

LOWER PAXTON TOWNSHIP
AUTHORITY MEETING

Minutes of Township Authority Meeting held October 28, 2008

An administrative meeting of the Lower Paxton Township Authority was called to order at 7:00 p.m. by Chairman William B. Hawk on the above date in the Lower Paxton Township Municipal Center, 425 Prince Street, Harrisburg, Pennsylvania.

Authority members present in addition to Mr. Hawk were: William C. Seeds, Sr., William L. Hornung, Gary A. Crissman, and David B. Blain. Also in attendance were: George Wolfe, Township Manager; William Weaver, Sewer Authority Director; Jim Wetzal, Sewer Authority Operations Supervisor; Jody Reese and Kevin Shannon, CET, Engineering, Inc.; Mark DiSanto, Triple Crown Corporation; Sandi Prah, Park Sheesley Estate; Paula Leicht, Mette, Evans and Woodside; Micki Molinari and Barbara Greenberg, Rosewood Development; and Jeffrey Staub, Dauphin Engineering.

Pledge of Allegiance

Mr. Seeds led in the recitation of the Pledge of Allegiance.

Approval Minutes

Mr. Crissman made a motion to approve the minutes from the June 10, 2008, June 17, 2008, June 24, 2008, and August 26, 2008 Sewer Authority Meetings. Mr. Blain seconded the motion.

Public Comment

None was presented.

Board Members' Comments

None was presented.

Old Business

There was no old business to discuss.

New Business

Review of the 2009 Authority Budget

Mr. Weaver distributed a revised budget to the Board members, noting that adjustments were made to the debt service schedule.

Mr. Weaver noted that the 2009 Year Budget shows an increase sewer rate from \$106 to \$116, per quarter, based on the rate schedule that was discussed during the 2008 Year budget process. He noted that he does not anticipate any changes in tapping fees, noting that one hotel is planned for 2009. He explained that the interest income was calculated by the Finance Department based on the current funds, and this information is listed in Exhibit 8. He noted that the current interest rates are 2.6%, 1.7% and 2.3% with a restricted yield of 4.109%. He noted that the total Authority's revenues for the 2009 Year Budget are projected to be \$12,480,415.00.

Mr. Hawk noted that the Authority's budget is almost the same as the Township's budget. Mr. Seeds noted that unless the Authority borrows more money, by the end of the year 2009, there will be no funds left in the budget. He noted that it would not include the income from the sewer rentals, but the Authority would need to borrow funds in 2009 to do capital improvements in 2010.

Mr. Weaver noted that nothing has changed in the Operating Fund for the administration category. He noted that the price of gasoline has increased, and he is waiting to hear about possible increases in costs for utilities and postage. He noted that there are no major changes in the Operations category, noting that the pump station maintenance should decrease slightly from previous years due to the capital improvements for expansion and replacement of the Beaver Creek Pump Station and the Linglestown Road Pump Station.

Mr. Weaver noted, in the Transmission category, the Swatara Township Flow Surcharge is based on wet weather. He noted that Exhibit 4 explains the Swatara Transmission and Treatment budget line item. He noted that there are no projected increases for the Year 2009, for both the Swatara Treatment Plant as well as for the City of Harrisburg. He noted that the City Budget information is contained in Exhibit 5. He explained that a footnote was added to this line item as a result of an audit that found inconsistencies with prior reporting and billing issues with the City of Harrisburg.

Mr. Weaver noted that there are no changes to the Paxtang Transmission fees.

Mr. Weaver noted that the Debt Service Category is explained in Exhibit 6, noting that the debt service schedule has not changed from the previous year. He noted that the total Authority Expenditures for the Year 2009 are \$10,813,085.00.

Mr. Seeds noted that there is a one million dollar surplus so it could be used to pay the debt service or fund capital projects.

Mr. Crissman noted that the debt service shows the interest and principals, with a fixed principal interest, but he questioned if there were any peaks in this area. Mr. Wolfe answered that there are no significant peaks. Mr. Crissman noted, as new bonds were added, it leveled the debt service.

Mr. Weaver noted that CET and staff prepared the Capital Projects Fund Budget for Year 2009. He noted that the Paxton Creek Act 537 Improvements is allotted \$8,000 since the first phase of the Paxton Creek Corrective Action Plan has been completed. He noted the work for the Linglestown Road Pump Station was included in the previous year's budget, with \$250,000 budgeted for this year. He noted that the Beaver Creek Improvements included the reconstruction of the Pump Station, and that contract was recently issued to M. F. Ronca and Sons. He noted that no funds were budgeted for the Wet Weather Facility due to the appeal of all permits by South Hanover Township and the Crestview Manor Homeowner's Association.

