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The Shit Pit emerges from the shadows at last: Toll Brothers “Cottages” and Whitehall Road Regional Park updates

By Katherine Watt

For those just joining this story and old-timers who could use a refresher, here’s some background material culled from prior *Bailiwick News* coverage, followed by some updates about more recent activity.

BACKGROUND

Karst Geology and Local Water Supplies

There are currently seven State College Borough Water Authority (SCBWA) public water supply wellfields: Thomas, Gray’s Woods, Harter, Nixon, Chestnut Ridge, Alexander and Kocher.

Of those, Thomas and Harter are the oldest, drilled in the 1940s and 1950s as local officials began to realize that surface water sources weren’t able to provide enough water to meet the needs of a growing population.

The Thomas and Harter wells are also among the shallowest – requiring the least electrical energy to pump the water up from underground – and the most voluminous, with capacities of 18.3 million gallons per day for the Thomas wells and 8.5 million gallons per day for the Harter wells.

In the 1960s and 1970s, the regional population jumped from 35,100 in 1960 to 62,000 in 1980. Driving the overall population, Penn State enrollment grew from 16,200 in 1960 to 33,800 in 1980.

During that period, Penn State researchers began looking harder at the local water situation to locate other places to drill with a high probability of striking productive water flows. Two of the leading researchers were Richard Parizek and Todd Giddings, who both published several papers on the unique underground aquifer of the Nittany Valley.

Briefly, what researchers began to learn in what would become one of the most studied watersheds in the world, was that karst limestone geology is great at recharging aquifers, and equally great at transmitting contaminants from the surface to groundwater wells, unfiltered by soil layers.

The basic problems were summarized concisely by Janet S. Herman, Dorothy J. Vesper, and Ellen K. Herman in a July 20, 2016 synopsis of a Karst Waters Institute conference:

“Some characteristics of limestone aquifers, in contrast to porous media, make them particularly susceptible to contamination. Sinking streams and sinkholes provide a

rapid route for unfiltered contaminants from the land surface to the underlying aquifer. This characteristic, along with swift groundwater flow in conduits that have been widened by mineral dissolution (karst aquifers) and difficulty characterizing and monitoring the highly heterogeneous karst subsurface, contributes to an elevated risk for degradation of water quality. The reliance on groundwater for drinking supplies in karst regions creates potential for public health effects...”

Most of the land in the undeveloped farmland off Whitehall Road is topped by thin agricultural soils, underlain by bedrock and fragile, sinkhole- and fracture-prone limestone and dolomite karst, upgradient from the SCBWA Harter and Thomas wellfields, which are about a mile downslope, and provide about two-thirds of the daily water supply for about 75,000 SCBWA customers.

A numbered drainage tributary (intermittent stream No. 23045) to Slab Cabin Run transects the area.

Corporate Penn State’s Real Estate Shenanigans

In 1999, Penn State’s real estate division bought about 1,100 acres of local farmland in a sweetheart deal from the RK Mellon Foundation, in 16 different parcels. Source: PSU Press Release, June 22, 2017.

In 2004, at Penn State’s request and over the objections of regional planners and other entities (including the State College Borough Council), Ferguson Township upzoned 26 acres of the “Rural Agricultural” land off Whitehall Road, to high-density R-4 multifamily residential. The 26-acre lot was to be combined with an adjacent 14-acre parcel to create a 40-acre development lot.

Between 1999 and 2011, Penn State sold off various Mellon parcels: 40-some acres along Bernel Road to Patton Township; 75 acres to Centre Region Council of Governments (CRCOG) for what later became Oak Hall Regional Park; just under 60 acres along Whitehall Road to SCBWA for water conservation, and 100 acres to CR-COG and Ferguson Township jointly, for the proposed Whitehall Road Regional Park.

To date, the Pennsylvania Department of Conservation and Natural Resources (DCNR) has contributed about \$342,000 to the two-part purchase of the park land from funds provided under the Keystone Recreation, Park and Conservation Fund Act of 1993, and addition funds for planning and design, with other grant applications pending.

Disclosure: The author served as Acting President, and Vice-President, of NVEC during Summer 2018. Effective Sept. 1, the author resigned from both positions. All factual reporting is sourced from public documents and materials provided by readers, and all opinion and critical analysis are the author's own.

In 2008, corporate Penn State and its public sector enablers pulled off a genius maneuver, by filing a subdivision plan for just under 400 acres in the area between Whitehall Road and Shingletown Road, including the 40-acre high-density multifamily residential lot, the 100-acre regional park land, and the 60-acre SCBWA conservation land.

