

AUGUST 29, 2006 PUBLIC MEETING – WRRMA SEWER EXTENSIONS:

The Mount Joy Township Board of Supervisors met this date, as publicly advertised, at 7:30 p.m. in the Mount Joy Township Municipal Building, 902 Hoffman Home Road, Gettysburg, Pennsylvania, with Board Chairman James Waybright presiding. Others in attendance were: Supervisors William Chantelau, George Scott, Samuel Dayhoff, and Harold Kirschner; Solicitor Walton V. Davis; News Reporters Aaron Young (*The Gettysburg Times*); and Meg Bernhardt (*The Evening Sun*); and Brenda Constable, Secretary.

Others in attendance were: WRRMA Board members Barbara Neth, George Zeigler, Richard Munshour, Donnie Hubbard, Dick Boyer, and Solicitor Tom Campbell; Colbier Farms, LLC representatives Charles Cole, Fred Bier, Bob Sharrah, Land Surveyor, and Attorney John R. White.

Citizens in attendance were: Tom Dunchack; B.J. Herring; Pam Roman, John Roman, and Dave Updyke all representing the Watchdog Group; Tom Titus; Elsie Morey; Donald Titus; Bruce Stair; Dorcas Shelly; Nick Dellaquila; Jerry Althoff representing the Mount Joy Township Planning Commission; Sally Alexander; Jerry Maloney; Eileen Holmes; Mary Davis; LynnAnne Sukeene; Sharon Payne; and Audrey Weiland.

Board Chairman announced that this public meeting was being held to discuss sewer service extensions in the RR district with the White Run Regional Municipal Authority.

Public Comment:

1. Nick Dellaquila – questioned if the sewer extension was going to service only the more populated areas of Mount Joy Township. Mr. Waybright responded that this question would be answered during the meeting. Mr. Dellaquila asked if only serviced in the populated areas, would the citizens who live in the rural areas be the ones that would have to pay taxes for it. Mr. Waybright responded no; the sewer service is supported by only its users, not everyone in the Township.
2. Tom Dunchack – concerned if expanding sewer service for one, then it opens the door for all developers to request expansion and the township has no water.
3. Steve Kelley, 259 Clappsaddle Road – 10-15 years ago Highland Avenue Road was supposed to be on the agenda for sewer service. There are numerous failing systems on this road. Questioned why this has not been addressed. Thought that this was to be addressed when Lake Heritage put sewer service in, but the State kicked it out. He understood that anything needing service would be added later on.
4. Eileen Holmes – commented that a resident recently told her that she smelled a very bad odor one night and felt that it was coming from the WRRMA; smelled like chemicals.
5. Tom Dunchack – commented that many times sewer systems end up with financial problems and then ends up having to be taken over by the Township and this should be a big concern for the taxpayers. The more the sewer system is taxed, the more potential there is for problems to happen.
6. Jerry Maloney – WRRMA just finished a sewer plan for the State (Act 537) with the Township's comprehensive plan and he questioned if any of this proposed extension was part of that study. Barbara Neth of WRRMA responded no, not for this development being considered tonight. He questioned if the plan would need to be done again to include this expansion. Mr. Waybright responded that this would probably be answered during the discussion tonight.
7. Nick Dellaquila – questioned how many planned developments would benefit from this extension and how many homes. Mr. Waybright responded that there were two developments being discussed tonight; Fields of Gettysburg proposes 55 homes, and 199 homes for Westminster. Mr. Dellaquila questioned if this system would be the same as what is at The Links. Mr. Waybright responded no, and stated again, that many of these questions would be answered during the meeting.

8. Tom Dunchack – asked if the developments that would receive the sewer service could later increase the number of homes in that development. Mr. Waybright responded no.

Introductions of Supervisors, WRRMA members and Colbier Farms representatives were given.

