MINUTES
UPPER ALLEN TOWNSHIP STORMWATER AUTHORITY
REGULAR MEETING – MARCH 6, 2019
(Rescheduled from February 20, 2019)
6:00 P.M.

STORMWATER AUTHORITY BOARD
James G. Cochran, Chairman
Richard A. Castranio, Vice Chairman
Paul M. Rigney, Treasurer
Kenneth M. Martin, Secretary
Virginia M. Anderson, Assistant Secretary

TOWNSHIP OFFICIALS
Lou Fazekas, Township Manager
J. Stephen Feinour, Solicitor
Jason Reichard, P.E., Twp. Engineer
Jen Boyer, Community Development Dir.
Megan McNamee, MS4 Coordinator

CALL TO ORDER
Chairman Cochran called the meeting to order at 6:00 p.m. and noted that tonight’s meeting is the rescheduled February 20 meeting, which was cancelled due to snow. Roll Call was taken by Mr. Fazekas.

CHAIRMAN’S ANNOUNCEMENTS
There were no announcements.

PUBLIC COMMENT
Mervin Ruppert, of 706 W. Winding Hill Road, expressed his concerns with the new stormwater “tax.” He said his farm has a manure pit, and Soil Conservation approved it. He said the water from half the barn roof, the whole barn yard, and part of the driveway runs into it. He said they also take water from the roads, noting that Winding Hill Road runs onto the farm. He said across from the Beitzel farm there were 3-4 rows of his corn dead due to material the Township puts on the roads in the wintertime. He said his farm also gets a tremendous amount of water from Country Estates. He said another neighbor gets probably three times the amount of water he gets. He said he doesn’t know how many more taxes they can stand. He said the farm is in Clean and Green and the process to appeal is a nightmare. He said he understands we have to make jobs for people and give them big pensions so they can live happily ever after but we can’t keep printing money and can’t keep telling the Townships to use up all their money. He said it has to stop somewhere. He questioned if there something in the works as far as breaks, noting that they take on a lot more water than ever leaves the farm. He said it’s a flat piece of ground and the water isn’t going anywhere. He said this stormwater “tax” will cost him $800 a year to give somebody a job, and he is not sure of the value to the Chesapeake Bay.

Commissioner Anderson clarified that it is not a tax, it is a fee. She said the Board decided to make it a fee rather than a tax so that non-profits, such as Messiah College and Messiah Lifeways for example, will have to pay. She said they are not exempt. Mr. Ruppert said they get all kinds of tax breaks and destroy the land and he gets furious about it. He said a lot of that
money could be spent better rather than making a gigantic showplace. He said he hopes the Board shows some mercy on the farmers who are trying to do the right thing.

Linda Strock, of 815 Williams Grove Road, said the Township is starting to seem to be anti-farm and pro-development. She questioned whether the Board values the farms in the Township. She said she is sad, angry and disappointed by the pattern she sees. Farmers are on fixed incomes and can’t simply raise the price of their goods. She said the prices of farmers’ commodities are government-regulated and questioned where the Township expects a farmer on a fixed income to come up with the $800-$1000 in fees being inflicted on them. She said maybe others can get raises, but farmers cannot, and she said the farmer isn’t creating the problem, they are literally absorbing the problem created by others. She said the fees imposed are not calculated fairly. She said the farmers are helping to fix the problem, not create it. She said their fields are their retention ponds. She displayed a photo of Country Estates stormwater going onto their hayfield, noting that it depicts water from Williams Grove Road, around her farm, across the pastures, and all the way to Kent Strock’s farm. She said this flooding occurs 4-5 times a year. They have to keep their horses in because the ground is too mushy to have them out. Then they have to wait to let the water sink into their pastures in addition to having to pick up all the debris in that water. She said the houses in Country Estates are causing the problem on her farm. She said it is not the fault of the property owners, it is the fault of the Country Estates developer plus Township officials that approved the plan that allows the water not to be managed but to be directed onto their field. She said no one ever asked her husband’s parents if it was ok to do this.

