

March 8, 2013

A Special Meeting of the Lehighon Borough Council was held in the Municipal Building on Friday, March 8, 2013. The meeting was called to order at 10:30 a.m. by President Grant Hunsicker. Members in attendance were: George Kogut, John Kreitz, Bessie Bauchspies, John Bird, Darryl Arner and Scott Rehrig.

Officials in attendance were: Borough Manager Nicole Beckett, Borough Secretary Brenda Koons, Solicitor James Nanovic, L&P Superintendent Lonny Armbruster, Norm Barron & Jim Havrilla of Utility Engineers.

Pledge of Allegiance

New Business

Discussion of the Hydro Electric Project

- A. Comments from attending constituents
- B. Board Comments/thoughts and recommendations
- C. Next Steps/Proposals

Councilor Kogut started off the meeting by introducing Christine Kocher from the Army Corp of Engineers, Craig Engler of Summit Water, Greg Brant of ER Hydro who is an O&M specialist and does the O&M on a municipal owned hydro plant in Pennsylvania on an Army Corp dam, Paul Nolan, Summit's Solicitor and Regulatory Specialist, Kim Hanson of MWH.

Councilor Kogut told the room at large that he would invite discussion on the proposed hydro project from anyone present.

Mr. Frank Frable of Lehighon said that since 1970 \$2.5 million has been put into this project by the borough and they still haven't gotten anywhere with it. There borough has too many irons in the fire right now. A fire station is being built, an addition to the L&P building is being looked at, the borough has a big headache up on the hill with the high school (Annex) because the overhead is terrific. Where are we getting all this money? Mr. Frable feels this is the wrong time to do this. Council has waited since 1970 and with people being laid off he feels it is the wrong time to do this. He doesn't see what the benefit is to the borough until the people present get done with their spiel of whatever they are going to present.

Councilor Kogut thanked Mr. Frable for his comments and said this is the reason for these meetings. We need to get all these issues brought to the forefront before making a decision. Councilor Kogut said this meeting is being combined with the Economic & Business Development meeting so the business owners could be present to give comment on the hydro project. He was glad to see that some of the business owners were able to make it this morning.

Greg Brant of Somerset County spoke first. He operates a hydro plant on an Army Corp of Engineers Flood Control Project. It is very similar to Beltzville. A local ski resort had its own borough and a group got together to obtain a municipal license to construct and operate a hydro electric plant on the reservoir. The plant was built in 1987 and the first power was generated December 1989. The borough didn't want hands on operation and the funding came from a private effort with the borough holding the license. The borough

spun off a municipal authority to oversee the project. They hired Mr. Brant's company to take care of the operation and maintenance, coordination with the Army Corp of Engineers, with FERC and have operated ever since. It has been a well run operation every year.

The turbines that are in place for the past 24 years show no measurable wear. They are expected to last well over 100 years due to the very clean water from the lake running through causing no erosion. It is a big undertaking to build one of these but once it is up and running they run pretty smoothly afterwards. It is a 12 megawatts facility with two 6 megawatt units.

Councilor Kogut asked what the role of the Army Corp of Engineers was. Mr. Brant said he deals with them on a daily basis. George then asked about flows and things of that nature and how often they change. Mr. Brant said they also change daily but generate about 42 million kWh a year.

Mr. Brant said that most of the maintenance is on the secondary equipment that supports the main turbines where we may have to replace a few components at the 20+ year mark. He still has 3 original hydraulic pumps. His generator bearings still have the original oil in them so we just monitor them for wear. We have had no bearing failures over the years. One of the swag gates needed an overhaul after 17 years. The major components have held up rather well.

Councilor Kogut asked who held the license and was told the borough transferred the license to the municipal authority. Mr. Brant's company cuts the municipal authority a check once a year. The municipal authority is not hands on. They delegated that to his company and we have a long term contract with the borough of Seven Springs on the Youghiogheny (pronounced Yockaghany) River.

Mr. Brant said their plant is a little bit bigger than the Beltzville project will be. They keep two full time employees just to make sure they meet all the Corp's demands and to cover everyone's days off. When the project was built the remote access capabilities were not what they are today so you could probably get by with less people today. O&M costs would be slightly less because of size and scale. They are completely self-sustaining financially.

Joe Bennett who owns a business in Lehighton asked Mr. Brant if his company pays the Corp of Engineers for the license and was told no. Mr. Brant said it is not really a license. The Corp does get an annual fee through the licensing agreement. Mr. Bennett asked why they weren't going through PPL to contract with them since they have the grid. Mr. Brant said they do sell to the grid. It's municipal preference on the license. It is easier for a borough to get a license than a private entity. Mr. Bennett asked why a borough should be in business. What is the benefit? Mr. Brandt said their project is making money and the borough is receiving money from them there by receiving revenue that can lower their tax base.

