

**READINGTON TOWNSHIP SEWER ADVISORY COMMITTEE**  
**MEETING – JULY 21, 2015**

The meeting was called *to order at 6:30 p.m.* announcing that all laws governing the Open Public Meetings Act have been met and that this meeting has been duly advertised.

**PRESENT:** Chairman Ron Monaco, Mrs. J. Allen, Mr. W. Meglaughlin

**ALSO PRESENT:** Attorney S. Dragan, Engineer Robert O'Brien, Secretary Karin Parker

**ABSENT:** None

**APPROVAL OF THE MINUTES** of meeting December 18, 2014

A **MOTION** was made by Mrs. Allen to approve the minutes of the December 18, 2014 meeting, seconded by Mr. Meglaughlin with a vote of ayes all, nays none recorded.

Mr. Monaco stated that the entire agenda for this evening's meeting is in response to a suit that had been filed and a judgment that was made concerning unused sewer capacity. Mr. Monaco continued that the criteria to be considered would be 1) the length the landowner has possessed unused sewer capacity, 2) the holder's or landowner's plans to use some or all of the capacity and the imminence of that happening, 3) the complexity of the project and importance of it to the community, 4) whether the economy has retarded economic development, 5) whether there are proposed development projects by others that cannot proceed because of the unavailability of sewer capacity and the importance of those projects to the community and 6) also to be considered on a case by case basis is if the particular property is affected by the Permit Extension Act.

Mr. Monaco maintained that the meeting this evening will concentrate on those that currently have capacity and to hear those cases to determine whether that capacity should remain with the particular holder or returned to the Township for re-distribution.

**CORRESPONDENCE**

1. Letter dated June 11, 2015 from Vita Mekovetz, Administrator/Municipal Clerk regarding *Mandatory Sewer Capacity Analysis to Holders of Unused Sewer Capacity*. No action taken.
2. Letter dated June 18, 2015 from Vita Mekovetz, Administrator/Municipal Clerk regarding *Mandatory Sewer Capacity Analysis to Requestors Denied Sewer Capacity (2000-2010)*. No action taken.

3. Letter dated June 22, 2015 from Robert Fallone, Fallone Properties, LLC in response to ***Sewer Capacity Analysis Questionnaire (Block 36, Lot 2, Block 31, Lots 37 & 37.02, Block 34, Lots 10 & 11 and Block 32, Lot 12).***

Mr. Monaco stated that all of these units, as noted in the returned questionnaire, have been built and are occupied; therefore there is no basis for returning capacity. Attorney Dragan noted that Block 34, Lots 10 & 11 and Block 32, Lot 12 are not currently occupied since those properties were sold to the Township (closed on January of 2015) and the 1,050 gallons were returned to the Township for an affordable housing site.

***A MOTION*** was made by Mrs. Allen to *make a recommendation to not request a return of sewer capacity*, seconded by Mr. Meglaughlin with a vote of ayes all, nays none recorded.

4. Letter dated June 16, 2015 from Umar A. Sheikh, Mandelbaum Salsburg, regarding ***Sewer Capacity of 30,000 gallons (Block 36, Lot 5, 5.02 and 5.04 / 20 Mullen Road).***

Attorney Dragan stated that this request should be disregarded since the requestor is not the property owner.

5. Letter dated June 25, 2015 from Robert Kasuba, Bisgaier Hoff, LLC, on behalf of SAR I, LLC, in response to ***Request from Umar Sheikh, Mandelbaum Salsburg requesting Sewer Capacity for Paladin Homes, (Block 36, Lot 5, 5.02 and 5.04).***

Mr. Monaco stated that this matter will be deferred for a future meeting for those applicants requesting capacity.

6. Letter dated June 26, 2015 from Richard Hoff, Jr., Bisgaier Hoff, LLC, on behalf of Toll, N.J. I, LLC in response to ***Sewer Capacity Analysis Questionnaire for Regency at Readington, Block 36, Lot 49.***

Mr. Monaco stated that this project is currently ongoing with approximately thirty (30) homes occupied and the remaining either under construction or under contract.

