

BOARD OF SUPERVISORS
MINUTES OF MONTHLY MEETING
AUGUST 11, 2009

The monthly meeting of the Longswamp Township Board of Supervisors was held at the Longswamp Township Municipal Building, 1112 State Street, Longswamp Township, Mertztown, Pennsylvania, 7:00 p.m., prevailing time as previously advertised and posted.

PLEDGE TO THE FLAG ROLL CALL

Officials Present: Donald Siegfried, Chairman; Steven Wyka, Vice Chairman; Maryann Lantz, Supervisor; Jill Smith, representing the Engineer; Richard Orwig, Esquire, representing the Solicitor; Joni McPike, Treasurer; Ed Bender, Zoning/Codes Enforcement Officer; and Jennifer Wassell-Bonser, Secretary.

CALL TO ORDER

Chairman Donald Siegfried called the meeting to order at 7:03 p.m., and announced the reading of the minutes of the regular meeting of July 14, 2009, would not take place. Draft copies of those minutes were available in the Meeting Hall.

APPROVAL OF MEETING MINUTES

Maryann Lantz made a **motion** to approve the Minutes of the regular meeting of July 14, 2009; Steve Wyka seconded that motion. All in favor.

APPROVAL OF TREASURER'S REPORT

Steve Wyka made a **motion** to accept the Treasurer's Report for July, 2009 in addition to accepting the current Accounts Receivable Status Report; Maryann Lantz seconded the motion. All in favor.

ANNOUNCEMENTS

Chairman Donald Siegfried announced there was an Executive Session of the Board of Supervisors held from approximately 10:00 a.m. to 11:35 a.m. on Tuesday, August 11, 2009 to discuss personnel issues.

Chairman Siegfried announced the 2009 LIVESTRONG Challenge bicycle course will run through Longswamp Township on Sunday, August 23rd. Donald urged residents to use extra caution when encountering bicyclists, as well as horses and buggies, at all times in order to help prevent accidents from occurring.

Donald also announced hand-outs were available for residents regarding the "Call Before You Dig" hotline being offered by Pennsylvania One Call System. Donald explained the hotline is designed to promote community awareness before digging in order to prevent damage to underground utilities and prevent injuries as a result of contacting underground utility lines, such as high voltage electric lines or natural gas lines.

Donald lastly announced Commissioner Christian Leinbach is hosting a free "Movie Night"

event featuring the movie “Shane” on Monday, August 17, 2009 beginning at 7:00 p.m. at the Kutztown Strand. Donald suggested any residents who were interested in attending to arrive early since seating would be limited.

PUBLIC COMMENTS

Mike Sacks updated the Board of Supervisors on the recent outcome of the potential closure of two elementary schools. Mr. Sacks stated Longswamp Elementary School would be staying open but Rockland Elementary School would be closing. Chairman Siegfried thanked Mr. Sacks for the update. Donald then suggested the Township Engineer re-visit the issue pertaining to the location of the recently-installed speed limit signage at Longswamp Elementary School. Jill Smith stated their office will contact PennDOT regarding Hanover Engineering’s previous recommendations, including consideration of “Reduced Speed Limit Ahead” signs warning motorists of the reduced speed limit at the school’s driveway.

Chairman Siegfried also explained that the Township Public Safety Committee is giving consideration to replacing all of the township’s pedestrian crossing signs with the new fluorescent green high-visible signs. Donald suggested Mike Sacks notify the Township Roadmaster of any signs that would need to be replaced at the schools.

Jeremy DeFiore addressed the Board regarding confusion he has with a \$250.00 fine detailed in the Consent Agreement he recently received in the mail from the Township for his signature. The Township Solicitor explained that Mr. DeFiore’s parking of his tractor trailer in the Conservation Zoning District was a violation of the Township’s Zoning Ordinance. Mr. Orwig stated the Township Zoning Officer sent correspondence to Mr. DeFiore notifying him of the violation but his non-compliance continued, so a Notice of Violation was then issued. Rich explained this is the standard practice used by the Township when dealing with non-compliance issues. Mr. Orwig stated Mr. DeFiore’s options at that time would have been to appeal the Notice of Violation, or comply with the Township Zoning Ordinance, and continue with the legal proceeding of executing a signed Consent Agreement which includes a fine, otherwise the issue could escalate to further legal proceedings with the District Justice and result in a potentially higher fine. The Township Solicitor compared this matter to other similar situations where the same process was used. Mr. DeFiore stated he received the Notice of Violation on April 7, 2009 and immediately contacted the Township Zoning Officer who said he had 30 days to comply. Mr. DeFiore stated he began renting a space to park his truck in Lehigh County on May 1, 2009 and hasn’t even done any maintenance on the truck at his property since that time. Mr. DeFiore explained he didn’t know there was an issue of parking the tractor trailer on his property and that he wasn’t aware he was in violation of the Zoning Ordinance until he received the notice, but he did what he was supposed to do within the 30 day time-frame as he understood.

Chairman Siegfried stated that he understood Mr. DeFiore’s questions and explained the purpose of the fine included in the Consent Agreement is to off-set the costs of the administrative sources associated with this issue, noting that such costs should be allocated from the individual involved rather than being absorbed by the entire Township.

