



*Livia Smith, Chair*  
*Portia West, Vice Chair*  
*Joan Neal, Secretary*  
*William Riley, Treasurer*  
*John Shelton, Board Member*  
*Fred Green, Board Member*  
*Joy Taylor, Board Member*  
*Steven A. Hann, Esquire, Solicitor*  
*Dr. Horace Strand, Executive Manager*

**SPECIAL BOARD MEETING MINUTES**  
**Board of Directors**  
**STORMWATER AUTHORITY**  
**OF THE CITY OF CHESTER**  
**September 11, 2023**

The Board of Directors of the Stormwater Authority of the City of Chester held a Special Board meeting on Monday, September 11, 2023, at the Stormwater office located at 29 East 5<sup>th</sup> Street, Chester, PA 19013.

**Call to Order**

Via telephone, Ms. Livia Smith, Board Chair called the meeting to order. Ms. Smith stated a quorum had been established and that the meeting can proceed. The Stormwater Authority Special Board Meeting was called to order at 10:02 a.m. Ms. Smith asked Vanessa Gosa, Executive Secretary, to provide verification of the published meeting.

**Verification of Published Meeting**

Ms. Gosa, Executive Secretary, stated that the verification of the published meeting was forwarded via email to Solicitor, Steven Hann, and Mr. Hann verified that the notice was published in the Delco Times on Saturday, September 9, 2023.

**Roll Call of the Board**

The following people were present: Mr. John Shelton, Board Member; Mr. William Riley Treasurer (via phone); Ms. Portia West; Vice Chair, Ms. Joan Neil, Secretary; Ms. Joy Taylor, Board Member; Mr. Fred Green, Board Member, and Ms. Livia Smith, Chair (via phone).

### **Approval of Agenda for Special Meeting**

Ms. Livia Smith asked that a motion be made to approve the agenda for the special meeting minutes.

Ms. Joy Taylor made a motion to approve the agenda for the special meeting. Ms. Portia West seconded.

### **Motion for Approval of Agenda for Special Meeting**

Mr. John Shelton (Yes); Mr. William Riley (Yes); Ms. Portia West (Yes); Ms. Joan Neal (Yes); Ms. Joy Taylor (Yes), Mr. Fred Green (Yes); and Ms. Livia Smith (Yes). Motion carried.

Chairwoman Smith asked Vice Chair West to conduct the meeting since she is via telephone.

### **New Business – Current Financial Report**

Andrew Nelson (CFO) provided the Board with a current financial report on SAC's collections by Portnoff. Mr. Riley asked Mr. Nelson if SAC's major businesses were holding back on their money. Mr. Nelson responded, "yes," and they owe us an excess of about \$1 million dollars.

Mr. Nelson stated that we bill our revenues at \$4.18 million dollars a year, we only collect about 66% of that. If we were to collect all of our revenues, then we would break even, but unfortunately, we have about 34% of people not paying, that 34% over the years creates a mounting deficit for us. Further research shows that Portnoff, since inception, has collected about 18% of the past due accounts for residents, and about 2% of the past due accounts for businesses.

Fred Green said he recalled seeing these reports before and normally we had a couple hundred thousand dollars available in capital in them, and now we only have \$24,000. Mr. Nelson stated that as of June, we had to start using our cash reserves to pay operations and debt services.

Joy Taylor asked if the lawsuit that was taking place at the time was specifically relating to our Stormwater Authority, or authorities across the board. Mr. Nelson replied by saying West Chester University, Chester County is the one who initiated the lawsuit in question. Mr. Nelson explained how the Court of Common Pleas ruled in SAC's favor, they appealed it also went up to the Commonwealth Court who upheld it. However, what

happened with West Chester University, Chester County, they brought a similar case against their Stormwater Authority because they are saying it is a tax. What ended up happening was that the Common Pleas judge ruled in their favor, so now you have two conflicting rulings from the same Court. So that is why the case is at the Supreme Court now. Joy Taylor asked if their approach to the law was different from any others. Andrew Nelson responded “Yes.” Ms. Taylor asked if this case will be resolved by the end of the year, Mr. Nelson replied that it will not and will continue through next year.

Dr. Strand stated in talking to our Solicitor, who is also the Solicitor for the Municipal Authority of Pennsylvania, the other municipal authorities have filed briefs with the Court and have demonstrated to the court the task that would happen if they ruled in favor of it being a tax, the financial damage it would cause for all municipal authorities. Portia West (Vice-Chair) asked how this would impact other stormwater authorities, because they are not saying it is a tax, it is a fee for services. Mr. Riley stated that he had read the article in the newspaper, and everyone is waiting to hear what is going to happen with West Chester. Joan Neal stated that if it is a tax, how it is going to hurt everybody. The article in the newspaper stated it would financially cripple other stormwater authorities.

