MINUTES
UPPER ALLEN TOWNSHIP STORMWATER AUTHORITY
REGULAR MEETING – APRIL 17, 2019
6:00 P.M.

STORMWATER AUTHORITY BOARD
James G. Cochran, Chairman
Richard A. Castranio, Vice Chairman
Paul M. Rigney, Treasurer
Kenneth M. Martin, Secretary
Virginia M. Anderson, Asst. Secretary (absent)

TOWNSHIP OFFICIALS
Lou Fazekas, Township Manager
J. Stephen Feinour, Solicitor
Jason Reichard, P.E., Twp. Engineer
Jen Boyer, Community Development Dir.
Megan McNamee, MS4 Coordinator

CALL TO ORDER

Chairman Cochran called the meeting to order at 6:00 p.m. A moment of silence was observed, and The Pledge of Allegiance was recited by all. Roll Call was taken by Mr. Fazekas.

CHAIRMAN'S ANNOUNCEMENTS

There were no announcements.

PUBLIC COMMENT

Barry Strock, of 815 Williams Grove Road, referred to a West Manheim Township newsletter, and reviewed their stormwater assessment Frequently Asked Questions (FAQs). He said we are all familiar with how it was handed down from DEP to the Counties, and then to the Municipalities. He noted that the fee is necessary to reduce pollutants in the water. He commented on FAQ #4 in the Manheim Township newsletter, which notes that West Manheim is part of York County’s Chesapeake Bay Pollutant Reduction Plan (CBPRP), which is a collective effort from approximately 50 municipalities to reduce the pollutants. He said West Manheim’s involvement came about because it was much more cost-effective to be part of a coalition than trying to do it on your own. He said their assessment rates are interesting, as outlined in their Ordinance 2017-03. He said 1 ERU, which equates to 4500 square feet in West Manheim, runs from $80/year to $13.66/year. He said that blows his mind because it depends on how you want to administer the fees. He said we pay 4 times a year here, at about $66 for 1 ERU. He highlighted several other things in the West Manheim Township stormwater ordinance. Assessment is done annually and when you look at it, he said it is only one-fourth of the administrative costs of assessing it quarterly. He said it goes on that each Township resident in a single dwelling pays 1 ERU and each agricultural tract in the County pays 1 ERU. From there down, all the parcels that are not single-family residential use or agricultural use pay on an impervious scale like we have in Upper Allen. He said all single-family dwellings pay 1 ERU regardless of their coverage size, big or small, 10 acres or 25 acres. He said this seems much more fair and equitable for a stormwater fee. He questioned why farmers should be asked to pay 10, 20 or 30 times more than a residential dwelling when they contribute very little to the stormwater program and are basically a recharge area. He said they are the retention pond for poorly planned development in the Township and asked how this can be fair and equitable. He
said neighboring properties that are part of the problem are paying a small fraction of what they pay. He said he called a Country Estates neighbor and asked what his fee is, and he had no idea because he pays it online doesn’t know what it is. He said he guesses that is what the Authority wants.

Chairman Cochran responded that we have advertised the stormwater fees, and if people don’t want to pay attention then we can’t do anything about it. He said to say that about the Authority is unfair. Mr. Strock said this whole stormwater issue went by him until the first bill came, and then it got his attention. Mr. Fazekas said we also sent every one of those who pay online an email to notify them that the new fee would go on their bill because they may have to adjust the online payment amount. He said they were notified ahead of time, so that resident evidently didn’t read his email. Mr. Strock said maybe the guy just didn’t want him to know what he’s paying. In closing, Mr. Strock said the Township should scrap the whole program and go with what West Manheim is using. He said the farming community is not going to go away, and will be back to add more facts and figures to this disagreement. He said they have just begun to arm their arsenals and the Authority will hear it in the coming months.

Linda Strock, of the same address, said she is here to be the squeaky wheel and for an update on the unfiltered water pouring into her hayfield from Country Estates. She asked if there has been any more talk about it. Chairman Cochran responded that the Township Engineer is looking at it, but we have no answer back as yet.

**CONSENT AGENDA**

Commissioner Martin made a **MOTION** to approve the Consent Agenda as follows, **SECONDED** by Treasurer Rigney:

Approval of Minutes of March 20, 2019 Stormwater Authority Meeting
Approval of Administrative Payments in the Amount of $11,521.34
Consideration/Approval of Staff Reports

The motion carried unanimously.

