

Mahoning Township Authority

Minutes

January 8, 2015

1:30 pm

The monthly Authority meeting followed after the Reorganizational meeting in the Mahoning Township Municipal Building at 1101 Bloom Rd., Danville, Pa..

The meeting was called to order.

Those present for the meeting were:

Board Members:

Grier Boedker Thomas Mertz Ed Draugelis

Dick Jordan Dave Barron

Operator—Bret LeVan Secretary—Lucy Hettinger

Solicitor----Rich Shoch

Public

Mr. and Mrs. Randy May Mick Brady

Trevor Finn

Karen Blackledge—Danville News

Chris Krepich-----Press Enterprise

The minutes dated December 18, 2014 were approved as presented.

Motioned by Dick Jordan seconded by Ed Draugelis Unanimous

The Mays attended once again to request sewer fees and now also the water tap fee to be repaid. The Board denied his first request at the November and December meeting for the additional sewer fees paid to be refunded. Randy now is requesting to also have the water tap fee of \$700.00 refunded. Mahoning Township Authority will investigate the water tap item. Randy May stated that he had a letter from Art Peters stating that he did not have to hook up at the time

but he paid a water and sewer tap on January 7, 1981. Solicitor, Rick Shoch asked numerous times to let us make copies of the letter to expedite the resolution to the matter. After asking to make copies, Randy stated it wasn't a letter but his notes he took while meeting with Art Peters. Randy commented that the Sewer and Water project ran East to West along the Route 11 corridor from Woodbine Lane towards Danville. Randy commented that Tom Mertz was consistently arrogant and ruthless. Why does the rest of the Board sit frozen in place like at a funeral?

Mr. Mays use of derogatory and unfounded accusations of MTWSA and pointedly at Chairman Mertz provoked a response from Vice Chair Boedker.

Mr. Boedker told Mr. May to stop and he was out of line and needed to repeatedly state to Mr. May that he was totally out of line. If there was really an issue at hand then it would be of purely clerical origin and not purposeful, as Mr. May repeatedly proclaimed.

Ed Draugelis also said he has worked here with Tom Mertz for many years and Tom is the most knowledgeable person in the area when it concerns the Authority and the Pennsylvania Municipal Authorities Act. There were frequent vacancies on this Board for years. Members would attend meetings when they were ill, just so there was a quorum. The Board now and in the past have been very dedicated.

The Operator report was read and approved Grier Boedker accepted the report and Ed Draugelis seconded the motion Unanimous.

PRV Pit Dave Kee working on Contractor list.

Trevor Finn was here on behalf of the County Regionalization. The Authority will table until a later date. Riverside and Valley already signed Agreements with Danville Borough/Authority. Both Trevor, County Commissioner and the Authority agreed to put on ice for now. There have been 4 years lost and large amounts of money.

Ed Draugelis motioned to table and Grier seconded the motion. 4 yays
Dave Barron abstained.

Special Counsel filed Answer to Plaintiffs Complaint and Filed With New Matter and Counterclaim on January 7, 2015. The new Claim filed at the Montour County Courthouse states that the damages owed by Danville Borough/Danville Borough Authority to the Mahoning Township Authority is in excess of One Million Dollars and is still being investigated.

Hawkins water and sewer lines have been tested and approved. All bills are not in at this time.

Landmark Signature is underway with 5 units.

Quick Books installed and information being added.

New

Danville Borough has sent Mahoning Township Authority notice of a 10% Water increase in January 2015. We asked for a copy of the rate Study and justification for the same due to the fact they have millions of dollars in their Water Fund. They said they did not do a Rate Study, instead used their Budget. The Attorney and Consultant will be asked for their input.

Motion to "PAY UNDER PROTEST"

Made by Ed Draugelis second Dick Jordan Unanimous

Pirma Insurance will be under review as far as coverage on items.

T and S Realty "Hidden Hollow" development is now under review.

Reports Reviewed

I and I

Focus

Time off sheets Approved by Grier Boedker Second Ed Draugelis Unanimous

Bills Motion to approve Dick Jordan second Ed Draugelis.

Unanimous

Pro readers are both bad, will not hold charge. \$850 each for proreader and charge with returning the two we have. Grier motioned that we purchase two Dick Jordan seconded Total of \$1700.00 Unanimous.

The Board will request quotes for all radio read meters to replace the touch pad units. Unanimous.

