

**Towamencin Township
Board of Supervisors
Monthly Meeting
March 22, 2023
7:00 PM**

Present:

H. Charles Wilson III, Chairman
Richard Marino, Vice Chairman
Laura Smith, Secretary
Kristin Warner, Treasurer
Joyce F. Snyder, Asst. Treasurer/Asst. Secretary

Staff:

David G. Kraynik, Township Manager
Robert J. Iannozzi, Jr., Esq., Township Solicitor
Mary Stover, Township Engineer
Niral Modi, IT Staff
Timothy Troxel, Chief of Police

Present Remotely:

Colleen Ehrle, Director of Administration

Absent:

Chairman Wilson called the meeting to order at 7:05 PM and led the assemblage in the Pledge of Allegiance.

Opening Comments

Chairman Wilson made the following announcements:

- The meeting is being held in person at the Township's Meeting Hall and also provided via Zoom for residents unable to attend in person. Public comments submitted by 4:30 pm on the meeting day would be read at the start of the meeting.
- The Board met in executive session prior to tonight's meeting to discuss personnel matters.

Chairman Wilson reviewed guidance ahead for Public Comment period for the meeting:

- setting a 3-minute time limit for each individual making a public comment;
- the Township Manager would be the timekeeper and would advise of 30 seconds left;
- the goal is to allow all who wish to make a comment with that opportunity;
- asked not to repeat previous comments;
- refraining from personal attacks of Board, staff and other members of the public.

Chairman Wilson provided an update from the March 8th Meeting related to NextEra's intentions to assign Pennsylvania American Water as the new purchaser of the Towamencin sewer system and expanded context for the associated voting agenda items.

NextEra noted their plans to withdraw from water and wastewater acquisitions, and to assign its contractual rights and obligations under the APA to Pennsylvania American Water. To effectuate this ownership change to the APA, Board action is required including: an amendment to the APA; preparation of an Assignment Agreement; and an amendment to the Sewer Sale Ordinance. At the March 8th Meeting, the majority of the Board authorized the Township Solicitor and Special Counsel to take all needed steps to prepare the APA Amendment; Assignment Agreement; and the Sewer Sale Ordinance Amendment for consideration at this meeting.

The APA Amendment will include:

- A revised sale price of \$104 million (the average of the two utility valuation expert appraisals)
- Removal of the 2-year rate freeze
- Return of additional deposit and escrow monies to NextEra
- Change to "Outside Date" definition, accommodating any unforeseen hurdles that may arise.

The Assignment Agreement will assign NextEra's interests in the APA to PA American. The Sewer Sale Ordinance Amendment will include replacing NextEra with PA American as the Successful Bidder. If such action is taken by the Board, PA American will file with the PA PUC. The PUC approval process will then commence with PA American as the successor. As consideration for this ownership change and its associated costs, NextEra will pay Towamencin Township \$600,000—which includes the initial \$100,000 deposit and an additional \$500,000.

Chairman Wilson continued, given the results of the Township's competitive bid process, PA American, as Next Era's successor, makes the most sense. Aside from being viewed as the 2nd best overall bid at the time, PA American is the largest water and wastewater utility in the Commonwealth. Given its significant market share, PA American is able to create efficiencies and synergies in its nearby operations and allocate costs across approximately 760,000 customers, thereby stabilizing the impact of considerable capital investments, resulting in resident savings. In addition, they provide substantive financial assistance and hardship grants.

Whether the Township keeps the system or sells it, sewer rates will likely increase. He urged residents to consider the entire picture when considering the sewer sale. In addition to PA American paying \$11,600,000 more than its originally bid, there are substantial benefits to the Township and residents alike. Based upon the Township's financial analysis, the decrease in real estate taxes and the foregone additional borrowing costs to fund the Township's various other initiatives discussed last April, offset the expected sewer rate increase. To conclude, when reviewing the total picture, he asserts there is a significant benefit with resulting savings, over ten years, that are expected to be more than \$2,500 per resident/rate payer.