Mr. Weaver noted that CET's engineering fees for the Beaver Creek Improvement Project are included in Exhibit 3. He noted that the largest expenditure for capital projects is the Swatara Township Wet Water Treatment Plant improvements estimated at \$12 million. He noted that the Third Addendum to the Swatara Intermunicipal Agreement would be discussed later in the meeting that provides for the Authority's share of the upgrades. He noted that the total for the Capital projects is \$13,058,000.00.

Mr. Seeds noted that it is very important to explain these costs to the citizens of the Township when they receive the bills with the increased rates. He noted that people will be upset with the rate increase. Mr. Weaver noted that an article is included in the Township's newsletter and sewer mailers.

Mr. Weaver noted that the mini-basin rehab program is based on the Second Consent Decree with PADEP, noting that the majority of the work involves the Paxton Creek Corrective Action Plan. He noted that he is still waiting for DEP's approval for the Second Consent Decree.

Mr. Weaver noted that the Research and Development for the I/I Program mainly deals with underslab issues in the Devon Manor project. He noted that post rehab metering is all that needs to be completed for the Spring Creek IF total replacement. He explained that work would

start on PC-4B, with 50% of it being completed in the year 2009. He noted that this line item also includes CET's engineering expenses. He noted that no construction work is planned for Paxton Creek PC-1A and PC-1C, only design, survey and permit work. He explained, for Spring Creek 1-I, the costs are for flow metering, and for Paxton Creek PC-2D, no construction costs are included, only permit, survey and engineering work. He noted for PC-6C, 50% of the construction would be completed in the year 2009 in conjunction with the PC-4B project.

Mr. Weaver noted for PC-2C, no construction work is planned; only permit and engineering work. For the PC-3D, post rehab metering work is planned. For BC-1A, the estimated sewer replacement costs for 2009 for 50% of the project is \$500,000. He noted for PC-5C, the post rehab engineering for the clear water system has been included in the budget. He noted that 75% of the construction for Asylum Run Mini Basin would be completed in the year 2009 at a cost of \$3 million. He noted for PC-3B, 75% of the sewer replacement costs for the year 2009 are estimated at \$1,050,000. He noted that normal mainline external repairs are budgeted at \$120,000, and metering annual expenses are projected at \$130,000. He explained that he budgeted \$4,000 for the GIS program, \$37,000 for engineering and metering data analysis, and \$25,000 for meetings, management, assessment, and reporting to DEP.

Mr. Weaver noted that the right-of-way clearance expense is budgeted at \$15,000 and the sump pump removals in PC mini basins are projected at \$4,000. He noted that the total for the I/I Sewer Replacement and Repair Program is \$9,589,000, bringing the fund total for capital improvements to \$22,647,000.

Mr. Seeds questioned what percentage of the work that was planned for 2008 was completed. Mr. Weaver answered that the year 2008 was a transition period, moving into the Paxton Creek Second Corrective Action Plan, therefore, a large amount of construction work was budgeted for the Paxton Creek and Asylum projects, however, much of the work was not completed since much of the work involved permitting and design. He noted that the Colonial Park project area is a huge design, and there were wetland and construction issues for the Paxton Creek area that caused him to combine the basins, that doubled the size of the project. He noted that he attended numerous meetings with DEP and is still waiting for a written agreement. He noted that he would address this issue under the Township reports. Mr. Weaver answered that the percentage of projects completed was not very large, but the Winfield and Valley Roads project and Earl Drive Interceptors were completed. Ms. Reese noted that the Trunk-A project would be completed this year.

Mr. Seeds questioned if anything was completed for the area under the Colonial Park Mall, specifically the Boscov's area. Mr. Weaver answered that he plans to televise the area. He noted that he recently found two sump pumps at Sears that were contributing a large amount of water. He noted that, previously, there was a pond in the area as part of the golf course before the mall was built, and it is a very wet area.

Resolution 08-12 increasing sewer rates

Ms. Reese distributed a five-year projection for annual revenues and expenses. She noted that this reflects the gradual increase in costs, the ten dollar per quarter increase on an annual basis. She noted between what was discussed in 2007 and now, the \$12 million project was phased for payment over two years, however, Swatara Township wants the payment in full. She noted that \$2.5 million of additional projects have been identified since last November's budget meetings, to include BC 1A, partial BC 3B, and the Linglestown Road Pump Station. She noted that the interest rates have been greatly impacted, and this has had an impact on the budget. She noted that back in 2007, she projected that the Township would borrow \$15 million in 2009. She explained that staff met with Mr. Smida, and was told that municipal bond money in amounts over \$10 million does not exist. She noted that between this information and the additional projects identified, there would be a need to borrow \$10 million in 2009 and another \$10 million in 2011. She noted that last year's projections were to borrow \$42 million in the year 2013 to cover the construction of the wet weather treatment. She noted that the projected increase costs from the City of Harrisburg are included in the 2011 budget. She noted that in 2011, the operating expenses double to \$8,025,000. She noted that the City of Harrisburg expects to double its user rate, and the budget projects a Swatara Township user rate increase as well.

