

SPECIAL MEETING OF THE MAYOR AND COUNCIL
HELD VIA ZOOM VIDEO CONFERENCE
MUNICIPAL COURT /COUNCIL CHAMBERS
10 LAWLOR DRIVE, OAKLAND, NEW JERSEY
MONDAY NOVEMBER 30, 2020

MEETING CALLED TO ORDER: By Mayor Schwager at 7:15 pm.

ROLL CALL: Mayor Schwager called the meeting to order and the Clerk called the roll. Present: Mayor Schwager, Councilmembers Biale, Knapp, Kulmala, Pignatelli, Talamini, Van Eck. Absent: None. Also Present: Lisa M. Duncan, Borough Clerk; Richard Kunze, Borough Administrator; John Napolitano, Borough Sewer Attorney; Kevin Boswell, Borough Engineer; Giselle Diaz, Water & Sewer Engineer; David Young, Chief Financial Officer.

SALUTE TO THE FLAG:

MOMENT OF SILENCE:

MEETING ANNOUNCEMENT: Mayor Schwager announced this meeting is being held in accordance with the open public meetings law, duly announced, submitted to the newspaper and advertised more than 48 hours in advance of the meeting and notice posted in the Municipal Building and on the Borough website.

Mayor Schwager advised that the purpose of this meeting is to hold a public hearing on the application for financing on the proposed sanitary sewer system project to decommission the existing sewer treatment plants. She turned the meeting over to Borough Engineer Kevin Boswell to give a project overview. Mr. Boswell asked residents to keep their comments to a 3 minute limit to allow everyone the chance to speak and he asked the residents to minimize the repetition of comments and questions that were already asked and answered.

Mr. Boswell advised that the Borough is required by the Administrative Consent Order from the State to decommission the sewer treatment plants. He explained that only the residents currently on the sewer system would be able to connect. The application with the State to expand the sewer service areas in Oakland is not part of this application for financing.

Mr. Boswell advised that the Borough has operated three sewer treatment plants since the mid-1960's. In 2017, an investigation of the sewer treatment plants was conducted and it was determined that all three plants were beyond their life expectancy and beginning to fail. The study determined a significant capital expenditure was required to address the deficiencies. There were three options considered: build a single new sewage treatment plant; rebuild three existing sewage treatment plants; or convey the wastewater flow from the Borough to the Northwest Bergen County Utilities Authority. It was determined that the option to send the flow to NBCUA was the most cost effective. Mr. Boswell showed a map of the decommissioning design and showed the proposed force main and proposed gravity mains and where they would be located. For the Oakwood Knolls plant, the force mains would take the flow to Franklin Lakes to the NBCUA interceptor line to the pump station which relays to Mahwah. There would be a gravity line down Monhegan for the Chapel Hill plant which would then pick up the Skyview plant. Both those plants would be decommissioned and the two pump stations at Tuscarora and

Lakeside Blvd. would be abandoned. There will be a new pump station located near Huber Lake and then a force main would take the flow out to Franklin Ave.

Mr. Boswell advised that this project qualifies for a Level 2 Environmental review. As a result, the Borough is required to hold a public hearing to review the results pursuant to N.J.A.C. 7:22-10.8-10.9. This project is not expected to have permanent adverse or significant temporary adverse effects of the human environment. The project is not expected to have an adverse direct or indirect impact on cultural resources, endangered species and their habitats, wetlands, floodplains, important farmlands or other environmentally critical areas. Mr. Boswell advised that there will be beneficial impacts on surface water and groundwater quality. There are no air quality impacts. There will be short-term noise impacts during the construction phase. The project is not located within but is in the vicinity of a designated Historic and Cultural site. The project is not located within but is in the vicinity of critical environmental areas. The construction will result in no surface disturbance of any freshwater wetlands, transition areas or State open waters. The single negative impact is that water is being diverted from one basin to another. This is being addressed with a minor modification to our water allocation permit. The odor issues that are coming from the treatment plants and aged pump stations would be eliminated. The Borough has been coordinating with many different agencies. The TWA permit was issued last week so the Borough has received primary approval from the DEP Water Quality Management. The Highlands Council has issued a consistency determination. The NBCUA is a willing partner to accept and treat flow and there is a connection fee.

