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WEST PIKELAND TOWNSHIP  
BOARD OF SUPERVISORS  
CHESTER COUNTY, PA

- - -

Ordinance Adoption Hearing Governing Municipal  
Management Of On-Lot Sewage Management

- - -

Monday, March 21, 2016  
Commencing at 7:10 p.m.

- - -

**ORIGINAL**

West Pikeland Township Building  
1645 Art School Road  
Chester Springs, PA 19425

- - -

BOARD MEMBERS:

RICHARD R. BRIGHT, JR., Chairman  
HAROLD M. HOLLMAN, III, Vice Chairman  
ERNIE HOLLING, MEMBER  
CHARLES HUMPHREYS, Member  
PAMELA J. CONTI, Member

- - -

ALSO PRESENT:

JONATHAN SLAVEN  
Township Secretary

SHANE T. CLARK  
Chief of Police

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P R O C E E D I N G S

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4 THE CHAIRMAN: We are going to  
5 close the meeting for now and open up a public hearing  
6 for the adoption of an Ordinance governing municipal  
7 management of on-lot sewage management. We have a  
8 recorder here, so if you want to speak, identify your  
9 name and your address. The order will be first for  
10 the board to ask questions or make comments.

11 We have Matt Brown here from ARRO  
12 who will be commenting and answering questions and  
13 then, of course, we will open it up to the floor for  
14 people who have questions or comments.

15 So does the board have any  
16 questions?

17 MR. HALLMAN: First I have a  
18 question. Back in February I had contacted our  
19 solicitor about some questions I had. I never heard  
20 anything back.

21 MR. BROWN: I am not aware of the  
22 questions you asked the solicitor. I am aware of the  
23 questions you posed at the last meeting that I  
24 attended.

25 MR. HALLMAN: Right, and I never



1  
2 heard any answers.

3 MR. BROWN: From what? I'm sorry.  
4 I didn't understand.

5 MR. HALLMAN: From the questions  
6 that I asked at the last meeting.

7 MR. BROWN: Well, at the last  
8 meeting we talked about, is there a process for us to  
9 adjust the Ordinance for people who are not occupying  
10 their property for a full year, like there might be  
11 snowbirds or something going back and forth from  
12 Florida.

13 That is a key issue, and what I  
14 told you the last time was there are some things we  
15 can do, for instance, like making the Ordinance  
16 apportioned and applicable at the discretion of the  
17 Township. So one option was a 3-year period to a  
18 5-year period. We talked about that at the last  
19 meeting.

20 I said what I probably would  
21 recommend doing is if that is a concern, to see if we  
22 get any other comments and address them all at a  
23 public hearing. So as far as that is concerned, to be  
24 quite blunt, I can tell you the research we have done  
25 in terms of other municipalities.



1  
2                   There is two ways of dealing with  
3 it. One way is not dealing with it. There are some  
4 municipalities that basically apply the Ordinance  
5 specifically as it is regardless of whether or not the  
6 property has been occupied year-round or occupied part  
7 of the year. So, again, they just apply the  
8 Ordinance.

9                   What you brought up to me the last  
10 time, Harold, was, Are there other options? And I  
11 said to you, yes. The other options that we are  
12 researching and what we are familiar with is where you  
13 make it discretionary like, say, someone is leaving  
14 their property or then only using their property part  
15 time.

16                   Essentially, you have to track it  
17 separately, and then it's discretionary to the  
18 Township Board of Supervisors or a designated person  
19 on the staff as to how frequently the inspection needs  
20 to be done.

21                   Now, as you know, it makes good,  
22 logical sense that if somebody is not stressing their  
23 system, it's not going to deteriorate it as quickly as  
24 somebody who does stress their system.

25                   So essentially what you can do



1  
2 from an Ordinance perspective is allow it to be  
3 discretionary for those folks that are not in the  
4 house for twelve, consistent months and essentially  
5 take it on a case by case basis and evaluate that  
6 house determining if they are going to be there for  
7 six months or are they going to be there for nine  
8 months, and essentially modify the inspection period  
9 accordingly.

10 The only real change in the  
11 Ordinance is allowing for discretion of the Board of  
12 Supervisors for homeowners that are not in full  
13 residence for a full year.

14 MR. HALLMAN: What you just told  
15 us is we are going to have to hire more people to  
16 administer the people that are living in their house.  
17 Where did this Ordinance come from?

18 MR. KNOUSE: DEP has a model for  
19 on-lot disposal systems. That was taken in  
20 conjunction with the County, working with them for an  
21 overall, comprehensive sewage management plan, because  
22 you do also have more of, I will say, an institutional  
23 type facility within the Township.

24 So it has to take on not only  
25 those individual houses, it also has institutional



1  
2 type facilities.

3 MR. BROWN: This is a model  
4 Ordinance that was provided by the state.

5 MR. HALLMAN: Why do we need such  
6 an Ordinance?

7 MR. BROWN: Well, what we are  
8 trying to do with the whole 537 plan is try to  
9 establish a voluntary and a mandatory program both for  
10 on-lot septic management. If you recall, we had the  
11 situation where DEP was really pushing us during the  
12 537 process towards actually requiring certain areas  
13 of the Township to install public sewer, and this is a  
14 way -- and we talked about this at the last meeting --  
15 a way for us to forego that.

16 MR. HALLMAN: It's basically  
17 called Kick the Can Down the Street. Eventually that  
18 area that we are talking about will need public sewer.  
19 So this is a Kick the Can Down the Street.

20 MR. BROWN: It's a way to delay  
21 the inevitable, yes.

22 MR. HOLLING: Isn't it also a  
23 question of public health, and the fact that I  
24 maintain my system has an impact on my neighbors?

25 MR. BROWN: That too, Ernie, yes.



1  
2 It's not a simple yes or no answer. It's a rather  
3 complex situation. Within the area that is required  
4 to have public sewer, we did water testing and most of  
5 the wells are very clean and clear. We are not seeing  
6 a lot of failing septic systems.

7 The point is though the  
8 regulations have changed in the last twenty years. We  
9 do have some failing systems out there that aren't  
10 going to adhere to today's regulations, hence DEP is  
11 coming in and leaning on us in terms of putting a  
12 public sewer system in.

13 What we talked about was trying to  
14 find a way -- and Harold is exactly right -- it's Kick  
15 the Can Down the street, delay the project, however  
16 you want to call it, for the purposes of, A, trying to  
17 see at some point that Aqua PA would be more amenable  
18 towards providing public water without a huge price  
19 tag for the residents; B, we would have an opportunity  
20 to address other municipalities where other  
21 municipalities may change their political position in  
22 terms of allowing people to connect to their existing  
23 sewer and, C, basically if there was a further need  
24 for sewer throughout the Township.

25 Then there would be a broader base



1  
2 to spread the cost of that sanitary sewer rather than  
3 focus on just that specific development.

4                   So there are some advantages to  
5 delaying it, but you are absolutely right. It is  
6 inevitable that something is going to have to be done.  
7 This is one way that DEP was willing to accept us to  
8 essentially continue to work with septic systems, most  
9 of which aren't failing, and allow us to continue to  
10 do business as usual as long as they are comfortable  
11 that there was a voluntary system relative to the  
12 water, and a mandatory system relative to inspection  
13 of the sanitary sewers.

14                   So they were also quite happy that  
15 we were able to tie in to the County septage  
16 management system. The bottom line is the County is  
17 now looking to push a little bit harder on opening up  
18 their information system, and I think that information  
19 is going to be useful also with DEP in trying to delay  
20 this overall thing.

21                   But in terms of how this effects  
22 people today -- and that is my number one concern, how  
23 does it effect the residents today -- if we are  
24 successful with DEP in putting this forward with the  
25 Septage Management Program, then we will be able to



1  
2 keep folks from having to invest a significant amount  
3 of money in the next two years on the sanitary sewer  
4 system.

5 I mentioned the three options we  
6 had available to us. If we delay it, one of those  
7 three options would very likely be there and available  
8 to us. So all we are trying to do is push the cost  
9 off a little bit. Now, to try to address what  
10 individuals need, individual systems need, you've got  
11 a really good point about folks that aren't in there  
12 houses twelve months a year.

13 Well, I made a comment to Richard  
14 that when my kids come home my water bills go up, my  
15 food bills go up, and I know my septic system is  
16 stressed to the nth degree. So each house is a little  
17 bit different when you are offering some sort of  
18 discretionary adjustment to your Ordinance.

19 So you want the ability, if you  
20 are going to offer the discretionary adjustment, you  
21 want the ability to make it discretionary to that  
22 specific homeowner and what the conditions that  
23 homeowner faces, or you can just say, it is what it is  
24 and you are going to spend \$200 a year whether you are  
25 there six months or you are there twelve months.



1  
2 MR. HALLMAN: You don't know that  
3 it's going to be two hundred dollars. One hauler will  
4 find out that they are going to be doing inspections  
5 and their numbers are going to go up.

6 MR. BROWN: Actually, I do know  
7 it's going to be two hundred dollars and probably  
8 significantly less than.

9 MR. HALLMAN: Two hundred a year  
10 or two hundred a quarter?

11 MR. BROWN: I'm sorry, two hundred  
12 every three years. I do know what the numbers are  
13 because there is an inordinate number of haulers.  
14 While their rates are not regulated, it is a really  
15 competitive business amongst them. I know myself that  
16 we use four different haulers in the municipalities we  
17 work with in this area, and every year we go out and  
18 every year they are really squeezing their numbers to  
19 get the numbers down so we will use them.