Ms. Reese explained that she questioned Mr. Smida as to what interest rate she should use for a \$10 million bond, and he could not supply an answer. She noted that the City of Harrisburg has renegotiated their permit with DEP, and as a result they expect to push off construction upgrades, but because the report was provided that they would be in compliance by 2010, since they are the largest discharger of nitrogen and phosphorus to the Chesapeake Bay from Pennsylvania, DEP allowed them to push off construction, but they must buy credits for nitrogen and phosphorus starting in the year 2010. Ms. Reese noted that the City of Harrisburg put out an RFP and the bids were to be open this past Wednesday. Mr. Weaver noted that he was told that the City of Harrisburg extended the bid opening date for one week. Ms. Reese noted that once she knows what the bids are, then she would have a better understanding of what the

City is doing. She noted that the bid was structured with many ranges, and a bidder would be allowed to bid on any combination of components.

Ms. Reese noted that she added the borrowing information to the table that she distributed to the Board members as well as the capital expenditures.

Mr. Weaver noted that he scheduled a meeting with Commerce Bank to discuss the possibility of bank loans and what the interest rate would be. He noted that the Board is welcome to attend. Mr. Wolfe explained that it is an exploratory discussion only. (This meeting was cancelled.)

Mr. Seeds noted that he was surprised with the limit of \$10 million as he considered an Authority transaction to be safe borrowing. Mr. Wolfe noted that the credit markets are very tight.

Mr. Weaver noted that he, Mr. Stine, Ms. Reese, and Mr. Wolfe met with Mr. Smida to discuss the spending of the 2002 bonds, due to the delays with the Beaver Creek Wet Water Facility. He noted that a question was asked if the existing funds could be used for something else, noting that Mr. Smida continues to inform the Authority that it should use the funds due to the arbitrage situation. He noted that he would be presenting further information to the Authority for their consideration in terms of a new ordinance that would permit the Authority to move ahead and do the capital expenditures. He noted that if the Authority was unable to use the funds, then the budget could not be passed unless some form of borrowing was planned. Mr. Wolfe noted that Mr. Smida's opinion is if the 2002 bonds, which are now the 2004 bonds, are reallocated to the Swatara Township Plant upgrades by Ordinance; it would be a legitimate expenditure. He noted that once the Intermunicipal agreement is executed, Mr. Smida would prepare the Ordinance for action.

Mr. Blain noted that he is fine with the format that Ms. Reese presented, but he questioned, in regards to the referendum for sewer and capital improvement, that is slated for the ballot on November 4th, what are the chances of the Township receiving some of those funds. Ms. Reese answered that it was announced in July 2008, that \$1.2 billion would be earmarked for this use, but she likened it like the day after Christmas with all the sales and everyone shopping. She noted that if the referendum is passed, then it needs to develop criteria for ranges. She noted, the fact that the Paxton Creek work is under a Consent Decree, would hopefully hold more weight. Mr. Wolfe noted that the packets would also have points for economic distress. Mr. Seeds questioned if Lower Paxton Township would be considered for some of those funds. Ms. Reese answered that she did not know, noting that she has heard that there is a list of needs, with

only a certain amount of available funding, and a need to determine the gap between the two. She noted that the first step would be to take everyone's user rates and calculate it to 1.5% of the medium household income. She explained that she was told that some of the money would only be available if municipalities could show that they are managing their assets and would not come back in 20 or 30 years requesting more funds since their user rates were not managing their infrastructure. She suggested that using the 2000 census data, the Township should be charging between \$100 to \$176 a quarter. Mr. Weaver noted that the Township will be at that rate sooner than later.

Mr. Seeds noted that the voters are very uneducated about the referendum. Mr. Seeds noted if it was known that the Township would receive some of those funds, he would be in agreement with it.

Ms. Reese noted that there is a \$800 million allocated that would also include high hazard dam projects, flood projects, and funding to DCNR. She noted that the \$400 million is only for water wastewater and storm water projects, and there would be less competition for a smaller pot of money. Mr. Weaver noted that the \$800 million was already passed, and Tuesday's referendum is for additional funding of \$400 million. He noted that there is some movement for Authorities to hire a lobbyist to lobby for the funds. He explained that the Swatara Township Authority is asking for the Township's help, in terms of getting funds for the different Acts that have been passed. Mr. Weaver noted if Swatara Township receives funding, and the Township does not, it would still benefit the Township. He noted that he could have someone come in to make a presentation to the Authority members if they so desire.

