

MINUTES OF THE MEETING
OF THE MIDDLETOWN TOWNSHIP, DELAWARE COUNTY SEWER AUTHORITY
HELD ON AUGUST 16, 2021

The regular monthly meeting of the Middletown Township Sewer Authority was held on Monday, August 16, 2021, at 7:00pm at the Township Administration Building located at 27 N. Pennell Road.

Present were Authority Members: Roland Bailey, John Hanna, Edward Klodarska, Robert Scholz, and Timothy Sullivan.

Authority Advisors James Flandreau, Esquire, Solicitor, Walter Fazler, Engineer, John Ibach, Manager, and Francis Niermann, I&I Coordinator, were also present.

- **PLEDGE OF ALLEGIANCE TO THE FLAG**

Chairman Sullivan called the meeting of the Sewer Authority to order at 7:00pm and led the recitation of the Pledge of Allegiance to the Flag.

The Board had 2 executive sessions to discuss various real estate matters.

- **APPROVAL OF MINUTES OF THE MEETING HELD ON JULY 19, 2021**

Mr. Scholz made a motion to approve the July 19, 2021, minutes. Mr. Hanna seconded the motion. The motion was carried with a vote of 5-0.

QUESTIONS FROM THE AUDIENCE

Messrs. Wynne, Bernardi, and Nazirides, township residents, attended the Board meeting after receiving MTSA's tapping fee rate increase letter dated August 18, 2021. Mr. Bernardi (625 Chester Creek Road) stated that this is a hardship for him and that not enough notice was given especially regarding the tapping fee increase (\$8,000 to \$10,650). To answer all the questions and concerns, Mr. Sullivan explained to these homeowners that the Authority has not increased the tapping fee in approximately 10 years due to a moratorium imposed on MTSA by Southwest regarding treatment and Interceptor capacities. Mr. Sullivan explained that MTSA solved the wastewater treatment issue by entering into an agreement with DELCORA to treat its sanitary sewer flows. To resolve its Interceptor capacity, MTSA spent approximately \$20 million to construct the Chester Creek Interceptor. However, there is still a capacity issue with some of MTSA's minor interceptors. To resolve this, MTSA will be rerouting some of its sanitary flows to the Chester Creek Interceptor which was designed to accommodate additional flows. Once the capacity issues are resolved any home within 150' of an existing MTSA sanitary sewer main will be required to pay the tapping fee and connect into the public sewer system. Upon completion of rerouting some existing sanitary sewer mains (approximately 6-18 months' timeline), the duty to connect letters will be issued and homeowners will have 60 days to connect or to start the connection process. The Authority wanted to be fair in sending letters out to all homeowners who are within 150 feet regarding the duty to connect and the proposed tapping fee increase. Mr. Flandreau added that this increase is the result of careful calculations by the Authority Engineer and Accountant and is not waivable or appealable. He stated it is the law in Pennsylvania and is recorded in the Municipal Authority's Act in addition to Middletown Township ordinances. The duty to connect is also required by a Bond Indenture Agreement that the Authority is entered. Mr. Flandreau further stated that DELCORA's current tapping fee is \$1,500. However due to the date of when Mr. Bernardi's home was built, his development is exempt from DELCORA's tapping fee because it was an approved subdivision prior to DELCORA receiving any sewer flows from MTSA.

Mr. Nazirides (33 W. Forge Road) had additional concerns and stated that he would like to proceed with paying the current MTSA tapping fee. However, since he had spent \$20,000+ on an on-lot sewage disposal system approximately 15 years ago, he would like to wait until his current on-lot system malfunctions prior to connecting into MTSA's public sewers. Mr. Sullivan stated that there are no provisions for such a case. Mr. Flandreau added that unfortunately it's not a choice because of the Bond Indenture requirement. All residents who were issued this letter will have 60 days to connect post issuance of the letter which will be issued after the Sewer Authority (6-18 months) completes the rerouting project discussed earlier in the meeting.

Additionally, the DELCORA/Delaware County Lawsuit was brought up and how this lawsuit would impact residents. Mr. Flandreau explained the lawsuit exists because Aqua, a private company regulated by the PUC, entered into an agreement to buy DELCORA, a government entity. Delaware County and other entities objected to this sale. Delaware County filed a lawsuit in the Commonwealth Court, and Aqua /DELCORA prevailed in this case. The PUC is currently waiting to approve Aqua's acquisition of DELCORA which may take up to 12 months. If Aqua is successful in acquiring DELCORA, there will no longer be a DELCORA/Aqua tapping fee. If the courts determine that the County has a case, then DELCORA will continue as a governmental Authority and will continue to charge a tapping fee. At this point, it is a waiting game to see what transpires in the next 6-12 months. If this case is appealed to PA Supreme Court and if the PA Supreme Court decides to hear the case, it may take a significant time before a decision is rendered.

A. Manager's Report

1. 2016 Bond Issue Refinance

Mr. Ibach received the signed documents from Mr. Sullivan and Mr. Klodarska and will be forwarding them to Bond Council on August 17th. The Bond settlement is scheduled for August 24th and will be attended by Bond Council and the Trustee. The Board was very pleased with the refinance savings of \$600,000+/- due to the market's timely fluctuations.