20 The bottom line is I am relatively  
21 comfortable that the number of certified haulers in  
22 the County is going to create the amount of  
23 competition that is going to keep the numbers at a  
24 reasonable level. We had a meeting with the  
25 management committee with the County and we invited



1  
2 haulers to come visit that particular meeting, and at  
3 that meeting there was no less than about 15 or 16  
4 haulers, and that was just a rough brush of the  
5 haulers coming. There were many, many more that  
6 didn't attend that meeting, and they all operate in  
7 Chester County.

8 MR. HOLLING: The interesting  
9 thing in that same meeting, Matt, is that it reflected  
10 the competitive nature. Originally the County had  
11 talked about having all of that data visible to  
12 everybody, and now haulers will be constrained only to  
13 see the data they have entered, because one hauler is  
14 afraid another hauler will steal their business by  
15 noticing that Fred's place hasn't be hauled in two and  
16 a half years, so now it's time for me to go in with a  
17 bargain and steal Fred's customer away from him.

18 MR. BROWN: The County's Septage  
19 Management program in the database provides an alert  
20 to you that somebody has not pumped it out. So you do  
21 know right away that there has not been any kind of  
22 maintenance done or removal of debris from the septic  
23 system. You are notified right away through the  
24 Septage Management System at the County.

25 You've already got a tracking



1  
2 mechanism in place for most of the people, so when  
3 talking about adding administrative relief, I am only  
4 talking about adding administrative issues relative to  
5 those exceptions that you choose to allow.

6 Other than that, the work is  
7 already done for you by the County in terms of the  
8 management system standards that it's been pumped  
9 within the allotted time. If it has not be pumped,  
10 then --

11 MR. HALLMAN: Then why can't you  
12 just take that data and send out a postcard and say,  
13 Hey, we notice that you haven't pumped your septic  
14 systems?

15 MR. BROWN: You can, but part of  
16 the DEP process, like I was saying before, in order to  
17 allow us to delay and to allow us to work with septic  
18 systems, there has to be a portion of this that is  
19 mandatory.

20 They have to know from a public  
21 health and environmental safety standpoint that you  
22 passed an Ordinance that says specifically that you,  
23 homeowners, if you want to keep working with a septic  
24 system, you are required to keep it in good, tiptop  
25 shape.



1  
2                   Then from DEP's perspective, that  
3 way they know that you have taken the step necessary  
4 to make sure that you are protecting public health and  
5 the environment. The other portion of this is also a  
6 voluntary program relative to the water system.

7                   We talked about that a little bit  
8 last time, but this portion of it, from a Department  
9 standpoint, if we are hopeful to get our 537 Plan  
10 approved by DEP in such a method where they don't come  
11 to the Township and give you a consent order and  
12 decree to put in a public water system or public sewer  
13 system to service areas of the Township, we need to do  
14 this and we need to make it mandatory so DEP knows you  
15 are taking the steps necessary to protect public  
16 health.

17                   MR. HALLMAN: Or they order a  
18 consent decree that they are going through the normal  
19 process of permitting and everything else.

20                   MR. BROWN: I'm sorry. I don't  
21 understand.

22                   MR. HALLMAN: The DEP, if they  
23 send you a consent decree, they are going to go  
24 through the same process of permitting; correct?

25                   MR. BROWN: No, you are going to



1  
2 have to do it.

3 MR. HALLMAN: We can write our own  
4 permits?

5 MR. BROWN: No, you are going to  
6 have to go through the process of obtaining a permit  
7 and DEP will write a permit, but you are going to have  
8 to design a sewage system. You are going have to  
9 construct a sewer system. You are going to pay for  
10 that sewer system.

11 You are going to have to make sure  
12 that the flow somewhere is properly treated also. So  
13 you might find yourself constructing a treatment  
14 facility if you can't find a place to take the sewage.

15 So that is a very costly item.  
16 All of that is going to have to be permitted. You are  
17 going to have to apply for that permit. You are going  
18 to have to pay for the permit. DEP is still going to  
19 have to review and issue the permit.

20 MR. HALLMAN: What's the  
21 difference if we do that on our own or there is a  
22 consent decree? It's the same process.

23 MR. BROWN: Well, it is the same  
24 process, but the whole concept of what you started out  
25 with talking about kicking the can down the road, if



1  
2 we don't do something to protect public health and  
3 protect the environment, what is going to happen is  
4 they are gong to tell you, you will do it and you will  
5 do it now, and we don't care what it costs.

6 MR. HALLMAN: But you can't do it  
7 now, you need to go through a permitting process, and  
8 the permitting process I am sure takes a period of  
9 time; right?

10 MR. BROWN: Three to six months,  
11 correct.

12 MR. HALLMAN: Right.

13 MR. BROWN: And what we are  
14 talking about is trying to find a way to defer the  
15 cost of sanitary sewage systems anywhere from five to  
16 ten years.

17 MR. HALLMAN: That's just kicking  
18 the can down the road again.

19 MR. BROWN: Absolutely.

20 MR. HALLMAN: This Township does  
21 that with everything.

22 MR. BROWN: Well, it's really your  
23 decision as elected officials whether or not you want  
24 to enforce or run the risk of enforcing installation  
25 of a public sewer system now, or do it five to ten



1  
2 years from now. It's really your decision, and that  
3 is why all we can do is present to you your options.

4 MR. HALLMAN: Not to interrupt  
5 you, Matt, but one of the things when I read this  
6 Ordinance, which this Township has never done, is  
7 educate people. I would think that that would be one  
8 of the first things this Township should do before  
9 passing the Ordinance.

10 It should educate people. Educate  
11 them on what goes into septic systems, what doesn't go  
12 in there, how do they work, how often you should get  
13 them pumped.

14 You wait a period of time. I am  
15 sure you can see the data from the County with the  
16 haulers, what their hauls look like.

17 MR. BROWN: And that is an  
18 excellent idea. As part of this, you would probably  
19 want to do something like that.

20 MR. HALLMAN: But if you pass this  
21 Ordinance, you are kind of shoving it down everybody's  
22 throat. This is big government right here. This is  
23 bureaucracy.

24 MR. BROWN: To a certain degree  
25 you are but, again, it really comes down to what you



1  
2 want to do. Whether or not you want to run the risk  
3 in your 537 requirement of having DEP saying you will  
4 need to do it and you need to do it now.

5 My sense is, because I am the one  
6 who sat with DEP, is that they are going to do it.  
7 They are going to say do it and do it now, and if you  
8 don't you are facing severe civil penalties from the  
9 DEP, up to 25 thousand dollars a day in fines. They  
10 can levy up to that point.

11 We have been in negotiations with  
12 them for well over a year to try to find an option,  
13 because when we held our public meeting, there was a  
14 great deal of pushback from the residents that were  
15 going to have to put the money up for this.

16 So we basically pledged to the  
17 residents that he would go back to DEP and see if  
18 there was some other way to do this. And I give  
19 credit to Ernie and I give credit to Vince and give  
20 credit to Mike because they were all part of this in  
21 terms of the conversations with DEP.

22 Where we are right now is that DEP  
23 says, Okay, we are buying that your septic systems are  
24 okay. So if we are buying that, we want some  
25 assurances that you are taking steps as a community to



1  
2 protect public health and environmental safety. So as  
3 such we will accept a septic system for now. Those  
4 are two important words, "for now," which defers the  
5 costs to the individual homeowners, which was  
6 substantial, as much as twenty thousand dollars for an  
7 individual homeowner.

8 We will defer that for now, and we  
9 will let you prove to us that your septic system  
10 process is working okay for the time being. And we  
11 said, Great.

12 So we went to the County and we  
13 talked to the County about the Septage Management Plan  
14 and database and Ernie's involvement with the Chester  
15 County Association of Township Officials, and the  
16 bottom line was, you are a hundred percent right,  
17 Harold, this is nothing more than a ploy to keep us  
18 from having to spend the money now.

19 And I think as part of this whole  
20 process, you pass the Ordinance -- the Ordinance, in  
21 my opinion, is necessary to get your 537 plan  
22 approved.

23 If you don't, you are going to get  
24 hit with a consent decree, number one, and, number  
25 two, I think the idea of an education program for the



1  
2 residents is a wonderful idea, and you can do it both  
3 by either holding a seminar here or sending out  
4 information to the individual residents.

5 I'm happy to volunteer my time to  
6 come in and talk about septic systems and what people  
7 should do to manage their septic systems, what they  
8 should look for, as long as there is a donut in there  
9 for me.

10 MR. HOLLING: That's the program  
11 that we talked with John Venziale about, and that we  
12 would be the pilot program for this in the  
13 Commonwealth, but that was linked to doing this as  
14 well. So it's a two-headed coin.

15 MR. BROWN: John was talking about  
16 an education program that DEP wanted to get involved  
17 in that too, and I think that is a wonderful idea.  
18 But, again, you are going to have individual  
19 homeowners with questions and such.

20 MR. HALLMAN: I think if there was  
21 education and people knew about this Ordinance hearing  
22 tonight, I bet this room would be packed. Nobody  
23 knows about it.

24 MR. KNAPP: Are you considering  
25 voting for this tonight?



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MR. HALLMAN: Look at the agenda.

