.

Hydraulic Model:

Mr. Morrison mentioned that the Hydraulic Model Draft Report was submitted at the December 2006 meeting and that we should still have a workshop meeting with some of the Authority members that are familiar with the sewer system and also the operations staff from Miller Environmental to go over it.

Upgrade and Minor Wastewater Treatment Plant Expansion:

Mr. Morrison mentioned that he has the report and that he will come back to it at the end of his report and explain it briefly.

Chapter 94 Report:

Mr. Morrison stated that the Chapter 94 Report is being completed on behalf of the Borough. He mentioned that it will give you the past five years and projected five year flow and organic capacity comparison for the plant. He also mentioned that it had to be delivered by March 31, 2007.

Eimco Equipment:

Mr. Morrison stated that there was a purchase order sent to Eimco totaling \$76,209.00 for the aerator and clarifier drive equipment.

Letters:

Mr. Morrison stated that there were two letters. One on February 26, 2007 which was the final revision of the treatment plant capacity analysis that was sent to the Authority and copied to the Borough. He stated that the second letter was on March 6, 2007 a letter was sent to the Authority regarding ADS's Change Order.

Upgrade and Minor Wastewater Treatment Plant Expansion:

Mr. Morrison briefly went over the report which is on file in the Borough office. He also stated that the total cost of the upgrades and minor expansion is \$4,501,000.00. Discussion ensued.

MR. JOHN HOFFERT - SOLICITOR:

Mr. Hoffert stated that the only thing he has is the verification of the action of the Borough. He read section 5622 of the Municipal Authority's Act. He stated that he Borough has adopted a Resolution stating their intent to dissolve the Authority. Mr. Butkus asked that since the document was not officially delivered to the Authority, but copies given to us as a courtesy, what does that mean. Mr. Hoffert stated that the Resolution does provide further that the Authority is directed to continue to operate in its normal course without incurring additional debt until such time as the disillusionment is completed. He also mentioned that in the last paragraph it authorizes the Borough Solicitor to prepare and advertise for adoption the Ordinance consistent with this Resolution. He stated that it will not be passed until the next Borough Council meeting, so the Authority will continue to operate for the next several months as a practical matter until all of the paper work is completed. Mr. Butkus questioned as a technical point, then we are not bound by the Resolution at this point. Mr. Hoffert stated that is it a contingent responsibility and that the Authority will not deliver anything to the Borough until all of the documents have been completed by the Borough to assume the responsibility of the Authority, so yes there is nothing for the Authority to do at this time but continue. Mr. George Butkus stated that it is his understanding that the Resolution is just a declaration of intent. Mr. Hoffert stated yes that it directs further the solicitor for the Borough to proceed because the Authority was organized by Ordinance and the Authority should be dissolved by Ordinance. Mr. Francis Butkus asked that then we are not technically bound by what is in the Resolution. Mr. Hoffert stated that they are not yet.

Mr. Leiby asked how much the Borough can borrow. Mr. Hoffert stated that there is a debt act and it depends upon the tax base of the borough. Discussion ensued as to whether the Borough would be able to borrow enough money to do the project with their already existing debt. Mr. Leiby stated that is why the Authority was created. Mr. Hoffert stated that by creating the Authority is gives a second entity to borrow funds without incurring the tax liability of the Borough. He stated that otherwise the Borough on its own pledges the taxation authority to cover the indebtedness. The Authority itself has a separate right to incur its obligations based upon the revenues and receipts from the entity it created and the project that it has undergone. Mr. Biggs mentioned that it would be necessary for the citizens of this Borough to know that their taxes are going to go up. Mr. George Butkus stated that the sewer rates would also go up.

Mr. Francis Butkus mentioned that we should make clear that this list of improvements that are needed is not a wish list but a must do list which will be brought forth by the Chapter 94 Report. Mr. Morrison stated that the Chapter 94 Report is not done yet but that they are working on it. He mentioned that they will have to see where those numbers come in at but most likely it will point towards something has to be done but they don't know that for sure yet. Mr. Morrison explained that the Chapter 94 Report basically looks back five years and looks at your growth pattern and then it projects your growth pattern out five years. He mentioned that it is a planning

MR. JOHN HOFFERT - SOLICITOR: (Cont.)

tool of the state and it is to encourage action before it is absolutely necessary. He stated that if you show a five year projected overload of any type they are going to seek some type of corrective action plan on how you are going to remedy the problem. He stated that they suspect that when they do the math and complete the report it may show a projected overload in five years. He stated that we are not overloaded now.

Mr. Francis Butkus mentioned that in the Gannett Flemming report, dated February 14, 2007, it states that the projected EDU's do not include any diversion of flows from Spring Township to the Sinking Spring WWTP which may occur within the next year as a result of ongoing studies and negotiations between Spring and Sinking Spring. It states that the project flows to the Sinking Spring WWTP should at a minimum include flows equal to the South Heidelberg Township flows that are currently conveyed to and treated at the Spring Township WWTP. Mr. Morrison stated that in part is what is driving our presumption at this time that we may show a projected overload. He stated that we will know soon because the Chapter 94 Report has to be done by March 31st.

Mr. Biggs asked, to be sure he understands what he heard, if Council gets the Resolution passed and the Authority is disbanded, then they have the same revenue generating capacity through operation but they also have the capacity to raise taxes. Mr. Hoffert stated that he is correct for what ever the indebtedness is necessary to either assume the debt that we have obligated ourselves for and/or any improvements subsequent to the plant.

Mr. Hoffert asked if sometime in the next millennium we may get Mt. Home Road under construction. Mr. Morrison stated that we are just waiting for those two signatures and then if the specs are still in a good order we can go out for bid because we already have the permits.