***A MOTION*** was made by Mrs. Allen to *make a recommendation to not request a return of sewer capacity*, in addition to the capacity being part of a litigation settlement, seconded by Mr. Meglaughlin with a vote of ayes all, nays none recorded.

7. Letter dated June 29, 2015 from Alexander Fisher, Mauro Savo, regarding ***Sewer Capacity for Country Classics Legacy at Readington, LLC, Block 36, Lots 93, 94 & 95.***

Mr. Monaco stated that this is a senior development on Route 22 which is fully built and occupied.

*A MOTION* was made by Mrs. Allen to *make a recommendation to not request a return of sewer capacity*, seconded by Mr. Meglaughlin with a vote of ayes all, nays none recorded.

8. Returned Sewer Capacity Analysis Questionnaire from ***Denied Requestor Guy Torsilieri for Block 93, Lot 86.***

Mr. Monaco stated that this block and lot is not in the RLSA and suggested Secretary Karin Parker respond to Mr. Torsilieri's letter indicating this is only about the RLSA not the RTMUA.

9. Sewer Capacity Analysis Questionnaire from Thomas & Teresa Doyle regarding ***Consideration of the Township to Repurchase the Remaining 1,050 Gallons of Capacity from Block 36, Lot 96 at a Price to be Determined.***

Mr. Monaco stated that this property is the Whitehouse Prep School, currently built and occupied and indicated they have an excess of 1,050 gallons which they are willing to sell back to the Township.

*A MOTION* was made by Mrs. Allen to *make a recommendation to accept the offer to repurchase the remaining 1,050 gallons of capacity*, seconded by Mr. Meglaughin with a vote of ayes all, nays none recorded.

10. Letter dated July 6, 2015 from Tom Salem, Salem Realty II, LLC regarding ***Consideration of Allocation of Sewer Capacity (Originally Requested in October of 2000) for Block 20, Lot 10 in the Event Capacity Becomes Available.***

Mr. Monaco stated that this matter will be deferred for a future meeting for those applicants requesting capacity.

11. Letter dated July 6, 2015 from Greg Riley, Esq., on behalf of Mark Hartman, in response to ***Sewer Capacity Analysis Questionnaire for The Farm, Block 36, Lot 48.***

Mr. Monaco stated that this project is currently under construction with two (2) buildings almost fully built out. Mrs. Allen added that the project is providing fifteen (15) Mt. Laurel units, an important asset to the Township.

*A MOTION* was made by Mrs. Allen to *make a recommendation to not request a return of sewer capacity*, seconded by Mr. Meglaughlin with a vote of ayes all, nays none recorded.

12. Letter dated July 7, 2015 from Stephen Perdue, President of Stropa, Inc regarding ***Consideration of Allocation of Sewer Capacity (Originally Request in March of 2007) for Block 9, Lot 12 in the Event Capacity Becomes Available.***

Mr. Monaco stated that this matter will be deferred for a future meeting for those applicants requesting capacity.

13. Letter dated July 8, 2015 from Richard Kaufman, Exec. VP & General Counsel, on behalf of Readington Holdings, LP, in response to ***Sewer Capacity Analysis Questionnaire for Whitehouse Plaza (WalMart), Block 14, Lot 49.***

Mr. Monaco explained that this was capacity recently granted to WalMart due to a failing septic system with no possibilities on their site to rebuild in a safe manner. Mrs. Allen added that another consideration for granting the capacity was the importance of the WalMart at that location for the convenience of the residents and giving WalMart the opportunity to remain viable through an expansion.

*A MOTION* was made by Mrs. Allen to *make a recommendation to not request a return of sewer capacity* for the reasons stated above, seconded by Mr. Meglaughlin with a vote of ayes all, nays none recorded.

14. Letter dated July 7, 2015 from Lloyd Tubman, Esq., on behalf of Paul Ferber & P. Shields Ferber in response to ***Sewer Capacity Questionnaire for Ryland Office Park LLC, Block 14, Lot 29, 29.02 and 29.03.***

Mr. Monaco stated that some capacity was given to the bank and Walgreens with a balance of 946 gallons remaining. Attorney Dragan added that she did not see anything in the plans for the future, nor did their response indicate any different.

