

MINUTES

SPECIAL JOINT MEETING OF THE BOARD OF COMMISSIONERS AND MUNICIPAL AUTHORITY -- JANUARY 18, 2017

The January 18, 2017 Special Joint Meeting of the Lower Swatara Township Board of Commissioners and Municipal Authority was called to order at 6:00 P.M. by President Jon G. Wilt. President Wilt called for the pledge of allegiance and a moment of silence.

Roll call was taken with the following officials in attendance:

- Jon G. Wilt, President
- Laddie J. Springer, Vice President
- Michael J. Davies, Assistant Secretary
- Todd F. Truntz, Commissioner
- Benjamin C. Hall, Commissioner
- Frank E. Williamson, Public Safety Director/Assistant Manager
- Jean R. Arroyo, Secretary
- Robert S. Greene, Planning and Zoning Coordinator
- Peter R. Henninger, Solicitor
- Erin G. Letavic, HRG, Township Engineer
- Richard Wilkinson, Municipal Authority Board
- Daniel Magaro, Municipal Authority Board
- Scott Spangler, Municipal Authority Board
- John Weikle, Municipal Authority Board
- Lester Lanman, Municipal Authority Manager
- Matt Cichy, HRG, Municipal Authority Engineer
- Adrienne Vicary, HRG

Absent:

- Terry L. Kauffman, Interim Manager

Residents and visitors in attendance: (PLEASE SEE ATTACHED SIGN-IN SHEET)

Mr. Williamson stated the purpose of the Special Joint Meeting is to discuss stormwater management "MS4" issues. Lower Swatara Township, like all municipalities, is facing significant funding challenges to take care of all the stormwater related issues. Several of the surrounding municipalities have enacted a fee. The Township is also exploring this, but it will be a lengthy 18-month process. This fee would be a Municipal Authority fee for taking care of the stormwater. HRG was asked to provide a presentation on this tonight for both the Board of

Commissioners and the Municipal Authority. Mr. Williamson turned over the floor to Ms. Letavic.

Ms. Letavic explained that generally speaking, stormwater runoff comes off the rooftops and the driveways. Within this Township, there are rooftops and driveways that drain directly to the stormsewer system, and others that drain to detention basins, and ultimately make it to the creek. Basically, these are the two stormwater scenarios that are collection systems, each having different issues and associated costs. For the stormwater runoff that makes it to the street, there are long term operation and maintenance expenses and aging infrastructure expenses due to the piping systems, some that are over 30 years old. For newer developments that have stormwater runoff that goes to detention basins, that water still makes it to the creek and still creates a potential water quality issue. The Township has a lot of infrastructure to manage. It also has a water quality permit to manage, which has its own expenses including staff time. In a general sense, the Township has some long term concerns that it wants to address. It wants to implement a meaningful program, meet the regulatory requirements associated with the water quality permit, and ascertain that the piping systems and road systems are in good shape.

Ms. Letavic noted that Matt Cichy from HRG, who is the Municipal Authority engineer, is also here tonight along with Adrienne Vicary. Ms. Vicary explained that her background and experience is in water, wastewater and stormwater engineering, and she also manages the financial services group of HRG. She added that she has been spending a lot of time the last few years with Pennsylvania clients to help them determine if charging a stormwater fee and establishing a stormwater authority (SWA) is the right thing for them in meeting the goals of their communities. Ms. Vicari explained that she is here tonight to assist in discussions about the next step for Lower Swatara Township. Ms. Letavic agreed that the purpose tonight is to educate everyone on what a fee might look like and the process in putting one together, and addressing questions and concerns that everyone may have.

Ms. Letavic reported that stormwater utilities and authorities are a growing trend in Pennsylvania and across the country. There are over 1,800 stormwater utilities/authorities in the U.S. They have continued to grow over the past five decades due to increased regulations and significant precipitation events, such as Tropical Storm Lee in this area. Enabling legislation in Pennsylvania was passed in 2013, and Lower Swatara took advantage of this by revising the Municipal Authority bylaws to include stormwater. There were, however, no fees created.

Solicitor Henninger added that the Municipal Authority cannot use sewer funds for stormwater, so all stormwater related activity is paid by the Township.

