

GOVERNMENT STUDY COMMISSION

TOWAMENCIN TOWNSHIP

**Towamencin Township Government
Study Commission Report**

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Letter from the Towamencin Government Study Commission

March 9th, 2023

Dear Towamencin Resident,

For the reasons set forth herein, the Towamencin Township Government Study Commission recommends adoption of a Home Rule Charter, in the form attached as the Proposed Towamencin Township Home Rule Charter, and submission to the electors of Towamencin Township at the Municipal Primary Election to be held on Tuesday, May 16, 2023. The commission outlined the below statement of purpose for residents:

The purpose of our commission is to explore the ways home rule could change the outcome of the pending sewer sale, add citizen participation through referenda, and add transparency to Towamencin's operations.

As such, the proposed Home Rule Charter defaults its provisions to Class 2 Township code; that is to say there will be no changes in elected offices, no changes to financial procedures, no changes to the limitations on the rates of taxation, and no changes in general operating procedures. The Charter **does**:

- Prohibit the sale or long-term lease of potable water, wastewater, and stormwater systems to nongovernmental entities
- Adds initiative and referendum procedures
- Add a referendum requirement for asset monetization that is above 25% of the township annual budgeted revenue
- Adds minor digital transparency requirements.

On **Tuesday, May 16th**, Towamencin Township voters will be asked the following question on the ballot:

Shall the Home Rule Charter contained in the report, dated March 9th, 2023, of the government study commission, prepared in accordance with the Home Rule Charter and Optional Plans Law, be adopted by the Second Class Township of Towamencin?

If the majority of voters choose “**Yes**”, a new Home Rule Charter would be adopted by Towamencin Township on July 1, 2023. Should the majority of voters choose “**No**”, the existing second class township code and all its existing provisions will remain in effect. More information on how to register to vote can be found here: <https://www.montcopa.org/761/Voter-Registration>

Residents are encouraged to attend the scheduled **Town Hall on Monday, April 24th at 7pm at the North Penn High School Audion at 1340 S Valley Forge Road, Lansdale, PA 19446**. During the Town Hall, we expect to discuss the Charter in detail, as well as address any questions from residents, taxpayers, or sewer ratepayers. To save on printing cost, we ask attendees to bring a copy of the included report to the Town Hall.

Attached to this report is the full proposed Home Rule Charter for your review and consideration.

Organization

The purpose of the government study commission was to study the existing structure of Towamencin Township, identify areas of improvement, and determine if a Home Rule Charter could address the emerging needs of the community.

Title 53 outlines the legal requirements of a government study, with the only requirement being at least one (1) Public Hearing. Because the law is purposely vague in order for municipalities to conduct a study based on its individual requirements, we tailored our process to focus on three (3) emerging needs we felt a Home Rule Charter could potentially address:

- Stopping the pending sale of our sewer to NextEra or any other private entity
- Allowing for greater citizen participation through referendum
- Providing for greater transparency in local government

On December 6, 2022, six (6) elected commissioners took their oaths of office and organized as follows:

- *Kofi Osei – Chairperson*
- *Jenn Foster – Vice Chairperson*
- *Tina Gallgher – Chair pro-tempore*
- *Gisela Koch – Secretary*
- *Martin Cohen – Treasurer/Vice Secretary*
- *Mark Warren – Vice Treasurer*

The seventh member of our elected commission chose not to be sworn in due to personal health issues, and this was addressed at the commission's January 4th Public Meeting.

In addition, we named an alternate to serve as a non-voting member of the commission.

Finally, we created a volunteer committee, whose purpose was to spearhead the creation of the commission's website, develop community mailings, and compile and publish FAQs.

At the commission's January 4th Public Meeting, our alternate, Joe Rumsey, was appointed by the commission to serve as the seventh member and given the role of Vice Secretary. According to page thirteen (13) of the PA Home Rule Handbook, vacancies have occurred in one out of five government study commissions, and it is very common for alternates to be named in order to fill vacancies.

The commission held public meetings on the following dates:

January 4, 2023

January 18, 2023

February 1, 2023

February 15, 2023

March 1, 2023 - *Public Hearing*

March 15, 2023

All public meetings were held at 7pm at the Municipal Meeting Hall at 1090 Troxel Road, Lansdale, PA 19446. A public Town Hall is scheduled for 7pm on April 24, 2023 at the North Penn High School Audion at 1340m S, Valley Forge Road, Lansdale, PA 19446.

Activities

The government study included a variety of activities. A list of some of the things we've done to come up with our recommendations are below.

- Attended Board of Supervisor and advisory committee meetings
- Hosted interviews and presentations at public meetings
- Reviewed Class 2 Township Code and other state laws
- Reviewed other municipalities' Charters
- Reviewed how other states approach municipal issues
- Monitored feedback on the commission's work
- Talked with solicitors about legal feasibility of Charter provisions
- Toured the sewer plant

In the first half of our meeting schedule, we hosted individuals with experience with home rule municipalities.

At our January 4th meeting, we interviewed Chris Manero. Mr. Manero grew up in Towamencin and is the chairman of the Plymouth Township Council. Plymouth is a Township of the First Class governed by a Home Rule Charter that was adopted in 1976. The subject of our interview was about Mr. Manero's experience with home rule and Plymouth Township's experience rejecting a sewer system sale. We learned from the interview that Plymouth did not sell their sewer system because they felt that the sewer rate increases outweighed any benefit of the one time cash infusion. We also learned that Plymouth did not employ any home rule powers such as referendum during Mr. Manero's time on council.

At our January 18th meeting, we interviewed David McMahon. Mr. McMahon is a Norristown resident. Norristown is a Borough governed by a Home Rule Charter that was adopted in 2004 which replaced a Home Rule Charter adopted in 1986. The subject of the interview was about how Mr. McMahon and his neighbors were able to use Norristown's Home Rule Charter to overturn a council decision to sell their sewer system. We learned from the interview that Norristown's Home Rule Charter allowed citizens to have a direct say in local decisions and that Norristown residents did not like the idea of selling their sewer system despite promises from their local government. Similar to Plymouth, the referendum procedures seen in Norristown's Charter had not been used for anything else during Mr. McMahon's time living in Norristown.

At our February 1st meeting, we received a presentation from Fred Chapman, the policy specialist for the PA Department of Community & Economic Development, Governor's Center for Local Government Services. During his presentation Mr. Chapman explained the concept of home rule, answered a handful of pre-submitted questions, and made a number of recommendations to the government study commission.

As of writing this report, we have scheduled an interview with the Warminster Municipal Authority General Manager Tim Hagey for the March 15th meeting. We also anticipate receiving written

responses to questions submitted to the North Penn Water Authority¹. We anticipate learning about the history of the North Penn Water Authority and about how municipal authorities can provide essential services in a fiscally responsible way.

Through our study, the commission made the determination that a Home Rule Charter could address four community concerns:

1. The sewer sale is neither necessary nor popular
2. There is little wrong with the current structure of government
3. There isn't enough direct democracy in Towamencin
4. There isn't enough transparency in Towamencin.