Delinquents

(RF Rentals property.) Will contact Robert Fetterman, their Attorney Kim Hill and Geisinger Facilities

Solicitor broke to Executive Session to discuss legal matters involving the Danville Suit and Mr. Mays allegations.

Reconvene to Regular Meeting

Authority Employees receive a 1.5 % increase in salary. Dick Jordan motioned Grier Boedker second Dave Barron abstained.

Rick Shoch will no longer request retainer but charge \$95.00 per hour as he does currently. Grier Boedker made motion Dick Jordan seconded Dave Barron abstained.

Adjournment

Please see Attachment

December 19, 2014

To the Editor:

In my role as Special Counsel to Mahoning Township Authority for sewer issues, I supervised the review of Mahoning's billing practices as they relate to Danville Borough and its Authority. Yesterday, the day *before* Mahoning delivered its report, Danville served Mahoning with a lawsuit. I am fairly certain Danville will wish it had waited a day to review the report first, as it shows that Danville is entirely mistaken in its theory that Mahoning undercounted sewer connections. Mahoning's count was accurate and it owes Danville nothing. Meanwhile, Danville's own records confirm that Danville misspent well over one million dollars of Mahoning's sewer funds between 2000 and 2009, and will need to repay Mahoning.

Recall that Mahoning hired AUS's Gary Shambaugh, perhaps the most qualified utility rate consultant in the Commonwealth, to review Danville's claims. Mahoning pledged to address any shortfall. What AUS found is that Mahoning accurately reported the number of residences connected to the sewer system quarterly to Danville. Danville reviewed and approved every quarterly report from Mahoning, and accepted payments from Mahoning without objection. AUS found that Mahoning's sewer count was correct, accurately accounting for new connections as well as demolished homes along the way. AUS even specified the addresses of newly connected residences for each year to confirm its conclusions.

In addition to the list of connected customers, Mahoning also maintains an internal Billing Registry, the document Danville "discovered." The Billing Registry is a list of Mahoning retail sewer customers who receive sewer bills from Mahoning. That Registry, however, often includes several entries for the same service address. For example, AUS found that the Registry "could have an unpaid final bill and two consecutive tenants at the same address." Thus, where Danville sees three entries in the Billing Registry, only one EDU was connected to the sewer system and sending flows to Danville's system. Danville's comparison of entries in the Billing Registry to the quarterly report of connections is an apples-to-oranges comparison. More to the point, Danville did not list in its suit even a single address of a Mahoning residence that is connected to the sewer system but which was unreported to Danville. To succeed in its theory, Danville would have to prove hundreds of such phantom connections. It cannot do so because they do not exist. Danville's conclusion that Mahoning underreported the number of units connected to the sewer is just plain wrong.

The public should be especially skeptical of Danville's suit. What rational entity would file suit, which it childishly characterized as a "Christmas gift," the day before receiving a report that undermines its factual assumptions? If Danville were truly interested in understanding the problem and addressing it appropriately, it might have read the report before filing a speculative complaint based on incorrect assumptions. After all, it now looks as though Danville will be unable to prove any of the material facts that support its complaint and that it was thoroughly and completely mistaken. Notably absent from the suit is any mention or reference to Mr. Dennehy's libelous public remarks that someone "pocketed" funds. Such assertions require a sworn verification made under penalty of perjury, which may well explain why such allegations were omitted by Danville.

There is some method to Danville's antics. Earlier this year, Mahoning began an investigation into Danville's handling of the sewer funds paid to it by Mahoning. Although our investigation is not quite complete, we can report with confidence that Danville unlawfully

transferred well over \$1 million dollars from its Sewer Fund into its General Fund between 2000 and 2009, confirming what we had suspected. The transfers used sewer payments from Mahoning customers to illegally subsidize Danville's general operations and artificially reduce its residents' taxes. Harrisburg, which made very similar transfers during the same time period, was forced to repay to its suburban sewer customers over \$11 million at my insistence. Mahoning seeks the same result here. It is both unfair and a violation of Pennsylvania law to use sewer revenues for purposes other than for sewer expenses. Danville's chronic reliance on outside sewer revenue to balance its borough budget is well documented in Danville's own financial records, which I reviewed.

Danville apparently believes that the best defense is a good offense. Mahoning has handled this situation professionally and patiently, and will continue to press Danville for a return of the misused funds. Mahoning will not be deterred or distracted by Danville's antics or unsupportable theories, and the public should not be either.

Scott T. Wyland
Special Counsel to Mahoning Township Authority