

TOWNSHIP OF LOWER MAKEFIELD
SEWER AUTHORITY
MINUTES – AUGUST 24, 2017

The regular meeting of the Sewer Authority of the Township of Lower Makefield was held in the Municipal Building on August 24, 2017. Chairman Tyler called the meeting to order at 7:30 p.m.

Those present: Phil Tyler, Chairman
 Richard Gauck, Vice Chairman
 Scott Ferrante, Secretary

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

Absent: Joseph Chirichella, Member
 David Fritchey, Supervisor Liaison

APPROVAL OF MINUTES – JULY 27, 2017

Mr. Ferrante moved, Mr. Gauck seconded and it was unanimously carried to approve the Minutes of July 27, 2017 as written.

ENGINEER'S REPORT

Mr. Ebert stated with regard to Morrisville he will be meeting with Pennoni Associates on September 7 to go over the operational costs of the three treatment plant options that were presented. Mr. Ebert stated they were concerned about the electric and sludge production between the various treatment options, and Mr. Ebert stated he believes the difference will be approximately \$28,000 to \$30,000 compared to the Debt Service which is going to be in the millions of dollars.

Mr. Fedorchak asked Mr. Ebert what he is being asked to do at this point in time. Mr. Ebert stated he was asked to create an Operational Budget for the operating costs per year as well as a Capital Replacement Budget for the options that he had presented as well as the options that were done by Pennoni Associates.

Ms. Kirk stated this was suggested at the last joint meeting.

Mr. Fedorchak stated he recalls that the engineers were supposed to get together; however, Mr. Ebert handed Morrisville this option, and Morrisville is supposed to be in the lead. Mr. Fedorchak stated Mr. Ebert handed them what appears to be a very viable option, and the Morrisville engineers should be looking at the costs since it is their Plant. He stated it seems that Mr. Ebert is having to get out in front of that particular option. Mr. Tyler stated the problem is Lower Makefield is paying Mr. Ebert's bill, and he feels that Morrisville is getting free service.

Mr. Ebert stated he wants to make sure that they give this a "fair shake," but he agrees he should not be doing Morrisville's job. Mr. Ebert stated the goal was to get this "kick started" because Morrisville stated there was no viable option which Lower Makefield did not accept. He stated Lower Makefield spent money so that he could show there is a viable option.

Mr. Fedorchak stated he agrees that Mr. Ebert should continue on this for the reasons Mr. Ebert just stated; however, Mr. Tyler stated his opinion is that they should send Morrisville the bill for Mr. Ebert's services. Mr. Fedorchak stated that was what he was going to do next. Ms. Kirk stated alternatively, Mr. Ebert could send Morrisville an e-mail stating that after further consideration, the meeting is premature without Morrisville preparing their analysis. Mr. Ebert stated if Morrisville continues not to act, then Lower Makefield has the only viable alternative which they are not going to accept; but it is going to force Morrisville into an action which will give an "apples to apples comparison." Mr. Ebert stated he does not feel they should commit to doing anything further once there is an analysis to review.

Mr. Tyler stated he feels Morrisville will go to their citizens telling them they are going to build this large Plant but not saying that Lower Makefield came in with how they could improve the plan. Mr. Ebert stated he feels that Morrisville did nothing for a year to a year and half. Mr. Ebert stated Lower Makefield picked it up and in about two months pulled together options and made a presentation to them. He stated as an engineer he wants to work for a solution, but as the Township's consultant he questions what is the desire to drive to a conclusion other than there be a fair analysis which is his primary objective. He stated otherwise Morrisville will say theirs is the only option and Lower Makefield has not presented anything to the contrary. He stated now they cannot say that, and Morrisville has to say why their option is better than Lower Makefield's; and when there is an alternative analysis done, Lower Makefield has strength.

Mr. Tyler stated the great work that Mr. Ebert has done has put a damper into Morrisville's plan for a new plant. Mr. Tyler stated he agrees with Mr. Fedorchak that Morrisville should be sent a bill for the work Mr. Ebert has done. Mr. Fedorchak asked Mr. Ebert to pull out that piece and provide him with a separate invoice for that work. Mr. Ebert stated Morrisville spent \$23,000 reviewing his option. Mr. Fedorchak stated Mr. Ebert has done a great job. Mr. Fedorchak stated Morrisville's new plant may be the most cost-effective alternative and attract thousands of new users from Falls Township and surrounding areas, but at this point they do not have enough information to know that.

