

**WILLISTOWN TOWNSHIP BOARD OF SUPERVISORS
688 SUGARTOWN ROAD, MALVERN, PA 19355
MONDAY, MAY 8, 2023, AT 7:00 PM**

AGENDA

- A. **Call To Order**
- B. **Pledge of Allegiance to the Flag and Moment of Silence for Military Personnel**
- C. **Announcements**
- D. **New Business**
 - 1. **Minutes**
 - i. Minutes of the Special Meeting of April 14, 2023
 - ii. Minutes of the Meeting of April 24, 2023
 - 2. **Expenditures** – List of Expenditures dated May 5, 2023
 - 3. **Police Report**
 - 4. **Administration Items**
 - i. Approval of **Sewage Conveyance Agreement** between Easttown Township, Easttown Municipal Authority, and Willistown Township, setting forth the terms and conditions upon which Willistown shall have the continued right to discharge sanitary sewage from via Willistown Conveyance System into the Easttown Conveyance System for conveyance to the Darby Road Pump Station.
- E. **Citizens' Comments**
- F. **Next Meeting** – *All meetings are open to the general public*

The next regular meeting of the Board of Supervisors will be held on May 22, 2023 at 7:00 PM at the Township Building and on Zoom.
- G. **Adjournment**

WILLISTOWN TOWNSHIP BOARD OF SUPERVISORS
SPECIAL MEETING
GENERAL WAYNE ELEMENTARY SCHOOL
FRIDAY, APRIL 14, 2023, AT 7:00 PM

MINUTES

The Special Meeting of the Willistown Township Board of Supervisors came to order at 7:02 PM. Supervisors Robert T. Lange, Molly H.B. Perrin, and William R. Shoemaker were present. Also present were Township Manager Shanna Lodge, Chief of Police Robert Klinger, Treasurer Martin McKenzie, and Assistant to the Township Manager Jennifer Jacobs.

Supervisor Perrin led the Pledge of Allegiance and a moment of silence for military personnel and first responders.

Announcements – Supervisor Perrin read the following announcement into the record:

We are here this evening to discuss the Asset Purchase Agreement, or APA, with Aqua Pennsylvania Inc. regarding the sale of the Township sewer system. This agreement and transaction was approved by the Pennsylvania Utility Commission, but was subsequently appealed to the Commonwealth Court. On September 26, 2022 the Board announced that the Township would not close on the sale while appeals were ongoing, and committed not to close the sale in the absence of a Final Order. No final order has been issued to date, and those appeals have not been resolved in the courts. At the September meeting, the Board also noted that, if a Final Order was not issued by a certain identified date, the Township would have the right to terminate the agreement. That date, the “Outside Date,” is today. Therefore, the Board tonight will consider exercising that right. A letter from Aqua asking the Board not to take action to terminate was received by The Township today. We acknowledge the Township and Township counsel’s receipt of that letter. We will not be commenting further on the content of that letter, and we are prepared to proceed with the agenda. This evening, I would like to call for a motion to adopt a Resolution to authorize the sending of Notice, in accordance with the APA, to exercise the Township’s right to terminate the agreement. Public comments will be accepted this evening on the issue before the Board takes action. Comments from the public will be limited to two minutes per resident, with each resident who wishes to speak being permitted to do so one time.

Consideration of Resolution – Supervisor Perrin read Resolution 11 of 2023: A Resolution to Terminate the Asset Purchase Agreement with Aqua Pennsylvania Wastewater, Inc.

WHEREAS, Willistown Township entered into a certain Asset Purchase Agreement dated January 20, 2021 (the “Agreement”) between Willistown Township as Seller and Aqua Pennsylvania Wastewater, Inc. as Buyer; and

WHEREAS, the Agreement sets forth an Outside Date for Closing; and

WHEREAS, the Buyer exercised its one-time right to extend the Outside Date for Closing for an additional 90 day period; and

WHEREAS, the extended Outside Date for Closing expires at midnight, April 14, 2023; and

WHEREAS, As permitted pursuant to Section 14.01(b)(i) of the Agreement, the Seller has the right to terminate the Agreement if Closing does not occur on or before the Outside Date.