Public Comments

Resident and Government Study Commissioner Kofi Osei noted he did not see the \$10 million penalty for termination referenced at the previous meeting. He did not believe the Township Solicitor had given an opinion on the proposed Home Rule Charter's effect on the APA, taking stock of what lawyers don't say. He shared his personal interest in the sale's consequences, as he may live in the Township another 50 years. He stated this decision is bad, this backdoor tax will be worse than the equivalent tax hike for the vast majority of Towamencin households and hopes voters vote yes to the Home Rule Charter in May.

Resident Pauline Braccia stated the proposed Home Rule Charter has no data in it. She is concerned how the Charter would affect the Township and is opposed to it, claiming the Charter could allow the municipality to raise taxes as high as they want.

Resident and Government Study Commissioner member Tina Gallagher noted her research in exploring the issue of water and wastewater privatization efforts. From all she's read and heard is that privatization is not a good deal to consumers. She added privatization of the sewer system is going to be expensive, emphasizing this loan has no end date.

Resident Joanne Andrews stated she opposes the asset transfer to PA American Water and opposed the sale to NextEra, stating it is not in the best interest of residents in the long term. She spoke on behalf of those who can't afford future rate increases and those living outside of Towamencin, but are connected to the sewer system, yet cannot vote on the matter. She asked that the Board vote no to the sale and retain the sewer system.

Resident and Government Study Commission member Martin Cohen stated the US was built on a thriving middle class, with accumulation of wealth from home ownership. Making an association that the sewer sale will impact home ownership in the Township. He questioned how the proceeds will be spent and stressed the amount residents will save in taxes will be minute compared to the 10 million a year, they will pay in extra sewer bills.

Resident and Government Study Commission member Jenn Foster thanked Supervisor Snyder for being open-minded during this process. Ms. Foster has no confidence in the Board spending the proceeds with no current plans in place – last Comprehensive Plan update 1989, Strategic Plan update in 2007. She continued it is a slap in the face to voters in not waiting to vote on the agenda items until after May's election. PA American Water will triple our rates and recoup their purchase price. She suggested a potential Sunshine Act violation with March 8th agenda update.

Resident James Collins asked the Board why they would not take more time with this process with an opportunity presented from NextEra backing out. He emphasized rate payors will not receive a direct benefit from a sale in comparison to Township's anticipated improved financial status. He asked the Board to delay voting on the action items until after the May election.

Resident Joe Silverman criticized the mechanism (Senate Bill 554) to revise the March 8th agenda at the beginning of the meeting. While the Board followed the letter of the law, he felt they did not follow the spirit of the law.

Resident Vanessa Gaynor stated her shock when the sewer sale update was added last minute to the March 8th agenda. This decision did not foster goodwill, considering the significance of the topic. She was concerned a financial analysis will be added to the website after the associated agenda items are voted on tonight. She questioned what rationale is behind rushing the process, and that the transparency through this process has felt non-existent.

Resident Andrew Phipps questioned the Board's respect for all Township's residents, not just those who vote for them.

Resident Jim Freed, stated he enjoys living in Towamencin, but is against what the Supervisors are trying to do. He lives on a fixed income and may need to consider moving in the future due to the proposed sewer sale.

Resident Rory Kelley referenced the referendum abilities with the Home Rule Charter. He then compared the solicitation for public input for park projects and sidewalks, but no input, other than public comment with time limitation for this decision. He stated, post-sale, he hopes the Supervisors will solicit public input on how this money is spent, instead of just those who support the sale. He hoped the Supervisors read the APA thoroughly.

Emailed Comments

Resident Paul Andrews, referenced the current sewer bill is \$450. PFM's 10 year estimated sewer bill was \$1061. The actual PA American sewer rate for next year will be \$1270 (with no rate freeze in the new agreement). PFM's estimates - used to suggest residents would save money in the long run - are wrong. That's an \$820 difference from the current sewer bill to next year's rate. Our property taxes are \$870; unless the property tax bill is eliminated, we'll lose over \$800 next year, and every year after, with no change in sewer service. That's before any rate increases for improvements or recouped purchase costs. We understand that selling the system will provide a Township project fund, but citizens will end up paying much more, forever. Release NextEra from the contract, keep our system locally-owned and operated.

