

# **LEBANON BOROUGH SEWERAGE AUTHORITY**

## **MINUTES**

**DECEMBER 2<sup>ND</sup>, 2010**

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

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

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

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

### **NOVEMBER MINUTES**

Mrs. Burton moved and Mr. Burton seconded the motion approving the minutes, both regular and closed session 1 & 2, of the 11/4/10 meeting. Motion carried.

### **2011 MEETING DATES**

Mr. Saharic moved and Mrs. Burton seconded the motion approving the 1<sup>st</sup> Thursday of each month for the meeting dates of 2011. Meetings will be held at Boro Hall, 6 High St, Lebanon NJ at 7:30 PM. Motion carried.

### **KAPLAN COMPANIES – THE HEIGHTS AT LEBANON**

Mr. Michael Kaplan, Mr. Ronald Blumstein, Esq. and Mr. John McHugh, Project Manager were present on behalf of the Developer.

The Developer appeared to request reconsideration of the action previously taken by the Authority at its October 7, 2010 meeting denying the request for release of the balance of the reduced performance guarantee on the project. Mr. Novak advised the Authority that performance and maintenance guarantees as pertain to the project are governed by New Jersey Statutes, which were made part of the requirements for this development through the original Developer's Agreement and Sewer Connection Agreement of the LBSA. The Statute sets forth specific requirements to what a Developer must do to request engineering inspection and release of the Performance Guarantee upon completion of all of the improvements, and to the extent that all improvements have not been completed, thirty percent (30%) of the total Performance Guarantee may be retained to insure total completion and acceptance of all improvements.

A request to release the Performance Guarantee was made by the Developer. Thereafter, an inspection report of August 5, 2010 was forwarded by the LBSA Engineer to the Authority and Developer.

At the October 7, 2010 regular meeting of the Authority, Attorney Brett Kaplan, and Principal, Jason Kaplan and John McHugh, Project Manager, appeared to request release of the Performance Guarantee. The Developer admitted the project improvements were not complete. The Authority determined that necessary rubber boots had not been installed around the manholes cover, the top course of pavement had not been completed to insure the integrity of the manholes, and that the last two buildings of the project had not been constructed nor hooked into the sewer system. Absent 100% completion of the required improvements, the Authority Resolved that the reduced Performance Bond not be released until total completion of the project.

Thereafter, the Developer contacted the Authority Secretary requesting an opportunity for representatives of the Developer to meet with Authority representatives, however, such meeting could not be coordinated, and the Developer thereafter requested that they be listed on the December, 2010 agenda of the Authority for the reconsideration of their request for release of the Performance Guarantee. Mr. Kaplan, on behalf of the Developer advised that the Bank's insurance companies were nervous that performance bonds were in place on the project and they requested release of the performance guarantee which was being held for such small items such as the protective seal around an exposed manhole.

Mr. Hill, the Authority Engineer, advised that one of the manholes was unprotected, and all of the manholes within the project were subject to continuing damage from snowplows and large construction vehicles inasmuch as the top course had not been placed on the roadway. He noted that the last two buildings of the project had not been constructed and that only "dry lines" had been installed for eventual hookup to the buildings, to eventually empty into the Authority sewer system. The Engineer also reported that upon construction of the last two buildings and connection into the dry lines, a final flush and video of those lines would have to be completed before acceptance into the sewer system. Mr. Novak, the Authority Attorney observed that the project had been reviewed in September and October, with representatives of the Company and they acknowledged that there were items of the original approval that had not been complete. Mr. Novak also observed that the Engineer's prior inspection letter indicated that although he did not object to the release of the bond, he made no recommendation for its release.

Mr. Novak advised the Authority that it must make an independent determination if the Developer had satisfactorily completed all required improvements. The Authority reviewed the Engineer's report; the additional information provided by its Engineer at previous meetings including the October 7, 2010 meeting and also considered the information provided directly by the Developer's representatives Attorney Brett Kaplan, Jason Kaplan, John McHugh, Michael Kaplan and Attorney Ronald Blumstein. The Authority also noted the acknowledgment of the Developer that the project improvements are not complete.

There being no further discussion, Mr. Cichone asked for a Motion on a Resolution.

Mrs. Burton moved and Mr. Burton seconded the Motion on the Resolution to reject as incomplete and unsatisfactory, the required project improvements; specifically, the uncompleted items originally noted on Attachment A-1 of the August 5, 2010 report of the LBSA Engineer; lack of a protective boot on one of the constructed manholes, the condition of the remaining manholes as a result of the extended period of delay in completion of the project without a top

course of pavement to protect all of the remaining manholes from damage by construction vehicles or snow plows; the connection of the final two buildings to be constructed to the Authority's sewer system with a final flush and video before acceptance; and based thereon deny the release of the balance of the reduced Performance Guarantee.