MR. KNAPP: This is ridiculous. Everyone in the Township knew about the Easter Egg Hunt. No one knows about this. This is just unbelievable.

THE COURT REPORTER: And your name, sir?

MR. KNAPP: Charles Knapp, Yellow Springs Road. Not a person in the Township knows about this. How many townships in Chester County have this Ordinance?

MR. BROWN: I don't know.

MR. HUMPHREYS: May I comment? When I got the document it was 18 pages long, so I did some research. I looked at Charlestown's sewer management system, fifty pages. East Pikeland, their's is basically a boilerplate like ours, almost exactly like ours. The fines are different.

I looked at Charlestown, and the question I was going to ask tonight is, Is this enough? In talking about the Township of Charlestown, they go into all this detail.

MR. KNAPP: Did they advertise it, Charlie?



1  
2 MR. HUMPHREYS: It's been in  
3 existence since 2005.

4 MR. KNAPP: No, when they passed  
5 the Ordinance, did they advertise it?

6 MR. HOLLING: It should have been  
7 in the Comments. It was advertised twice.

8 MR. KNAPP: Why wasn't it sent in  
9 one of your email bulletins?

10 MR. HOLLING: It was on the  
11 agenda.

12 MR. KNAPP: People don't click on  
13 the agenda. I am not in favor of this being passed  
14 without some discussion in the Township.

15 MR. HOLLING: It was posted on the  
16 website as well.

17 MR. HUMPHREYS: Getting back to my  
18 comments, when I looked at the neighboring townships,  
19 because I sort of had the same reaction you did when I  
20 saw the document, Charlestown has had theirs since  
21 2005, and East Pikeland basically has the same  
22 boilerplate other than the fines are different.

23 MR. HALLMAN: As to those two  
24 townships, they both have access to public sewer.  
25 This Township has no access to public sewer.



1  
2 MR. BROWN: That is exactly right  
3 which makes us in this Township a little bit more  
4 sensitive as far as DEP is concerned.

5 MR. HALLMAN: Then we should offer  
6 everybody public sewer here.

7 MR. BROWN: That is your  
8 prerogative. What we are doing right now is --

9 MR. HALLMAN: -- kicking the can.

10 MR. KNAPP: Do you know what  
11 public sewer does? Public sewer brings development.  
12 If you get public sewer, you have dense developments.  
13 So if you want public sewer, it sounds like these guys  
14 need to just keep on having something to do so they  
15 can bill somebody.

16 MR. THOMPSON: Bennett Thompson.  
17 Are we talking about a large geographic area? So in  
18 other words, what is the scope of these properties you  
19 identified that are contributing to this? That's the  
20 first question.

21 MR. BROWN: The problem centers  
22 around two or three developments within the township  
23 that has created a bit of a ruckus as far as DEP is  
24 concerned, but if we pass an Ordinance it has to be  
25 Township-wide.



1  
2 MR. THOMPSON: And as far as  
3 failed systems or systems that have failed, what  
4 processes are in place to address those issues? I  
5 understand there is already regulations in place where  
6 the sewage enforcement officer can remedy that  
7 situation.

8 MR. BROWN: The county sewage  
9 enforcement officer would have a set of rules and  
10 regulations and if he finds a failing septic system he  
11 can my apply those rules and regulations and enforce  
12 the homeowner to make the necessary improvements to  
13 the property or else they would be in violation and  
14 some severe fines could come, and that is done at the  
15 county level.

16 There is the whole 537 process.  
17 This is a plan that the Township is obligated to do  
18 periodically under Pennsylvania law. Under the 537  
19 process, the County also has to sign off and approve  
20 this. So in our discussions with DEP, we are also  
21 talking to the County and the County Health Department  
22 about if we can work out a program where there is a  
23 plan for inspection and servicing the septic systems  
24 within the Township.

25 The County also will allow us to



1  
2 work off of the regulations for the individual septic  
3 systems on the date that the septic system was  
4 installed.

5                   Now, I have been doing this for  
6 almost forty years and the regulations over the last  
7 twenty years have changed significantly. So what we  
8 are redoing here is we are trying to forego the  
9 inevitable with the idea that five to ten years is a  
10 significant amount of time for us to work with other  
11 people to try to find a way to provide septic.

12                   I answered this gentleman saying I  
13 don't know how many properties within the County that  
14 have an Ordinance like this. I don't know how many  
15 there are, but I do know there are a quite a few  
16 within the Commonwealth that do have an Ordinance like  
17 this and, like I said, we did a bit of research on the  
18 ones that we didn't help to pass ourselves, and pretty  
19 much I was more focused on trying to find ways we can  
20 address issues like you had the last time on how do we  
21 deal with somebody that is home six months of the  
22 year.

23                   I can tell you I sat through those  
24 meetings with DEP and sat through meetings with the  
25 County. This is required if we are going to kick the



1  
2 can down the road as you put it; otherwise, we will  
3 get a consent order; we will get a decree and there  
4 will be fines associated with it, and you will be  
5 required to put in public sewer and either the  
6 Township pays for it or essentially the homeowners pay  
7 for it.

8 - - -

9 (Discussion off the record.)

10 - - -

11 THE CHAIRMAN: You can't speak to  
12 one another. You have to address the board.

13 MR. MENHAFFEY: John Menhaffey,  
14 (phonetic) Yellow Springs Road. We are going to pay  
15 for whatever you do. You have to take a bond out to  
16 put in sewers. Who do you think is going to pay for  
17 it? You are going to raise taxes to cover it.

18 MR. BROWN: Eventually the  
19 residents pay either way, that is correct.

20 MR. KNAPP: The Township is going  
21 to pay when Jeff sues the crap out of us because of  
22 the ignoring that you did with his problem. We pay  
23 anyway.

24 MR. BROWN: But as far as this  
25 Ordinance is concerned, again, you're right, Harold,



1  
2 this is the way to delay the inevitable.

3 MR. HALLMAN: Instead of having 18  
4 pages to read, it could be a very simple thing of  
5 educating and then see what your numbers look like and  
6 go from there. When people say, I am not going to  
7 pump it, then the Township is going to have to get  
8 into litigation with people not pumping it. I can  
9 just see the houses around here with the people that  
10 will do that.

11 MR. THOMPSON: The State has  
12 proposed this idea, right? It doesn't necessarily  
13 make it a good idea, and I would ask the board, why  
14 haven't we done anything about these properties where  
15 we have identified the issue as Matt described?

16 There are already regulations in  
17 place to allow the sewage enforcement officer to  
18 remedy these situations, so why are we taxing, in  
19 essence, the remainder of the citizens, who we have  
20 identified already, who have septic systems that are  
21 not contributing to the problem for those of a few.

22 It doesn't seem to make sense to  
23 me at all, and I am strongly opposed to the  
24 regulations.

25 MR. BROWN: You are absolutely



1 right. Here is the problem. When a septic system  
2 fails on a property and there is only a certain amount  
3 of space on that property relative for disposal, it  
4 may be there is no other space on that property to  
5 remedy it. In other words, the sand mound won't work  
6 and there is no other technology short of putting in  
7 an individual treatment system for that property which  
8 could cost upwards of fifty to eighty thousand dollars  
9 depending upon what the condition of the soils are.  
10

11 There is still some place the  
12 effluent has to go whether it's treated or whether  
13 it's not, and, again, the soils may not be conducive  
14 for percolating, but it might have been many, many  
15 years ago when the septic system was first put in.

16 So what we end up doing is if you  
17 have an individual property with a problem, it may not  
18 be environmentally sound to fix it.

19 So, hence, what DEP has said to us  
20 from the get-go is you will sewer these areas and we  
21 said, Whoa, and we initially started negotiating to  
22 avoid putting in sewer because sewer is a very  
23 expensive process, because for us it would not only  
24 involve a collection system going out to everybody's  
25 houses, but if we don't have a treatment plant nearby,



1  
2 we would have to build a treatment plant and a  
3 disposal field for that.

4           So the concern is public health  
5 and the concern is the failing septic systems that  
6 would contaminate wells, what if we extended public  
7 water to the individual homes to avoid the issue  
8 relative to the septic systems failing. We went to  
9 Aqua PA. We tried to negotiate with Aqua PA relative  
10 to a reasonable price.

11           They used to do things in the past  
12 where they would allow for what they call a rate of  
13 return; in other words, if they had so many people  
14 connecting to public water, they would pay for a  
15 portion of the main extension. Well, the economy has  
16 changed and they don't do that any more. So they are  
17 laying that burden completely on us.

18           When we looked at the cost of  
19 that, that was about half of the cost of putting in  
20 public sewer systems. So at that point we felt that  
21 that was probably the best way to go.

22           In our discussions with DEP, and  
23 Ernie was heavily involved in this as well as being  
24 involved with the County, so we had a representative  
25 from the Board of Supervisors there, and we started



1 talking about, Is there another way?

2  
3 Finally, the planning section of  
4 DEP acquiesced and said, Well, we have this  
5 experimental program and we are willing to use you as  
6 a test case, if what you are willing to do is pass an  
7 Septage Management Ordinance so that we know that all  
8 of the septic systems are being maintained by  
9 homeowners because most homes -- I am in the sewage  
10 business so I check my septic system all the time --  
11 but many people don't. They flush and it's gone and  
12 they don't worry about it.

