

**TOWNSHIP OF ABINGTON**

**(1) PUBLIC WORKS COMMITTEE**

**February 29, 2016**

**7:00 P.M.**

**CALL TO ORDER**

**ROLL CALL: HECKER – FARREN – KLINE – MYERS – ROTHMAN**

**Township Manager LEFEVRE  
Assistant Township Manager WEHMEYER  
Township Solicitor CLARKE  
Township Engineer POWERS  
Director of Code Enforcement MATTEO  
Director of Public Works MICCIOLO  
Director of W.W.T.P. WRIGLEY**

**MINUTES:**

**Motion to approve the minutes of the February 1, 2016 Public Works Committee Meeting.**

**PW1. Consent Assessment-Pennsylvania Department of Environmental Protection**

**Motion to authorize the acceptance of PaDEP's "Consent Assessment of Civil Penalty" in lieu of litigation, for sanitary sewer overflows in 2014 and 2015, including authorizing the payment, not to exceed \$5,800.00 from the Contingency Expense Account No. 02-10-200-5299.**

**PW2. Ordinance No. 2116-Old Welsh Road Sanitary Sewer District and Sewer Assessment**

**Motion to advertise Ordinance No. 2116 establishing the Old Welsh Road Sewer District, assessing the branch of sanitary sewers on Old Welsh Road for adoption at the regularly scheduled meeting of the Board of Commissioners on April 14, 2016 at 7:30 p.m.**

**PUBLIC WORKS COMMITTEE**

**BOARD ACTION REQUEST**

February 29, 2016

**DATE**

**PW1**

**AGENDA ITEM NUMBER**

**DEPARTMENT**

**AGENDA ITEM**

**TOWNSHIP MANAGER**

Wastewater Utilities

Consent Assessment  
PA Department of  
Environmental Protection

Michael LeFevre

*ARW.*

*ML*

**PREVIOUS ACTIONS**

Sanitary Sewer Overflow reports were submitted to PaDEP for dry weather events that occurred on August 2, 2014, March 28, 2015, June 18, 2015, July 8, 2015 and August 25, 2015.

**RECOMMENDED BOARD ACTION**

Motion to authorize the acceptance of PaDEP's "Consent Assessment of Civil Penalty" in lieu of litigation, for sanitary sewer overflows in 2014 and 2015, including authorizing the payment, not to exceed \$5,800.00 from the Contingency Expense Account No. 02-10-200-5299.

**COMMENTS**

PaDEP has proposed a monetary settlement in lieu of litigation for five overflow events that occurred during dry weather in 2014 and 2015. Four of the events, (Bryant Lane Pump Station and the sewer line adjacent to the Overlook Elementary School) were caused by heavy cloth rags creating a blockage in the pump or sewer pipe. The overflow at the Holy Redeemer pump station was caused by the failure of a check valve. The old 1970 pump and defective flush/clean system at Bryant Lane pump station were replaced with a new cutting pump on November 23, 2015. The damaged check valve at the Holy Redeemer pump station was replaced on August 27, 2015.

We are negotiating with PaDEP to reduce the penalty amount. We have countered with an offer of \$2,500.00.

[PLEASE SEE FULL AGREEMENT ATTACHED]

**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**In the Matter of:**

Abington Township : CLW/Sewage  
Abington Township : Violation of Clean Streams Law  
Montgomery County :

**CONSENT ASSESSMENT OF CIVIL PENALTY**

This Consent Assessment of Civil Penalty (“CACP”) is entered into this      day of      2016, by and between the Commonwealth of Pennsylvania, Department of Environmental Protection (“Department”), and Abington Township (“Abington”).

The Department has found and determined the following:

A. The Department is the agency with the duty and authority to administer and enforce the Clean Streams Law, the Act of June 22, 1937, P.L. 1987, as amended, 35 P.S. § 691.1 *et seq.* (“Clean Streams Law”), and the rules and regulations promulgated thereunder.

B. Abington Township is a Pennsylvania Municipality with business offices at 1176 Old York Road, Abington, PA 19001.

C. Abington Township owns and operates the sanitary sewage collection system located within Abington Township, Montgomery County.

D. On August 2, 2014, a float in the Bryant Lane PS failed resulting in the failure of a pump to activate causing an overflow of approximately 70-80 gallons to the ground surface. On March 28, 2015, a blockage in the sanitary line caused a Sanitary Sewer Overflow (“SSO”) in the area of the Overlook Elementary School resulting in a discharge of raw sewage to an unnamed tributary to Pennypack Creek, a water of the Commonwealth. On June 18, 2015, a blockage in the sanitary line caused an SSO at the Bryant Lane PS. On July 8, 2015, a blockage in the sanitary line caused an SSO at the Bryant Lane PS. On August 25, 2015, a flapper valve on a check valve at the Holy Redeemer PS malfunctioned resulting in an overflow to an unnamed tributary to Meadow Brook, a water of the Commonwealth.