CFO David Young advised that the application for NJEIT financing is for \$5.716 million. It will be paid over 30 years with 50% at a 0% interest and 50% at market rate. The final amount to be financed will be based on the final amount actually spent on the project. The debt payment is included in the annual fee. The average sewer user fee is projected to increase by \$ 26 to \$28 per year. The variables would be the interest rate, the final project cost, the amount of actual flow to NBCUA and post-transition operating expenses. Councilman Talamini asked if the Borough's AAA bond rating would affect the interest rate. Mr. Young responded that affects the rate when we go out to the general market. The NJEIT has advised that it will be market rate for 50% and 0% for the other 50%.

OPENED FOR PUBLIC COMMENT:

On motion of Councilman Talamini, seconded by Councilman Biale, this portion of the meeting be opened for public comment.

ROLL CALL: All yeas, Councilmembers Biale, Knapp, Kulmala, Pignatelli, Talamini, Van Eck.

Frank Di Pentima, 6 Mt. Lakes Rd, asked who would pay for the line that would run down Franklin Ave. Mr. Boswell responded it will be paid for as part of this project with the financing. Mr. Di Pentima asked if that deviates from how Franklin Lakes did their project. Mr. Boswell advised that the NBCUA constructed an interceptor line, a pump station and a force main in Franklin Lakes. Mr. Boswell advised that the Borough is in discussions with the NCUA to do this for the future project in the downtown but it is not part of this project. Mr. Di Pentima asked if there are any costs related to Phase 2 included in the \$ 5.7 million. Mr. Young advised that the only costs are for this particular project. Mr. Di Pentima asked if the connection is only for the 200+ properties on the plants. Mr. Boswell advised that people can't connect to force mains, only gravity lines. Some homes could possibly connect but are not permitted to because it is outside the sewer service area.

The Borough Clerk read the following statement from David Sandler, 24 Academy Circle. “I realize a lot of work has gone into finding a solution under pressure, and I thank the Borough officials for their efforts. It’s clear the project does need to move forward expeditiously. It’s frustrating to us that our questions have not been addressed and that leads to further misunderstandings. There are multiple issues, but in the end it comes down to a fair sharing of costs as well as consideration of costs in the future. Some portion of the costs may upon reflection be better attributed to the town as a whole. We’re not looking for a free ride but we have possibly paid more than our fair share for quite some time. Hopefully, these equity issues will come into play.”

Katrine Beck, 8 Chapel Hill, is perplexed that the Borough claims there is no adverse public reaction to this proposal. Sewer users have emailed, called and texted opposition. Mr. Boswell advised he stated that there were no adverse environmental effects. Ms. Beck stated there is a lack of consistency in the presentations. She spoke of language in the report that there is no adverse public reaction. She spoke of the ACO. She stated the Borough is waiting for approval for its Wastewater Management Plan, there is no drafted sewer ordinance. The Borough has refused to disclose the NBCUA agreement. The Borough has paid hundreds of thousands of dollars doing studies. Back in 2018, the project would have cost \$ 4 million but it is now \$ 2 million more. Does the Borough think it is ok to tax 235 homeowners for this project. Ms. Beck stated that there is a grand plan for down the road so there should be some subsidy. The sewer users are asking for transparency and due diligence and no redundancy. The more sewer users the better. Ms. Beck advised that the sewer users are looking for the Mayor and Council to subsidize the project and is sure the CFO can find money in the budget.

Chris Bermudez, 28 Cayuga, asked who negotiated with NBCUA to run the line in Franklin Lakes at our cost. Mr. Boswell explained that the NBCUA put in infrastructure in Franklin Lakes that benefits not only Franklin Lakes but also benefits the users of the Oakland sewer system. Mr. Bermudez asked if the NBCUA is paying for the line to be run to the center of town. Mr. Boswell explained that there is discussion that the Borough and NBCUA might share in the cost if there is a future project. The Wastewater Management Plan has not been approved yet. The only choice now is to decommission the existing plants or build three new ones. Mr. Bermudez asked who will pay when the downtown gets sewers. Mr. Boswell explained that typically users of the system would finance the project. Mr. Young stated that there is no determination at this time how to bring on new users to the system. There cannot be definitive conversations until the DEP gives permission to expand the system. Mr. Bermudez stated there is no transparency.