Mr. Tyler stated Mr. Fedorchak had sent a letter asking Morrisville what their capital improvements were going to be, and he hopes they get that; and if not, they are going to have to put them on notice that the Board cannot do anything with Morrisville because the funds are on hold until they are told what is to be done so Lower Makefield can plan their Budget.

Mr. Ebert stated the meetings are being attended by Falls Township Authority's Executive Director and Falls Township's solicitors; however, they are not engaging their engineer. He stated when he asked the Executive Director about this, he indicated that they were only "interested observers."

Mr. Ebert stated his concern is that at some point in the future DEP will require certain things. Mr. Fedorchak asked if he feels DEP is going to say they have to build a new plant at this site or just require that something be done in a year to eighteen months. Mr. Tyler stated all these years Morrisville let the Plant go. He added that there is probably a lot that Lower Makefield does not know that DEP has told Morrisville.

Ms. Kirk stated they are no longer getting the Morrisville Meeting Minutes; however, Mr. Fedorchak stated he does get them, but all they show are Motions, and they are only about two pages long. Mr. Tyler stated they adjourn their meeting, and then go to a separate non-public meeting. Ms. Kirk stated if they are rendering decisions in Executive Session, the Township has the right to enforce violation of the Sunshine Act especially if Lower Makefield is paying for 47% of whatever Morrisville wants to do.

Mr. Gauck noted Page 2 of Mr. Ebert's report which states, "PADEP is providing Lower Makefield Township with the opportunity to have significant input into the selected alternative." Mr. Gauck asked Mr. Ebert if he has ever considered putting in a report the option of going to Lower Bucks, and Mr. Ebert stated he has not yet. He added the report is for Lower Makefield's Act 537 Plan that addresses Morrisville, and that is the alternative analysis. He stated in an alternative analysis he has to look into at least four options in his opinion – a plant at the existing site,

a plant at a new site, directing all flows to the Neshaminy Interceptor, and the final option would be going to Lower Bucks which will probably mature later as an option. Mr. Gauck asked how they get more involved with the option of going to Lower Bucks.

Mr. Fedorchak stated they met with them two months ago, and they were very receptive. Mr. Fedorchak stated since then Mr. Ebert and Mr. Watson have sent them specifics about characteristics of Lower Makefield's volume to them. Mr. Fedorchak stated they will follow up with them to see if they have a sense of whether or not they have the capacity and the willingness. Mr. Fedorchak stated they will report back to the Sewer Authority if Lower Bucks is willing to proceed, and he would then recommend that Mr. Ebert be asked to cost it out. Mr. Gauck stated he has been looking at that for years to have that as the final destination for our flows and to avoid Morrisville entirely because he does not feel Lower Makefield can trust them.

Mr. Ebert stated with regard to the Neshaminy Interceptor, he has completed the draft of the 537 Plan, and they believe that an agreement is close. Mr. Ebert stated he will present this to Mr. Fedorchak and the Township staff for review next week and hopes to give the Sewer Authority an Executive Summary in September. He stated they need to get this in to get the EDUs released.

Mr. Ebert stated Bucks County Water and Sewer is currently reviewing the Falls Agreement. He stated there are two standards – one for the Philadelphia Water Department which sets the criteria which they can be fined and/or Bucks County can be shut down. He stated then there are the DEP requirements that indicated whether or not we get future EDUs. Mr. Ebert stated there are two ways to get future EDUs – one is the Corrective Action Plan where if they comply with that they get EDUs provided that they will meet the ultimate requirements. He stated the ultimate requirements will be an annual average flow and a peak hourly flow, and before it was a peak instantaneous flow which they could not meet and a peak daily flow that they could never meet. He stated what the Falls Agreement does is eliminates that and lists the two criteria which they have to comply with. Mr. Ebert stated the Falls Agreement was drafted by Falls based on the original Agreement Lower Makefield received. It was sent to DEP who made comments and sent it back to Falls, who made the revisions, and sent it back to DEP. Mr. Ebert stated DEP does not endorse any Plan, but they had no further comments. He stated DEP then mediated a meeting in July with Falls Township, Bucks County Water and Sewer Authority, and Township of Falls Authority and reviewed everything; and it was down to a couple of comments. Mr. Ebert stated Lower Makefield has not yet received the comments back, and after speaking with Mr. Garton he feels they will get the comments by some time in September. Mr. Ebert stated he feels the

