

Londonderry Township Board of Supervisors

May 1, 2006

The Londonderry Township Board of Supervisors held their regular scheduled Board meeting on Monday, May 1, 2006 at the Municipal Building, 783 S. Geyers Church Road, Middletown, PA 17057 beginning at 7:00 p.m.

Present:

Ronald Kopp, Chairman, Board of Supervisors
Anna J. Dale, Vice-Chairman, Board of Supervisors
Daryl LeHew, Member, Board of Supervisors
William Kametz, Member, Board of Supervisors
Peter Henninger, Solicitor
Steven Letavic, Township Manager
James N. Jenkins, Township Assistant Secretary/Treasurer

Items Addressed:

1. **Salute the Flag**
2. **Citizen's Input**
3. **Solicitor's Report:** Peter Henninger
Mr. Henninger introduced his Law partner Donald Jones, as he may have to fill in for Peter from time to time.
4. **Approval of Minutes:**
February 22 - Work session
March 6 - Board of Supervisor's meeting
April 3 - Board of Supervisor's meeting

Supervisor LeHew made motion to approval all minutes as is, Vice-Chair Dale seconded motion, motion carried

5. **School Height Village update** - Gary Roeder
Mr. Roeder - I am asking for clarification on the matter of providing sewer service to the Brayburn area, still intending to provide service to Saturday's Market and the school. They met with Aqua America to discuss Brayburn area, Dr. Archer is going to summarize that meeting. **Dr. Archer** - Stated that what came of the meeting were two important issues. This project will address three years of sanitary issues within the Township, Saturday's Market, the School, and the residential area of Brayburn. The conceptual costs were completed and the collection system and the pumping station would, as an estimate around nine hundred thousand and a million dollars. The problem is that this is not cost effective for the area that you are fixing, so you will need grants and low interest loans. There should be no problem with getting enough points from DEP, the problem is that the developer has a pressing date to make a decision. He has to

either proceed with this project or drop it all together. This means that the existing potential problems would revert back to the Township, which would be unfortunate. Brayburn is a solvable issue, but it needs the Township to participate to a certain extent. The primary responsibility for the sewer in this area will fall back on the Township. Brayburn is going to need an agreement between the developer, Aqua America, and the Township for this to be solved and it is going to take quite sometime to fix this completely. It would be quite unfortunate if the developer was to walk away from the project, due to this pending date.

Chairman Kopp – Dr. Archer, where do we stand with DEP as with regards to Brayburn, are we high on their list or low on the list? The cost effectiveness of a million dollars to service forty homes, just is not there. **Dr. Archer** – it is doable, but you have to find additional financial support to get it done. Any project that poses a potential public health threat is doable. You have to negotiate with the state for grant funding and low interest loans. There would also be some financial input from Aqua America and the Developer, you can depend on that. Brayburn is not a short-term addressable issue. **Chairman Kopp** – go back to the pending deadline the developer has, please. **Dr. Archer** – they have an option on the land and the end date is approaching, so he has to make a decision. He does not want to walk away from the project, but if he can not see the project moving ahead then the Developer can not say with the project. **Solicitor Henninger** – Stated that he was involved with another municipality that has been in an Pennvest application, it is a very expensive process to get to the point that that municipality is at. All of this expense needs to be put up front, before you know if you are going to get a Pennvest funding, grant money, or low interest loans. So, please know that this is a truly long process with a lot of expense without the knowledge of if you are getting funding or not. **Dr. Archer** – You have a base plan in the regional office, so there maybe enough information on that plan to get you a priority ranking, that is what you need. You are not going to make this July, but it is crucial that you get started because it is a time demanding process. You have a firm commitment from Aqua America and the developer, I do not think the time that is necessary to resolve and clearly begin a project for Brayburn is excessive. **Solicitor Henninger** – one other thing Dr. Archer, let's say that we did get a high priority and we did get half of it in Grant and half in a low interest twenty year loan, then for the next twenty years the Township could not propose other Pennvest funding. Because we would already have an open project and having a low interest loan there. **Dr. Archer** – No, if you get the right political support you can get other Pennvest funding, they try to disburse the funds equitably, but that does not always happen. It could hurt for a priority ranking in the future. **Solicitor Henninger** – that is something that you have to think about, going through all this for forty three units and if something else comes down the road five years from now that takes on a higher priority and now you will be effected and not be able to get that funding. **Chairman Kopp** – ok any questions from the board, Gary do you have anything else. **Gary Roeder** – Yes I do Mr. Chairman. I know that the Board has always seen this project as helping with Brayburn and Mr. Schnider has always committed to providing the treatment capacity, that has not changed.

