

**EPHRATA AREA JOINT AUTHORITY
MINUTES – AUGUST 12, 2021**

The Ephrata Area Joint Authority met on Thursday, August 12, 2021, at 7:00 PM, in the Council Chambers of Borough Hall, 124 S. State Street, Ephrata, PA.

In attendance were Thomas Reinhold, Chairman; Gary Landis, Vice Chairman (via Conference Call); Greg Schmuck, Assistant Treasurer/Assistant Secretary; as well as Member Timothy Barr. Also in attendance were Scott Hughes, Gannett Fleming; Attorney Aaron Zeamer, Russell, Krafft & Gruber, LLP; D. Robert Thompson, Secretary (via Zoom); Debra Bartow, Assistant Borough Manager; Nancy Harris, Municipal Services Manager; Charlie Nigrelli, Utilities Manager; Jamie Willwerth, Water & Wastewater Manager; and Stephanie Fasnacht, Recorder.

Absent were Steve Sawyer, Treasurer and Clark Stauffer, Member.

The following visitors were present:

- Ryan Brockman, RBC Capital Markets
- Ted Cromleigh, Diehm & Sons
- Scott Cover, S. R. Cover Properties
- Corbin Hoover, Hoover Building Specialists
- Tim Horstmann, McNees, Wallace & Nurick, LLP
- Scott Kramer, RBC Capital Markets (via Zoom)

Call to Order

Chairman Reinhold called the meeting to order at 7:00 PM.

Approval of Minutes – July 8, 2021

Motion by Mr. Barr, seconded by Mr. Schmuck, to approve the minutes of July 8, 2021. Motion passed unanimously.

Visitor Comments

Due to the short timeframe of availability of having a quorum in place to attend to numerous Action Items, Mr. Reinhold moved Visitor Comments to be held later during the meeting.

Financial Reports

After a brief discussion of the financial reports, a motion was made by Mr. Barr, seconded by Mr. Schmuck, to receive and file the financial reports. Motion passed unanimously via roll call vote.

Payment of Bills

After a brief discussion of the payment of the bills, a motion was made by Mr. Schmuck, seconded by Mr. Barr, to pay the bills. Motion passed unanimously by roll call vote.

Resolution 2021-6: Establishing the Rate for Water in Excess of 50,000 Gallons per Day Sold to Akron Borough

Ms. Bartow reminded Board members that at their July 8, 2021, meeting, Akron Borough's rate was not included in Resolution 2021-5 which adopted a revised "Schedule of Rates" for customers. Ms. Bartow then reviewed the proposed revised rate for Akron Borough customers as stated in Resolution 2021-6.

Motion by Mr. Barr, seconded by Mr. Schmuck, to adopt Resolution 2021-6: Establishing the Rate for Water in Excess of 50,000 Gallons per Day Sold to Akron Borough beginning with the October 1, 2021, billing cycle. Motion passed unanimously via roll call vote.

Resolution 2021-7: Authorizing and Directing the Issuance of a Series of Water Revenue Notes or Bonds

Mr. Thompson reminded Board members that at their July 8, 2021, meeting, the Board approved for RBC Capital Markets to research current interest rates as well as bank financing options and report their findings to the Board at their August meeting to determine if the present time would be opportune to refinance current debt; after which, he then turned the discussion over to Ryan Brockman, RBC Capital Markets, to present RBC's findings.

Mr. Brockman, RBC Capital Markets, provided an overview of the proposed refinancing options available with the recommendation being to take advantage of the current low and full-term fixed interest rates obtained from the receipt of two bank loans to cover the refinancing of current debt, as well as for obtaining additional funds necessary to complete the Water Main Replacement Capital Project.

Ms. Harris then provided a brief overview of the proposed Water Main Replacement Capital Project noting it has been included in the approved 5-Year Capital Plan budget for the last few years.

Motion by Mr. Barr, seconded by Mr. Schmuck, to adopt Resolution 2021-7: Authorizing and Directing the Issuance of a Series of Water Revenue Notes or Bonds resulting in the borrowing of funds to cover the refinancing of existing debt as well as the borrowing of additional funds totaling \$1.75M for the East Main Street Water Main Replacement Capital Project. Motion passed unanimously via roll call vote.

Pine Street and Walnut Street Rehabilitation Projects

Mr. Willwerth advised that the low bidder for the Pine Street and Walnut Street Rehabilitation Projects was submitted by DN Tanks, LLC, 11 Teal Road, Wakefield, MA, in the amount of \$349,900.00.