Ms. Letavic summarized that drivers for considering a SWA include tightening regulations for MS4, aging infrastructure, increased development which increases stormwater, and unchanging or decreasing funds. Stormwater fees provide a steady and dedicated revenue source for stormwater and pavement infrastructure costs, free up General Fund revenue for other Township needs, allow for a more equitable means of allocating growing costs of stormwater management, and provide the potential to tackle stormwater issues on a regional/watershed basis. In Pennsylvania, Municipal Authorities can charge a stormwater fee. However, legislation is currently before the House and Senate to enable First Class Townships and Boroughs to also directly charge fees without having a Municipal Authority do so.

Another major benefit is that stormwater fees are more equitable than a tax. The fee would be based upon impervious area -- "contribution to the problem". Users pay based upon the level of service received. Fees can also be collected from tax exempt users, and credits are provided based on the level of service received. Solicitor Henninger agreed this is a big benefit. He stated that about 1/3 of the tax assessed value in the Township is tax exempt, and these properties are not contributing monetarily to the stormwater issues in the Township. This is why a fee would be more equitable than a tax. In addition, it would give businesses the incentive to reduce impervious surface. Commissioner Truntz asked if the fee versus tax had been tested in the courts. Solicitor Henninger responded that as far as litigation, courts have not ruled it to be an invalid fee.

Commissioner Davies asked if PennDOT or the PA Turnpike Commission has policies on how they deal with municipalities that have these fees. Ms. Letavic stated that she is not aware of how PennDOT or the PA Turnpike does this in respect to their roadway systems. The Township may not be able to levy a fee on the roads. However, levying a fee on their buildings would be a discussion worth having. Ms. Vicary noted that to her knowledge, Penn DOT has not paid any stormwater fees to date. She understands that they are in discussions and negotiations with municipalities from which they have received stormwater bills. President Wilt stated that it sounds like these fees cannot be imposed fairly upon everyone, and therefore they are going to resort back to the taxpayers. It will just be yet another tax on them. He added that PennDOT will resist for years and may never agree to the fee. Solicitor Henninger stated that PennDOT

may have a better argument against paying the fee on their roadways than paying the fee on their facilities. Ms. Vicary explained that some of this would need to be determined during the process and establishment of a policy.

Commissioner Davies asked if any municipality had gone to this fee structure for public universities. Ms. Vicary confirmed that she is working with some that do have universities. She explained that she likes to engage the universities by having them be part of the stakeholder committee. Again, this is all part of the process to make sure fees get appropriated fairly depending upon utilization of the process. This is also how the credit policy comes into play.

Commissioner Hall asked if there are any other states using this program. Ms. Vicary confirmed that about forty states have stormwater utilities. Pennsylvania was late to the party since its enabling legislation was not passed until 2013. Commissioner Hall asked if the Township can look at how these other states levy fees as a kind of carbon print, and yet still fall within Pennsylvania guidelines. Ms. Vicary noted that Pennsylvania law is different, so the Township will need to work closely with Solicitor Henninger on this. She agreed, however, that components like public education and outreach are similar and good to look at. The Township can also look at other municipalities in this state that are going through the process.

Ms. Letavic stated that another benefit of the program is that it will improve the Municipal Authority's finances by allowing a funding stream dedicated to the stormwater program. On the Township side, this allows money previously directed toward stormwater and pavement facilities (from the General Fund) to be utilized for other municipal needs. For SWAs, new debt associated with the stormwater system is not recognized as direct municipal debt.

In response to a question from Mr. Weikle, Ms. Letavic explained that division of who owns what and who is responsible for what (pipe replacement, paving, etc.) -- Township or Authority -- will need to be determined during the process. Ms. Vicary agreed that division of the costs and the utility structure of Township versus Authority would be discussed as the process moves forward.

Mr. Weikle noted that when looking at fees to agencies like the Township and the Fire Department, it appears that this is essentially feeing the taxpayers. He asked if the Board or Authority can exempt specific organizations. Ms. Vicary responded that it is possible to provide for exemptions. However, if the municipality starts exempting one type of property, it may also impact others. She suggested there are other options. For example, the Township could possibly

lease the stormwater facilities to the Authority, and that lease could be based on the equity that the Township has invested in those stormwater facilities. Basically, it could have a lease payment that would cancel out the stormwater payment. Again, these are all policy decisions.