Mr. Bennett asked who else is competing to get this license. Mr. Engler said the borough would have nothing to show for it with the license alone. The borough went through the process for obtaining a hydro electric license many many years ago. The borough received the license and decided it wasn't economically feasible to build the project. So basically the license was just

sitting there. Gravity Renewables contacted Summit to see if they would be interested in providing the capital to build the project. The only reason it became feasible is because Summit helped the borough apply for a grant from the State of Pennsylvania. The State of Pennsylvania is contributing \$5.5 million to the project. Mr. Engler's group would put up the other \$8 million for the project. No money out of the borough. Whatever money was spent obtaining the license is wasted if the project isn't built. They are hoping to build it, give the borough some energy savings, annual revenue with Summit taking care of all the operations and maintenance with no out of pocket dollars from the borough.

Mr. Bennett said he is totally against this project but understands the borough has an asset and asked why Summit doesn't just buy the license. Mr. Engler said it is a FERC issue. Mr. Bennett asked what rate of return would be paid. Mr. Engler said it depends on how much energy is produced and how much they sell it at. There are a variety of ways to save money and make money. One is to buy the power from the project which could cover half of the borough's electric usage. Above a certain threshold the borough would receive 20% of the profits which equates to somewhere between \$5 & \$6 million over the life of the project. Mr. Bennett said say for example, right now you have a \$5 million investment, what rate of return would the borough receive on that \$5 million investment? Mr. Engler said if you do nothing it is a sunk cost. Other than that he can't speculate. But say the borough spends \$1 million; the borough should expect to receive \$5 million over the life of the project, with the life being 49 years.

Mr. Bennett said that this borough has mismanaged certain assets. He leases to two tenants in this community. They pay they don't pay. He takes a risk. He owns a business and pays taxes. He appreciates anyone that is willing to take a risk. This municipality is in business against property owners; they are competing against the landlords with this building (Annex). This building is losing \$150,000 plus a year. So when they talk about going into business they have a history of losing their shirt. The electric company is very profitable and they can be when they are not competing with everyone else out there. Mr. Bennett said he would be in favor of selling the electric company. He feels the municipality should allow the businesses using the most power to buy from the grid at competitive rates. We are paying so much more that it hurts our business with that additional tax on the electric bill. And there are some big electrical users in this borough. So the history of them being in business has not been a good one unfortunately. We get what we deserve.

These are good people up here and they are trying to make the best decisions. It's not the people it's that they go against the advice that they get. They were advised not to go into the Annex up there but they did. They have 12,000 and some square feet they are not charging for. It's a farce and it continues every year losing \$150,000 a year.

Glenn Claypoole said there have been a lot of unknowns on this project from Mort Smedley until now. There is one thing that is certain and that is it's not the borough's place to be in business and run competition against landlords and against other businesses. It's not the borough's place to be in a

profit making arrangement for the sole purpose of making money. That should be left to the private individual. This hydro plant has been a farce since the day it was announced. PPL and others would give power and service. The borough does not need to be in that business.

Wayne Gaston of Alfie's Pizza agreed with Mr. Claypoole that the cost of electric is high but on the other hand as soon as we get a problem or something and the power goes out it is fixed the same day or a street light is out it is fixed the next day. Mr. Gaston would prefer to pay a little more to get good service. He remembers a few years ago at Christmas when we were the only one that had power. Everyone all around us was calling PPL and had to wait days. We were out of power but they were right on it and we had power again. When the hurricane came through and lights were out on 2nd Street they were there within a half hour. Do you know how long you would have had to wait for PPL? So Mr. Gaston does know it costs a little more money but it is worth it though. He doesn't agree with everything but you do get good service.

Mr. Claypoole is not knocking the borough or the service of the borough. It is excellent. What we are talking here is dollars. A convenience store is a wonderful place but then say good bye mom-n-pop stores. Mom-n-pop is what made this country. Yes there is a convenience but there is a cost and we can't afford the cost.

Mr. Frable said with the building up on the top, Mr. Hunsicker quoted me that with all the grants that they got they are not allowed to make a profit on the building so what do you want with it.

Councilor Kogut said he appreciates the comments but would like to keep it pertaining to hydro.

Mr. Carl Teets of the Lehighton Water Authority asked if the borough would be charged for the water that comes out of the dam. Is that true? Mr. Brant said they have a lease with the Army Corp of Engineers. It is a flat rate lease fee every year. Mainly it is a lease for the ground they are using. Mr. Teets then asked if they had to pay for maintenance on the entire dam and was told no. Mr. Teets said years ago they were considering Beltzville for their water but were told by the Corp of Engineers back 15-20 years that if they use any water out of the dam even though they would not be connected they had to pay for every gallon of water they pumped not out of the dam but below the dam and maintenance on the entire dam each year. We were going to go down stream of the dam to build our pump station.

Ms. Kocher said she is not a lawyer and doesn't know all the details. She does know part of the water is owned by the Delaware River Basin Commission and any municipality that takes water from them has to pay a fee. Mr. Brant said this project would be considered run of the river. It just passes through the facility and is not used anywhere else so it creates a different situation. There is a flat lease fee with the Corp and that is it. They have nothing to do with the dam.

The Borough Manager said she had provided council with a letter from June regarding the proposed project and the geo-technical investigation. She had some questions and needed some clarifications while council was here pertaining to the letter.