Mrs. Strock continued that water comes into their hayfields from three outlets—one at Knepper Drive, one from a drainage ditch on the east side of Williams Grove Road, and another from the west side of Williams Grove Road where the other horse farm is. She said it gathers and goes under the road to the other side of Williams Grove Road to her farm, and then back under the road and continues to flood her hayfield. She said more than water comes through. There are leaves, trash, yard debris, bottles, and other items for them to clean up, as well as pesticides from weed spraying by lawn services in Country Estates. She said they spend a lot of money spraying their hayfields with specific sprays that are hay and horse friendly, and they grow their hay to feed their horses there. Then all the runoff from Country Estates goes into their hayfield. She said huge amounts also flood from the east side of W. Winding Hill Road and from the back of Chestnut Hill Cemetery and from Monroe Township on the west side of Williams Grove Road. She said she and her husband are not creating any problem for which they should be held accountable, and are literally absorbing the problem created by others from three sides of their property.

Mrs. Strock continued that the way the charges are assessed needs to be reevaluated and lot size should be taken into consideration, not just impervious area. She said it should be calculated proportionately by impervious vs. pervious to lot size. She questioned the amount of money being brought in annually from these fees and what it is being spent on, noting that the only thing she has heard is that trees and shrubs are being planted around an existing retention pond to make it pretty. She said it is already pretty and is fully functional, and is an unnecessary expenditure of taxpayer money. She said she and her husband are in their seventies and don’t work hard to add money to a fund to plant trees in someone else’s yard. She questioned where the concern is for their flooded property as a result of not having a retention pond in Country
Estate, as there should be. She said they have 2 to 3 lots that could be used to create a retention pond; for example, the soccer field, the paper street at the end of Knepper Drive, and possibly one of the areas mentioned by Mr. Ruppert. She said the Strock farm is being used as a stormwater facility for Country Estates. She said we don’t need trees planted around a perfectly working retention pond just to make it pretty. She and her husband need a retention pond in Country Estates.

Chairman Cochran asked how much money the Township will raise with this fee, and Mrs. Boyer estimated about $1 million per year. Chairman Cochran said the cost for the Meadowview retention project is about $360,000. Mr. Fazekas commented that while we are doing things for the Chesapeake Bay, we also have to maintain and upkeep the existing infrastructure. The big project for this year is Meadowview. He said we have a 5-year permit and there is an unfunded mandate that says townships have to pay to make the improvements. He said the Meadowview project is a water filtration pond. He explained how the Township has to submit an annual report to DEP to document how we met our goal for the year. He said we are looking at close to $3 million for improvements that are planned as of now. He said we also have many other stormwater improvements throughout the Township and now the Authority has a responsibility to upkeep all the existing infrastructure. Chairman Cochran said anything that conveys water in the Township now belongs to the Authority. He said one of the problems we have is that the current rules were not in existence when Country Estates was built. He said it met the rules then, but DEP has now changed the rules and if we don’t comply we will lose our sewer permit. He said we have no choice. We have to do what they tell us to do. He said they have looked at the land in Upper Allen Township and calculated how much stormwater comes off our land, and we have to reduce runoff and pollutants by X%, and we have 5 years to do it, and there is no bargaining.

Mrs. Strock asked what the Township will do about Country Estates, and Chairman Cochran said we will not be doing anything about that now. He said the Chesapeake Bay is in better shape now than in many years, but they are not satisfied that it is good enough and we don’t know when they will be satisfied. He said we are slowing down the amount of runoff we put in and it is all in the calculations. He said if Mrs. Strock doesn’t pay for her land mass, then someone else has to pay for it. There is a number that must be met and if you don’t pay your share then someone else will have to do it. He said we have no choice and are not big enough to fight the Federal government. He said the calculation is the same as what every other surrounding municipality is using. According to the Federal government, he said every property has some runoff. He noted that he has a building lot with nothing built on it but he is still paying because the Federal government says it creates runoff. Mrs. Strock asked what it would take to test the water that is dumped onto her land from Country Estates, and Chairman Cochran had no answer. He said it wouldn’t make any difference. Every municipality has to do this and we are following the model most other municipalities are using. The formula is trying to treat everyone the same way based on impervious area on your land. He said we have developments that don’t even have stormwater grates in streets, and Mrs. Strock said we should address those things instead of trees and bushes. Chairman Cochran said we are reducing the amount of stormwater and are doing it the cheapest way to get the most bang for our buck. He said we are looking at the cheapest projects we can do that will get us the most credit. Once we take those projects out then we are stuck and have to look at more expensive projects that don’t have the same return for the amount
of money spent. He said he understands her plight and would like to help her, but he can’t. Mr. Fazekas said we can’t go back to Country Estates and tell them they have to fix the problem. He said it belongs to the Township and any improvements would have to come out of the money we are raising with these fees. He explained all the extra responsibilities the Township has acquired that we didn’t have before, and said these things all cost money. He said at some point maybe we can do something in Country Estates to capture the water. He noted that the first thing we did was spend $15 million to improve our sewer plant. He said it is a challenge all municipalities are facing.