The subdivision plan depicted road access across the watershed from Blue Course Drive to Shingletown Road, and linked development of the regional park to development of the adjacent high-density student housing parcel.

Specifically, the subdivision plan required the housing developer to bear the costs for extending Blue Course Drive, adding electric, water, sewage and other utility lines, and constructing a pump station and force main to convey new sewage from both the housing and the park to existing sewage conveyance pipelines upgradient from the two proposed developments: the housing and the park.

The genius part was that the explicit linkage meant that from 2008 forward, public officials interested in seeing a park get built, had a vested interest in also ensuring the development of the private student housing complex.

Between 2008 and 2011, Penn State real estate division representatives sought developers to develop the 40-acre parcel in that 400-acre area, into luxury Penn State student housing.

In April 2012, Penn State's Senior Vice President for Finance and Business (David Gray) signed a sales contract with Toll Brothers. A few weeks later, the Penn State Board of Trustees approved the sales contract for \$13.5 million.

At the time, the Board of Trustees was led by Karen Peetz, President of Bank of New York Mellon, whose subsidiary Boston Company Asset Management was, at the time, the seventh-largest shareholder of Toll Brothers.

In September 2013, the Penn State trustees added 5.5 acres to the planned sale, bringing the total to about 46 acres.

The newly-added 5.5 acres were located outside the Regional Growth Boundary and still zoned Rural Agricultural (RA). The 5.5 acres were added to make room for the development's stormwater detention basins, which happened to be an illegal use of RA land under Ferguson Township's zoning ordinances.

Toll Brothers then developed plans for a student housing complex to be known as "The Cottages" to contain 268 cottage-style units for 1,093 students, surrounded by parking for their cars, along with large stormwater detention basins.

The Cottages land development plan did not include an on-site sewage management system for the sewage from the 1,093 students. Instead, the Cottages plan referenced plans to-be-submitted later, for a sewage holding tank, pump station and pipeline to be located on the adjacent publicly-owned Whitehall Road Regional Park land.

Upon review, Ferguson Township Planning and Zoning Director Maria Tranguch provided oral and written recommendations that the Ferguson Township supervisors deny the application.

Tranguch cited the same water, farmland and growth boundary protection concerns cited by scientists, land use planners and public officials over the prior decades, along with the new, specific legal problem of subdividing RA land and putting stormwater detention basins on it in violation of local zoning ordinances and the PA Municipalities Planning Code.

Tranguch relied in part on a short project risk analysis by hydrogeologist David Yoxtheimer, dated Oct. 31, 2014. Yoxtheimer's assessment noted that farming, the historic land use, "does not significantly increase the potential for sinkholes to form on this tract," while "the significant grading, landscape alteration, increase in impervious surfaces, and channeling of stormwater involved with this project [Cottages] does increase the risk of sinkhole formation and therefore does increase the potential to degrade groundwater quality."

On March 2, 2015, against Tranguch's recommendations, the township supervisors gave the Toll Brothers land development plan "tentative" approval.

2008 – 2011 Centre Region Parks & Recreation Authority (CRPRA) Regional Park Design Shenanigans

A 2008 Centre Region Parks and Recreation survey, conducted on behalf of the appointed Parks Authority board, found high public support for conservation-based uses of regional parklands, far outweighing public support for intensive grading and construction of high-maintenance active sports fields.

(*Bailiwick News* has previously addressed the fact that many survey respondents did not believe any additional parks were needed, and expressed a disinclination to pay for more parks, preferring to see public funds spent for additional police staffing and other, higher community priorities. See sidebar, March 9, 2017 *Bailiwick News*.)

Despite this result, the May 2009 Oak Hall Regional Park Master Plan Appendix E makes clear that regional park advocates restricted their "key interviews" to representatives from active sports organizations, including State College Little League, Our Lady of Victory School/Church Sports Program, Hess Field Association, the co-ed Softball League, State College Youth Football Program, Centre Soccer, the First Baptist Church Softball program, and the Centre Region Community Tennis Association, along with the College Township engineer (since Oak Hall Regional Park is located in College Township) and Jeremy Tyson, a soil scientist at CMT Laboratories, who provided assessments of soil depth and suitability for septic systems at the Oak Hall site.

Notably absent from the list were individuals representing low-impact park user groups, such as ClearWater Conservancy, Spring Creek Chapter of Trout Unlimited, Snetsinger Butterfly Garden, Centre County Master Gardeners, Centre County Farmland Trust, Centre County Farmland Preservation Artists, the State College Bird Club, and hiking organizations.

