



EAST WHITELAND TOWNSHIP

THE HEART OF GREAT VALLEY

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East Whiteland Township

Written Testimony of the Board of Supervisors Regarding the Sale of the Township Sewer System before the Senate Democratic Policy Committee hearing on January 22, 2024

The current and prior East Whiteland Board of Supervisors, after numerous public presentations and countless hours of meetings and reviews with consulting engineers, lawyers, financial professionals and other related disciplines, concluded it was in the best interests of the Township to pursue the sale of the Township sewer system. Last summer, the Pennsylvania Commonwealth Court issued a decision overturning the Pennsylvania Public Utility Commission's approval of the sale of the system to Aqua. We, the Board of Supervisors, strongly believe that the Court's decision ignored the many benefits to the residents and taxpayers of East Whiteland Township that would come from the sale of the system. Accordingly, the Township has petitioned the State Supreme Court to take-up the case and consider the matter.

Following the State passage of Act 12 which allowed the sale of municipal assets at Fair Market Value, the Board of Supervisors began a comprehensive multiyear review and evaluation from outside experts regarding a possible sale of our aging sewer system. The capital improvements needed for our system; pump station upgrades, two major sewer line extensions, lining and replacing portions of the system; and new environmental regulations weighed heavily on our decisions. Costs, including additional likely debt service spread over 3,900 end users would have been significant. During this time we held seven (7) public meetings to present information and receive residents' feedback, which was very favorable. The Board concluded, subject to acceptable valuation and the right partner, a sale to an outside company was both in the best interest of our residents and critical to the financial solvency of East Whiteland Township. The Board believed, and still believes, that the carefully considered decision was proactive in foreseeing potential problems and recognizing that Aqua; with its experienced staff, equipment, capital improvement plans, and ability to resolve compliance issues; was better suited to handle them.

This Board of Supervisors was surprised and disappointed by the Commonwealth Court's opinion. In seeking its appeal of the PUC's decision, we believe the Pennsylvania Office of Consumer Advocate (OCA) failed to adequately consider the numerous public benefits included in the record that would be significantly beneficial to the safety, well-being and lifestyle of East Whiteland residents. It should be noted that many of these benefits will only be provided by the Township, unlike the waste water system, which would always be provided. We strongly disagree with the decision, which adopted what we believe to be the OCA's erroneous position.

Perhaps most disappointing, we believe the Commonwealth Court's opinion effectively does not allow for the Board to properly fulfill our role as elected officials. The Commonwealth granted townships the authority to make these decisions, in part, based upon their understanding of local needs and priorities. In the event the reversal remains permanent, this Board will not be able to move forward with its plans and vision for the Township.

The current and past Boards of Supervisors, in considering the decision to proceed with the sale transaction believe the public benefits far outweigh any potential disadvantages. These public benefits, which are at least now on hold indefinitely, include the following:

- New Police Station – If the Commonwealth Court decision is not reversed, East Whiteland will not likely proceed with the much needed new police station for possibly many years.
- Open Space & Parkland – The Township's intent to pursue the preservation of open space and provide additional parkland in the immediate future without additional taxes or debt, will be delayed and hindered.
- Route 30 – Lancaster Avenue improvements – There would be significantly fewer Township funds available for any Route 30 improvements.
- Debt Payments – All of the Township's existing debt [approximately \$20,000,000] will remain and will be payable in accordance with its payment schedule over the long term.
- Storm water management/flooding – The Township has experienced significant flooding problems along Lancaster Avenue, Church Road, and certain private properties. East Whiteland will not be in a position to study these problems, devise solutions, or implement solutions. These flooding problems will remain.
- Community Assistance The assistance provided to local civic and community organizations in the past will unfortunately likely be eliminated or drastically reduced. These organizations enhance the lifestyle and recreational opportunities within East Whiteland at little to no cost to the Township.
- Staffing – While we will fill any vacancies and open positions, we may not be in a position to increase staff and may explore a hiring freeze. Also, three (3) full-time former Sewer Division employees have been freed up to work on other pressing Public Works needs such as road maintenance/improvements, storm water management improvements, and parks maintenance and safety

- Sewer Rates will increase – Rates will increase regardless of ownership of the system. If the waste water system reverts to the Township, there will no doubt be a significant increase in rates from the average \$100 per quarter last charged. The last rate increase was in 2017. The Township has a population of approximately 14,000 and 3,900 waste water customers; Aqua has 43,000 customers. This means that sewer costs will be spread over a relatively small customer base. Costs such as: the annual payment for the Valley Forge trunk line have increased from \$420,000 per year to what will be \$1,400,938 annually, a sinkhole destroyed the Flat Road pump station in 2020 with an associated cost of \$483,335, and Aqua has recently started two sewer extension projects on Bacton Hill Road and Planebrook Road at a cost of \$7,385,703 that would be approximately 25%-30% higher (roughly \$2,000,000) had they been Township projects due to prevailing_wage requirements.

In short, many of these envisioned and planned public benefits will either be eliminated, delayed, scaled back, and/or require additional debt.

The Board of Supervisors not only considered the many benefits to the residents, businesses, and tax payers of East Whiteland Township, but also considered the impact of possible future rates during its study and evaluation of the possible sale of the system. The Board was well aware of potential rate increases, understand that it is a difficult issue, and were/are very sensitive to it. Accordingly, the Township required and included a three-year rate freeze in the agreement of sale with Aqua. The Board continues to share the concerns of residents, legislators, and the OCA, regarding rate hikes. As such, the Board has been actively discussing options to mitigate the impact of rate increases on customers regardless of who owns the system.

The Board of Supervisors fully appreciates that every municipalities situation is different and to craft Statewide legislation is challenging. We believe that this is exactly why the State chose to give municipalities, specifically their elected officials, to make these decisions as we/they best understand local conditions, issues, and finances. We believe that if legislative action is deemed necessary, that it should be applicable to future sales of systems.

In conclusion, the Board of Supervisors embarked on a lengthy process to sell the Township's waste water system during which we carefully and deliberately considered the costs of continuing to operate the system versus the benefits that would come to the Township as well as the impact of possible future rate increases on customers. The Commonwealth Court's decision, if it stands, will eliminate those benefits and remove the Board's ability to move forward with its vision for the Township. We believe the Commonwealth Court erred and have taken, and will continue to take, appropriate action in furtherance of what we fully believe is in the best interests of our residents and community.