Mrs. Strock said there should be some kind of filter to keep pesticides, trash, leaves, and other things from running onto her property. Treasurer Rigney thanked Mrs. Strock for bringing this up and said now that we know, maybe we should look into it. He said he sometimes wonders if we should have allowed Country Estates to be built, noting that we have had sewer issues there for years. He pointed out that the Meadowview retention pond is not a beautification project, but is to slow the speed of the water leaving the retention pond. He said we get credit for slowing water down. Mrs. Strock said she would like to be involved in the Township’s plans to see what is in that water coming onto her property that they have to clean up. She said you aren’t supposed to throw trash in someone else’s yard.

Kent Strock, of 729 Williams Grove Road, said his family has been in the areas since before the 1900s. He said he understands the EPA mandate, which then went to the state, and the state said we have to reduce nitrates and phosphorus. He commented that nitrogen moves through water, and phosphorus moves thru silt. He said the Farm Bureau has been involved in this issue for several years. He mentioned House Bills 1661 and 1325, recently before the state legislature. He said they are almost identical except one pertains to First Class Townships and the other to Second Class Townships. He said House Bill 1661 provides that in establishing the fees, the Township shall consider and provide appropriate exemptions or credits for properties who have installed and are maintaining stormwater facilities that meet best management practices (BMPs)… He said to his knowledge, no one was on his property to inspect his. He said they have a system installed since the 1960s. His well is 66’ deep and was dug in the 1800s. His house and barn were built in 1845. He said his water was foul during heavy rains but when they installed the facilities it removed the problem. He said they test their water quarterly and they are consistently at an acceptable 8.39-8.99 ppm of nitrates.

Mr. Strock referred to Section 214-2 of the Codified Ordinances, and said it talks about runoff resulting from development being an issue but not runoff from farms. He said an important water source for groundwater recharge is open space, and noted that there has been no credit given to anyone for the recharge on their property. He said there is an agricultural zone in Upper Allen Township in the northwest corner of his property within the Trindle Spring watershed. He noted that there are three watersheds in the Township—Trindle Spring, which encompasses most of the farming land in the Township; Cedar Run, and Yellow Breeches, which is the bulk of the Township. He said the water patterns in those watersheds are important. He said there are three impaired streams according to Cumberland County Conservation District, and none of them are in the Trindle Spring watershed. He said one is in Cedar Run watershed and there are two within the Yellow Breeches watershed. Mr. Strock distributed and summarized information that illustrates the rational method for determination of maximum amount of water flow to give the
Board a feel for the difference between pervious and impervious surface. He said the farmland and soils in his conservation district are in soil group A, which is considered one of the best in the state. He said it shows that an acre of farmland will absorb water more than twice the rate that an 1/8-acre residence will. He said this is one of the factors involved in rational method. Another factor involved is the soil type, which are classified A thru D. His soils fall into class A. He quoted a soil survey from Cumberland and Perry Counties and talked about limestone soils in Upper Allen Township and particularly in the agricultural zone. He said slope of the watershed is also a factor and stated that the Trindle Spring watershed water flows towards the Conodoguinet Creek. He mapped the water patterns and submitted stream statistics to the Authority. He said his farm drains 65/100th of a square mile—about 360 acres—and includes all of Country Estates, the Ruppert, Barry Strock, and Yorlets properties, his property, part of Oak Grove, and another property from Winding Hill Road towards him. He said he has a low spot on his property right next to Williams Grove Road and it does pond during a rain. He noted that the Township’s stormwater map shows, strikingly, that there are not many inlets and outlets that border the agricultural land. He said the Township’s website information on the stormwater fee says that funding should be based on contributions to stormwater and not tax status. He said “contributions” means he has 150,000 square feet of coverage on his property—about 36 ERUs—so his fee is almost $600 per quarter or $2500 per year. He noted that he owns 20 acres and his mother owns 60 acres adjacent to his, but he is paying the same amount as a property with 6 acres and 150,000 square feet of surface. He noted that over 100,000 square feet of his impervious surface is gravel parking area. He said he understands that you have to have some kind of a parameter to use and it is much easier to say we will treat that parking area the same as a roof, but he said that is not fair, and it goes back to the statement about contributions or the fact that the bulk of the problem has been the result of development.