She referred to the Section 408 and Section 404 permitting process and how long it takes. Ms. Kocher said it's a matter of getting the borough's plans and deciding whether or not it is going to have a negative effect on the dam and if it could possibly cause an increase in risk to people downstream. You need to have the full set of plans and go through a peer review or a technical review. You can have an outside organization do an independent technical review or have the Corp's hydro power design center do the review. She believes this can take up to 6 months.

Nicole asked about the Section 404 environmental permitting. Ms. Kocher said she isn't sure but thinks it is a shorter process. She thinks it's just an environmental permit making sure the water you put back in is the quality we expect temperature wise, dissolved oxygen and those types of things. Nicole asked about the geotechnical investigation that was started. How long is that process? Ms. Kocher said at this point there is no other investigation to be done. There is a seepage issue that is showing itself at the base of the dam close to where the project will be located.

Councilor Kogut asked if this would be considered a risk. Ms. Kocher said possibly but it may just need to be mitigated in some way like a seepage control. They are looking to see where the seepage is coming from, if it's a major/minor problem. They will be doing a periodic assessment of the dams in May. It is a more detailed investigation looking for potential risk factors. In 2009 they were given a DSAC 3 meaning there are some issues needing to be addressed.

Nicole next asked if anyone could explain the agreement between the Army Corp and the borough. Ms. Kocher said she hasn't looked at it since 2009 but would try unless one of the attorneys wished to take the question.

Nicole said if you read over it you can understand the whole process but maybe explain the part where the Army Corp is willing to work with the borough through the whole entire process.

Ms. Kocher said the government is basically encouraging municipalities and other small groups to develop hydro power. We have the dams and the potential for hydro power to benefit the municipalities. We will work with you and give you the information you need, we will give you access to our as-built plans for the dam. We will accommodate you when you want to come and visit the dam. We are working with you and MWH and Summit to keep the project moving. This is our commitment to you.

Councilor Arner said borough council has a copy of a letter from Mr. John Burn of the Army Corp of Engineers that was received last June. Councilor Arner said that he realizes the letter is about 9 months old but in the letter it states that the tests could take up to 3-4 years depending on the budgetary release from congress. Councilor Arner wonders how that will affect the project as far as the cost of the project, our ability to sustain the grant and the FERC license.

Ms. Kocher said she thinks all they are planning to do right now is the geotechnical. Unless something comes about in the periodic assessment she doesn't think they plan to do anything more. Mr. Engler said as he understands it there is nothing to delay us from moving forward. He also said

that the borough can choose to buy zero power or they can buy some of the power or all of the power and most likely be done through AMP where the borough currently buys their power now. We are willing to sign a long term lease. This is a 49 year project and we will sign a 49 year lease if the borough so chooses to do so or we will sign a 5 or 10 year lease if that is what the borough wishes to do. The choice is theirs to make but this can be decided on at a later time. The nice thing will be that the borough will know exactly what the cost is going to be per year.

Mr. Claypoole said with respect to the Army Corp of Engineers, they are not looking at the effect of this power plant sitting on the breast of the dam trembling or vibrating or whatever. The subject here is water. There are too many unknowns and guesses to even imagine what could go wrong. It would do you better to get out of the electric business and go with PPL. There is too much talk and too much unknown to go ahead with this project. You say you are going to guarantee something for the next 50 years when the federal government can't guarantee something for the next 50 minutes?

Mr. Engler said the one nice thing about hydro is that it has been around this country for a hundred years.

Councilor Kreitz said whether or not we buy the power is not the issue. We hold the golden egg. We hold the license. What we do with that license is what needs to be decided. If we choose to just get the profit out of it then we are recouping what we have already spent. With what we have now we are going to lose it. They are business people. They are not going into this for zero gain they know what is going out. If we can make something out of it to offset tax revenue in this borough then we are fools for not going after it. Mr. Bennett said yes if, if. Councilor Kreitz said that "if" comes down to the solicitors not council. Council is not legal authorities to sit up here and say that. That is why we have to make a motion to make the next step which is to have our solicitor draw up the plan. Not everything is bad. It is the way we approach it to finish this out. It is working for some municipalities and he thinks they would be fools to let the golden opportunity go and say the hell with it; we don't want to be bothered with it. Council would not be doing the public justice by not taking advantage of something that would be good.

Solicitor Nanovic asked if council was of a consensus to allow him to work with Solicitor Nolan regarding an agreement between the borough and Summit. Councilor Kogut recused himself from the consensus but the other 6 councilors agreed to have our solicitor work on an agreement with solicitor Nolan.

Mr. Claypoole said there is an issue at hand here. Forget the building up there. We are talking about the principle. The borough is not to be in business. The borough has gone into \$300,000 on this thing and we can recover from it if we use the license. Getting \$100,000 a year out of this whole thing you can stop this project right now and save \$5 million which is part of the \$16 trillion that he and his grandchildren owe. We do not need it then or now. We could not afford it then or now. We just do not need it.

Adjournment

Motion to Adjourn the Meeting

Councilors Rehrig/Kreitz made the motions to adjourn at 12:13 p.m. and all were in favor.

Brenda L. Koons
Borough Secretary