

CONFIDENTIAL

MINUTES OF THE CLOSED SESSION MEETING
OF THE COUNCIL OF THE BOROUGH OF RINGWOOD,
HELD 9:00 P.M., ON WEDNESDAY, DECEMBER 29, 1993,
AT THE VIOLET E. BOGERT MUNICIPAL ANNEX,
60 MARGARET KING AVENUE, RINGWOOD, NEW JERSEY

The Council, at its Regular Meeting of December 29, 1993, adopted Resolution #93-402, to adjourn into Closed Session, at 9:00 p.m., at the Violet E. Bogert Municipal Annex, 60 Margaret King Avenue, Ringwood, New Jersey, to discuss the matter of Ringwood Acres Homeowners Association vs. Borough of Ringwood, et al.

Present on roll call: Councilmen Casaleggio, Davison, Holt, Larsen, Schwesinger and Serafini. Councilman Busino was absent.

Also present: Borough Clerk/Borough Manager Kathleen D. Cenicola, Borough Attorney Clemack, Borough Engineer Haack, Borough Auditors Charles J. Ferraioli and James Cerullo and Councilmen-Elect Heck and Taukus.

The proposed settlement agreement prepared by RAHA Attorney Jemas was discussed at length with the Council. (Attached)

The key to the settlement is Page 2, paragraph 2 that a \$1,200 user fee be established for 1994, 1995 and 1996.

Page 3 - Adjustments to the user fee was discussed and the increase to the Operation and Maintenance costs. If the Treatment Plant is not incorporated into the Regional, 1996 will be the base year and user fees will be adjusted either by the number of users or the percentage increase to the CPI.

The key problem Page 4, paragraph D which was never discussed. RAHA does not want to pay any sewer hookup fees or charges if the Borough does incorporate into the Regional.

RAHA is concerned that they will be charged a second time.

The Council could consider a connection fee limited to those properties not on any active system.

It was discussed that the last two sentences of Paragraph D could be omitted.

As to Operation & Maintenance Costs, the CPI would be RAHA's protection.

RAHA wants no capital costs to be included in the sewer fee.

RAHA's definition of costs G Page 5 can be amended to except the amount debt service now included in the \$1,200 per year user fee.

At this point in the meeting RAHA representatives, Messrs. Rick Kennedy, Chuck Lesnick, Shaun O'Regan and Robert Cardone joined the meeting and discussed the proposed settlement with the Council.

RAHA wanted amendments to Page 4 (D) by leaving in the first and second sentences and deleting the balance of the paragraph. However, Attorney Clemack said this could go against the Borough because it is vague and there would be no reference at all.

Page 5 (G) states that Operation and Maintenance costs would not include capital improvements. It was suggested to cancel both since RAHA's protection is CPI.

Discussion ensued regarding Operation and Maintenance vs. capital improvements or maintenance.

RAHA Representative Kennedy said the goal of RAHA is to avoid any artificial charges to sewer department.

Auditor Ferraioli discussed the user fees and examples given in the proposal.

Further discussion ensued regarding replacements of parts and maintenance replacements.

Attorney Clemack stated that replacement parts and equipments shall not be deemed a capital cost necessary for the operation of the plant.

Page 4 (D) must be clarified. This agreement will terminate when hook up to the Regional occurs, or the plant fails?

The RAHA Representatives needed input from their Attorney concerning language, and upon telephone communication with Attorney Jemas, there was concern with the language in Paragraph (D) which is not binding, but intention or contemplation.

The RAHA Representatives left the Closed Session meeting at 10:10 p.m.

The Council Members present concurred with the negotiations as discussed.

A copy of Attorney Jemas' letter and the proposed Settlement Agreement are attached as part of these Closed Session minutes.

There being no further Closed Session discussion on this matter, on motion of Councilman Davison, seconded by Councilman

Larsen, and on roll call carried, the Council moved out of Closed Session and back on the public record of the Regular Meeting at 10:13 p.m.

The Council, at its Regular Meeting of December 29, 1993, adopted Resolution #93-409, to adjourn into Closed Session, at 12:18 a.m., December 30, 1993, to discuss the following matters:

- A) Negotiations with the Ringwood Guild, a collective bargaining matter;
- B) PBA Negotiations regarding retirement and modifications to the PBA Agreement, also a collective bargaining matter;
- C) Wanaque Valley Regional Sewerage Authority vs. Ringwood et al, a litigation matter.