Agreement will receive his recommendation, although the Board of Supervisors may or may not agree. Mr. Fedorchak asked if anything will be ready for the Board of Supervisors meeting on September 6, and Mr. Ebert stated he did not think so. Mr. Ebert stated he feels he could provide an Executive Summary. He reviewed what he needs to get the 2016 EDUs released. Mr. Fedorchak asked how many EDUs, and Mr. Ebert stated although he did not have the exact number it was in the hundreds. Mr. Fedorchak stated that would help Matrix, and Ms. Kirk agreed. Mr. Fedorchak asked how much Matrix has reserved in the 2016 number, and Mr. Ebert stated it is just the townhouses. Mr. Ebert stated his opinion and the opinion of Bucks County Water and Sewer Authority is that because they were approved before a Connection Management Plan was envisioned, they were grandfathered; and it was a mistake to have ever put them on a list. Mr. Ebert stated Bucks County is going to put this in writing, and they are going to petition DEP. Mr. Ebert stated the Planning Modules were submitted, and he submitted DEP on their behalf to say the Planning Module is not required because the property was previously approved for a sewer capacity greater than what they are proposing today.

Mr. Fedorchak asked if they can go back to a document ten years ago that had the 500 EDUs number in it; and Mr. Ebert stated that is what he submitted to DEP last week advising them that this had already been approved; and the numbers are now less.

Ms. Kirk asked if she should send Mr. Ebert a copy of the updated Settlement Agreement that was signed, and Mr. Fedorchak stated he is asking Mr. Majewski to go through the files to see if there is an approval for EDUs. Mr. Ebert stated he has the letter. Ms. Kirk stated she will send Mr. Ebert a copy of the signed, updated Settlement Agreement that reduces the number. Mr. Ebert stated if they had been allocated internally, that would be a great document to have. Mr. Ebert stated he found some documentation in the previous Chapter 94 Reports that were done in 2014 and 2015.

Mr. Ebert stated he has already presented to the Sewer Authority the Corrective Action I & I Plan, and he will update that into a written narrative which he will provide to the Sewer Authority after he provides it to the Township staff to incorporate their comments.

Mr. Ebert stated with regard to the Falls Agreement, there was a meeting which he and Mr. Fedorchak attended with Bucks County Water and Sewer Authority which received a letter from the Philadelphia Water Department. He stated DEP and EPA have gone out to the City of Philadelphia for their combined sewer overflows. He stated in the City of Philadelphia the storm sewers and the sanitary sewers are in the same pipes. He stated when there is a heavy rainfall the treatment plant handles what it can handle, and the rest goes out multiple

flows throughout the City. He stated the DEP and EPA stated the City needed a long-term plan to reduce this. He stated they went to every other Municipality that did not have valid Contracts and told them they need to sign the Contract and agree to pay their fair share, or they would need to find another place. He stated Bucks County Water and Sewer did not sign because they have a Contract that goes past 2030. Mr. Ebert stated the City of Philadelphia told Bucks County Water and Sewer they would have to pay 4.7% of the cost; and over twenty years the combined cost for Bucks County Water and Sewer Authority is approximately \$245 million, of which the wholesale customers pay approximately \$60 million and the retail customers pay approximately \$180 million. Mr. Ebert stated Bucks County had two options – to pay this or to litigate it. He stated the basis of the litigation would include the fact that they have a valid Contract to 2030, and what would the purpose of a Contract be if they are being told they have to pay more money. Mr. Ebert stated they are also saying that they already bought their EDUs, and would question why they should pay for it twice. He stated the final issue is this is a combined sewer system problem, and we do not have combined sewers, and we have sanitary sewers only. He stated they decided to litigate, and almost every Township has agreed to litigate. Mr. Ebert stated Bucks County did ask for input of all the member Municipalities which was an act of good faith.

Mr. Fedorchak stated they are taking the position that they have a Contract and feel that Philadelphia is in violation of the Contract; and considering the amount of money that is at stake over the next twenty years, it is their due diligence to litigate it at this point. He stated they expect over the next five to six years there will be a significant increases in costs from Philadelphia.

Mr. Ebert stated he feels it will take two to three years to go through the litigation. Mr. Ebert stated this year Bucks County will cover the overage. He stated they will dispute the bill which is why they wanted to have a quick reaction. Mr. Fedorchak stated they had to act in thirty days. Mr. Ebert stated they will pay the normal bill, and the disputed part will go into a restricted escrow account; and whoever the Judge rules for will get the money and the interest. Mr. Ebert stated in 2018 we will have to pay this surcharge which is a 1 ½% to 2% increase in the rate even though it will not go to the City of Philadelphia. Mr. Ebert stated Bucks County will cover 2017, and starting next year Lower Makefield will start paying.

