

## Public Form Questions Submitted and Answers

What are the advantages for the Water Authority? .....	2
Why should the revenue generated by residents of Exeter, Lower Alsace and St. Lawrence be used to help a financially struggling borough? .....	2
Wouldn't it be more logical to streamline the water authority and AVMA to better serve the community in relation to water? .....	3
Haven't we seen what happens when politics interferes with water? Ask PA American customers! Will the Borough actually be transparent with the [real] reason these discussions happened? .....	3
How were the lawyers you hired paid for? .....	4
How many hours will the Water Authority be billed to look into this? .....	4
Will the Municipal Authority have complete and absolute autonomy to set rates to customers based strictly and only on operational costs and will not be forced to raise rates to customers because they are forced to kick back any money to a Borough or Township at anytime in the future?.....	5
Is [it] not a conflict of interest to have Borough elected officials also on the water board? Are those individuals either going to resign from one of the organizations or completely recuse themselves from any discussion or vote in both organizations? .....	5

### Editors Note

*These responses were prepared with the assistance of AI-based language tools, including ChatGPT, to support drafting and clarity. All content was reviewed and approved by Borough staff and professionals, who retain full responsibility for its accuracy and presentation.*

*Where spelling errors were made, or unclear references, we took our best guess as to what question meant to ask and provided clarification in [brackets].*

## **What are the advantages for the Water Authority?**

Authority employees retain their jobs, with staffing integrated in a way that strengthens long-term workforce stability through a coordinated Public Works department. This structure enhances operational reliability by improving service coordination, sharing staff across functions, and reducing duplicative administrative and operational tasks, such as Payroll. Over time, these changes support economies of scale, staff specialization, and clearer lines of responsibility.

The model also facilitates a more predictable financial and planning framework. Coordinated capital planning and asset review allow the Authority to better sequence projects, manage regulatory requirements, and plan system investments proactively. While the Authority remains fully independent, this alignment supports long-term cost containment by moderating future cost growth through coordination—not short-term cuts.

Importantly, the Authority's public mission and local control are preserved. A binding prohibition against any sale or privatization protects rate-payers from the higher costs and loss of accountability seen in private utility acquisitions. The result is a more stable, resilient, and community-focused water system positioned for long-term sustainability.

## **Why should the revenue generated by residents of Exeter, Lower Alsace and St. Lawrence be used to help a financially struggling borough?**

The lease payment is not a subsidy from neighboring communities to the Borough. It reflects the Authority's continued use of water infrastructure that was built, expanded, and financed over more than a century by Mount Penn residents and remains legally subject to Borough ownership. The conveyance-and-leaseback allows the Authority to continue operating that system without disruption, while providing the Borough with a predictable revenue stream that supports long-term financial stabilization.

If the Borough's financial condition were allowed to deteriorate over time, the consequences would not stop at municipal boundaries. Continued pressure on property taxes and service reductions would accelerate housing instability, increase rental conversion, and strain code enforcement and public safety resources—effects that spill into neighboring communities through shared schools, roads, and emergency services. These are regional externalities that affect residents of Exeter, Lower Alsace, and St. Lawrence directly, not abstractly.

For all Authority customers, the model is paired with long-term cost-containment strategies—coordinated staffing, public works integration, economies of scale, staff specialization, and

coordinated capital planning—that help moderate future cost growth across the entire system. The approach balances regional equity, protects public ownership, and supports stability for the Borough and all communities the water system serves.

### **Wouldn't it be more logical to streamline the water authority and AVMA to better serve the community in relation to water?**

The suggestion of exploring coordination between the Water Authority and AVMA has merit and could make future discussions worth considering. Such discussions could require the participation of Lower Alsace Township, which co-charters AVMA, and would involve more complex questions between three entities.

The Borough is making a strategic choice to focus exclusively on evaluating the conveyance-and-leaseback model with the Water Authority. That model directly addresses staffing stability, capital planning, and long-term financial sustainability.

### **Haven't we seen what happens when politics interferes with water? Ask PA American customers! Will the Borough actually be transparent with the [real] reason these discussions happened?**

Concerns about politics interfering with water are understandable, especially given the experience of customers following private acquisitions. That experience is precisely why the Borough has been clear that this process is designed to *prevent* privatization, not enable it. A binding legal prohibition against any sale or transfer of the water system is a non-negotiable element of the model, ensuring the Authority remains publicly owned, locally governed, and accountable to rate-payers.

As to transparency and the “real reason” these discussions began, the Borough has been direct and consistent. Long-term financial forecasts and State-endorsed planning documents show structural pressures that cannot be resolved through annual budgeting or repeated tax increases alone. Ignoring those realities would increase the risk of deferred maintenance, service disruption, or crisis-driven decisions later.

The conveyance-and-leaseback is being evaluated as a *preventive* strategy—focused on long-term cost containment through coordinated staffing, public works integration, economies of scale, staff specialization, and coordinated capital planning. These discussions are occurring openly, with publicly advertised meetings, posted materials, and direct engagement with the Authority. The Borough will continue to share information transparently so the community understands both the problem being addressed and the rationale for evaluating this option.

