

June 4, 2024

HARMONY BOROUGH

Stormwater Hearing and Council Meeting

June 4, 2024

COUNCIL MEMBERS PRESENT:

Greg Such
Joe Dippold
Frank Luek
Phyllis Metz
Jason Sarver
Don Sims
Dave Szakelyhidi
Mayor Cathy Rape

OTHERS PRESENT:

Susie Altemus	Tom Beach
John R. Beighey	Michael Mantia (US Liner)
Jim Hulings	Gerry Otteni
Barb Hulings	Andrew Orient - virtual
Sam Hopkins	Zach Petruff (Butler Eagle)
Craig Klingler	Matt Racunas
Bob Leonberg	Larry Reynolds
Kathy Luek	Tom Thompson
Chief Jim Miller-ZPD	Jeanie VonHofen

Introduction and Description of the Stormwater Authority

Solicitor Matt Racunas called the hearing to order at 6:45pm. This is the time and place for the public hearing related to the implementation of the Southwest Butler Stormwater Authority. This is a public hearing provided by public notice by the Borough, it is intended to inform the public and take public questions, and to obtain public comments relating to the implementation of this authority. The Authority will be formed under the Municipal Authorities Act, which is the Pennsylvania law that governs municipal authorities. It will be a branch of Harmony Borough, Zelienople, Jackson Township and the Borough of Evan City. The board membership will be incorporated from different members from each of the incorporating municipalities. The purpose will be to have the Authority govern issues in the borough and to be able to implement fees in order to remedy any stormwater issues and hopefully mitigate stormwater damages. The Southwest Butler Stormwater Committee, a group of 10 municipalities, has had multiple discussions on how to address the stormwater issues in this particular area and it was decided that the creation of this Authority was the best way to handle that. Again, this Authority will be a joint authority that is a branch of each of the four municipalities, they will meet, they will have their own separate board, defer to their own separate appointed engineer, their own solicitor who will advise them on the legal implications of their actions, and how they will proceed on that, and they will operate as an independent entity under the Municipal Authorities Act. The purpose of this hearing is to inform the public that Harmony Borough is intending to move forward with a resolution addressing their desire to form this authority. It's a prerequisite for forming a joint authority. All of the communities that are part of this will have public hearings. They will all adopt resolutions, they will sign and submit articles of incorporation that will get sent to the Department of State for Pennsylvania, and ultimately get approved. Once those articles are approved the separate entity itself is then created by the State. It's a similar process that's used for business entities. If you start an LLC, or you start a corporation, you have to file your own articles of incorporation before that entity is actually in existence. The same thing happens here, the only difference being that the municipal entities that will make up this authority have preconditions of things they have to do before that entity could be created. This public hearing is part of that process. Again, it's intended to inform the public, take any questions and hopefully provide answers on the intent behind the creation of the authority, and then also the passage of a resolution which is on the agenda for this evening's council meeting.

Greg Such commented that this is the result of working together with 9 other communities in the county since the fall of 2019, we have performed stormwater studies in that larger group. A smaller group of the 4 communities of Harmony, Zelienople, Evans City and Jackson decided to form an authority in order to pool our finances to do stormwater management. The Stormwater Authority itself will operate like a utility, similar to WBCA or the Harmony Water Authority. There will be an ERU (Equivalent Residential Unit) charge that will be charged monthly, but how it will be billed has not yet been determined. This is a fee similar to a utility, it is not a tax. All the organizations in the borough will be assessed that fee. One of the strengths of using the authority is that the groups that had previously been tax-free will get a fee. The fee to start with will likely be within 3 to \$4 a month; we're talking \$36 to \$48 a year in total. The larger properties have been overhead surveyed, and there is an area of impervious land that they have. They will be charged based upon that impervious area as it equates to one average size residential unit.

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Public Comment - Please state your name and address.

Craig Klingler – 329 Monroe Street

Craig Klingler inquired if this new Authority takes jurisdiction over stormwater issues in Harmony and is senior to this body seated here (Council). You are giving up authority to the Stormwater Authority? Solicitor Matt Racunas replied that it is precisely like how WBCA handles the sanitary issues and Harmony Water Authority handles the water, it is the same thing, you are right. Craig commented that stormwater isn't a utility, and inquired if the Borough would have approval over what the Stormwater Authority wants to do. Greg Such responded that there are two sides to that question. There's an operations and maintenance portion of collected fees that will come back to the Borough. There's also a capital improvement plan that four communities will decide, and so that capital improvement plan will be assembled and voted on by five board members. Craig inquired that the Borough does retain authority over capital projects. Greg Such responded that yes, the Borough will retain full authority over O&M.

