

MINUTES
SPECIAL JOINT MEETING
MUNICIPAL AUTHORITY OF LOWER SWATARA TOWNSHIP AND LOWER SWATARA TOWNSHIP
BOARD OF COMMISSIONERS – APRIL 5, 2023

The April 5, 2023, Special Joint Meeting of Legislative Meeting of the Municipal Authority of Lower Swatara Township and Lower Swatara Township Board of Commissioners was called to order at 6:00 P.M by Chairman Wilkinson. Chairman Wilkinson called for the pledge of allegiance. The record indicated the following in attendance.

- Richard Wilkinson, Chairman
- Scott Spangler, Vice Chairman
- Chester Hartz, Secretary
- Frank Popp, Treasurer
- Don Bailes, Authority Member
- Jon Wilt, President
- Todd Truntz, Vice President
- Christopher DeHart, Commissioner
- Ronald Paul, Commissioner
- Michael Davies, Commissioner
- Michael McAuliffe Miller, Eckert Seamans, Solicitor
- Jim Diamond, Eckert Seamans, Solicitor
- Caleb Krauter, HRG, Engineer
- Zachary Border, Township Manager
- Tracey Bechtel, Recording Secretary

Residents and visitors in attendance: See attached list for others in attendance.

Chairman Wilkinson stated that the purpose of this special joint meeting is to discuss sewer capacity reservation. Chairman Wilkinson turned the meeting over to Solicitor Diamond.

Solicitor Diamond stated the Authority is working on a comprehensive set of sanitary sewer rules and regulations, he provided the Boards with an example of some concepts that can be part of those rules and regulations, but the Authority did not want to include them if the Board of Commissioners were not in favor. Solicitor Diamond went on to explain that recently the Authority has run into some situations with decade-old EDU reservation entitlements and we're trying to figure out what entitlements already exist and if we have some areas where we have capacity restrictions, so we were hoping to come up, within the rules and regulations, some concepts, putting very specific rules on how things time-out, tracking ideas and those sort of items.

Currently if a Developer wants to get (x) number of EDUs, typically they would receive a letter of concurrence from the Authority saying that we can serve you that number of EDUs and then the Developer relies on that letter as entitlement. Unfortunately, when you start to have the build-out like we are currently seeing within the Township right now along with capacity restraints, the Authority is starting to realize that we have developers that have planning module approval promising capacity decades ago and they are still sitting on those EDUs and not paying sewer rents on it, but we can't give out more capacity because we are up against what was already promised.

Solicitor Diamond indicated the idea of a capacity reservation fee is acknowledging that these developers need to know that they can count on the numbers of EDUs promised. The developer would pay a quarterly capacity reservation fee and if it times out in the set number of years that is decided, and they don't use them, they will have to come back to the Authority and extend that reservation. Under the Municipalities Authority Act the Authority is allowed to have this concept of a capacity reservation fee, it is regulated on how high the fee can be. This concept is like the Authority's special purpose fee, for example, we are putting in a new interceptor and the folks that will benefit from that will pay a higher tapping fee to offset the cost of putting it in. Solicitor Diamond noted that there are variables that we could play with, the amounts we can charge, the cap is set by law, it could be lower than that or we might not want to head in that direction, and we just put a time-out limit on the developer. Solicitor Diamond pointed out that the example he is sharing from East Vincent Township is a very thought-out way of trying to balance everything.

Commissioner DeHart commented that he understands setting some type of expiration, but he is not in favor of setting a fee. He feels all of this is because we feel we don't have enough capacity in one section of the Township, we promised an entity so many EDUs and with I/I and other things there may not be enough capacity. Also, we don't understand why those EDUs were ever allocated because there is no record saying what took place, he feels to add a fee, is not solving the problem which is over estimating EDUs that are out there verses what we can handle.

Mr. Krauter pointed out that this is not just about the capacity of a certain pump station, there has been issues with other area within the Township and he feels it is important that our Rules and Regulations match Derry Township Municipal Authority's (DTMA) Agreement, we have had situations where they said we no longer have capacity but the Authority has stated they have capacity, this has also happen with procuring EDUs, LSTMA was caught in the middle because the EDUs could be pulled back from LST, but LST can't pull them back from the Developer with how it is stated in the Rules and Regulations now.

President Wilt commented that at a minimum he feels we should have an expiration date and possibly some sort of fee, it doesn't have to be a large fee, but we should have something to maintain for record keeping etc.

Mr. Messick from Greenfield Drive stated that years ago, at the Authority's request the houses, including his are on sand mounds but dry sewer was installed in the street, he also indicated he paid for capacity when the pump station was put in at the middle school. How is this going to affect him, he doesn't feel that he should have to pay an additional fee after paying prior. Solicitor Diamond responded, we can't go backward, it would be on developers moving forward. Solicitor Diamond's thought is, with a fee attached it would make it an automatic tracking system and give an incentive for the Developer to keep things moving and not sit on EDUs for years.