Resident Marsha Edwards commented the Board is now in a position to correct a terrible mistake and listen to residents. At tonight's meeting it would be in everyone's best interest to pull out of the contract with NextEra and look for another way to address money issues.

Resident Pamela Quatraro shared she is against the intention to sell our Municipal Sewer System to whomever the Board decides this time to roll over the APA with NextEra.

Resident David Edwards requested the Supervisors not approve the APA changes, as most still don't want to sell our sewer system and this is a good off-ramp for our Supervisors.

Resident Maureen McGowan opposed the sale of our sewer system and questioned why the Supervisors continue to not listen to the homeowners of Towamencin.

Resident Scott Francik, commented on the failed sewer sale to NextEra, pleading to the Board not to move forward with the PAWC sale. This is not something the majority of the community wants to happen, and this should be voted on by residents at the very least. I would much rather pay TMA increased rates that can be defined instead of relying on the whim of the PAWC's rates which are already almost 3 times what we are paying now.

Resident Michael Miller commented that while a majority of Towamencin residents oppose the sewer system sale, it appears the Township is determined to proceed anyway. Residents were told multiple times by both PFM and NextEra the two-year rate freeze was a key benefit to the citizens of Towamencin. The proposed transfer to American Water does not include a rate freeze. If you insist on selling our sewer system, at least protect the citizens of Towamencin from significant rate increases for the next two years.

Resident Bob Kurnik defined the word "fidelity" as the quality of being loyal to someone

or something, then questioned the Supervisors' loyalty to the welfare and interests of the people they represent. He stressed the opportunity to stop this madness and get back to being the people's representatives for which you were elected.

Residents Joe and Tina Rumsey asked for the expected sewer rates 5 years after the sale?

Resident Doug Bower stated having checked with the Township and County, Towamencin has never placed a lien on a homeowner's property. They have placed liens on commercial customers and on property management companies. How does the current bidder plan to handle late payments from citizens and liens?

Resident JoAnn Goble commented last year, a few hundred people showed up at two town hall meetings, where dozens of attendees spoke out against the sale. In November, 5410 residents voted to consider home rule as a way to stop the sewer sale. Here is a second chance not to sell this Township asset.

Resident Bryan Gaynor opposes the latest efforts to transfer the APA to American Water. This proposed transfer is not in the public interest and will cost the residents of our Township for decades to come. Please do not be tempted by shiny promises from a big business. Their interests are not aligned with the interests of residents and in many ways are directly opposed.

Zoning, Subdivision and Land Development

ZHB 2023-01: 1640 Heebner Way (Garage Height)

The property owner at 1640 Heebner Way submitted an application to the Zoning Hearing Board requesting the installation of an accessory structure (garage) with a proposed height of 17 feet, when the maximum permitted is 14 feet high. The applicant is seeking relief to install a 2-car garage with loft with a height that exceeds one story to one and a half stories. The intention of the proposed space is for storage and a workshop.

On a motion by Supervisor Marino, seconded by Supervisor Smith, the Board agreed not to send the Township Solicitor to appear before the Zoning Hearing Board for this application.

Voting Yes: H. Charles Wilson, III, Richard Marino, Laura Smith, Kristin Warner, Joyce F. Snyder

Voting No: N/A

Abstaining: N/A

Absent: N/A

ZHB 2023-02: 1600 Delp Drive Special Exception Extension Request

The Applicant is seeking a 6-month extension of the current April 7, 2023 expiration date – having received a previous 6-month extension ahead of an October 19, 2022 expiration date - for special exception relief granted from section 153-616.B(4)(b) of the Township's Zoning Ordinance to construct a road within a 50-foot-wide stream margin. Since the initial relief was granted, the applicant's predecessor pursued and obtained conditional use and conditional preliminary/final land development approval for the project. The applicant acquired the property last year and continues pursuing the necessary permits and is requesting another time extension to do so.

On a motion by Supervisor Smith, seconded by Supervisor Marino, the Board was in agreement not to send the Township Solicitor to appear before the Zoning Hearing Board for this application.

