

LEBANON BOROUGH SEWERAGE AUTHORITY

MINUTES

OCTOBER 7, 2010

The meeting of the LEBANON BOROUGH SEWERAGE AUTHORITY was called to order\r by Chairman Edward Cichone 7:30 PM at the Boro Hall, 6 High Street, Lebanon NJ.

MEMBERS PRESENT: Edward Cichone, Richard Burton, Bill Lachenmayr,
Leona Burton and John Saharic

Also present: Attorney Joseph Novak, Engineer Jim Hill, Auditor William Colantano and Secretary Susan Woods

The meeting was convened in compliance with the Open Public Meetings Act

SEPTEMBER MINUTES

Mrs. Burton moved and Mr. Saharic seconded the motion approving the minutes of the September 16, 2010 meeting. Motion carried.

KAPLAN COMPANIES/THE HEIGHTS AT LEBANON

Bret Kaplan, Esq. Attorney for Kaplan Companies, Jason Kaplan, one of the principals, John McHugh, Project Manager

Here before the authority to renew their request for release of the Performance Bond.
A marked up Utility Plan was distributed.

Mr. McHugh indicated all the sewer lines and manholes were complete except for manhole #8 – it has been set and plugged so that debris cannot fall in but the black top and rubber boot is yet to be done, otherwise all the items in the Performance Bond are completed.

Mr. Bret Kaplan stated that the remaining two buildings are anticipated to be built within 12 months. Based on this Bret Kaplan requested that the Performance Bond is released and they move on to the Maintenance Bond for the next two years as dictated under the Land Use Law.

Mr. Hill has indicated that everything is in place and has been inspected but we have no idea when the new buildings will go up and if the sewer line and manhole will remain intact and undisturbed, it is usually covered by the Performance Bond; the Maintenance Bond is for 2 years, there is no certainty that both buildings will be complete within 2 years.

Bret Kaplan said that if damage occurred to the line or manhole it would be covered under the Maintenance Bond.

Mr. Cichone indicated concern over the *anticipated* building schedule of the buildings. Lebanon has had other buildings that were anticipated to be built 30 years ago and they have still not been

built. The Maintenance Bond is good for only 2 years; the Authority has a responsibility to protect the residents.

Bret Kaplan suggested an extension could be applied to the Maintenance Bond.

Mr. Cichone noted that they had already reduced the Performance Bond down to the minimum of 30%.

Mr. Novak confirmed that the Performance Bond is released when the work is complete 100% and then the Maintenance Bond takes over. Technically the work is not 100% complete.

The Performance Bond is \$26,000.00

The Maintenance Bond will be \$14,000.00

Mr. Hill noted that there is only a base course on the road, we have 9 manholes above grade that could be struck by a plow or suffer some other damage from construction trucks. If the Maintenance Bond were to be put in place now and the buildings not built for another year or so our Maintenance Bond in reality would be good for only about six months.

Jason Kaplan said it wasn't fair because the Authority is putting an extra burden on him in these difficult times. The only work left is the top coat and the boot; cannot put in the topcoat as it might cause damage.

Mr. Novak noted that they are talking about a difference of \$1,000.00 between the two bonds.

Mr. Hill felt that until there is assurance that no damage will occur to the sewer lines during the final stages of the project the work is not complete.

Mr. Lachenmayr indicated that the top coat on the road might not be completed for another 3 years from now according to their plans.

Mr. Kaplan agreed that it is possible but unlikely.

Mr. Lachenmayr noted that the Boro could not deem a project complete without sewer and conversely the LBSA cannot find the work complete without the completion of the buildings and road.

Mr. Cichone asked for the recommendations of the LBSA professionals.

Mr. Hill stated that they have his report stating the work that had been done, and the report indicating his concerns over what will happen to the 9 manholes that are out there during the final construction; we have no protection under a Maintenance Bond if the construction is not completed within 2 years and 1 day.

Mr. Novak said that based on the information provided by representatives of Kaplan Companies and that is that the project is not complete. The Land Use Law does not differentiate between 80% or 99% if it is not complete the Performance Bond can stay in place for an extended period of time; when a Maintenance Bond kicks in it is for 2 years – it cannot be extended.

Mr. Cichone asked if the applicant had any more comments and was advised that they didn't at this time.

Bret Kaplan asked if they would have the right to return if the situation or circumstances change. He was advised that they always have the right to return and be heard by to the Authority.

Mr. Burton moved and Mr. Lachenmayr seconded the motion to maintain the existing decision to keep the Performance Bond in place in accordance with the Statutes of the Land Use Law until the project is found to be 100% complete by LBSA Engineer. Motion carried.

K-B TOYS ~ BLK 1 LOT 3

The primary tape has faulted on the Heat Tape Meter after last Winter. The meter is located 20 to 30 ft. to the head wall of the north side of Hwy. 78.

The fact that KB Toys is in bankruptcy is irrelevant to the bond issue.

Mr. Novak has called in the Maintenance Bond of \$26,000.00; Travelers' Ins. has submitted a list of requested items, such as bid information etc.

KBT bid out the work and oversaw the construction, we then accepted the Maintenance Bond after the meter was tested to the best of our ability. We do not have this information, must be provided by KBT.

It is estimated to cost \$50,000.00 to do a full repair, this includes traffic control on Hwy. 78.

There is a backup tape installed by Maglio Electric that could be put in place temporarily at a cost of about \$4,000.00.

Concern raised in regards to the residents now living in Presidential Place, also on the north side of Hwy. 78, and what would happen if the line froze this winter.