13 But if there is a way to make sure  
14 that the septic system is operating correctly by  
15 inspections and things like that, we have a database  
16 with the County that allows us to monitor that, and  
17 with that we put in that voluntary program with people  
18 putting in filters or ultraviolet lights on their  
19 wells, then we are protecting public health.

20 We can then go back to DEP and  
21 say, Look, we have done these steps to protect public  
22 health, and they seem to feel because we don't have an  
23 overabundance of failing systems, but we have failing  
24 systems, that this will be okay -- and I keep on  
25 adding the words -- for now. It is kicking the can



1  
2 down the road.

3                   So the backside of this is that is  
4 our option, and if we don't do this, and we don't  
5 follow through with the 537 plan, they have  
6 essentially told us they will make us. What they will  
7 make us do is probably going to be less palatable than  
8 doing something proactively ourselves.

9                   MR. THOMPSON: I understand what  
10 you are saying. The way I think about it, we have  
11 done the calculations from a township perspective as  
12 to it's less expensive for the Township to not install  
13 public sewer systems. But have we done a calculation  
14 on the cost to the residents to identify what is less  
15 costly in the long run?

16                   MR. BROWN: The septic maintenance  
17 program we have, and that is in the ballpark of about  
18 200 dollars every three years if there are no repairs.  
19 If somebody has a failing septic system, and whether  
20 or not you determine it with the inspection or whether  
21 or not the SEO from the health department determines  
22 it, that individual homeowner is going to be stuck  
23 with the cost of repairing that septic system.

24                   MR. THOMPSON: This is a  
25 complicated issue. A couple of minutes here won't



1  
2 resolve this.

3 MR. KNAPP: We need more time to  
4 talk about this before this is adopted.

5 MR. THOMPSON: There are a lot of  
6 ways a septic system can fail, and not all of them  
7 contribute to a water problem. So, obviously, a  
8 failed drain system does create a water problem, but  
9 there are many other things listed in this proposed  
10 legislation that have nothing to do with it or there  
11 is no clear sign that it would cause any reduction in  
12 water flow.

13 MR. BROWN: All I can identify,  
14 unless I look at an individual septic system, is  
15 identify what the cost is to implement the system  
16 without any repairs. If there are repairs, that is  
17 going to vary depending upon what the problem is with  
18 the individual septic system.

19 The thing I want to stress is it  
20 doesn't hurt to put this off and talk about this a  
21 little bit more because they are not holding a gun to  
22 our head and saying you need to do this in March of  
23 2016.

24 But we have to do it within the  
25 next couple of months, or a decision has to be made



1  
2 within the next couple of months because we still have  
3 to go through the 537 process, and we have got the DEP  
4 and the County asking, What are you going to do now?

5                   So we have to do something, and  
6 it's not something that you triggered or a process  
7 that we triggered. It's something that the  
8 legislation, the regulations triggered. So DEP has  
9 been saying this to us, to West Pikeland Township and  
10 lot of communities in Chester County.

11                   I deal with fourteen communities  
12 in Chester County. They are saying you need to do  
13 something now.

14                   MR. SWITZER: My name is Al  
15 Switzer. My question is, if we don't comply and don't  
16 do anything tonight and we don't do what the DEP wants  
17 us to do, what are the repercussions? Is there an  
18 example already where somebody hasn't complied and  
19 have they been punished?

20                   MR. BROWN: The answer is yes.  
21 First of all, an example is Uwchlan township. They  
22 received an administrative order, a consent decree  
23 about four years ago for how they were dealing with  
24 the Eagleview system, and I can only tell you that  
25 because it's a matter of public record.



1  
2 I don't know all of the details on  
3 it, but I will tell you when there is non-compliance  
4 with the regulations, that is DEP's first course of  
5 action. Actually, the first course of action is  
6 coming to you and telling you that you are going to  
7 get an administrative order, a consent decree and  
8 order to do something.

9 MR. HALLMAN: Was that the Board  
10 of Supervisors or was that the Authority?

11 MR. BROWN: That was the Board of  
12 Supervisors. It was the Township.

13 MR. HALLMAN: They have public  
14 sewer there. That was part of their issue. It had to  
15 do with upgrading and maintaining public sewer.

16 MR. BROWN: You can get a consent  
17 decree any time you are not complying with that which  
18 DEP feels adheres to the best interest of public  
19 health and environmental safety. That is the position  
20 we are in right now. I work for you. So whatever you  
21 need me to do to try to run interference with DEP is  
22 exactly what I am doing. I know them well.

23 The back side of this is we are  
24 trying to find the most cost effective way for the  
25 residents relative to this. So to answer your



1  
2 question, there is a group of folks that were in those  
3 developments that knew there were problems long before  
4 we marched out this Ordinance.

5           As I said to this gentleman back  
6 here, we have been talking to them for a couple of  
7 years over what needs to be done to satisfy the issues  
8 with the failing septic systems. We were able to  
9 lower the costs by looking at public water rather than  
10 putting in public sewer. But when you roll out a  
11 program like this with the Septage Management System,  
12 the requirements are you have to treat everybody  
13 within the community the same way.

14           So for these folks, some Ordinance  
15 needs to be passed. So it's going to affect everybody  
16 within the Township because from DEP's perspective if  
17 you have a problem in a subdivision today, there may  
18 be a problem in another subdivision down the road.

19           So what they want to do is they  
20 need to know that environmental health and safety are  
21 being protected.

22           MR. HALLMAN: This township is  
23 very unique. You can't compare this Township to any  
24 other municipality in Chester County. This is a very  
25 unique Township.



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MR. BROWN: I know.

MR. HALLMAN: So maybe we need to have a unique Ordinance and not the model Ordinance that DEP has.

MR. BROWN: Again, that's a good thing about having an open hearing like this with public discussion. If you take a look at that Ordinance, there are literally pages of definitions in it just describing what things are.

So, obviously, we can sit with Guy and try to come up with a way to simplify or streamline this a little bit, but the key elements that DEP wants in that Ordinance, what we have to have in there if we want to get their bonding --

MR. HALLMAN: Well, maybe we should invite them to West Pikeland Township and let them see the uniqueness of it. We are not Uwchlan Township. We are not Upper Uwchlan. We are not Charlestown. We are not East Pikeland. We are not West Whiteland or East Whiteland.

MR. BROWN: Absolutely. I can tell you we've been doing that for like three years now at least, talking to DEP about the unique situation in West Pikeland Township.



1  
2                   You only need to look at a map of  
3 the Township and you can point to the uniqueness and,  
4 again, the situation relative to providing public  
5 utilities in the Township are very, very complex, more  
6 so than they are in Upper Uwchlan or Uwchlan or West  
7 Vincent. They are very complex because you have a lot  
8 of open area here.

9                   MR. HALLMAN: And the density  
10 would probably never be here because of the restricted  
11 ground.

12                   MR. BROWN: That is exactly right.

13                   MR. HALLMAN: And it's increasing  
14 everyday.

15                   MR. BROWN: That is exactly right,  
16 and we have been talking to them about that. I don't  
17 want to say they don't care, but I will say that the  
18 regulations are in place and have been place for a  
19 long time. Their job as regulators is to enforce  
20 those regulations.

21                   MR. HALLMAN: There are always  
22 exceptions.

23                   MR. BROWN: There are, and that is  
24 what they are doing for us here.

25                   MR. HALLMAN: But this isn't



1  
2 really an exception. It's a model.

3 MR. BROWN: It's a model of an  
4 Ordinance, but remember what the Ordinance is doing.  
5 What it's doing is the exception. So it's part of the  
6 program and that is the exception to prevent us from  
7 having to install public sewers today. To comply with  
8 their regulations, we should be installing a public  
9 sewer system today.

10 MR. HALLMAN: But it goes back to  
11 what I said before. As I said, this is a very unique  
12 township with very low density with ground that is  
13 being eased everyday.

14 MR. BROWN: And that is why they  
15 are allowing us to come to them and say, instead of us  
16 mandating you to put in a public sewer system, what we  
17 are going to allow you to do because you have an  
18 unique township, because you have a unique situation,  
19 we will work with you on the septic systems that you  
20 have today, recognizing the cost is huge for you to  
21 put in public sewer.

22 We will work with you today, but  
23 you need to give us something, and what you need to  
24 give us is the assurance that you are protecting  
25 public safety and health by making folks or mandating



1  
2 that folks take care of their septic systems in an  
3 appropriate way. They have on the ground an SEO in  
4 the County Health Department that has a database that  
5 can help us in enforcing that.

6 MR. WOODLAND: Nate Woodland. The  
7 gentleman that walked out had asked a question earlier  
8 and we didn't get an answer. He asked for our  
9 Township to reach out to other municipalities to find  
10 out if we don't comply within a certain amount of  
11 time, what the fines are or what repercussions come  
12 about. What does DEP want? You said something about  
13 four years ago, but I couldn't hear you back here. I  
14 thought you were kind of beating around the bush a  
15 little bit.

16 MR. BROWN: I wasn't beating  
17 around the bush. If you don't comply with the state  
18 law, they can enforce it, and they can enforce --

19 MR. WOODLAND: What I am getting  
20 at is why can't our municipality reach out to other  
21 municipalities?

22 MR. BROWN: It can. They can talk  
23 to whoever they want to. That is not me doing that.

24 MR. WOODLAND: That's fine.

25 MR. BROWN: All I can do is tell



1  
2 you what the regulations are and any municipality, any  
3 political official can reach out to other political  
4 officials, but I will tell you that it's probably an  
5 equally good idea for the solicitor to talk to DEP and  
6 find out what they would do. I can tell you because I  
7 have been involved in probably over a hundred of  
8 these.

