

May 8, 2007  
102 Hill Road, Denver PA

A meeting of the East Cocalico Township Authority Water and Sewer Committees was held on Tuesday, May 8, 2007 at 7:50 p.m. at the East Cocalico Township Municipal Building, 100 Hill Road, Denver.

The following were in attendance:

Board Members: S. Eugene Heft, Donald Lewis, Donald Jones, Harold Noll, Linda Walmer,  
Eric Fichthorn, Ray Wolf, Daniel Becker arrived at 8:20 p.m.  
Engineer: Russell MacNair, George Wagner  
Solicitor: Lucy Dowd  
Manager: Karen Koncle  
Employees: Kenneth Spitler, Larry Sweigart, Jane Rathman

Chairman S. Eugene Heft called the meeting to order at 7:50 p.m.

**TREATMENT PLANT TOUR:** Engineer George Wagner informed those present that a tour of a water treatment facility at State College has been scheduled for Friday morning, May 18<sup>th</sup>, with a departure time of 8:00 a.m. from the ECT Municipal Office. George asked that anyone interested in going along should let him know as soon as possible in order that he can coordinate travel plans.

**PRECISION MEDICAL PRODUCTS:** Authority Chairman, Eugene Heft, discussed a letter received from Precision Medical Product's (PMP) Attorney Masano requesting a refund for water capacity based on 2006 water consumption figures provided to PMP by the Authority. After a brief discussion, Mr. Heft said it was his recommendation to the Committee that no refund be granted, since refunds due PMP have already been made. Donald Lewis then made a motion to refuse any additional refund to PMP, second by Harold Noll and carried. The Solicitor will respond to Attorney Masano regarding this motion.

**ACME:** An upcoming May 10<sup>th</sup> meeting with representatives from Acme/Supervalu was discussed. A recent newspaper article reported on a planned 8-story addition to the Acme plant. The Manager said it was her understanding that the operation will be primarily "robotic" with the addition of 200 to 300 employees phased in over a period of time.

Superintendent Kenneth Spitler brought up the subject of the wastewater permitting process to divert Acme's sewage flows to the Ephrata IMG Plant for treatment. The Solicitor advised that since the dedication of the sewage pump station and appurtenances and execution of an Indemnification Agreement have been finalized, the permitting process can proceed. Mrs. Dowd also reported that it has been confirmed that a Letter of Credit is in place for the 18-month warranty period which began February 12, 2007. Since all parameters have been met by Acme, Linda Walmer made a motion that ECTA staff should notify Acme that ECTA is ready to make the necessary pump station revisions to divert Acme's sewage flows to Ephrata at Acme's expense upon receipt of Acme's notification for ECTA to proceed. The motion was seconded by Donald Jones and carried.

**MILDRED KAUFFMAN:** The Manager reported that there has been no ruling from the Judge on the Mildred Kauffman sewer connection issue. The Township Solicitor will follow up on this matter on Wednesday, May 9<sup>th</sup>.

**WELLS F & M:** The Engineer reported on receipt of a comment letter from DEP regarding ECTA's permit applications for Wells F & M. The letter contained approximately 14 items that need to be addressed and CDM will respond to those items. He further reported that Tim Higgins of GeoServices

has been in contact with SRBC and it appears that ECTA's permit applications will be on the docket for the June SRBC meeting.

Chairman Heft questioned a letter received from SRBC dated April 16, 2007 advising that ECTA has exceeded the approved maximum 30-day average groundwater total system withdrawal limit of 0.741 million gpd ten times during 2006. Hydrogeologist Tim Higgins has responded to SRBC explaining the reasons for the exceedances which were caused by Pepperidge Farm during an unexpected service repair of a cooling tower, and ECTA system line flushing. Relative to recent discussions with representatives from Pepperidge Farm and Acme requiring that the Authority be advised if they plan a high draw on the water system, or if an emergency occurs, it was suggested that those two customers be advised of the notice received from SRBC. The Engineer was asked to draft the letter and to include that if in the future they are the cause of any violations that result in fines to ECTA, they will be required to pay those fines.

#### WATER CAPACITY ALLOCATION STUDY, POTENTIAL DEVELOPMENTS:

Manager Karen Koncle presented a list of potential developments including projected number of EDUs/water capacity, needed for full build-out. This list would be the basis for invitations for a public meeting with potential developers/owners. The Manager mentioned that most of these properties are within the growth boundary or right outside the growth boundary and are expected to be presented for development. Although the list was prepared in 2005, it was felt to be up-to-date since there has been no water capacity available for some time.

