

RESOLUTION NO. 2022- 10

**RESOLUTION OF THE TOWNSHIP OF BENSLEM OPPOSING THE SALE OF THE
SANITARY SEWER ASSETS OF THE BUCKS COUNTY WATER AND SEWER
AUTHORITY TO A PRIVATE, FOR-PROFIT UTILITY PROVIDER AND
AUTHORIZING THE TOWNSHIP'S PARTICIPATION IN A
CONSORTIUM OF MUNICIPALITIES ORGANIZED THROUGH THE BUCKS
COUNTY ASSOCIATION OF TOWNSHIP OFFICIALS TO OPPOSE ANY SUCH SALE**

WHEREAS, in 1962 the Commissioners of Bucks County created the Bucks County Water and Sewer Authority under the authority of the Pennsylvania Municipality Authorities Act as an independent agency of the Commonwealth of Pennsylvania for the purpose of constructing and maintaining public potable water and public sanitary sewer service infrastructure to serve Bucks County in furtherance of public health, safety, and welfare; and,

WHEREAS, in its current form as a Pennsylvania Municipal Authority, the Bucks County Water and Sewer Authority is required by law to set its sanitary sewer rates to consist of the sum of its maintenance, debt service, and operating expenses without profit; and,

WHEREAS, the Bucks County Water and Sewer Authority, as a Municipal Authority, is governed by its Board, the members of which are appointed by the elected officials of Bucks County and as such are responsive to the democratic process by way of County elections; and

WHEREAS, the Board meetings and deliberations of the Bucks County Water and Sewer Authority as currently constituted are required by Pennsylvania law to be held in a public forum upon prior written public notice and open to public comment, and input; and

WHEREAS, the rates of the Bucks County Water and Sewer Authority as currently constituted, as well as the "adequacy, safety, and reasonableness" of its services are subject to challenge under Pennsylvania law by "any person" by way of a lawsuit in the Court of Common Pleas of Bucks County; and

WHEREAS, the Bucks County Water and Sewer Authority provides services to about 100,000 households, nearly one-third of the County population, in 31 municipalities and is the largest single provider of water and sewer services in the County; and

WHEREAS, the Bucks County Water and Sewer Authority currently provides sanitary sewer collection, conveyance and treatment services to the nearly 18,000 residential and non-residential properties located within Bensalem Township; and

WHEREAS, the Bucks County Water and Sewer Authority recently announced and approved the negotiation of the potential sale of its sanitary sewer infrastructure to the publicly traded, for profit utility provider, Aqua Pennsylvania, Inc.; and

WHEREAS, prior acquisitions of municipal sanitary sewer infrastructure from Municipal Authorities in Southeastern Pennsylvania have been followed in short order by massive rate increases to the rate-paying public, including acquisitions of municipal sewer systems and

subsequent rate increases in Limerick Township, whose rates increased 82%, East Bradford Township, whose rates increased 64%, Cheltenham Township, whose rates increased 65%, East Norriton Township, whose rates increased 57%, and New Garden Township, whose rates increased 53%; and

WHEREAS, as part of the announcement of the negotiations of the potential sale of its sanitary sewer infrastructure, the Bucks County Water and Sewer Authority also indicated that certain of the sale proceeds could be used to stabilize rates in the future for its now current ratepayers affected by the potential sale, however, the future use of any and all sale proceeds by the Bucks County Water and Sewer Authority are subject to the actions and decisions of not only current elected and appointed officials, and by future elected and appointed officials, as well, who may decide to dispose of the sale proceeds in ways entirely unrelated to rate stabilization, and who may direct that such sale proceeds be utilized in relation to other unrelated purposes and/or priorities; and

WHEREAS, as a result of all of the above, the privatization of sanitary sewer collection, conveyance and treatment assets of the Bucks County Water and Sewer Authority will ultimately result in negative impacts for the various local municipalities of Bucks County and their residents; and

WHEREAS, so as to oppose the proposed sale of the sanitary sewer collection, conveyance and treatment assets of the Bucks County Water and Sewer Authority to Aqua Pennsylvania, Inc., and/or to any other private, for-profit utility provider, a consortium of municipal entities has recently been formed by and through the Bucks County Association of Township Officials (the "Consortium"), in which such Consortium the Township wishes to join and participate,

