



Policy Briefing Summary *Borough Council and Mayor*

RE: Stormwater Utility Ordinance

Date Presented: 30 May 2019
Prepared By: E. Ratliff
Proposed Meeting Date: 30 May 2019
Proposed Date of Action: Spring 2019

Action Forcing Event Initiating Borough Council Action/Review

The Borough Council has asked staff to setup a Stormwater Utility to separately fund all stormwater obligations including the Municipal Separate Storm Sewer System general permit requirements and stormwater infrastructure costs.

Background Information

The Borough of Greencastle owns and operates an extensive network of stormwater management infrastructure. The Borough is also designated as a Municipal Separate Sewer System (MS4) community per the Environmental Protection Agency (EPA) and Department of Environmental Protection (DEP). Among other things, being an MS4 community means that in that next five years we must reduce our sediment load as determined by DEP by 10%.¹ The permit cycle begins in 2019 and the Borough Treasurer has reported a projected total costs of \$3,596,120.42.²

The Borough of Greencastle is challenged to determine a way to fund the MS4 expenses realizing that the majority of expenses are capital projects or engineering to support such projects. The Solicitor's office has provided a memo that outlines a court case which gives the Borough of Greencastle the legal authority, through its police powers, to levy a reasonable stormwater fee.³

If the Borough Council and Mayor elected not to enact a stormwater fee then it could use general real estate taxes, capped at 30 mills, to fund the obligation.⁴ If the Borough Council and Mayor were to recommend that the MS4 and stormwater management obligations be funded through real estate taxes that would require additional mills in taxes raising the general millage to a total greater than the maximum 30 mills in violation of the Pa Borough Code.^{5 6}

¹ Greencastle Borough Pollutant Reduction Plan, January 16, 2018, 16

² Borough of Greencastle MS4 Budget and Revenue Plan 052919, 1

³ Memoranda to Ronald J. Grutza, June 8, 2018, Storm Water Legislation

⁴ Pennsylvania Borough Code, Section 1302(a)

⁵ Borough of Greencastle Proposed 2019 Budget, October 24, 2018,

⁶ Ibid, Pennsylvania Borough Code

Committee Recommendation

The Administration and Finance Committee have reviewed the proposed budget, memoranda from the Borough Solicitor, presentations from the Borough Manager and Chief of Police, and various budget documents provided by staff. The Committee recognizes that increasing taxes to support the MS4 and stormwater management obligations is not equitable and presents an undue burden on the taxpayers. Additionally, there is not enough revenue from real estate taxes to support the costs. The Committee recommends that stormwater be viewed and treated as a separate utility within its own operating fund.

The Committee unanimously recommends that a stormwater utility be created so that a Stormwater Pollutant Impact Fee can be instituted.

Budget Impact

See separate Police Briefing Summary regarding Stormwater Budget and Revenue Plan; Stormwater Pollutant Impact Fee.

Recommendation

Staff recommends the enactment of an ordinance establishing a Stormwater Utility, as drafted by the Borough Solicitor, be implemented so that a Stormwater Pollutant Impact Fee can be separately enacted and a separate enterprise fund can be managed.

List of Exhibits

Stormwater Utility Ordinance
Legal Memo from Solicitor Sam Wisner