

DRAFT  
TOWNSHIP OF LOWER MAKEFIELD  
SEWER AUTHORITY  
MINUTES – SEPTEMBER 28, 2017

The regular meeting of the Sewer Authority of the Township of Lower Makefield was held in the Municipal Building on September 28, 2017. Chairman Tyler called the meeting to order at 7:33 p.m.

Those present:                    Phil Tyler, Chairman  
   Scott Ferrante, Secretary  
   Joseph Chirichella, Member

Others:                             Terry Fedorchak, Township Manager  
   Kelley Watson, Sewer Administrator  
   Greg Hucklebridge, Public Works Director  
   Barbara Kirk, Township Solicitor  
   Fred Ebert, Sewer Authority Engineer

Absent:                             Richard Gauck, Sewer Authority Vice Chair  
   David Fritchey, Supervisor Liaison

APPROVAL OF MINUTES – AUGUST 24, 2017

Mr. Ferrante moved, Mr. Chirichella seconded and it was unanimously carried to approve the Minutes of August 24, 2017 as written.

DISCUSSION AND APPROVAL OF DEP CONSENT ORDER FOR THE HEACOCK PUMP STATION FORCE MAIN

Ms. Kirk stated everyone has received a copy of the letter from the DEP with respect to the Heacock Pump Station. She stated because of the violation, the Township is being imposed a fine because of the discharge into the stream. She stated in lieu of having litigation over the issue, the Consent Decree proposes that the Township pay a fine of \$3,458 which is a fairly reasonable amount; however, Mr. Ebert has indicated that the Township may be able to get 40% of that fine reduce further.

Ms. Kirk stated she will contact the attorney and see what she can do. She stated

in the meantime the Consent Decree is in appropriate form for the Authority to approve, and she has a Resolution; and they could negotiate any further reduction and she could handle any Addendums they want.

Mr. Tyler stated he feels it would be less expensive to pay the fine especially if they are able to get 40% off. Ms. Kirk stated a Filing and the cost of litigation would be expensive.

Ms. Kirk reviewed what is included in the Resolution. She stated if the Authority approves this, they would then have the Township representatives sign off on the Consent Order.

Mr. Ebert stated the Consent Order Agreement also protects them from third party litigation.

Ms. Kirk stated if approved by the Authority, the Resolution should be signed by Mr. Tyler and Mr. Ferrante.

Mr. Ferrante moved, Mr. Chirichella seconded and it was unanimously carried to approve the Resolution and direct the Township to sign off on the Consent Order.

The Resolution was signed this evening.

DISCUSSION OF YARDLEY BOROUGH ACT 537 PLAN

Mr. Ebert stated this Plan is to expand the conveyance system through Yardley Borough for all of our flows that flow through Yardley on the way to Morrisville. He stated there was an Agreement in 2015 that identified the flows, the amount of money, and the Township's contribution to that. He stated at this point Lower Makefield has to adopt it. He stated he provided the Authority with an Executive Summary. Mr. Ebert stated there was also a review letter from DEP from January, 2017 which he responded to.

Mr. Ebert noted Page 2 shows the allocation and capacity which the Township has bought and are paying for the upgrade of. He stated the Township is buying 2.9 million gallons per day of flow, and the projected flow in twenty years is basically 2.8 million so there are 140,000 gallons of excess capacity. Mr. Ebert stated he also looked at the Morrisville Sewer Agreement, where the Township has an allocated capacity of \$3.1 million; and the projected flow in twenty years is 2.8 so the Township has approximately 300,000 gallons. Mr. Ebert stated by doing this, they have created more capacity than is needed.

Mr. Ebert stated as required this went before the Lower Makefield Township Planning Commission on Monday night for review and approval. He stated tonight they are looking for a recommendation of from the Sewer Authority to the Board of Supervisors to approve this.

Mr. Ebert stated this 537 Plan is the implementation of the November, 2015 Inter-Municipal Agreement.

Mr. Ebert stated once the Sewer Authority recommends approval, they will publish the public notice which will run for thirty days. He stated DEP had volunteered to review our public notice to make sure it is proper and complete; and DEP has reviewed it and responded back with some minor corrections today which he forwarded among the Township staff. Mr. Ebert stated at the end of the thirty-day public comment period, the Board of Supervisors will hold a Public Hearing and adopt it by Resolution.

Ms. Kirk stated she was at the Planning Commission on Monday night when they recommended approval of the Act 537 Plan subject to the Sewer Authority's approval of the Plan.