*A MOTION* was made by Mrs. Allen to *make a recommendation to return the remaining 946 gallons to the Township*, seconded by Mr. Meglaughlin with a vote of ayes all, nays none recorded.

15. Letter dated July 3, 2015 from J. Douglas Orr, on behalf of DeMarco Brothers Stoneyard, ***requested Consideration for Sewer Capacity (originally appeared before Sewer Advisory Committee in January of 2012), Block 17, Lots 6.01 and 7.***

Mr. Monaco stated that this matter will be deferred for a future meeting for those applicants requesting capacity.

## **NEW BUSINESS**

1. ***Unused Sewer Capacity Holders***

- ***JoAnn & Wladyslaw Zacios (Block 28, Lot 13.01 / Kline Boulevard)***

Wladyslaw Zacios, owner of the property, stated this property is an improved building lot for one unit of sewer capacity, granted in 1985. Mr. Zacios stated that due to the failing septic system he was granted the capacity provided that he would hook up the lot to the sewer system, which he did. Mr. Zacios continued that there is no house on the property at this time since there was never a stipulation as to when the house would be built. Mr. Zacios maintained that he was put on the allocation list for the capacity solely for the purpose of ensuring there was capacity for the lot when calculating distribution of capacity. Mr. Zacios explained that it is his intention to build on the lot; although in the event he does not build in the next couple years, he plans to sell off the property to a purchaser who could build a house at that location. Mrs. Allen stated that since this property is already hooked up and has an approval that is conditioned on, would recommend the capacity remain with the property.

***A MOTION*** was made by Mrs. Allen to *make a recommendation to allow the property to retain the gallonage*, seconded by Mr. Meglaughlin with a vote of ayes all, nays none recorded.

- ***John & Jacqueline Cunha (Block 32, Lot 9 / Whitehouse Avenue)***

Mr. Cunha, owner of Block 32, Lot 9, stated that he had recently entered into an agreement with the Township to reserve sewer capacity and is currently in the process of getting plans to build a house. Mr. Cunha added that he also just started paying 1/3 of the sewer capacity usage fees and is moving forward with applying for the necessary permits.

*A MOTION* was made by Mrs. Allen to *make a recommendation to allow the property to retain the gallonage*, seconded by Mr. Meglaughlin with a vote of ayes all, nays none recorded.

- ***Ryland Developers, LLC (Block 14, Lots 29.02 & 29.03)***

Alexander Fisher, Esq., Mauro, Savo, Camerino, Grant and Chalk, on behalf of Ryland Developers, gave a brief history of the project approved for 300,000 sq. ft. of office space in 1998. Mr. Fisher stated that by virtue of the Permit Extension Act the approval is still in place and Ryland Developers purchased the 30,125 gallons assigned to the property in November of 2005 through the approval; authorized and approved by the Township Committee for the benefit of the proposed development. Mr. Fisher continued that subsequently Ryland Developers presented several potential alternative development projects to see if the Township was interested in something other than a 300,000 sq. ft. office building. Mr. Fisher maintained that the property was re-zoned about three years ago, resulting in Ryland Developers filing a lawsuit in August of 2009 and as a result of this lengthy litigation, the Township and Ryland Developers settled in principal the lawsuit in May of 2015. Mr. Fisher added that this settlement is contingent upon not taking back the sewer capacity until implemented; including the pending approval of a concept plan, an ordinance change, a final settlement agreement approved by the Township Committee. Mr. Fisher noted that during the pendency of the litigation, Ryland Developers filed an application with the Board of Adjustment for a 144 senior congregate care units and 101 assisted living units senior development on the property which was underway at the time of the settlement and is now stayed, pending all finalization of all the contingencies in the settlement. Additionally, Mr. Fisher stated Ryland Developers offered to provide 160 apartments units on the property with 20% set aside for affordable housing. Mr. Fisher stressed that the approvals and the sewer allocation agreement of 30,125 gpd are protected under the Permit Extension Act through the end of June 2016.

Mr. Monaco concurred that given the state that this property is in at this time, it would be wise to move forward, along with developer meeting some of the criteria that the court has ordered in terms of the imminence, the Permit Extension Act, length of time this has been in the process and being in the Township's best interest.