Concern #1 The Sewer Sale is Neither Necessary nor Popular

Over the course of the sewer sale exploration, the Board of Supervisors consistently said that the sewer system is in good shape and the Township' finances were in good order. There are currently 7105 residential users of the sewer system and 337 residential septic users in Towamencin Township. There are also a few hundred households that are located outside of the township but are connected to the Towamencin Municipal Authority plant. During public comment at the Board of Supervisors meetings, hundreds of residents gave public comment against the sale while only a small handful gave comment in support. Despite these facts, the Towamencin Board of Supervisors voted 4-1 to sell the sewer system to NextEra energy. At 115.3 million dollars, this is probably the largest single decision the Board of Supervisors could ever make and they did so without public support or necessity.

Through our analysis, we've found that the sewer sale could cost Towamencin ratepayers about \$9 million or more every year in sewer rates in excess of operation and maintenance. The additional \$9M per year is unrelated to the profits, operation, maintenance, or capital projects of the sewer system. Servicing \$115M is similar to payments on a 20-year loan for \$115M at 4%, except that annual payments by sewer customers will continue in perpetuity. That would dwarf the stated \$3.5 million a year benefit of having a one time cash infusion. Investor owned wastewater utilities consistently charge double to triple rates as well as having more harsh rate hikes than municipally owned systems, at no extra operational benefit to service, as both types of systems are regulated by the Department of Environmental Protection. An in depth discussion of our analysis can be found by reviewing the 2/15/2023 meeting video at <https://www.youtube.com/@towamencingsc>.

Section 14.01 of the asset purchase agreement allows the Township to exit the contract with no penalty if the sale is prohibited. Article 6 of the Charter prohibits the sale or long term lease of water, wastewater, and storm water systems to non-governmental entities. Residents in Pennsylvania have a right to adopt a Home Rule Charter given to us via Article 9 § 2 of our constitution and enabled by Title 53 § 2961 of state law. Therefore, it is the study commission's opinion that it is unlikely that adopting this Charter would cause a lengthy and expensive lawsuit that ends with the Township being ordered to sell the sewer system. We have confirmed this idea with the commission's solicitor and believe an expensive drawn out legal battle is unlikely, but

¹ The government study commission initially scheduled an interview with NPWA Tony Bellitto and he was no longer able to attend the March 15th meeting.

acknowledge that this use of home rule is legally untested. In the event that the township is forced to sell the sewer system despite this Charter, the commission found that the impact to individual households would be minimal as any legal cost would functionally be removed from the sewer sales price. The millions of dollars of excess sewer rates spent every year, forever would be much more significant than any one time legal fee.

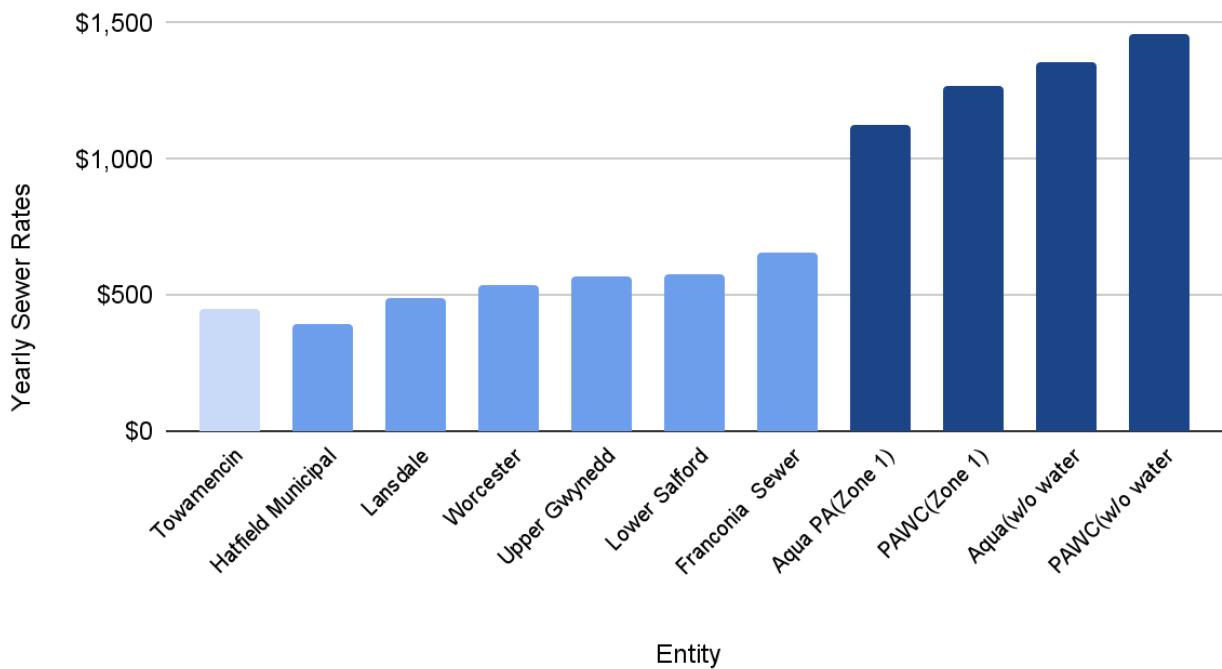
If the sewer sale is prohibited via the enclosed Charter or the sale is blocked by the standard Public Utility Commission proceedings, it is expected that the Board of Supervisors would levy taxes that are otherwise available to them currently². That is usually property tax hikes but they also have some other options such as a stormwater fee. They could also opt to sell the sewer system to a governmental entity. It would be a lower price, but the face value of the sewer system is enough to pay off all Township debt and would have a much lower impact on sewer rates.

² The Towamencin Township Government Study Commission held its public hearing on March 1, 2023. The hearing was duly advertised, and the advertisement indicated the Commission's intent to consider the draft of the Charter, the Report and the ballot question. After the public hearing, at its regular public meeting scheduled on March 8, 2023, the Board of Supervisors amended its agenda and revealed NextEra's intent to assign its interests in the Asset Purchase Agreement to Pennsylvania American Water. As of the date of this filing, formal action to change the ordinance authorizing the sale to NextEra has not occurred. Should Pennsylvania American Water become the prospective purchaser, the Commission's findings and recommendations remain unchanged as set forth herein.

Sewer Rate Survey

Entity	Yearly Sewer Rates	Utility Type
Towamencin Municipal Authority	\$450	Municipal
Hatfield Municipal Authority	\$396	Municipal
Lansdale	\$492	Municipal
Worcester	\$536	Municipal
Upper Gwynedd(2024)	\$569	Municipal
Lower Salford	\$580	Municipal
Franconia Sewer Authority	\$660	Municipal
Aqua PA(Zone 1)	\$1,125	Investor Owned
PAWC(Zone 1)	\$1,272	Investor Owned
Aqua(w/o water subsidy)	\$1,356	Investor Owned
PAWC(w/o water subsidy)	\$1,462	Investor Owned