Motion by Mr. Landis, seconded by Mr. Barr, to award the Pine Street and Walnut Street Rehabilitation Projects to DN Tanks, LLC, 11 Teal Road, Wakefield, MA, in the amount of \$349,900.00. Motion passed unanimously via roll call vote.

515 N. Reading Road Improvement Agreement

Attorney Zeamer provided an update regarding the status of the 515 N. Reading Road Improvement Agreement. Attorney Zeamer referenced correspondence included within the meeting packet from Ephrata Mennonite School which lists a revised timeline for the project. Attorney Zeamer advised that one of the Board's primary concerns with the completion of the project was that the Ephrata Mennonite School is further "up the road" and the Board wanted to make sure that installation of this project (515 N. Reading Road) happened in a timely manner so as to not delay that project (Ephrata Mennonite School).

Attorney Zeamer advised Mr. Cover's contractor recently reached out to Staff to inform them that the ductal iron pipe the EAJA Regulations specify for this project is having a significant material delay. Attorney Zeamer further advised that Staff member, David Burkholder, checked around with several of his resources to see if there were any alternatives to "help it along" and it appears that the delay in that pipe "is what it is" at the moment due to a "ripple effect" from COVID-19. Attorney Zeamer advised he clarified with Staff that the ductal iron pipe is critical to the infrastructure in that area in making sure it is efficient because it will be under the roadway.

Attorney Zeamer further advised that Mr. Burkholder spoke with a representative from the Ephrata Mennonite School to ask about their timeline and when they anticipated that they may need to tie into or begin construction with respect to their portion of the waterline. Attorney Zeamer, in referencing the letter from Ephrata Mennonite School, related to the Board, their position is so long as the water main

bypass is completed by June 10, 2022, that would be adequate time for them to complete their project on time.

Attorney Zeamer advised he is looking for direction from the Board regarding the possibility of revising the Improvement Agreement. Attorney Zeamer further advised that Mr. Cover would like to substitute the current party, 515 N. Reading Road, with a new entity that bought another piece of property in that area and that, conceptually, he does not believe there would be an issue in doing so as the Board's main concern was that the timeline met the requirements needed.

Attorney Zeamer advised the current proposal, if the Board is in agreement for him to move forward, would be to enter into a new Improvement Agreement with Mr. Cover by:

- Substituting the new entity requested by Mr. Cover in place of 515 N. Reading Road;
- Signing the Agreement after confirmation is received from the contractor that the materials have in fact been ordered to alleviate further delay in the delivery of the material; and,
- Establishing a new deadline with Mr. Cover's project being completed on or before May 31, 2022.

In response to Attorney Zeamer's inquiry if the information he provided to the Board was accurate, Mr. Cover replied, "... I think that is pretty correct."

Attorney Zeamer advised while no formal action is needed by the Board at this time, he is seeking approval to proceed with revising the Improvement Agreement with the changes discussed to present at a future meeting for adoption. Mr. Reinhold then asked fellow Board members if they had any objections to Attorney Zeamer's request; in which, all were in agreement to move forward and make the proposed revisions to the Agreement for adoption at a future meeting.

Mr. Cover added that while he is trying to expedite the delivery of necessary materials from other avenues, it has been quite challenging especially during these times (COVID-19).

In response to Mr. Thompson's inquiry regarding if Ephrata Township officials have been made aware of the proposed changes/revisions, Mr. Cover confirmed that he has spoken with Township officials who "are on board" and have received copies of all of the documentation regarding this project.

Good's Store, L.P. (Old Kmart Site) Waiver Requests

Ms. Harris reviewed the waiver requests received from Diehm & Sons who is asking for release from the EAJA specs: (1) Separate services requirement for fire and domestic; and (2) Two or more customers are served by separate lines. Ms. Harris advised Staff has confirmed there is a separate water meter on site and they are willing to put separate water meters on the domestic side for each customer so that both can be separately metered with the fire service in place.

Ms. Harris advised the biggest risk is that it located more than 100 feet off the main; however, Staff is exploring new leak detection meters which they make up to 2" and it is her understanding they want a 2" domestic line. Ms. Harris further advised this may be an option if the applicant is willing to pay the additional cost of approximately \$100 over what the normal meter fees are.

