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Reader Editorial – On the lack of enforcement tools within the proposed Spring Creek Water Resource Management Plan.

By David Roberts and Terry Melton

David Roberts, Mike Costello and Michal Stump presented a version of the following prepared comments to the Spring Creek Watershed Commission during the commission's January 16, 2019 meeting, held in Bellefonte.

Good evening. My name is David Roberts, a resident of Benner Township. I am here this evening to provide public comment to the Spring Creek Watershed Commission on behalf of the Nittany Valley Environmental Coalition.

We wish to commend the Commission's actions in 2018 to advance the long overdue Spring Creek Water Resource Management Plan project.

However we also wish to express several concerns about the current direction of the plan's development.

During the Commission's public presentation of Phase 2 of the Water Plan on December 4, 2018 it was indicated that the Commission does not intend to propose mandatory and enforceable standards applied across township boundaries and that participation by local authorities would be voluntary.

It is the position of the Nittany Valley Environmental Coalition that if the Commission limits the scope of the Plan to a strictly voluntary measure that does not include and implement enforceable standards, the project is unlikely to result in an effective and successful water plan.

During the December meeting, a suggestion to the Commission to use the Pennsylvania Municipalities Planning Code (Act 247 of 1968) as authority for the implementation of enforceable standards was met with resistance and with the supposition that such actions would require revision of the Act.

However the Act's stated purpose provides for the empowerment of municipalities to plan their development and to govern through zoning and other ordinances.

Act 247 not only authorizes but requires each county to have a "plan for the reliable supply of water." P.L. 805, No. 247, Article III, Section 301(b).

The Act permits municipalities to take action to minimize foreseen problems, to assure the availability of reliable, safe and adequate water supplies, and to provide for protection of natural resources. Further the Act provides that a municipality may amend its comprehensive plans at any time.

In addition to the requirements of the Act, Centre County's 2003 Comprehensive Plan includes sections addressing surface water and groundwater which encourage communities to adopt zoning regulations that protect ground and surface waters including zoning to limit impervious surfaces, protect recharge areas, adopt stream corridor overlays, modify development and zoning regulations to include conservation design provisions, make the protection of water resources a priority through regulations, and in general to encourage municipalities to prohibit certain types of activities in certain areas.

Zoning and other ordinance measures promulgated under the Act's authority can be used to develop an enforceable and an effective water plan. The overall purpose of ordinances under the Act is to promote, protect, and facilitate many aspects of our community's needs including the provision of safe, reliable, and adequate water supplies, and the preservation of the natural, scenic and historic values in the environment such as forests, wetlands, aquifers and floodplains.

Phase 3 of the plan should include provisions promulgated under authority of the Act as a means to develop an enforceable Plan. Proposals for the County and local municipalities to adopt enforceable standards for the management of the Spring Creek water resources are quite realistic and are not prohibited by a need to amend the Act.

As an example, York County's Integrated Water Management Plan is based on Article III of the Act. Chester County also has an excellent water management plan based on the Municipalities Planning Code.

York County's Integrated Watershed Management Plan was prepared on behalf of and officially adopted by the York County Commissioners as an official amendment to the York County Comprehensive Plan.

We recommend that the Commission structure the process going forward to adapt the York County plan for Centre County's hydrogeology, legal frameworks, and water use, and present it for adoption by the Centre County Commissioners as an update to the 2003 Centre County Comprehensive Plan.

Nittany Valley Environmental Coalition respectfully requests a response to several questions:

- 1) The Spring Creek Watershed Commission is currently underfunded and understaffed. Does the Commission plan to seek additional funding to support their mission of managing the watershed plan? Such ongoing funds would be in addition to the proposed funds necessary to commission a consulting firm for the development of Phase 3 of the watershed plan.

2) Why does Phase 2 of the plan state, "there will be no change in governance"? If there is no change in governance, no legal jurisdiction, and no means to enforce the plan, what obligation will local authorities have to follow the plan for the protection of the regional watershed?

Since the Spring Creek Watershed Commission as an advisory body with no legal authority to enforce a watershed plan must rely on the cooperation of many local authorities to determine how our regional water resource is utilized and protected, how can the public have any confidence that a watershed plan, which will cost a great deal of money to develop, will be followed?

Respectfully, we suggest it is somewhat naive to expect mere recommendations to be followed voluntarily if the Commission has no legal authority to enforce the plan. Does the Spring Creek Watershed Commission intend to be an advisory body only?

3) A key and critical fact of our watershed is that all of the water in Nittany Valley comes from the rain and snow falling on the land surfaces between the surrounding Nittany, Tussey, and Bald Eagle Mountain Ridges that drain to the karst limestone valley floor.

Our water is limited and vulnerable since we have no river running through our valley to bring water from a broader watershed.

How will voluntary participation by a multitude of water and sewer authorities, townships, and other political organizations result in a successful water management plan for the entire Spring Creek Watershed?

4) Proposals have been made by members of the Commission's technical workgroup to utilize underground mines as reservoirs for the storage of water in the future as a hedge against extreme drought and to rely on beneficial reuse of waste water for the rapid development of Nittany Valley.

These proposals, although interesting, have many unanswered questions concerning their feasibility, would require many years to accomplish, and would have a tremendous expense for infrastructure. Will the Commission members keep an open mind to more cost effective and feasible green measures that have been proven to be effective in other watersheds and not limit the direction of the Plan's development to long term costly infrastructure projects?

5) There are many organizations available to assist in the development of our integrated water management plan based on existing successes. Will the Commission be open to help from established water resource planning organizations?

6) The Pennsylvania Environmental Council will be holding a two day watershed seminar, "Watershed Connections: Leveraging Our Power for Watershed Health", in State College on February 24 and 25. Does the Commission plan to send representatives to participate in this important state conference?

We are relying on the Commission to remain open to public input concerning the development and the implementation of the Plan.

Thank you.

EDITOR'S NOTE:

Bailiwick News published limited reporting on the Spring Creek Watershed Action Plan (See June 29, 2018 *Bailiwick News*).

Early in the process, at the kickoff meeting July 10, 2018, public input supported enforceable legal tools with "teeth" to protect water and water-dependent ecosystems.

However, shortly after the July 10 meeting, the SCWAP drafting process was closed to the public, and limited to an invitation-only list of individuals who met privately in August, September and October. The process re-emerged into public view in December 2018, with a Spring Creek Watershed Commission public presentation of the results of the private meetings.

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