Similarly, the “key person interviews” for the Whitehall Road Regional Park Master Plan bypassed low-impact user groups and “focused more on the logistics of implementation or policy formation.”

Contacts during the Whitehall Road park design process included representatives for PennDOT’s Whitehall Road widening project; UAJA and the Pa. Department of Environmental Protection (DEP) regarding sewage planning issues; the Cranberry Township Manager and professional accountants, regarding financing issues; a US Tennis Association engineer, regarding indoor and outdoor tennis court issues; and the CRPR maintenance supervisor regarding proposed maintenance structures to be built in the park.

The Whitehall Road park design process between 2008 and 2010 bypassed representatives of the State College Borough Water Authority: owners and operators of the nearby downslope public water supply wells and the only local entity with municipal authority and expertise in water security issues.

The Whitehall Road park design process also bypassed independent hydrogeologists, who, like SCBWA hydrogeologists, could have provided assessments on the likely water security and public health impacts from land disturbance during grading and construction, and from runoff and turf management after construction. See August 2010 WRRP Master Plan, pp. 64-65.

Instead, in mid-2011, CRCOG General Forum approved debt-based financing for the heavily-graded, high-maintenance design, and then the design was presented to SCBWA staff as a fait accompli in early 2014 as park advocates began to see movement on the conjoined Toll Brothers student housing development process.

By 2014, all the water authority could do was send the completed designs for both projects to consultants at Gwin, Dobson and Foreman and submit those reviewer comments back to Ferguson Township planning officials for follow-up.

As noted above, Tranguch, the Ferguson Township Planning and Zoning Director at the time, took reviewer comments about risks to public water supplies seriously, so much so that in early 2015, she recommended that the Ferguson Township supervisors deny the Toll Brothers development application. The supervisors ignored her recommendation.

As litigation opposing the supervisors’ approval moved through the courts, the Parks Authority ultimately withdrew its 2014 land development plan from consideration in September 2017, to prepare an updated plan that will likely be submitted later this year.

Despite the excellent opportunity to include the water authority in the redesign process – particularly given increasingly intense public interest in local water security – the Parks Authority has over the past year *again* excluded SCBWA, limiting correspondence and public comments at SCBWA board meetings to “information-only” formats. More on this below.

Whitehall Road Regional Park “active park” proponents have repeatedly pointed to then SCBWA-director Max Gill’s 2002 letter of general support for COG’s application to the DCNR (seeking funding to purchase the first 75 acres of the Whitehall Road park land). Park proponents have mischaracterized Gill’s letter as evidence that SCBWA reviewed and approved of the heavily-graded, high-maintenance park plan and implicitly endorsed intense land development in the Slab Cabin Run watershed.

This narrative excludes the fact that in 2002, the only information Max Gill had about land use in the area was that the land was owned by Penn State, was zoned Rural Agricultural by Ferguson Township (allowing a maximum of one house per 50-acre lot) and was outside the Regional Growth Boundary and Sewer Service Area as described in the 2000 Centre Region Comprehensive Plan.

It wasn’t until November 2003, when Penn State applied to Ferguson Township to rezone a portion of the Rural Agricultural land along Whitehall Road, outside the Regional Growth Boundary, as R-4 multifamily residential, that the threat of intensive land development became publicly known.

In September 2004, when Ferguson Township supervisors approved the upzoning – over strong regional objections and again without consultation with the SCBWA, the water risks increased.

Those events are part of what prompted the water authority in 2006 and 2007 to conduct dye trace studies in the Slab Cabin Run watershed, documenting rapid uptake of dyes into public water supplies when injected upstream in the sub-basin. The dye trace data has since been supported by CMT Laboratories studies in 2013 and 2014 for both Whitehall Road Regional Park and the Toll Brothers parcels, providing additional evidence of rapid conveyance of surface water to groundwater in the Slab Cabin Run sub-basin, and high associated risks of public water contamination.

Park and housing development advocates also point to DEP approval of the “sewage planning module” for the conjoined developments in 2015, suggesting that if the project passed DEP muster, it must be environmentally safe.

This is absurd, as a recent PennLive series confirmed. “Tapped Out” documented that DEP offices are severely understaffed and underfunded, and therefore unable to competently review the enormous deluge of permit applications and enforce regulations on existing water-related infrastructure to protect public health. DEP permit review is cursory, and does not involve DEP reviewers fact-checking developer applications, leaving developers free to provide false information to avoid additional layers of scrutiny. For example, developers can and do underreport the volume of sewage likely to result from a development. More on this below.