Ms. Reese explained that she is familiar with working with PENNVEST, but the Commonwealth Financing Authority is made up of seven members, of which four members are representatives of the four caucuses that must be unanimous in their decisions for project. She noted that a vote could be six to one in favor of a project, but it may not be funded.

Mr. Blain noted that if the referendum passes, that the Township is in a position to receive some of those funds. Mr. Weaver noted that no guidelines have been set as to how the funds would be spent, noting that the deadline for that is December 8, 2008. Ms. Reese noted that the Township is in the starting box for the \$800 million, but by December 10th, she should know what the criterion is for the funding. She noted if the additional \$400 million is passed, the Commonwealth would have to borrow the money and make up the policy for distribution of the funds.

Mr. Weaver noted that he would prepare the budget as it is for the final format.

Mr. Weaver noted that he would prepare Resolution 2008-12 to increase the sanitary sewer rates to \$116 per quarter. Mr. Wolfe noted that action would be taken on this item at the November meeting.

Action on Resolution 08-10 for acquiring a sanitary sewer easement across the property of Park Sheesley along Colonial Road and into the Colonial Road Pumping Station

Mr. Weaver noted that, along with Resolution 08-10, he has included several emails from the Triple Crown Corporation (TCC), an appraisal from the Daylor Group Incorporated, as well as, correspondence from Mette, Evans, and Woodside regarding the proposed easement for the sanitary sewer for the Park Sheesley Estate.

Mr. Weaver explained that TCC has proposed to build the Colonial Village project that traverses along Colonial Road. He noted that there is a need to extend sewer service along Colonial Road to the Colonial Road Pump Station, and no previous projects have connected to that pump station. He noted that there is no easement access for this, and due to the limitations to the west side of Colonial Road, the sewer needs to be installed on the east side of Colonial Road, crossing the Sheesley Estate property.

Mr. Weaver noted that negotiations have occurred between the two parties, and there is a difference of opinion as to what should occur. He noted that the Township is obligated to present to the Authority Board an update, and the resolution for condemnation at the request of TCC.

Mr. Weaver explained that TCC had the Daylor Group provide an appraisal for what they think is a fair market value for the sewer easement that needs to be acquired in order for their project to move forward. He noted that he informed Mr. DiSanto that the Board could not take any action without an appraisal. He explained that Ms. Prah, who represents the Sheesley Estate, has an issue with the location of the sewer, the appraisal and other issues.

Mr. Mark DiSanto, TCC, explained that in March of 2008, he spoke with Mr. Weaver to determine how to secure the easement. He explained that a draft agreement was prepared and negotiated with the prior developer, Mr. Zimmerman. He explained that he also looked into running the sewer line along the west side of Colonial Road. He noted that he met with Ms. Paula Leicht, attorney for Ms. Prah in May of 2008. He noted that he met with Ms. Prah in June, and again in July. He noted that there has been much correspondence between both parties, and in the end of July, he informed Ms. Leicht that he would have The Daylor Group perform an appraisal, and Mr. Coakley, his Acquisition Manager, walked the site with Ms. Prah. He noted that he made an offer to Ms. Prah on September 17, 2008, of \$10,000, based on the

appraisal value for the easement. He noted that he followed up on October 1, 2008, and after no movement, he made contact with the Authority and requested the Township to proceed with condemnation. He explained that he has worked on getting an easement for more than seven months, and noted that he received a counter offer for the appraisal of \$10,000. He noted that Ms. Prahl has requested that the easement level be raised to the grade of the road which would involve a significant amount of grading. He noted that Ms. Prahl has also requested all the future capacity for the pump station and the wet well for their development. He explained that these requests are way beyond any legal requirement for TCC to provide sewer capacity. He noted that she has also requested a piece of ground that is off-sight, and requested him to pay all the legal fees. He noted that these extras would be very costly, and Ms. Prahl is asking 20 times the value of the easement.

Mr. DiSanto explained that the land is to be sewerred under the Act 537 Plan, and he noted that the Authority had the power to condemn the land. He noted that he would be willing to provide the costs for the condemnation process if he could not negotiate this within the next week to 60-days. He noted that the two parties are very far apart, and he requests that the Authority Board take action on this resolution. He noted that he spent \$3,000 on the appraisal and he is willing to go to court if necessary. He explained that the easement is for a quarter acre of ground, and noting that he bought the Stray Winds Farm at \$40,000 per acre, he suggested that a quarter acre of land is worth \$10,000.

