

At this time, the Supervisors would like to point out some significant factors that were considered by the Township when the Supervisors finally decided that the dissolution of the Northern Berks Regional Police Commission would be in the best interest of their residents. First, in June of 2019, Ontelaunee Township received an undated letter from Maiden creek Township signed by Heidi Fiedler. (See attached letter marked as Exhibit "A"). This letter advised Ontelaunee and Leesport that Maiden creek was going to unilaterally change its contribution to the Northern Berks police budget by using the percentage of 43.6%. It is significant to point out that this is the percentage first utilized by Maiden creek in 1998, over 21 years ago. Ontelaunee immediately responded by reaching out to Maiden creek asking for a joint meeting to be held among all representatives from Leesport Borough Council, Ontelaunee Township and Maiden creek Township to discuss the budget and try to come to a resolution. In August of 2019, this meeting was held, however, none of the Maiden creek Supervisors attended.

Ontelaunee sent a letter to the Maiden creek Township Supervisors advising Maiden creek that it could not unilaterally change the budget contribution based on the language of the Charter. (See attached letter marked as Exhibit "B"). In addition, Ontelaunee performed a detailed analysis looking at the amount of police calls for service in 2019 which shows Maiden creek calls are significantly higher per month than calls for Leesport and Ontelaunee. Maiden creek had a monthly average of 312 service calls compared to Ontelaunee Township's monthly average of 202 in 2019. Despite this fact, Maiden creek still maintained their position that it wanted to go back to its 1998 budget contribution of 43.6%. Maiden creek's rationale for going back to a contribution based on 1998 figures made no sense.

More significantly, despite numerous attempts made by Ontelaunee and Leesport to finalize and pass the 2020 police budget, the 2020 budget was not passed until August 2020. The meeting minutes from the Maiden creek Township Board of Supervisors meetings in 2020 demonstrate that Supervisor Heidi Fiedler continued to vote against approving a budget. Finally, at the July 9, 2020 Maiden creek Township Board of Supervisor meeting, the Maiden creek Supervisors authorized their representative Heide Fiedler to approve the police budget at the July 2020 Commission meeting. However, at the July 2020 Commission meeting, representative Heide Fiedler voted no and the budget failed to pass once again.

Maiden creek Township attempted to resolve its internal problems with supervisor/representative Heidi Fiedler. At the March 12, 2020 Maiden creek Township Board of Supervisors meeting, Supervisor David Franke called on Representative Fiedler to remove herself or resign from the Commission. Mr. Franke made a motion to remove Fiedler but it was not seconded so the motion failed.

Another factor that Ontelaunee considered when deciding to dissolve the Commission was the amount of money being spent by the Commission on frivolous claims. For instance, the Chief of Police was investigated for over four months. This investigation was found to be meritless and exaggerated. The Commission spent over \$64,913.90 in legal fees and wages during this four month investigation. The Chief was not allowed to work during the investigation which lasted from September 2019 to December 2019.

In addition, a complaint was filed with the Federal Government against the Chief for an alleged violation of the Hatch Act. Again, this Complaint was found to have no merit but cost the Commission a substantial amount of money in legal fees. (See the attached determination marked as Exhibit "C").

Based on the foregoing and several additional factors, Ontelaunee firmly believes it is in the best interest of its residents to dissolve the Commission and move forward with its own police department starting in May of 2021.

Please be advised that the Northern Berks Regional Police Department will continue to fully operate from now until its dissolution which is to take place on May 10, 2021. After May 10, 2021, the Township will have its own police department, a Chief of that department, and that department will continue to operate in the Township building where it is currently located. By having our own police department, the Township will be able to substantially reduce legal fees, mileage on police vehicles, lower fuel and decrease repair costs. Over time, the Township will save a substantial amount of money similar to what occurred when the Township dissolved the municipal Authority.

We appreciate your patience as this transition is occurring. We will continue to make informed decisions based upon the Township's needs. The public safety of our residents is our top priority. Please check the Township's website and attend Township meetings to receive more information as this transition occurs. We are excited for the transition and again firmly believe it is in the best interest of our residents.

MAIDENCREEK TOWNSHIP BOARD OF SUPERVISORS

1 QUARRY ROAD * P.O. BOX 319 * BLANDON, PA 19510
www.maidencreek.net

EXHIBIT A

Board of Supervisors
Ontelaunee Township
35 Ontelaunee Drive
Reading, PA 19605

Borough Council
Leesport Borough
PO Box 710
Leesport, PA 19533

RE: Northern Berks Police Commission

Dear Ladies and Gentlemen:

We write to you as the Board of Supervisors of the Township of Maiden creek your sister municipality in the Northern Berks Police Commission. We are concerned by recent events which demonstrate an apparent lack of effective communication among our municipalities which we find counterproductive to the proper functioning of the Northern Berks Police Commission. It is our view that our municipalities must work together in the governance of the Commission in order to benefit and protect all of the residents through supportive and productive cooperation. It is only through effective communication that we can work together in order to properly and cooperatively govern the Northern Berks Police Commission.