Jim Hulings – 436 Center Street

Jim Hulings introduced himself and stated that he and his wife Barbara have lived at 436 Center Street in Harmony Borough for 50 years or so. Jim wanted to clear up something so people don't get confused. The Southwest Butler Planning Group consisted of Adams, Cranberry, Lancaster, Penn, Forward, Seven Fields, Harmony, Jackson, Zelienople and Evans City. That group in 2022, the County government gave them \$5,775,876. That is not a taxing authority and not part of this hearing. Southwest Butler Stormwater Authority consists of Harmony, Jackson, Zelienople, and Evans City. This organization will be formed as a tax authority if ratified by all four municipalities. Greg Such stated no, it is being formed as a public utility. Jim Hulings continued stating that Evans City joined on April 1st 2024. On May 3rd 2024 public notice states this hearing is to consider a resolution, if this is a resolution, why are the Articles of Incorporation included in the resolution? Solicitor Matt commented that it is because it's a prerequisite under the application. The resolution, Matt believes, refers to the order; it's all prerequisite to the filing with the Department of State. The resolution mirrors the Articles. Jim inquired if the Articles of Incorporation could be approved with the names of the board member's blank. Solicitor Matt Racunas responded yes. Jim inquired if the Resolution could be executed by Harmony without the signature of the participants. Solicitor Matt responded that yes, they are all going to do it and then there will be one sort of collective resolution at the end that will get submitted to the Department of State for file. Jim commented that the Southwest Stormwater Authority, for the rest of when he talks, will be the Authority. Solicitor Matt commented that he did look at a lot of Jim's questions, not all of them, but a lot of them and a lot of these may be better addressed once the authority is formed, because these are decisions that will be made once the authority is formed, they will be their own separate governing body. This group here may have their own ideas of it, but they won't be the decision makers. The decision makers will be the people on the Authority Board. Depending on your question, obviously if we can answer here, we'll try and answer it. Solicitor Matt commented that this is not something that is unusual, authorities are formed all the time. Joint municipal authorities are formed all the time. This is the process. And again, this group doesn't decide the process. These municipalities didn't decide the process. That's dictated by State law, and the Authorities Act, that is how it works. Jim Hulings commented that the tax was already talked about and organizations like US Liner, Jadco, Robinson Fans, Connoquenessing Valley School, the Methodist Church, Grace Church, Calvin Church, Harmony Fire Department, Harmony Inn, Harmony Historical Society, Harmony Parks, and Harmony Municipal Building, etc. will all be charged a fee based on their impervious area. Solicitor Matt responded that is the idea, however, that decision ultimately will come from

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the Authority Board, because what will happen is that board, once it's incorporated, will hold their own public meetings, and you (the public) can attend and have input on those. They will pass their own resolution that will set the fees. Matt has drafted those types of resolutions and they are very lengthy, and they lay out this process of how they are going to determine impervious area, how much the charge is going to be, how they are going to implement, what the appeal process will be -- all that will be addressed with that Authority. Jim commented that in about a half an hour Council will vote on the Resolution and the Articles of Incorporation are in there, which also talks about these very things you're talking about. Solicitor Matt commented that is the idea, but again it will be governed by a separate board; that is just the way it works. Jim commented that they need to see the bylaws. Solicitor Matt commented that Mike Witheral is the attorney who is spearheading this and he maybe better to answer that, but Matt's thoughts are that the Bylaws won't be created until after the Authority is created. There's going to be a process, the Authority is going to be formed first. It's the same as if you have ever done an incorporation, you incorporate and then you do your partnership agreement, your bylaws, and all that other stuff as the entity has to exist. The Authority does not exist yet, it needs to be filed. Jim Hulings commented that the Borough in the Articles of Incorporation in the Resolution, if you separate that out, then Jim will agree with the Borough. Solicitor Matt responded that they can't, because it is all part of the process, it is what's required in the application.

Jim inquired what organization will collect the flood fee. Greg Such responded that it to be determined. Jim also inquired if the Authority will have the power to borrow funds. Greg Such responded, yes. Jim inquired what would be the maximum amount the Authority could borrow. Greg Such responded that he does not know the answer to that. Jim commented the way it is worded, it is unlimited. Jim also inquired if the Authority could spend up to a million dollars on a project without board approval. Greg Such replied that it has to be in the capital Improvement plan, which requires board approval. Jim commented that if Jackson Township and Evans City board members decide they want \$10,000,000 to rehab the Dam on Lindsay Road, they would have the majority and we would be paying for it. Greg Such commented that we wouldn't be paying for it, the Authority would be paying for it. Jim commented that we are the Authority. Greg Such commented that the Authority is here for its own benefit. Solicitor Matt commented that the Authority is not going to be part of our borrowing base. It is the same as WBCA, it's analogous, because if they take out money it doesn't go against our borrowing base as the Borough. They will be their own entity. Jim commented that the four little entities are the people, 11,000 people are going to be paying this Authority that rate, so we are the Authority. We are going to be funding that Authority and there's no leverage. Solicitor Matt commented that Jim could look at it that way but it's how it is structured legally. Jim inquired how the flood tax be enforced. Greg Such commented that it not a tax. Jim inquired if the Authority will impose fines and/or penalties on people who don't pay their bill. Solicitor Matt commented that will all be addressed in that Resolution, that is a question for the Board, once it is formed. Jim commented that it is not in the Resolution. Solicitor Matt responded, not that Resolution, the actual Resolution that will implement the fee. The fee doesn't happen, it doesn't just happen in a corporation. It's not like this Resolution that is passed, we filed with Department of State, and all of a sudden there's a Stormwater fee and everyone is going to get a bill, it doesn't work that way. This is just to start the entity. That entity will then decide what is the fee going to be, how it is going to be implemented, how does the billing work, how does the enforcement work, how does the appeal process work. All that happens through a resolution once the authority is created. This is sort of the baby stage. We're just trying to create the baby, and then the baby will grow up and make decisions. Jim Hulings inquired if the Authority would have the power to shut off homeowners or business owners' water, like the Western Butler County Authority does. Solicitor Matt commented that there is a difference of legal opinion on this so it will come down to

