

EAST PENNSBORO AUTHORITY
FEBRUARY 20, 2020

Regular Meeting

6:30 p.m.

A Regular Meeting of the East Pennsboro Authority was held on Thursday, February 20, 2020, at 6:30 p.m. at the Community and Municipal Center, 98 S. Enola Drive, Enola, Pennsylvania.

Those present were: Commissioners George Tyson and Kristy Magaro, Dr. Glenn Zehner, Randy Martin, and Mario Billow, members of the Authority; Lisa M. Coyne, Esquire, Solicitor; John Pietropaoli, Township Manager; Dearan Quigley, Housing & Community Development; Ed Myers, Assistant WWTP Superintendent; Brandy Mellott, Billing and Collections Administrator; Jared Hockenberry, Consulting Engineer; and Robert Coyne, Coyne & Coyne, P.C.

I. CALL TO ORDER

The meeting was called to order at 6:30 p.m. by Tyson. A moment of silent meditation was observed, followed by the Pledge of Allegiance to the Flag.

III. APPROVAL OF MINUTES

MOTION approving the minutes of January 16, 2020, was made by Dr. Zehner, seconded by Mr. Martin, and was carried by a unanimous aye vote.

IV. PUBLIC COMMENT

Mr. Charles Hoffman, 807 Belle Vista Drive, inquired as to what the credits were possibly going to be because he built a new house in 2016 with his own still water system in the back yard at a cost of \$10,000. Chairman Tyson stated the credit fee structure is in draft form that is anticipated to be approved by the next meeting, which will be in March and would be in place about the same time that the bills go out. An underground facility is in the criteria of a credit that would be acceptable. There will be guidelines with a facility like that that there needs to be demonstrated maintenance. The credit structure is set up that the maximum credit is 25 percent for a non-MS4.

Mr. Charles Underwood, 617 Tower Road, inquired as to why he would be charged for water runoff when he does not have any water runoff. Chairman Tyson noted it goes back to EPA and the Federal mandate to clean up the Chesapeake Bay, and the items they have identified are sediment and nitrogen. In the township's permit process that is issued by DEP at the State level, which is reviewed by the EPA, they require a certain amount of pollutant reduction coming from regions that contribute to the Chesapeake Bay. Municipalities are tasked with doing what they need to do in that 5-year permit cycle to demonstrate that they are reducing those two items by a certain factor. Chairman Tyson noted the township has done a lot of due diligence to keep the fee as low as possible and made the decision that every residence would be charged the same. Mr. Underwood asked if there was any way a resident could object. Mr. Tyson noted the only resort residents have would be letting elected officials at the State level and Washington know that these fees can be very detrimental to people on fixed incomes, as well as the average person going to work every day and raising their family, and there needs to be a balance with this. The township is not in a position to say they are not going to do it because it will incur fines. It is an unfunded mandate and very unfortunate, but the township is trying to keep it as manageable as possible with a fee of \$22 a quarter, \$88 a year, and that amount is fixed for 5 years, at a minimum.

V. MANAGER/ASSISTANT MANAGER REPORT

Mr. Pietropaoli noted regarding the future bank account for the Authority, the board will be looking at a resolution in the near future. The Solicitor is considering two signatories of the Authority to be available when needed because it is a different State ID and tax ID number.

VI. ENGINEER'S REPORT

Mr. Hockenberry noted the information PennVest has required is complete. He will upload the contracts tonight, as Tuesday is the deadline for the paperwork.
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VII. SOLICITOR'S REPORT

Ms. Coyne noted regarding the bank account for the Authority, with the operating agreement between the township and the Authority, the township will administer and collect the moneys for the fee and will be tendering that to the Authority once it is collected, so a resolution is required to have an account in place to receive moneys, a separate fund from the General Fund or the Sewer Fund.

Ms. Coyne reviewed the three contracts on tonight's agenda with the Authority. The out-of-State vendor has agreed to the language she suggested that binding arbitration occurs in Cumberland County, per stipulation. The sequencing in the credit resolution was suggested by the Engineer, making sure there was sufficient time for action of approval. He suggested 10 days to submit it, 5 days to respond to the fine.

Ms. Coyne also noted the board has received the deed of dedication of the stormwater facilities from the township to the Authority that was acted upon at the second meeting in January by the Board of Commissioners.

VIII. OLD BUSINESS

A discussion was held regarding the credit program and billing for the stormwater fee for the second quarter. Ms. Mellott stated she will have the bills ready to go out by the third week in March. Chairman Tyson noted the goal is to have the credit program in place at the time the bills go out. Mr. Myers put together what the percentages would be under the different categories, and the committee met this week and came up with a working document. He noted the Authority may want to produce some FAQ bullet points so that once the bills go out and staff starts receiving phone calls, those FAQs will be beneficial for staff to answer questions. The information will also be on the Web site, and a link will need to be created to direct people.

