

MEETING MINUTES

PEQUANNOCK RIVER BASIN REGIONAL SEWERAGE AUTHORITY

May 18, 2011

Minutes of the regular meeting of the **Pequannock River Basin Regional Sewerage Authority** held on May 18, 2011 in the Conference Room at the Butler Municipal Building, One Ace Road, Butler, New Jersey. Chairman Voorman called the meeting to order at approximately 7:30 p.m.

ROLL CALL

On roll call:

PRESENT : Chairman Voorman, Commissioners Gall, Howard, Lampmann, Metcalfe and Verdonik

ABSENT : None

ALSO PRESENT : Christopher H. Falcon, Esq., Maraziti, Falcon & Healey; and Daniel D. Kelly, P.E., Kelly Engineering

OPEN PUBLIC MEETING STATEMENT

Chairman Voorman introduced the "Open Public Meeting Statement" indicating that adequate notice of the Authority's regular meeting had been publicized in accordance with law by posting notice on the bulletin board at the Butler Municipal Building, providing notice to the municipal clerks of Bloomingdale, Butler, Kinnelon, and Riverdale, and by providing notice to the official newspapers of the Authority.

ADOPTION OF MINUTES

1. **Meeting Minutes: Regular Meeting – April 20, 2011**

Commissioner Gall moved approval of the minutes of the Authority's April 20, 2011 regular meeting. That motion was seconded by Commissioner Metcalfe and approved unanimously on the following roll call vote:

AYES : Chairman Voorman, Commissioners Gall, Howard, Metcalfe and Verdonik

NAYS : None
ABSENT : None
ABSTAIN : Commissioner Lampmann

OPERATIONAL REPORT

1. System Operations

1.1 Flow Report

Referring to the draft Flow Report dated May 16, 2011 for the period ending April 30, 2011, Mr. Kelly noted that the system flows continue to be relatively elevated at 2.764 mgd for the month of April with a total system flow on a year-to-date basis at 2.148 mgd. He noted in particular that the flows recorded for Riverdale are extremely high at 0.597 mgd in April and 0.432 mgd on a year-to-date basis as compared to budgeted flow of 0.250 mgd for the entire year. He commented that the elevated flows, particularly for March and April, suggest ongoing infiltration/inflow conditions that remain to be located and remediated within the Borough's local collection system.

The following reports were distributed to the Board for review:

- Flow Report dated May 16, 2011 for the period ending April 30, 2011
- Daily Flow Summary for April 2011
- Daily flow hydrograph for April 2011

Commenting on the weekly flow hydrograph through the morning of May 18th, Mr. Kelly indicated that while precipitation has continued to be relatively high particularly over the past weekend, the total system flows have not increased that significantly yet, with the ongoing and more intense rain event currently underway, he said that that condition is likely to change.

1.2 I/I Monitoring Program

Commissioner Lampmann suggested that the I/I monitoring program should proceed without the water meter data which, Mr. Kelly noted, if provided, could be analyzed at a later date.

2. TBSA Activities

2.1 Status Update

Reporting on the status of various matters at Two Bridges as they affect Pequannock River Basin, Vice Chairman Verdonik indicated that the UV project is scheduled for final testing in June. At the same time he said that the incinerator project construction is now complete and that stack testing will be conducted on June 27th.

2.2 Notification to Municipalities (UV Project & 2% CAP)

For the record, Mr. Kelly said that letters have been issued to the four towns advising them of the anticipated financial impacts of TBSA's recently completed TBSA UV project with an expected annual cost increase to Pequannock River Basin of \$370,000 beginning in FY 2012. The letter also alerts the towns to the fact that the pass-through costs from TBSA will be included in the PRBRSA charges to the municipalities which charges will be subject to the local 2% property tax cap. Lastly, it suggests that the towns may want to work through their local legislators to amend the cap law to exclude service contract payments.

On discussing that point, Vice Chairman Verdonik asked Mr. Falcon if it would be possible for the towns to issue debt separately to fund their respective shares of the cost of the upcoming TBSA capital program. He reasoned that that would enable the towns to pay debt service outside the local 2% property tax cap. Responding, Mr. Falcon said that his initial reaction to that question is that it would require an amendment to the Authority's service contract with Two Bridges in order to recognize that funding mechanism which is not currently envisioned by the present service contract. Commenting on that, Treasurer Gall commented that not only would the PRBRSA service contract with the Two Bridges Authority need to be modified but also Pequannock River Basin's service contract with the four municipalities. Agreeing with that observation, Mr. Falcon said that that is likely the case so, effectively then, amendments to all existing service contracts would likely be necessary in order to implement such a proposal.