SCBWA staff, board and consultants have not been excluded from design discussions because park planners don’t know that there are significant risks associated with intensive land development in that area.

Everyone has known that for decades.

And the water authority and low-impact user groups haven't been excluded because park planners don't know there's strong public support for low-impact land uses.

The Parks Authority board has known that since they got the results back from their own CRPR survey in 2008.

Water security experts and low-impact user groups are excluded precisely because park planners *do* know about the risks and *do* know about public support for conservation, and don't want those risks and interests clearly summarized and relayed to local legislators, potentially giving those legislators pause before endorsing and *publicly-funding* such risky development.

Citizen Pushback

Starting in March 2015, concerned citizens mobilized to try to stop the plan from receiving further Ferguson Township endorsement and to raise community awareness of the relationship between the nearby SCBWA public groundwater supplies, the planned student housing development, the planned regional park, and the fragile karst geology.

The concern – then and now – was that the same fractures and sinkholes that rapidly recharge stormwater into underground public drinking water supplies provide equally rapid access to surface contaminants associated with land development, such as fuel runoff from parking lots, human sewage from sewage management infrastructure, and herbicides for landscaping.

Community awareness increased precipitously, but Ferguson Township supervisors forged ahead and gave the project “final” approval in November 2015.

Citizen opposition then coalesced under an unincorporated organization called Nittany Valley Water Coalition, which filed a land use appeal challenging the Ferguson Township final approval as an unlawful abuse of discretion.

In July 2016, a Centre County judge agreed with the water coalition and vacated the township's approval, finding that Ferguson Township supervisors had made an “end run” around municipal zoning ordinances, by approving the plan without subjecting it to normal zoning variance or rezoning procedures for the 5.5-acre parcel planned for stormwater detention. Toll Brothers appealed to Commonwealth Court, which overturned the county court decision in May 2017, focusing on the 30-day window of time for appeal after the March 2, 2015 “tentative” township approval.

Nittany Valley Water Coalition appealed the Commonwealth Court decision to the Pa. Supreme Court, which declined to hear it in November 2017. The Supreme Court refusal left the Commonwealth Court precedent intact: a municipal legislature may repeal or amend any portion of municipal zoning laws not only by the two traditional methods: zoning amendment or by waiver procedures before the local zoning hearing board, as set forth in the Pa. Municipalities Planning Code, but also through the approval of a “tentative” land development plan that includes the zoning amendment, so long as the local

legislature isn't caught doing so and formally challenged by alert citizens within 30 days of the “tentative” act.

At the same time that the water coalition appealed to the Pa. Supreme Court, the coalition also launched an occupation of the site, which ran from June to October 2017.

Among other actions, campaign leader and Penn State biology professor David Hughes reviewed available site studies conducted by CMT Laboratories, and communicated extensively with Penn State President Eric Barron, trustees and administrators to relay CMT findings.

CMT analysts reported that the dolomite rock subsurface at the site is covered with very shallow Hagerstown and Opequon soils, and that the 5.5 acres proposed for the stormwater detention basin sit on top of an existing swale over a fracture zone with extensive sinkholes.

The CMT authors wrote that they had to use non-conventional testing protocols, in addition to conventional protocols, because the soil is so shallow.

Hughes quoted CMT as saying that the subsoils have “excellent structure/macropore abundance” but that their “close proximity...to permeable bedrock” means the soil may not function as the filter such a site requires: the stormwater and pollutants could readily pass through the shallow soils into the subsurface and from there into Slab Cabin Run's surface and subsurface flows and into the public water wells.

Hughes went on to observe that while the CMT studies were not formal risk assessments, between May 2013 and December 2014, the CMT analysts increased their recommended safety factor from 2-2.5, to 3.0.

The CMT reports raised a “red flag,” Hughes wrote, on the subject of compaction: the declining ability of soils to filter contaminants as the array of natural holes in the soil structure collapses. CMT recommended not only that all heavy equipment be prohibited from the infiltration pit during construction, but also that those charged with maintaining the basin in the future refrain from even bringing in lawnmowers. CMT site analysts also observed that engineered solutions such as man-made separation filtration structures would be prone to clogging, further reducing the filtration ability of the existing soil layer and any engineered systems laid over it.

CMT researchers' also emphasized the high risk that the karst rock and its permeable bedrock mean “significant subsidence and sinkhole activity could occur,” concluding, “**in terms of risk management, we do not believe there is an effective method for elimination of sinkholes in karst infiltration areas...and the risk is inherent.**” (Emphasis added.)