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Ms. Coyne reviewed the draft, Appendix A, the types that have been developed, regarding rate control, volume control, education program, fertilizer management, separate MS4 permit, and riparian buffers, which are similar credit programs seen in neighboring municipalities. Guidance from the board is needed in areas the board is interested in pursuing, noting education and the fertilizer programs are two that are somewhat flexible. The education component does not apply to any day care centers, which are specifically excluded, mainly looking at the school district, the Harrisburg Academy, and Central Penn. The percentages that would be allocated are for the board's determination.

Mr. Myers reviewed the analysis he sent to the Authority members by email. He stated he had an additional suggestion of a stormwater partnership credit, similar to Silver Spring Township's credit program. It is in the spirit of recognizing that there are a lot of plans through our Chesapeake Bay pollutant reduction plan to deal with stream banks and possibly privately owned best management practices (BMPs), stormwater facilities of different styles, to reduce nitrogen, phosphorous, and sediment. We may not be able to reach them all, go through all the properties, or get all of the reduction that we need by our own means, so we would need to elicit partnerships, whether through access or nearby properties where a stream bank would get more lineal feet, achieving buy-in to interested residents and offering a credit with a weight to be determined to thank them for that cooperation. A second tier to that partnership would be to field possibly unconventional BMPs, which whether the onus would be on the resident or owner of the property to come up with and analyze and provide the data as to why their unconventional BMP or structural or nonstructural facility might be worth a credit, and it would be for them to prove, but it would be a unique, creative opportunity to get public engagement and let them know we are trying to work with everybody.

Ms. Coyne noted the Authority's consultant had prefaced in developing the fee structure that there would be some credit provisions. There will be some discussions

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with Norfolk Southern at a later point once the billing comes out, but staff is looking for what the board wants as far as the percentage of credit. Exhibit A has a list to include, we have the stormwater partnership language as additional language that Mr. Myers suggested. She asked if the percentages in the exhibit are satisfactory to the board. The cap that any credit is going to receive is going to be 25 percent, unless it is a separate MS4. So even though some property might have two structural controls, the max they are going to get is 25 percent, not 25 percent per structure.

Mr. Myers reviewed the stormwater partnership credit as he reviewed Silver Spring Township's plan. If there is a partnership for right-of-way, the first part, the cooperative, is 25 percent. The second part is the custom structure or nonstructural source of the credit has to be given a weight on a case-by-case basis, because the terms of it would be evaluated by the Authority by way of township staff. Not all customized credits are equal. Whether something nonphysical, or a fairly large structure, or just unconventional, that would have to be an at-time determination. For this, he suggested a range should be determined, as far as following the guidelines of the rubric, not to exceed 25 percent, possibly 10 to 25 percent, or something the Authority would determine.

Ms. Coyne noted a concern about how difficult it will be to implement from the staff on an ad hoc basis, that there would have to be some paradigm for guidance to staff. Mr. Hockenberry noted an educational program that gives 25 percent may also have structural credits, and asked if that would be considered a max cumulative cap of 25 percent. Ms. Coyne noted that is how it is drafted currently. Chairman Tyson noted that education component is currently 20 percent max, but concurred that a cumulative max should be 25 percent. The only thing that gets 50 percent max is its own MS4.

Mr. Hockenberry noted it is not often that stormwater facilities onsite capture 100 percent of the impervious area, so you could have multiple stormwater facilities

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capturing different percentages of the property to equal a max of 25 percent of the fee that they are being charged. Mr. Pietropaoli noted if they are capped and do the stormwater, they may not bother with the education then because they have already reached the 25 percent max.

A secondary consideration for the education credit would be them helping the township for the education credit. Mr. Myers stated they are supposed to be developing elementary, middle, and high school as part of their K through 12 curriculum. If they already have max credits otherwise, it makes it less convincing to do so, but they are supposed to do it. The partnership between township, facility, and school district would get credit for the education in terms of the township's MS4. Mr. Martin asked if the school district has the educational program and they get the 25 percent credit but put in a volume control BMP, would they not get an additional 25 percent? Mr. Myers stated they would get the remaining 5 to bring them to 25 percent, as currently written. Mr. Hockenberry stated depending upon what stormwater that captures. Mr. Martin asked what the maximum was on a riparian buffer. Ms. Coyne noted the maximum credit would be 25 percent.

Ms. Coyne noted a resolution was adopted to set the rate and the appeal process. For the credit program, one suggestion was to have no cost to the applicant to submit for the credit program. The credits can be in place up to three years, there will be a review process to make sure that if they implemented the BMP, that they are actually maintaining them, and it gives the Authority the right to revoke them if they are not being maintained. Mr. Myers stated that ties into the Township's obligation to its minimum control to have an inventory of all public and private management practices facilities. Even if the township does not own them, it needs to make sure they are working because they exist within the township's MS4. Adopting a stormwater partnership credit that distinguishes between the owner of a facility that is private and the township, the Authority, by means of making sure that the annual operation and maintenance is happening and the

inspection form is filled out indicating that it is in working order, therefore the credit is awarded, is an incentivized program.