E. Sections 201 and 202 of the Clean Streams Law, 35 P.S. §§ 691.201 and 691.202, prohibit the discharge of sewage into waters of the Commonwealth, except as provided under the Clean Streams Law and the Rules and Regulations of the Department.

F. The discharges of sewage into waters of the Commonwealth, as described in Paragraph D herein, constitute violations of Sections 201, and 202 of the Clean Streams Law, 35 P.S. §§ 691.201, and 691.202.

G. The violations described in the preceding paragraph F above constitute unlawful conduct under Section 611 of the Clean Streams Law, 35 P.S. § 691.611; and subject Abington to a claim for civil penalties under Section 605 of the Clean Streams Law, 35 P.S. § 691.605.

After full and complete negotiation of all matters set forth in this CACP and upon mutual exchange of the covenants herein, the parties desiring to avoid litigation and intending to be legally bound, it is hereby **ASSESSED** by the Department and **AGREED** to by Abington as follows:

1. **Assessment.** In resolution of the Department's claim for civil penalties, which the Department is authorized to pursue under Section 605 of the Clean Streams Law, 35 P.S. § 691.605, the Department hereby, assesses a civil penalty of **FIVE THOUSAND EIGHT HUNDRED DOLLARS (\$5,800)** which Abington hereby agrees to pay.

2. **Civil Penalty Settlement.** Upon signing this CACP, Abington shall pay the civil penalty assessed in paragraph 1. This payment is in settlement of the Department's claim for civil penalties for the violations set forth in paragraphs F, above, for the dates set forth in Paragraph D, above. The payment shall be by corporate check or the like, made payable to "The Commonwealth of Pennsylvania Clean Water Fund" and sent to Mr. Stephen Piller, PA Department of Environmental Protection, Southeast Regional Office, 2 East Main Street, Norristown, PA 19401.

3. **Findings.**

(a) Abington agrees that the findings in Paragraphs A through G are true and correct and, in any matter or proceeding involving Abington and the Department, Abington shall not challenge the accuracy or validity of these findings.

(b) The parties do not authorize any other persons to use the findings in this CACP in any matter or proceeding.

4. **Reservation of Rights.** The Department reserves all other rights with respect to any matter addressed by this CACP, including the right to require abatement of any conditions resulting from the events described in the Findings. Abington reserves the right to challenge any action which the Department may take, but waives the right to challenge the content or validity of this CACP.

IN WITNESS WHEREOF, the parties have caused this CACP to be executed by their duly authorized representatives. The undersigned representatives of Abington certify, under penalty of law, as provided by 18 Pa. C.S. § 4904, that they are authorized to execute this CACP on behalf of Abington; that Abington consents to the entry of this CACP as an ASSESSMENT of the Department; that Abington hereby knowingly waives any right to a hearing under the statutes referenced in this CACP; and that Abington knowingly waives its right to appeal this CACP, which rights may be available under Section 4 of the Environmental Hearing Board Act, the Act of July 13, 1988, P.L. 530, No. 1988-94, 35 P.S. § 7514; the Administrative Agency Law, 2 Pa. C.S. § 103(a) and Chapters 5A and 7A; or any other provision of law.

**FOR ABINGTON TOWNSHIP:**

**FOR THE COMMONWEALTH OF  
PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL  
PROTECTION**

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Jenifer Fields, P.E.  
Regional Manager  
Clean Water

\_\_\_\_\_  
Title:

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Anderson Lee Hartzell  
Regional Counsel  
Southeast Regional Office

\_\_\_\_\_  
Title:

Re 30 (GJE16CLW)034-5

**PUBLIC WORKS**

**BOARD ACTION REQUEST**

February 29, 2016

**DATE**

**PW2**

**AGENDA ITEM NUMBER**

**DEPARTMENT  
MANAGER**

**AGENDA ITEM**

**TOWNSHIP  
MANAGER**

Engineering

*M.E.P.*

Old Welsh Road Sanitary  
Sewer District and Sewer Assessment  
Ordinance No. 2116

Michael LeFevre

*ML*

**PREVIOUS ACTIONS**

**January 13, 2015** – Commissioner Steve Kline held a meeting in the Township Board room to discuss a sanitary sewer system for the 1500/1600/1700 blocks of Old Welsh Road.

**March 6, 2015** – Questionnaires mailed to affected residents. Results attached.

**June 11, 2015** – Board authorized the Engineering Department to proceed with quotes to prepare engineering and survey plans to sewer 1500/1600/1700 blocks of Old Welsh road; to be funded from Sanitary Sewer Retained Earnings.

**September 10, 2015** – Board approved and entered into contract with Cardno-BCM in the amount not to exceed \$90,750.00; to prepare Engineering plans to sewer the 1500/1600/1700 blocks of Old Welsh Road; to be funded from Sanitary Sewer Retained Earnings.