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whatever the legal-council the Authority selects decides. Jim Hulings inquired if the Authority would have the power to seize people's land via liens, sheriff sale, or have the court take people's land. Solicitor Matt Racunas responded that there will be a government entity, but again, the use of that is strictly governed by the eminent domain code. Jim inquired if the Authority would have the power to take people's land by eminent domain. Solicitor Matt responded that they are a governmental entity. So just as the borough can do that and has that power, they will have that power. Will they need to use it, when will they need to use it? That power has strict restrictions on it, you can't just go take property, there are reasons and things for the public good. Jim inquired if it could be put in their bylaws that they are not allowed to do that. Solicitor Matt responded that it something you can go and address with that board, it is not going to be in the our resolution bylaws.

Jim commented that under the Harmony Borough Resolution/Articles and Incorporation did Harmony abdicate the right to sovereignty of our Borough streets, roads, alleys and easements to any and all of the Authority members. For instance, if Jackson Township decides they want to put a storm pipe on the hill and they want to run it down to the Connoquenessing Creek, according to your Article of Incorporation, they can do that. We are giving up our sovereignty. Greg Such commented that he does not think that is the case at all. Solicitor Matt commented that it's not as if they're giving it up. They're allowing the stormwater authority to utilize those rights away, if necessary, in order to implement whatever projects they would have. And again, if that project runs over budget, for example, if they bought a million dollars or services they have to come back and get approval. Jim commented that if they want to do that, they can do it. Matt will respectfully disagree with Jim's interpretation of that. Jim commented according to the Resolution/Articles of Incorporation, the Authority Board will consist of an appointment representative from each municipality and one at large member making a total of five board members. Will the board members be required to be certified by the DEP, EPA, FEMA or any other similar agency in floodplain management. Greg Such inquired when Jim was the President of Council of this borough, did he have any special certification. Jim commented that he did, he had a Floodplain Manager Certification. Greg Such commented that he got it after the fact. Jim commented that he got it shortly after he was appointed floodplain manager, adding that what he did is academic and asked what they are going to do now. Jim commented that each authority member gets to appoint their board member to serve a one-year term. Are they selected by the Council and the Mayor? Solicitor Matt Racunas responded Council, the same as the other authorities. Jim inquired if there are any qualifications required such as a flood plain management certification, served on Council, education, no conflict of interest; adding that Council can look at that. Jim inquired who is the secretary. Greg Such and Solicitor Matt Racunas both responded that it is not established yet. Matt commented that once it is established, they will have a secretary and treasurer. Jim Hulings commented that there is nothing in the Articles of Incorporation that states how that is done or if it will exist. Greg Such inquired if that was the Authority law. Solicitor Matt commented that is governed by the Act. Jim inquired if there was some kind of law. Greg Such commented that it is already set, the PA Authorities Act. Jim commented that he's never heard of that. Solicitor Matt Racunas commented that it talks about the board and the governing body, and they will an organization meeting, and they will appoint a President, just like we've done here. It is just like you have (a council) reorganization in January, where you appoint a President, a Vice President, they will when they get established and seated. They'll go through that same process. Jim inquired what is the succession plan if a member is unable to complete their term. Solicitor Matt responded that is governed by the act as well, Council would reappoint somebody to continue the remainder of whatever the term that's left and they would replace after that. Jim inquired how many members of the Board constitutes