Ms. Coyne noted in anticipation of granting the credit, there will have to be a right of entry to be able to inspect. She asked if these credits will be for residential. Mr. Hockenberry stated yes, although there are not a lot of residential properties that will have structural facilities, there are some. Mr. Martin asked if the structural facilities would have to be recorded as environmental covenants. Mr. Hockenberry stated only if it would have been mandated to do so during the construction process. The O&M agreements are recorded. Ms. Coyne noted there will be private facilities and public facilities, with the deed of dedication of stormwater facilities that the township currently has. Stormwater facilities that are privately held are issues that this board will be tackling as it moves forward. She noted the appeal process is similar to tax assessment: once the bill comes in for that quarter, there is a period of time they have to apply for the credit. It will be for that quarter and moving forward. There is a time constraint of 10 business days for staff to review and evaluate that and make a recommendation for the granting of the credits.

Dr. Zehner asked what documentation is required for the education credit, whether lesson plan or course. Mr. Myers stated there are two stages of the educational credit. Whatever comes to the curriculum, a plan for the stages of school grades, whether course work, days, the entire program facilitated by the teacher, there are such curriculums in existence for K through 12. Ms. Coyne noted an appendix can be added as to what the Authority would be seeking. Dr. Zehner asked about Central Penn College and what a college would need to produce. Ms. Coyne suggested adjusting 4.2 because it refers to public and private schools K through 12, it does not list a college component.

Chairman Tyson suggested the college could be given an opportunity to have students volunteer in assisting the township with some of what it is doing, such as riparian
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buffers, stream clean-up, things like that. Mr. Hockenberry stated they have been a very willing partner to allow the township on their property and offering their property for stream bank restoration and potential retrofits.

Ms. Coyne noted regarding the appeal process, the presumption is that our invoicing and calculation through GIS is accurate as far as imperviousness. It then shifts to the property owner to say the GIS system is wrong, here are the calculations for that. Then staff can make an adjustment based on that. The second inquiry will be on the credit program, how that is calculated. The other guidance required is for the fertilizer management credit. Some municipalities do not address that. The township has one remaining farm, and there might be larger properties that are utilizing fertilizer, such as the country club. Section 4.27 on page 11 speaks to where fertilizers are applied, 20 percent, and the amount of credit is at the discretion of the Authority, up to a maximum of 15 percent.

Ms. Coyne requested guidance as far as the percentages in Appendix A, the maximum credit amounts for rate and volume control. Mr. Hockenberry stated there are no other MS4 entities within the township, but he included it in case that becomes possible in the future. Norfolk Southern does not have an MS4 program, but they have an NPDES program, which he believes would apply under one of the structural controls.

Ms. Coyne noted as the money is coming in, the first payment dollar will go against the stormwater fee. In case someone is not fully paying their bill, the stormwater fee will be addressed first, and then the other lienable fees that are collected, such as trash and sanitation, would be collected through the collection process.

IX. ITEMS FOR DISCUSSION AND APPROVAL

MOTION to accept Deed of Dedication from East Pennsboro Township regarding stormwater facilities and authorize recording of deed, was made by Ms. Magaro, seconded by Mr. Martin, and was carried by a unanimous aye vote.

MOTION to accept Basin Retrofit Project proposal from HONOR ENGINEER COMPANY in an amendment not to exceed \$135,000, per proposal dated January 29, 2020, was made by Dr. Zehner, seconded by Ms. Magaro, and was carried by a unanimous aye vote.

MOTION to accept stream design and consulting contract with ECOSYSTEM PLANNING AND RESTORATION, LLC, a Texas-based limited liability, provided dispute resolution language required by Solicitor is included as well, including the Authority and Township as additional insureds, with the contract not to exceed \$250,000.00, per proposal dated January 30, 2020, was made by Dr. Zehner, seconded by Ms. Magaro, and was carried by a unanimous aye vote.

MOTION to accept Rapid Stream Assessment and Stability Rating contract with ECOSYSTEM PLANNING AND RESTORATION, LLC, a Texas-based limited liability, provided dispute resolution language required by Solicitor is included, as well including the Authority and Township as additional insureds, with the contract not to exceed \$61,500.00, per proposal dated January 30, 2020, was made by Dr. Zehner, seconded by Ms. Magaro, and was carried by a unanimous aye vote.

MOTION to adjourn the meeting at 8:30 p.m., was made by Ms. Magaro, seconded by Mr. Martin, and was carried by a unanimous aye vote.