Ms. Paula Leicht, Mette, Evans and Woodside, noted that she is present on behalf of the Sheesley Estate. She noted that Mr. DiSanto was having discussions with the Authority long before the Sheesley Estate was brought into the picture. She noted that it was not a settlement process, rather an exploratory process that was done in May and June. She explained that she had conducted basic investigations to determine what Mr. DiSanto has done to determine that he needed the easement. She noted that she discovered prior correspondence between the Authority and Mr. DiSanto's predecessor developer from 2005 and 2006, wherein the Authority, at that time, required that a new pumping station be built, on the existing pumping station location, and that in fact, it be sized to accommodate the service area surrounding the pumping station. He noted that the Sheesley's primary concern is that these facilities be sized for future development to include the Sheesley property. He noted that Mr. DiSanto has indicated that he is unwilling to accept any of the terms of the Sheesley proposal because he does not need to build a new pumping station. She noted that he feels that there is existing capacity at this time, to service his development. She noted that that is contrary to the information received from the Authority back

in 2005. She explained that she has a letter from 2006 that states that Mr. Zimmerman was required to upgrade and build a new pumping facility because there was no existing capacity. She requested the Authority allow her client to join the conversation, to have a meeting with Authority staff, Authority engineer, and Mr. DiSanto and his engineer, to determine what the circumstances are surrounding the pump station, and the availability for TCC's development. She noted if the pump station needs to be upgraded, which the Authority has required in the past, suggesting that the Authority should be consistent in its policy to provide for future development in the service area to include the Sheesley property and a number of other properties that would be served by this pump station. She noted that her client is not opposed to granting the Authority an easement on the Sheesley land, but there are certain non-monetary factors that she believes should be taken into account.

Ms. Leicht noted that Ms. Molonari has been working for over two years to get an easement for the Hankin property, and that is because the Authority told Mrs. Molonari that she needs to do whatever she could to negotiate a voluntary easement with Mr. Hankin. She noted that her client is just beginning the conversation, and she thinks that the Authority should allow discussion to take place with the before mentioned parties.

Ms. Leicht noted that she researched prior to the agreement with Mr. Zimmerman, and found that Ms. Pahl would have never had an agreement with Mr. Zimmerman if the Authority had not required Mr. Zimmerman to build a new pump station to provide facilities for the service area. She noted that it has been her experience that Authorities should require sizing so that things don't have to be done over again. She noted that it would be sound planning practice, and it would be a good business practice for the Sheesley estate.

Mr. Crissman noted that it comes down to who pays for it. Ms. Leicht noted that it comes down to who pays for it and when.

Mr. Stine noted that normally these things are done by an agreement, and it is done with a reimbursement component. He noted if a person agrees to build the facility, they would be reimbursed for whatever they don't use when other property owners hook up. Mr. Hawk noted that it would be the first developer's outlay initially, if he agrees to it. Mr. Stine noted that he did not think the Township could obligate a developer to pay it, but if there was an agreement, reimbursement could be included.

Mr. Seeds questioned Ms. Molonari if she needed capacity. Ms. Molonari answered that she did not need it for that pump station.

Ms. Leicht noted that topographically, at the location for the easement, it is much lower than the road grade, so when the next developers wants to develop the line, they would need to remove the line and start over. She noted, if the Township wants to widen Colonial Road, it would be much better if the sewer line was brought up to grade. She stated that she would like to meet to determine the engineering facts.

Mr. Crissman questioned how much time Ms. Leicht was asking for. Ms. Leicht answered that she has told Mr. DiSanto that she would be happy to meet with him this week.

Ms. Prahl noted that she thought it was a little odd that Mr. DiSanto started working with the Sewer Authority without ever contacting her. She noted that he paid for engineering studies without asking where the sewer easement would be placed on her property. She noted that Mr. DiSanto's removed his first offer from the table. She explained that the original engineering agreement made with Mr. Zimmerman was such that the houses along Colonial Road could be added to the sewer system. She noted that she does not know if Mr. DiSanto's engineering includes these properties, or only his own needs.

Ms. Prahl explained, if her land is developed, PENNDOT will make her increase the width of the road, therefore the Authority should be requesting that the sewer be raised to the street level. She explained that there could be a conflict with the PPL right-of-way if their lines are place underground for her property. She noted that she asked Mr. DiSanto to research these items, and he sent them back to her. She noted that she will be meeting with representatives from PPL.

