

**MINUTES**  
**LOWER SWATARA TOWNSHIP MUNICIPAL AUTHORITY**  
**MARCH 23, 2009**

Chairman Gingrich called the Regular meeting of the Lower Swatara Township Municipal Authority to order at 7:30 P.M. The record indicated the following officials in attendance:

- James R. Gingrich, Chairman
- James R. Brokenshire, Vice Chairman
- Charles A. High, Secretary
- Donald Martino, Asst. Secretary/Treasurer
- Matthew D. Cichy, Engineer
- Peter R. Henninger, Solicitor
- Ronald J. Paul, Township Manager
- Darlene Stoudt, Recording Secretary

Absent: Richard W. Wilkinson, Treasurer  
Leslie A. LaVia, Recording Secretary

Others in Attendance: Frank Linn, David Tshudy, David Bozak,  
John Snyder

Chairman Gingrich opened the floor to David Tshudy an attorney representing the Emerald Pointe developers (Highspire Road Town House Project). The developers are requesting twenty-five (25) additional EDU's for the project. The Authority granted 124 EDU's initially and special capacity fee of \$1,000 per EDU (\$124,000) has been paid to the Authority. The Municipal Authority of Lower Swatara Township recently proposed a capital contribution fee to the developers for the additional EDU's, however; the Emerald Pointe developers believe the Authority's proposed capital contribution fee is unfair.

Emerald Pointe requests a capital contribution of \$189,975. Subtracting the \$124,000 previously paid, the developers would pay \$49,975 (149 EDU's x \$275.00) plus \$25,000 (\$1,000 special capacity fee x 25 EDU's). A three page report prepared by the developers was distributed to the Board for their review.

Chairman Gingrich stated that capacity at the Highspire Plant is now an issue due to several new projects and analysis performed in order to calculate the capital contribution cost. Mr. Henninger stated that if the Emerald Pointe developers came before the Board today requesting the capacity for the project, the request would most likely be denied due

to the recent proposed developments and the Chesapeake Bay Regulations at the plant. It is Mr. Henninger's opinion that the special capacity fee is not illegal since Emerald Pointe is located in Swatara Township.

Mr. Tshudy stated that capacity is the only issue holding up the project. Chairman Gingrich stated that the Board will discuss the developer's capital contribution request and inform the developers of their decision.

Mr. Brokenshire, seconded by Mr. Martino, made motion to approve the February 23, 2009 Minutes. The motion was unanimously approved.

**Engineer's Report:** Mr. Cichy distributed his monthly written report. HRG continues to review shop drawings for the Farr Pump Station upgrade. Field work is scheduled to begin the week of March 30, 2009 and the project should be completed by May 2009.

Mr. Cichy stated that he is waiting for written correspondence from Derry Township Municipal Authority regarding approval of metering the discharge from York Building Products located on Fulling Mill Road. York Building Products would like to connect to the sanitary sewer system and purchase capacity based on their discharge amount and not their water usage.

Mr. Paul stated that Emerald Pointe has planning module approval for the 124 EDU's but planning module approval for the additional twenty-five EDU's cannot be granted until there is an agreement in place with the Authority. Question was raised if the special capacity fee is listed in the Fee Resolution.

After some discussion, it was suggested that a counter proposal be presented to the Emerald Pointe developers of \$99,500 (\$1,500 x 149 EDU's less \$124,000 previously remitted) for the additional capacity. The developer has options should the Authority deny the additional twenty-five (25) EDU's: The developer could use their original plan of 124 town houses although the developer stated it is not economically feasible to proceed with the 124 town house project. It was noted that the entire flow could be pumped to Swatara Township and the \$124,000 refunded to the developer should the developer not accept the new proposal. Mr. Henninger's stated that the Authority is under no legal obligation to grant the developer additional EDU's. Mr. Henninger will contact the developer with the counter proposal.

Mr. Cichy reported that the Commonwealth does not have the money in the budget yet for the H2O grants.

**Solicitor's Report:** Mr. High, seconded by Mr. Martino made motion to approve the proposed Middletown Treatment Agreement. The motion passed by a 3-1 vote with Mr. Brokenshire voting nay.

Mr. Brokenshire, seconded by Mr. Martino, made motion to approve Mr. Henninger proceeding with petitioning the court to administer the Estate of Donna Lauck. The motion was unanimously approved.

Approximately \$10,000 is owed to the Authority in sewer user charges plus interest and legal fees on the Lauck property. Settlement is scheduled for tomorrow for the former Mecca property. Biller, Sauder and Kelly are bankruptcies and Mr. Henninger stated that the Authority should be receiving some payments on those sewer accounts. Mr. Henninger stated that he would check with Ms. LaVia but it appears at least four properties should be liened for unpaid sewer charges. The Authority's policy has been to lien properties when the balance is one year in arrears (around \$500.00). Mr. Henninger informed the Board that he sent a letter to the attorney representing the Gloria Goodwin Estate regarding property at 105 Wyoming Avenue. There is a past due balance on the sewer account for that property.

Mr. Brokenshire, seconded by Mr. High, made motion to approve the contract for Miller/Warner Contracting, Inc, for the Lumber Street repair project. The motion was unanimously approved.

**Manager's Report:** Mr. Paul reported that there is 300 feet of sewer line on Fifth Street that needs replaced and also a 270 foot section that is in need of upgrades. Penn State was notified about the sewer line upgrades.

Mr. High, seconded by Mr. Martino made motion to approve the March expenses of the Sewer Revenue Fund in the amount of \$127,167.26. The motion was unanimously approved.

Mr. Brokenshire informed the Board that the permit for the Highspire Plant upgrade was approved. There were sixteen contractors at the pre bid conference. Bid opening is scheduled for April 9, 2009 at Rettew Associates. Highspire would like construction to start in May. Highspire Borough Authority hopes to hear from Pennvest in April and

CFA in May. Bond Counsel will be attending the May meeting of the Highspire Borough Authority to discuss financing. Mr. Henninger stated that once the Highspire plant upgrade bid results are known, Daryl Peck with Concord Public Finance should be contacted.

Mr. Cichy informed the Board that equipment used in the Chesapeake upgrade projects is to be made in the USA. This requirement could delay projects. Mr. Brokenshire wrote letters to Representative Payne and Senator Piccola regarding Pennvest and CFA funding for the Highspire and Middletown plant improvements.

The next meeting is scheduled for April 27, 2009. Hearing no further business, Mr. Brokenshire, seconded by Mr. Martino made motion to adjourn. The motion was unanimously approved and the meeting adjourned at 8:38 P.M.

ATTEST:

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Leslie A. LaVia  
Recording Secretary