9 MR. WOODLAND: Have they been out  
10 here yet?

11 MR. BROWN: No, they refuse to  
12 come out. We have invited them to come out for four  
13 years now. They say they don't want to get involved  
14 in individual municipalities. We've invited them out  
15 to public meetings and meet with people in  
16 subdivisions, and folks from subdivisions have  
17 directly contacted DEP and, again, they don't want to  
18 participate in something like that.

19 I have been in other communities  
20 also where DEP has been invited to public meetings to  
21 address this directly and they refuse to participate.

22 That is not unique situation so I  
23 wasn't surprised when they said no. They will meet on  
24 a moment's notice with municipal officials. They will  
25 meet with people like me as long as I am authorized --



1  
2 MR. WOODLAND: Have we taken that  
3 step here?

4 MR. BROWN: We have been meeting  
5 with them for four years. I could tell you we meet  
6 with them every year. When Vince was the Township  
7 Manager, Vince would be on the phone with them on a  
8 regular basis. I am on the phone with them on a  
9 regular basis.

10 Ernie and I met with a hierarchy  
11 of them and that is when we walked away with  
12 possibilities. So we have done everything that I  
13 think is professionally appropriate to try to get them  
14 to come our way, and this idea of taking the septic  
15 system and making the septic system the key to all of  
16 this is what has come out of it, to try to keep the  
17 costs down for the residents.

18 MR. CHERNET: My name is Jeff  
19 Chernet. My question is, it seems to be a health  
20 issue?

21 MR. BROWN: Yes.

22 MR. CHERNET: Ernie, since when do  
23 you care about health? You don't care about our  
24 health. When did you care about health? All of a  
25 sudden? Thank you. That's it.



1  
2 MR. SWITZER: It doesn't sound  
3 like meeting with individuals that are employed by the  
4 government is going to sway them. So I don't know  
5 what kind of recourse this Township would have in  
6 trying to convince them this Township is special other  
7 than maybe setting up some kind of legal counsel at a  
8 higher level, or grouping multiple townships together  
9 and presenting similar situations in a larger force.

10 MR. BROWN: The issue is the  
11 regulations have been there for a long time. The  
12 other issue is there is a lot of communities that have  
13 complied with the regulations. Most everybody  
14 complies with the regulations. So they have had that.

15 They are empowered by the State to  
16 be able to enforce it. The other thing is  
17 Pennsylvania is a state that has what is called  
18 Primacy which means that all of the environment laws,  
19 all of the regulations that DEP sets forth are first  
20 passed by the Environmental Protection Agency in  
21 Washington.

22 So Federal law passes the  
23 environmental regulations. Pennsylvania and all other  
24 fifty states don't have a choice accepting Primacy or  
25 not. If they accept Primacy, what that means is they



1  
2 retain the right through an enforcement agency to pass  
3 an environmental law that is equal in stiffness or  
4 greater in stiffness to Federal law, and then their  
5 agencies have to regulate it.

6 Pennsylvania has passed a set of  
7 regulations. We talk all the time about Chapter 94,  
8 Chapter 73. All of these environmental regulations  
9 are in the Pennsylvania Code. So they have passed a  
10 series of regulations specific to environmental  
11 protection.

12 EPA had to approve those  
13 regulations and say, Okay, we accept you taking  
14 Primacy, and the agency that is going to enforce these  
15 rules is DEP. Should DEP not enforce the  
16 regulations -- and this has happened in two states --  
17 the Federal Government has the right to step in and  
18 say you are not enforcing those regulations. You no  
19 longer have primacy. We will enforce it. Then you  
20 really deal with the bureaucracy.

21 But in this aspect, we have taken  
22 this all the way up to the Southeast Regional Manager  
23 in Norristown who is the guy in charge of this portion  
24 of the state. We have talked to him about our plight.  
25 We have talked to him about this being a unique



1  
2 situation.

3           We have attempted to get him  
4 involved and we have, and that's part of why we have  
5 this answer to your question, Harold, why we have an  
6 option that they don't usually give other people, and  
7 that is if we can work out a program to insure that  
8 the on-lot systems are operating correctly, a  
9 mandatory program, and a voluntary program to make  
10 sure that the water supply is good and healthy.

11           Between the two of them, and  
12 recording this process through the Chapter 94 process  
13 back to DEP to show them that all is being done as it  
14 should be, then they are not going to force us to do  
15 anything right now because we have talked about what a  
16 unique situation we have here, what a unique committee  
17 we have here, and for us to provide public sewer to  
18 all of the developments -- you have a development here  
19 and then one that is two miles over here, and it costs  
20 like 150 dollars a foot to put sewer pipe in the  
21 ground.

22           So when you are talking about cost  
23 of a sewer system, the piping is what is the expensive  
24 part of all this. We have been through this. We have  
25 been through it really in detail for the last four



1  
2 years because of a couple of subdivisions. But in  
3 passing an Ordinance, you have to pass it for the  
4 entire township.

5 MR. SWITZER: Excuse me. Can I  
6 ask what your credentials are to speak on these  
7 subjects? Are you employed by the Township?

8 MR. BROWN: I work for an  
9 environmental firm. I am a licensed professional  
10 engineer, and I am also licensed as a wastewater  
11 system operator. I have been in Pennsylvania and I  
12 have worked with a number of communities here in  
13 Chester County along with many of the regulations in  
14 DEP for twenty years.

15 MR. SWITZER: So you have pretty  
16 good credence.

17 MR. BROWN: I would think so.

18 MR. HOLLING: You are certified as  
19 an engineer in how many states?

20 MR. BROWN: Eleven. I work with  
21 over two hundred water systems in eleven states and  
22 about seventeen countries.

23 MR. SWITZER: Are there any  
24 options outside of what he's saying that might pop up  
25 after you pull the trigger on one of the options



1  
2 presented that might be better? That's why I  
3 suggested maybe talking to other townships and what is  
4 your time window? Do you have time to survey a few  
5 townships in however many mile radius on how they are  
6 handling that?

7 MR. BROWN: Talking to them is  
8 always a good thing, but you are an unique Township.  
9 This situation here with DEP is unique. So we have  
10 been kind of like walking by the seat of our pants on  
11 some of this stuff because DEP, once it is built, will  
12 try to enforce the regulations specifically saying  
13 these are the regulations, you will comply with them.

14 So it's been an education process  
15 for us over the last three or four years trying to get  
16 them to understand that we have a unique situation  
17 here.

18 Once they come, however, and tell  
19 you that you will do it, you will do it. There is no  
20 other option. In answer to your question if we talked  
21 to other communities about it, they will probably tell  
22 you the same thing, that DEP said we had to do it, so  
23 we had to do it.

24 MR. HALLMAN: How many people  
25 stand up to DEP? Most people cower to DEP.



1  
2 MR. BROWN: Not necessarily. In  
3 Central Pennsylvania where we work also, there was a  
4 requirement for -- you have all heard about the  
5 Chesapeake Bay and the nutrients in the Chesapeake Bay  
6 and --

7 MR. HALLMAN: They blame it on the  
8 farmers, and if you look back on it, it's not the  
9 farmers' fault.

10 MR. BROWN: They did, but they  
11 can't regulate the farmers because the Department of  
12 Agriculture couldn't regulate sewage treatment  
13 facilities. So they passed a series of very strong  
14 regulations on what a sewage treatment plant can  
15 dispose of in Central Pennsylvania. When they did  
16 that, forty municipalities bonded together and filed a  
17 lawsuit against DEP and won.

18 DEP backed off mainly because the  
19 forty municipalities had more money than the state had  
20 for DEP to defend the lawsuit. The backside of  
21 that is you are probably not going to be get forty  
22 municipalities that have a situation like you have.

23 MR. HALLMAN: Most municipalities  
24 have public sewer.

25 MR. BROWN: Exactly. So what I am



1  
2 trying to do and what are trying to do here -- and,  
3 again, all of this is really useful because there are  
4 some things that we can do to try to modify the  
5 Ordinance to perhaps make it a little bit more user  
6 friendly, but it still has to contain certain things  
7 that DEP will insist upon to insure that what they are  
8 ultimately looking for is that septic systems are  
9 properly maintained and properly monitored so that  
10 they are assured that public health and the  
11 environment is protected.

12 So however we modify this  
13 Ordinance, which is easy to do, but we still have to  
14 have certain elements of that Ordinance in place so  
15 you can see that the septic systems are cared for.

16 MR. HUMPHREYS: In the background  
17 we have -- and in fact I am getting my septic system  
18 pumped, and I know when they pump it now, they have to  
19 submit the data to the database.

20 MR. BROWN: Correct.

21 MR. HUMPHREYS: And I learned just  
22 recently we, as a Township, can access that database  
23 and will be alerted when things are out of spec or  
24 need attention.

25 MR. BROWN: Correct.



1  
2 MR. HUMPHREYS: Irregardless of  
3 having an Ordinance right now. This is happening in  
4 the background.

5 MR. HALLMAN: Years ago they had  
6 the same thing.

7 MR. BROWN: Except that it went  
8 away.

9 MR. HALLMAN: Right.

10 MR. BROWN: What has happened then  
11 is --

12 MR. HOLLING: In the old version  
13 we had no access to it and we had to request copies of  
14 data and it had to be done by a county employee, and  
15 in this system we are going to have direct access.