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a quorum. Greg Such responded three. Jim commented that all four Authority members must unanimously elect the "At Large Member" to serve a five-year term. What is Plan B if no candidate can get the unanimous vote? Greg Such responded that they would run with four members. Solicitor Matt commented that you have a vacancy, you could still hold meetings as long as you had three members; you would hope that doesn't happen. Jim inquired if the "At Large" board member" be removed by the Board. If so, by what method? Solicitor Matt responded that removal would be governed by both the bylaws once those are established and State law, there are laws that govern removal of appointed officials. Jim inquired what is the succession plan if the "At Large" board member is unable to complete their term. Solicitor Matt commented that they are appointed by the board, so that board, he assumes, would do a new appointment to carry out the remainder of the term. Jim inquired if anyone on the Authority approached the Butler County Commissioners regarding funding and assistance by the County for flood prevention in our community. Greg Such responded that obviously the County Commissioners are very interested in flood prevention based on the grants they put together to get us going so far. Jim Hulings commented the organizing group, people put this plan together, nobody has gone up. Greg Such responded that he didn't know what Jim was saying, nobody's gone up? Mark Gordon from the County Commissioners offices is involved in almost all of these meetings. The County Commissioners have had input, they are aware of this. Jim inquired if Butler County offered to finance projects such as the infrastructure. Greg Such inquired for the Stormwater Authority? Jim responded yes. Greg Such commented not yet because this doesn't exist. Jim inquired if there is a plan to get non-matching grants. Greg Such responded that they would like to. Jim inquired if there are any shovel ready plans, he asks because Zelienople claims they have shovel ready projects. Greg Such responded no, but basically, what will happen is the capital improvement plan will be developed and that capital improvement plan will then be the basis of those shovel ready projects. Shovel ready implies engineering plans, and we (Harmony) don't have any projects with engineering plans, we have ideas and sites identified. Jim inquired if stormwater retention ponds in Harmony was one of the plans. Greg Such responded not totally. Jim inquired if dredging the Connoquenessing Creek was one of the plans. Replacing stormwater pipes? Greg Such responded yes to replacing stormwater pipes. Jim inquired if Creek clean-up was one of the plans. Greg Such responded in terms of things that make it flow better, that could be, yes. Jim inquired if the Authority was aware of, or willing and able to enforce Act 166 Floodplain Management Act of October 4, 1978. Greg Such responded that the Borough already operates under that Act, he assumes the Stormwater authority would operate under the same. Jim inquired if the Authority was willing to hold its members and other municipalities accountable for, and is it able to enforce, Act 167 Stormwater Management Act of October 4, 1978. Solicitor Matt responded that is the same answer. Jim commented that it is a little more complicated than the other because Act 166 is pretty much ignored by every municipality in the floodplain. Jim inquired if the Authority was aware of, willing and able to enforce riparian buffer requirements 102.14. Solicitor Matt Racunas commented that he does not know what the criteria and riparian buffer requirements are. Jim responded that it is a good one to look up, it has to do with creekbanks and with people encroaching on them. Greg Such commented that would be a good point to take to the Authority meetings and bring up. Jim inquired if the Authority was willing and able to place a moratorium on filling in the AE Floodplain as is happening now and more projects are coming soon and he has a list of ones already been done. Greg Such commented that the Authority will be a check on ongoing development in the area, there is a possibility of that. Jim Hulings concluded that according to this Resolution/Article of Incorporation people, business owners, churches, and non-profit can be forced to pay a fee, unwillingly, by un-elected appointees with no qualifications required because there is nothing in this Resolution that says they are. There is no limit set on the tax rate. Solicitor Matt commented that it is not a tax. There

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is no limit on spending. Greg Such commented there is a capital improvement plan, that will be the limit on spending. Jim commented that it depends on who is on the Board and what they want done. There is no clear explanation of distribution of funds, except we get 15%, 15 cents of every dollar we give to the Authority as a fee, we are guaranteed to get 15 cents back, \$1.00 out and 15 cents back. There is no limit placed on borrowing, witness WBCA who borrowed up to around 90 million dollars that we will be paying back for the next 30 years. Little financial visibility or oversight is provided. Other municipalities can use Harmony streets, roads, alley and easements for any purpose they can think of. Solicitor Matt responded that is not true, there is a lot of these I could pick apart but I don't want to waste everybody's time. For financial oversight, they're (the Authority) going to be governed the same way any authority is. There will be financial oversight and audits done. There is a regular procedure, it's just like the Borough's. There is financial oversight, Matt wants to be clear on that. The other thing is that that Resolution does not say, or the Articles don't say that they're giving the other municipalities the right to just use rights of way and easements. It says they are granting the Authority, if necessary, the right to use existing easements and whatnot. It's not accurate what you are saying. Jim Hulings continued that they have not seen the Bylaws and the Right-to-Know request he submitted is under legal review. He believes it would be prudent to table the Resolution until the requested Right-to-Knows have been honored and documents delivered. The Bylaws have been made available to Council and the public; the public can obtain a transcript of this hearing and all of the public's questions have been answered. Thank you for your time, I really appreciate the extra time.

Mike Mantia – 200 Utah Street – US Liner

Mike Mantia introduced himself as the acting General Manager of US Liner Company, address 200 Utah Street. Mike commented that he wanted to clarify a couple of points, he noticed in the beginning it was stated a rate of \$36 per ERU, then later on it was stated that actually the Authority has to set the rates, and asked if that was just a guess, if it was proposed, or if it is actually the rate that is going to be charged. Greg Such responded that the initial fee will be either \$3 or \$4 a month for an individual house. US Liner, or the warehouses, would be charged based on impervious area. The engineers have identified that your typical residential household in the four communities has a footprint of this big, if your footprint is this big, let's make it easy, you would pay 2. Mike Mantia commented that they will decide (the Authority) how many ERUs. We don't own the property; we are the tenants. Greg Such commented that it is based on an overhead survey. Mike Mantia inquired if that has already been predetermined by the Authority that is not formed yet. Greg Such responded the size of your impervious has been decided. Mike commented but not the rate? Greg Such responded no, not the rate. Solicitor Matt Racunas commented that it will be in the Resolution once the Authority is formed, there will be a Resolution that governs all of this. It will establish the fee, it will establish the calculation for commercial units and then they will have the appeal process, and then they will describe all of that. If you say you disagree, and you pay this fee, the engineer will go out and they will meet and explain exactly where they are getting the calculations and then there's a process to go through. Matt commented that he is not doing this Stormwater Authority, but has other Stormwater Authorities that he represents. Mike inquired on question number 3 on the FAQs that states larger properties with significantly more impervious surfaces may be assigned additional ERUs. That's actually will be assigned. Greg Such responded yes, will be assigned. Mike inquired if that will be based on the total impervious area for the property, we don't know what that would be, or is it public information? Greg Such responded that it is not public information yet, because the authority doesn't exist, but we could give some ranges. Craig Klingler inquired if the impervious area was part of all the studies that is already been done. Greg Such responded