*A MOTION* was made by Mrs. Allen to *make a recommendation to allow the property to retain the gallonage*, seconded by Mr. Meglaughlin with a vote of ayes all, nays none recorded.

- ***Readington Commons II, LLC (Block 4, Lot 51)***

Alexander Fisher, Esq., on behalf of Readington Commons, stated that this project is substantially complete and there is currently sewer in use pursuant to permits and connections to the system. Mr. Fisher proceeded to give the completion status of the project which included a final major site plan approval in May 2001 to construct seven (7) office buildings and a 7,000 sq. ft. child care center. Mr. Fisher explained that from 2003-2011 Readington Commons completed three (3) of the office buildings and substantially completed the site infrastructure. Mr. Fisher provided a detailed list of completions for each of the eight (8) buildings, pointing out that much of the project has been completely built, all is connected to the sewer and construction is ongoing despite being deeply affected by the Great Recession.

The Committee concurred that with the extent of the ongoing construction, and in light of the fact that office construction was severely affected by the recession --- further delaying the project, the developer is responding to an improved economy and moving forward. Mr. Monaco opined that it would be reasonable to allow the gallonage to remain with the property. Mr. Meglaughin asked if there was an anticipated completion date and Mr. Fisher responded that a proposed completion of 2017 is very hopeful.

*A MOTION* was made by Mrs. Allen to *make a recommendation to allow the gallonage to remain with the property*, seconded by Mr. Meglaughin with a vote of ayes all, nays none recorded.

- ***Lot 3 Development LLC (Block 21, Lot 3)***

Dan Mueller, representing his wife the current owner of Block 21, Lot 3, stated that in 1986 Readington Mountain Associates was granted 5,000 gpd with an option of additional 2,500 gpd. Mr. Mueller continued that his wife's company Lot 3 Development purchased the property in 2002 as an investment and the transfer of sewer capacity was approved by the Township. Mr. Mueller explained that the property has not been developed, although they have a potential buyer for the property, contingent upon the availability of sewer capacity. Mr. Monaco requested clarification on the option for the additional 2,500 gpd. Attorney Dragan explained that it was her understanding that the 5,000 gpd were granted with a site plan application which was under a different zone in 1986. Engineer O'Brien confirmed that there is only allocation for 5,000 gallons. Mr. Monaco asked if the potential buyer was interested in developing within the current zoning. The proposed buyer, John Hisko,

was present to explain that his plan was to build a single family residence with a pole barn on the seven (7) acre property and agreed that 350 gallons would be sufficient. Mr. Monaco concurred that with granting the 350 gallons for the property in order to build the home, there is no reason to not take back the remaining 4,650 gallons.

*A MOTION* was made by Mrs. Allen to *make a recommendation to allow Lot 3 Development to retain 350 gallons of sewer capacity* in order to sell the property to a potential buyer to build a single family residence and *return the remaining 4, 650 gallons to the Township*, seconded by Mr. Meglaughlin with a vote of ayes all, nays none recorded.

- ***Merck Sharp & Dohme Corp. (Block 4, Lot 4.01, 49, 99, 100, 104 and Block 2.01, Lot 9)***

Christopher Stracco, Esq., Day Pitney LLP, on behalf of Merck, stated that Merck is probably the holder of the largest amount of unused capacity. Mr. Stracco addressed the qualifications (as submitted in a detailed report on file in the Clerk's office) that Merck would meet for the length of time Merck has possessed the unused sewer capacity, outlining the history of the approval and sewer agreements as they were granted. Mr. Stracco also cited various lawsuits against Merck and others to seize sewer capacity in addition to Great Recession allowing approvals under the Permit Extension Act.

Mr. Stracco stated that it is Merck's intention to move its headquarters from the Township and sell the properties and other property, subject to the reserved capacity, which it no longer plans to complete. Mr. Stracco announced that Merck entered into a contract for sale of the properties in March of 2015 and further stated the purchaser indicated that he intends to use all available used and unused capacity at the site. Mr. Stracco stated that contract with the buyer is not a contingent contract and therefore closing on this property in the next several months is expected.