16 MR. BROWN: It was paper data and  
17 what happened through the 537 plan and the Chester  
18 County Association of Township Officials, we were able  
19 to use that as a way to talk to the County and say,  
20 Look, this was a wonderful thing. John Venziale, one  
21 of the seniors in the planning section from DEP,  
22 thought it was great that we were able to come up  
23 again.

24 The County and the County  
25 Commissioners have now funded this for a three-year



1  
2 period. So this is being funded at no cost to the  
3 community on --

4 MR. HALLMAN: But eventually there  
5 will probably be a tax on haulers.

6 MR. BROWN: There might be.

7 MR. HOLLING: Actually, it's not  
8 that expensive.

9 MR. BROWN: It is very cheap but  
10 there might be a tax on it. I will tell you right now  
11 that the Township has access to the database. I have  
12 access to the database because I am also a municipal  
13 official just like you are, and so the backside of  
14 this is it's good information for us to track what is  
15 being done.

16 It's good information for us to --  
17 basically, the County is taking care of a lot of the  
18 administrative crap that we would have to do to  
19 monitor because you will get alerted if a system has  
20 not been pumped or not been maintained.

21 At that point, then you do have  
22 the administrative responsibility under this Ordinance  
23 to go to the homeowner and say, You know, you have to  
24 do this. We have an Ordinance on this, and this is  
25 what you need to do.



1  
2 MR. HUMPHREYS: What about a  
3 scenario if we didn't have an Ordinance? It's still  
4 reviewed by the County and if, in fact, because we  
5 don't have sewer systems, do we now have a target on  
6 our back where they are going to monitor this area and  
7 watch for trends?

8 MR. BROWN: Possibly. I can tell  
9 you that the SEOs are doing that now, because a lot of  
10 their files are now computerized where they weren't  
11 before. Many of the regulatory agencies have really  
12 gotten up to speed within the last several years in  
13 terms of getting a lot of paper data put in databases  
14 and such.

15 But you are absolutely right, now  
16 they have got a database for you and they watch for  
17 it, and if they don't see anything being done, they  
18 can turn around and fine the individual homeowners,  
19 and they can turn around and fine the Township for  
20 your non-participation in insuring public health.

21 So in my opinion that's a better  
22 way to work with the regulatory agencies than try to  
23 fight them tooth and nail. It's okay to throw a few  
24 punches now and then if they are being unreasonable,  
25 and that is what we are doing here with this option.



1  
2 We threw a lot of punches,  
3 actually, over the course of three or four years, and  
4 I think what we have is, in my opinion, as good a plan  
5 as we are going to get from DEP. The other option is  
6 to put in public water and public sewer system.

7 MR. HOLLING: I can point out that  
8 in the county system, the Septage Management System,  
9 one of the things that we are doing with that is we  
10 will be adding the type of system data into this  
11 database, and historically doing strictly a pump and  
12 haul database.

13 So we will be adding mechanical  
14 devices that are present so we can speak to the  
15 homeowner in the educational mode and say, Okay, it's  
16 time for you to change this or that. So we can start  
17 to reach out to the public and say, Hey, you've got  
18 one of these, this is the way to keep it maintained,  
19 and that is the voluntary part.

20 If people comply with the  
21 voluntary part, then the enforcement part has no  
22 meaning because they are already complying. So it's a  
23 balancing act, but if we don't take on something, DEP  
24 is going to find it difficult to work with us, and  
25 they may exercise or they may not exercise the



1 capabilities that they have.

2  
3 MR. BROWN: Usually what they will  
4 do is let it ride, let it ride, let it ride, and then  
5 without any notification you start to go phew, and  
6 then all of a sudden you get a letter in the mail  
7 saying you are in violation and this is the fine, et  
8 cetera, et cetera, et cetera.

9 MR. HOLLING: The cycle to the 537  
10 plan has been ten years. So I would suspect that  
11 people's focus is going to get there sooner than  
12 later.

13 MR. HALLMAN: This Township has  
14 been working on the 537 plan since the late nineties.

15 MR. BROWN: I know. The trouble  
16 is in many communities they are wacking everybody  
17 about getting their 537 plans completed and updated  
18 and such. So it's up to you. It really is tough from  
19 an environmental perspective right now, but what I  
20 would recommend to you in terms of dealing with this  
21 particular issue if you are not comfortable with the  
22 language entirely, if you think it's too burdensome or  
23 if you think everybody hasn't had a chance to comment  
24 appropriately for it, it is not going to hurt to wait  
25 on this for a month.



1  
2 I wouldn't wait three months, and  
3 I will, if you want me to, I will make myself  
4 available at no cost to the Township to insure that if  
5 anybody has questions they want to fire at me, I am  
6 happy to do it. I am happy also to bring people from  
7 my staff over to talk to you about it, too.

8 MS. CONTI: What was the cost per  
9 homeowner to add public water or sewer in those two  
10 neighborhoods?

11 MR. BROWN: Twenty thousand  
12 dollars and forty thousand dollars.

13 MS. CONTI: So it was twenty  
14 thousand dollars for the water and forty thousand for  
15 the public sewer?

16 MR. HOLLING: High forties, like  
17 forty-eight.

18 MS. CONTI: So in the meantime,  
19 when we had the public meeting with those homeowners,  
20 they were begging and pleading, can't you find an  
21 alternative solution. So this is the alternative  
22 solution to save those people 40,000 dollars out of  
23 pocket. Now, your expenditure in five to six years  
24 might be sixty thousand dollars.

25 So I don't know if we are helping



1  
2 them today, and they are probably all going to put  
3 their houses on the market before the next five years,  
4 and then in five years we might be back to where we  
5 are today.

6 So I don't know, but just for  
7 everybody's benefit in this room, they were quite  
8 contentious and they were very upset, and they are  
9 also residents of the township who didn't have twenty  
10 of forty thousand dollars to put into their property  
11 where they thought it was the Township's  
12 responsibility to help them out.

13 MR. WOODLAND: My question is,  
14 based on those two developments, you are now asking  
15 every resident to help them out.

16 MS. CONTI: We are asking you to  
17 do the right thing and that is what --

18 MR. WOODLAND: It could cost me --

19 MS. CONTI: Two hundred dollars  
20 every three years.

21 MR. WOODLAND: What if the system  
22 fails completely?

23 MS. CONTI: I wouldn't want to  
24 live in a house with a cesspool outside that didn't  
25 work.



1  
2 MR. WOODLAND: I am not talking  
3 about that bad.

4 MR. MENHAFFEY: First of all, I  
5 don't have a problem pumping my septic system. I do  
6 it routinely every three years. I just had it pumped.  
7 It cost 280 bucks. Who cares?

8 What I find interesting about this  
9 is what is going to be the cost -- I think Harold was  
10 on to it -- to administer the program for the  
11 Township? Because now you have data, the people that  
12 do the haulage have to pump data into a system. If  
13 they are not already doing it, it's going to put  
14 upward pressure on their costs.

15 MR. BROWN: What happens is the  
16 haulers are now under county regulations that already  
17 require it. So they already do it. So that gets  
18 taken care of.

19 MR. MENHAFFEY: That is why my new  
20 price is 280 and not 200.

21 MR. BROWN: The haulers put it  
22 into a database, number 1, and, number 2, the County  
23 funds the database for the next three years. They  
24 probably will extend it permanently, but for right now  
25 they have funding for three years and the program just



1 started.

2  
3 So there is no guarantee after  
4 three years. The other part about this is the County  
5 then makes that information available to the township  
6 at no cost. The cost to the township will be --

7 MR. MENHAFFEY: Someone is going  
8 to have to look at it and act on it, whether it's  
9 Jonathan or whether it's the solicitor or whether it's  
10 the engineer. Somebody has to look at it and come  
11 back to the Board of Supervisors and say, This is what  
12 we have.

13 MR. HOLLING: Not to complicate  
14 the situation, and that is a good point, but the way  
15 the system is designed, we would go in three years  
16 from today or three and a half years from today and  
17 say, Who has not pumped their system in three and a  
18 half years, and look at that data.

19 It wouldn't be a question of us  
20 going through every household figuring out what  
21 happened and what the cycle time was.

22 The system is designed to report  
23 that back by asking how many years has it been since  
24 it was last done. So I think that we have designed  
25 the system in a way that the burden is greatly reduced



1  
2 on the Township, contrasted with, as an example, one  
3 Township that Matt and I are both familiar with and a  
4 couple of people from the Township work on our  
5 committee as well, they have a 16-page questionnaire  
6 that the pumper/hauler must fill out and the Township  
7 then records.

8                   So they have clerks sitting around  
9 recording 16 pages worth of data, and the  
10 pumper/hauler has to fill out the 16 pages. This is  
11 simple thing from the pumper/hauler perspective. It's  
12 done on a tablet, with WiFi or by off a Smart phone.  
13 It's something they can do in the field without adding  
14 an extra burden. So it's really a simplified system.

15                   MR. BROWN: What happens is the  
16 guy pumps it, has the information right there, and  
17 registers the information right then and there.

18                   Don't get me wrong. There still  
19 will be some burden to the Township. There will be  
20 some administrative time, but keep it mind it's not  
21 something you would be doing everyday or it's not even  
22 something you will be doing every week.

23                   It might be something that is once  
24 a month where you might have about four to six hours  
25 you have to spend on the database information. That



1  
2 would be necessary.