## **How were the lawyers you hired paid for?**

The Borough retained Obermayer Rebmann Maxwell & Hippel LLP on a standard hourly basis to help evaluate the conveyance-leaseback concept, just as municipalities routinely hire attorneys for zoning, labor, or utility matters. The firm is being paid government hourly rates for the limited work completed to date, and those costs were transparently approved at the Borough's meeting on November 25, 2025. Their engagement is being structured in phases to ensure the Borough can pause or discontinue work at any time.

It is important to be clear: Obermayer does not receive any commission, percentage, contingency, or success fee if a conveyance-leaseback moves forward. They are paid only for time spent answering questions and providing legal analysis. There is no financial incentive for them to recommend any particular outcome.

The decision to explore this concept originated from the Borough's documented financial pressures—not from legal counsel. The State-endorsed STMP study and the 2025–2026 budgets show long-term structural deficits that require evaluation of sustainable options. Obermayer's role is limited to advising on legal feasibility, ensuring legally enforceable protections such as the binding prohibition on any sale or privatization, and supporting transparent public discussion.

Legal fees have been publicly approved and fully controlled by the Borough. The attorneys are advisors—not drivers—of the process, and the Borough will ultimately decide whether the concept advances.

## **How many hours will the Water Authority be billed to look into this?**

The Water Authority is not currently being billed for the Borough's legal work related to evaluating the conveyance-leaseback concept. The Borough retained Obermayer Rebmann Maxwell & Hippel LLP under a phased, hourly structure so that costs remain limited, transparent, and fully under Borough direction. In the future, the Borough and the Authority could agree to share certain due-diligence costs—such as joint engineering or legal review—but no such arrangement has been established, nor is one guaranteed.

The Authority may also choose to consult with its own solicitor, engineer, or other professionals. The Borough does not direct or control that work, but we believe those costs should not be onerous, given the narrow scope of the questions the Authority is likely to evaluate.

It is also important to emphasize that Obermayer is not paid on commission and receives no success fee or percentage tied to any transaction. Their compensation is strictly hourly and only for tasks the Borough specifically authorizes. There is no financial incentive for the firm to push the Borough or the Authority toward any particular outcome.

Finally, this process is being driven by the Borough's documented financial pressures—not by lawyers. The State-endorsed STMP study and the Borough's 2025 and 2026 budgets show long-term structural deficits requiring evaluation of sustainable options. Legal counsel's role is limited to feasibility analysis and ensuring protections such as the binding prohibition on any sale or privatization.

**Will the Municipal Authority have complete and absolute autonomy to set rates to customers based strictly and only on operational costs and will not be forced to raise rates to customers because they are forced to kick back any money to a Borough or Township at anytime in the future?**

This question combines several related but distinct issues, so it is important to address them separately to avoid conflating different legal and operational concepts.

First, rate-setting authority. The Municipal Authority retains full and independent legal authority to set customer rates based solely on its operational, capital, and regulatory obligations. That authority does not transfer to the Borough under a conveyance-and-leaseback model, and the Borough has no power to mandate or override rate decisions.

Second, lease obligations. Any lease costs would be governed exclusively by the terms of a negotiated, publicly approved lease agreement that the Authority enters. The Authority would budget for those obligations just as it budgets today for staffing, debt service, capital improvements, and regulatory compliance. The Borough cannot unilaterally alter lease terms or impose additional payments outside that agreement.

Third, legal limits on the use of rates. Under the Municipal Authorities Act, water revenues may only be used for lawful water-system purposes. Rates cannot be used to fund unrelated municipal expenses—there is no legal mechanism for a forced “kickback.” Taken together, these safeguards ensure rate-setting autonomy, transparency, and protection for customers.

**Is [it] not a conflict of interest to have Borough elected officials also on the water board? Are those individuals either going to resign from one of the organizations or completely recuse themselves from any discussion or vote in both organizations?**

No. The simultaneous service of Borough elected officials on the Water Authority Board does not constitute a conflict of interest and does not require resignation or blanket recusal. As articulated by legal counsel:

“The potential leaseback would be between two public entities and no member of either governing body would receive any private, specific benefit. Thus, the transaction

by its nature are public benefits. Nothing in the Borough Code, Municipality Authorities Act or the Public Official and Employee Ethics Act indicates there is any conflict regarding the proposed leaseback. Any leaseback would be properly noticed, publicly discussed and publicly approved or not by the public governing bodies.”

Pennsylvania law anticipates and permits this form of dual public service, provided officials act in the public interest and comply with applicable ethics and disclosure requirements. Conflicts are evaluated based on specific facts—not titles alone. If a direct personal or financial interest were to arise, such as an official having a private stake in a vendor or receiving personal compensation tied to a decision, recusal would be required.

At present, no such circumstances exist. The Borough and the Authority will continue to ensure transparency, appropriate disclosures, and recusal if a conflict arises, while allowing both bodies to function effectively in serving the public.