Joy Taylor stated that looking at the court case that is happening now, and the way that it is impacting our revenues, and Portnoff’s ability to collect on our behalf, we have \$24,000 available right now, and we are also getting ready to enter our own separate ..... (inaudible), that has nothing to do with what is happening at the federal level, meant the state level, how is SAC going to be able to sustain the expenses related to the losses that SAC is getting ready to incur. Dr. Strand responded that we do not have our own separate suit, all we are doing is responding to the action that the Receiver is taking. So, all our attorney’s fees are paid up-to-date, and the fees that will incur.

Vice-Chair, Portia West indicated that she wanted the Board to hear a breakdown of the fees for the project at Memorial Park. She stated that she had an outline of some of the fees that she had researched, however, she believed that Adi Pise has a list of the fees for improvement of security, site safety, and amenities, and there are other fees that the contractor will take care of when they start the work. A question came up about the half-million bond. Vice-Chair West asked what SAC would get for the half-million bond.

Dr. Strand explained that as far as the fees are concerned, the issue is that this was turned into a land development process two years after SAC applied for the grant. In the beginning SAC was in contact with the engineer from the City, we received a letter from planning approving the 2018 project; at no time was it presented to us that this was a land development project. If it were, a decision would have made have been made to do the project. Secondly, if SAC chose to do the project, we would have included it in the plan to PENNVEST to get funding to cover it. We do not take money out of our general operating

budget to do these projects. It did not come to our attention until two years after the fact that there was a \$13,000 fee that we had to give to the Planning Department. They had never asked us to present that document to them as of two years. Then, we were told by the engineer there was \$172,000 that had to be paid for land development, another \$50,000 for stormwater inspection fees, and another \$5,000 for the City Solicitor. Those were the fees that were presented to SAC that had to be paid in order to do the project.

The original project was not a land development project, it was an infrastructure project, and when we applied for the funding, which is how we applied for it. Joan Neal agreed with Dr. Strand that it was an infrastructure project and not a land development project. Dr. Strand went on to say that before SAC applied for the project, the City had to sign off on it. There is documentation that the City did sign off on the project. SAC has a letter from the City Planner written in 2018. Everything that was supposed to have been done was done prior to going to PENNVEST for the funding, it was only after the Receiver and others decided that they wanted to extract money from this project, thinking that we had billions of dollars, and they wanted us to give money to the City, that these fees came into play. What they failed to realize was that it was a grant, and a grant has line items stating specifically how every dollar has to be spent. There was nothing in the grant to accommodate land development fees.

On top of the \$13,000 SAC had to pay, we also had to pay a real estate appraiser to appraise the property at Memorial Park which cost SAC thousands of dollars. We were put into a rigorous procedure that was unnecessary and unfair at the mid-stream of the project. So, that is why the Mayor and Council, who saw what was going on, recognized that every time the City of Chester Chief of Staff told us that we were ready to go, they came up with something new in the spare of the moment, and Council waived the fees. Everything that has been done by Stormwater Authority, has been done properly and in order. We have documentation to verify everything that we have done, and everything that the City has done prior to that.

In regard to Vice-Chair West asking about the bond, the performance bond goes between two and three percent of the actual bond. Depending on the insurance carrier, close to \$300,000. It is unnecessary because the contractor was required to have the performance bond before we even settled on the money, and the contractor has the performance bond which he paid himself at a rate that was reduced of \$210,000, we have documentation of this concerning that. So, for us to have two performance bonds for the same project, it is unnecessary. Dr. Strand went on to say that due to the all the money that has been spent unnecessarily, SAC is strapped.

Joan Neal (Secretary) asked the question if the project is for \$8 million dollars, what is the other \$2 million dollars for. Dr. Strand responded by saying that the other \$2 million is

for inlets improving, repair, and cleaning, which is a separate project. This is a grant that was presented and approved by PENNVEST and the EPA. The funds were needed because we are still working on our streets.

Portia West (Vice-Chair) asked if there is a written breakdown of all the fees that they are asking Stormwater to pay? She stated that she was given some information, and it is a lot less than what Dr. Strand mentioned, not to say that he is wrong, she is getting completely different information. Dr. Strand stated he believes that his secretary may have that available in the office. Dr. Strand said he presented the original numbers that were given to him. He does not have anything in black and white concerning the adjustments. Mr. Shelton asked who the adjustments came from, Dr. Strand responded the engineer. Mr. Shelton then asked who is the engineer? Dr. Strand responded, Mike Galante.