3                   If you choose to change the  
4 Ordinance such that it provides it to be discretionary  
5 for people that don't live in their home twelve  
6 months, maybe six, nine months, that will add some  
7 burden also.

8                   MR. HALLMAN: Wouldn't it also be  
9 a burden when people don't pump and the Township sends  
10 them a letter, there is no response, and they will put  
11 a lien on, and then you start a whole legal  
12 proceedings against them?

13                   MR. BROWN: Absolutely.

14                   MR. HALLMAN: And that is going to  
15 be more than four to six hours.

16                   MR. SWITZER: The township is  
17 going to call a local zoning guy to come out to levy  
18 against them.

19                   MR. BROWN: If somebody is not  
20 pumped, the SEO from the County will come out and do  
21 that.

22                   MR. HOLLING: And that is a county  
23 expense.

24                   MR. BROWN: A county expense. The  
25 SEO service from the County is free. We don't pay for



1  
2 those.

3 MR. ROBERTS: Ted Roberts. The  
4 cost to the homeowner is going to be a couple hundred  
5 dollars a year?

6 MR. BROWN: Actually, a couple  
7 hundred dollars every three years.

8 MR. ROBERTS: How many companies  
9 are in the business of trying to get these contracts?

10 MR. BROWN: Within Chester County,  
11 I think there is upwards of around thirty. There were  
12 15 or 16 that showed up at the meeting with the  
13 County, and the County people estimate that was only  
14 about half of the haulers in the County that showed  
15 up. So there is about thirty different licensed  
16 haulers.

17 MR. ROBERTS: Are we going to  
18 monitor the amount of water that our wells use or the  
19 households use from those wells? Do you have any idea  
20 how we are affecting the county water levels?

21 MR. HOLLING: There was not a plan  
22 in this to measure the consumption of water from  
23 wells, Ted.

24 MR. BROWN: We are not going to  
25 measure consumption. There is a second part to this.



1  
2 That's a voluntary program to getting treatments  
3 systems for your wells. That will not require an  
4 Ordinance. It will just be a voluntary program, but  
5 it's not going to measure the flow from the wells from  
6 a water perspective.

7 Right now within Chester County,  
8 there is so much water underground that you are not  
9 going to affect the volumes of water, but you can  
10 affect the quality of the water.

11 MR. ROBERTS: I know a lot of  
12 people around here whose wells don't have the capacity  
13 they used to, so that is not true.

14 MR. BROWN: It is.

15 MR. ROBERTS: Well, on an average  
16 basis but not on a per homeowner basis, because there  
17 are lot of people since the developments have happened  
18 where their wells don't give as much water as they  
19 used to and the water table has dropped.

20 MR. BROWN: And the reason the  
21 water table has dropped is most wells have only dug to  
22 the depth they needed to be for the amount of water.  
23 There is a lot of water underground. You can go  
24 deeper.

25 MR. THOMPSON: The way I read



1  
2 this, there is an inspection every three years.

3 MR. BROWN: Correct.

4 MR. THOMPSON: With regard to the  
5 two developments, if they would fail the inspection,  
6 what would we do at that point then? Don't we end up  
7 in the same place where they will be required to  
8 remedy the failed system?

9 MR. BROWN: No, here is the part  
10 where I was talking about the County will allow us to  
11 use the regulations that were in place when the system  
12 was built. If they find that there are holes in the  
13 tank, the tank is going to have to be replaced. If  
14 they find they have crushed pipe in the drain field,  
15 the drain would have to be replaced.

16 So what they are willing to do as  
17 part of that for regulations and systems put in in  
18 1978, they are going to grandfather in the regulations  
19 in 1978 as long as the system is in good working  
20 order.

21 MR. THOMPSON: To my  
22 understanding, we have already identified these  
23 systems that aren't in good working order and that is  
24 why we are here.

25 MR. BROWN: Right, there are some



1 systems that are not in good working order.

2 MR. THOMPSON: So the question is,  
3 so if we have those systems that are not in good  
4 working order, they would be required to remedy them.

5 MR. BROWN: Absolutely, and for  
6 more than a few their property value goes to basically  
7 nothing at the end of the day because basically it's  
8 the same result as we have today but we impact the  
9 entire community.

10 MR. THOMPSON: Except in some  
11 cases those particular homes it would basically be on  
12 a pump and haul basis.

13 MR. BROWN: True, people do that.

14 MR. THOMPSON: That may be an  
15 option. I think there was a comment that it was very  
16 contentious when we met with these homeowners.

17 MR. BROWN: That is an option  
18 because if there is not a remedy to replace the  
19 system, then the only other option is you essentially  
20 get into nothing more than a holding tank that has to  
21 be pumped more frequently, but what it does do is it  
22 complies with the environmental regulations.

23 The other thing we did is we have  
24 gone to this area and we tested water, and we found a  
25



1  
2 couple of homes that had water that was tainted from  
3 bacteria. Anyway, they weren't necessarily the same  
4 homes that you would have a failing septic system in.

5 So one of the other things that we  
6 need to be cognizant of is my house could be here and  
7 your house could be here, and my septic system could  
8 be fine, but my well is failing now in terms of  
9 bacteriological content because your septic system up  
10 here has failed and flows down into my well.

11 So all of these things need to be  
12 taken into consideration, and in answer to everybody's  
13 question, there is no regulation that is fair for  
14 everybody. It's never fair for everybody.

15 MR. THOMPSON: It's a little bit  
16 different when we start talking about other aspects of  
17 our life, but as you mentioned the meeting was  
18 contentious with the community with facing potential  
19 expenses.

20 I think it's important for all of  
21 us to consider, look, a septic system is twenty to  
22 thirty thousand dollars, and a well is ten to twenty  
23 thousand dollars. That's forty thousand dollars.  
24 These people are looking at potentially \$60,000.

25 What they are doing is they are



1  
2 asking their neighbors to, in essence, pay for it for  
3 the next five to ten years. The way I look at this is  
4 that is the idea of private property. If my system  
5 fails, unfortunately, I am the one who is paying for  
6 it.

7                   So I understand where they are  
8 coming from and I can definitely appreciate the  
9 concerns they have, but I am not going to ask my  
10 neighbors in my township to pay for my septic system  
11 if it fails.

12                   MR. HOLLING: If I can come back  
13 to that, if your system fails and I live next door to  
14 you, my water may fail. That becomes --

15                   MR. THOMPSON: You call the sewage  
16 enforcement officer and you tell them that my system  
17 is failing.

18                   MR. HOLLING: If I test regularly  
19 that my water is bad, yes. Is it an unfair obligation  
20 for you to make sure that your system is operating  
21 correctly over the three-year life cycle?

22                   I would expect as a homeowner --  
23 first of all, that is a minor expense for most of us  
24 in this room, if not everybody in the township. To  
25 spend \$300 every three years, it's a very minor



1  
2 expense.

3           The reality is we should be  
4 complying with maintaining the systems to begin with.  
5 To Harold's point, part of it is to educate, but part  
6 of it is being able to enforce it and push it  
7 somewhere, and if we don't have an inspection program  
8 to know, I can't trigger the SEO until there is a  
9 health failure, because I don't know that you didn't  
10 pump your well until my water becomes bad, and then I  
11 report my water is bad because you didn't do your due  
12 diligence.

13           MR. THOMPSON: Just to be clear,  
14 pumping your system every three years does not  
15 necessarily mean anything. If I hardly ever spent any  
16 time there or it's just me there, I can probably go  
17 ten years without pumping it.

18           MR. HOLLING: And that's what  
19 Harold is saying.

20           MR. THOMPSON: If I pour bacon  
21 grease down the drain, every three years is probably  
22 not enough. So I definitely appreciate the  
23 environmental impact. I think it's important. That  
24 is why we live here. That is why we don't live in  
25 urban areas.



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MR. HOLLING: Right.

MR. THOMPSON: But from the same point of view, we have to make sure if we are imposing the cost on a resident, that there is an impact that addresses the actual issue. If your septic -- if your well is contaminated with bacteria, more than likely you smell your neighbor's sewage, and if you haven't called the SEO --

MR. BROWN: The other thing to keep in mind, too, is one of the things by applying this regulation or Ordinance township-wide is we really only looked at two or three developments. We don't know where else there might be failing septic systems.

This is something that DEP brought up in our meeting. They asked us the question, Do you know where you have failing septic systems? We said, No.

The SEO doesn't know because usually the SEO doesn't come out to inspect a septic system unless there is, A, a change or, B, there is a complaint. And because of the uniqueness of the Township in terms of density and such, the other thing this will do, just from a responsibility standpoint on



1  
2 environmental compliance, it's going to tell us who  
3 has a good system and who doesn't have a great system.

4 It's essentially going to have a  
5 positive impact on the Township as a whole relative to  
6 insuring the environmental quality. So there is that  
7 issue too. Again, I work for you. I work for you.

8 MR. HALLMAN: If you are diligent  
9 about pumping your septic system, you shouldn't have  
10 to worry about that and you should be able to go on  
11 your own schedule and not have big brother mandating  
12 that you pump every three years or five years or ten  
13 years.

14 MR. BROWN: Not to be a smart  
15 aleck, but I can get my daughter to clean her room and  
16 I can't get my son to clean his. So the answer is,  
17 you are absolutely right. If you are diligent in  
18 keeping your septic system up to date and pumping and  
19 maintaining it, if you are that way, that is  
20 wonderful.