Ms. Harris concluded her comments by advising that Staff is supportive of the requests as it "just makes sense ... reuse of the existing building ... we don't think there's that big of risk in reusing the existing ... we have all the tenants separately metered."

Mr. Cromleigh, Diehm & Sons, advised there is a large fire tank on the property and there is no proposed changes being made to the footprint of the building itself. Additionally, Mr. Cromleigh advised he does not foresee any issue with paying the extra costs for the meter Ms. Harris discussed.

In response to Mr. Reinhold's inquiry regarding new building construction having separate lines for both fire and water and with this property only having one line to the building (with the fire tank on site), Ms. Harris confirmed there is currently one line that feeds both fire and water. Ms. Harris advised that typically separate lines are preferred because if there is a need to shut their domestic water off due to non-payment, the fire service line is not affected. Ms. Harris then stated, "... in this case with there being a separate water meter room, we can conceivably go into the meter room that we would have a key for and turn the water off should they be not paying their bills." Ms. Harris further stated, "... we don't normally have those issues with commercial ... it's typically the residential customers that we're experiencing that with."

Mr. Thompson, speaking to Attorney Zeamer, inquired if wording could be added within the agreement that recognizes there would be the opportunity to disconnect from the meter room; in which, Attorney Zeamer agreed with Mr. Thompson for the additional language be added. Attorney Zeamer, in referencing the concern of two or more customers being served by the same water line, advised a note of record could be added to the Land Development Plan that indicates if a future subdivision were to occur, additional Board approval(s) may be needed and/or consideration of obtaining a separate service line.

Motion by Mr. Landis, seconded by Mr. Schmuck, to grant the Good's Store, L.P. (Old Kmart Site) Waiver Requests provided there is a notation on the Land Development Plan regarding future possible subdivision(s) as discussed. Motion passed unanimously.

It should be noted at this time during the meeting, Mr. Reinhold informed Mr. Landis that all Action Items have been completed; in which, Mr. Landis advised he will disconnect from the conference call. Mr. Landis exited the meeting at 7:39 PM.

Public Comments

With no visitors in attendance wishing to address the Board at this time, Chairman Reinhold moved onto the next agenda item.

Amendments to the Sunshine Act

Attorney Zeamer provided an overview of the amendments to the Sunshine Law effective the end of August 2021. Highlights of the amendments pertaining to the Board are:

- Posting of the meeting agenda on the Authority's (Borough of Ephrata) website at least 24 hours prior to a meeting as well as physically posting a copy of the agenda at the meeting location;
- The meeting agenda must include a list of each matter that may be considered at the meeting listing some level of detail advising the public what action is to be taken; and,
- Copies of the meeting agenda are to be available and distributed to all members of the public in attendance.

Attorney Zeamer advised the amendments restrict, in a lot of ways, the ability to amend the agenda or add last-minute items to it; however, there is limited ability to take action on an emergency item if it meets certain criteria.

Mr. Thompson advised, from a Staff perspective, these amendments actually assist Staff in eliminating the addition of last minute requests on the agenda as "... we are somewhat caught in the middle." Additionally, Mr. Thompson, speaking to Attorney Zeamer and referencing the lack of the definition of "emergency" in Act 65, inquired as to what happens when a developer advises Staff, "... my letter of credit is going to expire and if I don't get you guys to release it at your meeting, I'm going to have to pay for another year.?" Attorney Zeamer, in referencing Act 65, advised it states, "... an agency may take official action at a regularly scheduled meeting relating to a real or potential emergency involving **a clear and present danger to life or property** regardless of whether notice was given for the meeting." In response to Mr. Thompson's scenario, Attorney Zeamer advised it is difficult to justify an expiring letter of credit as a clear and present danger to life or property; therefore, the matter would have to wait until the next scheduled meeting of the Board for action.

PA Department of Environmental Project's Area-Wide Optimization Program (AWOP) Award

Mr. Nigrelli advised the Water Department received notification that they are recipient of this year's PA DEP's AWOP Award. Mr. Nigrelli advised that this is the seventh consecutive year for the Water Department to receive this prestigious award stating, "... my hats off to them ... they just continue to do a great job." Mr. Reinhold expressed his appreciation to the Water Department for their "great work."

In response to Mr. Thompson's inquiry regarding if being a recipient of this award for seven consecutive years is something standard or significant within the industry, Mr. Hughes advised the award is given to those who are "... on the top of your game year-end and year-out because if you miss one of the metrics, you're not going to get the award." Mr. Hughes further stated, "... to me it means ... you're the cream of the crop with respect to operating a water treatment plant ... it is a great job by the staff to do that."