Mr. Strock questioned whether there would be a need for a stormwater system if there was no development in the Township. He said his problem isn’t with the fact that we have to meet the requirements, but with the inequity of the fee. He said he is happy that the non-profits have to pay because they are major contributors, but the fact that he has to pay $2600 a year is a travesty. He said he owns 20 acres and his brother-in-law pays him $2800 a year to rent some of his land, so in essence he is turning over his rental income to the Township. He said most other farmers in the room would agree. He added that BMPs are currently being practiced throughout the farmland in the Township, yet the farmers have not received any kind of a credit for any of those BMPs, and that is not equitable or proportionate to how the single-family homeowners are charged.

As for what can be done about it, Mr. Strock said the Township used impervious surface as the only factor. Commissioner Castranio disputed some of Mr. Strock’s earlier illustrations. He agreed with the BMPs and said riparian buffers and vegetative swales are the best things you can do. But as for runoff, he said the Strock property provides an enormously larger amount of runoff than a house. Mr. Strock said the farmland will be able to handle the water. He said there is a lot more water going onto it, but it can handle it.

Commissioner Martin said the Township is developing a credit program for situations where there have been practices where stormwater is retained and treated on the properties. He said we are coming up with a program for people such as Mr. Strock who are retaining stormwater, and
he will be getting credit for it. He said we hope to have it in place by the fall. He said we aren’t trying to discount the fact that Mr. Strock has aided in the process but should he be given credit, he will be given discounts for those efforts. He added that people can come in and appeal their ERU calculations, and asked that the Authority being given credit for trying to account for the different scenarios. Mr. Strock said this fee is about the equivalent of another state tax for him, and the other farmers in the room are probably in the same boat. He added that the Township ordinance says something about giving a waiver for creating a hardship, and the Township has created a hardship for the farmers. He said if we spread out their exorbitant fees over the other residents in the Township, it would probably result in about $3 extra per property owner. Mr. Strock said another thing that has not been taken into account is the Legacy sediment from a lot of the dams. He said nobody has looked at that whatsoever. He said this last year was horrible with all the rain. He said EPA’s numbers are benchmarks and are subject to movement. He said pressure on legislators could result in pressure to EPA so maybe they can back off so some of the millions of dollars the Township has to pay might go down.

Chairman Cochran noted that we have already spent millions on Wastewater Treatment Plant upgrades. Treasurer Rigney said it’s not just the Chesapeake Bay but also the surface water in Pennsylvania that is in trouble. He commented that he thought gravel was considered to be pervious, and Mr. Reichard confirmed that gravel is considered impervious as per the EPA. Chairman Cochran said it is the Township’s intent to make it as fair as we can, but noted that we only have 5 years to meet the deadline. He acknowledged that this first year is not perfect but said we had to get it going. He said the Authority is pushing staff to make sure there is a credit process in place by the end of this year, and if you deserve a credit you will get a retroactive reimbursement. Mr. Strock said someone he knows in Hampden Township received credit. He added that if his farm was a problem, his well would indicate it, but his nitrate numbers are not rising.

Gary Yorlets, of 705 W Winding Hill Road, across from Strocks and abutting Meadowview, said Mr. Strock hit all the points that are agricultural concerns.