Commissioner Hall stated that this has been the big debate across the country with the issue: how to levy the fee and make it a fair one. He conveyed his feeling that stormwater is everyone's responsibility. Fees could be lessened through incentive programs. The more you can do for yourself, the less the fee. This concept seems to be working well in the other states. Commissioner Hall agreed that this is a big issue that cannot be solved overnight. It will be a long term project.

Ms. Letavic discussed two different outlines of key responsibilities for a potential stormwater program. The question is who takes the lead on what: the Township, the Municipal Authority, or the Stakeholder Advisory Committee which would be comprised of elected and appointed officials, business, nonprofits, etc. Commissioner Hall inquired who levies the fines. Ms. Letavic explained that currently, the Township would receive the fine from EPA or DEP if it gets inspected and deficiencies are found.

The process for transferring the stormwater program was discussed. It would require review of the program and significant public outreach and education. There would need to be an evaluation of the rate structure and fee development, evaluation and recommendation of an appeals process/credit policy, and review of billing and database options. A Stormwater Fee ordinance would also need to be adopted. As Mr. Williamson mentioned, it would probably be an 18-month time frame until the Township could collect any type of fee.

Ms. Letavic referenced other municipalities that HRG has worked with on SWAs, most recently Derry Township. Mr. Wilkinson observed that Lower Swatara Township does not have its own sewage treatment plant but uses Middletown Borough, Highspire Borough, and Derry Township. He asked what impact these treatment plans and their MS4 programs will have on Lower Swatara Township. Ms. Letavic explained that they do not coexist since the stormwater here is separate from the sanitary water. None of the stormwater in the Township reaches their systems with the exception of any I&I. Whatever they treat is not part of the Township's water quality permit for stormwater.

Challenges and concerns were discussed. Other municipalities have experienced such issues as loss of control for elected officials with SWAs, start-up costs associated with implementing a SWA, and community opposition against a new fee for stormwater. Public education and outreach through use of a Stakeholder Advisory Committee will be key. There will be more public meetings and a strong public education strategy put in place.

Ms. Letavic provided examples of residential stormwater fees in PA. ERU (equivalent residential unit) is used, and this is the amount of impervious cover for a typical residential parcel. This would also need to be calculated as part of the feasibility study. Ms. Vicari added that \$6 - \$8 a month is the average price for residents to pay for stormwater.

Finally, tips for implementing an SWA were discussed. These include open and collaborative communication between the Township and the Authority, completion of a holistic assessment of the current program, development of a future vision with feedback from the community, and establishment of a robust public education and outreach program. It is important that the process not be rushed.

Ms. Letavic stated that she would be glad to come back to talk more about this subject if the Board/Authority so desires.

President Wilt referenced the agenda, which states the intent tonight it to discuss stormwater management issues. He stressed that the Board should not be jumping into anything at this point. Ms. Letavic agreed that the intent is not to jump into anything. Mr. Williamson concurred, and added that there will be major discussions before moving on this. He cautioned the Board, however, that the Township is looking at Penn Vest money for a stormwater project at the Village of Georgetown area. This is only one neighborhood and the cost is one million dollars. Ms. Letavic agreed that staff has identified funding opportunities for two of the Township's stormwater projects that really need done. The problem is that there are more than two of those that need targeted, and taxing is only one option at this point. When looking at those who contribute to the stormwater issues, it may not be entirely fair to increase taxes for the sake of stormwater

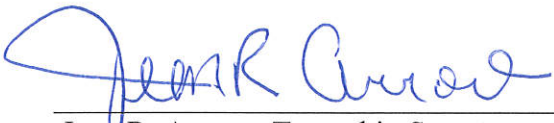
Ms. Vicary noted that she will be leaving booklets here tonight, and information can also be found on HRG's website.

President Wilt announced that the Board would be taking a short ten-minute break before the regularly scheduled legislative meeting.

ADJOURN:

Hearing no other business, a motion was made by Vice President Springer, seconded by Commissioner Hall, to adjourn the meeting. The motion was unanimously approved, and the meeting adjourned at 7:05 P.M.

ATTEST:



Jean R. Arroyo, Township Secretary

PLEASE PRINT NAME CLEARLY

January 18, 2017:

Special Joint Meeting between Board and Municipal Authority: 6 PM

Board of Commissioners Legislative Mtg.: 7 PM

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