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yes. Craig inquired if they would be able to see that in the references. Greg Such responded that we can give them the square footage. Craig added that it should be based all on that. Mike Mantia commented that his concern is with US Liner we inherited attending to the property, we essentially pay the landlord's taxes and this all will come back to US Liner. We inherited Water Street when it was abandoned years ago, so we have all that impervious. We have a parking lot across Mercer Street, which is generously opened up to the Borough use for public events for parking, we will be paying stormwater charge for all that impervious surface. As well we get flooded out, we've already been flooded out two full days this year. My concern is in establishing this Authority you are actually taxing victims of the flood. That is not just US Liner as a business but there are other residents on Utah Street that would be taxed, assigned a fee. You pay in and in the end and yet they also incur the costs associated with being flooded. Greg Such commented that the idea of the Authority is to try to help to prevent that, but obviously at this point we cannot prevent massive amounts of water coming down the Connoquenessing Creek, which has been caused by two of the worst flood days in 11 days in history. Mike Mantia commented that they were flooded out twice already this year, that is unusual, usually it is once a year. Every day that we're flooded out, we lose about \$100,000.00 of revenue. We are generous enough to continue to pay our employees, even though they can't come to work that day. A typical company may not pay an employee because they can't work that day because the work place is flooded. So we are already suffering associated with the flooding, which actually is an upstream problem. My question is why isn't this a county issue and why did the victims have to incur further fees because they are already the victims? That doesn't make sense, it doesn't make sense for the residents, especially the ones in Harmony. Joe Dippold commented to just throw it back, if it was a county Authority then everybody in the county would be paying the fee, so everyone would still be paying a fee. Mike Mantia commented that it may be a better distribution of fees, then all the burden isn't on this Borough. Solicitor Matt commented that if it is set at a county level, then it is going to be distributed county wide. The idea is that the problems are here and so these communities are joining together to solve the problems here. I get your argument; I think it is a very good one and a good point to be made but I think what you have to remember is the fee is not a punishment. The idea is that everyone who is being harmed by these stormwater events, flooding being one, but there are other things that happen in terms of bad stormwater around here that contribute. The fixes for those issues require money, somebody has to pay for it and the idea is to collect from everybody to fix the problems here that way you have less problems. It is like communally paying to correct the problem so that you don't have to pay more in the future.

Mike Mantia commented those victims of the flood incur costs are the companies and the residents that suffer consequences of the flooding that are generally caused outside this Borough. We are the victims and should be exempt from any fees associated with this Stormwater Authority. Solicitor Matt Racunas responded that it a good point, he doesn't know if that is legally possible in terms of the Act, and having uniformity of fees. There are a whole lot of laws on that, on being able to pick people out and say you don't have to pay a fee but your neighbor does. The law doesn't generally work that way, there are issues with it. Greg Such commented that Harmony has not raise real estate tax in eleven years, we've been holding the line and we can't hold the line and maintain stormwater related services forever. The flip side is, if we don't do this, we'll have to increase our millage dramatically. This way spreads it out more evenly, and we get help from the other communities. We're the smallest community, we can't help but win in this.

John Beighey – 110 Peffer Street

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John Beighey inquired if he understood that Harmony is mandated by some State law needed to participate. Greg Such responded that is not true. Solicitor Matt Racunas commented that the State and the State Department of Environmental Protection does have a program, unfunded, that is geared towards correcting these particular issues. In Allegheny County these storm water authorities, people will find generally, are happening more and more and more. I just created one and I was asked to inquire about another one, because of these issues with MS-4 and trying to correct stormwater issues. We're not under any mandate at this point. We're not under any Corrective Action Plan. We're not under any requirement by the State, but there are State entities that are pushing these issues. Greg Such commented that Evans City is in an MS-4 program. We fill out on a 5-year basis a request to be exempt from the MS-4 program.

We have been exempt in two applications, but like Zelienople our time is coming. That program is unfunded and it will require some sort of remediation as determined by the State, so we need to be ready for it. Evans City is in the MS-4 program, we are not yet, but we likely will be.

John commented that your point is that the Authority hasn't been formed yet so everything is being deferred to them strikes me odd because you are not under a mandate and they don't have Bylaws written yet, and they don't have an operating plan written yet, I think the Council is advocating a lot of responsibility just pushing it away, that is the tone, that probably isn't what you intend to do but that is the way it sounds. Once they're established your admonition to Jim was to go make a complaint to them. Solicitor Matt commented that it's a point well taken, but you have to understand, and I don't mean it in a negative way, the way it is structured, the way the Authorities Act works, and the way the creation of Authorities work, is that you do delegate those issues to a separate body, that is the reality of it, you are delegating that responsibility.

John Beighey commented that you haven't even given it a draft, we have no idea. If you appointed Jim and Dave, I would say fine, these are reasonable people. My point is that you don't know what is coming, you have the ability to stand up and raise your hand right now.

