

MINUTES

SEPTEMBER 23, 2019 – SPECIAL JOINT MEETING

LOWER SWATARA TOWNSHIP MUNICIPAL AUTHORITY AND LOWER SWATARA TOWNSHIP BOARD OF COMMISSIONERS

The September 23, 2019 Special Joint Meeting of the Lower Swatara Township Municipal Authority and Lower Swatara Township Board of Commissioners was called to order at 7:15 P.M by Vice Chairman Magaro.

Roll call was taken with the following officials in attendance:

- Daniel Magaro, Vice Chairman
- Chester Hartz, Secretary
- Scott Spangler, Treasurer
- Frank Popp
- Jon G. Wilt, President
- Todd F. Truntz, Vice President
- Michael J. Davies, Commissioner
- Ronald J. Paul, Assistant Secretary
- Christopher DeHart, Commissioner
- Elizabeth McBride, Manager
- Peter R. Henninger, Solicitor
- Bruce Hulshizer, HRG
- Caleb Krauter, HRG
- Tracey Bechtel, Recording Secretary

Absent: Richard Wilkinson, Chairman

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

Vice Chairman Magaro reported that the purpose of this evening's Special Meeting is to discuss MS4 (Municipal Separate Storm Sewer Systems) issues:

- DEP Permits
- Credit Policy
- Contract between Sewer Authority and Township
- Fees and how to bill

Ms. McBride asked Mr. Hulshizer to compile some information for all the Board Members covering the four (4) mentioned topics as well as covering what projects we could eliminate or delay if we have certain fees at certain levels.

Mr. Hulshizer indicated that there were some questions related to permits so he will let Shawn Fabian, Project Manager from HRG explain those. Mr. Fabian explained the various National Pollutant Discharge Elimination System (NPDES) permits within the municipality. Commissioner Paul asked what will the Township be required to do to comply with the MS4 permit as far as projects, what would be the minimum we would have to do. Mr. Fabian replied that there are two different components of the permit that will require some level of action on the Township's part. Historically what has been part of the MS4 permit where you have six minimum control

measures, those regulate the illicit discharge detection and elimination, erosion and sediment control, post construction storm water, pollution prevention/good housekeeping, public education and public participation and outreach. One of the newer additions that happened this permit term in year one, going into year two introduced pollutant reduction plan target. If you are within the Chesapeake Bay water shed or another TMDL water shed you had to do a 10% reduction in the actual sediment load that we have within the Township and into the receiving water courses. Most of the projects within this budget are to reduce that 10% sediment load.

Mr. Fabian added that all the NPDES Permits are running on five-year terms. The Department will continually revise the language as they get into the next iteration of those five-year terms. For the construction discharges they'll routinely go in, make revisions and push out new templates or general permits for those, but anytime a permit is being issued it is a five-year permit. For the MS4 that permit was just issued here in 2018 and that starts a new permit term of five years and that permit will run till 2023. At that point they will have another renewal and at that point they might also increase some of the requirements within.

When the Township came into this new permit term, that's when the PRP projects came into play. Mr. Fabian indicated the questions he is receiving now, is that after this five-year term is another 10% going to be required, what are we going to have to do in addition, and the best answer he has received from the department from their Solicitor a while back was, I can promise there won't be less. At this point they don't really know. Mr. Fabian anticipates that the program will continue to grow, which is good that we are pursuing some type of way to fund that growth.

Commissioner Dehart asked if we are reaching our goals. Mr. Fabian responded that so far for all of the clients he has in the Central and Eastern parts of the State, we probably have projects in the ground which a lot of other folks are only in the design and permitting phases right now. The Township's track record in hitting all the goals by 2023 is progressing pretty well at this point. Mr. Dehart inquired what would happen if we don't meet our goals. Mr. Fabian replied, that is the big question right now. The Department is going to probably come out within the next year or two to perform an audit. The assumption is with the PRP goals they are going to do that early on in the process so they can pursue corrective action if you haven't done so. If they come out and see where you are in the permit term compared to how many PRP projects you have executed, he would think they would be happy with what they saw Lower Swatara Township doing so far. The Department will always try to seek some type of voluntary compliance if they feel that you are behind the curve. They are also concerned with the design and permitting because if you get into a stream restoration project that could take up to eighteen months to two years to go through the permit cycle on that and that's not even getting into bidding, going to construction, so if those are a major component of your program, which ours is currently not, it would be very concerning if you haven't at least kicked it off by now.