Mr. Novak was directed to prepare a formal Resolution for submission to the Authority for final memorialization. Mr. Hill was directed to follow up on inspection of the project and issue reports as necessary regarding any continuing open issues or concerns

#### COAH HOUSE LLC/PATULLO AGREEMENT

Mr. Patullo has signed the Agreement and posted the Sewer Connection Fee.

#### JDN PROPERTIES @ LEBANON

Harvey Fruchter, Esq. and Karen Rak (position unknown).

Mr. Novak noted that a principal of the firm has not been before the Authority. It had been requested that a principal of the firm be present at tonight's meeting. We have had an attorney but not a principal that could speak with authority on the proposed use. A tenant has been present and requested permission for his business to occupy the main unit on the property. The property consisted of 3 lots and various buildings; the lots have now been merged into one, there were conditions connected to this merger – the abandoning of uses and the capping of the sewer lines. There has been no final site plan approval at this stage.

Mr. Cichone recalled that he needed to step down from the table because of a prior conflict. Mr. Burton chaired this portion of the meeting.

Mr. Fruchter was hired as the new attorney for JDN only last night, therefore he is not fully aware of the status of the project. But he will have more information for the next meeting.

Ms. Rak believed there was a site plan and that they are now going in for an amended site plan.

Mr. Novak said that to a degree the site plan is not germane to the Authority but in another sense it is. What the Authority is searching for is what is going in on this property. Are there tables in Metropolitan Seafood? This will affect the amount of sewer capacity required.

Mr. Hill noted that he had just received information and plans from the architect, Mr. Moon. What looks like a table in the middle of the room in the sketch is in fact a display case. The chairs shown are behind the checkout counter and are for the employees. There is no customer seating in this store. The grease trap is an inside trap and has been approved by the Plumbing Code Official, although Mr. Hill had not been called in to inspect it; he had driven by on numerous occasions and witnessed work going on but had never received any plans until very recently.

Mr. Hill then had to do more chasing because the plans showed the plumbing inadvertently going out to Cokesbury Rd when the clean out is to the west of the building. They will add our standard clean out detail for the protection sleeve sometime this Fall.

The other two tenants will use the remaining space within the main building.

Mr. Hill has not been notified of, or inspected, the capping of the sewer lines to the abandoned buildings

Mr. Burton asked what we knew about the proposed pizzeria. How many seats?

Mr. Hill said we had allowed up to 10 seats for the pizzeria and none for the third use, but have not seen anything on the plan.

The sketch submitted was only for Metropolitan, someone else is working on the pizzeria.

Mr. Hill's understanding is that the Board of Adjustment granted a use variance for the Metropolitan Seafood only and allowed it to occupy the space without a full site plan because there was already existing parking available; this was prior to other tenants being considered.

Mr. Novak noted that they had been told that JDN was considering various plans for the site, but nothing formerly approved and no follow up received.

Ms. Rak said that JDN was abandoning the 2<sup>nd</sup> phase which would have been the residential units.

Mr. Novak noted that Mr. Shurts' (Planning Bd/Bd of Adjustment Attorney) letter of 11/24/10 appeared to recommend that the paragraph in the Metropolitan Seafood Use Variance granting a waiver of site plan as an error. Planning Bd/Bd of Adjustment may remove that paragraph at its December meeting next week.

In reply to Mr. Burton's question as to what the other buildings were to be used for; Ms. Rak replied that they would be for equipment storage for the Metropolitan Seafood catering side of the business.

Mr. Fruchter said they were requesting approval for the sewer capacity for the 3 uses mentioned subject of course to the Planning Bd/Bd of Adjustment approval.

Mr. Novak recalled that it was the intent of the LBSA to grant approval of capacity for the 3 uses mentioned once the lots were merged, the capacity from the other lots combined with Lot 9 would provide sufficient capacity (with the additional 1.5 gpd from the unimproved lot). There is no capacity for the storage facilities; the Authority wanted to wait for the approvals of the Planning Bd/Bd of Adjustment to ensure adjustments were not made and the clients did not change, which might then change the sewer capacity needs. It has been discussed many times as to whether or not to write the Agreement but then it was agreed that they should wait until we get some type of final say from the Board of Adjustment.