Throughout that summer, water coalition leaders met with officials from Penn State's real estate division and Toll Brothers representatives, attempting to arrange a “land swap” whereby Toll Brothers could exchange the Whitehall Road land for other Penn State-owned land in less ecologically and politically-sensitive areas, leaving the Whitehall Road parcel undeveloped to protect public water supplies.

The campaign appeared to be having some success. Trilateral meetings were held, and Toll Brothers executive

Charles Elliot told David Hughes that Toll Brothers had filed a letter of interest in an alternative site located near the intersection of Blue Course Drive and West College Avenue, across the street from the Waffle Shop. The letter was never publicly disclosed, so Elliott may well have lied to Hughes.

Either way, just before Christmas 2017, Penn State officials sidestepped the unusual opportunity to redirect student housing to a more suitable location.

In a dickish, backstabbing betrayal of the institution's alleged interest in improving battered community relations, Penn State executives quietly closed the sale on December 21, 2017, selling the land for \$13.5 million to a Toll Brothers subsidiary incorporated a week earlier in Delaware under the name "State College Apartments LLC."

2018 Toll Brothers and CRPRA Land Development Shenanigans

In January 2018, Nittany Valley Water Coalition incorporated as Nittany Valley Environmental Coalition, adding air quality, land conservation and other environmental issues to its portfolio.

NVEC was immediately embroiled in a massive community fight to keep Nestle Waters NA from pumping groundwater from the Logan Branch sub-basin of the Spring Creek watershed through another sweetheart deal made with the Spring Township Water Authority. The citizen campaign was successful; by April, the deal had fallen apart.

Meanwhile, Toll Brothers restarted its permitting efforts and Whitehall Road Regional Park advocates continued updating their plans and project budgets preparatory to submitting a land development plan application to Ferguson Township.

In early 2018, PennTerra Engineers working for Toll Brothers approached the SCBWA seeking an easement to be able to construct a 1,200-foot portion of a force-main pipeline (total length just under a mile) on SCBWA's deed-restricted conservation land. The force-main was to convey sewage under high pressure from the pump station at the bottom of the hill, up to Whitehall Road, then along Whitehall Road toward Stonebridge Drive.

The application process was difficult, because several SCBWA board members took seriously the deed restriction on the land they had purchased from Penn State in 2008, which required that it be used for conservation purposes only, in perpetuity.

Although Toll Brothers attorneys and the SCBWA's own solicitor attempted to downplay the ethical and legal significance of the deed language, the SCBWA board held two votes, neither of which approved the easement.

The May 2018 SCBWA vote was a 3-3 tie. When the resolution returned to the agenda for another vote in July 2018, the SCBWA board denied the easement request by a 4-1 vote. "No" votes were cast by Bernie Hoffnar, Bill Burgos, Rachel Brennan and Jason Grottini. Gary Petersen cast a "Yes" vote, Jeff Kern abstained and Emory Enscoe was absent.

It was a remarkable result, forcing Toll Brothers to reroute the high-pressure force main along Ferguson Township's municipal roadway (the proposed Blue Course Drive extension) and along PennDOT's existing state roadway (Whitehall Road).

Pump Station Design and Siting Shenanigans

For several years, it's been hard to pin down the planned location, capacity and other specifics of the sewage management plan, because the various land development plans in circulation depicted the pump station in at least two different locations.

On Toll Brothers private housing development plans as approved by Ferguson Township in 2015, the pump station was located on public Whitehall Road park land jointly owned by CRCOG and Ferguson Township.

However, on the Parks Authority's 2010 master plans for the Whitehall Road Regional Park – as approved for funding by the CRCOG General Forum – the pump station was located on Toll Brothers private land.

Stahl Sheaffer Engineering site plans for the park showed a pump station with a footprint of 37' by 50' on public parkland as early as April 2014.

But between 2014 and the present, park advocates made no effort to seek unanimous General Forum consent to amend the master plan to add the pump station, despite the requirement that master plan amendments can only be made by General Forum, and only by unanimous unit vote.

In fact, a January 18, 2018 letter from the Parks Authority to Ferguson Township about the "public-private partnership" alluded vaguely to "some of the park's infrastructure and utilities," without mentioning the sewage pump station by name.

Throughout Spring and Summer 2018, CRPR Director Pam Salokangas – working on behalf of the Parks Authority – was still publicly circulating versions of the Whitehall Road park design plans that excluded the proposed pump station on public land, to municipal legislators, SCBWA and other entities.

Salokangas was circulating these misleading plan documents even as PennTerra Engineering, working for Toll Brothers, was actively seeking the last few approvals, permits and easements for the sewage system infrastructure from SCBWA, PennDOT and UAJA, using plans showing the pump station on park land.