Mr. Tyler asked if they are going to increase the sewer rates to the residents, and Mr. Fedorchak stated a sewer rental increase is forthcoming in the 2018 Budget for a number of reasons.

Mr. Ebert stated with regard to the Stackhouse pump station, Mr. Hucklebridge met with the property owner. He showed on a Plan the actual area they need including grading out to the pump station. He stated they showed this to the property owner along with pictures. Mr. Hucklebridge stated last week, he and Mr. Watson met with the property owner who was receptive; but wanted to think about it. He stated he reached out to her today, and she had some additional questions about the process, but she is still receptive. Ms. Kirk asked if it would make sense to get the Appraisal now, and Mr. Fedorchak stated they will need to have a number. He asked that he be provided a sketch, and he will get an appraiser out. Mr. Hucklebridge stated it is approximately 2/10ths of an acre.

Mr. Tyler asked if they could indicate that if she gave them the land, she would have free sewer for the rest of her time in the home; and Mr. Hucklebridge stated she was trying to subdivide the land, and she has a Preliminary Approval for three lots and a Conservation Easement area. He stated he is not sure if there is something that could help her in that respect or not. He stated the Conservation Easement would be on the third lot where the existing house is located. Ms. Kirk asked if what the Township needs would be within the Conservation Easement area, and Mr. Ebert agreed. Ms. Kirk asked who would be providing the Conservation Easement.

Mr. Fedorchak asked if there is a Conservation Easement on the land right now; and Mr. Ebert stated it is not Recorded right now, but it is shown on the Preliminary Plan. Mr. Fedorchak stated he will look at the Plan. Ms. Kirk stated they need to find out who is funding the Conservation Easement and they need to find out if what they are proposing would violate the terms. It was noted that what is needed is 100' by 75'.

Mr. Ebert stated with regard to the Heacock force main, they met with three property owners. He showed on a Plan a property where there is a yoga studio and they will have to give them a new driveway because the force main is in their new driveway. He has indicated he wants a brand new driveway with a cut at both ends. Mr. Ebert showed the second property involved which is owned by a farmer, and there are no issues with that property. Mr. Ebert showed the location of the third property, and they have 25 to 30 foot high arborvitae trees; and they asked that the force main be moved slightly, take out their fence, and try to keep their trees. Mr. Ebert stated they are going to give them a new 6' high plastic fence, and also take out a dying tree on their property. They also asked that if the trees die, that they take them down and put in a row of new trees all the same height. He stated they were very cooperative.

Ms. Kirk asked Mr. Ebert is he is giving the terms of the proposal for each of those property owners to Mr. Fedorchak to do an Agreement with them. Mr. Ebert stated there is currently no Recorded Easement for the force main. Mr. Fedorchak stated they should get an Easement and include all the terms that have been discussed. Mr. Fedorchak stated they will need a Temporary Construction Easement and a Permanent Easement. Mr. Ebert stated he will work with Boucher & James on this.

SOLICITOR'S REPORT

Ms. Kirk stated she drafted the letter which Mr. Fedorchak signed off on which was sent to Morrisville demanding they comply with the terms of the existing Agreement. She will schedule this for the November meeting for an update, and the Board will need to make a decision as to how aggressive they want to be. Ms. Kirk stated historically everything was coming from Morrisville after the fact.

Ms. Kirk noted with regard to the Delaware River Joint Toll Bridge Commission, she will be preparing another Agreement for them to enter into in the event that they should need more than the 6 EDUs which they have already contracted for. She hopes to have this prepared by the next Sewer Authority meeting for review prior to being sent out.

Mr. Tyler asked about the Moon Nursery site, and Mr. Ebert stated the Easements have been Recorded.

NEW BUSINESS

Mr. Hucklebridge stated solar panels have been put on several meters as that is a more cost effective way to move forward.

OLD BUSINESS

There was discussion about the Grey Nuns property. Mr. Tyler asked if Holy Redeemer is paying taxes on that property; however, that was not known. Mr. Watson stated they will not talk to the Historical Society about the house on the property which was built in the 1700s. Mr. Tyler stated there are ninety-two acres. Mr. Watson stated they have their own water tower in the back to keep the water pressure up. Mr. Tyler stated they have a well system.

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Mr. Tyler stated they also had an old filtration system; however, Mr. Watson stated that was abandoned. Mr. Fedorchak stated the School has a Lease with Holy Redeemer. Mr. Watson stated they have 130 students.

There being no further business, Mr. Ferrante moved, Mr. Gauck seconded and it was unanimously carried to adjourn the meeting.

Respectfully Submitted,

Scott Ferrante, Secretary