21 But I will tell you in my  
22 experience, 70 to 75 percent of the folks don't. They  
23 basically just let it go until there is a problem.

24 MR. HALLMAN: And a lot of those  
25 people who are not educated.



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MS. CONTI: It's not even that.  
If you are a busy person and you are working and life is moving, you go, Oh, look, has it been three years or five years? Oh, my God, it's been eight. I need to do that. I would love a reminder. I would love a reminder.

MR. HALLMAN: That goes with the aspect of education.

MS. CONTI: I know I am a somewhat responsible person, but I would still love to have a reminder.

MR. HALLMAN: The Township could do that. They could send postcards out or a newsletter or something like that reminding people to pump their septic systems.

MR. HOLLING: I suspect that falls into the same category in general regulations as speed limits on roads do. We post roads because we've made studies and looked at accident reports and they say 45 miles per hour there. In this case we are saying for public health and safety, three years is a good number to play with.

Then, Ben, you may be able to drive your Lamborghini at 90 miles an hour down 113,



1  
2 but my Buick won't quite make it. So different rules  
3 for different folks.

4 MS. CONTI: But when Shane pulls  
5 them over, he is not going to say, I am special  
6 because I have a Lamborghini and I can handle these  
7 curves at 120, he is going to issue a ticket.

8 MR. BROWN: Harold, again, you are  
9 absolutely right. Everything you are saying I agree  
10 with you a hundred percent. However, there is the  
11 other portion of this in dealing with a regulatory  
12 agency. We have to come up with a plan for the  
13 regulatory agency, who is not going to trust the good  
14 word of the residents.

15 MR. HALLMAN: It's like the good  
16 residents of the Commonwealth don't trust the DEP.

17 MR. BROWN: That is exactly right  
18 and, basically, what we need to do is we need to come  
19 up with a plan that is in writing that is enforceable,  
20 that DEP can say, all right, we will let you break the  
21 environmental regulation because you are an  
22 exceptional community.

23 We are not going to force you to  
24 put in public water. We are not going to force you to  
25 put in public sewer, but we want you to follow this



1  
2 program, but we can take that a step further.

3 In other communities we have  
4 issues where we are trying to prolong septic life  
5 through getting rid of things, garbage disposals and  
6 stuff like that, and teaching people how to deal with  
7 food waste and other ways to prolong the life of their  
8 septic system. That is all good stuff we can do here.

9 Like I said, it would not be a bad  
10 thing not only with the passage of an Ordinance, which  
11 you pretty much have to do unless you want to go and  
12 do battle with DEP, but it would be really good to put  
13 on a series of seminars and teaching people how to do  
14 this, providing materials to people to show what they  
15 can do to help extend the life of their own septic  
16 system.

17 You don't want to pour bacon  
18 grease down your sink three times a day or whatever,  
19 but there are good processes through education on how  
20 you can insure that you have a system that operates  
21 correctly.

22 Not only that, in some of the  
23 other communities I deal with, I got a call from one  
24 woman one day where she was petrified because her  
25 drainage field had always been wet back there, and she



1  
2 said the kids like to play back there.

3                   After a rainstorm they will splash  
4 through the water back there, and she wanted to know  
5 how does she tell whether or not this is septage or  
6 not.

7                   I asked if it smelled and she  
8 said, No, not extraordinarily. But we did do a test  
9 on E coli back there and found there to be a  
10 significant amount of it in the water that was  
11 standing in that area, which tells me that the septic  
12 system has failed.

13                   So, again, it's not imperative  
14 that you pass this tonight, and this has all been  
15 wonderfully good dialogue and I have been making Mike  
16 take copious notes here for us to try to help, and it  
17 doesn't hurt for us to try to maybe streamline this  
18 with Guy, try to streamline this Ordinance a little  
19 bit.

20                   MR. HALLMAN: I think there might  
21 be some people here who might like to be involved in  
22 adding some input into this.

23                   THE CHAIRMAN: Do we have sixty  
24 days?

25                   MR. BROWN: Sure. I would



1  
2 suggest, however, passing this no later than that.

3 THE CHAIRMAN: Okay. So what if  
4 we agree to re-open this in sixty days. In the  
5 meanwhile you said you would field questions from  
6 people. So people could e-mail their questions to the  
7 township and we can forward them to you?

8 MR. BROWN: You can do that to me.  
9 I just gave the recorder my last business card, but  
10 everybody should have my e-mail. I would actually do  
11 this, if you want to. I don't live far from here at  
12 all, so it makes it very easy for me to pop by on an  
13 afternoon, and if somebody wants to pick a day I can  
14 just come over here and spend the afternoon and work  
15 off my laptop. Then if anybody comes, I would be here  
16 to field questions and we can talk and debate.

17 THE CHAIRMAN: The other thought I  
18 had was setting a date where people can come in to  
19 discuss this or ask questions.

20 MR. BROWN: I would be more than  
21 happy to do that a couple of times between now and  
22 maybe once a week for the next four weeks or something  
23 to allow that. If you want to hold another public  
24 meeting, I would be more than happy to come to that  
25 too. Mike costs money. I don't.



1  
2 MR. SWITZER: Can I suggest that  
3 the township let everyone know through other means  
4 than they have? My wife works in the environmental  
5 business, so I am sure she would have input on this as  
6 well.

7 MR. BROWN: I would be happy to  
8 come out some evening if you want to hold a meeting,  
9 whether it be a public meeting or just an open forum  
10 and answer questions.

11 THE CHAIRMAN: Maybe in a month we  
12 could have an open forum and then continue this for  
13 sixty days and bring it to a vote then.

14 MR. BROWN: Right. I am not here  
15 to fight with anybody.

16 MR. MERCURIO: Frank Mercurio,  
17 M-e-r-c-u-r-i-o, Pikeland Road. I think that is an  
18 excellent idea. I would also add that there has been  
19 a tremendous amount of good information going back and  
20 forth here tonight.

21 If you just bring Matt in and say,  
22 we are going to talk about sewers and ask questions,  
23 that will be a nightmare. What I would suggest is  
24 that all of this information could be put into a  
25 relatively simple -- not this -- relatively simple



1  
2 FAQ, what is DEP requiring us to do? How are we  
3 deciding to respond to it?

4                   What are some of the consequences  
5 if we do? What if we don't? What are some of the  
6 costs? What could be the cost to an individual? And  
7 kind of set the dialogue up ahead of time, so that  
8 everybody is coming at it from roughly the same  
9 knowledge base, and then he won't be answering the  
10 same question eight hundred times. You can also get a  
11 lot of this information out ahead of that.

12                   MR. HOLLING: So a white paper  
13 kind of content?

14                   MR. MERCURIO: I wouldn't even go  
15 that far, Ernie. I am thinking two pages: What, why,  
16 how, where, when?

17                   MR. BROWN: Let me take a shot at  
18 that and give you something to review, and let's set a  
19 date on that for next week or something like that for  
20 the draft. You can go through it and mark it up. I  
21 would also like to send a copy to Guy to get his input  
22 on this, if you don't mind.

23                   Then if you want to schedule a  
24 meeting, I will be prepared to do a presentation of  
25 that information and how we ended up where we are, not



1  
2 more than maybe fifteen to twenty minutes to keep it  
3 brief, and in between, the Frequently Asked Questions  
4 sheet.

5                   The presentation, I will make  
6 myself available to answer whatever questions you have  
7 if you buy me donuts the next time.

8                   MR. KNAPP: Can we get a list of  
9 the other municipalities in the county that have  
10 enacted this?

11                   MR. BROWN: I will ask for that  
12 list from the county directly. I will request it. If  
13 I get it, you will have it. If I don't have it, I  
14 will do my best to find out who does.

15                   MR. KNAPP: Well, it shouldn't be  
16 too hard.

17                   MR. BROWN: It shouldn't be too  
18 hard, but you never know.

19                   MR. KNAPP: It would be hard if no  
20 municipalities had it.

21                   MR. BROWN: But there are a number  
22 that do. Sometimes it may require us to visit the  
23 website of a municipality.

24                   MR. KNAPP: Why can't your friends  
25 at DEP just say, Well, yes.



1  
2 MR. BROWN: It's not always that  
3 easy with DEP.

4 MR. HOLLING: It's definitely not  
5 that easy. We can talk to Jean about that. She may  
6 have a list of what has been enacted.

7 MR. BROWN: I think it sounds like  
8 for a lot of this stuff, we need a chance to talk  
9 about it. I think we can sit down with the  
10 supervisors and we can talk about what changes you  
11 want to make to the Ordinance at that point, and then  
12 we would be in a position in May because you don't  
13 want to go any further than that.

14 THE CHAIRMAN: Why don't we set  
15 the hearing for May. In the meantime we will set a  
16 date in April for that open forum. We will close the  
17 public hearing at this point.

18 MR. BROWN: May I make one further  
19 request?

20 THE CHAIRMAN: Go ahead.

21 MR. BROWN: Harold brought up some  
22 really good points and it would be good to address  
23 those to the public. Thank you.

24 THE CHAIRMAN: So we will go ahead  
25 and close the record and reopen the meeting.



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(At 8:35 p.m., proceedings were concluded.)

C E R T I F I C A T E

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me in the above cause and that this is a correct transcript of the same.

  
THOMAS P. CORCORAN,  
Court Reporter

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