Present on roll call: Councilmen Casaleggio, Davison, Holt, Larsen, Schwesinger and Serafini. Councilman Busino as absent.

Also present: Borough Clerk/Borough Manager Kathleen D. Cenicola, Borough Attorney Clemack, Borough Auditor Charles J. Ferraioli, Auditor James Cerullo and Councilman-Elect Heck and Taukus.

B) PBA Negotiations regarding retirement and modifications to the PBA Agreement - Of the seven eligible officers for early retirement, the only way the Borough would consider extending the proposal is if it nets down to two police officers. With the problems brought to light, the PBA did agree to an addendum to the contract for Early Retirement Incentive Replacements. The PBA is opposed to a tier system.

There being no further discussion on this item, at 12:33 a.m., on motion of Councilman Holt, seconded by Councilman Schwesinger, and on roll call carried, the Council moved back into open session.

The Council moved back into Closed Session at 1:15 a.m., December 30, 1993 to discuss the following:

C) Wanaque Valley Regional Sewerage Authority vs. Ringwood et al, a litigation matter.

Present on roll call: Councilmen Casaleggio, Davison, Holt, Larsen, Schwesinger and Serafini. Councilman Busino as absent.

Also present: Borough Clerk/Borough Manager Kathleen D. Cenicola, Borough Attorney Clemack, Borough Auditor Charles J. Ferraioli, Auditor James Cerullo and Councilman-Elect Heck and Taukus.

The guarantee provision shall be reiterated. There shall be no mandatory hookup provision. The Regional will reserve capacity

for 600 EDU's for that period of time and we may elect to take six or eight, but we are reserving 600 for seven years and that will give us credits. It does not matter if we take none. There is no penalty.

This would be subject to a Service Agreement being worked out between the Borough and the Authority within one year of this Agreement. It is similar to what RBSA had with the Authority. So long as nothing is mandatory, there should not be a problem and we must make clear that non-mandatory continue throughout this Agreement and any Service Agreement so that they do not hold Ringwood up with a Service Agreement because there was no mandatory clause. We must make clear in the Service Agreement that nothing is mandatory and the Regional will reserve EDU's. This must carry into the Service Agreement and i.e. the reserve credit and non-mandatory right to tie in.

Rates will be by law. Connection fee will be free since there is a potential for over subscription we do not have an idea what any additional capacity would cost.

The Council will authorize its Professionals to proceed to attempt to finalize a Settlement Agreement with Representatives of the Regional.

There being no further discussion of the matter, the Council on motion Councilman Holt, seconded by Councilman Serafini, moved out of Closed Session and back on to the record of the Regular Meeting, at ? a.m.



GILES W. CASALEGGIO, MAYOR

KATHLEEN D. CENICOLA, RMC/CMC
BOROUGH CLERK/BOROUGH MANAGER

Approved: August 24, 1994

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VIA TELECOPIER (201) 838-9419

December 15, 1993

Richard J. Clemack, Esq.
D'Angelo & Clemack, Esqs.
1395 Route 23
Butler, New Jersey 07405

Re: Borough of Ringwood v. Ringwood Borough
Sewerage Authority et al.
Docket No. C-184-92

Dear Mr. Clemack:

In furtherance of the RAHA Executive Committee's discussions and negotiations with the Mayor and Council (collectively the "Governing Body"), the RAHA Executive Committee presented the proposed settlement arrangement to the users of the James Drive Sewage Treatment Plant (the "STP") on Sunday, December 5, 1993. As we discussed, I am pleased to inform you that the users of the STP (collectively the "RAHA Membership") approved of the settlement proposal. Accordingly, I am in the process of preparing a settlement agreement for your review and approval.

It is my understanding that the Governing Body will consider and introduce an ordinance this evening for the purpose of establishing an annual user fee consistent with the settlement arrangement detailed below. Pursuant to our discussions in this matter, it is anticipated that a majority of the members of the Governing Body will take such action as is necessary to introduce the annual user fee ordinance and any resolution which may be necessary and appropriate to agree to and memorialize the acceptance of the settlement.