In looking to the future and in the spirit of that forthright communication, we wish to advise you concerning our recent review of the Charter and our intentions for the 2020 fiscal year budget so that you can plan appropriately. Under the Northern Berks Police Commission Charter as most recently amended, our Township's percentage responsibility is 43.6 percent. The Charter only allows changes to the percentages by unanimous agreement in writing, but does allow each of our municipalities to approve an annual budget that can modify those amounts for a given year. In recent years our Township has been asked to and has agreed to pay a significantly greater percentage than we are required to do under the Charter. In order to help you plan for our upcoming 2020 fiscal budget we are writing to advise you that the Township of Maiden creek intends to abide by and to fund our currently designated Charter amount of 43.6 percent beginning January 1, 2020. We will only allocate funds and vote for a budget which reflects that percentage for our fiscal obligations. We are alerting you now so that you have adequate time to plan and allocate your own resources appropriately in your planning for fiscal year 2020.

Thank you very much.
Maidencreek Township Board of Supervisors



Heidi Fiedler
Vice Chair



Hartman, Valeriano, Magovern & Lutz, P.C.

Christopher J. Hartman
Lawrence J. Valeriano Jr.
Elizabeth A. Magovern
George M. Lutz
Brett M. Fegely

Michelle R. Mayfield
Beth M. Auman
Bethany W. Emkey

Of Counsel
Gregory C. Hartman
Paul T. Essig
Kathleen A.B. Kovach

July 10, 2019

Via Email to eorlando@orlandolawoffices.com
And First Class Mail

EXHIBIT B

Gene Orlando
Orlando Law Offices, P.C.
2901 St. Lawrence Avenue
Reading PA 19606

Re: Apportionment issue raised by Maiden creek Supervisor Fiedler (copy enclosed)

Dear Gene:

As this office serves as Solicitor to the Ontelaunee Township (the "Township") Board of Supervisors, we were asked to provide an opinion on the apportionment of costs for the Northern Berks Police Commission (the "Commission") to which the Township is a member for the upcoming 2020 budget and apportionment discussions. Commission member Maiden creek Township Supervisor Fiedler has recently stated in a letter that "Under the Northern Berks Police Commission Charter as most recently amended, our Township's percentage responsibility is 43.6 percent." Respectfully, our office disagrees with the Maiden creek Supervisor's cost apportionment responsibility reversion back to the 1998 percentages and interpret the Charter to default apportion cost responsibility to the prior year's percentages for the reasons more fully set forth in this letter.

The 1997 Charter reads in part as follows with emphasis added:

6. FINANCE.

(a) The Commission shall prepare an annual budget which shall be submitted to the governing bodies of each participating municipality for the consideration and approval of each of the participating municipalities not later than October 1 of each year. *If the said budget shall not be approved by each and every municipality party to this agreement, the prior year's budget shall remain in operation and effect until such approvals shall be given.*

(b) **Apportionment of Costs** – (i) The parties agree that *during the first year (1998) of the Commission*, the cost of operation of the Department shall be apportioned as follows:

- (i) Maiden creek Township – 43.6%
- (ii) Ontelaunee Township – 27.3%
- (iii) Leesport Borough – 29.1%

ONTELAUNEE TOWNSHIP

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INNOVATIVE ATTORNEYS. TRADITIONAL VALUES.

(ii) The apportionment percentages of each municipality shall be subject to review by the Commission and the governing body of each municipality at the times that the Commission budget is submitted to the governing body of each municipality and may be revised as of January 1st of each year by unanimous agreement of all parties to this agreement.

First, the text of section 6(b) is limited to the “first year (1998) of the Commission” for the cost apportionment percentages. There is no language that the 1998 cost apportionment percentages are a default in the absence of future agreements, only that the apportionment percentages are to be reviewed annually as part of the Commission budget and may be changed by unanimous agreement.

Secondly, the annual review of the percentage apportionment of costs is to take place during the budgeting process. That budget process is more specifically addressed in section 6(a), where it specifically provides a default budget to the prior year’s budget until there is an approval by each and every municipality. Logically, the cost apportionment percentages must also continue as a default to fund the budget operations until the participating municipalities approve a budget for the Commission.