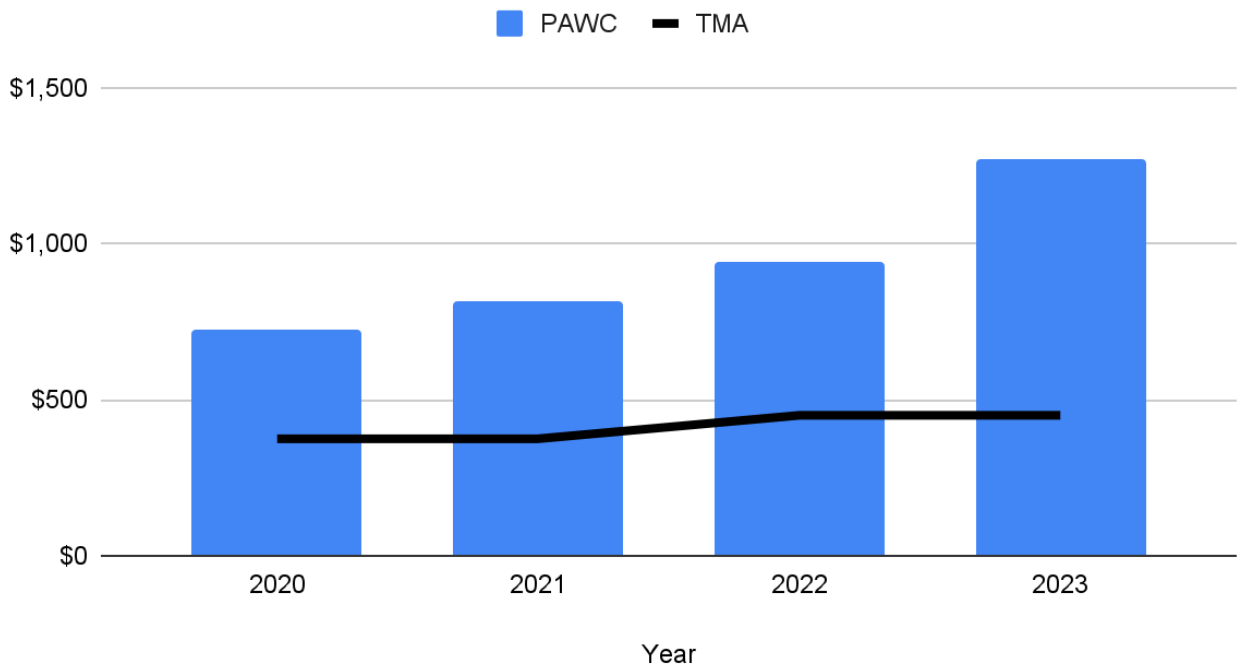
Rate Comparison



PA American Water Company and Towamencin Municipal Authority
Rate Progression

Year	PAWC Yearly Rate	TMA Yearly Rate
2020	\$725	\$375
2021	\$815	\$375
2022	\$941	\$450
2023	\$1,272	\$450

PAWC and TMA Rate Progression



Concern #2 There is Little Wrong With the Current Structure of Government

The commission studied several different structures of local government by reviewing materials from the Pennsylvania Department of Community and Economic Development, as well as several existing PA Home Rule Charters.

Some suggested forms are as follows:

- **Council-Manager**
 - Elected council as legislative body and hired manager as executive body
 - Seen in class 1 and 2 township code
 - Towamencin's current structure as a Township of the second class
- **City-Manager**
 - Elected council as legislative body, hired manager as executive body, ceremonial elected mayor
 - Seen in borough code
- **Mayor-Council**
 - Elected council as legislative body, mayor with some executive power, optional hired manager
 - Seen in City codes and many Home Rule Charters
- **Town Hall**
 - Every citizen is a part of the legislative body
 - All decisions made by referendum
 - Seen in small municipalities in New England

As part of our review, and based upon resident feedback and concerns, the commission agrees that the existing Class 2 Township Council-Manager form of government is sufficient for the size and structure of Towamencin Township. The names, duties, and terms of the offices will remain unchanged:

- *Five (5) elected Supervisors, each at-large with a 6-year term*
- *One (1) elected Tax Collector at-large with a 4-year term*
- *Three(3) elected Auditors at-large with a 6-year term*
- *Hired Township Manager*

In Section 106, the Charter defaults Township provisions to the Class 2 Township code.

Concern #3 There isn't Enough Direct Democracy

Our current Board of Supervisors meets twice monthly for a work session and a monthly meeting. These meetings are held at the Township Building at 1090 Troxel Rd. These meetings are generally attended by a few residents, depending on the agenda items. In the past, the Township has faced financial challenges. One of these challenges concerned the development of a town center. A main thoroughfare was rebuilt, a pedestrian bridge added, and a new roadway with commercial buildings proposed and later developed. This town center plan was followed by many residents who raised concerns to the local government at the time. This background is included here as many long-term residents were affected by this challenging time as they interacted with their local government and the lingering financial effects are still with us today.

There were two town halls in April 2022 that concerned the sale of the sewer system. The town halls occurred after many residents attended Board of Supervisor meetings and requested more information. 200-300 people attended the town halls. Information was shared by the consultant firm PFM, the Board of Supervisors, and NextEra, followed by a public comment period.

During a public comment period, Supervisor Wilson explained that a combination of various individuals including two Board members came to a consensus to accept the bid of NextEra. Supervisor Marino further explained this occurred at a working committee. Clarification was made by Jack Dooley, the Township Solicitor, who stated that "the sewer committee is not a committee of the Board", thus the Sunshine Act was not applicable. Supervisor Snyder has shared that the Supervisors who were not on the committee were not notified of any committee decision or by another Board member to accept the bid from NextEra. Supervisor Snyder did not have any insight into what information the committee considered, and only became aware of the choice of NextEra when it was presented at the public town hall meeting. These interactions have not been helpful in engaging the public's understanding of the process to monetize the sewer system. Instead, frustration grew as residents, businesses, and wastewater customers outside of the township's boundaries did not feel they had access to their local government.

The terms 'initiative' and 'referendum' refer to processes that allow citizens to vote on particular pieces of legislation.

- The initiative process allows citizens to propose a new ordinance
- The referendum process allows citizens to refer an ordinance that passed by the Board of Supervisors to the ballot for voters to decide whether to uphold or repeal the ordinance.

If Towamencin had a Home Rule Charter with initiative and referendum during the sewer sale event or the town center discussions, it is possible residents would have used those provisions to change the outcome of either event. In order to strengthen and increase opportunities for citizen participation, the addition of both initiative and referendum will address the need for greater access to local government. Article IV includes provisions for ordinance initiative, reconsideration, and proposal by the Board of Supervisors, along with processes for petitioning and election procedures.

Concern #4 There is not enough Transparency

Towamencin Township, a Township of the Second Class, is governed by a five member board of supervisors. The term per elected board member is six years. Information concerning terms of all elected officials is currently not included on the township web site.

The Board of Supervisors appoints all members to the township's volunteer committees, boards, councils, and commissions. The process to apply for a consideration to a committee includes a completed application and an interview. The application is included on the Township website. Currently vacancies and terms are not publicly accessible. When a term ends there is no formal process to reinstate the member. Also, the current members of the volunteer groups are not publicly accessible. This is a hindrance to the residents that may be interested in applying and limits public participation.

Three committees, Planning Commission, Strategic Planning Commission, Open Space and Parks Advisory Committee, were also found to have seven members who served four or more terms.

The addition of elected officials' names with their terms to the Township website will benefit residents especially during elections. The names of Township appointed authorities, boards, and commission members along with their chairperson, their terms, and contact information will provide residents greater accessibility to their local government. It is important this information be updated in a timely manner.

The Article V of the Charter includes a requirement that term information for elected officials and appointed volunteer members of committees, boards, councils, and commissions be available on the publicly accessible website.