NOW, THEREFORE, be it RESOLVED by the Council of the Township of Bensalem, Bucks County, as follows:

1. The Township is opposed to the sale of the sanitary sewer collection, conveyance and treatment assets of the Bucks County Water and Sewer Authority to Aqua Pennsylvania, Inc., and/or to any other private, for-profit utility entity, in the strongest possible terms, and,
2. The Township respectfully implores the Commissioners of Bucks County to compel the Bucks County Water and Sewer Authority to immediately and without delay abandon all negotiations with Aqua Pennsylvania, Inc., and/or with any other private, for-profit utility entity, for the acquisition of the Bucks County Water and Sewer Authority's sanitary sewer collection, conveyance, and treatment assets.
3. The Township hereby approves joining the Consortium formed by and through the Bucks County Association of Township Officials ("BCATO") to oppose the sale of the sanitary sewer collection, conveyance and treatment assets of the Bucks County Water and Sewer Authority to Aqua Pennsylvania, Inc., and/or to any other private,

for-profit utility entity, and to take such action, including legal actions, as may be necessary, to prevent such a sale.

4. The Township hereby authorizes the Consortium to retain such experts, consultants and legal counsel, as approved by a majority of the members of the Consortium, to prepare such analyses, studies, court actions and other documents, as deemed needed to prevent and/or oppose the proposed sale, and the Township will pay a proportionate share of the costs for the same with the understanding that the proportionate share of such costs shall be apportioned to each consortium member based upon total population of the each Consortium member utilizing 2020 census data and figures.
5. The Township acknowledges that Doylestown Township will act as the lead agency for the Consortium ("Lead Agency"), whose Township Manager, upon approval of a majority of the members of the Consortium, shall enter into contracts to retain such experts, consultants, legal counsel as are deemed needed to oppose the sale and to take such other actions that further the purpose and objectives stated above. If Doylestown Township shall elect not to serve as Lead Agency, then such other municipality selected by the Executive Board of BCATO shall be the Lead Agency with all of the authority stated herein. Upon the approval of a majority of the members of the Consortium, legal counsel retained by the Consortium shall have the authority to institute such complaints, injunction actions or engage in other legal actions related to the sale of the sanitary sewer collection, conveyance and treatment assets of the Bucks County Water and Sewer Authority to Aqua Pennsylvania, Inc., and/or to any other private, for-profit utility entity; provided, however, that no municipality shall be named a plaintiff in such actions unless a majority of the elected representatives of the municipality first approve the institution of such a suit by majority vote taken at a public meeting. Each member municipality of the Consortium will deposit the sum of Five Thousand (\$5,000.00) Dollars into an account established by the Executive Director of BCATO for the payment of the aforementioned costs as may be incurred by the Consortium. The Executive Director of BCATO shall pay such invoices as are submitted by the Lead Agency for payment for work undertaken in furtherance of the purpose and objectives stated herein (the "Work"). If additional funds are required to fund the purposes, goals and objectives of the Consortium, Consortium members will be asked to contribute such additional funds utilizing the same formula as utilized to calculate the proportionate share of a member's payment of costs based upon total population of the each Consortium member utilizing 2020 census data and figures. Similarly, any funds remaining at such time as the Consortium terminates shall be distributed to the member municipalities utilizing the same formula as utilized to calculate the proportionate share of a member's payment of costs based upon total population of the each Consortium member utilizing 2020 census data and figures.

6. The Township understands that the Consortium shall terminate on the January 1, 2024, unless terminated earlier, or unless extended by majority vote of the members of the Consortium prior to that date
7. The Mayor, the Director of Administration and the Township Solicitor are authorized to undertake any and all necessary actions and to execute any and all documents necessary to effectuate the purposes of this Resolution.

**COUNCIL OF THE TOWNSHIP
OF BENSALEM**



JOSEPH KNOWLES
COUNCIL PRESIDENT

ATTEST:



JOSEPH PILIERI
COUNCIL SECRETARY