Commissioner Davies asked that when they generate a new set of rules for the next permitting term, is there an appeals period for thresholds to be met. Mr. Fabian answered that there is and indicated that we are actually in one of those periods right now. The Department right now is entertaining potential PAG 1 permit, that is going to be for some smaller site locations to try and smooth-line some of the more complex larger site permitting processes' that's been distributed for public comment and HRG has actually reviewed through that document and provided our

thoughts on it. Depending how aggressive the problematic the change is, they will go through more aggressive process for that. Back in 2009 and when they revised all the chapter 1 and 2 regulations that govern erosion sediment control and stormwater, they had almost a year-long process of public outreach, a couple key public participation presentations throughout the State, so it a very involved process and they got thousands of comments, than they have to prepare a Q&A document to respond to those. The larger the change the more they will seek input.

Commissioner Dehart inquired that there are 4 projects that are listed as "In Process or Required by Permit", the rest of them that are not, are those supposed to be our goals and will we be penalized if we do not meet those goals. Mr. Fabian responded that there is a distinction between a project for credit and reducing your pollutant control and what projects are for replacement of aging infrastructure. So some of the projects that are on the bottom of that list are the aging infrastructure issues and that's not going to tie into the MS4 permit, but as the manager of that infrastructure any failure would fall back on the Township to correct.

Mr. Hulshizer began going over the handout that he distributed to everyone which included the steps moving forward as far as what still needs to be done, such as Authority/Township adopt agreements, Township deciding on subsidy amount, (if any), Authority accept Stormwater Budget, Authority adopt Rate Resolution and Authority adopt Credit Policy. On page two it showed a reminder of the difference between a fee and a tax, if the stormwater program is covered via a tax, for single family residential charge they would contribute 41% based on the taxable assessed value of the properties in the Township, whereas if the program costs are covered by impervious area then single family residential properties pay 15% of the program costs. Single family residential would pay 173% more via a tax. As an example: If the fee is \$117/year, the tax would be \$319/per year. It also shows the Credits recommended by the Stakeholder Advisory Committee. Page 3 covers the Fee and the Projects. The projects are the ones that were considered as part of the Capital Projects Plan that was developed during the committee process. They are grouped under 4 bolded projects, Stormwater Improvement Project 1 is the Rosedale area which we are already moving forward on and we have a PennVest loan on. Stormwater Improvement Project 2 is not going forward yet, but those were some areas of need including PRP projects that Mr. Fabian had pointed out earlier that we have to do then there are others that we would call infrastructure projects that have been identified by the Public Works Director as needed areas. Stormwater Improvement Project 3, Georgetown drainage is on the far end of this projecting out in 2023 and then there was some consideration on doing floodplain work which is under the Stormwater Improvement Project 4 category.

All of the Projects that were just discussed are all included in the Budget. The 4-year average of the revenue need from the fee is 1.483M dollars. Based on our impervious area that works out to a single family residential monthly fee of \$9.80. Mr. Hulshizer pointed out the Debt Service Costs that are covered in the budget, and mentioned that there is the realization that we know about some problems and there are other problems that we just don't know about yet in stormwater, which is common in every other community as well. Mr. Hulshizer suggested that we do not ignore the problems that we are already aware of and start addressing them as quickly and reasonably as we can to be proactive.

Mr. Hulshizer explained that related to the projects, he noted what if we delayed all projects except Rosedale and PRP projects, the 4-year average budget is reduced by \$118,000 annually and that would reduce the fee to \$9.00 monthly. Mr. Hulshizer also explained some other Budget Alternatives in order to reduce the monthly fee even more, such as: Alt A – Delay Georgetown and floodplains project until after 2023, cover major equipment costs in General Fund, cover all Township manager & accounting costs in GF and reduce public works stormwater share to 15%. That would bring the required residential monthly rate to \$8.00. Alt B – Delay Georgetown & floodplains projects until after 2023, cover major equipment & auto insurance costs in GF, remove Capital Reserve, and cover in GF all staff costs except MS4 coordinator and billing. That would bring the required residential monthly rate to \$6.00.

Mr. Magaro expressed concerns such as the Airport, Penn State that they are pushing back saying this is a tax and trying to get an exclusion from paying and we find ourselves in litigation over this which will upset the budget numbers. Mr. Hulshizer responded that hopefully not, hopefully we could instead have meetings and discussions and perhaps a reasonable credit could be given to them to avoid any type of litigation.