Mr. Hoffert, to answer Mr. Bigg's previous question, mentioned that Mr. Fitzpatrick presented a memorandum dated February 27, 2007 to Mrs. Shade. He stated that paragraph 3 under reasons to dissolve the Authority, it states that with the amendments to the Local Government Unit Debt Act, the Borough can borrow sums of money and in the same manner as the Municipal Authority can. It states that at the time of the formation of the Municipal Authority in 1961 there was a need to form the Authority to finance the construction of the sanitary sewer system. Today that need no longer exists and often the interest rate on borrowing for the Borough would be lower then what the Authority would pay because the Borough has the power to pledge the full faith credit and taxing power of the Borough.

Mr. Butkus mentioned that the money crunch, for doing this job, would not have been had Council, past and present, been prudent and run the rates at what they should have. He stated

that had they done what they are attempting to do now, because Mr. George Butkus pushed them to do it, was have a professional do the cost estimates of what the rates should have been.

MR. JOHN HOFFERT - SOLICITOR: (Cont.)

Discussion ensued.

Mr. Butkus asked Mr. Hoffert what we do with his recommendations to keep this going. Mr. Hoffert stated that if you look at the Resolution that they adopted, it is a bit inconsistent with their intentions. He stated that the Resolution says that the Authority be directed to continue to operate in its normal course, and then goes on to say, without incurring additional debt until such time as the dissolution is completed. Mr. Hoffert stated that the very purpose for all of the studies and the inquiries to the other Municipalities was to improve your facility and the Authority certainly has obligations to continue to maintain your facility in an operative condition, hence the reason for the \$76,000.00 expenditure which you authorized at the last meeting. He stated that it is impossible to continue to operate without incurring additional debt. Mr. Hoffert stated that it is certainly prudent upon the Authority to maintain its facility but cautioned that the Authority would not be able to proceed in an upgrade in his opinion. Mr. Biggs asked if they could reduce the debt. Mr. Hoffert stated that if it is in the normal course of operation they could. Mr. Biggs stated that as an Authority member and as a citizen he sincerely believes that the Authority is a 'cash cow' and he would like to see the 1.2 million dollars stay where it belong, in the sewer. Mr. Leiby stated that is what Council wants. Mr. Biggs asked what he can do to see that the money stays in the sewer, by reducing debt, they said the Authority could not incur debt but they didn't say that we could not pay down debt. He stated that it is not a vindictive move but a more to reduce our debt. He also stated, as a private citizen, in his opinion, if the 1.2 million wasn't there this Resolution would disappear. Mr. Hoffert stated that he could not offer an opinion because he has no clue as to the motivation of Borough Council. He stated that in the limited time that he has been the Authority's solicitor he has been impressed by our desire to maintain and upgrade a facility for the benefit of the Borough and the surrounding communities that we serve. He stated that this came as a shock to him.

Mr. Butkus asked, if we reserved enough funds to cover our Mt. Home Road project and the \$76,000.00 to cover the gear boxes and pay down the debt that we have, if that would be a legal move. Mr. Hoffert stated that it may be a prudent move. Mr. Hoffert stated that they should examine it and talk to whoever the mortgage is with. Mr. Butkus stated that if we go ahead and pay down the loan and the dissolution does not happen we could re-borrow the money.

Mr. Butkus questioned the reason for disillusionment, where it states that the Borough gives the Authority \$20,000.00 annually for administrative costs. He stated that according to the Treasurer's Report we did not receive it nor did we request it. He also stated that this is the first time they paid us any money because they realized that they were responsible for our administrative costs and they would have to reimburse us at the time that we request it but we have not requested it. Mrs. White stated that we did receive the \$20,000.00 this year and also for

MR. JOHN HOFFERT - SOLICITOR: (Cont.)

the last two years. Mr. Bigg's also questioned the amount that was paid to Mr. Binder and how many years it covered. Mrs. White stated that it was for at least a year and that she could pull the bill if they wanted.

Mr. Butkus asked Mr. Hoffert that in his opinion we would not be remiss to take \$700,000.00 out of this and pay down the loan. Mr. Hoffert stated no. Mr. Leiby stated that he thinks that Mr. Hoffert should meet with Mr. Fitzpatrick and lay out what we intend to do and let him take it back to Council. Mr. Butkus stated that we should not let them know what we are doing. Mr. Biggs asked if a motion tonight be out of line. Mr. Butkus stated no.

Mr. Biggs made a motion that the Authority take half the total funds of \$1,116,627.09 and pay down the mortgage debt; seconded by Mr. Leiby. Motion carried.

TREASURER'S REPORT:

Mr. Butkus asked if everyone had received a copy of the Treasurer's Report dated March 13, 2007 and if anyone had any questions. Hearing none he read the Treasurer's Report and asked for a motion to accept. Motion was made by Mr. Leiby to accept the Treasurer's Report; seconded by Mr. Biggs. Motion carried.

APPROVAL OF BILLS:

Mr. Butkus stated that we have four bills from ARRO Consulting totaling \$4,507.91. Motion was made by Mr. Leiby to pay the bills; seconded by Mr. Biggs. Motion carried.

Mr. Butkus stated that we have one bill from Mr. Hoffert for March '07' services for \$250.00. Motion was made by Mr. Leiby to pay the bill; seconded by Mr. Biggs. Motion carried.

Mr. Butkus stated that we have a bill for \$200.00 from Ms. White for services rendered for February 2007. Motion was made by Mr. Leiby to pay the bill; seconded by Mr. Biggs. Motion carried.

ADJOURNMENT:

Mr. Butkus asked if there was anything else for the good of the order.

Mr. Leiby made a motion to adjourn; seconded by Mr. Roth. Motion carried.

Respectfully Submitted,

Elizabeth White
Municipal Authority Secretary/Treasurer