(Daniel Becker arrived at 8:20 p.m.)

The Engineer distributed copies of up-dated spreadsheets (attached hereto) illustrating: (1) Capital Projects – Schedule of Costs for Cash Flow Projection, (2) Water Projects Schedule for fiscal years 2006 through 2012. George Wagner again mentioned that based on what is known on the permitting end, it is his understanding that ECTA will be on SRBC's docket for their June meeting. He also talked with DEP and was assured that the two agencies work together on permitting. Based on getting the permits in late June 2007, CDM anticipates finalizing design in July and being ready to bid in August for Well F water line extension, water treatment facility, booster station #1, telemetry system. Construction of improvements is estimated to be finished in November 2008. Bringing Well M on line and construction of booster station #2 are scheduled for later.

The Engineer noted that changes from previous spreadsheets are vendors' costs and construction costs. Now that the design is nearing completion, actual costs have increased considerably. Initial costs were based on a feasibility study and were conceptual. Also added was the reverse osmosis unit, and the water treatment building is now designed to house equipment for the time when Well M comes on line. George then presented a diagram of the water treatment plant and explained the equipment and operation of the plant. The estimated cost of the plant at this time is 5.8 million dollars. The addition of a water treatment plant to the water system will require one additional public works employee.

Looking back at the spreadsheets, projects (1) through (10) [less (5) which has been completed] will need to be constructed. Based on updated construction costs, total estimated project cost is approximately \$12.2M, and the estimated capital cost per EDU is now a minimum of \$2,075.

Daniel Becker recommended that a standardized agreement be generated for both water and sewer. In discussing the capital contributions needed to have the project move forward, the amount required for water will be the same “across the board.” The sewer capital contribution will be determined by drainage area. It was also suggested that going forward all new customers, whether a developer with a large development, or a resident building a single residence, will pay the capital contribution in addition to the tapping fee because the cost of improvements for additional capacity should not be placed on the existing rate payer. Some concern was expressed that developers may decide to wait until “someone else” makes the required contribution to allow ECTA to move forward.

**SOLICITOR – DRAFT AGREEMENT FOR DEVELOPER CONTRIBUTION:** The Solicitor presented and discussed a draft Agreement for Developer Contribution to Accelerated Capital Water Projects for the members’ review. Mrs. Dowd said she tried to keep it as brief and simple as possible, while still including everything important. The Engineer felt that we should be able to nail down a schedule. The big hold-up has been when the permits are going to be issued and confirmation of the capacity of the permits. It appears permits will be issued in June. For that reason Russ felt we can complete the plans and specs for the projects and more definitive time-lines can be established. This will allow us to be much more certain in talking with developers in terms of schedules and costs. That takes some of the question out of the Agreement since with that information we can present these things with some certainty. As long as developers know: they sign the agreement, they pay their fees on this date, and the water is going to be available on this date, then they can prepare their land planning accordingly.

The question was asked, “what if a developer decides he will not sign off on this, just wait to pay, what happens to him?” Russ replied, “The capital contribution fee will remain in effect indefinitely. He doesn’t have to sign the Agreement, but he’s not going to get a permit without paying and the cost may escalate with inflation.”

The Engineer also added that ECTA has to decide how much money, how many commitments we need to award a contract for this work. Russ said he felt about 1000 EDUs will be needed to proceed, hopefully we will have more. At the meeting with the developers ECTA should be able to gauge their interest, how many people show up and how serious they sound. We know these projects are going to have to be done, need to be designed, need to be permitted. The question is, when do we make the commitment to tie up the Authority’s money to make the projects happen? That’s when we have enough EDUs committed and we’re going to have to determine that number. Some money may have to come out of the cash flow, so ECTA must consider that fact to decide what level of contribution ECTA needs.

Don Lewis asked, “if we only get commitment on 500 EDUs then this project doesn’t go?” Answer, the project just waits until the interest level increases and more contributions are received. Dan said he feels that we need to have the number of EDUs defined. He further said he believes that developers may not put the cash up front, but perhaps a letter of credit. A developer with 300 units will not be able to carry the cost through ECTA’s construction period until they can begin construction.

Russ feels that it would be good to be up-front with the developers, we should tell them we have determined that we need 1000 EDUs or 1200 EDUs, whatever we decide that threshold is for moving ahead. We should also be up-front with the final number for the capital contribution per EDU. We gave a broad range before, but should narrow that down. This draft report shows ECTA can’t go below \$2,075/EDU, but it would be to our advantage to go higher.

