

ORDINANCE NO. 96-34

**BERWICK TOWNSHIP ORDINANCE CONFIRMING AND ACCEPTING
JOINT RESOLUTION NO. 95-22 BETWEEN BERWICK TOWNSHIP
AND BERWICK TOWNSHIP MUNICIPAL AUTHORITY**

WHEREAS, Berwick Township, a Second Class Township existing under the laws of the Commonwealth of Pennsylvania, and Berwick Township Municipal Authority, a municipal authority existing under the laws of the Commonwealth of Pennsylvania, entered into a Settlement Agreement on December 11, 1995; and

WHEREAS, pursuant to paragraph 3 of the said Settlement Agreement, Berwick Township and Berwick Township Municipal Authority executed a joint resolution Resolution No. 95-22. A true and correct copy of Resolution No. 95-22 is attached hereto as Exhibit "A" and incorporated by reference as if fully set forth herein; and

WHEREAS, pursuant to paragraph 3 of the said Settlement Agreement, the Township agreed to adopt an Ordinance confirming and formally accepting the said joint Resolution No. 95-22.

NOW THEREFORE, be it resolved by the Board of Supervisors of the Township of Berwick, Adams County, Pennsylvania, that:

1. Resolution No. 95-22 (Exhibit "A") is hereby adopted.
2. This Ordinance shall become effective five days from the adoption hereof

I **HEREBY CERTIFY** that the foregoing is a true and correct copy of an Ordinance adopted by the Board of Supervisors of Berwick Township, Adams County, Pennsylvania, at a meeting held on the 8th day of August, 1996, all three supervisors being present at such meeting and such Ordinance having been adopted unanimously, notice of intention to adopt said Ordinance having been given by publication as required by law.

A handwritten signature in cursive script, reading "Barbara A. Webb", written over a horizontal line.

Secretary of Berwick Township,
Adams County, Pennsylvania

ENACTED AND ORDAINED this 12th day of August , 1996, in

lawful session duly assembled.

TOWNSHIP OF BERWICK
ADAMS COUNTY, PENNSYLVANIA

RESOLUTION NO. 95-22

Upon the joint meeting held between BERWICK TOWNSHIP, Adams County, Pennsylvania; and the BERWICK TOWNSHIP MUNICIPAL AUTHORITY, the Supervisors of Berwick Township, upon motion made, seconded and unanimously carried, resolve as follows:

1. Pursuant to the Settlement Agreement duly executed by Berwick Township and Berwick Township Municipal Authority, the Board of Supervisors shall proceed upon said Agreement and transfer unto Berwick Township Municipal Authority the Act 537 sanitary sewer project presently being pursued by Berwick Township and empower said Municipal Authority with control in order to carry out and implement said project in conformity with contractual and statutory limitations imposed by the Pennsylvania Municipal Authorities Act of 1945, 53 P.S. Section 301 et. seq.


2. The Township hereby rescinds Resolutions 95-15, 9516, and 95-17 and reinstates Resolution 94-17 effective immediately. A copy of said Resolution 94-17 is attached hereto and incorporated in this Resolution.

ENACTED AND RESOLVED this 11th day
of December, 1995.

ATTEST:

Secretary

SUPERVISORS OF BERWICK TOWNSHIP



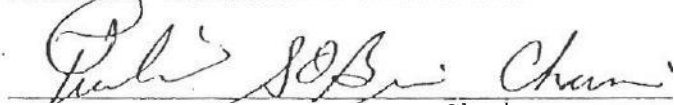
Chairman

The terms and conditions of the aforesaid Resolution of the Board of Supervisors of Berwick Township is hereby agreed to by Berwick Township Municipal Authority.

ATTEST:

BERWICK MUNICIPAL AUTHORITY


Secretary


Chairman

RESOLUTION NO. 1994-17

Upon the joint meeting held between Berwick Township, Adams County, Pennsylvania, and the Berwick Township Municipal Authority, ..the Supervisors of berwick Township, upon motion made, seconded And Unanimously carried, resolve as follows:

1. The Board of Supervisors of Berwick Township (Supervisors) shall transfer to the Board of the Berwick Township Municipal Authority (Authority) any and all plans and/or designs, to include aerial site photographs, relating to the Act 537 sanitary sewer project presently being pursued by Berwick Township, and to empower' said Authority with 'complete control in order to carry out and implement said project In conformity with the statutory 'limitations' imposed by the Pennsylvania Municipal Authority Act of 1945, 53 P.S. Section 301 et seq.

2. The Supervisors shall effect Notice of the above transfer to be given to all interested parties who have placed bids on said project with Berwick Township along with official notice that said bids will not be awarded.

3. The Supervisors shall transfer to the Authority any and all Department of Environmental Resources permits for

construction of said sanitary sewer project, acknowledging that said permits are presently subject of appeal, EHB Docket No. 94-232-W. Therefore, the Supervisors reserve all rights and obligations to defend said appeal, holding the Authority harmless, financially and indemnifying the Authority against any liability and/or-potential liability that may result directly or indirectly from said appeal and/or any other litigation involving the transferred permits.

4. The Supervisors shall transfer to the Authority the General obligation Note held by the Bank of Hanover and Trust Company. Said transfer shall occur at that point in time when the Authority *has achieved the financial. ability, either through financing or through proceeds from connection and sewer rentals, to be able to pay off said Note or to make the required payments on ... the same. Provided, however, the Authority will accept responsibility for the principal of the Note and will not be responsible for any interest paid by the Township from the date of origination of the Note to the date of the transfer of the Note from the Township to the Authority. From the date of transfer forward, the Authority will be responsible for both the interest and principal; if applicable. The Supervisors shall hold harmless and indemnify the Authority against any monies paid out of the

*proceeds of said General Obligation Note for items not: reasonably related to the sewer project which is the subject of this Agreement or for items determined to be inappropriate charges through Official inquiry. If necessary, the Supervisors shall extend the term of said Note until such time as the Authority can accept transfer of the same. During any such extension or extensions, the Supervisors will remain responsible for payment of interest on the note until it is transferred to the Authority. If required by the Bank of Hanover at the time of transfer, the Supervisors shall stand and sign as Guarantor for repayment of said General Obligation Note.

5. The Supervisors shall grant to the Authority the sum of Twenty Thousand (\$20,000.00) Dollars to allow the Authority to function independently, financially and otherwise. The expenditures from said funds shall be determined solely and completely by the Authority within the limitations of the powers granted to the Authority under the Pennsylvania Municipal Authorities Act of 1945, 53 P.S. Section 301 et seq.

6. The Supervisors shall allow the Authority use of municipal facilities located at 85 Municipal Road, Hanover, Pennsylvania 17031, at such reasonable times as may be necessary.

for the independent function of the Authority. Such use shall be in the nature of, but not limited to use of the township municipal building for public meetings, private meetings, storage of files, records, etc. and similar activities related to Authority business.

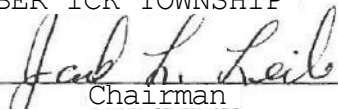
Charges for said use shall be subject to negotiation between the Supervisors and the Authority upon the Authority's achieving financial stability from, among other things, connection fees and sewer rentals to the extent of being able to pay for such use in addition to its debt service and operation and maintenance costs. *Provided*, however, the Authority shall immediately begin payment to the Supervisors for any phone usage out of the township municipal building.

ENACTED AND RESOLVED this 12th day of September, 1994.

ATTEST:

Secretary

SUPERVISORS OF
BERICK TOWNSHIP


Chairman