Third, the past practices of budget and cost apportionment are also helpful in linking the percentage apportionment of cost responsibility with the budget. The first amendment to the percentage apportionment of cost responsibility for 2000 was separate from the budget, and executed as an addendum to the Charter (Maidencreek 43.6%, Ontelaunee 31.1%, Leesport 25.3). Thereafter each time the cost percentage apportionment changed, it was done simultaneously to the budget approval without an addendum. In 2001, the budget notes “per our Solicitor, by the Commissioners approving the 2001 Budget as presented – approved the percentage adjustment.”^[1] With this opinion offered, the cost percentage apportionment changed as part of the budget approval (Maidencreek 43.4%, Ontelaunee 32.2%, Leesport 24.4%). Likewise, the 2002 budget and cost percentage apportionment change was approved as part of the same motion on December 11, 2001 (Maidencreek 44.5%, Ontelaunee 34.5%, Leesport 21%). Twelve years later, the 2013 budget specified a change to the cost percentage apportionment (Maidencreek 47.5%, Ontelaunee 33%, Leesport 19.5%). While the Commission has historically reached an annual agreement on a budget and cost apportionment percentages, prior to defaulting to the prior year’s budget, the apportionment of cost responsibility and budgeting is clearly and logically linked as a single approval for the Commission. Thus the prior year’s budget default provision in the Charter carries forward to apply to the apportionment of cost responsibility for each municipality.

Finally, it is also worth noting that the Charter provides for resolution of interpretation questions as follows:

^[1] To clarify, the Solicitor referenced to in this quote is the Solicitor for the Commission, not the Township. In any event, this firm did not begin representing the Township until 2008.

16. INTERPRETATION.

All differences arising out of interpretation of this Charter shall be resolved by the Commission.

Should the Commission members be unable to agree on the interpretation question of the Charter as to the default percentage apportionment of cost responsibility, the 3 members would vote on the interpretation with the majority vote governing the question of cost apportionment to the 1998 Charter percentages (Maidencreek 43.6%, Ontelaunee 27.3%, Leesport 29.1%) or the prior year percentage (Maidencreek 47.5%, Ontelaunee 33%, Leesport 19.5%).

The percentage apportionment of cost responsibility should continue to be an open discussion between the participating municipalities using statistical data of police operations usage by municipality to arrive at a budget acceptable to all participating municipalities.

Should you have any questions or comments, kindly feel free to contact me. Thank you.

Sincerely,



Elizabeth A. Magovern
Direct Extension – x3018
Email – Emagovern@Hvmlaw.com

EAM/cab
Enclosure

cc: Ontelaunee Township Board of Supervisors
Paul T. Essig, Esquire, Solicitor, Borough of Leesport



U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505
202-804-7000

October 16, 2020

Chief Richard Horner
Northern Berks Regional Police Department
37 Ontelaunee Drive
Reading, PA 19605

EXHIBIT C

VIA ELECTRONIC MAIL: BHorner@nbrpd.org

Re: OSC File No. HA-20-000096

Dear Chief Horner:

This letter is in response to a complaint the U.S. Office of Special Counsel (OSC) received alleging that you violated the Hatch Act by appearing in a photograph used to promote Mr. Francis Scott's 2019 candidacy for Maiden Creek Township Supervisor, and by using the Northern Berks Regional Police Department offices to discuss Mr. Scott's campaign strategy. As explained below, OSC has determined that you were not covered by the Hatch Act at the time of the alleged activities, and we are closing this matter without further action.

The Hatch Act governs the political activity of certain state and local government employees.¹ Employees who are covered by the Hatch Act may not: (1) use their official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office; or (2) coerce, attempt to coerce, command, or advise a state or local officer or employee to pay, lend, or contribute anything of value for political purposes.² State and local employees are subject to the preceding prohibitions if they are principally employed by state, county, or municipal executive agencies in connection with programs financed in whole or in part by loans or grants made by the United States or a federal agency.³ Additionally, the Hatch Act prohibits those employees whose salaries are entirely federally funded from being candidates for public office in a partisan election.⁴

OSC's investigation determined that you did not have duties in connection with federally funded activities at the time of the alleged activities. While the Northern Berks Regional Police Department received a Bulletproof Vest Partnership grant in 2018, the vests already had been purchased and the Department was just awaiting reimbursement during the relevant time period. Accordingly, OSC has concluded that you were not subject to the provisions of the Hatch Act and we are closing this matter without further action.

¹ See generally 5 U.S.C. §§ 1501-1508.

² *Id.* § 1502 (a)(1)-(2).

³ 5 U.S.C. § 1501(4).

⁴ 5 U.S.C. § 1502(a)(3).

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Please contact OSC attorney Lamine Hendrix at (202) 804-7058 if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Erica S. Hamrick". The signature is written in a cursive style with a large, looped initial "E".

Erica S. Hamrick
Deputy Chief
Hatch Act Unit