Voting Yes: H. Charles Wilson, III, Richard Marino, Laura Smith, Kristin Warner, Joyce F. Snyder

Voting No: N/A

Abstaining: N/A

Absent: N/A

Belfair Square - Land Development Review Time Extension Request

The applicant, Cornerstone Premier Homes, is proposing to consolidate nine separate parcels into a single 3.94-acre development site, located along Welsh Road, between Vernon Court and Grist Mill Road, within the MRC – Mixed Residential Cluster and RBP – Residential Business Professional Overlay Zoning Districts. The applicant proposes developing the property into 16 townhouses with associated public and site improvements. On January 12, 2022, the proposed development received Conditional Use approval. The applicant has requested and granted a time extension for the review of the revised Land Development Plans until May 31, 2023.

Mary Stover, the Township Engineer, noted that while the Planning Commission recommended the preliminary and final land development review go before the Board, the developer still needs to resolve several of the Township Engineer’s comments prior to the Board’s review.

On a motion by Supervisor Warner, seconded by Supervisor Smith, the Board approved the applicant’s time extension for the review of the revised land development plans.

Voting Yes: H. Charles Wilson, III, Richard Marino, Laura Smith, Kristin Warner, Joyce F. Snyder

Voting No: N/A

Abstaining: N/A

Absent: N/A

Waiver of Damages - 552 Candlemaker Way Fence Installation/Permit

The Township has prepared a Waiver of Damages Agreement that would allow the owners of 552 Candlemaker Way to install a fence within a Township sanitary sewer easement.

On a motion by Supervisor Smith, seconded by Supervisor Marino, the Board approved the Waiver Agreement for 552 Candlemaker Way.

Voting Yes: H. Charles Wilson, III, Richard Marino, Laura Smith, Kristin Warner, Joyce F. Snyder

Voting No: N/A

Abstaining: N/A

Absent: N/A

Waiver of Land Development - Salt Storage Building Construction

The bid information for the construction of the future Salt Storage Building is being prepared for release. Staff has requested a waiver from the formal land development submission process. The project will be compliant with stormwater management and zoning requirements.

On a motion by Supervisor Marino, seconded by Supervisor Smith, the Board approved of the waiver of land development for the future salt storage building.

Voting Yes: H. Charles Wilson, III, Richard Marino, Laura Smith, Kristin Warner, Joyce F. Snyder

Voting No: N/A

Abstaining: N/A

Absent: N/A

Old Business

Public Comment Time Limit Policy

When preparing the format for last year's Town Hall meetings, it was noted there was no existing public comment policy in place. The Board discussed establishing a public comment time limit policy to facilitate meetings with large attendance as other municipalities have adopted similar policies limiting public comments to 3 minutes. At the Board's April 13, 2022 meeting, the Board authorized the Township Solicitor to draft a public comment time limit policy for review. The Solicitor has prepared a draft policy for the Board's approval consideration.

Solicitor Iannozi noted the policy is a commonsense measure and is compliant with Pennsylvania's Sunshine Law. The Policy will ensure a reasonable opportunity for all to comment on matters that are before or come before the Board. The Policy sets a 3-minute time limit for each individual making an initial public comment, and a 1-minute follow-up. The policy offers additional guidance for when and how to offer comments, not making repetitive comments, and being respectful of others when making comments.

On a motion by Supervisor Snyder, seconded by Supervisor Smith, the Board approved the prepared Public Comment Policy.

Voting Yes: H. Charles Wilson, III, Richard Marino, Laura Smith, Kristin Warner, Joyce F. Snyder

Voting No: N/A

Abstaining: N/A

Absent: N/A

New Business

Warrant List

The March warrant list was presented for approval. Chairman Wilson noted the top costs for the Township as reflected in the March warrant list.

On a motion by Supervisor Warner, seconded by Supervisor Smith, the Board approved the warrant list in the amount of \$1,033,251.51.