The Township Zoning Officer, as well as the Township Solicitor, also addressed Mr. DeFiore

and explained the Township's procedure of always mailing warning letters prior to any Notice of Violation being issued for circumstances such as this.

Steve Wyka added the issue was presented at the last Board of Supervisor's Meeting, which he presided over. Steve apologized if Mr. DeFiore hadn't seen the Consent Agreement prior to the previous meeting and suggested the Board discuss the situation further.

An Executive Session was held from approximately 7:30 p.m. to 7:52 p.m. to discuss potential litigation matters.

The Township Solicitor recommended based on the history of events, that the Consent Agreement, including the fine be upheld by the Board, noting the appeal period has expired and Mr. DeFiore would otherwise be deemed as non-compliance.

Maryann Lantz made a **motion** to uphold the Consent Agreement and provide Mr. DeFiore with two working days to sign the Consent Agreement, otherwise the situation would be considered as non-compliance and would continue to a District Justice hearing; Donald Siegfried seconded the motion. Steve Wyka opposed the motion, but noted if the Board were to waive the fine, the Township would be setting a precedent and since the time-frame of the appeal period for the Notice of Violation has expired, the Board has to comply with the legal procedures set forth. Maryann Lantz added she is making the motion with regret.

Mr. DeFiore approached the Board, signed the Consent Agreement and paid the fine. Thereafter, Chairman Donald Siegfried signed the Consent Agreement on behalf of the Township.

David Helwig addressed the Board regarding Lehigh County's position regarding the Lehigh Creek and the lack of a riparian buffer at the Lehigh Parkway. Chairman Siegfried explained the recent media attention and noted the apparent excess sewage capacity in Lehigh County.

ENGINEERING AND PLANNING COMMISSION REPORT

Funderburk Annexation - Final Plans for Recording

The Township Engineer updated the Board on the status of the project and noted that all the required conditions have been met for the Funderburk Annexation Plan as outlined for Conditional Final Plan approval. Jill added the plan has been reviewed by the Township Fire Marshall with respect to the access issue for the fire department. Jill also stated a copy of the required executed Access Easement Agreement between Mr. Jones and the Funderburks has been received as well. Jill noted the Developer will need to pay the Township the final fees prior to the Township releasing the Final Plans for recording.

A **motion** was made by Steve Wyka accepting the final plans for signature for the Funderburk Annexation Final Plan; Maryann Lantz seconded the motion. All in favor.

Fredericksville Farms – Planning Module Resolution for Lot 2

The Township Engineer provided the Township with copies of the Planning Module for Lot 2 of

the Fredericksville Farms Subdivision. Jill stated the Sewage Planning Module for Lot 2 had to be revised since the proposed on-lot septic system will be located within Longswamp Township rather than District Township as originally intended.

Jill confirmed the Planning Module for Fredericksville Farms has been reviewed by the Township SEO and recommends submittal to DEP.

Maryann Lantz made a **motion** accepting the Planning Module and authorizing the Township Secretary to sign Resolution 2009-17 for the Fredericksville Farms Subdivision Planning Module for Lot 2; Steve Wyka seconded that motion. All in favor.

Gross School Bus – Sewer Agreements

The Township Engineer informed the Board of Mr. Gross's intentions to have the Gross School Bus site operable for the beginning of the school year which will start in the next few weeks. Jill stated Topton Borough has agreed to sign the required Inter-Municipal Water/Sewer Agreement at their next meeting. The Township Solicitor updated the Board on his recent communications with the Borough's Solicitor as well as Mr. Gross's Attorney. Rich explained the necessity of an Ordinance which will authorize the Township to enter into an Inter-Municipal Agreement with the Borough of Topton to permit the Borough to provide sewer and water service to Gross School Bus. Rich distributed copies of the Ordinance to the Board for their review and consideration for advertisement. Rich also distributed copies of the Sewer Agreement which would also be necessary to be executed between the Borough and the Township.

Maryann Lantz made a **motion** authorizing the Township Solicitor to prepare and to advertise the Inter-Municipal Agreement Ordinance to be executed between Topton and Longswamp Township authorizing Topton to serve the Gross School Bus tract with public sewer and water for adoption at the September 8, 2009 Board of Supervisors Meeting; Steve Wyka seconded the motion. All in favor.

The Township Engineer suggested items to the Board which should be required to be submitted/completed prior to the Township issuing the Temporary Use and Occupancy Permit as well as the Permanent Use and Occupancy Permit for the Gross School Bus site. Jill stated the items required for issuance of a Temporary Use and Occupancy Permit would include a third party inspection approval for the office trailer, the sewer and water service connection signoff from the Borough, PennDOT approval for completion/use of the driveway, and final inspection of site improvements and approval for use of the site by the Township Engineer. Jill also listed the items required for issuance of a Permanent Use and Occupancy Permit would include copies of the executed Sewer Agreement between the property owner and Borough as well as between the Borough and the Township, submission of the Final Plans to the Township for signing which would include completion of all outstanding conditions of final plan approval and payment of all outstanding fees, as well as submission of as-built plans with a certification signed and sealed by a Professional Engineer or Surveyor that all BMP's have been installed in accordance with the approved plans and NPDES permit, and submission of the signed Deed of Dedication for the ultimate right-of-way along State Street for recording by the Township.