NOW, THEREFORE BE IT RESOLVED, that the Township Manager is directed, on or after Saturday, April 15, 2023, to send Notice in accordance with Section 15.03 of the Agreement that the Agreement is hereby terminated and abandoned without liability or other obligation of either Party.

DULY ADOPTED this 14th day of April 2023, by the Board of Supervisors of Willistown Township, Chester County, Pennsylvania, in lawful session duly assembled.

Supervisor Shoemaker moved to approve Resolution 11 of 2023. Supervisor Lange seconded the motion. The floor was open for public comment.

Public Comments

Charles Lyddane of 10 Woodford Lane encouraged the Board to vote in favor of terminating the agreement. He thanked the Board for their land conservation efforts in the south but believes it is time to advocate on behalf of the working people in north Willistown on sewer by terminating the sale.

Chris Franklin lives on Greenbriar Lane and is CEO of Aqua/Essential Utilities. He has lived in Willistown for over 20 years. He joined Philadelphia Suburban Water Company, now known as Aqua, over 30 years and what has kept him at the company is its mission – to protect and provide earth's most essential resource - water. He gave the example of the Delaware River spill two weeks prior, where officials and the public looked to Aqua to ensure safe drinking water in Philadelphia and Bucks County. Mr. Franklin is proud of the work of his employees who also live in Aqua service areas. He gave a brief history of Aqua answering the Township's request for proposals and timeline of the sale.

John Salyer of 7 Treble Lane commented that the administration of the sewer system under the Township has worked quite well. The Township can control billing, operating, and maintenance and residents have paid frontage and installation costs. Their sewer fees go directly into the sewer fund to benefit the sewer users rather than paying high salaries and stockholders' dividends. He asked the Board to reconsider the sale.

Murray Gordan of 41 Meadowview Lane asked the Board how they plan to vote. Supervisor Perrin said the Board will be voting shortly.

Frank Walters, 126 Richmond Road urged the Board to pass Resolution 11. He reiterated the opinion of the Administrative Law Judge stating the sale would have few public benefits.

Bob Swift of 13 Devon Road stated he is the litigant in the case before the Commonwealth Court. With only 50% of Willistown residents on sewer, repaying the \$17.5 million sale price through increased sewer fees would be a huge burden to the sewer ratepayers. He encouraged the Board to adopt the proposed resolution.

William Neilds of 3 North Cedar Hollow Road asked the Board to consider the resolution. He grew up in Willistown and remembers his parents saving for sewer installation in the 70s.

Grace Jones of 2 Jacqueline Drive thanked the Board for all the hard work and time they put in.

Michelle Atchison of 6 Devon Circle stated Aqua is not in the Township's best interest and asked the Board to support terminating the agreement.

Bill Rupert of 34 Harvey Lane likes Aqua but believes the sale is not what is right for the Township.

Pam Schaffer, 129 S Cedar Hollow Road, asked the Board to terminate the asset purchase agreement.

Janine Paul, 15 Jacqueline Drive is a 23-year resident on a fixed income and is concerned about rising sewer rates in the future under Aqua. She asked the Board to vote in favor of terminating the agreement.

Carol Meerschaert of 132 Spruce Lane is proud to see democracy work and thanked the Board for allowing residents to have their voices heard.

Robin Flavell of 2 Arlington Road has a home on the sewer system with a grinder pump and would like the Township to survey all residents on the sewer system. She stated her sewer bills are already high and will be higher with Aqua.

Susan Rosso, 1 Roselawn Lane is on septic and asked everyone in favor of terminating the sale to stand up.

Keith Greathouse of 12 Fox Ridge Drive spoke for his 29 neighbors on Fox Ridge Drive all of whom are against the sale. He asked the Board to terminate the asset purchase agreement because Aqua will be looking to recoup the money it spent buying the sewer, and the payback will be borne by the ratepayers.

Ted Leisenring, 2575 Whitehorse Road, thanked the Board for their hard work and acknowledged their service. He commented that school taxes in Willistown are high and can be raised yearly by the School Board. He believes higher taxes will affect residents more than a sewer increase.

Richard Apostol, 7 McKinley Avenue, thanked the Board for their efforts and while he may not have always agreed with the Board, he believes they always have the Township's best interests in mind. The sewer sale is no longer in the best interest of the Township and it's time to terminate the contract.