Mr. Tyler asked if there are any other developments coming up, and Mr. Watson stated they are trying to get through Matrix. Mr. Fedorchak stated Matrix goes in the other direction. Ms. Kirk stated the Delaware River Joint Toll Bridge Commission may need more EDUs that would go through Yardley. Mr. Ebert stated the EDUs they have projected are approximately 508 for the north end which is N. Main Street connector, River Road connector, Buck Creek Interceptor, Sandy Run, Brock Run Interceptor, and Yardley Crossing apartments. He stated at the south end there are an additional 19, and these are the flows that go directly

into the Canal Interceptor. Mr. Ebert stated they have 140,000 gallons of excess flow so there is an additional 560 EDUs they could connect before they would exceed the allocated capacity per the Inter-Municipal Agreement.

Mr. Fedorchak stated Yardley Sewer Authority has identified three projects designed to correct the by-pass capacity, and he asked what would happen if that does not work. He stated the Agreement states that Lower Makefield agrees to contribute substantially toward the three projects. He stated if something else goes wrong five to six years ago, they would have a difficult time cutting off future development in Lower Makefield if we have this Agreement in place.

Mr. Fedorchak asked if it is know how the Yardley projects are coming along, and Mr. Watson stated they are busy trying to determine who is putting too much grease in the sewer lines, and they have an outside contractor going in and opening up the grease traps in Yardley. Mr. Ebert stated he has had discussions with Alex who has not proceeded with any design because he is still trying to get the 537 Plan through. Mr. Ebert stated he feels there is still a year and a half of design to go.

Mr. Watson stated they have never shown anything on Yardley Commons on their sewer system and whether there are any problems with that.

Ms. Kirk asked Mr. Ebert if he compared Lower Makefield's response to the 2015 estimate of flows that were attached to the Agreement, and Mr. Ebert stated he did.

Mr. Ebert showed the Chart and the Agreement that are included in Yardley's 537 Plan.

Mr. Fedorchak stated he understands that they are surveying the grease traps, and Mr. Fedorchak stated he does not feel they could have begun their design if they have not defined the scope of the problem. He stated the new interceptor/parallel interceptor will cut through their town, and he would assume there will be right-of-way issues associated with that. Mr. Ebert stated they have a general route, but that is dependent on wetland delineation, getting their Clearances, and obtaining easements; and then they can do the detailed design. Mr. Fedorchak asked Mr. Ebert how long he feels it will be until they get to the design phase, and Mr. Ebert stated he feels it would be July at the earliest. Mr. Ebert stated they were able to work through the capacity issues related to the Community Center by hitting milestones, and there is reserve capacity which they are holding. Mr. Ebert stated Lower Makefield signing off on Yardley's 537 will allow Lower Makefield to say that they have done everything they had to do, and Yardley should not hold Lower Makefield's EDUs. Mr. Fedorchak stated he does not want Lower Makefield to "get stuck" because of Yardley's inaction. Mr. Fedorchak also stated in the future if they can accomplish a little I & I reduction in that system, that would further help Lower Makefield. Mr. Ebert stated this defines Lower Makefield's flows by gallons, and they are the gallons that Lower Makefield is paying for. Mr. Tyler stated they cannot shut Lower Makefield off if they sign the Agreement, and Mr. Ebert agreed.

Mr. Ebert stated Lower Makefield will get 2.93 million gallons of capacity; but how this is done Yardley will define and Lower Makefield will agree and pay their proportionate share. Mr. Ebert stated there are 560 EDUs extra if they were wrong in their planning projections. Mr. Fedorchak stated one of the largest areas where there could be potential for significant development would be Grey Nuns.

The Fleming farm was also noted.

Mr. Ferrante moved, Mr. Chirichella seconded and it was unanimously carried to recommend to the Board of Supervisors and acknowledge to the Planning Commission that the Yardley Act 537 Plan be approved as written including the Addenda prepared by Ebert Engineering.

Ms. Kirk asked if they need this confirmed by a Resolution, and Mr. Fedorchak stated he feels they should just have a letter. Mr. Ebert suggested that there be a letter written to Mr. Fedorchak outlining the Motion and recommendation by the Authority with a copy to the Planning Commission, and Mr. Fedorchak can provide that to the Board of Supervisors. Mr. Fedorchak stated he assumes the Board will consider this at one of their meetings in November.

Mr. Ebert stated they need documentation on Township letterhead from Mr. Majewski confirming the recommendation of the Planning Commission.

APPROVAL OF CORRECTIVE ACTION PLAN FOR LMT SERVICE AREA FLOWING INTO BCWSA NESHAMINY INTERCEPTER

Mr. Ebert stated they had gone through the Corrective Action Plan, and they had added narratives to that; and they formally submitted it to DEP on September 21.

Mr. Ebert stated when DEP approves it in its final form, he will then ask the Sewer Authority to formally adopt it as a document of the Authority.