Don Lewis asked, "\$2,075 per EDU brings in around \$2,000,000 of a \$12,000,000 project, where does the rest of the money come from?" Russ answered that part of it comes from the tapping fees, these same people will pay. Don Jones added, "also from revenue and future sales. As developers start flowing water additional revenue will be created which will hopefully absorb some of the costs. There is an element of risk. That's where we need to structure where we think we're going to have downstream sales of capacity and get to a reasonable number that we're comfortable with." Russ agreed, "the state of the economy enters into it as well. Some of these developers were talking to us when development was very good, they may be more conservative at this point."

It was mentioned that we could cut back on the treatment building and add to it as needed, also possibly delay Well M development.

Manager Karen Koncle felt that in order to get more EDUs than are on the list, there would have to be an expansion of the growth boundary. The only areas that may be expanded are those that are on the fringes now. Mrs. Koncle also asked if Ephrata has sewer capacity to cover all of the water capacity we are anticipating? The Engineer felt capacity projected in the recent 537 Plan would cover those on the list.

It was again stressed that we need a firm number for the capital contribution per EDU. The Engineer was asked to provide a basis for that number. Dan Becker felt that when those numbers are presented, it is possible that ECTA may come up against opposition from developers, members should be prepared for such a response.

A date to hold the meeting w/developers was discussed. The question was also asked if sewer would be discussed at that meeting and the answer was, No. This is strictly a water meeting.

The next step is to develop a cash flow that shows the positive rate. The decision will have to be made as to how much ECTA has to borrow and for what period of time. If ECTA has contributions for 1000 EDUs, what revenue stream will that generate and at what point in time does that revenue stream take care of the debt repayment. The Engineer and Treasurer will work together to come up with a cash flow.

The question again came up as to whether sewer would be discussed at this meeting. The Engineer stated that sewer figures have been established for some areas such as Col. Geo. Howard Blvd. (Spur Road) area, Stevens pump station area, and developers of Rosehill, Foxbrooke and EC Associates. For anyone outside those areas, their situation would have to be looked at.

Looking at the list, Dan Becker asked when it was last updated. He suggested that the numbers be confirmed and to narrow the gap from the low to the high EDUs. The Manager said preliminary plans can be pulled to confirm the numbers.

Ray Wolf asked about his participation in these matters as a landowner on the list. Ray was advised by the Solicitor that he may listen to discussion, but may not enter into any deliberation or vote.

Discussion returned to the Agreement provided by the Solicitor. The suggestion was made that the word "developer" be changed to "water customer" or "water consumer," since signature on this document will be required by everyone. Mrs. Dowd also asked about the references to sewer, should this document only apply to water? The Manager also asked what safeguard does ECTA have? Should there be a sentence

saying that if they don't pay today, they will pay the cost in effect at the time they sign? Don Jones suggested a clause, "indexed by interest rate or Consumer Price Index." Russ also suggested a Resolution setting forth the purpose and why the Authority is doing this should be part of the Agreement. That Resolution could include more detailed information.

Daniel Becker felt ECTA should also give developers direction on what we are willing to live with, do we just accept cash or will we accept a bond or letter of credit. Don Jones mentioned that the risk we run is that everyone may want to establish a letter of credit and then when the first bond payment comes due the cash won't be there. Russ said he believes we need to decide at what point we want the money "to hit our hands, at what point do they have to pay up." Developing two separate agreements was suggested; (1) you're committed and agree to this, (2) put together a finance plan. ECTA should not be a bank, if the developer can't afford this, they need to get their own loan.

Dan also felt another question that we should be able to answer is the capacity of the sewer treatment facility, where is it now, how much excess capacity is there. This may be an incentive for the developers to pay quicker.

Ray Wolf asked if other municipalities are in this same situation. Russ explained that since the inception of Act 57, things have changed. In the past municipalities were able to be much more flexible with the calculation of tapping fees, and what could be applied to the tapping fee. Now, there are very strict requirements on how you set your tapping fees. In order to get around those types of constraints, authorities are saying, we recognize that tapping fees are not going to cover the expansion of systems which are basically needed for new development. If developers want this infrastructure they're going to have to pay for it, we (the Authority) can't afford it. If developers are not going to pay for it, it's not going to happen.

Since there was no further business or issues for discussion, the meeting was adjourned at 10:03 p.m. on motion by Donald Jones, second by Donald Lewis and carried.

Respectfully submitted,

Harold E. Noll, Secretary