Marc Lucca, President of Aqua, commented on the New Garden sale to Aqua and its differences from Willistown. He requested the Board honor the asset purchase agreement.

David McMahan, a non-resident, is part of a non-profit that opposes the privatization of municipal sewer systems. He asked the Board to consider the findings of the Administrative Law Judge and to keep the sentiment of tonight's attendees in mind when voting.

Ginny Kerslake, non-resident, commented she believes when the Board originally agreed to sell the sewer they were acting in good faith and doing what they thought was best for the residents. But in the last few years, many Pennsylvania municipalities have realized the privatization of sewer and water systems is not in residents' best interest. She supports Senator John Kane who has introduced legislation to repeal Act 12 of 2006 which changed the water and sewer privatization process. She encouraged the Board to terminate the agreement.

Bill Ferguson, a New Garden resident, is unhappy with Aqua and his rates after the sale. He believes the rates Aqua is proposing for Willistown are low and rates will be higher once the sale goes through.

Steve Gamburg, 4 Twin Creek Lane, asked the Board, as elected officials, to act in the will of the people which is to terminate the contract.

Roll Call of Votes for Resolution 11 of 2023 – Supervisor Perrin asked the Board to vote and voted in favor of the resolution. Supervisor Shoemaker commented from the beginning of the sale process, he believed the sale to Aqua would benefit the ratepayers in the long run. Rates will go up whether the system is owned by Aqua or the Township. As Supervisor, he is elected to represent the people, and the

ratepayers have made it clear they do not want the sale. Supervisor Lange said three years ago the Board started the sale process thinking it was the right thing to do, but now he is in favor of terminating the sale. The Board unanimously voted in favor of the motion and there were no further comments from the Board.

Next Meeting

The next meeting of the Board of Supervisors will be held on April 24, 2023, at 7:00 PM at the Township Building and on Zoom.

Adjournment

There being no further business before the Board, the meeting adjourned at 7:41 PM.

Respectfully submitted,

Shanna Lodge
Township Secretary

DRAFT

**WILLISTOWN TOWNSHIP BOARD OF SUPERVISORS
688 SUGARTOWN ROAD, MALVERN, PA
MONDAY, APRIL 24, 2023, AT 7:00 PM**

MINUTES

The Regular Meeting of the Board of Supervisors came to order at 7:00 PM. Supervisors Robert T. Lange, Molly H.B. Perrin, and William R. Shoemaker were present. Also present were Township Manager Shanna Lodge, Chief of Police Robert Klinger, and Solicitor Max O'Keefe.

The meeting was called to order at 7:00 PM. Supervisor Perrin led the Pledge of Allegiance and a moment of silence for military personnel and first responders.

Announcements – Supervisor Perrin announced that an executive session was held by the Board on April 24, 2023 to discuss real estate and legal matters.

New Business

Minutes – Supervisor Shoemaker moved to approve the minutes of April 10, 2023. Supervisor Lange seconded the motion. There were no comments from the Board or the public, and the motion carried unanimously.

Expenditures – Supervisor Shoemaker moved to approve the list of expenditures dated April 21, 2023. Supervisor Lange seconded the motion. Tom Renkey of 45 Tulip Drive inquired regarding the expenditure related to Villa Maria Academy, which Manager Lodge surmised is related to an escrow closeout. There were no further comments from the Board or the public, and the motion carried unanimously.

Police Report – Chief Klinger reported on recent department activity, including arrests for simple assault and harassment, aggravated assault, and stalking.

Ordinance Advertisements – Supervisor Shoemaker moved to authorize advertisement of an Ordinance Amending Chapter 72, Article II of The Code of The Township of Willistown Pertaining to Property Maintenance, by Adopting as the Property Maintenance Code the International Property Maintenance Code of 2021. Supervisor Lange seconded the motion. Manager Lodge noted that this is an update from the 2018 IPMC. There were no comments from the Board or the public, and the motion carried unanimously.

Supervisor Shoemaker moved to authorize advertisement of an Ordinance Repealing Ordinance No. 5 of 2020 Authorizing the Sale of the Township Sewer System to Aqua Pennsylvania Wastewater, Inc. Supervisor Lange seconded the motion. There were no comments from the Board or the public, and the motion carried unanimously.