Commissioner Paul suggested that we need to understand everything that has happened in the past. There are different reasons EDUs were allocated in the case of the one development out there that bought the capacity. A question for those familiar with DTMA, how do they handle what's going on when you have residential houses being demolished and new ones being hooked up do they charge a new connection. It's those kinds of things that need to be made clear in our own existing documentation rather than re-writing everything. In the case of the Jamesway Plaza, there was a plaza there, before being demolished, the number of EDUs that he came up with were based on that plaza, there was nothing we had in writing that stated he couldn't do that.

Solicitor Diamond noted that it's those kinds of items that this concept tightens down, it's very methodological, everyone plays by the same rules.

Another thing Commissioner Paul pointed out is we don't have our own Wastewater Treatment Plant, but we have three separate agreements and each one is different, how does that interplay. Solicitor Diamond responded that it interplays in a big way, the danger of not having very tight stuff on our side of the fence. For instance, we have an agreement with a developer sitting out there for twenty to thirty years, we entitled them to something, but we don't have the same entitlement and we have to deliver on our contract. Solicitor Diamond went on to explain that there are different components to all of this, so when a developer is putting in a development, one whole separate component is you have to build all the pipes, connections, etc., that's part of land development everywhere, you put all that in place, that doesn't give you a pass on holding the reservation up for a decade or more.

Commissioner Paul referred to the case of the Plaza, we talked in terms of capacity, there is no problem with capacity at the plant, the problem was at the pump station, so this must be written in such a way that addresses the size of the line, pump stations, all of that. Commissioner Paul added that he is not in favor of rewriting this whole thing, but he agrees that there are some things that need to be implemented and revised to a certain extent.

Solicitor Diamond stressed that we should have a definitive set of rules and regulations in one place and not Resolutions here and there, the thought was to use Derry Township's book as a guide, because we do need to be consistent with them.

Mr. Krauter clarified that for Middletown and Highspire Borough Authority, Lower Swatara Township Municipal Authority owns an amount of capacity at the plant. Derry Township Municipal Authority, every time there is a development, Lower Swatara buys the EDUs of capacity as those development moves forward. The risk with Middletown and Highspire is that I/I would increase and take up the capacity that was promised to others, but with Derry Township there is a different risk but just as equal and that's why we drafted up the rules and regulations to align with DTMA's because of that buying of EDUs, we are basically the pass through for the plant.

Chairman Wilkinson stated that he doesn't like the idea of a fee but feels we need to do something to protect ourselves in the future, there still is land out there that can be developed. He suggested we do a hybrid approach, like the first five years are on a time limit basis, if the developer wants to extend past those five years, then there will be a fee associated with the reservation. He feels that would be both fair and equitable.

Mr. Popp agreed with Chairman Wilkinson and added that giving the developer five years, is a fair amount of time and it should only be extended to another five years.

Solicitor Miller asked the Board of Commissioners how they would like Solicitor Diamond to proceed, do we explore the five-year then go live with the fee concept, do you want an either/or concept or do you want to have a reservation fee put in place.

Commissioner DeHart emphasized again that he is not in favor of any reservation fee. Commissioner Paul stated he is not prepared to make any recommendation whatsoever at this time.

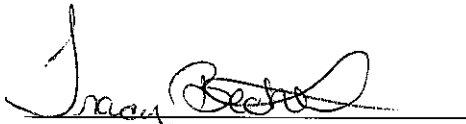
Commissioner Truntz asked if we are at any real risk of having a capacity issue if we don't put something in place now. Mr. Krauter replied there is substantial risks specifically with the deadline, in DTMA's basin there is substantial financial risks for us with promising capacity, in all Lower Swatara Township, holding them in perpetuity we may not have capacity by the time it is developed then we are stuck with the upgrades so having a deadline is very important.

Commissioner Davies commented that he would like to see something done sooner than later to handle unknown demands of large development coming in down the road.

After more discussion, the consensus of the Board of Commissioners is for the Municipal Authority to bring back a concept that aligns with DTMA's rules and regulations without a fee, but with a sunset provision for the Board of Commissioners to consider.

A motion was made by Chairman Wilkinson seconded by President Wilt to adjourn the special meeting and to resume the workshop meeting of the Board of Commissioner at 7:00 P.M.. The motion was unanimously approved, and the meeting adjourned at 6:52 P.M.

ATTEST:



Tracey Bechtel, Recording Secretary

PLEASE PRINT NAME CLEARLY
APRIL 5, 2023 JOINT MEETING OF MUNICIPAL AUTHORITY AND
BOARD OF COMMISSIONERS (6 PM) IMMEDIATELY FOLLOWED BY
BOARD WORKSHIP MTG.

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