**NEW BUSINESS**

**Consideration/Adoption of Resolution to Amend Bylaws**

Treasurer Rigney made a **MOTION** to adopt Resolution No. 6, a Resolution to Amend the Bylaws of the Upper Allen Township Authority, **SECONDED** by Vice Chairman Castranio. The motion carried unanimously. This resolution changes the fiscal year of the Authority from July 1 of each year to January 1 of each year.
Consideration/Approval to Allow C. S. Davidson to Re-evaluate Certain Properties being Charged 4 ERUs or More

Mrs. Boyer noted that staff was asked to approach C. S. Davidson about re-evaluating certain properties within the Township to determine whether they are being calculated at the correct amount of ERUs. Staff pulled all properties with a calculation of 4 or more ERUs, which equals 471 parcels. With just over 7,500 parcels in total, this re-evaluation would account for approximately 6% of all Township parcels. C. S. Davidson has said they can re-evaluate 471 properties at a cost of $12,000-$15,000. The scope of work will involve reviewing each property to determine whether the current ERU calculation is correct. For any properties that are incorrect, they would be adjusted accordingly. The exact cost depends on how long it will take to review any incorrect calculations and make the necessary adjustments. The project can be completed within 60 days.

Chairman Cochran noted that the calculations were initially done by computer, with the computer analyzing the topography. Now we are going back to have a human looking at those to make sure they are accurate. If they were already reviewed through the appeal process, they won’t be looked at again. At the recent Public Improvements Committee meeting, the Township Engineer leaned toward the $15,000 cost, and Mrs. Boyer asked if the Authority wants to put a cap on the cost. However, Chairman Cochran suggested that we see how far they get on $15,000 and then go from there. Commissioner Martin said he thinks there should be a not-to-exceed figure put on it unless there is something beyond their control. He said he doesn’t want to communicate back that they have an open checkbook.

Treasurer Rigney said he supports these steps but he is concerned that we are stopping at 4 ERUs. He questioned those who are at 3 ERUs, noting that there were people with 3 ERUs that appealed and got it reduced. Mrs. Boyer said it was more just a matter of finding an affordable number to review. Mr. Fazekas said the ones with the biggest financial impact are being looked at. Mrs. Boyer said most of the appeals we are getting are those that are the higher number of ERUs, not those with 2 or 3 ERUs. She said if the Authority wants to change the number we will have to go back to C. S. Davidson for another price. Treasurer Rigney said he thinks if the goal is to be fair, then we should open it up. He suggested that maybe we could use an intern to check those with 3 ERUs. He said it can’t be that hard. Mrs. Boyer said it’s not hard, but it is time consuming. Vice Chairman Castranio said we should finish this first round and continue then. He said he thinks the goal is to do them all, and Mrs. Boyer said this is just a starting point. She said the Authority has options and we can do this round and see how it goes. Then if they want to expend the additional time and money they can move forward to the others. Or, she said the Authority can table this for tonight and go back and tell C. S. Davidson to start at 3 and above, or we can look to hire temporary help. Vice Chairman Castranio said he thinks it is good to start with 4 and above and once that is done, then we reassess it. He said reviewing the 1 or 2 ERUs is probably a waste of time. Treasurer Rigney said he would like a guarantee that we will look at 3 at a future date, but Chairman Cochran said he wants to see the results of this review before we guarantee anything else. If we do this and we don’t see a lot of changes, he questioned why we would spend money to review those with 3 ERUs. He said he thinks the bigger the property, the more likely there will be a mistake, so if we do those properties first we can see how it looks and then maybe go back and look at the properties with 3 ERUs. He said he
won’t promise anything else now, and Vice Chairman Castranio concurred. Treasurer Rigney said he just doesn’t want to leave out people with 3 ERUs.

Vice Chairman Castranio made a MOTION to review all properties being charged 4 ERUs or more to verify the ERU calculation. The project shall be completed within 60 days, or a cost not to exceed $15,000. SECONDED by Commissioner Martin. Treasurer Rigney amended the motion to include 3 ERUs or more. There was no second and the amended motion died. The vote on the original motion was as follows: Chairman Cochran, Vice Chairman Castranio, and Commissioner Martin voted yes; Treasurer Rigney voted no. Commissioner Martin said he appreciates Treasurer Rigney’s concern and thinks we should look at it down the road.

Chairman Cochran mentioned that in attendance at the recent Public Improvements Committee meeting was Derek Rinaldo, of C. S. Davidson, who worked on the York County MS4 program. Chairman Cochran explained that York County did things differently than Cumberland County. He said some of their municipalities opted out. Cumberland County didn’t even suggest it, so it’s not that we opted out of something that was offered. It wasn’t offered to us. He said Mr. Rinaldo brought a list of stormwater credits he developed for their program and we are looking at that list and making good progress on the credit program. He said there are real solid credits in the program and he thinks the farmers will be happy about them if we get them passed. He said he is very confident that the program will be ready for fall.