Maryann Fiumefreddo, , stated she is getting a new septic system. She doesn’t want to replace her septic if sewers are coming. Mr. Kunze advised that the project right now is only for the existing users. The Borough doesn’t have permission from the DEP yet to expand the sewer areas. He advised there is no timeline yet.

Ryan Minelli, 14 Geronimo, asked how invasive the re-lining project will be and asked when that project will happen. Mr. Young responded that is a separate project and is not part of this hearing.

James DeMauro, 35 Massasoit Tr., commented that in a planning document and in the Wastewater Management Plan, it talks of failing sewer treatment plants and failing septs. It talks of contamination of groundwater which goes to the aquifer. It is hard to differentiate that this only affects sewer users because it affects all municipal water users. The 2018 Wastewater Management Plan talks about the necessity to sewer the town so it seems like this is the plan of the town. He stated that once the groundwater is contaminated, it becomes a municipal problem.

Mr. Boswell stated that the wells are in full compliance with NJDEP drinking water standards. This project does not have potential to affect drinking water in the foreseeable future. Mr. DeMauro states that the WMP talks about 90% of septic failing. Mr. Boswell responded that the septic are not in compliance with current standards it does not mean they are failing. He stated that until such time as the DEP approves the Wastewater Management Plan, the Borough is on septic. Mr. DeMauro stated that all the documents talk about the municipality as a whole and the issues are townwide. Therefore, the sewer users are not the sole beneficiaries. He asked why the Borough would proceed with this project without approval of the WMP. Mr. Boswell responded that this project does not require WMP approval because the project is for existing sewer users. The equipment being installed for this project could not be piggybacked by other people. Mr. DeMauro stated that the point is there would be no more groundwater contamination so the whole town will benefit. Mr. Boswell stated that if the WMP is approved, it is far more costly to come up with a solution to the interbasin transfer. Until that is approved, the only project is for the existing users.

Sarah Michel, 23 Cayuga Ave, commented that a lot of people didn't receive a mailing about this meeting. Mr. Kunze responded that notice was sent via email if we had the email address on file. If there was no email address, a written letter was mailed. Ms. Michel asked if Councilman Biale was the sewer chair because she sent emails and has not received a response. She would appreciate a response. Ms. Michel stated that the Borough is the owner of the sewer treatment plants and has not maintained them properly. Engineer Giselle Diaz advised that there will be no sewer treatment plants. The Borough would own a pumping station and would have to have a licensed operator. Mr. Kunze advised it is a different license than the treatment plant operator.

Michael Kozak, 24 Cayuga, asked about the possibility of putting bigger pipes in to accommodate more users. Mr. Boswell advised that he advised in an earlier presentation that the Borough cannot put in an oversize pipe because of the minimum and maximum velocity in the line. He explained that a 3 inch line is being put in. The NBCUA is not investing in any infrastructure in this project. If the NBCUA had its way, they would put a gravity line down Commerce Street to take the flow into the back of Stop and Shop. That would be more expensive than the force main down Franklin Ave. Mr. Kozak asked what happens if permits are not approved within the timeline for the ACO. Sewer Counsel John Napolitano responded that if there is a delay with permits, he can get an extension from the DEP on the ACO. The Borough has already gotten an extension since this was deemed a Level 2 by the IBank. Mr. Boswell advised that a lot of people at the DEP and DOT are working remotely due to COVID so it is a slower process. Mr. Kozak asked what the hook up fee is to connect to NBCUA. Mr. Boswell responded there is a per gallon fee based on average daily flows. Mr. Kozak asked if NBCUA would take over and manage the system once the Borough gets approval from the DEP and starts Phase 2. Mr. Boswell responded that Franklin Lakes and Wyckoff contract with NBCUA. The Borough would conduct routine maintenance but the Borough would look to NBCUA to operate the sewer system. Mr. Kozak asked what grants are available for the projects. Mr. Young explained that the Borough has researched grants but there is nothing available. He advised that Franklin Lakes had an interest free loan through IBank for their project. Mr. Kunze advised that a lot of grants are targeted for certain communities. The Borough is able to take advantage of the IBank low cost financing. Mr. Young advised that the Borough will continue to look and apply for grant funding. Mr. Kozak questioned if people who would be allowed to connect in the future would pay. Mr. Kunze explained that there can be a connection fee or a special assessment which would have to be determined. The idea is if someone is going to connect, they are going to pay their fair share of the project. The connection fee that the Borough has to pay NBCUA is included in the financing for the project. Mr. Napolitano explained that a connection fee is based

