

Weaverland Valley Authority

Blue Ball Water Authority East Earl Sewer Authority
East Earl Township Terre Hill Borough
Special Meeting June 20, 2016

A special meeting of the East Earl Township, Terre Hill Borough, Blue Ball Water Authority, East Earl Sewer Authority, and Weaverland Valley Authority was held on June 20, 2016 at 6:30 p.m. at the East Earl Township Municipal building.

Present: Earl Kreider, Nelson Groff, Gene Pierce, Garry Hartranft, James Wentzel, Darrell Becker, Ray Newswanger, Bob Jackson, Harold Kilhefner, Ken Witmer, Scott Marburger, Scot Ash, Jerrene Zimmerman, and Robert Rissler.

Also Present: Jeff Sweater, Julian Mazer, Martin Siegel, Brad Harris, and Gary Krafft

Supervisor Kreider called the meeting to order at 6:38 p.m. He announced that there was a joint executive session with East Earl Township and Terre Hill Borough immediately before the special meeting in order to (1) consult with legal counsel and professional advisers regarding information and strategy in connection with the Longeneckers' appeal to the Environmental Hearing Board of the municipalities' Act 537 Plan and (2) discuss attorney-client privileged information with legal counsel. Supervisor Kreider then turned the meeting over to Special Counsel Martin Siegel.

Mr. Siegel was present to give a status update on the 537 Plan appeal. He explained that the discovery period has been completed. The case is currently pending resolution of summary judgment motions. An order granting the Longeneckers' summary judgment motion is not likely. Attorney Siegel expects the case to go to a hearing before the Environmental Hearing Board mid-fall with a decision to be received 3-4 months after the hearing. Mrs. Zimmerman asked what happens if the Environmental Hearing Board decision is appealed. Attorney Siegel explained that the case would then go to the Commonwealth Court. Mrs. Zimmerman then asked if the Weaverland Valley Authority could be drawn in to the proceedings. Attorney Siegel said new parties can be added but he feels it is late in the game for that to happen. Resident Dave Horst said at the last authority meeting, it was said that DEP will not delay their deadlines due to the appeal. Attorney Siegel said that is correct. Attorney Siegel also said the Environmental Hearing Board has a website that is available to the public to view the documents in the case.

Jeff Sweater and Julian Mazer of ELA Group were present to discuss the financing for the Weaverland Valley Authority. Mr. Sweater explained that the Weaverland Valley Authority has no revenue or assets at this point but in order to meet the DEP deadlines, the project needs to keep moving forward. Mr. Sweater feels that funds will be needed for professional services for the Weaverland Valley project. This would include the NPDES permit application which needs to be submitted to DEP by January 1, 2017. Completing the application will require some preliminary

analyses to be done. Once the NPDES permit is approved, the quality of what can be released will be known and the design of the plant can be started. Mr. Sweater also explained that a rate study must be done in order to determine proper legal rates and protect against possible litigation regarding same.

Mr. Sweater explained to the boards that funding is needed for the work that needs to be completed before the assets and liabilities are transferred. One option would be for East Earl Sewer Authority to loan the necessary funds to the Weaverland Valley Authority until a Line of Credit can be obtained for the Weaverland Valley Authority. Mr. Sweater estimates that it will take a minimum of 90 days for a Line of Credit to be available and the money needed during this time to be approximately \$150,000. Another option would be for the Borough and/or Township to loan the money to the Weaverland Valley Authority until the Line of Credit is set up. Mr. Sweater also explained that since the Weaverland Valley Authority has no credit rating or assets, the Township and Borough will need to back the financing.

Mr. Witmer noted that at the last East Earl Sewer Authority meeting their solicitor, Frank Mincarelli, told them that a few years ago a law was passed making it illegal for an authority to loan money to another entity. This law was put in place due to loans of this nature being abused. Mrs. Zimmerman then explained that Section 56.12 (53 Pa.C.S. § 5612) of the Municipal Authorities Act states that "Money of the Authority may not be used for any grant, loan, or other expenditure for any purpose other than a service or project directly related to the mission or purpose of the authority as set forth in the articles of incorporation or in the resolution or ordinance establishing the authority under section 5603." Attorney Krafft said he thinks this should be explored further and Attorney Harris agreed. Attorney Krafft and Attorney Harris will contact Attorney Mincarelli to discuss this further.

Supervisor Groff asked why the assets can't be transferred sooner. Attorney Harris explained that before transferring the assets and liabilities, the Weaverland Valley Authority needs to be operational and the existing authorities must continue to operate and provide their essential services until the WVA is capable of taking over. In order to be operational the rates need to be set, employees need to be hired, etc. Realistically, he doesn't think this can be done before the end of the year, which is the deadline the Exploratory Committee had established. Supervisor Groff then asked ELA if there is any way that billing could be deferred. Mr. Sweater said he could discuss this with the owners of ELA.

Councilman Pierce feels that if the second option is going to be explored he would like to see the costs trimmed to the bare necessities. He would like to see Mr. Sweater review the list of work and whatever work can be deferred to a later date should be deferred.

Going forward, Plan A is to find out if East Earl Sewer Authority can loan the necessary funds to the Weaverland Valley Authority until the Line of Credit is secured. Attorney Krafft and Attorney Harris were asked to contact Attorney Mincarelli to find out if the East Earl Sewer Authority can legally loan this money. Plan B is for the municipalities to fund the trimmed down expenses with an

agreement to be paid back in no more than 4 months. Mr. Sweater was asked to trim down the list to the bare necessities and to find out if ELA would be willing to defer billing.

Mrs. Zimmerman noted that ultimately the funding to get the Weaverland Valley Authority off the ground is the responsibility of the municipalities and the East Earl Sewer Authority should not be responsible for paying money back the municipalities. Councilman Pierce did not agree because East Earl Township does not receive the revenue from the current water and sewer revenue. Mr. Ash also expressed that it is not the responsibility of the East Earl Sewer Authority to get the Weaverland Valley Authority up and running. Although, Mr. Ash also said that if he is told by their solicitor that they can legally loan money to the Weaverland Valley Authority he would not be against it. Resident Dave Horst said that it was the East Earl Township supervisors that failed to implement a prior 537 plan to sewer Goodville and although he is not on the public water or sewer system, he realizes that he may see an increase in his taxes to sewer Goodville and he understands that. Supervisor Kreider reminded Mr. Horst that the 537 plan from 15 years ago was not able to be implemented due to an organic farm. Mr. Horst said the Township could have gone with another option. Resident Donald Messner asked if the Township has to pay for the Weaverland Valley Authority costs, does the Township have the money. Supervisor Kreider said they do not. Township Manager Ebersole said the Township would be able to give the money as a loan for at least 4 months.

Councilman Hartranft moved to adjourn the meeting at 7:45 p.m., seconded by Councilman Becker.

Respectfully submitted,
Denise A. Bensing

Cc: Scot Ash
Robert Jackson
Harold Kilhefner
Scott Marburger
Randy Miller
L. Eugene Pierce
Kenneth Witmer
Jerrene Zimmerman
Bradford J. Harris, Esq.
Gary Krafft, Esq.
Frank Mincarelli, Esq.
East Earl Township
Terre Hill Borough
Robert Rissler
Jeff Sweater, Consulting Engineer
Gary Martin, Becker Engineering