Survey of Board of Supervisors and Advisory Committee Membership

Board of Supervisors:

- Chairman 3 terms, 21 years currently served
- Vice Chairman 1 term, 5 years currently served
- Secretary 1 term, 9 years currently served
- Treasurer 1 term, 1 year currently served
- Assistant Secretary/Assistant Treasurer 1 term, 1 year currently served

The following committees, boards, councils, and commissions have multiple-term members:

- Zoning Hearing Board 3/3 multiple terms (3 year term)
- Planning Commission 7/8 multiple terms (4 year term)
- Environmental Advisory Council 5/5 multiple terms (3 year term)
- Agricultural Security Area Advisory 2/2 multiple terms (1 year term)
- Economic Development Commission 4/4 multiple terms (3 year term)
- Emergency Operations Commission 3/4 multiple terms (3 year term)
- Open Space and Parks Advisory Committee 7/9 multiple terms (3 year term)
- Recreation and Special Events Advisory Committee 5/6 multiple terms (3 year term)
- Strategic Planning Commission 2/2 multiple terms (1 year term)

- Technology Assessment and Innovation Committee 4/6 multiple terms (3 year term)
- Traffic Impact Fee Advisory Committee 3/3 multiple terms (1 year term)
- Veterans Committee 9/11 multiple terms (3 year term)

Non-Charter Recommendations

During our study, we've identified a few recommendations we would like to make that are not codified in the presented Charter.

To the Board of Supervisors: Our first recommendation to the Board of Supervisors is to be more proactive in taking public input. This government study was initiated via petition directly in response to the sewer sale decision. More public meetings and polling about the potential sale would have been a more cost effective way to decide on the sewer sale. Our second recommendation would be to invoke the no-liability termination language of the sewer asset purchase agreement, if the voters of Towamencin approve this Charter. The intent of this Charter is to prohibit the sewer sale and all other sewer sales and long term leases to non-governmental entities. It is the study commission's opinion that it would be best for the taxpayers of Towamencin if the Board of Supervisors were to initiate termination of the sewer asset purchase agreement. Our third and final recommendation is to update the comprehensive plan and the strategic plan more frequently. The comprehensive plan is supposed to be updated once a decade and the strategic plan is supposed to be updated every 5 years, but the last time the comprehensive plan was updated was 1989 and the last time the strategic plan was updated was 2007. Frequent updates to these plans may assist in grant applications and would better inform residents of any financial challenges the Township faces.

To the General Assembly: Pennsylvania has a very powerful version of home rule compared to other states, which means that citizens have the potential ability to have a lot of control over their local government. In spite of this, Pennsylvania laws do not allow citizens to have initiative or referendum by right, even if that ability is seen in many Home Rule Charters. Our first recommendation is to incorporate initiative and referendum options similar to the ones seen in the proposed Towamencin Charter into the various municipal codes. Our second recommendation is to incorporate the digital transparency provisions seen in the Towamencin Charter into the Sunshine Act. Various transparency provisions in Home Rule Charters predate the Sunshine Act and we believe these digital transparency requirements are appropriate for municipalities that opt to maintain a website. Our third and final recommendation is to fix our utility laws. We have found the use of Title 66, Section 1329(2016's Act 12) to be abusive to the intent of both municipal authorities and investor-owned utilities. Utilities should be about providing essential services in communities, and in the case of the investor-owned model, providing modest profit margins to the operators. Instead of that, municipalities seem to be nearly exclusively using Act 12 to shortcut any need for long term fiscal planning and gradual tax hikes. Ratepayers are then left with very expensive utility bills.

To Towamencin Residents: Participate! Whether it's running for office, volunteering for an advisory committee, or even just attending public meetings, getting involved in local dealings has a great return on time invested. A lot of the money spent at the federal and state level ultimately gives discretion to individual municipalities, so it is important to give input when the Board of Supervisors is making decisions.

Plain English Charter

The commission tailored its study and corresponding Home Rule Charter to both address the concerns of residents, as well as ensure the provisions within the Charter are clear and as least disruptive to the Township and its Elected Officials as possible.

The Charter explicitly states that, unless otherwise written in the Charter, Towamencin will retain the structure, privileges, rights, duties and limitations of its existing status of a Township of the Second Class. Articles Four (4), Five (5), and Six (6) are the only changes to the existing Second Class Township provisions.

- **Article 1: Construction of the Charter**
 - Maintains the name of Towamencin Township, all existing boundaries, and powers granted by the existing Class 2 Township Code, unless otherwise noted within the Home Rule Charter.

- **Article 2: Defines Elected Offices**
 - The Township maintains its current structure of government; Five (5) Elected Supervisors, Three (3) Elected Auditors, One (1) Elected Tax Collector, and a Hired Manager.

- **Article 3: Defines Financial Procedures**
 - Defaults township provisions to Class 2 township code. ***This Charter explicitly retains the current limitations on the rates of taxation.***

- **Article 4 (New): Initiative and Referendum Procedures**
 - Residents will have the power to initiate proposed ordinances or initiate reconsideration of ordinances within 30 days of enactment, and the Township is empowered to put ordinances directly on the ballot. Referenda initiated by Township residents must follow the below procedures:
 - Any five (5) qualified voters, designated as a Committee of the Petitioners, may commence initiative and referendum proceedings.
 - Initiative and referendum petitions must be signed by qualified voters of the Township equal to at least fifteen percent (15%) of those registered to vote at the last municipal election.
 - Petitions circulation is not limited to the 5 qualified voters who initiated the petition.

 - Referendums must be initiated for the asset sale or lease to non-governmental entities resulting in the Township receiving compensation ***exceeding 25%*** of annual budgeted revenue

 - Exemptions to this process include:
 - Ordinances related to the budget or capital programs
 - Ordinances related to the compensation of Township personnel
 - Emergency ordinances
 - Ordinances authorizing elections
 - Ordinances related to powers of the Township that are preempted from Home Rule
 - An initiative or referendum that would violate applicable laws of the Commonwealth of Pennsylvania