DISCUSSION OF SUPPLEMENTAL AGREEMENT BETWEEN BCWSA AND LMT ESTABLISHING FLOW LIMITATIONS

Mr. Ebert noted Page 18 of the Engineer's Report. Mr. Ebert stated in order to get EDUs to be released going to Bucks County Water and Sewer Authority, Lower Makefield needs to have three documents approved by the Board of Supervisors. He stated one is the Corrective Action Plan that is to be approved by DEP. He stated they also need to approve a Supplemental Agreement with Bucks County Water and Sewer Authority, and the third document is the 537 Plan. He stated they go in that order because the 537 Plan basically implements the Corrective Action Plan as to how we are going to manage flows, and also provide flows estimates, and it also stated that the Township will be meeting the flow requirements as defined by the Supplemental Agreement.

Mr. Ebert stated ultimately the Supplemental Agreement establishes what the allowable flow is. He stated the annual average flow is based of annual average of the five last consecutive years. He stated on Page 18 he has listed what the flows were in 2012 to 2016, and the annual average flow for that is 759,000 gallons

per day. He stated last year they were over by approximately 20,000 gallons; however, when you take out the 2012 data and get the 2017 data, we will probably be in compliance. Mr. Ebert stated it also establishes a peak day and a peak hourly flow.

Mr. Ebert stated the Agreement we have today mimics this; however, Falls Township has made significant strides with Bucks Water and Sewer Authority. He stated for the last year five year average flow, they take the 2012 flow but add in any connections made in 2013, 2014, 2015, and 2016 which increases that number. He stated they then take 2013 and add connections made in 2014, 2015, and 2016 so it backs in all the new connections that were made to make the number higher so it is easier to comply. Mr. Ebert stated it also increases the peak factor from 2 to 2.5 which is a lot easier to handle, and it is no longer a peak fifteen minute flow but a peak hourly flow. He stated the most important is that it establishes true sets of peak factors and flow allocations. He stated the first one is compliance with the City of Philadelphia which uses lower peak factors, and that is applied for one of two reasons. He stated the first reason is if there is a fine and we are over those flow allocations, we pay our proportionate share of that fine. Mr. Tyler stated we have everything metered, and Mr. Ebert agreed.

Mr. Ebert stated the Falls Agreement says if the City of Philadelphia places them in a Moratorium, we go into a Moratorium for the same time and the same duration that they are in. He stated what the current Agreement says is that if we are over any of these parameters, they can place us in a Moratorium; and it does not say how long or for what reason. Mr. Ebert stated the fear has always been that they would place us as wholesale customers in a Moratorium to preserve capacity for their retail customers. He stated the Falls Agreement also says that if you are in compliance with the Corrective Action Plan, and the City of Philadelphia has not placed them in a Moratorium, then you continue to get connections. He stated if the Plan is not implemented, you can be placed in a Moratorium. Mr. Ebert stated this protects us as a responsible Authority customer so that Bucks County is protecting our capacity through this.

Mr. Ebert stated he feels the comments on the Falls Agreement will be given to Falls early next week. He stated after that is done, they will create a Lower Makefield Township specific Agreement that will incorporate the same terms. He stated he hopes to give this to the Lower Makefield Township Sewer Authority at the next meeting.

Mr. Fedorchak stated he feels it is in the Township's best interest to advance the Agreement with Bucks assuming Mr. Ebert is satisfied with the numbers. He stated he feels they should create a document they are comfortable with to the satisfaction

of Ms. Kirk and Mr. Ebert and add something that indicates Lower Makefield will get whatever Falls gets. He stated provided Bucks Authority is agreeable to this, we should get this approved.

Ms. Kirk asked if the Township ever received an initial draft of the proposed Supplemental Agreement, and Mr. Fedorchak stated he felt it was included in an e-mail. Mr. Ebert agreed there is one, and he stated he believes it was the March version.

Mr. Ebert stated he would like the Board of Supervisors to take action in November or December. He stated he can then finalize the Act 537 Plan.

Mr. Fedorchak stated he would like to get at least a draft of Lower Makefield's 537 Plan to DEP. Mr. Fedorchak discussed the connections they are looking to get at Matrix.

#### MORRISVILLE DISCUSSION

Mr. Ebert stated he met with Pennoni Associates on September 7 to agree upon a conceptual design and a construction cost estimate. He stated they went to a hybrid which is an SBR rather than the MBR, and they are working to obtain equipment prices; and then he will meet with them again. Mr. Ebert stated they have not proceeded on a U.S. Steel site, and there is no conceptual design.

Mr. Tyler stated they had a “back-door meeting” where they were discussing putting in an escrow for the land. Ms. Kirk stated they discussed a letter of intent for real estate transaction with U. S. Steel.

Mr. Fedorchak stated he feels the Authority should make an official inquiry to Morrisville Municipal Authority asking what is going on. Ms. Kirk stated she feels they should send in a Right-To-Know Request.

Mr. Ebert stated before he made his presentation to Morrisville, it was indicated that they had a draft letter of intent which they have done nothing with when he met with them in August. Mr. Ebert stated he specifically asked about this.

