



Upper Mount Bethel Township
387 Ye Olde Highway
P.O. Box 520
Mount Bethel, PA 18343-5220
Phone: (570) 897-6127 Fax: (570) 897-0108
www.umbt.org

**UPPER MOUNT BETHEL TOWNSHIP
BOARD OF SUPERVISORS SPECIAL MEETING MINUTES
MONDAY, MARCH 4, 2024 – 7:00 PM**

*This meeting was held in person and live streamed through the Upper Mount Bethel Township Facebook page.

I.

Supervisor Bermingham called the meeting to order at 7:00 pm.

The Pledge of Allegiance was recited.

In attendance were Supervisor Bermingham, Supervisor Friedman, Supervisor Eckman, Supervisor Albert, Supervisor Erler, and Township Manager Graziano. Attorney Adrian Cousens was also present.

II.

APPROVE THE AGENDA

MOTION by Supervisor Friedman to approve the agenda, seconded by Supervisor Erler. Vote: 5-0.

III.

PUBLIC COMMENT

Robert Teel, N. Delaware Dr. commented on the Municipal Authority, drip irrigation, and working with the developer.

Attorney Mark Kaplan stated that he would like to have the opportunity to give a presentation on the history of the sewer system and the efforts to create a sewer system. Attorney Kaplan briefly discussed the binder that he put together for the Supervisors.

Mark Mezger, Scenic Ct. commented on the residents not wanting a major industrial complex, the town is going to need an economic engine to foster future growth and to support the tax pay base, exploring better options, on the Municipal Authority, either dissolve or take control.

Charles Cole, Riverton Rd., stated that he never said that there should be an Authority, in fact, he stated that an Authority would be a mistake.

Eleanor Shelton, Heiden Rd., commented on the Municipal Authority's Solicitor to defend them from any attempts to dissolve the Authority, what are they defending, why not wait for a few months.

Fred Clark, Crystal Terr., read his public comments. Fred commented on the Municipal Authority and its' relationship to the Agreement for construction and operation of community sewage and water facilities.

Judith Henckel, Robin Hood Rd., commented on the disinformation during public comment, the LVPC stated in their response letter, that if there is going to be a wastewater treatment plan, it would be best to have the municipality have control.

Sharon Duffield, Potomac St., commented on hearing the recommendations from the Planning Commission and the LVPC saying this whole thing is a bad idea.

Marty Pinter, Lindsey Ln., commented on the current Board's pettiness, immaturity, and personal vendettas displayed, the value of principal and diversity, and the violations of the Sunshine Law. The Board is regressing, not progressing.

Ron Angle, Million Dollar Hwy, comment on Roberts Rules, point of order, public comment periods, and government transparency.

IV.

Discussion on the Municipal Authority

Supervisor Bermingham stated that the purpose of this Special Meeting is for the public to hear the discussion on the Municipal Authority.

Supervisor Eler stated his concerns, facts, and possible solutions. His concerns were that this was formed without following the actual blueprint and studies, eminent domain, hastily put together, one qualified for sewer and water, three members of the EDC and former Supervisor. The way it stands at this point, he is not in favor of a Municipal Authority.

Supervisor Albert asked if the Articles of Incorporation have been filed, which they have been. In those Articles of Incorporation, is there a mission statement/purpose. Marty stated that they will get incorporated into the by-laws. Supervisor Albert asked, even if there is no Authority, can they still build the sewer plant, the answer is yes.

Supervisor Friedman commented on a list from the Township Engineer, sewer/water procedures, a feasibility study, etc, none that have been followed to create a Municipal

Authority. After the 537 Plan is completed, maybe they'll be room for an Authority, but not at this time.

Supervisor Eckman stated that she feels the same way, we went against everything that our Engineer has given us over the years, still no water supply, cart before the horse putting an Authority together. Why an Authority when there is nothing there yet.

Supervisor Bermingham stated that when we are ready for an Authority, maybe we will have Mr. Kaplan come back and give us a presentation.

Supervisor Erler stated that they have facts that the Authority had conversations with RPL before the creation of the Authority and have not talked to the BOS. The Municipal Authority will help Mr. Pektor get grants, which will be good because it will not be cheap. Supervisor Erler stated that Portland needs to be involved in our Act 537 Plan. What about the feasibility study that was to be done.

Manager Graziano stated that he received an email from Stephanie, Portland Council Chair, in which she states that the feasibility study is not done yet.

Ray Higgins, Centerville Rd., stated the of the members attended Portland's meeting and discussed getting the report (the feasibility study). They stated that until the report is completed, they won't even communicate with them. Ray offered one suggestion, that he hopes the Board will think about before dissolving the Authority. Talk to them, understand the thoughts the committee has and figure out what is right for the town, work together.