Mr. Stracco also laid out the importance of the project to the community including incorporating and continuing to utilize the existing improvements of the property, maintaining the Township's tax base and providing jobs and economic development. Mr. Stracco added that the purchaser's proposed development would help the Township meet their affordable housing obligations.

Attorney Dragan clarified with Mr. Stracco the gallonage by block and lot with the DEP design requirement and questioned once the buildings are built, is the Township required to go by DEP design or with metering of the sewer flow. Attorney Dragan stated that she is trying to determine how much gallonage the purchaser is requesting to be transferred. Mr. Stracco responded that he would expect that the buyer would be looking for the entire 211,900 gpd. Mrs. Allen maintained that the historic use of the building is not relevant to the future use, therefore it would not be up to the Committee to review the historic use, especially since the ownership will change, with regard to looking at the DEP requirements. Mr. Stracco reiterated that the sale of the property could be comprised by the taking of the sewer capacity and also stressed the approval of the Permit Extension Act until June 2016.

Mayor Allen concurred that the court requested the Township to analyze what each holder has and opined that is what should be reviewed, countering that the DEP analysis should be used for conversion rather than past history. Attorney Dragan also gave a history of the extension of the preliminary approvals and pointed out that the applicant received a ten year extension and questioned why the Township would also not extend the sewer agreement in that circumstance. Mayor Allen summarized that based on the information that has been provided for what is currently on the site, using gallonage with the exception from the applicant on the 3,000 gallons for the buildings that service a couple of employees, and the description of what was given a ten (10) year approval in 2008 (900,000 sq. ft. office space); and based on the DEP conversion numbers bringing the total to approximately 211,900 gallons per day in addition to the Permit Extension Act extending both the sewer agreements and the approvals for the office building in 2008, she would recommend that the gallonage remains with the property.

*A MOTION* was made by Mrs. Allen to *make a recommendation*, based on the facts provided that Merck Sharp & Dohme Corp., *to retain the gallonage with the property*, seconded by Mr. Meglaughlin with a vote of ayes all, nays none recorded.

- ***Wilmark Building Contractors / Mountain Woods Subdivision (Block 4, Lot 57)***

Greg Riley, Esq., on behalf of Wilmark Builders, stated this proposed project is a four (4) lot subdivision, given preliminary approval in 2008, and although they did have an allocation of capacity of 350 gallons for the one lot, were denied capacity for the additional three (3) lots. Mr. Riley

explained that delay was encountered due to percolating of the property and soil logs in addition to being under the Permit Extension Act. Mr. Riley continued that, at this point the application is pending final approval on July 23<sup>rd</sup> and will be moving forward. Mr. Riley added that they are still looking for additional capacity for the remaining three (3) lots.

Mr. Monaco concluded that the Committee could grant the 350 gallons that is currently in place and would defer the request for additional gallonage until it is determined by the Township Committee what capacity will be available for future use.

*A MOTION* was made by Mrs. Allen to *make a recommendation*, since it is anticipated that the gallonage will be used very shortly and the use complies with the zoning, *to allow the property to retain the 350 gallons*, seconded by Mr. Meglaughlin with a vote of ayes all, nays none recorded.

- ***Bellemead Development Corporation (Block 2.01, Lots 9.01 & 11)***

Glen Pantel, Esq., Drinker Biddle and Reath, on behalf of BelleMead Development Corporation, stated that a detailed report (on file in Clerk's office) was submitted to the Committee. Mr. Pantel addressed the history of Belle Mead's timeline for holding the unused sewer capacity, highlighting the various agreements and approvals in place. Mr. Pantel maintained that between the prolonged litigation challenging Belle Mead's sewer capacity agreements and the economic emergency, recognized by the Permit Extension Act, it was virtually impossible to proceed with the development. Mr. Monaco confirmed with Mr. Pantel that Belle Mead is still interested in developing the project in accordance with the approval that it received. Mr. Pantel further stressed the relative importance of the project by generating ratables to the Township and creating a significant number of jobs. Mr. Pantel summarized that it is Belle Mead's desire to continue and succeed in its efforts and opined that it is more than reasonable to allow Belle Mead to do that with their capacity.

