

HAMPDEN TOWNSHIP SEWER AUTHORITY – HAMPDEN TOWNSHIP

**Testimony Presented by
JEREMY MILLER, P.E., Public Works Director
Before the
Senate Environmental Resources & Energy Committee
at
10 a.m., Tuesday, January 25, 2022**

Majority Chairman Yaw, Minority Chairwoman Comitta and Committee Members, thank you very much for the opportunity to testify today. My name is Jeremy Miller and I am the Director of Public Works for Hampden Township where I have worked for the past eleven years. Prior to my employment with the Township I was an engineer with Gannett Fleming for just over nine years. All told, I have worked with or for Hampden Township and the Hampden Township Sewer Authority for more than twenty years.

Hampden Township is a Township of the First Class located in the northeastern portion of Cumberland County. The Township, which is approximately 17 square miles in area, is home to more than 32,000 residents. It is located in the Harrisburg Urban Area, and is a Phase II Municipal Separate Storm Sewer System (MS-4) Permittee.

As an MS-4 Permittee, the Township is required to develop and implement a Stormwater Management Program. The Program includes six minimum control measures which, in addition to maintenance of existing infrastructure, have a heavy focus on eliminating and preventing the introduction of pollutants into the local waterways. More recently the permit has established requirements to reduce pollutant loads to the Chesapeake Bay. Hampden Township has been and continues to be a strong advocate for environmental accountability and has not shied away from its MS-4 obligations. However, increasing regulations result in increasing costs and it is therefore very important that Hampden identify an efficient and fair method to generate funding for its Stormwater Program. It is in fact, a State mandate that Hampden establish funding for its Stormwater Management Program. Referring to the State's standard MS-4 Permit language, Part C states "*The permittee... shall maintain adequate funding and staffing to implement this permit, including the Stormwater Management Plan*".

Because the Hampden Township sanitary and storm sewer systems are separate, previously the only available funding source to Hampden for stormwater operation had been from the tax base. That changed as a result of Act 68 of 2013 which by now you may know amended the Pennsylvania

Municipal Authorities Act to include stormwater planning, management and implementation as projects which may be undertaken by an Authority. As a result of this change the Township looked to the Hampden Township Sewer Authority for potential funding alternatives.

The Hampden Township Sewer Authority was originally incorporated in 1966 with the primary purpose of addressing sanitary sewer systems. After much deliberation, Hampden made the decision to amend the Authority's Articles of Incorporation to include oversight of the Hampden stormwater system. In December 2013 the Hampden Township Sewer Authority officially created, what I believe to be, the first Stormwater Authority in Pennsylvania.

The initial action of the Hampden "*Stormwater*" Authority was to initiate an internal evaluation of possible funding alternatives. Much discussion was had regarding the topic but based on two key factors it was ultimately decided to move forward with a Stormwater Fee Study. These key factors are as follows:

First

- A stormwater fee provides an equitable distribution of cost based on use of the MS-4 meaning:
 - Higher property values do not necessarily equate to more stormwater runoff, and
 - Tax-exempt properties also benefit from use of the MS-4.

Secondly:

- A stormwater fee is a stable long-term revenue source dedicated solely to funding stormwater activities:
 - Use of tax dollars often requires making difficult decisions. For example, do we spend \$800,000 on a much needed fire engine or do we spend \$800,000 on much needed stormwater repairs and MS-4 permit compliance. The need for this type of decision making is eliminated because all revenue generated from a stormwater fee must be spent solely on stormwater projects.

As the first Stormwater Authority who would potentially charge the first stormwater fee in the Commonwealth, Hampden moved forward very carefully with a fee evaluation. In the fall of 2014, the Authority retained ARCADIS as a consultant and subsequently Steve Hann as special counsel to ensure that the fee was developed in accordance with established engineering principals and all applicable laws.

The Study included an evaluation of funding needs, rate structures and a credit policy. At the time of the Study funding needs were estimated. Since then the estimates have proved to be in line with actual costs. In 2015 the Hampden stormwater expense was approximately \$340,000. In 2021 stormwater expenditures had increased to almost \$750,000 and the projected 2022 stormwater budget exceeds \$1,000,000. Much of these increased costs result from projects required to comply with Hampden MS-4 Pollutant Reduction Plan. Again increasing regulations result in increasing costs.

Regarding the fee structure, the Study recommended a user rate based upon impervious areas. An average Equivalent Residential Unit (ERU) was determined to be 3,534 square feet of impervious area which applied to all nonresidential properties. This is very similar to the wastewater method of using Equivalent Dwelling Units (EDUs). It is not always practical to meter wastewater discharges, therefore other methods are used to determine billing rates such water consumption, employee counts, and various other methods. None of these alternative methods give you an exact volume of flow into the sanitary sewer system, but they all provide good estimates and have been incorporated into industry standards. Likewise, it is impossible to measure the exact volume of stormwater runoff from a particular property, however, impervious area provides a good indicator and has been accepted as an industry standard across the nation.

The Study also recommended implementation of a Credit Policy. Impervious area is a good indicator of how much stormwater runoff is generated on a property however, actual run-off from the property is often reduced by the installation of stormwater Best Management Practices (BMPs) such as detention basins and rain gardens. It is therefore appropriate to reduce the fee charged to properties that have these BMPs installed and accordingly the Hampden Credit Policy provides a mechanism by which property owners may receive up to a 50% reduction in their stormwater fee. Establishment of the Credit Policy is supported by Act 123 of 2014 which states “*In the case of an Authority that performs stormwater planning, management and implementation, reasonable and uniform rates may be based in whole or in part of property characteristics...*”. Here again Act 123 clearly establishes the Authority’s right to charge a stormwater fee.

During the fee evaluation it was a priority to obtain public input. To accomplish this, a series of written communications were issued and numerous public meetings were held. Written communications included newsletter, bill stuffers and online articles which were updated frequently to share the fee evaluation progress. Five public meetings were held including special meetings being held for large property owners. Additionally, a Stakeholder Advisory Committee (SAC) was formed consisting of representatives from Homeowner’s Associations, Hospitals, Chambers of Commerce, State Representative, Senator, School Districts, the federal government and others. The Committee reviewed and made recommendations on the fee policy over a series of five SAC meetings and numerous exchanges of information.

In the end, feedback regarding the fee was mostly positive and despite some disagreement on how the fee should be implemented, almost every property owner in the Township including churches, school districts, hospitals, Norfolk Southern, and the federal government agreed to a Stormwater Fee. There was only property owner that took exception to the stormwater fee and that property owner was the Commonwealth of Pennsylvania.

In October of 2015 the Hampden Sewer Authority issued its first stormwater bill. Since then the Authority has collected more than \$7,000,000 to maintain its stormwater infrastructure and to comply with its MS-4 Permit. And since then, the Commonwealth of Pennsylvania has failed to pay more than \$1,200,000 in what we believe are legally assessed fees. As others may state today, it is hard to explain to business owners, churches, residents and others why the State that passed the laws requiring treatment of stormwater; and the State that owns property from which stormwater runoff forces the construction of larger pipes and oversized BMPs; and the State that

passed the laws that clearly establishes the ability for Authorities to implement a stormwater fees; is also the State that refuses to pay the fee and worse yet claims that the fee is a tax knowing full well that Authorities do not have taxing powers. We do not feel there is any ambiguity in the laws that authorize the assessment of a stormwater fee. However, given the State's current position regarding payment of the fee, some clarification may be warranted.

Members of the Committee, again thank you for the opportunity to speak today.