

A Brief POA Background Regarding Building of Sewer Plant and Subsequent Actions

Progressive failure of certain POA amenity septic systems, the additional need for new sewage disposal systems for 17 cabins, concern for future failure of those and residential systems abutting our Lakes, and failure of the POA to successfully negotiate sewer services through City, County, or Local utility districts a few years back, caused the POA to research the option of a POA owned and operated sewer plant.

A study and proposal from Environmental and Civil Engineering Services (ECE) indicated a sewer plant with discharge into Lake Hiawatha as an environmentally and economically sound solution.

Search for funding of a Tansi area sewage system came with counsel that privately held ownership would allow better access for state and/or other grants than ownership by the POA. TWMI was formed.

New and continued septic system failures at RCI further added concern as to immediacy of need for a permanent solution.

TWMI's promise of payment from funding within first year after building of the proposed sewage plant, and State permitting for that endeavor, encouraged the POA to secure a loan to initiate building of the ECE proposed system. A promissory note from TWMI brought about transfer of funds to TWMI on an as built basis.

The building of the Tansi Sewer Plant was to have been a three stage development plan, over many years, and was based on a State permit for an ultimate 300,000 gallon per day facility.

After the initiation of the first phase, for reasons which are most important but beyond the scope of this background, the offer of funding which TWMI reportedly had planned to use in reimbursing the POA was withdrawn. This ultimately resulted in TWMI's apparent inability to repay the POA.

Before legal action of financial recovery for POA toward TWMI could be completed, the County (Cumberland) formed a public utility, TSUD; those arrangements brought about delivery of the sewer system ownership, as well as the transfer of greater than \$100,000 that was remaining in funds from POA loans to TWMI, over to TSUD.

Subsequent State Environmental and Conservation Department decisions later resulted in a reduction in the ultimate flow for the sewer facility, from the original 300,000 gpd, to 50,000 gpd. Additionally, with that determination, any joining onto of the sewer facility was reportedly denied to further applicants who might have wanted or needed to have use of its services.

These actions culminated in (1) a TSUD run sewer system with only approximately 10 customers, (2) the apparent inability of TSUD to find funding monies due to capacity issues, (3) unlikelihood of repayment to the POA, and (4) the continued depletion of the \$100,000 that had been transferred from TWMI to TSUD.

Other Considerations

It is, and for years has been, the input of state agencies we deal with regarding our water usage and wastes that related local and state requirements are only going to become more stringent with time.

State representation continues to relate concerns that certain areas of Lake Tansi Village are rapidly approaching the need to better address those issues. That viewpoint is supported by the state's encouragement that, absent City, County, or other public utility offerings, the sewer facility currently operated under permit #TN0080411 will not be allowed to be sold to any party that would dismantle or otherwise cause discontinuation of those services.

Other services through the City, County or other public utility offerings are still not available.

POA has invested in excess of \$1.7 million in sewer plant and infrastructure and is paying and still owes approx. \$700,000 in sewer bank loans on that investment.

Additionally, the POA currently pays greater than \$40,000 annually for sewer service to TSUD. Without some means of avoidance, a minimum rate increase of 83% will be necessary next year to maintain state required regulations for the public utility to operate. It has been reported that even this increase will not resolve the issue.

TSUD cost of operation for the Sewer Plant has grown from approximately \$120,000 first year to \$180,000 in 2014. TSUD financials for 2014 show a loss of \$69,000. There is also the need of an additional \$50,000+ every 7 to 10 years to replace the filter membrane from normal wear.

Work done by Field Engineering Services, earlier this year, reduced influent from RCI (one of TSUD's customers) to the sewer system significantly, especially in rainy weather. While this might reduce RCI's annual costs due to flow, under present permit restraints this will only increase annual loss for TSUD or whoever owns and operates the sewer plant.

It was and still is the general consensus of the current POA Board that private or public utility ownership of the sewer plant would allow more access for funding, allow ownership and operation by those in sewer business proper, and in general offer the best opportunity for the POA to receive compensation for its initial investment through TWMI. That consensus assumes arrangements could be made with TSUD or a new owner toward those considerations.

The initial surprise of withdrawal of funding grants offered to TWMI, followed by TSUD's later inability to acquire such grants, appears to confirm statements by once interested parties that the Division of Water Resources' intent and ultimate reduction of the sewer system's permitted flow from 300,000 gpd to 50,000 gpd has rendered ownership of the sewer plant undesirable and operation of the system at any reasonable customer rate structure most financially difficult.

Meanwhile, whether this Board (looking back) would have taken the same actions, a past POA Board made decisions based on State permitting that has since been changed for reasons unrelated to any non-compliance issues but rather for questions of accuracy related to the study that was used by the State in establishing the original permitting. It was the provisions provided in that original 300,000 gpd discharge permit that allowed our past Board to make their investment decisions.

TSUD counsel, on at least two earlier occasions this year has asked that we or someone else take ownership of the sewer facility. Counsel from the State Attorney General's Office has suggested POA ownership as the best available alternative. There are both positive and negative circumstances that would cause that action to be proper or necessary on the part of the POA.

Our POA Board and Staff have spent the better part of this year gathering information related to permit status, its transferability, operational costs, liability concerns, and our association needs. During that time no viable candidate has indicated interest, nor made an offer of purchase of the system.

We have engaged in conversations and have been pleased with response to questions from the state environmental and conservation representative Wade Murphy regarding willingness of that department to work with the POA should the POA take title to the sewer system. Those interchanges as well as communication with Gil Geldreich of the State Attorney General's Office have given us comfort to continue consideration of reacquisition of the sewer plant.

The continued efforts and patience of the Bankruptcy Trustee, John McLemore, have allowed the POA time to evaluate and determine that it both needs sewer service and can most likely have those services at the least cost through POA ownership of the facility. That determination has been made with the understanding that there is currently no viable alternative whereby the POA could retrieve any significant part of its investment and be reasonably assured that community property owners would not somehow be mandated to abutment requirements.

Through the Division of Water Resources, the POA has requested and received permit application paperwork to apply for transfer or modification of permit # TN0080411. That paperwork is being completed and should be submitted with necessary requirements for evaluation within the next few weeks.

Finally, the Bankruptcy Trustee's office has been notified of the POA's intent to bid for ownership of the sewer facility through the bankruptcy court. It is hoped that this bid will result in LTVPOA ownership of the sewer facility and that this can be accomplished as cash neutrally for the LTVPOA as might be possible, considering the attended circumstances.

Respectfully,
Farrell Odom
LTVPOA /President