

**OLD BRIDGE MUNICIPAL UTILITIES AUTHORITY
REGULAR MEETING
February 17, 2010**

Call to Order: The Regular Meeting of February 17, 2010 was called to order at 7:03 p.m. with the Pledge of Allegiance by Chairman Smolney.

Announcement
By Chairman: Chairman Smolney announced that this meeting is being held in conformance with the Open Public Meetings Act. Notice has been given to the newspapers and notice of the meeting has been posted in public places.

Roll Call: Present:
Nicholas Smolney, Chairman
Edward Testino, Vice-Chairman (arrived 7:10 p.m.)
Thomas Galante, Secretary (arrived 7:32 p.m.)
Kiran Desai, Treasurer
Rocco Donatelli, Commissioner
Reginald Butler, 1st Alternate – Assistant Secretary
Richard Greene, 2nd Alternate – Assistant Treasurer

Absent:
None

Also present:
Guy Donatelli, Acting Executive Director
Michael Roy, P.E.
Stephen A. Florek II, Comptroller
Louis E. Granata, Esq.

Executive
Director's Report: Guy Donatelli, Acting Executive Director

Guy Donatelli stated that advertising for bids was currently taking place for the Browntown Aerator Cleaning. Mr. Guy Donatelli stated that this item is included in the budget and that the hope is that this cleaning will not be needed on an annual basis.

He also reminded the Commissioners that the AWWA Annual Conference was approaching and that the information relating thereto was included in the Commissioners' packets.

Mr. Donatelli mentioned that Mr. Hegarty is asking for the balance of his escrow money for Toby Gardens. Mr. Granata referenced a memorandum concerning the statutory requirements for the Toby Garden escrow

deposit. He stated that it was within the Commissioners' discretion to decide whether or not to return the fees used by the Authority for the bankruptcy court proceedings with respect to the funds on deposit in the name of Kara Homes. He further stated that Mr. Hegarty already received a portion of the money back in accordance with a court order.

Mr. Smolney stated that this was a legitimate issue before the court.

Mr. Granata stated that Mr. Hegarty returned to court for a further clarification which involved additional work on behalf of the Authority.

Mr. Smolney requested a clarification that this was done at Mr. Hegarty's request and not that of the Authority.

Mr. Granata confirmed that the request came from Mr. Hegarty.

Mr. Smolney stated that the amount involved, \$961.83, has been charged against escrow and that any change would involve the rate payers subsidizing that activity.

A motion was made to accept the Acting Executive Director's report by Mr. Smolney and seconded by Mr. Desai.

The motion was approved by an ALL AYES vote.

Chairman's Report: Mr. Smolney waived his report.

Previous Minutes: None.

Engineering Report: Michael Roy, P.E.

Owens Road Office Park

1. W209-607, Tentative Water

2. S209-477, Tentative Sewer

Mr. Roy recommended that this office park, which is adjacent to Owens Road and Rt. 516, receive Tentative Water and Sewer Approvals. Preliminary Approval has been granted by the Township Planning Board. Tentative Approval will allow the applicant to apply to the DEP for a TWA Approval. A small balance of fees must be paid with their Final Sewer Application.

A motion to grant Tentative Water and Sewer Approvals as recommended to the Owens Road Office Park was made by Mr. Desai and was seconded by Mr. Testino.

The roll call was as follows:

AYES: Desai, Donatelli, Testino, Butler, Smolney.

NAYS: None.

ABSENT: Galante

5 Ayes 0 Nays 1 Absent

Superintendents'
Report:

Superintendents Murphy and Donatelli's report was included in the Commissioner's packet.

A motion to accept the Superintendents' Reports was made by Mr. Desai and was seconded by Mr. Smolney.

The motion was approved by an ALL AYES vote.

Engineering Report: Michael Roy, P.E.
None.

Financial Report: Mr. Florek stated that the 2010 budget review schedule was included in the Commissioners' packets with a tentative budget distribution date of February 26th. The first budget workshop is scheduled for March 3rd at 6:30 p.m., with approval of the budget scheduled for April 7th.

Mr. Smolney encouraged the Commissioners to be available on those dates.

A motion to accept the financial report was made by Mr. Smolney and was seconded by Mr. Testino.

The motion was approved by an ALL AYES vote.

Treasure's Report: A motion to accept the Treasurer's Report in the amount of \$2,118,122.02 was made by Mr. Desai and was seconded by Mr. Testino.

The following was the roll call vote:

AYES: Desai, Donatelli, Testino, Butler, Smolney.

NAYS: None.

ABSENT: Galante

5 Ayes 0 Nays 1 Absent

Legal Report:

Mr. Granata stated that he has researched the issue of video taping at meetings and he stated that, provided there is no interruption or disturbance in the normal business proceedings of a meeting, video taping by the public at a public meeting is permitted.

With respect to the payment of irrigation water bills for Birch Hill, the firm of Scarinci & Hollenbeck has been handling the Kara Homes bankruptcy proceedings, and they confirmed that the matter has been concluded, and that there are no further claims on the part of the Authority with respect to Kara Homes.