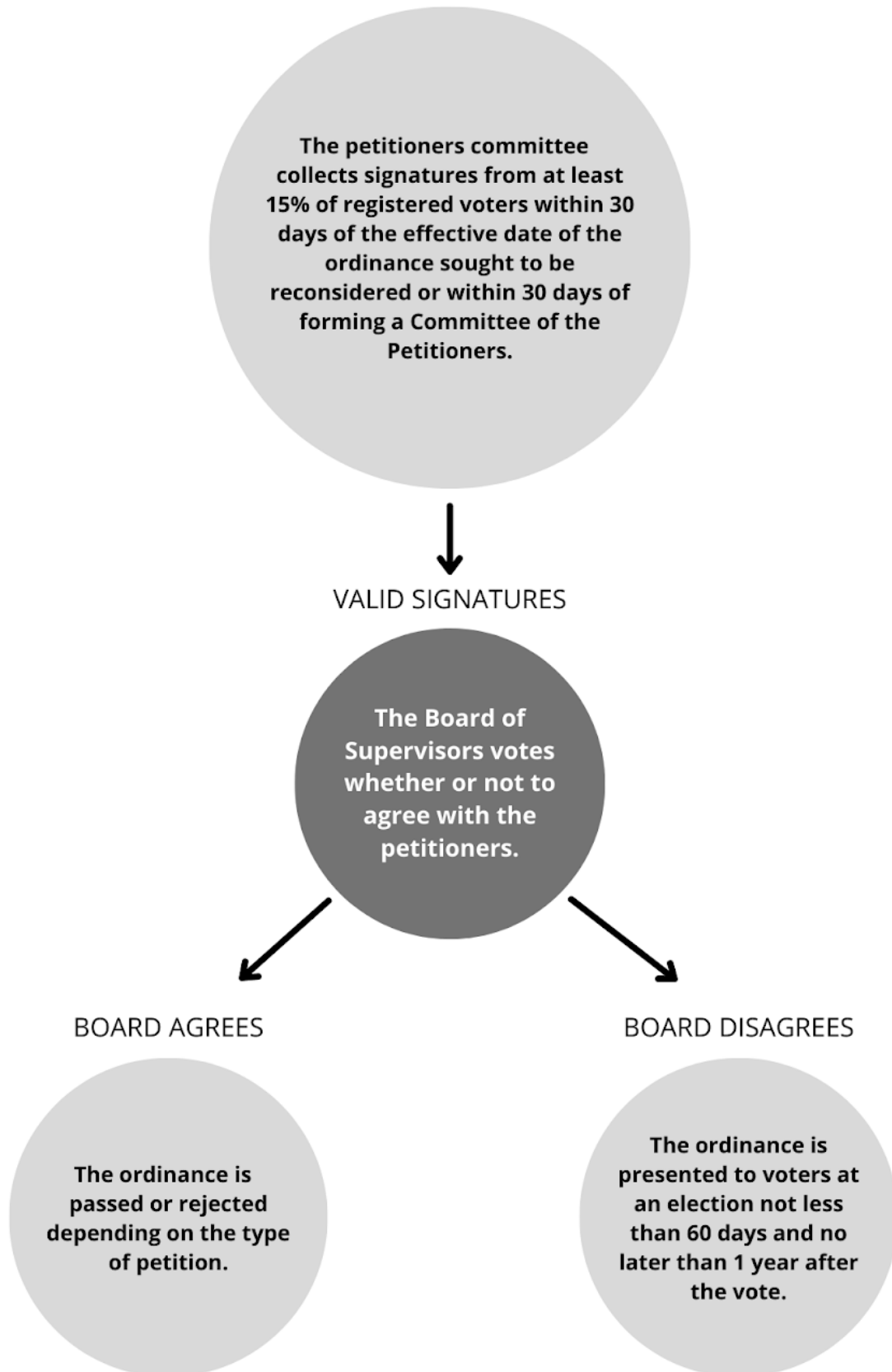
- **Article 5 (New): Transparency**
 - Provisions surrounding digital availability of certain information that is otherwise public
 - Member and term information of elected officials and those appointed to advisory boards, authorities, commissions and volunteer committees
 - Digital copies of documents that are available at the township building
 - If a Towamencin specific question, whether prompted by voters, the Township, or any other applicable state laws, is placed on a ballot, the Board of Supervisors must hold a public town hall meeting within 30 days of passage.
 - The meeting must be advertised.
 - The Township must send mailings to residents with information on the ballot question and time/location of town hall.
 - The petitioners, whether the Township or voters, will have ample time to speak about the initiative.
 - There must be at least one hour of public comment.

- **Article 6 (New): Right to Public Ownership Of Potable Water Systems, Wastewater Systems, and Storm Sewer Systems**
 - Prohibits the sale or long term lease of water, wastewater or stormwater systems, but does allow for a lease with a non-governmental entity for a period of no longer than two (2) years

- **Article 7: General Provisions**
 - Maintains the existing rights and liabilities of the Township
 - Maintains the existing office names and terms of Elected Officials
 - Maintains the existing rights and privileges of Township employees
 - All ordinances, resolutions, rules and regulations in force when this Charter takes effect will continue in force, *provided* they do not conflict with any of the Home Rule Charter provisions
 - If portions of Charter can not take effect in its entirety because of the judgment of any court with jurisdiction, all other provisions within the Charter will still go into effect
 - Amendments to the Charter must conform to the laws of the Commonwealth of Pennsylvania
 - The Home Rule Charter would go into effect July 1, 2023

Petitioning Flow Chart

In order to change an ordinance, five registered voters must file an affidavit with the Township Manager to form a Committee of the Petitioners to initiate or force the reconsideration of an ordinance.



PROPOSED TOWAMENCIN TOWNSHIP HOME RULE CHARTER

PREAMBLE

We, the people of Towamencin Township in Montgomery County, under authority granted by the Constitution and the Laws of the Commonwealth of Pennsylvania to adopt Home Rule Charters do hereby ordain and adopt this Home Rule Charter to establish a council-manager form of government with full rights of local self-government. We do so primarily to reaffirm our right to public ownership of water, wastewater and storm sewer systems as given to us in Article I, § 27 of the Constitution of the Commonwealth of Pennsylvania.

ARTICLE I

NAME, BOUNDARIES, DEFINITIONS, AND POWERS

SECTION 101. NAME.

Towamencin Township is continued as a municipality in Montgomery County, Pennsylvania, and is hereby established as a municipal corporation under the name of Towamencin Township and shall herein be referred to as the "Township."

SECTION 102. BOUNDARIES.

The boundaries of Towamencin Township shall be the actual boundaries of the Township at the time this Charter takes effect and as they may be lawfully changed thereafter.

SECTION 103. DEFINITIONS.

Unless otherwise expressly stated in this Charter, the following words and phrases shall be construed to have the following meanings:

- a. The term “Charter” shall refer to the Home Rule Charter of Towamencin Township, Montgomery County, Pennsylvania.
- b. The term “Potable Water System” shall refer to all real property, appurtenant interests, and facilities necessary for diverting, developing, pumping, impounding, distributing or furnishing water to customers for compensation.
- c. The term “Wastewater System” shall refer to all real property, appurtenant interests, and facilities necessary for wastewater collection, conveyance, treatment or disposal to customers for compensation.
- d. The term “Storm Water System” shall refer to all real property, appurtenant interests, and facilities necessary for storm water collection, conveyance, treatment and disposal.

SECTION 104. POWERS.

The Township has, and may exercise, any powers, and may perform any function not denied by the Constitution of the United States or the Constitution of the Commonwealth of Pennsylvania, by this Charter, or by an act of the General Assembly at any time. It is the intent of this Charter that the Township shall have all powers possible under the Constitution and Laws of this Commonwealth, except as may be set forth herein, whether or not such powers and functions are being exercised at the time of the adoption of this Charter.

SECTION 105. RESIDUAL POWERS.

All powers of the Township, including any such power which may hereafter be conferred on the Township by an amendment of the Constitution of the United States or of the Constitution of Pennsylvania or of this Charter or by act of the General Assembly, unless otherwise specifically set forth in this Charter, shall be vested in the Township’s governing body. The governing body shall be elected, shall organize, and shall function as provided in this Charter.

SECTION 106. MUNICIPAL CLASS RETENTION.

Unless otherwise expressly stated in this Charter, the Township will retain the structure, privileges, rights, and duties and limitations thereon of a Township of the Second Class, as provided by 53 P.S. §§ 65101, et seq., not subject to this Charter. The Township may change its underlying class in any way that is provided to Townships of the Second Class by the Laws of this Commonwealth. If the Township changes its underlying class, all references to the Second Class Township Code in this Charter will thereafter refer to the new class and all references to the Board of Supervisors in this Charter will refer to the new form of governing body.