2. Draft 2019-2020 Audit (GASB 68 Calculations included)

Mr. Ibach stated that the draft of the 2019-2020 Audit was finally completed. He included a revised page 16 to the audit report to replace the original page 16 because the Net Pension Liability and Deferred Inflows on the Statement of Cash Flows was understated by \$26,000. Mr. Hanna motioned to approve the 2019-2020 draft Audit. Mr. Scholz seconded the motion. The motion was carried with a vote of 5-0. This motion was one of the last two steps required for the Bond Indenture disclosure requirements. The last step is for Mr. Ibach to post the approved Audit on EMMA's website.

Misc. – Mr. Scholz prepared a Resolution for Ms. Tierney's efforts coordinating and facilitating the sewer certification process for Ms. Wolski's (Keller Williams realtor) buyers. Mr. Scholz also suggested the Board prepare an additional Resolution to acknowledge Ms. Schreiber's efforts in preparing for the Notary Public Exam outside work hours. Mr. Scholz motioned to approve both Resolutions. Mr. Klodarska seconded the motion. The motion was carried with a vote of 5-0.

Mr. Klodarska suggested to Mr. Ibach to create a detailed tapping fee FAQ document outlining the process of tapping into public sewer and all related fees/permits. This document would be available to all interested parties. The Board also discussed that if the tapping fee is paid and the homeowner didn't want to connect just yet and is paying his yearly sewer rent, should the Authority be concerned if he does or does not connect within the 60-day window? Mr. Fazler added that if the tapping fee is paid to the Authority and he does not connect into public sewer, it would be up to the Township to have them connect due to health safety reasons. If the Township wants the homeowner to connect, it will notify the Authority who will, in turn, notify the homeowner. Mr. Sullivan asked Mr. Ibach to

check the agreement with Mr. Osborne about when the contracted time expires for his partial reimbursement for any connections to his lateral. The Board will continue discussions on this topic at future meetings.

B. Treasurer's Report

1. Payment of Operating Expenses

Mr. Hanna presented a list of paid invoices for the period of July 19 through August 13, 2021, totaling \$712,028.39. The largest invoice is to DELCORA (\$579,665.75) for the third quarter sewage treatment cost. Mr. Hanna made a motion to approve these paid invoices. Mr. Bailey seconded the motion. The Board approved with a vote of 5 - 0 with one abstention by Mr. Hanna solely for the payment of the KBX/WRE invoice (\$38,698.03).

2. Payment of Capital Expenses – Bond Redemption and Improvement Fund

Mr. Hanna reported Capital Expenses totaling \$109,892.16 for August 16, 2021. The largest invoice is to Cedar Electric Inc. (\$86,040.00) for their work on the Darlington Valley PS. Mr. Hanna motioned to approve these expenses. Mr. Bailey seconded the motion. The Board approved with a vote of 5-0.

C. Solicitor's Report

1. DELCORA/Del. County Lawsuit

Mr. Flandreau informed the group the lawsuit is still in a holding pattern at this time.

2. Arbor's Deed of Dedication

Mr. Flandreau informed the group the Deed of Dedication is progressing well he hopes will be recorded soon.

3. PA-1-Call Indemnification

Mr. Flandreau is in the process of drafting the Indemnification Agreement for Bradford Engineering relieving them of any potential liability for marking out MTSA PA-1 calls. He hopes to have it finished by September's Board meeting.

D. Engineer's Report

1. Darlington Valley Pump Station (DVPS)

Mr. Fazler stated the work is almost complete except for the main distribution panel that is still on backorder. Cedar Electric is keeping the Authority updated on status of distribution panel.

2. DELCORA I & I Program

The contractor has completed the televising work. There are a few small miscellaneous items that will need to be redone. He is finalizing the review of all the televised laterals and mains and is preparing a list of suggested repairs to present to the Board.

3. Overview of Planning for Dutton Mill Interceptor

Mr. Fazler stated that KBX televised the Dutton Mill Interceptor. He will review and report back to the Board at September's meeting.

4. Chrome Run Interceptor Relocation/Replacement

Mr. Fazler is waiting for the annual foliage to drop to get a better idea of where the relocation will be.

5. Baltimore Pike Collector Connections

Mr. Fazler stated there are two potential connections, the first in the vicinity of the entrance to Wawa/Granite Farms and the second connection would be in the vicinity of the former Media Camping Center. The Board went into executive session to discuss several real estate matters. Once out of the executive session, Mr. Scholz motioned to approve the extension of the effective date of the tapping fee increase from August 31, 2021, to October 4, 2021. Mr. Klodarska seconded the motion. The motion carried 5-0. Mr. Flandreau emphasized that Mr. Ibach's letter to the homeowners should specify that the tapping fee must be received on October 1, 2021, by 3pm.

6. Confined Space Entry Abandonment

Mr. Fazler is drafting the scope of work and bid documents for this project to go out to bid in October.

7. LPSS for Convery Project

Mr. Fazler is drafting the scope of work and Mr. Flandreau will be working on the required Developer's Agreement and legal documents for this project.

ADJOURNMENT

Upon motion by Mr. Sullivan and seconded by Mr. Hanna, the meeting was adjourned at 9:01 pm.

Respectfully Submitted,

John Ibach, Manager
Cc: Authority Board and Advisors
Township Manager
S.W.D.C.M.A.
DELCORA

The minutes were recorded by Mr. Ibach and transcribed by Ms. Tierney.

Approved:  Date: 10/18/21