Mr. Bob Sharrah, Land Surveyor for Colbier Farms, LLC, gave an overview of the proposed project. He explained that this development, called The Fields of Gettysburg, is on Barlow-Two Taverns Road. The back of the property is towards White Church Road, close to the area where Keystone Custom Homes is proposing the Westminster development. The focus of tonight's meeting was from a request by Colbier Farms for a utility easement to get their waste water from their development over to the Westminster development. It would then be pumped back to the WRRMA for treatment and disposal. He pointed out that this is all a developer driven and paid for project. No municipal funds would be used for this system. The ongoing maintenance would be provided by WRRMA. Mr. Sharrah explained the two options for Colbier Farms: a) build its own wastewater treatment plant on site; or b) hook up to an existing plant such as WRRMA.

Mr. Steve Kelley questioned why Colbier did not consider running sewer down the township roads right-of-ways rather than through people's property. He acknowledged that the route would be shorter through private properties. Mr. Sharrah responded that gravity was the reason. Mr. Kelley suggested a pressure system. Mr. Sharrah explained with a pressure system there is much longer distance and a lot more maintenance involved. Mr. Kelley felt that would be the developer's problem. Mr. Sharrah and the Supervisors clarified that it would not be the developer's problem, but rather the Authority's and users' problem.

Mr. Waybright explained again, that if an individual sewer system fails, the Township ends up with the problem. If WRRMA fails, the Township ends up with it. The Township would fix it, but that property owner would be responsible for it, but it is ultimately the responsibility of the user and they end up paying for it through fees, etc. Mr. Kelly felt that people's property would not have to be condemned if the developer used township right-of-ways. Mr. Sharrah explained that this would end up being a public utility right-of-way and others would have access to it. It would be placed most likely in a floodplain or below a steep slope where there would be no development. It would be down sloped from the properties they would be going through so those folks would have the opportunity to hook into it. Mr. Kelley agreed, but felt that the developer should have to build its own system, or use the Township right-of-way along the roads.

Mr. Scott asked Mr. Sharrah why it would be to the Township's advantage to tie into an existing system rather than have the developer put in its own small system. Mr. Sharrah explained that the preferred way is clearly to use an existing system because of environmental reasons, ongoing cost reasons, and many other reasons. Mr. Davis explained that Mount Joy Township had decided along time ago that they did not want to see a bunch of small independent treatment plants because they are all potential problems for the Township if they fail. The Township prefers to see an independent organization, such as WRRMA, which has the expertise, the engineering advisory, and the legal advisory staff to run a plant the way it should be run to meet the ever increasing standards that the DEP keeps layering on year after year after year. He noted the most recent one being the Chesapeake Bay initiative which has caused the allowable nitrates that can be released to be seriously reduced. He added that it would be impossible for the Township to go around to a bunch of individual plants and get them to qualify. The other issue the Township has faced is if it doesn't give to those areas that have been selected for development, the ability to use a centralized sewage treatment system, then the Township starts looking at people coming in and putting in fill sites, waiting four years, and then put in their own individual on-site septic systems. The Township is forced to accept, like development, as something that is allowed to be done in the Township. The Sewage Enforcement Officer does not like them, the Township does not like them, and it has

happened on many occasions. Mr. Davis explained that he has researched, by request of the Township, to see if anything could be done to stop fill sites and he could find nothing on it. The Township SEO also researched this and could find nothing. The SEO asked DEP and was told that the Township could not legally do away with fill sites. The SEO asked DEP if the Township could require two fill sites, one as a back up, and DEP responded no. As part of the overall program of trying to preserve large parts of the Township, the Supervisors decided in conjunction with the Comprehensive Plan Committee that the way to handle it was to take large parts of the Township and preserve it and put the development that must be accepted in small areas, and serve it with public sewer so it can be made more dense, use up less township land and the most economical, from both financial and environmental standpoint, is to do it through an existing sewage treatment system, if possible. There are only two in the township, the Red Rock Municipal Authority, basically used solely for The Links, and the other is the White Run Regional Municipal Authority, which as has been in business for years and has been caring for, treating sewage effluent from the Lake Heritage development from Hazelbrook Hills, from Drummer Boy Campground, and some other off-chutes from that, and has done an excellent job and seems to be the one that can handle this and fulfill the needs that the Township has so that the Township can keep its development in dense, tight, and only in small portions of the Township.