Over the spring and summer, as the force main route debate played out, more information about the proposed pump station became public.

According to DEP sewage planning module documents circa 2015, the pump station was designed to manage a projected 47,950 gallons per day (gpd) of raw sewage: 98% of it coming from the students in the private luxury housing development (268 Equivalent Dwelling Units at 175 gpd) and 2% of it from public Whitehall Road Regional Park visitors (6 EDUs at 175 gpd).

However, 48,000 appeared to be a significant underestimate, intended to stay just under the threshold of

50,000 gallons per day at which PA-DEP requires a public hearing.

The UAJA board approved the plans for the pump station and associated pipeline infrastructure on August 15, 2018, after several rounds of revisions.

Shortly after the UAJA vote, the volume misrepresentation was corroborated by language in an August 23, 2018 draft sewage management plan obtained from UAJA.

The August 23 plan notes that Toll Brothers used UAJA's already-controversial Equivalent Dwelling Unit (EDU). See, for example, "Sewage Billing System Under Fire" by Sean Yoder, August 7, 2017, *Centre County Gazette*.

One UAJA EDU is 175 gallons per day per household, based on 2.5 people per household and ~~75~~ 70 gallons per person per day. (Typo corrected 10.29.18)

Yet since 2015, the Toll Brothers plan has been to construct 268 units to house 1,093 undergraduates in mostly 4- and 5-person units, roughly a doubling of the people per household from the factor used in the DEP application. At ~~75~~ 70 gallons per person per day for 1,093 people, the pump station's baseline sewage flow from the student population will be about ~~82,000~~ 76,500 gpd. (Typo corrected 10.29.18)

According to the August 23, 2018 plan, Toll Brothers is now projecting a "peak" flow of 191,800 gallons per day, far above the 47,950 gallons per day average used in the 2015 DEP sewage planning module application.

Toll Brothers also recently increased the diameter of the "wet well" (sewage holding tank, or Shit Pit) to 10 feet and the depth to 26.5 feet. To build it, Toll Brothers contractors will dig a giant hole in the fracture- and sinkhole-prone watershed 28-feet deep, build the tank, and then backfill earth back into the hole around the cylinder.

The volume of that cylinder, converted from cubic feet to gallons, is about 15,575 gallons.

At peak flow of about 192,000 gallons per day – or 8,000 gallons per hour – the August 23 plan states that the Shit Pit has 30 minutes of emergency storage in the event of a pump failure or other malfunction, before overflows into the watershed start.

UAJA Director Cory Miller has said in public comments to the SCBWA (April 19, 2018) and in email correspondence that backup systems include multiple layers. The pump station has redundant pumps and motors, so if the first pump fails, the second, backup pump will be deployed. Spare pumps are kept at the main UAJA facility.

For a power outage, there's to be an on-site natural gas-fired backup generator providing electricity to run the pump station. The generator will be supplied by a natural gas pipeline crossing the sinkhole-prone karst terrain.

If those backup systems fail, then UAJA will pump sewage out of the Shit Pit into trucks and drive the trucks to the nearest manhole providing access to gravity sewage conveyance lines, at about 5,000 gallons per truck trip.

And if UAJA trucks are unable to reach the pump station, resulting in an overflow from the Shit Pit, the plans call for a "diked area within the pump station easement to capture anything that spills."

There are at least four plausible disaster scenarios, including leaking, overflowing, flooding due to torrential downpours like the rainy summer we've just had, and natural gas line breakage leading to an explosion like the recent Columbia Gas sequence in Massachusetts.

Of those, the most likely is probably leaking: a sinkhole or fracture opening up near the Shit Pit, creating a leak that's large enough to rapidly put a stream of sewage into the public water supply, but small enough to evade detection by warning floats in the tank, such that the SCADA system back at UAJA doesn't register a problem.

After design and construction by Toll Brothers contractors, UAJA, which is a public utility funded by ratepayers, will own, maintain and operate the pump station, the force main and most associated infrastructure.

Toll Brothers, or any entity to which they sell the student housing complex, will be legally responsible for damages related to malfunctions of individual customer sewage gravity lines that carry sewage from each apartment to large gravity mains that will carry the sewage to the pump station down the hill.

COG and Ferguson Township taxpayers will be legally responsible for damages resulting from failures in individual lines from the park bathrooms to the wet well and pump station.