Voting Yes: H. Charles Wilson, III, Richard Marino, Laura Smith, Kristin Warner, Joyce F. Snyder

Voting No: N/A

Abstaining: N/A

Absent: N/A

Public Works Committee Report

The Public Works Committee meets monthly to review projects and identify deficiencies related to Township infrastructure, properties, and equipment. The Committee met on March 16th. Supervisor Marino provided the Committee's report with the following topics reviewed:

- Kriebel Road/Orchard Lane/Eagle & Valley View Way Storm Sewer Project Underway
- Weikel Road Drainage /Pedestrian Walkway Update
- Central Drive Storm Sewer Repair Project
- Bocci Courts Update – Bid Review
- 2023 Road Paving Project – Out to Bid
- 2022 ADA Ramp Replacement Project – remaining work includes restoring lawn areas
- 2023 ADA Ramp Replacement Project – bid documents being finalized
- Crosswalk at Allentown Road/Walton Farm School – pavement markings being scheduled
- Allentown Road/Thorndale/Reinert Road – PennDOT did not recommend reducing speed, proposed advance warning signs.
- Old Forty Foot/Rittenhouse Road Intersection – PennDOT pavement markings completed
- Kerr Road Analysis
- Forty Foot Road Pedestrian Bridge – PW to investigate leak via excavating planting beds
- Towamencin Swimming Pool Repairs – Public Works performing maintenance work
- Salt & Equipment Storage Building Update
- Green Lane Park Soccer Field – CKS provided proposal for survey information
- Drinnon Park Improvements – location of walking path proposed with PW cost estimate
- Welsh/Orvilla Intersection Project Update – updated schedules provided to property owners
- Route 309 Connector/Sumneytown Pike Improvements – proposed slip ramp/left turn lane
- Forty Foot Road/Newbury Way/PSDC Traffic Signal – PennDOT approved grant extension to November 2024
- Traffic Signal at Allentown Road & Derstine/Fretz Roads - McMahon performed analysis.
- Fischer's Park Parking – considering southern side of existing parking lot to expand
- Electric Vehicle Charging Stations – NE Extension listed as high priority for EV stations.
- MS4 Permit Requirements – establish management committee with 5 municipalities.
- Comprehensive Plan

Supervisor Smith asked if the crosswalk work at Allentown Road/Walton Farm School would include painting the crosswalk at Woodlawn Drive at Columbia Avenue at the same time. Supervisor Marino responded that it is supposed to be.

Chairman Wilson noted that Weikel Road, from the Township pool to Allentown Road, may warrant some base repair, in the interim of full resurfacing, as it is in rough shape.

Fischer's Park Bocce Court Reject Bid Submission

At the Board's March 8th meeting, the singular bid submission from Land Tech Enterprises was reviewed. The base bid of \$76,999.00 included drainage improvements, and the addition of a retaining wall with a paver walkway, with an add alternate for resurfacing the courts for \$20,670. The bid is significantly more than anticipated with a preliminary cost estimate of \$35,800 budget for the project. The Township Engineer has been reviewing alternatives to reduce overall costs, including a plan to complete the project in-house by the Township's Public Works department.

On a motion by Supervisor Warner, seconded by Supervisor Snyder, the Board rejected the bid by Land Tech Enterprises for improvements to the Fischer's Park bocce court.

Voting Yes: H. Charles Wilson, III, Richard Marino, Laura Smith, Kristin Warner, Joyce F. Snyder
Voting No: N/A
Abstaining: N/A
Absent: N/A

Green Lane Park Proposal for Professional Services

The Township Engineer has submitted a proposal to obtain topographic and existing feature data Green Lane Park for the area being considered for potential development of a soccer field. The proposal is for a lump sum of \$5,300 to include all costs to obtain survey information and prepare the base plan.

On a motion by Supervisor Smith, seconded by Supervisor Marino, the Board approved the Green Lane Park Proposal for surveying services by CKS Engineers.

Voting Yes: H. Charles Wilson, III, Richard Marino, Laura Smith, Kristin Warner, Joyce F. Snyder
Voting No: N/A
Abstaining: N/A
Absent: N/A

Geotechnical Investigation Proposal Salt Storage Building Construction

The bid information for the construction of a future salt storage building is being prepared for release. In preparation for future construction, Township staff sought a proposal for geotechnical analysis services to analyze the integrity and soil composition of the ground that would be situated under the proposed building. The proposal submitted is for \$7,425 and would include costs associated with project management and coordination, geotechnical investigation, laboratory testing and geotechnical engineering analysis and report. The proposal also includes additional options for private utility location service and investigation/reporting work for the future garage.