Mr. Waybright explained that The Fields of Gettysburg is an example of Conservation By Design. They would be preserving 70% of the available acreage, or 80 acres of this tract preserved for agriculture, and developing 30%, or 35 acres for residential development, which can't be seen from the roadway.

Mr. Kelley commented that if the Township is responsible for failing septic systems, if the sewer lines went along the road then other properties could pick up the sewer. He repeated that along Highland Avenue Road and Route 97 there are between 20 to 30 systems that have been failing for 15 to 20 years. Mr. Dayhoff pointed out that the reason sewer has not been extended to Highland Avenue Road is because no one wants to pay to build the sewer line under Route 15. The failing systems are being pumped and being hauled to WRRMA. Mr. Kelley claimed that a lot of the failing systems were not being pumped and he could show the Township where they were. The Supervisors stated that they would have the Sewage Enforcement Officer contact Mr. Kelley so he could show where these failing systems are.

Mr. Scott explained that the difference here is that there is a developer, or developers, that are willing to pay for sewer extension for about the same amount of money it would cost to build their own small plant. He pointed out that there are individual failing systems and the Supervisors are trying to avoid these types of problems and instead, make the developer pay for providing sewer. The Supervisors have negotiated on several occasions to get the sewer line built under Route 15 and no one wants to jump that hurdle. He asked Mr. Kelley if he wanted his taxes to go up to pay for that. Mr. Scott agreed that Highland Avenue Road may have a problem but it is not a problem that is failed to the State, so the Township can not push and get low interest monies, or grants at this point.

Mr. Nick Delaquilla commented that his concern is environmentally; what happens with wastewater. Mrs. Neth responded that the sewage is treated, then part of it is field spread and part of it goes into the stream at White Run. This is controlled by DEP; the soils are tested before WRRMA can get permitted to field spread, and they have to be tested every couple years to make sure they are not contaminating the soil. The water is chlorinated.

Mr. Dunchack agreed with everything Mr. Davis had previously said but noted his concern is that what happens when the next development comes down Route 97 and wants to connect, and then the next and wants to connect, etc., where does the connection of the developers stop. Mr. Dayhoff responded when it gets to preserved land. Mr. Davis noted that there are several things that can stop it; preserved

land, no water, or if an existing sewage plant can no longer be economically feasible to expand. Then the project is either forgotten, or another regional plant is built some place where it can serve.

Mr. Waybright noted that if time allows, he may have more public comment later but would like to start the Board discussion at this time.

Mr. Waybright asked Mr. Sharrah what exactly Colbier Farms is asking WRRMA to do at this point. Mr. Sharrah explained that they are requesting a 30' wide utility easement to take wastewater from the proposed Fields of Gettysburg project, run it by gravity into the system that is being proposed by Keystone for the proposed Westminster project, so that it could then be pumped into the WRRMA plant. Assistance is needed in acquiring the right-of-way easements. Mr. Waybright pointed out that this issue is between WRRMA and the developer.