Also, the capacity for the School, right now we are faced with the problem of this deadline on the sales agreement. Where I am having problems is because, the board needs to provide us with action that very decisively says, we understand that Brayburn may be out there in the future and we understand that you are going to help us solve that, and the capacity will be provide for in the plan, but we can not stand here this evening and say that Aqua America can supply Brayburn, by putting sewer lines in or anything like that, due to the unfeasibility of that. If we can not come to that conclusion then Mr. Snyder has to take the risk and buy the property or walk away from it and not provide any sewer service for Saturday's Market, the School, or Brayburn. At this point, we need to start developing all the business agreements with Aqua America to identify exactly how the field is put together and we have committed to working with a committee from the Township to do that and we still want to do that. But where we are at today is, we can not guarantee that Brayburn is going to be fixed by putting sewer lines in. If you were to do this project in the future because of a public health issue, you would be responsible for providing sewer and put the lines in. What we are proposing is we are going to solve half of that problem, by building the plant with capacity. That way you are only faced with sewerage the site, should it become necessary. We do not know if it is necessary at this point, that is where we are at tonight.

Chairman Kopp – Legally were do we stand as a Board of this project either going forward or sitting still. **Solicitor Henninger** – This is an issue with an on site system that goes back close to twenty years, it still goes back to in order to develop the land in the density that they would like to develop, they have to have public water and sewer. The package plant could take the place of that, but the problem is that the ultimate responsibility still falls back on this Board. If this company builds it and folds up ship it is now the Townships package plant.

Chairman Kopp – we also have a problem with the plant a Dobson's, that was once part of discussion as well. **Gary Roeder** – let me remind the board the reason for bringing Aqua America in was because it was a PUC regulated company. It is a solid company and it has been doing this for years, it is not like a homeowners association running a plant or a trailer park, this is what they do for a business. **Dr. Archer** – DEP recommends Aqua America to local governments to take over their Facilities, that says a lot for Aqua America. They come with a long history of managing facilities for the best interest of them and the community. To recap, you have a minor problem right now, you have a offer before you that would address two potential problems, the School and Saturday's Market. If you can get a commitment, maybe the developer and Aqua would provide the technical stuff you need for Brayburn. You are better off having this project then not having it. **Chairman Kopp** – we all know the history of this project, it has been on the books for twenty years now, every time this came up it was if the developer can figure out how to get sewer there, then we will talk business. So, until a developer can guarantee to the Board that they can take care of the sewer problem, without any resources or input that we have to draw from our citizen tax base, then the Board is not going to go ahead with any project.

Mr. Roeder – Correct me if I am wrong, but I think that we have solved the

problem, I think we have provided the owner/operator, and I think we have established that we can solve part of the problems that are out there with the school and Saturday's Market. That we have done. As with Brayburn, we can solve half of that problem. **Chairman Kopp** – with the capacity? **Mr. Roeder** – Yes, the capacity in the plant, which is something that you would not have to do, should you be ordered to do by DEP or something like that. That would be a component that would not be passed on to the Township. I understand all the history, we probably could have done a lot more if we had a lot more units, but we only have one hundred and sixty eight units that is how much could be supported by that community. I would offer that we have solved the problem, we have a solution, can we help Dobson's plant, probably not, but we are as far as we can go right now Mr. Chairman. **Solicitor Henninger** – when you say you have solved the problem, you have a solution, but you have not solved the problem when you are talking about nine hundred thousand to a million dollars in design and construction costs. The process is well into six figures to even go through the Pennvest process, to get to the point to find out if you can get grants or low interest loans. When you say if you walk away DEP could come in and say you have to then build not only the lines, but the plant. The priority ranking would jump quite a bit higher than just having to put the piping in. The Townships dilemma remains the same, one of significant outlay of funds. **Mr. Roeder** – the capacity is going to be provided for the treatment, the treatment costs are going to be there as well. I don't believe that any other solution presented to this Board, included a PUC regulated company coming in and owning and operating the plant. Again, my pitch over the last few years has been, I think we have solved the problem. **Chairman Kopp** – Mr. Letavic are there any discussions that the Board is not aware of that you have had with the developer since last meeting. **Mr. Letavic** – Gary and I talked about this whole issue, relative to Brayburn. We actually read the minutes where Board members indicated that their impression was that it solved the problem and also running lines to Brayburn and Aqua America said they would look at it and see if it is feasible. That is the last we had heard until Gary called me up and asked for a letter as what happened. I am not seeing what we requested from Aqua America, relative to fixing the problems with Brayburn. He has always said that we will provide capacity and he has been very careful in only saying they would provide the capacity only. From our standpoint economically, the first responsibility is on the homeowner and then if they can not fix the problem then it is our issue. There maybe other alternative for the smaller area, at the PSATS conference there was an alternative to sand mounds, this might fix the problem and not cost us anything. I understand you are saying you have a possible solution, but economically this Township can not afford this deal. I would suggest that we start with the homeowner and then go from there. **Dr. Archer** – DEP can not take action against an individual, they would have to take action against this Board. **Mr. Letavic** – Mr. Henninger at that point what rights would the Board have to go to the homeowner. **Solicitor Henninger** – you say they would take action the action would be to say you have to solve this problem. You say there would be capacity in the plant, does that