Bruce Swartz, of 1025 Apache Trail, said he owns that property plus the adjacent property, which is collectively about 65 acres, half of which is in corn. He said some of his questions have already been answered but the gist of his concern was the document he read in Penn Future that discusses how authorities can implement the ordinances. He said it indicates that there are ways to reduce the fee. He said he found it unusual that there was no inclusion of these credits. He said he received his $800 stormwater bill and he appealed. He said Megan McNamee explained that sometimes trees cast shadows that are interpreted as impervious surface, and subsequently his amount was cut in half. At that point he said he read more information on this and saw references to industrial and other contributors, but no references to agricultural contributors. He explained measures he has gone to previously and said if credits are not retroactive it will be a problem, but it is good if BMPs are credited. He commented that Chairman Cochran said fees are calculated off of impervious surface and size of property. Chairman Cochran said in some cases if there is nothing there, then size does matter. Mrs. Boyer clarified that average impervious surface square footage is 4,206 square feet, which is 1 ERU, so total impervious is calculated off of that. If you have no impervious, or half of that amount, then we charge half an ERU. She said we did a flat rate of ½ an ERU regardless of the size. Mr. Schwartz suggested
that people will have a hard time proving they have a hardship and he thinks it might be appropriate for people to have a remedy for that and grant some exceptions by giving staff some leeway as far as taking that into account if they are in difficulty that way.

CONSENT AGENDA

There were no items for discussion.

TREASURER’S REPORT

There was no report.

APPROVAL OF MINUTES

Treasurer Rigney made a MOTION to approve the Minutes of the January 16, 2019 Stormwater Authority Meeting, SECONDED by Commissioner Anderson. The motion carried unanimously.

APPROVAL OF ADMINISTRATIVE PAYMENTS IN THE AMOUNT OF $3,265.00

Treasurer Rigney made a MOTION to approve administrative payments in the amount of $3,265.00, SECONDED by Commissioner Anderson. The motion carried unanimously.

NEW BUSINESS

Consideration of Request by Chestnut Hill Cemetery to Waive Stormwater Fee

Nancy Griffie, representing Chestnut Hill Cemetery at 319 Winding Hill Road, noted that the cemetery dates to 1863 and is not in great financial shape. She said they still have burial lots to sell but seldom sell them, averaging 15-20 burials and lots sold per year. She noted that on March 9 they will have their second funeral of the year. She said they clear about $750 per funeral so that will give them $1500 in the bank so far in 2019. From that they have to pay people to mow and plow snow, and the math doesn’t work. She said she is President of the Cemetery Board and is a volunteer and totally understands what we are up against with the stormwater fee, but said the cemetery is a non-profit, so there is not a profit and not even a break even. She said this is an expense they cannot afford and it is a hardship, and Chestnut Hill Cemetery deserves to be preserved. She noted that she is also a Silver Spring Township Supervisor and she knows that if the cemetery is abandoned by the people who run it, it ends up being the responsibility of the municipality. Chairman Cochran noted that it is even worse than that because the State limits how much a municipality can spend to maintain a cemetery, and it wouldn’t be enough to mow it even once a month. She said she is happy to provide their financials, all overhead for maintenance, insurance, wages, etc. She added that the mausoleum, which they don’t own, has cost them major expenses to maintain, noting that one thing after another has gone wrong.
Treasurer Rigney noted that Mrs. Griffie previously mentioned that her engineer said our calculation was most likely incorrect. He asked her if the Cemetery appealed the calculation and she said they did not, adding that the engineer made an off-the-cuff remark about it. Treasurer Rigney said he would be interested in knowing if the amount would change if she appeals, noting that she should probably appeal before the Authority makes any determination. Mrs. Griffie said this is a piece of history that needs to be preserved and is not a thriving cemetery like Gate of Heaven, where they charge a lot more money. Chairman Cochran commented that we have reached out to surrounding municipalities to see how they are treating cemeteries and haven’t found any that are doing anything different. Mrs. Griffie noted that Silver Spring’s Board of Supervisors hasn’t started discussing it yet. She added that there are 124 Civil War soldiers buried in Chestnut Hill and there is a lot of local history in that Cemetery. Chairman Cochran agreed with Treasurer Rigney that we want to make sure the calculation is correct. Mrs. Boyer noted that when she received Mrs. Griffie’s letter she reached out to the engineer to verify the calculation. She said a lot of what calculated into the total ERU count was the road system, which is quite large. Mrs. Griffie thanked the Authority for their time.