Solicitor Matt commented whether this Authority does it, whether Butler County does it, whether the Borough does it individually, someone is going to do it and they all have the legal right. John Beighey commented that you don't have any Bylaws, you don't have guidance. Dave Szakelyhidi commented that he keeps saying over and over that it doesn't exist, so when we appoint somebody to be on that Board, they're going to set that up and what hasn't been said tonight is there's a lot of money out there that you could qualify for under multi-municipal funding and we can't get it ourselves. John Beighey commented just out of curiosity, what projects would you all like to see done? Dave Szakelyhidi responded that he would like to have a great big retention pond for the water before it ever gets into Harmony Borough. John Beighey asked where, that's the point. Greg Such responded the Brenckle property. Jeannie VonHofen commented no soccer fields or anything. Greg Such commented that there is stormwater that lays up here on Route 68 that needs to be somehow piped to the creek. There is stormwater that is a problem at Division and Highland over in that particular area so there are projects, capital projects can still be done. John Beighey commented that those are pretty small. Greg Such responded that they are above our budget. Running a pipe from Dambach Lumber to the Creek is more than \$900,000.00 so let's not talk about large and small, I don't think we should be estimating the size of a project. John inquired where this retention pond going to be at that they are putting in? Frank Luek responded that Jackson is considering back in Swampoodle, Greg Such responded the Brenckle property. John Beighey inquired if the Borough Engineer was sitting there, and asked if Council had informed him of the flood we just endured and the rate of water that was coming down the Connoquenessing Creek was phenomenal. It was essentially 20 Olympic size swimming pools per second, you are going to need a lake like Lake Arthur. Dave Szakelyhidi commented that we need other people to have a lake. Cathy Rape commented that the larger stormwater group, with the nine municipalities have been working together for a

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couple of years, and then it comes down to this, these four because we are the closest; and Jackson definitely, we're at the bottom of the watershed. We need to work together, and the same people have been going to these meetings for a couple of years and hopefully, we're all on the same page. John commented that he is tired of being flooded. He is sympathetic to this, but he is suspicious that this new Authority is going to have proper guidance -- If you haven't met and drafted out, here's what you're going to do. I would advocate to touch the brakes, at least draft some kind of operating parameters for them because once it's out of your hands, it's out of your hands. Greg Such commented but the people that will be drafting are sitting at this table. John Beighey responded well, then do it before you empower this Authority. Cath Rape commented that the other 3 municipalities representative also, everybody wants to be fair. Like I said, Zelig and Harmony, we're at the bottom of the watershed, that's it, we have to get along with, and especially Jackson because they have a big influence on our properties. John Beighey inquired if you are unhappy with the performance of the Authority Board, can Harmony opt out? Greg Such responded yes, if we are not happy with the performance, the overall performance of the authority, I mean, we're not seeding our assets to the Authority. Solicitor Matt Racunas commented that it is not as easy as you think. The Authorities Act governs when a municipality can withdraw from a joint authority. It's a little bit complicated because it depends on if they borrowed money, there's things that it depends on so it's not as easy as we don't like this decision and so we're just not going to be a part of that anymore. It's not that easy. That's why you have to go through this process, it's an involved process, because it is an involved thing and that's why we want public input but there are ways out of it; but it's not as simple as just saying, hey, we don't like this. The idea would be you would replace your representative, or Board member. John Beighey commented before you are in it and can't get out, I hope you will take that under advisement.

Jeanie VonHoffen – 729 Spring Street

Jeannie VonHoffen commented that Cathy mentioned the larger nine municipalities that have been talking these past 2-3 years, what about this smaller 5-4 group of municipalities? Are they going to still work with them? Are they going to be part of it? How is that all going to work together with all the work that those nine municipalities talked about. Greg Such responded the nine municipalities initiated the stormwater study, and got together a high-level engineering documents for projects. Each community nominated projects, and then those projects were winnowed down to three apiece, except for ours (because we only took two) and then we put grants requests in individually. That group, the nine-member group, Greg expects to continue to meet. Jeannie inquired if Harmony will still be a part of that group. Greg Such responded that Harmony will still be a part of that group as long as it continues, yes. Jeanie inquired if it would influence the smaller Stormwater Authority? Greg Such responded probably. Jeanie commented that it sends you out to the Butler "At Large" doesn't it? Cathy Rape commented that none of the money will go out there. Jeanie commented about Connoquenessing and (water from) up north. Cath Rape commented about getting federal and county and state funds when we work together. Dave Szakelyhidi commented there is a process to add municipalities to the Authority. Greg Such commented that Forward Township's water goes to Evans City, so if Forward wanted to join, they could join; there is a process for that. Jeanie VonHoffen commented the smaller group? Greg Such responded yes, and anyone could join the bigger group. In fact, the Commissioners would welcome that, they're a little bit agitated that some of the upstream communities haven't joined. Jeanie commented that she looked on Zelig's website, they list some of the stormwater rehabilitation they have already done, and some they are planning on doing but she doesn't see anything on Harmony's website. Greg Such commented that she is right, we have not communicated very well. Jeannie commented that it would be nice to know what the

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Borough is planning on doing instead of like last meeting talking about giving everybody sandbags, it was like is that it? That is not helping these flood victims, we need plans and comprehensive plans. Cath Rape commented that Greg said from Dambach's down to the Creek is all going to be realigned and that is with some of the monies we got from being part of the group. Jeannie commented hasn't it been talked about for many years? I mean I've been hearing that about being prepared and helping Wunderbar. Greg Such commented that we've wanted to do it but coming up with \$900,000.00 was a challenge. Jeanie inquired if they are working on it. Greg Such responded yes, we have a grant.