mean the treatment would be free. **Mr. Roeder** – No the PUC regulates the fees that are charged, so they would determine by household the cost per house. There was discussion back and forth about if this is a high priority issue or is there going to something down the road that will be more important for the Township to get Pennvest dollars. **Supervisor Kametz** – Mr. Chairman, I know now there is only forty three homes in Brayburn, but what is the build out potential there if the sewer were to come in there, would that make it a little bit more economically feasible for Aqua America? **Mr. Roeder** – There would be a good deal of potential there. **Chairman Kopp** – there are two vacant lots that could be built on, thirty or twenty acres there yet to be developed. **Solicitor Henninger** – legally you do not have to accept this, but the point is that if you are going to envision something my recommendation would be that you make them enter into agreement that would provide you enough financial security to cover that potential eventually that the plant may become yours one day. This is to cover you financially and your residents from a huge tax increase, down the road. **Mr. Roeder** – There was an issue that is the reason I wrote the letter. You approved Pa American as the water provider and Aqua America as the sewer provider, as per what we needed to meet the requirements of this development. My letter just simply said that if we wanted to put this in pro-forma, is to get a letter from the Township that says, Pa American and Aqua America are respective of the Board of Supervisors satisfies the Townships Zoning Ordinance for the requirement of the conditional use. It was a zoning clause that we wanted to put in at that point. **Mr. Letavic** – what the Board approved was not that Aqua America was the on-site sewer provider on that site alone. The idea was that they were to correct an existing problem, by either working out a deal with Mr. Dobson, which did not happen, or by fixing the problems in Brayburn. It came back to you saying we will provide the capacity. The sticking point has always been, who is going to pay the cost to run the lines and take care of them. That is why when I asked, I think what you are asking for is not what the Board agreed to. They agreed to those terms based upon their terms of the issues being fixed in Brayburn. **Mr. Roeder** – And our response was, if it was economically feasible and now we know that it is not. That is where we are at right now. **Mr. Letavic** – before we approve anything I would think we would like to see the build out of the costs to do this. What Aqua America is going to put up, the Developer and what the Township would be responsible for. That way we can make an informed decision that is going to effect our residents. **Supervisor LeHew** – I have been involved in this for a lot of years and I recall, that the last plan that was presented to DEP they turned down the project for Rose Crest. This was because they did not want any more package plants. They indicated that all the on lot plants would go away soon and tie into the new line. If all those on-lot plants that we have, would all be taken away, that would make your plant feasible. We are only looking at Brayburn and there are more than forty-three potential customers out there, maybe right around five hundred homes there. So, if you would do it for the whole area and not just a small area, that would probably make it cost effective. I am against us getting involved in the sewer business that is something we do not want to do.

Mr. Hoke – I think that Steve and Daryl made an excellent point, I do not think that anything should move forward until the contractor says what he wants to put

in, what kind of plant, and until DEP approves it. **Chairman Kopp** – it is kind of a catch 22, you have to have something from us... **Mr. Hoke** – but why put us in the middle. He wants to develop it that is his problem to solve. **Chairman Kopp** – that is what I have said all along, this is the main problem with this project for all twenty years, feasible sewage coming into the area. How is it going to work.

Solicitor Henninger – there is just more information that you would need to have to make a decision on this tonight. I understand there is a time line here, but you need more information to make this decision. **Chairman Kopp** – Gary what kind of time would it take to put together some real sound figures and cost projections that it would cost us, in the end. This is your project and we are not being forced to correct an problem right now. Like the Manager says, this Board can not make a sound decision until we have good numbers. **Mr. Roeder** – If we could do this in a workshop setting, I could run through the numbers and you would know all the things you would need to know. We can do that when ever is convenient for the Board. **Chairman Kopp** – You probably already have these numbers and I think we would all feel a lot more comfortable if we have all the facts. **Mr.**