Mrs. Allen asked Mr. Pantel to provide the history of the preliminary approval. Mrs. Allen summarized that based on the credible testimony, that the project and the sewer agreements are covered by the Permit Extension Act carrying it to at least June of 2016, an extended preliminary approval, that construction of the project would be in the Township's best interest by generating a substantial COAH contribution and an important ratable for the Township and be built in accordance with the approval that was given, would recommend that Belle Mead be allowed to retain their gallonage.

*A **MOTION** was made by Mrs. Allen to make a recommendation that the gallonage remain with the property, seconded by Mr. Meglaughlin with a vote of ayes all, nays none recorded.*

*Mr. Monaco stated that based on Attorney Dragan's report there are Holders of Unused Sewer Capacity that did not reply to the questionnaire and were not listed on the agenda; however should be reviewed. Attorney Dragan stated that these holders were named as defendants in the lawsuit and the Committee reviewed the following list:*

- ***Rolf Ackerman (Block 4, Lot 77, 77.01 & 77.02)***

Attorney Dragan explained that these three lots were sold off to three (3) individual buyers and all are currently built out and online.

*A **MOTION** was made by Mrs. Allen to make a recommendation to not request any return of gallonage for the following Block 4, Lots 77, 77.01 and 77.02, seconded by Mr. Meglaughlin, with a vote of ayes all, nays none recorded.*

- ***Valley National Bank (Block 14, Lot 29)***

Attorney Dragan stated that the property is currently the Ryland Inn property which at one point was owned by the Valley National Bank. Engineer O'Brien stated that Phase I(a) of the project is built out but they have several other phases in construction. Mrs. Allen added that they just received preliminary approval for phases 2-4 and the other phases will build out the project using the gallonage.

*A **MOTION** was made by Mrs. Allen to make a recommendation to not request the owner to return the gallonage, seconded by Mr. Meglaughlin with a vote of ayes all, nays none recorded.*

- ***Winfield Management (Block 8, Lot 3)***

Mr. Monaco stated that this project is completely built out and occupied.

*A **MOTION** was made by Mrs. Allen to make a recommendation that the gallonage remain with the project, seconded by Mr. Meglaughlin with a vote of ayes all, nays none recorded.*

- ***Whitehouse Athletic (Block 21.12, Lot 94)***

Attorney Dragan stated that they were included in the allocation; however there was never a signed agreement nor was there any payment for any allocation, therefore recommended that the allocation be returned to the Township.

*A MOTION* was made by Mrs. Allen to *make a recommendation that* since the capacity is not being utilized at the present time *the allocation of 350 gallons be returned to the Township*, seconded by Mr. Meglaughlin with a vote of ayes all, nays none recorded.

- ***Tom Jr. Property (Block 36, Lot 7)***

Mrs. Allen stated that they received preliminary approval for four (4) houses which would require 1,400 gallons therefore it would seem appropriate to return the remaining 1,050 gallons.

*A MOTION* was made by Mrs. Allen to *make a recommendation that the balance of 1,050 gallons be returned to the Township*, seconded by Mr. Meglaughlin with a vote of ayes all, nays none recorded.

2. ***Requestors of Sewer Capacity (Denied) from 2010-2000***

Mr. Monaco stated that the matter of *Requestors of Sewer Capacity (Denied)* will be deferred to a future meeting.

- ***SR I (Block 36, Lots 5. 5.02 and 5.04 / Interstate Iron Works Site)***  
Requesting 100,000 gallons of sewerage capacity
- ***Paul Weigand (Block 5, Lot 8)*** Requesting sewer capacity for the development and use of property located at 16 Central Avenue as a four bedroom single family dwelling
- ***Steven and Susan Albrecht (Block 36, Lot 13 / 39 School Road)***  
Originally requested sewer capacity for addition to home

***ADJOURNMENT:***

As there was no further business, ***A MOTION*** was made by Mr. Meglaughlin to adjourn at 8:55 p.m., seconded by Mrs. Allen with a vote of ayes all, nays none recorded.

Respectfully Submitted:

Karin M. Parker, *RMC*  
Sewer Advisory Secretary