On a motion by Supervisor Marino, seconded by Supervisor Smith, the Board approved the geotechnical investigation proposal (tasks 1-4) in conjunction with the salt storage building.

Voting Yes: H. Charles Wilson, III, Richard Marino, Laura Smith, Kristin Warner, Joyce F. Snyder
Voting No: N/A
Abstaining: N/A
Absent: N/A

Release Request for Proposals (RFP) - Update to Comprehensive Plan

In February, a draft document of the Request for Proposals (RFP) - Update to Comprehensive Plan was circulated to Township staff for feedback, then reviewed by the Township's Planning Commission at their March 6 meeting. The Commission recommended the draft RFP be reviewed by the Board of Supervisors and if acceptable authorize the bid release.

On a motion by Supervisor Warner, seconded by Supervisor Marino, the Board authorized releasing the request for proposals to update the Comprehensive Plan.

Voting Yes: H. Charles Wilson, III, Richard Marino, Laura Smith, Kristin Warner, Joyce F. Snyder
Voting No: N/A
Abstaining: N/A
Absent: N/A

Towamencin Municipal Sewer System - Consider Approval of Assignment (PA American Water) Agreement

At the Board's March 8th meeting, an update of the pending sewer sale was provided announcing NextEra's plans to redirect efforts away from water and wastewater acquisitions. Toward that end, NextEra intends to assign its contractual rights and obligations under the Asset Purchase Agreement (APA) to Pennsylvania American Water (PA American).

On a motion by Supervisor Marino, seconded by Supervisor Smith, the Board approved the assignment of the Asset Purchase Agreement to Pennsylvania American Water.

Voting Yes: H. Charles Wilson, III, Richard Marino, Laura Smith, Kristin Warner
Voting No: Joyce F. Snyder
Abstaining: N/A
Absent: N/A

Towamencin Municipal Sewer System - Consider Approval of Asset Purchase Agreement Amendment

In order for NextEra to assign its contractual rights and obligations under the Asset Purchase Agreement (APA) to Pennsylvania American Water (PA American), an amendment to the Asset Purchase Agreement must be approved.

On a motion by Supervisor Marino, seconded by Supervisor Smith, the Board approved the Asset Purchase Agreement Amendment.

Voting Yes: H. Charles Wilson, III, Richard Marino, Laura Smith, Kristin Warner
Voting No: Joyce F. Snyder
Abstaining: N/A
Absent: N/A

Towamencin Municipal Sewer - Consider Adoption of Ordinance 23-03 (amending Sewer Sale Ordinance 22-04)

To complete this assignment process, an amendment to the Sewer Sale Ordinance must be adopted to include replacing NextEra with PA American as the successful bidder where applicable within the adopted ordinance.

On a motion by Supervisor Marino, seconded by Supervisor Smith, the Board adopted Ordinance 23-03.

Voting Yes: H. Charles Wilson, III, Richard Marino, Laura Smith, Kristin Warner
Voting No: Joyce F. Snyder
Abstaining: N/A
Absent: N/A

Volunteer Committee Appointments

Residents have submitted applications expressing their interest to serve on the Township's various volunteer committees. The Board considered the following volunteer committee appointments:

- Vanessa Gaynor - Environmental Advisory Council, term expires December 31, 2025
- Kris Kazmar - Strategic Planning Committee, term expires December 31, 2023

On a motion by Supervisor Snyder, seconded by Supervisor Smith, the Board made the noted appointments.

Voting Yes: H. Charles Wilson, III, Richard Marino, Laura Smith, Kristin Warner, Joyce F. Snyder
Voting No: N/A
Abstaining: N/A
Absent: N/A

There being no additional business, the meeting adjourned at 8:37 pm.

Respectfully submitted,



Colleen Ehrle
Director of Administration