Letavic – I think those numbers have to include what Aqua America is going to put up for a financial commitment. I would like to see those as a written commitment, that is reviewable by our Solicitor, because if they say we will give you three hundred or four hundred thousand. Then come back and say well now it is not feasible. Part of that has to be construction costs, that are reviewable by our Engineer, but also it has to be a sound financial commitment from Aqua America. **Chairman Kopp** – so is it the consensus of this Board to get some sound numbers to see what you are talking, because we are putting our citizens at risk. **Mr. Roeder** – You are saying you want us to solve Brayburns collection system issue, whether or not you need it or not. **Chairman Kopp** – no, if we need it. **Mr. Letavic** – potentially also, look at those other sites that Supervisor LeHew talked about, which is pick up those sites in the trailer parks and clean up the corridor. If that happens then it is going to defray the costs to Aqua America, in the long run. **Mr. Roeder** – Last thing, is there going to be a committee or sub-committee so that we can get these things worked out. **Mr. Letavic** – I will give you a call tomorrow so we can get it setup and we will help guide you through the process. **Chairman Kopp** – we are at the point now, where we are not saying no, but we are not saying yes because we do not have enough information. You just have to keep coming back with more sound information, I think that is all we are asking. **Mr. Roeder** – So you are still considering Aqua America and Pa American as the sewer and water, respectively, providers, if we can get all these other things worked out. **Chairman Kopp** – that is kind of where we are at. Pull the 537 plan, I think you will see that is all on one thing all the way down to the Conewago. **Mr. Roeder** – Ok I will take that back to Mr. Snyder and I will be in touch with Mr. Letavic. Thank you.

6. **Manager's Report** – Steve Letavic
Update on Iron Run water project – working with DEP and they are going to fix the bridge abutment and fix about forty feet of the resident's bank, this is to protect the house from storm waters. We have bid the project and DEP is funding the entire costs for the project.

7. **Treasurer's report** – Jim Jenkins
Asking for Funds for Payables
\$28,698.95 – General funds
\$16,944.12 – Golf Course funds

Supervisor LeHew made motion to release the funds, Vice-Chair Dale seconded motion, motion carried.

GMEDC update – the Elks Theater is opening Friday May 5th, 2006. Also, the Board asked for idea's from the local Municipalities on things that they can help promote from our Township. **Supervisor Kametz** – stated that anything that they can do to help us heighten the awareness of Sunset Golf Course and the Firehouse outing we are having on August 11, 2006. **Mr. Letavic** – I would like to add that if you could talk with them and any of the other local government participants and get involved with their Finance Director's. Make sure that as a group we can not work together and make us all a little more efficient.

Update on the Banking RFP- We received RFP's from four different banks, Community, Citizen's, Commerce, and PA State Banks. Mr. Letavic and Myself will be going over them over the next few weeks and a tentative presentation to the Board for the May 16th Work Session.

8. **New Buisness:**
Rescheduled May 16th Work Session for May 17th due to the primary elections being held on Tuesday May 16th.

Supervisor LeHew made a motion to make this change and advertise it, Vice-Chair Dale seconded motion, motion carried.

9. **Citizen-**
Horace Harden - Asked about an update on the 230 diner, there is a flurry of activity and a place for people to dump their trash. Can we put a chain across there or anything. **Solicitor Henninger** – we have not been able to find anything in the Codes that says we can up a chain across there, but we looking into it. We are also doing research into our rights for demolish and cleaning the area up, we are approaching the deadline for something to be done there, so we are finding out now what we can do when the deadline does come up. **Horace Harden** – Could we have the State Police go by there every once and awhile to maybe deter some activity. **Mr. Letavic** – right now the State Police are pretty busy with some

other areas in our Township, but I will get a hold of my contact and see if they can check in on that area as well. **Horace Harden** – Does anyone have any idea why the trailers are being parked in there? **Chairman Kopp** – I think some local trucker decided that was a good place to put his trailer. There is not enough room to keep it in town, so there is a big empty space, why not keep it there.

PSATS convention updates- **Mr. Letavic** – I really felt as though it was a good convention and the best thing I got out of it was the Zoning and Planning. Especially with the timing of this with what we are trying to do in our Township. **Vice-Chair Dale** – As a follow up to that, I went to a growing smart workshop. I got a huge workbook from that session and I think it might be good to duplicate it for our planning commission and the Supervisors, so when we start looking at things this would be a good source for creative ideas for our Township.

Solicitor Henninger – I just wanted to report that I have sent out some collection letters for past due sewer bill. We do have enacted a resolution that allows us to collect \$100 in attorney's fees to do that process. I will be coming back with a proposal to raise that rate, as it is a ten-year-old rate.

Comprehensive plan- I have been unable to get in touch with the other Solicitors, so I have decided to re-write the inter-governmental agreement and then pass it along to the other two Solicitors and let them make any changes and then we will come up with a final draft that way.

Chairman Kopp adjourned the meeting for an Executive session at 8:20 PM

Chairman Kopp Reconvened the Board meeting at 8:40 PM

Chairman Kopp – Stated that the Executive session was to discuss with the Solicitor legal matters that the Township is facing.

Cate Macisik- asked a question about when the forty-five days were up for Keystone group home to file an appeal.

Mr. Letavic – Stated that Mrs. Macisik could contact Mr. Foreman the next day at the office and he would give her that information.

Chairman Kopp called the adjournment of the Board meeting Supervisor LeHew made the motion, Vice-Chair Dale seconded motion, motion carried and meeting ended at 8:45 PM