on previous costs. An assessment is based on future costs. If the Borough is allowed to expand the system, we would have to do an evaluation.

Alison Whalen, 36 Tuscarora, asked who paid for the Wastewater Management Plan and the Sewer Feasibility study. She asked if they were paid by the sewer utility. Mr. Kunze responded that the Wastewater Management Plan was primarily paid out of the current fund.

Martin Ruback, 45 Academy Circle, questioned about the connection fee to NBCUA and asked what that covered. He asked how long the Franklin Lakes system has been in operation. Mr. Napolitano responded that the Municipal Utility Authority Statute allows for a connection fee. He explained that a new user would pay a proportionate share of the capital money used over the years to build the system. It is calculated by the Utility Authority's auditor. Mr. Ruback stated that last week, the Council discussed a \$ 5.5 million bond ordinance and the useful life was 45 years. Tonight, it was stated it is 30 years. Mr. Young explained that the Borough is applying for a loan with the IBank for the infrastructure. The bond ordinance is the Mayor and Council's authority for funding for the project. Mr. Ruback questioned the amount of the financing. Mr. Young responded the application is for \$ 5.7 million.

Mark Albala, 34 Academy Circle, has been a resident for 30 years and the topic of sewers has come up five or six times. He asked what assurance there is that this project will go through. Mr. Boswell responded that the Borough has received the TWA permit from the DEP for decommissioning the sewer plants.

Vivian Steinmetz, 74 West Sheffield St., understands this is for the decommissioning of the three sewer plants. She asked about future plans and if the connection fee for new users would reimburse the current users. Mayor Schwager advised that no new users can hook up to this project. Ms. Steinmetz spoke about spending \$ 40,000 on sewer fees since 1986. She spoke of being pushed into a corner and that the Mayor and Council should have looked at a full blown plan. She stated this is a townwide issue because of the problems with septic as well. Mr. Steinmetz asked about the effects to the water. Mr. Boswell spoke about pumping rights and pumping from one basin to another. He advised that the Borough's wells have enough capacity.

Gary T., 101 East Oak St. B-8, asked what the life expectancy of the pump station would be. Mr. Boswell explained that the pumps last 20 to 25 years. The infrastructure such as conduit lasts much longer. Mr. T. questioned ownership and maintenance. Mr. Kunze explained that the pump station would be owned by the Borough. It has not been determined who will operate it.

Rachel Gregory, 2 Kiowa Terrace, asked what the current fund is that paid for the Wastewater Management Plan. Mr. Kunze responded it is the main Borough budget. Ms. Gregory asked why there charges to the sewer utility. Mr. Kunze responded that he believes there was an amendment that was charged to the sewer utility. Ms. Gregory spoke about how 5% of the population paid for the Sewer Feasibility study and WMP. She thinks the town bears some responsibility. She spoke about how the plants were failing and the town was forced to take action when fined. Mr. Young advised that the items Ms. Gregory is speaking about are not related to the funding application or the Environmental application. Ms. Gregory asked if the Borough would be applying for this loan if not in this situation. Mr. Young explained that in 2017, the Borough looked at decommissioning the sewer plants. That was done before any fines were levied not as a result of the fines. Ms. Gregory read documentation from 2011 that the sewer plants were failing and it is the town's responsibility. Mr. Young advised that there was a change in Engineers in 2011. Originally we thought we were going to replace the sewer treatment plants. Mr. Boswell thought of the idea to transfer to NBCUA. Ms. Gregory urged the