Commissioner Paul commented we could explain to the citizens and businesses much better if we have a fee, we could tell them exactly what their taxes cover and show them the items under the MS4 that the fee covers. Commissioner Paul also pointed out that we haven't educated the public as of yet, which we are required to do.

Mr. Hartz stated that many of the items that have been moved to the Stormwater Budget from the General Fund Budget they were paid for by taxes, now we are here making an argument what is a tax and what is a fee and the average citizen is going to hang us out to dry when you move tax stuff over to the MS4 program, something they already paid a tax on and now you call it a fee. He agrees with Commissioner Paul, to leave the taxes where they are, develop a program that is MS4, and start out slow, decide what project we are going to take on with this MS4 program and then we can determine a reasonable rate too access our taxpayers.

Mr. Hulshizer recalled from the meeting held in July and at the Budget meeting that it was really important to pick a number so that we can give information to businesses in particular so they can budget for this. Mr. Hulshizer added that it sounds like from what is being discussed this evening that most here are inclined to want the Alternative B plan which would be the \$6.00 single family residential rate.

Mr. Magaro indicated that since we really don't know fully what we're getting into, he would like to see us take baby steps and then we can re-access in 2023.

Mr. Hulshizer suggested the Township could say that they recommend Alternate B to the Authority and then the Authority would adopt Alternate B as the budget and they would set their fee based on that budget. Solicitor Henninger indicated that this is something that may have to be adopted in the future, because we have some legal issues that have to be resolved. The Board of Commissioners cannot adopt the Stormwater management fee under the present legislation, only the Authority can, but the Authority doesn't have any Stormwater assets at this point so they can't adopt the fee because they don't have anything to adopt a fee to do. This is where the transfer of the Stormwater system needs to take place and that couldn't take place until after the PennVest situation got taken care of, which only happened a little over a week ago and now we are waiting for PennVest to tell us what we need to do with them in order to be able to transfer the assets that are covered by the security to the PennVest

loan to the Authority and the obligation to pay whatever to the Authority and we are waiting for those answers. Transferring all the other assets is a simple quick claim deed that Solicitor Henninger already has drafted that basically state that all stormwater assets are transferred from the Township to the Authority. After that, then we would do the Management Agreement where the Township would manage it and the Authority would pay a fee for them to manage all the operations. Then there would be the Resolution to set the fee and the Credit Policy would need to be approved to put that in place.

Commissioner Truntz suggested that before we put a fee in place, we really owe it to the public to hold a meeting, possibly at the Fire House to educate everyone and give them an opportunity to ask questions and to help them understand all this better. The rest of the members of both Boards were in agreement.

Mr. Hulshizer asked if the goal is still to have this fee in place by the beginning of the year. Mr. Magaro commented that till we do public meetings and put everything in place January might not be realistic.

Public Comment: Mr. Messick asked for clarification in regards to the Rosedale area. We are going to do major rebuilding of storm sewer because one, it doesn't work very well and the other the bottoms are rusting out of the pipes, so obviously it is polluting a lot more into the old canal and then eventually into the river. Once that is repaired wouldn't there be some kind of credit towards our MS4 because we are taking corrective actions, wouldn't that go towards our 10% reduction in pollutant control Mr. Fabian responded that the way it is set up, you take a look at your pervious and impervious area within the municipality to figure out what loading of solids is coming down through, so if we don't have a Best Management Practice that will capture and remove those solids, like a basin or rain gardens with some kind of retainage for those solids they will not give you credit for sediment removal. He added that anywhere you have the bottom rusting out, those rust chunks have been flowing down and anywhere you have flooding in someone's yard pushing over that sediment that isn't something that we quantify in the waste so they don't allow us to take credit for that.

Mr. Messick also added that he does agree with the statement Mr. Hartz made earlier in regards to moving items out of the General Fund budget over to the MS4 budget.

Ms. McBride noted that she will be emailing everyone tomorrow with dates that the Firehouse is available to hold the public meeting and to schedule from there.

Mr. Hulshizer indicated that for that public meeting he will present the budget as is with the fee at \$9.80 but stating that the Board members are thinking more like \$6.00 or \$8.00 and explain why and how we would get there.

Hearing no further comments, a motion was made by Mr. Popp seconded by Mr. Spangler to adjourn the meeting. The motion was unanimously approved and the meeting adjourned at 8:36 P.M.

ATTEST:

Tracey Bechtel, Recording Secretary