Mr. Tom Campbell stated that WRRMA's position is that they have the capacity to serve the 55 homes, they have reserved that capacity by agreement, and they are willing to accept the sewage if it can be provided and transported to them. WRRMA is not in the business of taking properties. Mr. Davis asked for clarification in that WRRMA has already received a request from the developer to obtain the right-of-way and WRRMA has said no. WRRMA reps responded no. Mr. Campbell explained that it was their understanding that letters went out to the affected property owners about obtaining right-of-ways asking for a response. WRRMA has not been asked to take any action. Mr. White explained that he had sent letters out to the affected property owners, on behalf of his client, and he received only two responses, both unwilling to discuss Colbier Farms purchase of an easement. There were six total; two responded and four were silent. Mrs. Sharon Payne, an affected property owner, stated that some were not silent; they had tried to schedule a meeting with Mr. White, but his office canceled and told them that the Township was going to use eminent domain and take the properties. Mr. White stated that it was not accurate that his office told them that the Township was going to exercise eminent domain. He asked why they did not just respond to the letter with a yes or no. Mrs. Payne responded that they had requested the meeting and they thought that would be putting a place holder in place for them. There were four property owners that were planning to be at that meeting. Mr. Davis stated that in any event, without all six approvals there is no path for the sewage to get to WRRMA, so in order to get it there, WRRMA would now need to do something. Mr. Davis asked WRRMA if they would assist, at the developer's cost, to get the sewer line to them. Mrs. Neth stated that in the past it has been the developer's duty to get the sewage to a point where WRRMA can treat it. WRRMA has never before done anything with eminent domain. This would need to be considered and discussed among the WRRMA board members at their own meeting. She added that they had also heard that this path was to also include a walking and bike trail and they have a concern with that. Mr. Davis asked if WRRMA would consider this and decide to not use the power of eminent domain, would they consider taking over the plant to be built on site to be owned and operated by the WRRMA. Mrs. Neth stated that they would need to discuss that issue as well. Mr. Munshour stated that this has been discussed at a previous Authority meeting and the feeling was that they did not want to have satellite plants. Mr. Davis agreed, stating that the Township did not want that either; the Township would rather see the sewage go to the main plant. Mr. Munshour stated that they want to see the developer get the sewage to them. Mr. Davis clarified that the developer does not have the power of eminent domain, but the Authority does.

Mr. Dunchack commented that a recent law was just passed by Gov. Rendell that you can not use eminent domain for the benefit of a private enterprise. Mr. Davis responded yes, but this is not for the benefit of a private enterprise. He explained if the Authority uses eminent domain, it would be for lines owned by the Authority, servicing sewage customers, residents of the Township.

Mr. Scott stated that the Township can not move further until WRRMA decides what they are willing to do. Mr. Chantelau questioned the timeline for the project. Mr. Sharrah explained that the developer has requested a number of extensions to keep the plan alive while trying to sort out the waste water issues. He noted that there is a sewage facilities planning module completed for the plant on site, but it has not been sent in to DEP yet.

Mrs. Eileen Holmes stated that the Township has a sewer line from Yingling's Auction over to Highland Avenue Road. Mr. Sharrah and the Supervisors responded no. Mr. Sharrah explained that there is a platted right-of-way granted to WRRMA and should someone decide they want to build a sewer line across Route 15, there is a corridor reserved for it. Mrs. Holmes then asked why the walking trail was mentioned in the letter to the property owners. Mr. Campbell stated that he thought the concern of the Authority is that no overtures have been made to the property owners discussing the possibility of the developers purchasing a right-of-way or easement for the sole purpose of a sewer line. The only overture that has been made is for a sewer line and a walking trail. He further stated that some residents have come in to the Authority office and expressed concerns over the walking trail portion but not the sewer line portion.

Mr. Waybright expressed that the Township Recreation Board is only in the planning stages at this point and looking out for the future. They are trying to make use of the facilities that are given, and this trail is only an idea at this time; it is not yet being built. Mr. Dayhoff stated that he took responsibility for including the language of the hike and bike trail in the letter. He explained that the Rec Board had sent out a survey to the residents and had discussed a recreation trail and the idea of using the sewer easements for a trail seemed like a possible option, so he told Mr. White to include this in the letter so the property owners would know ahead of time and know what direction they were thinking of going so they had time to think about it and get on board. The Rec Board had no idea that there would be such a back lash on this issue. He added that a sewer line under a hike and bike trail is better than running it under a public road or highway. Mr. Scott added that it is easier to close a trail than it is to close a road and re-route traffic. Mr. Dayhoff further explained that the hike and bike trail is between the Board of Supervisor and the Recreation Board. If the Supervisors and the Rec Board chose to take the direction of the hike and bike trail on the sewer easement to attach these developments to one another, that would be between the Board of Supervisors and WRRMA. However, the Board is not even close to this point yet.