John Beighey inquired on if there is any idea about a more affordable development in the area to slow down the impervious. Greg Such responded no, we cannot place some moratorium on development. We can place some moratorium on development in floodplains, the other thing that we've all done, though the other eight or nine communities, is to have increased the stormwater release rates. We have decreased the release rates, that's really what I want to say. The intent there is to be able to hold the water in longer before it goes. The other thing I expect is that you will see more, once the Authority goes, more attention to having those parts cleaned out. Right now, oftentimes those ponds belong to the Homeowners Associations and they're not really equipped to take care of that. If someone brings attention to the fact that this is all mucked up, then there is an opportunity there. Jeanie inquired for the Association? Greg responded right, for the Association. Larry Reynolds commented as far as the moratorium, we can't do it but to develop or increase permeable area is obscenely complicated. In fact, we have a homeowner who's putting on a second story on stilts which does not increase the impervious area says a lot. Jim Hulings had a comment on that. First of all, it's not that hard to build in the floodplain. Bilo Gas Station filled in by Scholars Run, Zelenople Reservoir has been filled in by Scholars Run, out by Seneca School is being filling in, Southwest Ford Dealer, Creekside Manor filled in the whole valley, in the future SWBCA will put their new facility in a floodplain, and Singer out by 68, you say it is hard to do, not in Butler County. Larry Reynolds commented that he can only testify in Harmony Borough. Jim Hulings asked what have we done to contribute to the flooding; the damn was removed at Porters' Cove in 2004 and Scholars Run. Greg Such commented that was 25 years ago, Jim commented that is when flooding got worse for Harmony. The nice people in Butler cleaned up their problems and that is why we're getting so much water so much faster. Solicitor Matt commented that is exactly the issues the Authority will address.

Tom Beach – 611 Scott Ridge Road

Tom Beach commented that he would like to take issue with 2 things: one, it was mentioned that this project that you're supporting (The Authority) would ultimately be approved by the State, so you're assuming a full-time conclusion that it is going to be done. Solicitor Matt commented that is not discretionary, let me put it this way, there are requirements under the law. You have to submit this piece of paper, and this piece of paper has to be signed by these people, and if that happens, then it gets accepted. Tom Beach commented but you're saying it ultimately is going to be done. So, you're saying, no matter what we do, what we say here, there is going to be an Authority because you said it is ultimately going to be done. Solicitor Matt responded to let him couch that, he's assuming if and that's only if the other municipalities and this municipality sign off on the appropriate paperwork. Tom Beach commented that the second thing that he has an issue with is the fee. It's going to be an entity of the government, I'm sorry but when the government takes money out of my pocket and puts it in their pocket it is a tax. I don't care what you call it, call it strawberry ice cream, you can call it chocolate chip, I don't care what it is, you take money out of my pocket, and you put it in your pocket and you're the government, that's a tax. Greg Such commented that the distinction is that not-for-profits are exempt from taxes, the not-for-profits are not exempt from fees. Tom commented that the Federal Government is not for

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profit, isn't it? Greg Such commented that he doesn't see where his logic is going. Tom commented that they don't collect taxes, they collect fees? So, I don't pay an income tax, I pay an income fee? Solicitor Matt Racunas responded no; you pay an income tax. There is a distinction, that's what the issue is; it is being litigated right now to be honest with you, it is in the Pennsylvania Supreme Court. But if it is a fee, then entities like the PA Turnpike Commission, they own a lot of property, or Allegheny County Airport, let's say, well, I'm trying to explain to you the difference. So if it is tax, and the Allegheny County Airport is a tax-exempt entity they don't pay taxes like churches and nonprofit entities that own a substantial amount of property in West Pennsylvania and everywhere across the country. But a fee is different. A fee is charged uniformly, as a rate like a sanitary system, like a utility. So that is the difference. Tom Beach asked how much of a tree is a water? Greg Such inquired where are you going with this? Tom continued, 50% of the tree is water. How much water does a tree soak up? How much does a 100 ft. tree soak up in a normal cycle? Dave Szakelyhidi responded a lot of water and it's called transpiration. Tom Beach responded 11,000 gallons per tree. Greg Such inquired how many trees did the Parks Board just plant. Susie Altemus responded 16. Tom Beach commented that he's glad you brought that up, because the ERU that you are going to charge the property or fee, the non-pervious surface. What if they have 50 trees on that property, do they get some compensation for the fact the trees are pulling water out? Greg Such responded no, I mean if they have trees growing through their parking lot, then we can talk about that. Solicitor Matt commented that you will get charged based on the impervious surfaces, and there will be an appeal process if you disagree, if you say we have a parking lot but we also have a rain garden, there has to be some offset for that, there is an appeal process for that. Tom Beach commented streams and buffers. Solicitor Matt commented there will be ways to lower your fee. Mike Mantia commented that he says that but it is determined by the Resolution created by the Authority. Solicitor Matt and Greg Such agreed. Tom Beach commented that we've talked about floodplains and wetlands and we're talking about other areas that have an issue with water. Streams, soil, covered trees, shrubs, flowers in terms of the stream bottom filled with pebbles, rather than dirt filled. The watershed we're talking about, we have, as mentioned, you are taking the watersheds, you are taking the wetlands, and the floodplains and are building on them and when you do that you end up with impervious water surfaces and you get floods so why are we having all this development? We need to put a moratorium on development to stop this. What we are doing is we've created a problem and now we're creating another problem; solve the problem we've created in the first place. Cathy Rape commented that he said he lives on Scott Ridge Road, and asked if he has gone to Lancaster Township and said that. Tom Beach responded yes. Cathy Rape inquired if they listened? Tom responded no. Cathy Rape commented to get rid of their Supervisors and get somebody in there that will. Frank Luek commented that we fought and fought about building over here for twenty years. Tom Beach commented this is where I have an issue, I don't understand and maybe you can explain. But you all sitting here are the government, not us, we are the constituents. Dave Szakelyhidi commented that we spent your money to fight that development. Tom Beach commented that when we come to you and say there is a problem and you say we can't do anything about it, it is out of our control. Dave Szakelyhidi commented that we did, we took it to court. Tom Beach responded that you didn't represent us correctly.