The Authority authorized the preparation of the Sewer Capacity Agreement as outlined in the 5/11/10 letter; subject to the merger of the lots; the verification of the capping of the sewer lines to vacant residential buildings and to the warehouse buildings; the grease trap aspect; the sewer usage fees being up to date.

At this point in time a reaffirmation that the Board of Adjustment has granted approval, JDN is applying to the Board for site plan waiver.

Ms. Rak indicated that they were going in for site plan waiver for all three uses.

Mr. Novak suggested the Board wait to see what the Board gives them next week. Obviously the Planning Bd/Bd of Adjustment will be looking at the parking arrangement and ingress and egress plans and the restroom situation.

Mr. Burton asked about the grease trap for the pizzeria.

Mr. Hill noted the pizzeria will need to have an outside grease trap. It appears that the Metropolitan Seafood and Pizzeria might be sharing a restroom; this will not affect the sewer calculations. No outside seating is anticipated.

If JDN receives the final approval next week then Mr. Novak can send the Sewer Allocation Agreement in original form to Mr. Kruchter. Once JDN signs and returns the Agreement in original form along with the Connection Fee Metropolitan Seafood is set to go.

Mr. Hill will memorialize tonight's decision and send a copy to the Planning Bd/Bd of Adjustment.

Mr. Cichone returned to the table.

### **KB TOYS/HEAT TAPE METER**

Mr. Maglio has rechecked the heat tape meter on Cokesbury Rd. and found it to be working. The tape had overloaded. Therefore there is no need to install the backup tape.

It is not known at this time if it was a design problem or an installation problem.

The Board decided to wait until winter sets in to recheck the meter. Then request payment from the Bond company.

Mr. Cichone wanted answers as to what was going to be done to prevent this from happening again.

### **ENGINEER'S REPORT**

Report dated 12/1/10 distributed.

### **RLSA REPORT**

Nothing to report at this time.

**EXPENDITURES**

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

GENERAL ACCT		EXPENSES	
10-127 LBSA	PAYROLL		\$4,202.16
10-128 NJSHBP	HEALTH INS		\$1,463.01
10-129 RLSA	SEWER PLANT		\$22,443.50
10-130 LEBANON BORO	RENT		\$1,300.00
10-131 L BURTON	CONSULTANT		\$396.50
10-132 TL YAGER & ASSOCS	ENGINEERING		\$5,057.75
10-133 MAGLIO ELECTRIC	REPAIRHEAT TAPE METER		\$ 91.95
10-134 NJN PUBLISHING	LEGAL AD		\$14.34
10-135 FRENCHTOWN INN	AWARDS DINNER		<u>\$2,571.00</u>
	TOTAL		\$38,123.31
ESCROW ACCT			
E10-39 NOVAK & NOVAK	COAC HOUSE	\$1,354.00	
E10-40 NOVAL & NOVAK	KAPLAN	\$562.00	
E10-41 TL YAGER & ASSOCS	JDN	\$187.50	
E10-42 TL YAGER & ASSOCS.	PIZZO	\$37.50	
E10-43 TL YAGER & ASSOCS	HUNTERDON PLAZA	\$150.00	
E10-44 TL YAGER & ASSOCS	KAPLAN	<u>\$240.00</u>	
	TOTAL	\$2,531.00	

**2011 BUDGET**

Hearing postponed to January 6, 2011 at 7:30PM, pending approval from the State.

**NITZER AVENUE**

Ed Cichone and Rich Burton attended the Boro Council meeting on November 15, 2010 to discuss the process on repaving Nitzer Avenue and extending the sewer line with the Boro. LBSA will be the lead agency. Mr. Hill will prepare bid specs. etc. for both the Boro and for the LBSA. The Boro will reimburse LBSA for expenses upon completion of the project.

Mr. Hill will prepare an estimate of costs.

Bids will go out by March 2011.

Mr. Saharic suggested that the Insurance Company is notified of the sewer line extension.

**PUBLIC COMMENTS**

Mr. Colantano asked about the abandoned buildings on the JDN properties, and if they were to be raised since the sewer line is to be or has been capped.

Mr. Hill will include the question in his report to the Planning Bd/Bd of Adjustment.

**RESOLUTION 10-22 ~ NEW APPOINTMENT M. BACHMAN**

Mr. Burton moved and Mrs. Burton seconded the motion approving the following resolution.