Commissioner Lampmann said that the reality of the 2% cap at the local level is such that service contract charges exceeding that limit would necessitate major roll backs in the municipal budget with associated layoffs and critical service reductions. That being the case he commented that the towns must find some way to realistically deal with state-mandated obligations, in this case, environmental compliance at the Two Bridges treatment plant resulting in major capital expenditures and associated debt service costs. Those costs necessarily must be passed along from TBSA to PRBRSA and then on to the four municipalities through service contract charges which charges at the local level are then subject to the 2% limitation.

Following further discussion on the matter, Chairman Voorman suggested and the Board agreed that Mr. Falcon should prepare a memorandum to the Board analyzing this potential avenue of dealing with the 2% local property tax cap. In closing Mr. Falcon added the thought that the State Local Finance Board must approve all new debt issuance and may view the application of local municipalities in such cases as a means to merely circumvent the 2% cap. Commenting on that, Vice Chairman Verdonik and Commissioner Lampmann said that that is exactly the case yet it is of necessity in order to meet state-mandated obligations.

3. Bloomington Subflow Matter

Commissioner Lampmann inquired of Mr. Kelly if the Authority has received a letter from the Borough of Bloomington on the Bloomington Subflow matter. Mr. Kelly indicated that no letter has been received to date.

4. TWA Application and Connection Permits

No permits pending at this time.

5. Proposed Service Rules Amendment

For the record Mr. Kelly advised that the municipalities were notified on the final Service Rule Amendment on April 28th as adopted by Resolution No. R-11-4-1 on April 20, 2011 such that the Rule change will take effect 30 days following the notification.

FINANCIAL REPORT

1. Treasurer's Report

1.1. Treasurer's Report for the Period Ending April 30, 2011

Treasurer Gall presented the Treasurer's Report for the period ending April 30, 2011. Vice Chairman Verdonik moved acceptance of the Treasurer's Report as presented. Commissioner Lampmann seconded the motion which passed unanimously on the following roll call vote:

AYES : Chairman Voorman, Commissioners Gall, Howard, Lampmann, Metcalfe and Verdonik

NAYS : None

ABSENT : None

ABSTAIN : None

1.2 Financial Plan

Reporting on his April 28th meeting with Mr. Bongiovanni as outlined by his May 4th memorandum, Mr. Kelly said that, before moving forward with major treatment process modifications, Two Bridges must resolve a number of issues including final NJPDES permit effluent discharge limits, notably, those for phosphorus and nitrate. In addition a final decision must be made on plant expansion beyond 7.5 mgd. Under the circumstances, Mr. Kelly said that the Financial Plan will be prepared based on a worse case scenario, assuming that Two Bridges will proceed with the \$8.3 million “headworks” project followed several years later by the major capital program to modify the treatment process to one of the three options analyzed by the Black & Veatch report.

In addition, Mr. Kelly indicated that he has received from Mr. Bongiovanni the final debt service schedules for the two 2010 state loan bond financings through the New Jersey Environmental Infrastructure Trust. With that information available he said that TBSA debt service charges have been revised and that the Financial Plan will be finalized for issuance.

1.3 TBSA Debt Service Credit Obligation

Referring to his May 6th letter to Mr. Falcon, Mr. Kelly reviewed the background on a potential loss of one annual debt service credit payment of \$613,923 from Two Bridges. The basic issue is the fact that, under the 1995 Settlement Agreement between the Authority and TBSA, a total of 29 payments were scheduled through PRBRSA’s FY 2016 whereas, originally, there were a total of 30 bond payments due ending on December 1, 2016, PRBRSA’s FY 2017. As explained in considerable detail by his letter, the problem seems to have originated in 1987 on issuance of the Series C and Series D State Loan Refunding Bonds. The schedule for that refunding was then apparently used by Sturcke Associates in 1993 to create an amortization schedule which also ended in PRBRSA’s FY 2016, the same ending date as Schedule A as appended to the 1995 Settlement Agreement with Two Bridges.

Reviewing the law on such matters, Mr. Falcon advised that, if it can be determined that there was an inadvertent error on the part of both parties in arriving at the terms of the 1995 Settlement Agreement, the court may find in the Authority’s favor. He cautioned, however, that the courts are

extremely reluctant, particularly if one side contests the matter, to set aside contractual terms mutually negotiated and agreed upon by, in this case, PRBRSA and TBSA. Given the magnitude of the dollars involved, Mr. Falcon said that it would be worth examining the matter further to determine how the parties reached the specific accord in 1995 particularly in terms of whether the schedule in question was developed based upon specific negotiations on the number of payments or if it was prepared in error, terminating at PRBRSA's FY 2016. Mr. Kelly said that he would return the record of negotiations in 1995 and prior years to make those determinations.