Travelers' must be noticed to make immediate repairs – prior to the winter months.

Decision postponed.

ENGINEER'S REPORT

EASEMENT BRUSH REMOVAL: Mr. Hill suggested brush removal in certain easement areas. Photos of the areas distributed.

Discussion begun on estimate of costs and the budget.

Mr. Hauck, member of the Lebanon Shade Tree Committee present. He asked that he be notified of the areas and oversee limited cutting of certain trees.

CLOSED SESSION ~ RESOLUTION 10-17

Mr. Burton moved and Mr. Saharic seconded the motion as follows. Motion carried.

CLOSED SESSION

WHEREAS, Section 8 of the Open Public Meetings Act, Chapter 23, PL 1975 permits the exclusion of the public from a meeting in certain circumstances; and

WHEREAS, this public body is of the opinion that such circumstances presently exist.
NOW, THEREFORE, BE IT RESOLVED by the Lebanon Borough Sewerage Authority
as follows:

The public shall not be permitted to attend this meeting.

The general nature of the subject matter to be discussed is as follows:

➤ **POSSIBLE LITIGATION**

It is anticipated at this time that the above subject matter will be made public as soon as
the members deem it wise to relay the information to the public.

Formal action may/will not be taken on the subject matter when the regular meeting is
reconvened.

REOPEN MEETING

Mr. Burton moved and Mr. Saharic seconded the motion to reopen the public meeting. Motion carried.

The minutes will be made available to the public when deemed appropriate by counsel.

RLSA REPORT

The RLSA will be working on the 2011 budget, but it will be later than usual and therefore our
budget will be delayed also.

K-B TOYS

Continuation of previous discussion.

Board requested Mr. Hill prepare a report, which Mr. Novak will forward to Travelers' Insurance, stating what we can supply in regards to the items they have requested and why we cannot supply the other items. Mr. Novak will then inform Travelers' the other items are available through their obligor, KB Toys, or they will have to get them out of the bankruptcy court; and secondly we have a public health emergency situation; where if the line freezes as a result of the failure there will be back up problems and residences affected by this. Immediate action must be taken, the estimated cost is around \$50,000.00 because certain lanes on Hwy 78 will have to be closed off temporarily and will require significant and expensive traffic control.

PUBLIC COMMENTS – NONE

RESIGNATION ~ WILLIAM LACHENMAYR

Bill Lachenmayr has submitted his resignation, effective 11/01/2010.

His wife is presently living in Washington DC and he finds it increasingly difficult to make the meetings; he therefore felt he should resign.

His resignation was accepted but with much regret.
Mr. Cichone hoped he would be able to make one more meeting – the December dinner.

EXPENDITURES

Mr. Burton moved and Mr. Lachenmayr seconded the motion approving the following expenditures as listed. Motion carried on roll call vote – AYES: Mr. Cichone, Mr. Burton, Mrs. Burton, Mr. Lachenmayr and Mr. Saharic

| GENERAL ACCT- OCTOBER | | EXPENSES |
|-----------------------------|------------------|-------------|
| 10-107 LBSA | PAYROLL | \$4,202.16 |
| 10-108 NJSHBP | HEALTH INS | \$1,463.01 |
| 10-109 RLSA | SEWER PLANT | \$22,443.50 |
| 10-110 LEBANON BORO | RENT | \$1,300.00 |
| 10-111 L BURTON | CONSULTANT | \$396.50 |
| 10-112 TL YAGER & ASSOCS | ENGINEERING | \$4,539.25 |
| 10-113 JCP&L | HEAT TAPE METER | \$ 6.50 |
| 10-114 NJN PUBLISHING | LEGAL AD | \$14.34 |
| 10-115 QUILL CORPORATION | OFFICE SUPPLIES | \$241.42 |
| 10-116 LBSA PETTY CASH ACCT | REIMBURSE | \$50.00 |
| 10-117 GRAMCO | REPLACES CK 3392 | \$122.50 |
| | TOTAL | \$34,779.18 |
| ESCROW ACCT | | |
| E10-33 TL YAGER & ASSOCS | PIZZO | \$75.00 |
| E10-34 TL YAGER & ASSOCS. | JDN | \$150.00 |
| E10-35 TL YAGER & ASSOCS | KAPLAN | \$465.00 |
| | TOTAL | \$690.00 |

MISCELLANEOUS

2011 INSURANCE – In the process of obtaining quotes.

IKARIA - BLK 4 LOT 1.05 - Notice of hearing received of Planning Board/Bd of Adjustment application by Ikaria to move in to the existing office building with some minor changes. Will request information re: number of employees etc.

RECORDER - The current recorder does not work with the new computer, it is outdated.

Mrs. Burton moved, Mr. Burton seconded the motion approving the purchase of a new recorder, not to exceed \$1,100.00.

Motion amended to not to exceed \$1,500.00. Motion carried on roll call vote: AYES - Mr. Cichone, Mr. Burton, Mrs. Burton, Mr. Lachenmayr and Mr. Saharic.

TAX SALE - a number of small liens were sold.

NITZER AVE - Mr. Cichone said he met with residents on Nitzer Avenue and advised them of the plan to install a dry sewer line for future use.
We will notify the Boro that we are waiting for the DEP permit.

ADJOURN

Mr. Lachenmayr moved and Mr. Burton seconded the motion to adjourn the meeting there being no further business to come before the Board. Motion carried.

Respectfully submitted by,

Susan J. Woods,
Secretary/Treasurer

CERTIFICATION: I hereby certify these to be true and correct copies of minutes as approved by the Commissioners at the meeting of _____.