Motion carried on roll call vote:

AYES – Mr. Cichone, Mr. Burton, Mrs. Burton and Mr. Saharic

**RECOMMENDING THE APPOINTMENT OF  
MICHAEL BACHMAN**

WHEREAS, William Lachenmayr has resigned leaving his position open on the Lebanon Borough Sewerage Authority; and

WHEREAS, the members have agreed that Michael Bachman of 2 High Street, Lebanon NJ would be an asset to the LBSA;

NOW THEREFORE BE IT RESOLVED on this 2<sup>nd</sup> day of December, 2010, by the Commissioners of the Lebanon Borough Sewerage Authority that they wholeheartedly and respectfully recommend and request of the Governing Body of the Borough of Lebanon, the appointment of Michael Bachman to the unexpired term of Mr. Lachenmayr on the Lebanon Borough Sewerage Authority, which term terminates January 31, 2012

**RESOLUTION 10-23 REAPPOINTMENT OF R. BURTON TO LBSA**

Mr. Cichone temporarily stepped down as Chairman.

Mr. Cichone moved and Mr. Saharic seconded the motion approving the following resolution.

Motion carried on roll call vote – AYES: Mr. Cichone, Mr. Burton, Mrs. Burton and Mr. Saharic.

**RECOMMENDING THE APPOINTMENT OF  
RICHARD BURTON**

WHEREAS, the current term of office of Lebanon Borough Sewerage Authority Commissioner Richard Burton expires on January 31, 2011; and

WHEREAS, Richard Burton has been a dedicated and integral member of the Lebanon Borough Sewerage Authority, having served as a Commissioner since the year 1999;

NOW THEREFORE BE IT RESOLVED on this 2<sup>nd</sup> day of December, 2010, by the Commissioners of the Lebanon Borough Sewerage Authority that they wholeheartedly and respectfully recommend and request of the Governing Body of the Borough of Lebanon, the reappointment of Richard Burton to a new five year term on the Lebanon Borough Sewerage Authority commencing February 1, 2011.

**RESOLUTION 10-24 ~ REAPPOINTMENT OF E. CICHONETO RLSA**

Mr. Burton moved and Mr. Saharic seconded the motion approving the following resolution. Motion carried on roll call vote- AYES: Mr. Burton, Mrs. Burton and Mr. Saharic ABSTAIN: Mr. Cichone

**RECOMMENDING THE APPOINTMENT OF  
EDWARD CICHONE**

WHEREAS, the current term of office of Readington-Lebanon Sewerage Authority Commissioner Edward Cichone expires on January 31, 2011; and

WHEREAS, Edward Cichone has been a dedicated and integral member of the Readington-Lebanon Sewerage Authority for numerous years;

NOW THEREFORE BE IT RESOLVED on this 2<sup>nd</sup> day of December, 2010, by the Commissioners of the Lebanon Borough Sewerage Authority that they wholeheartedly and respectfully recommend and request of the Governing Body of the Borough of Lebanon, the reappointment of Edward Cichone to a new five year term on the Readington-Lebanon Sewerage Authority commencing February 1, 2011.

**TD BANK**

Notice has been received that as of January 1, 2011 TD Bank will no longer provide payroll services and free checks.

**INSURANCE REFUND**

A refund from the PAIC Insurance Company in the amount of \$1,470.00 has been received.

**HIGHLANDS/WWMP**

Mr. Hill reported that the Borough has received approval for The Highlands plan but the WWMP still to be approved.

**RECESS MEETING TO DEC. 3, 2010**

Mr. Burton moved and Mr. Saharic seconded the motion to recess the meeting to December 3, 2010 at 7:30 PM in the Frenchtown Inn, Frenchtown NJ. Motion carried.

Respectfully submitted by,

*Susan J. Woods,*  
Secretary/Treasurer

**DECEMBER 3<sup>rd</sup>, 2010**

The meeting of the LEBANON BOROUGH SEWERAGE AUTHORITY was called reconvened by Chairman Edward Cichone 7:30 PM at the Frenchtown Inn, Frenchtown NJ.

MEMBERS PRESENT: Edward Cichone, Richard Burton, Leona Burton and John Saharic  
Also present: Attorney Joseph Novak, Auditor William Colantano, Engineer James Hill and Secretary Susan Woods

**RESOLUTION – BILL LACHENMAYR**

Mr. Burton moved and Mr. Saharic seconded the motion approving the resolution thanking Bill Lachenmayr for his services to the LBSA. Motion carried.

**ADJOURN**

Mrs. Burton moved and Mr. Saharic seconded the motion to adjourn the meeting. 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 \_\_\_\_\_.

\_\_\_\_\_