Ms. Molinari noted that it has taken her more than two years to get to this point, but it was not the Township's fault. She noted that she is sewer the property in a cost range of \$98,000, and in addition to that, she is also making some other improvements that the Authority asked for. She noted that Mr. Hankin wants their Philadelphia appraisals to do the appraisal, and they want her to pay all their attorney's fees, and redo all the engineering that has already been completed two or three times. She explained that Mr. Weaver requested her to do the best she could, and she did. She noted that there has been no movement at all. She noted that when she called Mr. Weaver, and he found out what she did, he questioned if she was making a formal request to be placed on the agenda for tonight's meeting. She noted that she has worked well over two and a half years to get to this stage.

Mr. Crissman noted that this is a separate issue.

Ms. Prahl noted that the issue is how much Ms. Molinari has done. Mr. Crissman noted that he did not want to mix the two issues together.

Ms. Prah1 noted that she does not feel that the developer has approached her, and given her enough time since there are so many issues on the table that need to be resolved. She noted that she has not had an opportunity to meet with TCC's engineers. She noted that when she was working with Mr. Zimmerman, she paid to have her own engineering review done to make sure that it was adequate for what she would need for future development, and Mr. Zimmerman agreed to it. She noted that it took time to do this. Mr. Crissman questioned how much time. Ms. Prah1 answered that she is at the mercy of everyone to get back to her. Mr. Crissman questioned why Ms. Prah1 continues to bring up the agreement with Mr. Zimmerman since he is not involved in this property anymore. He noted that the discussion is between TCC and the Sheesley Estate.

Mr. Hawk noted that Ms. Prah1 is relying on the agreement that Mr. Zimmerman put forth years ago. Ms. Leicht answered that she is relying on the Authority's policy from three years ago. She noted that she would like to have the engineers meet to find out what the circumstances are.

Mr. Hawk noted that Ms. Prah1 has mentioned that PENNDOT would ask her to widen the road, and he questioned if Ms. Prah1 knew that for a fact.

Mr. DiSanto noted that the law is very clear; the only question is the value of the easement for the land. He noted that he has met with the Authority's engineer, and had them do the design, relying on the design approved by the previous engineer. He noted that he wants to build the line as it was shown. He noted that the issue is not what Ms. Prah1 wants, or PENNDOT, or how many EDU's they want, the only issue is the location of where the sewer would go and what the value of the property is. He noted that it does not matter if PENNDOT would require expanding the road, as he does not even know if Ms. Prah1 plans to develop her land. He noted that it does not matter if Ms. Prah1 wants EDU's for future use. He noted that it is not his obligation; it is the Authority's obligation.

Mr. Weaver noted that he has had a discussion with staff and Mr. DiSanto and they all agreed that there are two separate issues, one being the pump station, and the other, the issue of the easement area. He noted that he has been involved in the process with CET, and as far as the design goes, the Authority approved the design for Colonial Village, but the contingency for the design is getting the easement for the project. He noted that the only outstanding issue, at this time, is for him to get the easement. He noted that once he gets the easement, the Authority would allow him to move ahead with his project.

Mr. Weaver noted that Mr. DiSanto is at the mercy of the Authority. He noted that he does not see any issues with PENNDOT or PPL, but in fairness to Mrs. Prahel, he did not meet with both parties to review the design. He noted that he understands both arguments, but it is the Authority's responsibility to take some action at some point in time.

Mr. Hawk noted that the issue of upgrading the pump station had been mentioned. Mr. Weaver noted that it is a separate issue and he would work with TCC to develop a reimbursement agreement for how TCC would proceed with that upgrade. He noted that it would make sense to do it together.

Ms. Molinari suggested that two reasonable people should be able to sit with the proper people and try to get the issue resolved. She noted that they should be urged to try to come to terms. Ms. Prahel noted that she would appreciate that, but she has not met at all with the Authority. Mr. DiSanto noted that he has invited Ms. Prahel and Ms. Leicht to meetings, but she stated in her emails that it was premature to meet.

Mr. DiSanto noted if the Authority passes the Resolution to move the easement to condemnation; it would take several months to move into a court scenario. He noted that he hopes that he can resolve the issue now, but the two parties are miles apart and there is no impetus for the Sheesley Estate to come to the table. He noted that they have been saying that they want TCC to upgrade the pump station at TCC's cost with no offer for reimbursement, and they want it for free. He noted that that is not going to happen, noting that it was mentioned in his last two offers. He noted that he would continue to put forth a good faith effort, but requested the Resolution be acted upon.

Mr. Hawk noted that the easement is the issue at hand.