UAJA ratepayers will be liable for damages – including contamination of public water supplies – resulting from malfunctions starting at the point where the individual apartment sewer lines connect to the main gravity line, through the Shit Pit, up the high-pressure pipeline, along Whitehall Road, to Stonebridge and on to the UAJA treatment plant.

Costs for those malfunctions might be covered by UAJA insurance policies but might well be excluded from coverage, depending on the reasons identified for the malfunction and resulting public water contamination.

In the May 21, 2018 edition, *Bailiwick News* took a first crack at interpreting UAJA insurance policy coverage in a variety of possible scenarios, including sinkholes that damage sewage tanks or pipelines, flooding and sewage system overflows.

At a bare minimum, if one or both of the joint developments are constructed, and when the inevitable catastrophes occur – whether due to shoddy design (including volume lowballing) or construction, human error in operations, gasoline explosions, or natural disasters like floods and sinkholes overwhelming the backups to the backups, the resulting finger-pointing and litigation will be epic.

Who won't be entered in the liability sweepstakes, because they've successfully framed themselves as "just the seller"? The Penn State real estate division and the men and women who run it and set the whole fiasco in motion.

Vice President for Finance and Business David Gray or his successor will be quietly counting their \$13 million profit in an Old Main office. If they bother to count it. Which they won't, because the willful endangerment of the Centre Region's public water supply is a rounding error in the \$6.5 billion annual Penn State budget.

Before Toll Brothers contractors can physically enter the regional park land and start excavation without legal objection from UAJA and without potentially being charged with criminal trespass and vandalism, the company must provide UAJA with proof of the landowners' consent, in the form of access "easements."

As described above, Ferguson Township and the Centre Region Council of Governments own the park land jointly, and Ferguson Township owns the Blue Course Drive Extension land, including the proposed route of the force main.

This hurdle directly implicates the bizarre legal relationships among the appointed Centre Region Parks and Recreation Authority board, responsible for design, planning and construction of the park; the Centre Region Council of Governments organization comprised of six participating municipalities and their paid administrative staff, serving as a pass-through for park development funds; and the elected legislatures of the participating municipalities, responsible for using their taxing authority to fund park development, in this case through a 2011 Fulton Bank loan extended several times in the intervening seven years.

Of note, Terry Williams serves simultaneously as solicitor for one of the funding municipalities (State College), for COG itself, and for the independent Parks Authority. This is an enormous conflict of interest that has been pointed out to Williams and his multiple employers on several occasions, with no change in his employment status at any of the three.

Of further note, CRPR Director Salokangas, whose salary is paid by taxpayers through the COG budget, is supervised by the appointed members of the Parks Authority.

With the Parks Authority board's implicit consent, Salokangas has successfully blocked elected General Forum members from engaging in full discussion and votes on Whitehall Road Regional Park issues for the past two years, by restricting all but one of her presentations (May 22, 2017, requesting loan extension) to "information only" or "of record" formats.

This tactic has also frequently blocked public comment before and after her WRRP presentations, because the topic is not deemed "actionable" for the General Forum.

Moving into August 2018, NVEC learned that the Parks Authority board would try to take another step toward realizing their taxpayer rip-off vision, when CRPR Director Salokangas was scheduled to appear at the CRCOG General Forum meeting on August 27 for another information-only update.

In the weeks before the August 27 meeting, Nittany Valley Environmental Coalition documented environmental problems with the proposed Whitehall Road Regional Park design, through multiple communications submitted to CRCOG and Ferguson Township Board of Supervisors including graphic representation of community regional park preferences collected in 2008 by the Centre Region

Parks and Recreation Authority and collated by NVEC in July 2018.

The survey data showed overwhelming public support for ecologically-protective park land uses far outweighing public support for highly invasive grading for rectangular sports fields.

NVEC further provided graphic representations about the planned Whitehall Road park budget allocations – based on the limited information made publicly available by the Parks Authority – showing the disproportionate amounts allocated to rectangular fields as compared to natural, minimally-disturbed areas.

In NVEC's communications, the group noted that the Parks Authority board had not addressed Ferguson Township supervisors' design concerns and suggestions outlined in an August 17, 2016 letter to CRCOG and a March 21, 2018 letter to the Parks Authority board.

NVEC noted that the Parks Authority board had not consulted with the State College Borough Water Authority board – especially its Sourcewater Protection Committee – regarding risks to public water supplies from the proposed development, as requested during Salokangas' presentation at SCBWA's April 19, 2018 meeting, SCBWA's April 24, 2018 follow-up letter, and SCBWA's June 26, 2018 follow-up email.