OLD BUSINESS

Clarification of Resident Comment at March 20, 2019 Stormwater Authority Meeting

Chairman Cochran noted that at the last Authority meeting a resident from Bumble Bee Hollow Road made some wild claims, and those claims are now part of the minutes of that meeting, so the Authority didn’t want them to stand as factual because they aren’t. He said the comments concerned the approval of the Bumble Bee Hollow development, so staff went back and looked at the records.

They found that Bumble Bee Hollow first submitted a preliminary subdivision/land development plan in November of 2004. Over the next two years the plan was granted numerous time extensions to allow the applicant time to revise the plans in order to address concerns from staff, Board members, and residents. The preliminary plan was eventually discussed at length over the course of five Planning Commission meetings between December 2004 and April 2006. One of the areas of concern had to do with the steep slopes within certain areas of the tract. The developer was asking for a waiver of Section 220-11.E (based on the 1992 Subdivision and Land Development Ordinance). Section 220-11.E states that lands with slopes of 15% or more were unsuitable for development because of hazards to life, safety, health or property, and shall not be subdivided or developed until such hazards have been eliminated or unless adequate safeguards against such hazards are provided for in the subdivision/land development plan. The Planning Commission did recommend the waiver be disapproved; however, they recommended conditional approval of the plan, with three additional conditions above and beyond all staff comments, as follows:
1. Detailed grading plan must be submitted and certified by geotechnical engineer with each building permit;
2. Before occupancy permit is issued, geotechnical engineer must certify that fill slopes have been constructed properly; and
3. Safety barrier must be placed on Wooley Hollow Way.

On March 16, 2006 the Board of Commissioners began discussing the development plan. While no formal action was taken to approve the plan, a motion was made to grant a 90-day extension. The motion also stated that if the time extension was not granted, then the plan was to be considered rejected due to the steep slope issue. The motion passed 3-2. Commissioners Anderson, Cochran and Martin voted yes; and Commissioners Chick and Rigney voted no. Chairman Cochran noted that there was never a final vote done behind closed doors to reverse it as alleged at the previous Stormwater Authority meeting.

On May 18, 2006 the Commissioners tabled discussion of the revised plan, continuing the meeting to May 22nd. There was discussion as to whether or not the waiver was necessary. The applicant’s attorney and the Township Solicitor agreed that no waiver was necessary unless the applicant could not mitigate the problem. The applicant provided pictures to illustrate a typical slope lot, noting the homes are over-designed to mitigate against global and surface failures. The applicant asked the Board to determine if the hazards had been mitigated. No determination was made. No action was taken on the plan, but the Board noted that the plan would be back on the agenda in June. Hearing the concerns from the Township meetings, the applicant agreed to look at Lots 35 and 36, as well as Lots 34 and 37, since they were the most sloped. They were going to try and come up with other solutions.

The plan went back to the Board of Commissioners again on June 15, 2006 for further consideration. At this meeting, the applicant asked the Board of Commissioners to make a determination as to whether the hazards of development on slopes 15% or greater had been eliminated. The applicant had submitted a revised plan on June 1st, in which they combined Lots 34-37 and showed them as common open space along with Lot 38. After a lengthy discussion, the plan was conditionally approved 4-1. Chairman Cochran noted that there were then less lots than originally approved, not more. He said there was no behind-the-scenes voting and it complied with the ordinance.

Commissioner Martin thanked Mrs. Boyer for her research, noting that there were pretty serious accusations made at the previous Stormwater Authority meeting. He asked staff to provide her comments to the resident in question in addition to making them a part of the current minutes.

AUTHORITY MEMBERS’ COMMENT

There were no comments.

PUBLIC COMMENT

Referring to the earlier discussion about re-evaluating ERU calculations for properties with 4 ERUs or more, Linda Strock said she doesn’t understand why we are spending $12,000 to
$15,000 of taxpayer money to do this if people don’t care enough about their bill to come in and appeal it. Chairman Cochran said we are trying to make the larger properties as accurate as possible and may even do the smaller properties. He said we thought the computer analysis would give an accuracy rate of 90%+, but it doesn’t seem that we are there. He said we want to look at the bigger properties, where the difference could be several thousand dollars. Mrs. Strock asked if we think they were assessed too low, and Chairman Cochran said he doesn’t think so. Commissioner Martin said if the Authority knowingly might not have provided the most accurate information, then as public officials we have an obligation to provide it. Mr. Fazekas added that the Bumble Bee Hollow Road resident also made the comment at the previous Stormwater Authority meeting that we aren’t taking the time to go back and verify the ERU calculations, so this is also the Authority’s intention to double check. He said we are just taking the extra step to verify the information. Barry Strock commented that he did his own measurements three times, and got three different numbers.

ADJOURNMENT

Chairman Cochran adjourned the meeting at 6:40 p.m.