public to read documentation and stated the analysis that this is the best option is weak. She asked Councilman Biale why the residents are not allowed to participate in the sewer committee meetings. Councilman Biale explained that the committee does not include residents. They did consider having residents from each of the sewer treatment areas as informational liaisons. Ms. Gregory referred to the Consumer Confidence Report which states that residents can participate in the Water and Sewer Committee. Mr. Boswell stated that is a statutory report on the water utility and we are not talking about the water utility. Ms. Gregory spoke about sending emails to Councilman Biale that were unanswered. Councilman Biale responded that they were advised by counsel not to answer emails because of pending litigation. He spoke of the costs that people with septic systems have. Ms. Gregory wants part of the planning and looking at alternatives because it is the money of the sewer users that is paying.

Chris Giordano, 19 Academy Circle, stated that documents were paid out of the general fund and the sewer utility so the sewer users paid double. He advised that the Council needs someone who is on sewers to meet with them. He spoke about reducing costs by waiving the fines. Mayor Schwager advised that issue will be discussed during budget time. Mr. Young advised that the intent of this public hearing tonight is to discuss the environmental impact of the financing application. Mr. Giordano stated the \$ 5.7 million application includes the fines. Mr. Young stated that it does not include the fines. Mayor Schwager stated the fines have nothing to do with the decommissioning project. Mr. Giordano spoke of mistrust of the Governing Body. Mayor Schwager responded that once the Borough was threatened with litigation, the Governing Body was instructed by the Attorney to stop talking. Mr. Giordano asked who receives reports when DeBlock or the DEP inspects the plants. He asked when his questions about the fines will be answered. Mayor Schwager responded at the budget meetings.

Rekha Dev, 87 West Sheffield, has been a resident since 1980. He said he was not told about sewers when he bought. He pays taxes for the schools even though he has no children in school. He asked why this project is being paid for by only 235 residents. The town should pay for this. Mayor Schwager responded that the people who are being serviced by the sewer treatment plants are the only ones who are benefitting. Mr. Dev stated the town gets money from the sewer fees. Mr. Young stated that the sewer utility is self-liquidating. We do not take in more than we spend. Mr. Dev stated he pays taxes.

Clinton Gregory, 2 Kiowa Terrace, asked if there is a rent cost associated with the new location of the sewer plant. Mr. Young stated an annual fee is charged to sewer users. It will continue to be charged and will include operations and debt payment. He explained that the amount of operations will decrease and the amount for debt will increase. Mr. Gregory commented that the amount of the loan in September was \$5 million and now is \$ 5.7 million. He questioned if that will go up again. Mr. Young responded that it could go up if the DEP asks for a change to the construction design or if the NBCUA increases the connection fee. As of today, \$ 5.7 million is the amount needed. Mr. Gregory asked if there was discussion that the capital project should be capped at \$ 5 million. Mr. Young responded that the Borough has to authorize the full amount in order to complete the project. Mr. Gregory asked if that will go up. Mr. Young advised that there is a \$ 200,000 contingency included. Mr. Gregory asked when the number will be finalized. Mr. Young responded when the project goes out to bid in April. Mr. Napolitano advised that the Borough needs to have the funding in place. He explained that the Borough was allowed to finance the connection fee which lowered the cost to the users. He explained that the Borough hopes to be out to bid in March or April and then we will have the firm numbers. Mr. Gregory questioned when it would be reported back to the sewer users if there is an increase. Mr. Napolitano responded that once the bid opening is held, we will know the actual number. The estimate was done by the engineers. Mr. Boswell advised he does not expect any major changes

to the number. Mr. Gregory stated that the change from \$5 to \$ 5.7 million was a significant change. Mr. Boswell stated that the connection fee was put into the Ibank application. That was the difference.