A motion to accept the legal report was made by Mr. Smolney and was seconded by Mr. Donatelli.

The motion was approved by an ALL AYES vote.

Old Business:

Laurence Harbor Sewer Interceptor - Status

Mr. Roy reported that punch list still needs to be completed and then the project can be closed out. We are holding a large amount of retainage payment.

Crossroads Regional Interceptor - Status

Mr. Roy reported that the NJEIT application has been submitted with the plans being sent today which is ahead of the March 1 deadline date.

Rt. 516/Cheesequake Booster & Various Upgrades - Status

Mr. Roy reported that at the next meeting there will be a recommendation to award this contract. Bids have been received, reviewed and have gone through attorney review. The recommendation from CME will appear on the next agenda.

Higgins Road/Rt. 516 Water Tank – Status

Mr. Roy stated that this item was tabled at the last meeting and suggested that this be discussed in executive session with the possibility of being dropped from the agenda.

Brunetti Oaks at Glenwood Development - Status

Mr. Smolney stated that this would be discussed in Executive Session.

Groundwater Diversion Rights - Status

Mr. Smolney stated that although there has been no change, a discussion may ensue in Executive Session.

Summerfield Avenue Gravity Sewer - Status

Mr. Roy stated that there would be a report at the next meeting.

Open to the Public: Dr. Anita Greenberg expressed her curiosity as to how the auditor for the Authority is hired. Her opinion is that a conflict exists not only when a family member of a Commissioner is employed by that auditor, but also when that Commissioner votes to approve the auditor. Her suggestion is that this Commissioner should abstain from any vote pertaining to financial matters.

Mr. Granata stated that the courts regard the issue of “conflict” very seriously, and that in his opinion, Mr. Desai’s vote is not something considered a conflict since he has no personal stake in that vote. He informed Dr. Greenberg that she could request the court to make a determination via a declaratory judgment action.

Mr. Granata explained that the auditor was hired as a result of fair and open public advertisement wherein the Commissioners request Qualifications.

Dr. Greenberg’s opinion was that this should be considered by the ethics board in light of the fact that Mr. Desai is the Treasurer of the Authority and signs vouchers, etc.

Mr. Smolney stated that his belief was that Mr. Desai had no participation in the vote to hire the auditor.

Mr. Granata confirmed without prejudice his objective opinion that in this case a conflict fails to exist.

Seeing no further hands Mr. Smolney closed the public portion.

Executive Session:

A motion was made to go into Executive Session at 7:27 p.m. by Mr. Testino and seconded by Mr. Desai.

The motion was approved by an ALL AYES vote.

**Meeting Reconvened
at 7:53 p.m.:**

During Executive Session Mr. Granata reviewed with the Commissioners the issues concerning the Brunetti Litigation. The Commissioners discussed a vacancy in the Sewer Division. Mr. Roy and Mr. Granata gave a status report to the Commissioners concerning the Higgins Road Water Tank Project.

New Business:

Kiwanis Club Advertisement

Mr. Smolney stated he received a letter from the Kiwanis Club requesting an advertisement for its annual booklet.

A motion to take a full page advertisement in the amount of \$100.00 for the Kiwanis Club was made by Mr. Butler and was seconded by Mr. Galante.

The following was the roll call vote:

AYES: Desai, Donatelli, Galante, Testino.

NAYS: Smolney.

4 Ayes 1 Nay 0 Absent

Chamber of Commerce 2010 Business Directory

Mr. Smolney recommended that since the Authority is a member of the Chamber of Commerce, an amount of up to \$150.00 be allocated for a full page advertisement.

A motion to advertise in the Chamber of Commerce 2010 Business Directory was made by Mr. Smolney and was seconded by Mr. Butler.

The roll call was as follows:

AYES: Desai, Donatelli, Galante, Butler, Smolney.

NAYS: None.

NO PARTICIPATION: Testino.

5 Ayes 0 Nays 1 No Participation 0 Absent

New Hire

Mr. Desai reported that as per a memorandum from Mr. Haney there is a need for an additional employee in the Sewer Division, and he agrees that this vacancy should be filled.

A motion to hire Mel Guthridge as an employee in the Sewer Division was made by Mr. Desai and was seconded by Mr. Donatelli.

The following was the roll call vote:

AYES: Desai, Donatelli, Galante, Testino, Smolney.

NAYS: None.

5 AYES 0 Nays 0 Absent

Prior to the roll call vote the following discussion took place.

Mr. Testino expressed his appreciation to the Acting Executive Director for the creation of the organizational chart.

Subsequent to the roll call vote the following discussion took place.

Mr. Smolney requested a continuing review of the organizational chart by placing it on a future agenda.

Mr. Butler complimented the Acting Executive Director for his completion of the organizational chart.

Adjournment: A motion to adjourn was made at 8:03 p.m. by Mr. Testino and was seconded by Mr. Galante.

The motion was approved by an ALL AYES vote.

Respectfully submitted,

Thomas Galante, Secretary