OLD BUSINESS

Authorization to Award Bid for Meadowview Water Quality Basin Report

The Meadowview Water Quality Basin project was advertised last month, and bids were opened on March 18 by C. S. Davidson and reviewed during the Public Improvements Committee meeting on March 19. This project is one of the five major projects listed in the Township’s Pollution Reduction Plan that was approved last year along with our NPDES permit. Mr. Reichard noted that there was a lot of interest, and 8 bids were received. Two bids fell below the engineering estimate of $360,000. The low bid, by MacMor Construction, LLC out of Mechanicsburg, was $320,392. Bids ranged from that amount up to $680,000. He said several bidders were from out of town, near Pittsburgh, but most were local bids. He said it is below C. S. Davidson’s estimate and well within what is budgeted. He said he has past experience working with MacMor and feels that the values on their bid are in line with their estimate and accurate for the type of work involved in the scope of work.

Commissioner Martin made a MOTION to accept the low bid from MacMor Construction, LLC at a total cost of $320,392, SECONDED by Treasurer Rigney. The motion carried unanimously. Commissioner Martin asked for the timeline for construction, and Mr. Reichard said they are looking at the end of March or beginning of April to start, but it will be weather dependent.

Gary Yorlets, of 705 W. Winding Hill Road, said Meadowview is a new development. He questioned who is paying the bill and why it doesn’t fall back on those residents. Chairman Cochran said when it was built it met our standards, and we became the owners of the retention pond. At $320,000, he said we will complete a project where we spend the least amount of money to get the most amount of credit. Vice Chairman Castranio pointed out that it is not just Meadowview water it is treating. He said it absorbs water from elsewhere. Mr. Fazekas commented that with newer developments, the residents are responsible, but back then the Township took them over.
Mr. Reichard explained that this is a water quality improvement project but we will also increase our abilities to contain water and reduce runoff rates downstream too. Vice Chairman Castranio commented that the Township should at least research Country Estates based on what was heard earlier tonight. Commissioner Martin agreed, but indicated that we must be clear that it has existed for many years and it’s not a new happening. Chairman Cochran said if there is something we can do to mitigate the issues, we should explore that. Mr. Reichard said that is one basis for the stormwater fee, and now we have the ability to document these occurrences unlike in the past.

TOWNSHIP MANAGER’S REPORT

Mr. Fazekas reviewed his report as follows:

Meadowview Water Quality Basin – discussed earlier in the meeting.

2019 Road Improvements – Public Works completed inspection of all stormwater facilities scheduled for paving this year. Inspections are now being done on the roads proposed for improvement in 2020.

Stormwater Appeals – Through the end of January there were 70 appeals; only 2 appeals were denied. The net result is a reduction of 208.5 ERU’s ($13,761). A credit will be applied to the next quarterly billing.

Stormwater Revenue – Fees collected through the end of January total $60,641.53.

Barry Strock, of 815 Williams Grove Road, said he appealed and reduced his ERUs by 2. He questioned whether he will get a credit. Chairman Cochran responded that if we have made errors, we will give credits. He said we have to set standards for BMPs for things that really make a difference and not things that don’t really make a difference. He said once the credit system is established people will be given credits or refunds. Vice Chairman Castranio added that there will be public comment on the plan before it is adopted.

Treasurer Rigney asked if there is anything that stood out as a pattern that caused some of these significant decreases. Mr. Reichard said the process used was a GIS system, and they were able to color code aerial imagery and could designate certain colors for roads and other features. He said software programs can then go through and pick out individual pixels of aerial imagery and identify areas as impervious or pervious. He said there is some bleed-through and that can result in misinterpretation of the data. He said they were able to clean up a lot of it as they went along.

SOLICITOR’S REPORT

There was no report.

ENGINEER’S REPORT

There was no report.
AUTHORITY MEMBERS’ COMMENT

Chairman Cochran said the Authority will be back in two weeks for the regular March meeting, and will continue to look at what we can do for waivers.

PUBLIC COMMENT

There was no public comment.

ADJOURNMENT

Chairman Cochran adjourned the meeting at 7:30 p.m.