Gerry Otteni- Scott Ridge Road

Gerry Otteni commented that he goes to church in Evans City, they are going to get a fee, that is why he is here. Up the road from their (the church) they are building in the floodplain, they are putting in storage units and a 6' wall around it. Where is FEMA in this? When we went to them and said we want to put a wall around our parking lot so we don't get flooded, they said no you can't do that, you're pushing the water down the stream. How do you stop the people that are

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doing this? That's what I want to know. How do you stop the people that are building? Cathy Rape commented it's like he said, we fought that (development) since 2002 across the creek and the government agencies just went around in circles saying that's not our problem, that's this guy's problem, it's this department; we call them and oh, that's not our department. We don't know how to stop it; we fought it enough years. Gerry commented that maybe those developers should be paying the fee. Greg Such commented that they do pay fees. Solicitor Matt Racunas commented that when those developments are approved as part of the PRD (Planned Residential Development) process those issues should be addressing drainage and ponds, all that should be addressed.

Council Comments:

Don Sims

Don Sims introduced himself, stating that he is on Council in Harmony Borough. Don is not a fan of increasing government. My biggest concern is the unknown fee, the fee that once in the group, the Authority is formed and then all of a sudden, my bill keeps increasing, I think everybody here shares that. The reason I do support the Authority, which I was not an initial supporter of it, I support it now because we're a Borough, and we have to have an Authority to do this. We just can't form a committee, that won't work. The other thing is that what I have seen is that these laws will be passed, will be enforced by this Authority, will be every time there's a development they will increase the stormwater management. I was somewhat educated in stormwater run-off through the years and I've seen what can happen, especially when you pave everything and all of a sudden, you're producing a high volume of water every time it's spontaneously put into a creek or body of water. I cannot think of anything other than what this group has come up with to do any kind of enforcement. The attorney assures us we have to do the Authority first before we do the Bylaws. If he's not telling the truth, it's on him.

Joe Dippold

Joe Dippold introduced himself, stating the he is on Council. Joe commented that it is the only way forward, we can't do it ourselves. I mean, we said a million times no. There are so many other communities that impact us, this is the only way to move forward. I haven't heard a single alternative voice anywhere, including tonight, about how to move forward.

Jason Sarver

Jason Sarver commented that he supports also what they just said, and echoes it too. I work in several different communities. It's become very difficult anymore for smaller communities without deep pockets to take care of everyday things like the problem that we have. And honestly, it's the direction to go as smaller communities joining together get more grant money, they get more funding as a whole than they would individually. So that's the reason why a lot of the details, and, Jim, thank you for coming up, and I'm always supportive of a challenge. It's good to hear from your perspective different things in case something was missed, but again I still feel confident with what I just said.

Dave Szakelyhidi

Dave Szakelyhidi commented that he'd like to say that when the 10 municipalities first came together it caught the legislator's attention and the Governor actually invited us to Harrisburg and gave us the Governor's Excellence Award for all 10 municipalities coming together. When we went there, the thing that amazed me was the legislators coming out of the woodwork to get their picture taken with us, and they're the ones that have the purse strings.

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Jason Sarver commented kudos to those like Dave and everybody else, who put so much time into this project. I think with this group of different communities that work together, I feel confident that there aren't going to be extremists like we kind of heard that would take command of things. There has been too much work for this and everyone shared their thoughts and feelings, I think the group as a whole will make sure that the right people are put in charge.

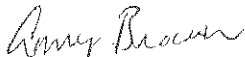
Barb Hulings

Barb Hulings commented that she wanted to ask a question. Butler City, is everybody going to be charged a fee in Butler City? Greg Such responded no, they are not in the Authority. Barb Hulings inquired why not. Dave Szakelyhidi responded not until they join our group. Barb Hulings commented that is where most of the water comes from, why wouldn't they be required to be in the group. Dave Szakelyhidi commented who's requiring them? Barb Hulings responded, I don't know, whoever. Dave Szakelyhidi commented that is the way this group started, at the request of the Commissioners, that we deal with it as a watershed basis. We're the only ones that stuck our necks out.

Solicitor Matt Racunas asked if there are any other comments on Council. Alright, that is it. This public hearing is adjourned. Greg Such closing this recording off at 7:57pm.

Adjourned: 7:57pm

Respectfully Submitted,



Amy Brown, Recording Secretary