Benjamin Wagman, 10 Mountain Lakes Road, stated that none of the Mayor or Council members are on sewers but they control the purse. He is hearing unanswered questions and stated there is a lack of transparency. The sewer users don't have the representation they deserve. Mr. Wagman called it taxation without representation. There is no one to speak on the sewer users behalf. He asked if the Borough has actually been served with litigation. Mayor Schwager advised that she has heard from several sewer users that they were getting a group to litigate. Mr. Wagman stated the Borough is using a rumor as a shield to not answer questions. Mr. Napolitano stated that no one has been served with papers. However he was contacted by another attorney who asked if Mr. Napolitano would represent the Oakland sewer homeowners so it is more than a rumor. Councilman Pignatelli stated a friend received a letter asking for money for litigation against the Borough. Mr. Wagman stated this is based on rumors and that is a screen the Mayor and Council are hiding behind. He stated is disconcerting when the government is suppressing the minority as he perceives this. The Governing Body won't give the sewer users a voice. The Borough created a "rosy" power point but it doesn't say what the real costs are going to be down the road. There are too many discrepancies to say the increase is only going to be \$ 20.

Paul Chaderjian, 187 Lakeside Blvd, stated that there is no litigation. He has the right to call a lawyer to ask questions. He assumes there is going to be police used during the construction and he wants to know how the cost is to be figured for their details. Mr. Kunze stated there is usually an allowance in the construction project for police detail and they are paid at time and a half their regular rate. Mr. Chaderjian stated his taxes are already paying their salary so the sewer users should pay a discounted rate. Mr. Kunze stated that if an officer is on an off-duty detail, they earn time and a half regardless of who the contractor is. Mr. Chaderjian asked if there is going to be an administrative fee. Mr. Kunze responded there is normally an administrative fee but not for this project. Mr. Chaderjian stated that the ACO had a timeline of going out to bid in January and he questioned the change. Mr. Boswell stated it is dependent on having the financing application approved. Mr. Napolitano advised he has already requested an extension. Typically the extension would be granted because this delay is not under the Borough's control. Mr. Chaderjian asked about the operating expense in 2024 which is doubled. He asked if that cost would really double if there is new infrastructure. Mr. Young stated he is conservative with his estimates so as to not understate the potential costs. Mr. Chaderjian stated that there shouldn't be a lot of maintenance with new infrastructure. Mr. Young stated that the Borough got two very wide quotes to have an operator and that is included in that number.

Katrine Beck, 8 Chapel Hill, asked for clarity as to how many sewer users there are. Mr. Kunze responded there are 235. Ms. Beck asked if that number includes the Copper Tree Mall business owners. Mr. Kunze responded it does. Ms. Beck asked if Mr. Napolitano if he is drafting a sewer ordinance or amendment in order to accommodate this project. Mr. Napolitano stated not at this point. We would be required to meet all the rules of NBCUA as to what can be discharged. There is already an ordinance for a rate structure. We will adopt an ordinance down the road which will adopt the rules and regulations of NBCUA to say what can be discharged and what the limits are. Ms. Beck stated the current ordinance only has rates. She asked if it would be updated for connection fees. Mr. Napolitano stated that connection fees for new users would not be addressed at this time. Ms. Beck asked Mr. Boswell if he would change wording in his report to say there was negative public comment. Mr. Boswell responded he would remove the statement altogether because it could jeopardize the environmental findings of the report and it is not pertinent to the Level 2 environmental review. Mr. Napolitano advised Ms. Beck that the minutes

of these proceedings will be forwarded to the State as part of the application so they will have the records of the comments.

CLOSED FOR PUBLIC COMMENT:

On motion of Councilman Kulmala, seconded by Councilman Biale, this portion of the meeting be closed to public comment.

ROLL CALL: All yeas, Councilmembers Biale, Knapp, Kulmala, Pignatelli, Talamini, Van Eck.

MEETING ADJOURNED:

On motion of Councilman Kulmala, seconded by Councilman Biale, the meeting be adjourned at 9:45 pm.

ROLL CALL: All yeas, Councilmembers Biale, Knapp, Kulmala, Pignatelli, Talamini, Van Eck.

Lisa M. Duncan

Lisa M. Duncan, Borough Clerk
December 21, 2020

Date Approved

Linda H. Schwager

Mayor Linda H. Schwager