Supervisor Bermingham stated that is where we are at, dissolve the Authority and start over they way our Engineer said or keep it going and try to work with them.

Supervisor Erler stated that he does have some other facts that he would like to discuss/consider. He does not approve of the fact that RPL is the only client of the Authority. The Act 537 Plan recommends 220,000 gallons per day for the I-2 and I-3 buildings, and he believes the RPL plant will be taking 900,000 gallons per day. Attorney Kaplan stated that is incorrect, everything they have presented is a 400,000-gallon plant, of which 100,000 gallons is reserved for the Township. Attorney Kaplan stated that the plant is to not only serve RPL. The agreement that was drafted months ago, was going to give approximately 20,000-30,000 gallons of both treatment capacity and disposal. Supervisor Erler stated that there is a lack of communication between RPL and any one of the BOS and is hoping to create some type of communication line, maybe a liaison.

Frances Visicaro asked what the difference between a Municipal Authority, a town Municipal Authority, and a private Municipal Authority. Attorney Cousens stated that it is exactly what it says, they all have different goals/motivations. There are no private authorities. The Municipal Authority that has been created is it's own corporation.

Marty Pinter stated that in hopes of moving this forward, the Municipal Authority's Attorney sent a letter to the BOS on March 4th stating that they want to have a meeting with the BOS to discuss what their plan and oversight are.

Mark Mezger stated that he strongly suggests that someone put together a formal business plan, then a rational decision can be made.

Supervisor Bermingham asked Attorney Cousens about the Municipal Authority acting on its own and eminent domain. Attorney Cousens stated that it depends on their mission and by-laws and until that is established, we don't know what authority this Authority has.

Supervisor Albert stated that he is not against an Authority but is against how this Authority was created. Maybe we should have a Sewer Committee as stated in Engineer Coyle's flowchart. Supervisor Albert is in favor of having more discussion. Supervisor Albert stated that we are only having a discussion tonight, that is what is on the agenda. Supervisor Bermingham stated that he or anyone can make a motion. Supervisor Albert stated that he has no plans to make a motion and feels that the Board should get more information, have more communication.

Supervisor Friedman stated that we should have Engineer Coyle start the Act 537 Plan process again, then Portland should be contacted to get their study and see what Portland has to say about this. Supervisor Friedman stated he is in a quandary. He has a Resolution that he would like to propose to the Board dissolving the Authority or do we table this and wait and do more research, get our 537 in order, Portland's views, and sit down and have a discussion.

Supervisor Eckman wished that Engineer Coyle was there to answer some questions.

Supervisor Erler stated that he thinks there are still some things worth looking into. He would like to see a more diverse Authority Board, maybe with an environmentalist.

Supervisor Bermingham asked Attorney Cousens if a Supervisor wants to make a motion to dissolve the Authority, the Authority can be reestablished, is that correct? Attorney Cousens stated that the same statute that governs dissolving the Authority also governs creation, so there is no inhibition on you as a Supervisor if you dissolve the Authority creating a new one. Attorney Kaplan stated that dissolving the Authority is not on the published agenda, the only thing is the discussion on the Municipal Authority.

Supervisor Erler stated that he would like to see a more diverse Authority Board, maybe with an environmentalist. Supervisor Erler asked Mr. Pinter he thinks the Authority would be willing to run all resolutions, acquisitions, changes, and actions by the BOS approval before you do your own vote on them. Mr. Pinter stated that is why they would like to have a discussion to jointly come up with by-laws.