SECTION 107. CONSTRUCTION.

The powers of the Township under this Charter shall be liberally construed in favor of the Township, and the specific mention of particular powers in this Charter shall not be construed as limiting in any way the general power stated in this article. All possible powers of the Township, except as limited in Section 104 and Section 106 above, are to be considered as if specifically and individually set forth in this article, whether such powers are presently available to the Township or may hereafter from time to time become available.

ARTICLE II

ELECTED OFFICES

SECTION 201. ELECTED OFFICE RETENTION.

Unless otherwise expressly stated in this Charter, the Township shall retain the elected offices of a Township of the Second Class. All privileges, election procedures, terms, rights and duties of said offices and limitations thereon shall be retained unless otherwise stated in this Charter.

SECTION 202. GOVERNING BODY.

The Township is a Township of the Second Class and its governing body is a Board of Supervisors consisting of five (5) at-large members elected to six-year terms.

ARTICLE III

FINANCIAL PROCEDURES

SECTION 301. FINANCIAL PROCEDURE RETENTION.

Unless otherwise expressly stated in this Charter, the Township shall retain the financial procedures of a Township of the Second Class.

SECTION 302. LIMITATIONS ON THE RATES OF TAXATION.

Until this Charter is amended or such time as the General Assembly shall provide uniform laws on rates of taxation which apply to a municipality with a Home Rule Charter that are stricter to such limitations of a Township of the Second Class, the Township shall continue to be subject to the limitations on the rates of taxation which apply to a Township of the Second Class.

ARTICLE IV

INITIATIVE AND REFERENDUM

SECTION 401. GENERAL AUTHORITY.

401.1. Ordinance Initiative: The qualified voters of the Township shall have the power to propose ordinances to the Board of Supervisors and, if the Board of Supervisors fails to adopt an ordinance so proposed, shall have the power to adopt or reject it at a Township election.

401.2. Ordinance Reconsideration: The qualified voters of the Township shall have the power to require reconsideration by the Board of Supervisors

of any adopted ordinance and, if the Board of Supervisors fails to repeal an ordinance so reconsidered, to approve or reject it at a Township election.

401.3. Board of Supervisors Proposal: The Township shall have the power to propose an ordinance directly on a ballot, allowing Township voters to adopt or reject the ordinance at a Township election.

SECTION 402. INITIATIVE.

Any five (5) qualified voters, designated as a Committee of the Petitioners, may commence initiative and referendum proceedings by filing with the Township Manager an affidavit stating their names and addresses and specifying the address to which all notices to the Petitioners' Committee are to be sent, and setting out in full the proposed ordinance or citing the ordinance sought to be reconsidered. Promptly, but no more than five (5) days after the submission of the petition, after the affidavit of the Petitioners' Committee is filed, the Township Manager shall issue the appropriate blank petitions to the Petitioners' Committee, at the committee's expense.

SECTION 403. PETITIONS.

403.1. Initiative and referendum petitions must be signed by qualified voters of the Township in number equal to at least fifteen (15%) per cent of the total number of qualified voters registered to vote at the last municipal election.

403.2. All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Petitions may be executed in separate parts provided all executed versions contain all required information. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.

403.3. Each petition shall have attached to it when filed an affidavit executed by the circulator thereof stating that they personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in the circulators presence, that the circulator believes them to be the genuine signatures of those whose names they purport to be, and that

each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.

403.4. Petitions for referendum must be filed within thirty (30) days after the effective date of the ordinance sought to be reconsidered. Petitions for initiative must be filed within thirty (30) days of filing a petitioners' committee.

SECTION 404. PROCEDURE AFTER FILING.

404.1. Township Manager Review. Within twenty (20) days after the petition is filed, the Township Manager shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective, and shall promptly send a copy of the certificate to the Petitioners' Committee by registered mail. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the Petitioners' Committee files a notice of intention to amend it with the Manager within two business (2) days after receiving the copy of their certificate, and files a supplementary petition upon additional papers within ten (10) days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of Section 403 herein; and within five days after it is filed, the Township Manager shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the Petitioners' Committee by registered mail as in the case of an original petition. If a petition is certified insufficient and the Petitioners' Committee does not elect to amend or request Board of Supervisors review (under Section 404.2 to follow) within the time required, the Township Manager shall promptly present their certificate to the Board of Supervisors and the certificate shall then be a final determination as to the sufficiency of the petition.

404.2. Board of Supervisors Review. If a petition has been certified insufficient and the Petitioners' Committee does not file notice of intention to amend or if an amended petition has been certified insufficient, the Petitioners' Committee may, within two business (2) days after receiving a copy of the certificate, file a request that it be reviewed by the Board of Supervisors. The Board of Supervisors shall review the certificate at its next meeting following the such request. The Board of Supervisors shall provide an opportunity for the Petitioners' Committee to present the petition to the Board of Supervisors. Thereafter, the Board of Supervisors shall approve or

disapprove the petition. The Board of Supervisors' determination shall then be a final determination as to the sufficiency of the petition.

404.3. Court Review; New Petition. A final determination as to the insufficiency of a petition shall be subject to court review. A final determination of insufficiency, even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose.

SECTION 405. EFFECT OF REFERENDUM PETITION ON ORDINANCE.

When a referendum petition is filed with the Township Manager, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

- a. There is a final determination of insufficiency of the petition, or
- b. The Petitioners' Committee withdraws the petition, or
- c. The Board of Supervisors repeals the ordinance, or
- d. Thirty (30) days have elapsed after a vote of the Township electorate on the ordinance.

SECTION 406. ACTION ON PETITIONS.

406.1. By the Board of Supervisors. When an initiative or referendum petition has been determined sufficient, the Board of Supervisors shall promptly consider the adoption of the proposed initiative ordinance, or reconsider the referred ordinance as requested and vote upon its repeal. If the Board of Supervisors fails to adopt a proposed ordinance without change in substance within sixty (60) days or fails to repeal a reconsidered ordinance within thirty (30) days after the date on which the petition was finally determined sufficient, the Board of Supervisors shall submit the proposed ordinance or the reconsidered ordinance to the voters of the Township.

406.2. Submission to Voters. Consideration of a proposed or referred ordinance by the qualified voters of the Township shall be held not less than sixty (60) days and not more than one year after the date of the final the Board of Supervisors vote thereon. If no regular election or primary is to be held within the period so prescribed, the Board of Supervisors shall provide for a special election; otherwise, the vote shall be held at the same time as such regular election, except that the Board of Supervisors may in its

discretion provide for a special election at an earlier date within the prescribed period. Copies of the proposed or referred ordinance shall be made available at the polls.

SECTION 407. BOARD OF SUPERVISORS PROPOSAL.

The Board of Supervisors may enact an ordinance that authorizes an election to be submitted to voters on an ordinance proposed by the Board of Supervisors. The election shall be held not less than sixty (60) days and not more than one year after authorization.

SECTION 408. ASSET MONETIZATION TRIGGER.

An ordinance authorizing the Township to enter an asset purchase agreement or an asset lease agreement of Township owned property to a non-governmental entity that would result in the Township receiving compensation that exceeds twenty-five (25%) percent of that year's budgeted revenue shall be required to be presented to voters in the manner described by Section 407 of this Charter.