Ms. Leicht noted that she was asked how much time she needed, and she requested that the Authority wait until the end of November to take action on the Resolution. Mr. Crissman questioned if this would be agreeable to Mr. DiSanto. Mr. DiSanto answered yes. Mr. Stine noted if the Township chooses to act on the Resolution, it doesn't really do anything. He noted that it only authorizes the process of condemnation. He noted that the process would start with an appraisal and negotiations with the property owners. He noted that it authorizes, that sometime in the future, to condemn property.

Mr. Leicht noted that Mr. DiSanto's assessment of the legal issue is not entirely accurate. She noted that it is one thing for the Authority to condemn land that would benefit more than one private property owner, but it is another matter entirely to condemn property that just benefits Mr. DiSanto's property. She noted that the Private Property Protection Act suggests that it is not

enough of a reason for condemnation, and that is why there is a legal difference of opinion, and she is requesting more time to get the facts straight between the two engineers. Mr. Weaver noted that this would have to include Mr. Stine as he has a different opinion than Ms. Leicht. Ms. Leicht noted that condemnation is only to be done as a last resort.

Mr. Hawk noted that the Authority could pass the Resolution this evening and let the parties continue to negotiate or postpone the vote and have them continue to discuss the options. Mr. Seeds noted if the Resolution was passed, it would force the two parties to get together to discuss the options.

Ms. Prahm suggested that the Authority should have confidence in TCC and the Sheesley Estate, noting that she has a history of trying to work well with the Township. She noted that she never stated that she would not grant the easement, therefore, she requested an extension for the vote until the end of November to allow for further discussions. Mr. Seeds questioned how the Authority would know that the two parties would meet. Ms. Leicht answered that she has offered to meet next week with Mr. DiSanto.

Mr. Hawk noted that the next Authority meeting is November 25th. Mr. Blain suggested that both parties should be allowed to meet, and to provide a written report as to when they met, what they talked about and what the status of the negotiations are, prior to the next meeting. He noted that during the next meeting, the Authority would determine what was occurring and consider if there was a need to pass the Resolution. Mr. Crissman noted if the two parties are not making successful progress, then he would be willing to move on the Resolution. He noted that it is the only means to force the two parties to move forward. He noted that the two parties have made a commitment to meet and discuss the easement. Mr. Seeds noted that staff would be a part of the meetings. Mr. Weaver noted that the attorney and engineers will be part of the meetings as well.

Mr. Hawk suggested that the negotiations be wrapped up prior to November 25th so that a progress report would be available by noon on Friday, November 21st.

Action on Resolution 08-11 for acquiring a sanitary sewer easement
across the property of Mark Hankin

Mr. Weaver noted that Ms. Micki Molinari and Mr. Jeff Staub are present to present their need for action on acquiring the sanitary sewer easement for the Rosewood Development. He noted that, due to the limitations of the existing sewer and the costs involved with access through Earl Drive, it was justified, to the Authority, of crossing Earl Drive and gaining services by way

of an easement through the Hankin property, noting that the sewer easement would need to be provided for Mr. Hankin to develop his property. He noted that Ms. Molonari has corresponded with Mr. Hankin but there has been no movement on Mr. Hankin's part. He noted that they have requested the Authority to proceed with condemnation of Mr. Hankin's property in order to gain an easement. Mr. Wolfe noted that staff recommends the adoption of this Resolution.

Mr. Weaver noted that this was previously brought to the Authority before, and at that time, no movement had been made, but, the Board requested that another attempt be made.

Mr. Crissman made a motion to approve Resolution 2009-11, for acquiring a sanitary sewer easement across the property of Mark Hankin. Mr. Blain seconded the motion. Mr. Hawk called for a voice vote, and a unanimous vote followed.

Action on the proposed Swatara Third Addendum to the Inter-Municipal Agreement

Mr. Weaver explained that the Third Addendum to the Inter-Municipal Agreement was based on a meeting held at Swatara Township with Mr. Stine, Ms. Reese, Mr. Jones, Mr. Miller, Mr. Zulli, Mr. Morrison, and himself. He noted that staff and CET had significant issues with the capacities provided as part of the upgrade to the facilities and also the distribution of the funds to the Swatara Authority. He noted in talking with Mr. Smida, it was noted that the upgrades are required, but it was questioned if the Township had to make the payment in full or over a period of time. He noted that it became a mute point when Mr. Smida suggested that the Authority could use the funds from the 2002 bonds. He noted that, although, staff was not in total agreement to the payment process, he did not want to hold up the approval of the Addendum. He noted that the Swatara Township Authority would provide interest equal to what the Township was receiving.