The purpose of this letter is to confirm the terms of the settlement arrangement between the RAHA Membership and the Governing Body. I believe that the following accurately memorializes the understanding.

RAHA letter

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Richard J. Clemack, Esq.
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1. The Governing Body will establish an annual user fee effective January 1, 1994 in the amount of \$1,200.00 to be paid by each RAHA STP User (the "Annual User Fee").

2. The Annual User Fee will remain constant for the years 1994, 1995 and 1996 inclusive or until the STP is incorporated into the Regional Sewage Treatment facility (the "Regional"), whichever is the earlier to occur.

3. If the RAHA STP is not incorporated into the Regional then, commencing with the year 1997 and for each calendar year thereafter, the Annual User Fee may be adjusted by the lower of the following two (2) items:

(a) the increase in the preceding year's operation and maintenance ("O&M") costs for the RAHA STP divided by the number of RAHA STP users; or

(b) the percentage increase in the applicable Consumer Price Index ("CPI") between the preceding year and the adjustment year, as such percentage increase is applied to the preceding year's annual user fee.

4. If the RAHA STP is incorporated into the Regional, the new annual user fee will be established based upon the Regional costs and applicable local utility operation and maintenance costs in accordance with standard governmental accounting principles. It is further understood that if the RAHA STP is to be incorporated into the Regional, it is contemplated that any capital improvements would be funded through third party non-governmental sources.

5. For the purpose of the following example, please assume the following: in 1997 the RAHA STP is not incorporated into the Regional; the O&M costs for 1996 are \$100,000.00; the O&M costs for 1997 are \$105,000.00; in 1997 the RAHA STP has 110 users; and the CPI increase in 1997 over the base year of 1996 is three (3%) percent. In such instance, the O&M cost increase of \$5,000.00 is divided by 110 (RAHA STP users) which equals an increase of \$45.45 in the O&M cost per RAHA STP user. The increase of \$45.45 is then compared to the CPI adjustment for the same period. Accordingly, the CPI increase of three (3%) percent is applied against the 1996 Annual User Fee of \$1,200.00 which equals \$36.00. In such example, the new annual user fee for the year 1997 could be \$1,236.00.

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6. Extending the example into 1998, please assume the following: the 1997 Annual User Fee is \$1,236.00; the O&M costs for 1997 are \$105,000.00; the O&M costs for 1998 are \$110,000.00; there are 110 RAHA STP users; the increase in the CPI from 1997 to 1998 is ten (10%) percent. Once again, the increase in the O&M costs of \$5,000.00 will be divided by 110 which equals \$45.45. The increase in the CPI applied against the Annual User Fee of \$1,236.00 equals \$123.60. Accordingly, the new annual user fee for 1998 could be \$1,281.45 (\$1,236.00 + \$45.45).

7. The O&M costs will be established in accordance with standard governmental policies and practices as well as standard governmental accounting principles. It is understood that O&M costs do not include capital improvement costs, including debt service attributable to same.

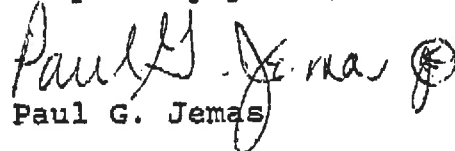
8. Any RAHA STP user whose account is presently in arrears will not be required to pay any penalty provided that the RAHA STP user pays any and all arrearages and brings his or her account current on or before the close of the Borough's business day on Friday, December 31, 1993.

In accordance with our discussion, I would appreciate your presenting this matter to the governing body for its approval. It is suggested that the governing body consider approving the settlement arrangement subject to a written settlement agreement being approved by the Borough Manager and/or Borough Attorney. I anticipate that you will be in receipt of the proposed draft of the settlement agreement on or before Monday, December 20, 1993. I am confident that we will be in a position to quickly resolve the language of the settlement agreement and present the document to our clients for execution.

If, for any reason, there is a need to speak with me this evening, please feel free to contact me at 201-642-3803 or 201-228-0807.

Thank you for your cooperation in this matter.

Very truly yours,


Paul G. Jemas

PGJ/jjs

cc: Mr. Charles Lesnick
Mr. Thomas McEneny (by telecopy)
Mr. Richard Kennedy (by telecopy)

Dictated but not read