Supervisor Friedman stated that he would like to make a motion. MOTION by Supervisor Friedman to table the dissolution of the Municipal Authority for one month, seconded by Supervisor Eckman. Discussion: Marty Pinter just wanted to confirm that our Board, our Engineer, our Solicitor, as well as your Board, Engineer and Solicitor, and Portland can all sit down together. Supervisor Friedman said yes, but the BOS sets the terms as to when the meeting will be scheduled. Ron Angle commented on the special meeting with the surrounding municipalities, East Bangor said their major concern was the dump truck traffic, when he asked Portland about the sewer treatment plant, the response was no comment, she did not want to talk about it at this time. Fred Clark commented on Marty's comment regarding him having the ability to be on the Municipal Authority, but his main concern was eminent domain, he is against it. Fred stated that the tone at these meetings has to change and there is no reason why the BOS should not be meeting with RPL before deciding to dissolve the Municipal Authority. Bob Teel commented on eminent domain, it is not easy. The Board should talk to the Municipal Authority before dissolving it. The Board should wait until after the ZHB meets on the drip irrigation before making a decision. Ray Higgins stated that it is a very good idea to sit down and discuss. He sees both sides and would like to set a date to get together by the end of the month. Pauline Clark commented on dissolving the Municipal Authority and creating a new one, please do it tonight. Supervisor Erler stated that his concern is if they get approved for the drip irrigation and the Municipal Authority is dissolved, will there be any bearing on the Township. Attorney Cousens stated the current application to the ZHB does include the Authority existing and accepting that being given them at the end of construction, if there is no Authority, then we might have a different application. Supervisor Erler asked Mr. Pektor if he would like to say anything. Mr. Pektor stated that the reality is that he owns the property, they have certain rights, have been very patient and very thorough in the five years and spending millions of dollars to plan this. The Board received the business plan for the sewer and obviously didn't read it. At some point they will come to a crossroad and that is when people make decisions they don't want to make. Supervisor Bermingham stated that the past administration gave you a lot of stuff, what you wanted, you got, now there is a new administration, and we are looking at things in a different way from the past administration, this is our town, he needs to work with us. Supervisor Friedman withdrew his motion to table, Supervisor Eckman withdrew her second to the motion. **MOTION** by Supervisor Friedman to pass the Resolution to dissolve the Municipal Authority, Supervisor Friedman read the Resolution. A Resolution directing the Upper Mount Bethel Municipal Authority to pay off its indebtedness, transfer its assets to the Township and to dissolve itself. Seconded by Supervisor Erler. Ed Nelson called out "point of order", this action item was not listed on the agenda. Supervisor Bermingham asked Attorney Cousens his opinion. Attorney Cousens stated that he believes it does not necessarily have to be listed on the agenda for it to be voted on tonight. Bill Hall asked the Board to really think about what they are doing; you don't have all the information. The most rational thing tonight was when you all decided that you were going to sit down and talk about it and get the information you didn't have and the questions you had answered. Supervisor Bermingham called for the vote. Vote: 3-2. Supervisor Erler and Supervisor Albert voted no.

ADJOURNMENT

MOTION by Supervisor Eler to adjourn the meeting at 9:00 pm, seconded by Supervisor Eckman. Vote: 5-0.

Respectfully Submitted by Cindy Beck-Recording Secretary

Good evening, Fred Clark, Crystal Terrace, Upper Mount Bethel.

Today, I would like to speak about the "UMBT Municipal Authority" ("Authority") and its' relationship to the "AGREEMENT FOR CONSTRUCTION AND OPERATION OF COMMUNITY SEWAGE AND WATER FACILITIES" ("Agreement") dated 06-26-2023 on the Township website.

Regarding the document on the website:

- This document is not identified as draft, is undated, all signature lines are blank, and it is missing key exhibits, specifically those concerning the sewer and water plans which serve as its' underlying reason for existence. I realize negotiations have continued since this draft was written but, as a document to base legally binding actions on, it is severely lacking. It probably should be removed from the website or replaced with something current.
- Considering that the public hearing and the Board of Supervisors' vote on 9/11/2023 to form "the Authority" was held using the 6/26/2023 version of the "Agreement" as its' publicly-available foundational document, and this document had no more legal standing than this piece of paper with my public comment has, the Board of Supervisors should review the case for the formation of the Municipal Authority and take any action they deem necessary.

I have the following questions/observations:

1. For our solicitor: "The Agreement" identifies "Upper Mount Bethel Township" as a party.
 - a. Does "Upper Mount Bethel Township" mean the Board of Supervisors must sign "the Agreement" for it to be in effect?
 - b. If so, should the BOS be directly involved in negotiations regarding "the Agreement" along with the Municipal Authority? Please explain.
2. For the Board of Supervisors: Is anyone on the Board of Supervisors involved in negotiations regarding the "Agreement"? If not, why not?
3. BACIDA is listed as a party to the "Agreement". Does BACIDA have the same legal requirement to post public notice and have hearings on actions related to its' legal relationship with the Municipal Authority? If so, I have been unable to find evidence that they have. If they do, why was this not done before the formation of this Municipal Authority, as their role in the RPL development plan and the success of this "Authority" is critical?
4. During the discussion about the "Authority", it was imperative to some that it should be a "municipal" entity because that would give the municipality "control" over the water and sewer needs of the town. Now, the "Authority" has passed a resolution to "defend itself" from dissolution by the township government. Specifically, where is the "Municipal control" that was promised when 5 appointed individuals can threaten to thwart the will of the duly-elected township government that they derive their existence from?

Thank you for the opportunity to speak.