Mr. Weaver stated that he believed that the Swatara Township Authority had compiled the Addendum to address the Authorities concerns found on page five, Article Two, Section 201, of the agreement, noting, "The parties shall allocate, at the percentages set forth in Exhibit B, Note 2 Upgrading Ration of the 1985 Agreement, the average daily flow and pertinent peak flow capacities along with organic and nutrient loadings in accordance with the design of the biological removal facilities at the waste water treatment plant." He noted that this provides assurance that the Authority can gain capacity. Mr. Stine explained that the original language stated that the capacity would be what was stated in the 1985 agreement, but he noted with the upgrades, there would be more peak capacity, and he questioned why the Township would agree to the same rate when it would be entitled to its fair share of the other part. Mr. Weaver noted

that Mr. Jones, the new Swatara Township Authority Superintendent moved this issue forward in the discussion process.

Mr. Wolfe noted that the Addendum would come before the Board of Supervisors at its November 3, 2008 meeting.

Mr. Seeds questioned if the funds had to pay off in full. Mr. Weaver answered, in defense of the Authority, he could understand that they wanted the payment in full. Mr. Wolfe noted that the payment should be made in full. Mr. Stine noted that the Swatara Township Authority is obligated to make the upgrades and it needs to have the funds to do it.

Mr. Crissman made a motion to adopt the Third Addendum to the Inter-Municipal Agreement. Mr. Blain seconded the motion. Mr. Hawk call for a voice vote, and a unanimous vote followed.

Township Reports

Mr. Weaver explained that he could postpone his Township reports until the November 25, 2008 meeting; however, the issue of the missing stream on Earl Drive would be reviewed as part of the Board's Road Tour, and he stated that he wanted to provide some background on the issue.

Mr. Wolfe noted that when the Authority dug up the stream by Earl Drive to install a new sewer line, at every lateral, it created a French drain, and now the project is dewatering the stream into the sanitary sewer bedding of the pipe. Mr. Weaver noted that DEP is blaming the Township for this. Mr. Wolfe noted that this occurred the first time the sanitary sewer line was constructed, and over time, the bedding of the pipe silts up and the stream reverts back to overland flow.

Mr. Weaver noted that the Authority received a complaint, and DEP investigated it, and requested the he respond to them within 14 days. He explained that after researching his files and past inspections, he determined that the stream had dried up before the project started. He explained that the stream works fine in significant storm events, and noted that it is an example of an intermittent stream. Mr. Wolfe suggested that the Authorities response should be that no investigation is necessary, and it would observe the stream over a six to nine month period after ground water is property established to see what occurs. He suggested that after the pipes are compacted, the disappearance of the streams at the actual cuts will dissipate. Ms. Reese noted that she remembers Mr. Weaver walking the site with the contractor prior to the start of the construction project and that the stream was dry. She noted that this is very important, as the resident's claim that the stream never dried up before.

Mr. Seeds questioned if there were overflows in that area. Mr. Weaver answered that overflows have occurred this year, but not with the last wet weather event.

Mr. Weaver noted that he and Mr. Stine attended the South Hanover Township October Zoning Hearing Board meeting, and he suggested that it went very well. He noted that Mr. Stine requested a continuance due to Mr. Wendle's health problem. He noted that the next hearing would be held November 24, 2008 at 7 p.m. Mr. Stine noted that this continuance is dependent on Mr. Wendle's attendance at the meeting.

Engineer's Report

Ms. Reese noted that she had nothing to report.

Solicitor's Report

Mr. Stine noted that he had nothing to report.

Mr. Seeds raised a question on the discovery and filing of disposition for the water obstruction and encroachment permit. He noted that the Township received a permit in March for the Beaver Creek Plant. Mr. Stine noted that the permit is for the filling and grading of the plant within the wetland and floodplain areas. Mr. Seeds noted that DEP rescinded the permit in September. Mr. Stine noted that South Hanover Township appealed the permit, and DEP rescinded it with the intention to reissue a new one. Mr. Stine noted that South Hanover Township did not file the appeal within the 30-day limitation. He noted that DEP failed to advertise the permit, so the appeal period does not begin to run until the permit is advertised. He noted that DEP reissued a permit, and South Hanover Township has appealed that permit. He noted that the Authorities Attorney, Randy Hurst contends that the appeal is spurious. Mr. Stine noted that DEP has to advertise the permit in the Pennsylvania Bulletin, and they failed to do so the first time they issued the permit.

Adjournment

There being no further business, Mr. Crissman made a motion to adjourn the meeting. Mr. Blain seconded the motion, and the meeting adjourned at 8:52 p.m.

Respectfully submitted,

Maureen Heberle
Recording Secretary

Approved by:

Authority Secretary
Gary A. Crissman