SECTION 409. RESULTS OF ELECTION.

409.1. Initiative or Board of Supervisors Proposal. If a majority of the qualified electors voting on a proposed ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances adopted by the Board of Supervisors. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

409.2 Referendum. If a majority of the qualified electors voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

SECTION 410. EXEMPTIONS.

The following types of ordinances shall be exempt from the processes described in this Article.

- a. Ordinances related to the budget or capital program
- b. Ordinances related to the compensation of Township personnel
- c. Emergency ordinances
- d. Ordinances authorizing elections
- e. Ordinances related to powers of the Township that are preempted from home rule
- f. An initiative or referendum that would violate applicable Laws of the Commonwealth of Pennsylvania

ARTICLE V

TRANSPARENCY

SECTION 501. AVAILABILITY OF DOCUMENTS.

After the effective date of this Charter, any ordinance or any other document that is required to be advertised and made available at the Township for public review must also be made available on the publicly accessible Township website. The Township shall make adopted ordinances available on the publicly accessible Township website by their effective date.

SECTION 502. TERM INFORMATION.

The Township shall make available on the publicly accessible Township website the names, any vacancies, and the dates of the end of terms of all Township elected officials and Township appointed members of authorities, boards, and commissions.

SECTION 503. CONTACT INFORMATION.

The Township shall make available on the publicly accessible Township website the contact information of all Township elected officials. The Township shall make available on the publicly accessible Township website

the contact information of the chairs of all Township appointed authorities, boards, and commissions.

SECTION 504. BALLOT QUESTION PUBLIC MEETING.

Any time there is at least one Township specific ballot question in pursuit of Article IV of this Charter or Applicable Laws of the Commonwealth of Pennsylvania, the Township shall hold at least one advertised public meeting, not more than thirty (30) days nor fewer than fourteen (14) days prior to the date of the election that the ballot question(s) shall appear. Prior to the date of the meeting the Township shall send mail that list the date and location of the meeting and the text of the ballot question(s) in full. The Board of Supervisors may provide an explanation of the ballot question(s) at this meeting. If a ballot question was commenced by Section 402, the Petitioner's Committee shall be allowed at least 10 minutes to motivate the ballot question. At least one (1) hour of public comment shall be made available if there are residents or taxpayers who would like to speak.

ARTICLE VI

RIGHT TO PUBLIC OWNERSHIP OF POTABLE WATER SYSTEMS, WASTEWATER SYSTEM, AND STORM SEWER SYSTEMS

SECTION 601. POTABLE WATER, WASTEWATER, AND STORM SEWER SYSTEM SALE PROHIBITION.

The Township, municipal authorities incorporated by the Township, or any other governmental entity that owns and/or operates a Potable Water System, a Wastewater system, or a Storm Water System in the Township, shall not permanently sell, transfer, assign, or deliver ownership or operation of the Potable Water System, the Wastewater System, or the Storm Water System to a non-governmental entity.

SECTION 602. POTABLE WATER, WASTEWATER, AND STORM SEWER SYSTEM LEASE RESTRICTION.

The Township, municipal authorities incorporated by the Township, or any other governmental entity that owns and/or operates a Potable Water System, a Wastewater system, or a Storm Water System in the Township, shall not lease, transfer, assign, or deliver ownership or operation of the Potable Water System, Wastewater system, or Storm Water System to a non-governmental entity for a period of longer than 2 years.

SECTION 603. MUNICIPAL AUTHORITY.

Any Municipal Authority that exists as of the date of adoption of this Home Rule Charter or that is hereafter created or modified pursuant to the 53 Pa.C.S. §§5601, et. seq., shall be created, renewed or modified in such a way that the Articles of Incorporation or other governing document(s) shall prohibit any activity of such Municipal Authority from acting or failing to act in a manner that is inconsistent with or frustrates the intent and/or terms of this Home Rule Charter. Any Municipal Authority that acts or fails to act in such a manner shall be dissolved and all assets owned by the Municipal Authority shall be deeded, conveyed and transferred to Towamencin Township.

SECTION 604. SALE OF ANY SYSTEM TO A GOVERNMENTAL ENTITY.

Any sale by the Township of its Potable Water System, Wastewater System or Storm Water System shall be predicated upon and include a covenant between Township as seller and the buyer that the purchasing governmental entity is prohibited from transferring ownership of the system to be sold to a non-governmental entity upon or after purchase. Furthermore, any creation, extension, renewal or modification of Article of Incorporation of a Municipal Authority on or after the date of adoption of this Home Rule Charter, in accordance with Section 603 of this Charter, shall include a similar prohibition against the sale of any assets of the Municipal Authority to a non-governmental entity.

SECTION 605. NORTH PENN WATER AUTHORITY.

The provisions of this Charter shall not apply to the North Penn Water Authority or any future proposed sale, transfer or lease of its assets except that, to the extent that the North Penn Water Authority's Articles of Incorporation, as they exist now or as they may be amended in the future, require the Township's approval for the sale, transfer or lease of the assets of the North Penn Water Authority, the Township shall be prohibited from approving or supporting the sale, transfer or lease of the assets of the North Penn Water Authority to a non-governmental entity as set forth herein. Nothing herein shall be construed to require the dissolution or re-incorporation of the North Penn Water Authority or the Township's withdrawal therefrom or from prohibiting the Township from satisfying its obligations with regard to the Articles of Incorporation. If the North Penn Water Authority is dissolved and any portion of its assets are transferred or sold to the Township, the provisions of this Charter shall apply.

ARTICLE VII

GENERAL PROVISIONS

SECTION 701. TRANSITION.

701.1. Rights and Liabilities of the Township. Except as provided in this Charter, the Township shall continue to own, possess, and control all rights and property of every kind and nature, owned, possessed or controlled by it when this Charter takes effect, and shall be subject to all its debts, obligations, liabilities, and duties.

701.2. Elected Officers. In accordance with Article 2 hereof, all persons elected as Supervisors under the provisions of the Second Class Township Code, 53 P.S. §§ 65101, et seq., shall continue to be called Supervisors on the effective date of this Charter. They shall have the responsibilities, duties, compensation, and authority only as set forth in and in pursuance of this Charter. All other elected officials of the Township in office at the time this Charter becomes effective shall remain in office for the full term for which they were elected and they shall continue to perform the duties and receive the same compensation which they received prior to the adoption of this Charter. Nothing herein shall be construed to prohibit the Board of Supervisors or the Township from adjusting the compensation of any elected or appointed official as permitted by all applicable laws, or adjusting

the salary or compensation of any employee or contractor as permitted by applicable law and/or any applicable contract.

701.3. Township Employees. Employees of the Township shall retain all rights and privileges held at the time this Charter becomes effective.

701.4. Continuation of Ordinances. All ordinances, resolutions, rules and regulations, or portions thereof, in force when this Charter takes effect and not in conflict herewith, are hereby continued in force and effect until amended, repealed, superseded, or expired by their own terms. All ordinances and resolutions in continued effect as of the effective date of this Charter shall be construed as if enacted under this Charter, but as of the date of their original enactment.

701.5. Members of Boards, Commissions, and Authorities. Members of boards, commissions, and authorities in office at the time this Charter takes effect shall remain in office for as long as their respective terms of appointment continue.

SECTION 702. SEVERABILITY.