Joy Taylor asked if there was a particular reason the Authority did not take any action after the approval was modified. Dr. Strand responded by saying that the Authority's position was that the Authority did not know, Mike Galante did not give all the information until after the fact. What they simply said was we need to get an easement; we need to get an appraiser to prove who owns the property. We would need to guarantee the maintenance and that it would not cost the City anything. We had all that was listed.

### **New Business – Rate Increase**

Moving onto the rate increase, Joy Taylor asked what was going to be the new rate increase. Andrew Nelson provided the Board with a printout that showed how much SAC bills out, secondly once those bills are sent out, how much money is received in collections, and lastly, what SAC's shortage is. For year 1, \$1.3, year two, \$2.6, and year three \$3.9. Every year we have a cash flow shortage of about \$1.4 million dollars, a negative cash flow. A small increase will not suffice at all, the increase that we are proposing is from \$10.25 per month to \$16.00 per month. Dr. Strand stated that even with the rate increase, SAC will still have the lowest rate in the area. At the rate of \$16.00 per month, the yearly rate will be \$192.

Joy Taylor asked if there were any other options. Dr. Strand stated what the options are when you have a deficit, you need a line of credit to hold you over until you meet your obligations. If we had a line of credit in the beginning, our operations would be paid off. We are looking to get a couple lines of credit to carry us through. The other option that we have would be personnel. Until we know that we are clear of this deficit, we will have to lay off folks until this deficit issue is resolved. We are not going to have enough money to pay for our APs and also pay our employees. We do not want to be in a position where we have people not getting paid because of the lack of funding. Dr. Strand mentioned that last year he and Mr. Nelson came to the Board proposing layoff but were told by the Board that they could not do it. Because of the maturity of the tranches at present, this increases our debt more than we are able to handle.

### **Board Called to Executive Session**

Vice-Chair West stated that the Board is going to conclude the Executive Session and get back to the meeting agenda. The first order of business is the vote to increase our rates to \$16.00 a month, effective October 21, 2023. Vice-Chair asked for a motion. Bill Riley made a motion. John Shelton, seconded.

### **Motion for Approval to Increase the rates from \$10.25 per month to \$16.00 per month effective October 21, 2023**

Mr. John Shelton (Yes); Mr. Fred Green (No); Ms. Portia West (Yes); Ms. Joan Neal (No); Ms. Joy Taylor (Yes); Mr. William Riley (Yes); and Ms. Livia Smith (Yes). Motion carried.

Vice-Chair West asked for a motion to proceed with the Stormwater personnel layoff. Bill Riley made a motion. John Shelton, seconded.

### **Motion for Approval of Stormwater Personnel Layoffs**

Mr. John Shelton (Yes); Mr. Fred Green (No); Ms. Portia West (Yes); Ms. Joan Neal (Yes); Ms. Joy Taylor (Yes); Mr. William Riley (Yes); and Ms. Livia Smith (Yes). Motion carried.

Vice-Chair West also wanted to mention that the Board discussed getting an appraisal for the 410 Welsh Street property, and the Board is authorizing the Executive Manager, Dr. Horace Strand to proceed with getting someone to do the appraisal on that property. Vice-Chair West asked for a motion. Ms. Joy Taylor made a motion. Ms. Joan Neal seconded.

### **Motion for Approval to Authorize the Executive Manager to Get a Fair Appraisal on the 410 Welsh Street Property**

Mr. John Shelton (Yes); Mr. Fred Green (Yes); Ms. Portia West (Yes); Ms. Joan Neal (Yes); Ms. Joy Taylor (Yes); Mr. William Riley (Yes); and Ms. Livia Smith (Yes). Motion carried.

Vice-Chair West asked for a motion to temporarily suspend the compensation of the Board and, also a motion to temporarily suspend the salary of the Executive Manager. Joy Taylor made a motion. Joan Neal seconded.

Before the poll vote took place, Fred Green asked Dr. Strand if there would be some sort of system in place that will track the Board's compensation and his salary so that eventually the Stormwater Authority will pay back both salaries once finances get on track. Dr. Strand responded "yes."

### **Motion for Approval to Temporarily Suspend the Board's Compensation and Executive Manager's Salary**

Mr. John Shelton (Yes); Mr. Fred Green (Yes); Ms. Portia West (Yes); Ms. Joan Neal (Yes); Ms. Joy Taylor (Yes); Mr. William Riley (Yes); and Ms. Livia Smith (Yes). Motion carried.

**Motion to Adjourn**

The meeting was turned over to the Chairperson. Ms. Smith asked for a motion to adjourn. Motion adjourned by Mr. William Riley. Mr. John Shelton seconded.

**The meeting was adjourned at 12:15 p.m.**

**Next Board Meeting will be October 10, 2023**