NVEC further noted that, at General Forum on August 27, the Parks Authority board intended to propose a Phase 1 development plan with a base cost of at least \$6.1 million for grass fields with no lights, and a base cost of \$9.4 million with artificial turf fields and lights. This proposal, which had been presented at an August 16, 2018 Parks Authority board meeting, contrasted with an allocated maximum budget of \$4.8 million per Patton Township's letter to the Parks Authority dated Oct. 19, 2016 and the COG General Forum funding vote on May 22, 2017.

As it happened, Salokangas did *not* provide the \$6.1 million budget during her General Forum presentation on August 27. She only provided drawings. General Forum members began by considering a motion proposed by Ferguson Township supervisor Steve Miller, for General Forum to "receive the report...and convey to the Centre Region Parks and Recreation Authority support for the design elements in the concept plan as well as any additional design modifications authorized by the authority in order to remain within budget."

The motion failed to carry.

It was then amended, to only "receive" the report, but withhold General Forum "support" for the design and additional modifications. The amended motion passed 13-11, according to the meeting minutes.

After the meeting, Ferguson Supervisor Laura Dininni circulated her personal photos of paper copies of the budget, which she had obtained by personal attendance at the August 16 Parks Authority board meeting, to her fellow municipal legislators by email.

"It's a damn embarrassment that some of those council members were willing to endorse that plan when they didn't even have the budget in front of them," Dininni said later. "I

don't think they even knew how incredibly over budget that proposal is and all of the things that it leaves out.”

The September 13 joint Parks Authority-Parks Capital Committee meeting was cancelled, presumably to prevent deliberation of the issues by the COG General Forum’s Parks Capital subcommittee, comprised of elected legislators.

Instead, the appointed Parks Authority board held its regular, solo meeting on September 20. According to Dininni, at that meeting, Salokangas sought and received an endorsement from the Parks Authority board to move forward with the park land development process in Ferguson Township, despite General Forum’s refusal to support the revised design, and despite park proponents repeated failures to obtain, incorporate, or address the expressed concerns and interests of Ferguson Township supervisors, SCBWA board and staff, low-impact park user groups, and environmental organizations.

September 2018 Governance Shenanigans

By mid-September, the Ferguson Township Board of Supervisors was preparing to consider a request from Toll Brothers for an easement to allow the developer to construct the proposed high-pressure sewage force main to serve the Cottages student housing development and the future Whitehall Road Regional Park along the future Blue Course Drive extension.

Over citizen opposition, expressed in writing before the meeting and in person at the meeting, the supervisors voted 4-1 on September 17 to grant Toll Brothers the easement. "Yes" votes were cast by Peter Buckland, Steve Miller, Sara Carlson and Tony Ricciardi.

The only "No" vote was cast by Laura Dininni.

On Monday, September 24, the CRCOG General Forum – which includes all the elected legislators from State College, Ferguson, Patton, Harris, College and Half-moon – considered the second part of Toll Brothers two-part easement request, this time for the sewage pump station and Shit Pit, and the pipeline portions to be located on public park land.

Township supervisors and borough council members voted as municipal units – requiring a majority “Yes” on each municipal board to comprise a collective unanimous unit approval.

The State College Borough Council voted “No,” by 6-1. Janet Engeman, Jesse Barlow, Theresa Lafer, Cathy

Dauler, Evan Myer, and David Brown voted to deny the easement request. Dan Murphy voted to grant it.

Meanwhile, the Patton Township Board of Supervisors voted to abstain from the decision, citing a lack of information.

The wording of the motion considered September 24, means that General Forum will consider the easement request again on October 29, after lawmakers submit questions to COG Executive Director Jim Steff and Steff distributes additional information in response.

CRITICAL ANALYSIS

General Forum legislators have been played and are still being played, in this author’s opinion.

First by former CRPR Director Ron Woodhead and former Parks Authority board chair Sue Mascolo, in cooperation with COG Executive Director Jim Steff.

Now by Steff and current CRPR Director Pam Salokangas.

It’s not about what has been done by these individuals in their single-minded pursuit of a large field-sport tournament facility, regardless of risks, and regardless of taxpayer costs up-front and on the back end.

It’s about what *hasn’t* been done.

It’s about the people and the pieces of information excluded from planning, design and funding discussions.

It’s about the people who have been consulted, only to have their interests and concerns blatantly ignored.

Above all, it’s about the information that has been deliberately withheld from our volunteer, part-time legislators by paid, full-time public employees.

* * *

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- 3.9.17 Bailiwick News – Part 8: Whitehall Road Regional Park planning and financing as a case study in regional governance.
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VOLUME 2 – October 2017 – December 2018

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