Land Development – Supervisor Shoemaker moved to authorize Troutbeck Farm Stage 2 Escrow Release #3 in the amount of \$178,825.56. Supervisor Lange seconded the motion. There were no comments from the Board or the public, and the motion carried unanimously.

Administrative Items – Manager Lodge presented a request to approve purchase of I.T. infrastructure replacements/enhancements. A new server will replace two older servers that are reaching end of life, an improvement both in hardware and operating system. Supervisor Shoemaker moved to approve the purchase. Supervisor Lange seconded the motion. Mike Kerr of 33 Stonehenge Lane inquired regarding

the cost of the upgrades. Manager Lodge reported that the total cost, on a Costars contract, comes to \$44,167, more than \$10,000 under budget. There were no further comments from the Board or the public, and the motion carried unanimously.

Supervisor Shoemaker moved to authorize an agreement with a 3rd Party Administrator, Benefit Plans Administrative Services, LLC, for the non-uniform pension fund. Supervisor Lange seconded the motion. There were no comments from the Board or the public, and the motion carried unanimously.

Citizens' Comments

Julie Frissora of 34 Chetwynd Road suggested that her residents' group could form an advisory committee regarding the sewer system. Supervisor Perrin noted that the Board of Supervisors and staff have begun exploring options for continued administration of the sewer system. Supervisor Shoemaker noted that there are many structures that the Township could consider, including the possibility of establishing a Municipal Authority.

Louis Pettinos of 6 Applewood Road inquired how the Environmental Sustainability Commission came to be, and more generally, how advisory boards are established. Supervisor Perrin noted that the ESC was previously the Recycling Commission, an entity that fulfilled the State requirements for recycling programming. Many advisory boards and commissions are established for these sorts of reasons, and often established by Ordinance.

Henry Yordan of 152 Grubb Road reiterated the suggestion for the involvement of the resident sewer interest group.

Kevin Rice of 6 Colonial Way inquired whether neighboring municipalities, such as those which have municipal authorities would be consulted. Supervisors Perrin and Shoemaker confirmed this and noted that there are many resources which will be utilized.

Victor Guglielmi of 22 Wildwood Drive echoed the suggestion to consult with neighboring municipalities.

Joe Heenan of 713 Monument Road echoed Ms. Frissora's comments and inquired regarding these options and next steps.

Manager Lodge noted that the staff will be meeting with consultants to determine legal options and present those to the Board soon, noting that Board decisions will be made at public meetings. Mr. Kerr inquired whether the Obermayer firm will be consulted for these steps, which the Board indicated is not planned.

Pamela Schafer of 129 South Cedar Hollow Road inquired if the Township has received a response from Aqua following the notice of termination. Supervisor Perrin responded that the Township has not. Ms. Schafer further suggested that the door at Pump Station #1 needs to be painted.

Jerry Childers of 8 Colonial Way inquired about the simplicity or complexity of establishing a Municipal Authority. Supervisor Shoemaker spoke generally about the differences between advisory committees and a Municipal Authority, which is a separate legal entity directly responsible for finances and administration.

Mr. Kerr inquired if an invoice has been received for the work of Blooming Glen on the emergency repair at North Cedar Hollow; this has not yet been received.

Mr. Yordan inquired about PennDOT responsibility to repair Township infrastructure when impacted by stormwater on State roads. A discussion of inflow and infiltration followed. Solicitor O'Keefe noted that Commonwealth agencies are exempt from most tortious and negligent conduct.

Murray Gordon of 42 Meadowview asked if the Township has contacted state representatives regarding State Road conditions. Supervisor Perrin confirmed this has been done.

Mr. Heenan inquired about the minutes of the Open Space Review Board, which Manager Lodge noted are up to date. He requested access to draft minutes, which Solicitor O'Keefe noted are exempt from disclosure and doing so is not considered best practice, as draft minutes are not finalized or approved.

Mr. Yordan inquired about the status of the annual financial audit; Manager Lodge advised that work is underway.

Adjournment

There being no further business before the Board, the meeting adjourned at 7:41 PM.

Respectfully submitted,

Shanna Lodge
Township Secretary