Mr. Davis asked Mr. Campbell if what he would like is to have the developer's attorney send out another letter to the six property owners asking them if they would agree to the sewer line only. No mention of the hike and bike trail, just if they are interested in selling an easement across for an underground sewer line and keeping some footage clear for when the line needs serviced. Mr. Campbell agreed. Mr. Davis asked then if all six respond yes, would WRRMA then tell the developer to run the line where ever it needs to get to for WRRMA to take it. Mr. Campbell agreed. However, Mr. Davis added that if only some of the property owners agree and others don't, then we are not sure yet what would happen. Mr. Scott commented that this is why, at this point, WRRMA needs to make some decisions as to what they would do, and how soon would they get these decisions to the Supervisors. This developer has been postponing the project partially at the Township's request because the Township would really like to see it go into WRRMA.

Mr. White questioned what the result of the meeting was that the Township hosted in May with the affected property owners. Ms. Sukeene responded that there were a lot of angry people. Mr. Davis concurred. Mr. White asked if it was apparent to the Supervisors as a result of that meeting that all six of the property owners were going to consent to sewer easements across their properties. Mr. Davis explained that they did not hear any concern about the sewer easements as much as they did with regard to crime on the trail, etc. All of the comments seemed to be toward the hike and bike trail, not the sewer

line. However, Mr. Davis explained that the meeting was not brought up as a sewer line meeting, it was brought up as a way to introduce the property owners of what had been discussed among the Rec Board as a possibility, if in fact the sewer easements went in, because there would already be a clearing as to where it went and would they interested in it. Mrs. Payne concurred that all that was discussed was the trail and not the sewer system.

In summary, Mr. Kirschner stated that WRRMA needs to make some decisions, and if this thing fails, will they move forward with eminent domain. This needs to be known by the next meeting. WRRMA noted that their next meeting is September 20th. Mr. White will send letters to the property owners and ask for responses prior to the September 20 meeting so WRRMA can make a decision. Mrs. Neth asked Colbier Farms if they were willing to pay for the cost of eminent domain if that were necessary. Mr. White responded that traditionally, that is the way it happens. Mr. Davis added that developer would pay all court and legal fees as well.

Mr. Davis pointed out that the Township has been very fortunate that these developers have been willing to wait to hash this out. The Sewage Module could be filed at any time that would start a time clock and if the Township found no reason to object to it, it would have to be approved and sent to DEP, or deny it and they could appeal the denial, and if DEP approves it, then the Township has lost its option. Mr. Davis thanked the developers for not putting the Township in this position.

Mrs. Neth noted that the developers that have approached WRRMA, at least three in Mount Joy Township who want sewage, if they all come forward they would need to expand the plant. The developer would need to pay for the expansion and that would fall on the new users. They noted that the last expansion was for the Gettysburg Village Outlets and they paid for the expansion. Mr. Scott asked if any other developments in Mount Joy Township have reserved capacity. Mr. Campbell responded that Westminster and Ramsburg projects. Some is reserved for current capacity and some for future capacity. 75 EDUs are reserved. When they need more than that, then they come and talk to WRRMA again. If no capacity left, then the developer pays to expand.

WRRMA stated that they would have their decision to the Supervisors for their September 21st meeting. Discussion was held as to why WRRMA would do the eminent domain; they own the line, not the Township.

With no further business to come before the Board, Mr. Waybright adjourned the meeting at 8:35 p.m. this date.

Respectfully submitted,

Brenda J. Constable
Secretary