

I would like to begin by thanking the Democratic Caucus for inviting me to speak here today on behalf of NOPE. Since first getting involved in this issue in 2020 I've had hundreds of conversations around this issue and it can be really hard to summarize all the facets of it. But I will say this, regular people understand very quickly what the central issue is. They understand that as a community, when we have an essential need, we can pool our resources to build the necessary infrastructure in order to provide that service to ourselves at cost. That is the public utility model based on ideas of the common good. And that's what is threatened by privatization, profiteering and the investor owned utility model, and the subsequent wave of acquisitions kicked off by the passage of Act 12 in 2016.

Act 12 has done nothing but set up an inflationary spiral in which each succeeding system purchase is valued at a higher and higher price. The two parties at the table, local officials and the water companies are both incentivized to settle on the highest possible purchase price while forcing those not at the table, the third-party, the rate payers, to underwrite the risk of an excessively high final price. The auction-like process created by this single piece of legislation and the so-called fair market valuation embedded in it has created the current water and sewer affordability crisis that has now become obvious to everyone here.

When Norristown Opposes Privatization Efforts was founded we knew early on that regardless of our own particular outcome we were going to need to share the information we learned in our fight to help residents in other towns prepare and learn in time to stand up informed opposition where they lived. We reached out and eventually a coalition came together across Southeastern PA: Chester, Delaware County, into Montgomery County, and then into Bucks County where we helped put a stop to what would have been the largest sale of the sewer system in America, valued at a cost to ratepayers of \$1.1 billion.

The fight we have been involved in here in Southeastern Pennsylvania really revolves around one fundamental question, who does the world's water belong to? And while that can seem an overly abstract question that is hard to get your arms around, it actually takes place at the ground level right here where we live in these mundane transactions that don't show up on people's radar as they're going about their daily business. But piece by piece and system by system, water itself is becoming commodified, is being bought up and distributed not based on the public interest or need, but on what is profitable to corporations and their shareholders. Those interests don't align.

The testimonies of Patrick Cicero, Anthony Bellitto, and Liesel Gross lay out the case for repeal Act 12 clearly and directly. I would just like to add some of the perspective of a

resident and organizer involved in helping other people understand this issue and organize a response to it in their own towns.

Before I talk about the four proposed bills, I would like to point out a concern I have over what seems to be an approach of only attempting to achieve what seems possible, rather than being very clear on a platform that addresses the corporate profiteering of essential services as a structural problem and then working to get what is truly the best outcome for your constituents and ratepayers.

The status quo is changeable. Conventional wisdom can often be insufficiently examine preconceptions. Especially with this issue. This is a kitchen table issue that people grasp immediately, and frankly, it's a perfect campaign issue. There is bipartisan support among residents to fight these sales, and for electeds and candidates who choose to join cause with them, elections can be won and legislative majorities achieved. I would encourage you not to simply focus on what seems possible in this moment, but to also stake out positions for a longer range reform project.

As a quick example, I would refer you all to Towamencin Township's recent history. In the course of their struggle there were four victorious elections that were essentially proxies for the sewer acquisition fight. The first election Joyce Snyder won as a Democrat in that Republican Township, the second election installed a government study commission to create a home rule charter with the explicit intent of rolling back the sale there. The third vote successfully adopted that home rule charter. And then lastly, there was the recent election of Kofi Osei as the second Democratic supervisor in Towamencin.

Now to the bills:

HB 1862 is fine in spirit but we have seen the burdens faced by residents trying to save their systems. It's an asymmetric fight in terms of both information and resources and to make matters worse, the timelines are often intentionally compressed to not give sufficient time for opposition to form. In Norristown we were fortunate enough to have a home rule charter which contained the provision allowing citizens to repeal or create ordinances through ballot initiatives. In essence, a local referendum process. Over three petition attempts we were ultimately successful. We collected over 7000 signatures over the course of that struggle; in the height of the pandemic, pre-vaccine, with paper and pen, working to convince people justifiably outraged by the murder of George Floyd that this was also an urgent issue that warranted their immediate attention. Norristown council consists of seven Democrats and we only convinced two of them to not pursue a sale. Ultimately, it was Aqua Pennsylvania walking away which ended the threat. So

community and stakeholder input is great, but is still often insufficient on its own to end these struggles. The overall pressure has to be reduced by taking these huge piles of money off the table.

HB1863 is fine as a standalone bill, and it is the only one we support in its entirety.

HP 1864 - this is a bill that only delays the regressive upward redistribution of wealth. We are not interested in rate fuses. Our fundamental concern is the rate bomb - not how long it takes to go off.

HB 1865

Again, repeal of the fair market valuation is NOPE's goal here - ending the auction-like inflationary speculation it produces. Merely adding complexity is not an improvement. Section 1327 of the utility code allows for a valuation based on cost plus depreciation but, crucially, with the opportunity for purchase price reasonably assessed above that dollar value. The additional time provided by passage of HB 1862 (removing the six month time limit), could help the PUC evaluate what is a reasonable purchase price above and beyond cost plus depreciation.

(If I could just use an example for my own life and construction, if I get a splinter while working, I could devise a plan of pain remediation, and I could get myself set up with an antibiotic regimen. A system of hot and cold cold compresses, I could develop a plan of soaking and icing. Or I could remove the splinter!)

So, repeal Act 12, keep HB1863, scrap fair market valuation, return to or re-emphasize cost plus depreciation plus a reasonable additional purchase price to be determined in concert with all the varied stakeholders and let's put an end to fair market valuation, this inflationary driver of our current water and wastewater affordability crisis.

A final note:

Those of us in this coalition want to remind everyone here that this concept of fair market valuation is a water industry construct. It is part of a two pronged approach, a carrot and stick of approach. The carrot, of course, is the big pile of money placed in front of local officials through Act 12, but the stick would have been Senate Bill 597 from the previous legislative session which would have created a new regulatory regime imposed on only municipal systems - because investor owned utilities defined themselves out of that legislation. The water industry is going to create other bills that are going to impose regulatory burdens on municipally own systems with the intention of incentivizing local governments to give up and "get out of the business" so to speak. Be

on the lookout for that. It's probably coming back as standalone cybersecurity measures, but the intent is to foster privatization.

I think you all for your time and I look forward to future conversations on this issue.

Sincerely,
David McMahon
Neighbors Opposing
Privatization Efforts