**RECOMMENDED BOARD ACTION**

Motion to advertise Ordinance No. 2116 establishing the Old Welsh Road Sewer District, assessing the branch of sanitary sewers on Old Welsh Road.

**COMMENTS**

Engineering plans were completed by Cardno-BCM. Meeting was held on January 27, 2016 with Tim Clark and Commissioner Kline to review the engineering plans prepared by Cardno-BCM with the residents.

**TOWNSHIP OF ABINGTON  
MONTGOMERY COUNTY, PENNSYLVANIA**

**ORDINANCE NO. 2116**

**AN ORDINANCE AMENDING CHAPTER 132 – “SEWERS AND SEWAGE,” OF THE CODE OF THE TOWNSHIP OF ABINGTON, TO ADD NEW ARTICLE XXXIII, TITLED “OLD WELSH ROAD SEWER DISTRICT,” ESTABLISHING A NEW SEWER DISTRICT IN THE VICINITY OF OLD WELSH ROAD; PROVIDING FOR THE ASSESSMENT AND RECOVERY OF COSTS AND EXPENSES FOR CONSTRUCTION OF THE SEWER COLLECTION LINES BY THE FOOT-FRONT AND/OR BENEFIT RULE; PROVIDING FOR COLLECTION OF A SEWER RENTAL RATE FROM PROPERTY OWNERS WITHIN THE SEWER DISTRICT; AND PROVIDING FOR THE LIENING OF PROPERTIES SUBJECT TO ASSESSMENTS**

**WHEREAS**, the Township of Abington is a Township of the First Class, duly organized and existing pursuant to the applicable laws of the Commonwealth of Pennsylvania; and

**WHEREAS**, pursuant to Article XXIV, “Sewer and Drains,” of the First Class Township Code of the Commonwealth of Pennsylvania, 53 P.S. §57401-57445, the Board of Commissioners has the authority to establish and construct a system of sanitary sewers and drainage, and to establish sewer districts, estimate the proportion of the cost of the sewer system and establish an apportionment of said costs to properties within the district; and

**WHEREAS**, the Board of Commissioners of the Township of Abington has determined that Chapter 132 – “Sewers and Sewage,” should be amended to establish a new sewer district, known as the Old Welsh Road Sewer District, by the addition of new Article XXXIII, for the purposes of extending the public sewer system and assessing the associated costs and expenses against the properties to be benefited by such expansion..

**NOW, THEREFORE**, the Board of Commissioners of the Township of Abington does hereby **ENACT** and **ORDAIN** as follows:

1. Chapter 132 – “Sewers and Sewage,” is amended to add new Article XXXIII, titled “Old Welsh Road Sewer District,” as set forth in Exhibit “A” attached hereto and incorporated herein in its entirety as though fully set forth herein.
2. All other ordinances, portions of ordinances, or any section of the Code inconsistent with this Ordinance are hereby repealed.
3. This Ordinance shall become effective five (5) days after enactment.

**ORDAINED AND ENACTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

TOWNSHIP OF ABINGTON  
BOARD OF COMMISSIONERS

Attest:

\_\_\_\_\_  
Michael LeFevre, Secretary

By: \_\_\_\_\_  
Wayne Luker, President



**Exhibit  
"A"**

**Article XXXIII: OLD WELSH ROAD SEWER DISTRICT**

§ 132-193. District created.

There is hereby established a sewer district to be known as the Old Welsh Road Sewer District.

§ 132-194. District defined.

The Old Welsh Road Sewer District is hereby defined as those residential properties presently existing on the streets identified on Exhibit "A-1," attached hereto and incorporated herein in its entirety as though fully set forth herein.

§ 132-195. Apportionment of costs.

The cost of constructing the sewer collection lines and associated components necessary to serve the Old Welsh Road Sewer District shall be apportioned between and assessed against the properties in the District in accordance with Article I of this chapter, pursuant to the foot-front rule and/or the benefit rule, and such cost shall include engineering, legal, advertising and similar expenses, as is legally chargeable upon the properties accommodated or benefited thereby.

§ 132-196. Recovery of Costs.

The costs apportioned to and assessed against each property in the Old Welsh Road Sewer District pursuant to § 132-195, together with simple interest of six per centum (6%), shall be payable over a fifteen (15) year period in quarterly installments.

§ 132-197. Annual rate or rental.

The owner of each property in the Old Welsh Road Sewer District connecting with and using the Township sanitary sewer system shall pay an annual rate or rental in accordance with the schedule of residential rates as adopted by the Township Board of Commissioners from time to time.

§ 132-198. Failure to pay.

In the event that any property owner in the Old Welsh Road Sewer District shall fail to pay the amount specified in § 132-196, and such amount remains unpaid for a period of thirty (30) days, the entire cost apportioned to and assessed against such property pursuant to § 132-195 shall then become due and payable, and the same shall constitute a lien against the property, and the Township Solicitor shall proceed to collect the same under the general laws relating to the collection of municipal claims.