Mr. Fedorchak stated he will contact Mr. Warena.

Mr. Tyler stated he feels there needs to be a way to protect Lower Makefield from the cost overruns, and Mr. Ebert stated that is why they put a 40% contingency in. Mr. Tyler stated they do not want to agree to 40%. Mr. Ebert stated when he met with them in September, he provided them a specific outline of what he felt would be the construction estimate should look like. He also advised that his Board wanted Morrisville to do the “heavy lifting,” and Morrisville should provide him with something to review. Mr. Tyler stated he wants to send them a letter that before they have cost overruns, Lower Makefield wants to know about it first. Mr. Ebert stated it is too late once you are in construction. Ms. Kirk stated nothing has been finalized yet. Mr. Ebert stated he will be reviewing the construction cost

estimates, and he will know if it is a reasonable number. Ms. Kirk stated she feels the current Agreement allows Lower Makefield to question certain costs.

Mr. Fedorchak stated the last time Morrisville sent Lower Makefield a bill, he turned it over to Mr. Watson and Mr. Hucklebridge for review; and they ended up challenging approximately \$50,000, and they reduced the bill to the Township by that amount.

Ms. Kirk asked if there was a response from Mr. Warendia regarding the letter demanding the detailed engineer's report and projected Budget for 2018, and Mr. Fedorchak stated they have not. Ms. Kirk stated November 1 was the deadline for this.

#### OTHER BUSINESS

Mr. Fedorchak stated he and Mr. Hucklebridge have been working on the Sewer Budget for 2018. He reminded the Sewer Authority that one year ago he made it clear to the Board of Supervisors that they would be looking at significant rate increase on a going-forward basis, and they are now in the process of defining this. He stated he feels there could be a 20% to 25% rate increase although that will not happen in one year, and he will recommend a multi-year approach. He noted the borrowing include \$7 million for sewers and the principal and interest will be in the 2018 Budget. He stated also a few years ago, they had re-financed the Sewer issue and saved money by lowering our annual payments and took all the savings in the first three years. He stated the last year of that

savings was this year, and in 2018 that will go back up to 100% of what had been paid before. Mr. Fedorchak stated costs at Morrisville are also increasing, and the the transmission fees will be increasing in 2018.

Mr. Tyler stated in the past when they had sewer increases, they did them over three years with each year going up 10% which provided a surplus at that time. He stated he feels they will have to do this again.

Ms. Kirk asked if it would make sense to propose a 30% increase over three years, and Mr. Fedorchak stated he will provide a thorough analysis and discuss what he feels is the best way to approach this.

Mr. Fedorchak stated he feels there will be two to three workshop Budget meetings starting the second week of November to the last week of November. He stated a Preliminary Budget would be approved the end of November, and then adopted the last meeting in December.

#### DISCUSSION OF STACKHOUSE PUMP STATION

Mr. Ebert stated they have continued conversations with the resident regarding the Stackhouse pump station. The resident has agreed for them to move forward with an appraisal so that they can make an offer to her.

#### SOLICITOR'S REPORT

Ms. Kirk stated last month the Sewer Authority approved the Edge of Yardley doing certain improvements over the sanitary sewer easement for bocce courts, and she has drafted an Agreement which was sent to them. She stated they had some questions, and she revised the Agreement and discussed it with their attorney today.

Ms. Kirks stated it is in final form, and there is agreement that it will be Recorded with the Bucks County Recorder of Deeds so that any future owner of the property is put on notice that this is the Township's Easement. She asked that it be formally approved by Resolution so that when she has the signed copy she can give it to the Township with the recommendation that they sign off on it and it can then be Recorded in Doylestown.

Ms. Kirk provided a copy of the unsigned version attached, and she read the Resolution. Ms. Kirk stated once the final signed version comes back to her, it can be submitted to the Township to sign off.

It was noted that the Edge of Yardley are rentals, and there are common areas.

#### MORRISVILLE WATER PLANT DISCUSSION

Mr. Watson stated the Morrisville Water Plant goes into Lower Makefield's sewer line at Ferry Road, and they have never paid a sewer bill since they built it.

Mr. Watson stated he does not know if there was an Agreement made when they built the Morrisville Water Plant at Ferry Road.

September 28, 2017

Sewer Authority – page 16 of 16

Mr. Fedorchak stated he feels they need to start determining the water consumption and Lower Makefield will then send them a bill.

Mr. Fedorchak asked that Ms. Kirk advise how far back they could bill them.

Mr. Tyler asked if it has been there since 1964, and Mr. Watson agreed.

There being no further business, Mr. Ferrante moved, Mr. Chirichella seconded and it was unanimously carried to adjourn the meeting at 8:45 p.m.

Respectfully Submitted,

Scott Ferrante, Secretary