Engineering Updates

Mr. Nigrelli advised that Well 4 is back up and running normal operations as of the week of July 26th.

Mr. Nigrelli praised the efforts of Water Department personnel during the recent fire at Weavers Nut in Clay Township. Mr. Willwerth added Staff spoke with the Chiefs of both Lincoln and Pioneer Fire Companies to discuss the fire and address any concerns. In concluding his comments, Mr. Willwerth advised Staff will be meeting with both Departments again in the near future to continue establishing open lines of communications in how to meet their water needs in such emergency situations.

Mr. Reinhold inquired if there was any communications between the fire companies and Staff prior to this particular event; in which, Mr. Willwerth advised there had been dialog between the parties prior to this fire, but maybe not to the scope of this nature. Mr. Willwerth advised that recently, the Pioneer Fire Company was testing some of their new sprayers resulting in some chlorinated water runoff flowing into the creek. Mr. Willwerth advised an employee observed the runoff and could smell the chlorine residual resulting in the employee making contact with him to report the issue. Mr. Willwerth further advised Staff explained and demonstrated to fire company officials the use of de-chlorination tablets in training events such as what they were doing near the creek to resolve this issue in future training activities. In concluding his comments, Mr. Willwerth advised that contact lines have been established with fire company officials within the last six months in an effort to keep open the lines of communication.

Mr. Schmuck inquired if this particular fire was the largest one since the installation of the water line; in which, Mr. Willwerth confirmed he is correct. Mr. Willwerth advised in speaking with Chief Gehman, Lincoln Fire Company, he was informed that he has never had an event like that. Ms. Harris informed the Board that the warehouse did not have a sprinkler system in place and it had a huge load in the warehouse

that just burned uncontrollably. Mr. Reinhold shared his appreciation to all involved as other businesses in close proximity to the location of the fire were saved and nobody was injured.

Mr. Thompson advised he had a conversation with Mr. Landis earlier in the week to discuss his concerns regarding the fire who advised perhaps EAJA Staff should be considering some alternatives in future Capital Plans to ensure water flow to Clay Township; i.e., the possibility of placing an additional water tank in the area. Mr. Thompson stated, "... it is a unique distribution system going out to the west being it is basically one pipe that goes from Lincoln all the way out to Clay." Mr. Thompson further stated, "... it is difficult to do planning for one huge event and financing certain things like that." Mr. Thompson advised that Staff will certainly take a look into Mr. Landis' concerns and concluded his comments by stating, "... everyone that was involved in the operation did a very good job!"

Mr. Hughes advised that in this particular case, there is "one long spine" running out to Clay Township. Mr. Hughes further advised that with that area being mainly preserved farmland, interconnecting is not an option to improve fire service. Additionally, Mr. Hughes, in referencing additional water storage, advised it is a "tough balancing act" as the water can become stagnate which causes water quality issues. Mr. Hughes concluded his comments by advising that "... you can't engineer and put in place everything you want or it is going to cost you and your customers ... the rates would be sky high."

Mr. Reinhold commented, "... that we need to do our due diligence ... we need to have all our "t's" crossed and "i's" dotted ..." to see what improvements, if any, can be completed. Mr. Hughes advised that there is plenty of storage available at the Lincoln Tank; however, due to the layout of the system, there was a fair amount of piping for the water to go through. Mr. Hughes further advised the general rule of thumb within central business district-type settings for cities is 3,500 gallons per minute for up to three hours totaling 630,000 gallons; and in this particular instance, 1-2 million gallons of water was used. Mr. Hughes concluded his comments by stating, "... in this instance, it does reflect back to it wasn't sprinklered ... and there was such a big area that was engulfed ... it didn't matter how much (water) you had, it ... you know ... the building was going to be lost."

Mr. Reinhold advised that Chief Gehman informed Borough Council at their Monday, August 9, 2021, meeting, that if there was ever a time low water pressure was experienced, it may have happened during the time that multiple fire departments were tapping into multiple hydrants at the same time which was quickly corrected by fire company personnel which resolved the issue.

Next Meeting Date

The next meeting date is Thursday, September 9, 2021.

Adjournment

Motion by Mr. Schmuck, seconded by Barr, to adjourn the meeting. The meeting was adjourned at 8:01 PM.

Respectfully submitted,

D. Robert Thompson
Secretary