UNFINISHED BUSINESS

1. 2011 Financial Disclosure Forms

For the record, Mr. Kelly advised that the Financial Disclosure Forms were filed with the State's Local Finance Board on April 28, 2011.

2. PRBRSA Website

Referring to recent articles on legislation proposed to mandate greater transparency of local governments including water and sewer authorities, Mr. Kelly advised that bill will not only mandate that authorities establish websites but will also stipulate the minimum documentation required to be included on the website. Related to the anticipated legislative mandate, Mr. Kelly said that AEA has proposed establishing a generic website for authorities which will be explored at an AEA specialty conference on that topic on June 28th that he will attend.

NEW BUSINESS

1. Proposed Gubernatorial Control Over Authority Budgets (S2837)

Commenting on another legislative bill, Mr. Kelly advised that S2837 would allow gubernatorial veto of authority minutes within 15 days of adoption and, at the same time, would establish a 2% budget cap on all authority budgets comparable to the identical cap at the local property tax level. Mr. Falcon commented that there has been and will likely continue to be considerable push back at the local level on the proposed legislation noting, for example, that governor's sign-off on budgets must have some rational basis inasmuch as budgets are already subject to review and approved by the Division of Local Government Services within the Department of Community Affairs, an arm of the administrative branch of government.

PAYMENT OF BILLS

1. Operating Budget

1.1 Operating Request for Payment No. 290 (May 2011)

Treasurer Gall presented the bills as listed on Operating Request for Payment No. 290 and moved approval of the bills as listed on Operating Request for Payment No. 290 as follows:

Operating Request for Payment No. 290

The following bills have been reviewed and are recommended for approval for payment at the **May 18, 2011** meeting of the Authority from the Operating Account (Wells Fargo Bank Account 1425985):

	<u>PRBRSA</u>	<u>VOUCHER</u>	<u>VOUCHER</u>	<u>PAYMENT</u>	
	<u>ACCT. NO.</u>	<u>NO.</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>CHECK PAYABLE TO</u>
1)	33.01	OP-11-5-1	9/10/10	\$ 2,307.00	Borough of Butler
2)	24.04	OP-11-5-2	3/17/10	\$ 250.00	Borough of Butler
3)	23.03	OP-11-5-3	05/04/11	\$ 916.00	Zurich American
4)	33.16	OP-11-5-4	5/11/2011	\$ 2,703.54	ADS LLC
5)	22.03	OP-11-5-5	5/4/2011	\$ 10,400.00	Kelly Engineering
6)	32.02	OP-11-5-6	5/4/2011	\$ 3,893.85	Kelly Engineering
7)	22.01	OP-11-5-7	5/5/2011	\$ 1,609.50	Maraziti, Falcon & Healey
8)	24.07	OP-11-5-8	4/28/2011	\$ 207.48	Kelly Engineering
9)	24.07	OP-11-5-9	5/2/2011	\$ 174.95	Kelly Engineering
10)	33.03	OP-11-5-10	4/18/2011	\$ 3.25	JCP&L
11)	33.03	OP-11-5-11	4/23/2011	\$ 28.74	Verizon
12)	33.03	OP-11-5-12	5/4/2011	\$ 32.48	Verizon
13)	33.03	OP-11-5-13	4/28/2011	\$ 32.43	Verizon
14)	24.07	OP-11-5-14	5/2/2011	\$ 180.81	North Jersey Media Group
15)	33.03	OP-11-5-15	5/4/2011	\$ 18.11	Borough of Butler-Electric Department

TOTAL: \$ 22,758.14

Commissioner Howard seconded the motion which passed on the following roll call vote:

Meeting Minutes
May 18, 2011 Regular Meeting

AYES : Chairman Voorman, Commissioners Gall,
Howard, Lampmann, Metcalfe and
Verdonik

NAYS : None

ABSENT : None

ABSTAIN : None

OPEN MEETING FOR PUBLIC COMMENT

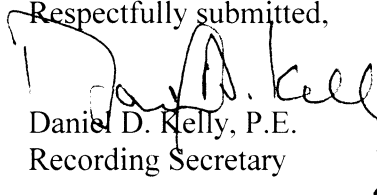
There being no members of the public present, Chairman Voorman dispensed with the public participation portion of the meeting.

ADJOURNMENT

At approximately 8:15 pm, Commissioner Lampmann moved for adjournment. That motion was seconded by Commissioner Howard and was approved unanimously on voice vote.

At approximately 8:15 pm, the meeting was adjourned.

Respectfully submitted,



Daniel D. Kelly, P.E.
Recording Secretary

Enclosure: Treasurer's Report for the period ending April 30, 2011