It is the intention of the electors of the Township that if this Charter cannot take effect in its entirety because of the judgment of any court of competent jurisdiction holding invalid any part or parts hereof, the remaining provisions of the Charter shall be given full force and effect as completely as if the part or parts held invalid had not been included herein.

SECTION 703. AMENDMENTS TO THE CHARTER.

Amendments to this Charter shall be in conformity with the provisions of applicable Laws of this Commonwealth.

SECTION 704. EFFECTIVE DATE.

This Charter shall become effective and shall be deemed operative on July 1st, 2023.

Expense List

Statement of Funds, Materials and Services Used

The Government Study Commission was funded by the Township of Towamencin. The budget was estimated to be \$37,136.86 to finance the cost of the Government Study Commission. This budget was provided to Towamencin Township at the Board of Supervisors meeting on January 11, 2023.

Legal services were funded by the Township but not provided by the Towamencin Township Solicitor. The Government Study Commission Solicitor was Rudolph Clarke, LLC. The mailings were done at Minuteman Press. The website was hosted by Squarespace and maintained by volunteer residents Vanessa Gaynor and Lea Munjone. Printing was done at the UPS store.

The requested budget was:

<u>Legal Services</u>	<u>Original Budget</u>	<u>Current Invoiced</u>	<u>Deviation to Date</u>
Solicitor	\$21,525.	\$11,816.	
Court Reporter	\$1,100.	0	
Legal Notices	<u>\$612.</u>	<u>\$735.39</u>	-\$123.39 (1 Notice remains)
Sub-Total	\$23,237.	\$12,551.39	
<u>Communications</u>			
Mailings	\$12,912.77	\$3,146.39	
Website	\$165.04	\$67.52	0
Zoom (\$42.38/mo)	\$254.28	\$169.56 (4 months)	0
Town Hall meeting	\$10.	0	0
Printing	<u>\$558.</u>	<u>\$224.42</u>	0
Sub-Total	\$13,900.09	\$3,607.89	
Total	\$37,137.09	\$16,159.28	

Resource List

Home Rule Charter Handbook	https://dced.pa.gov/download/home-rule-pa-pdf/
Title 53 - Municipalities Generally	https://www.legis.state.pa.us/cfdocs/legis/LI/consCheck.cfm?txtType=HTM&tli=53
Title 66 - Public Utilities	https://www.legis.state.pa.us/cfdocs/legis/LI/consCheck.cfm?txtType=HTM&tli=66
Pennsylvania Constitution	https://www.legis.state.pa.us/WU01/LI/LI/CT/HTM/00/00.HTM
Towamencin Township Website	https://www.towamencin.org/
Hatfield Township Website	https://www.hatfield.org/
Worcester Township Website	https://www.worcestertwp.com/
Upper Gwynedd Township Website	https://www.uppergwynedd.org/
Lower Gwynedd Township Website	https://www.lowergwynedd.org/
Plymouth Township Website	https://www.plymouthtownship.org/
Plymouth Township Home Rule Charter	https://www.plymouthtownship.org/government/plymouth-h-township-charter/
Norristown Borough Home Rule Charter	https://ecode360.com/12078289
Horsham Township Home Rule Charter	https://ecode360.com/9949311
Baltimore Charter	https://legislative.reference.baltimorecity.gov/sites/default/files/01%20-%20Charter%20(rev%20%2008DEC22).pdf
Franconia Township Website	https://www.franconiatownship.org/
Lansdale Borough Website	https://www.lansdale.org/
Public Utility Commission Website	https://www.puc.pa.gov/
Act 537 plan and NextEra Asset Purchase Agreement	https://www.towamencin.org/media/2478/21-04016t_towamencin-act-537-special-study-report.zip
Towamencin Ordinances	https://ecode360.com/TO0773
1968 Act 247 - Pennsylvania Municipalities Planning Code	https://www.legis.state.pa.us/WU01/LI/LI/US/HTM/1968/0/0247..HTM
PA Department of Community and Economic Development	https://dced.pa.gov/
Second Class Township Code	https://www.legis.state.pa.us/WU01/LI/LI/US/HTM/1933/0/0069..HTM

Interviews/Requests

Colleen Ehrle, Director of Admin Towamencin Township	Materials and Guidance on Committee, Commission, and Supervisor terms and vacancies
Communication from David Kraynik, Twp Manager, Towamencin	Materials on current residents (non-commercial) connected to Sewer versus number of residents (non-commercial) not connected to Sewer
Communication from Joyce Snyder, Towamencin Supervisor	Materials on the process of committee and commission appointments
Fred Chapman, PA Department of Community and Economic Development (DCED)	Discussion on role of DCED and support available to the Commission
Chris Manero, Plymouth Township Council Chair	Discussion on Plymouth's existing Home Rule Charter, including benefits and challenges, as well as how it has been used
David McMahon, Norristown Resident and Activist	Discussion on Norristown's existing Home Rule Charter, including benefits and challenges, as well as how it was used to stop the sale of their sewer
Tony Bellito: North Penn Water Authority Executive Director and Past President of Pennsylvania Municipal Authorities Association	History and general information on the North Penn Water Authority
Tim Hagey: Warminster Municipal Authority General Manager	General information about Warminster Municipal Authority
Tour of the Towamencin Sewer Plant	Review the plant, including the history, function, and any challenges

Form of the Question

To be placed on the May 16th, 2023 Primary Ballot

Question: Shall the Home Rule Charter contained in the report, dated March 9th, 2023, of the government study commission, prepared in accordance with the Home Rule Charter and Optional Plans Law, be adopted by the Second Class Township of Towamencin?

(yes/no)

Interpretive Statement: If the majority of voters choose “Yes”, a new Home Rule Charter would be adopted by Towamencin Township on July 1, 2023. Should the majority of voters choose “No”, the existing second class township code and all its existing provisions will remain in effect.

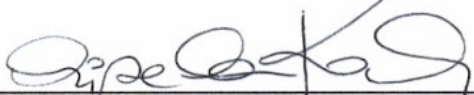
WE, the COMMISSIONERS of the TOWAMENCIN TOWNSHIP GOVERNMENT STUDY COMMISSION, duly-elected and appointed, by affixing our signatures below, hereby swear or affirm that the facts presented, statements made, and expenses and resources listed (including all funds, goods, materials and services, both public and private, used in the performance of the Commission's work and preparation and filing of all official documents of the Commission) in the foregoing **TOWAMENCIN TOWNSHIP GOVERNMENT STUDY COMMISSION REPORT** are true and correct. We understand that any false statements herein are made subject to the penalties of 18 Pa.C.S.A. § 4903.

Sworn to and subscribed this 9th day of March, 2023.


Kofi Osei, Chair


Jennifer Foster, Vice Chair

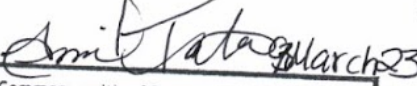

Christina Gallagher, Chair Pro Tempore


Gisela Koch, Secretary


Joseph Rumsey, Vice Secretary


Martin Cohen, Treasurer


Mark Warren, Vice Treasurer


Commonwealth of Pennsylvania - Notary Seal
APRIL TATRO - Notary Public
Montgomery County
My Commission Expires June 28, 2025
Commission Number 1400100

Commonwealth of Pennsylvania - Notary Seal
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