Maryann Lantz made a **motion** authorizing issuance of the Temporary Use and Occupancy Permit upon fulfilling the requirements as outlined in the Township Engineer's correspondence

to the Board dated August 11, 2009; Steve Wyka seconded the motion. All in favor.

Turchi Driveway HOP

The Township Engineer updated the Board on an issue regarding Mr. Turchi who is in the process of applying for a Highway Occupancy Permit from PennDOT. The application is for a new driveway to be located on State Street to access their property. Jill stated since the Township is on PennDOT's municipal review list, PennDOT requires a letter from the Township before they will issue the driveway permit. The Board tabled this issue until the property owner submits the additional information to the Township as required for the Township professionals to complete an adequate review of the proposed driveway and provide a recommendation to the Board.

Feld-3 Subdivision DIA Renewal

The Township Engineer informed the Board the second-year extension that was granted by the Board of Supervisors in August, 2008 for the Developers Improvement Agreement for the Feld-3 Subdivision was expiring and should be considered for a third renewal by the Board.

Maryann Lantz made a **motion** for a third one-year extension of the Feld-3 Developer's Improvement Agreement without any changes; Steve Wyka seconded the motion. All in favor.

Mr. Fenstermacher was in attendance at the meeting and approached the Board with a request that the Township allow him to provide cash to be held in escrow by the Township, rather than him renewing his Letter of Credit which is set to expire at the end of September. Chairman Siegfried suggested the Board, as well as the Township Solicitor, research the issue so it can be taken into consideration at a later time.

Perkiomen Creek Headquarters Act 167 Stormwater Plan

The Township Engineer informed the Board that the Lehigh Valley Planning Commission has issued the final draft of the Perkiomen Creek Headquarters Act 167 Stormwater Management Plan for review and comment by area municipalities. Jill added the deadline for comments to be submitted is September 30, 2009. The Township Engineer and Solicitor will provide any comments they have regarding the plan for the Board's consideration at the next Board of Supervisors meeting to be held September 8, 2009.

UGI – General Permit for Utility Line Crossing (West State Street)

The Township Engineer informed the Board of the recent notification the Township received from UGI regarding their application to DEP for a General Permit for a utility line crossing. Jill explained based on the information received, it appeared all the work for the installation of the new gas line within Longswamp Township will occur within State right-of-way along West State Street or on privately-owned property. Jill will send a letter to UGI's Project Engineer stating that if any modifications to the proposed utility alignment are made which would require work to be completed within Township right-of-way, a Township Highway Occupancy Permit is required to be obtained.

ZONING AND CODES ENFORCEMENT

The Township Zoning Officer reported he received a written complaint regarding the recent messages posted on the message board located on the property of RAH Auto Sales on State

Street. The Township Solicitor stated that it would be considered a freedom of speech issue.

The Zoning Officer asked for the Board's direction of when the Township should contact PennDOT directly regarding driveway issues. The Township Engineer stated since Longswamp is on PennDOT's municipal review list, PennDOT requires a letter from the Township prior to them issuing a HOP. Chairman Siegfried suggested Mr. Bender inform any residents who are submitting a review request to do so in writing with all appropriate documentation to complete a review so it can be forwarded to the Township Engineer as well as inform the resident that any costs associated with the review would be absorbed through fees paid by the property owner.

Donald then requested that the Township Solicitor and Engineer review the Township's current Fee Resolution and provide a recommended update in order to have all fees appropriately absorbed by the property owner for these required reviews.

SOLICITOR'S REPORT

Bear Creek Consent Agreement for Tennis Court and Parking Lot

The Township Solicitor submitted copies of the Consent Agreement prepared for Bear Creek for the Board's review and consideration. Mr. Orwig explained the fines and violation relative to their construction of parking lots and tennis courts at Bear Creek without an approved plan and noted Bear Creek's agreement to pay an escrow fee and fine totaling \$750.00 and consenting to their recent violations of the Township's Subdivision and Land Development Ordinance.

Steve Wyka made a **motion** authorizing the Chairman of the Board of Supervisors to accept and sign the Consent Agreement for Bear Creek; Maryann Lantz seconded the motion. All in favor.

RECREATION REPORT

Chairman Siegfried announced the Reading Philharmonic will be performing at Pavilion No. 1 on Wednesday, August 12, 2009 from 7:00 p.m. until 9:00 p.m. and invited anyone interested to attend.

Mr. Siegfried also announced the August Park & Recreation Meeting is scheduled for Tuesday, August 18, 2009 at 7:00 p.m.

ROADMASTER REPORT

Report for July, 2009

OLD BUSINESS

Approval/Signature of 2008 Application for Municipal Recycling Program Performance Grant

Chairman Siegfried announced the 2008 Performance Grant Application has been completed by Gena Strzelecki and stated the total tonnage of eligible materials recycled from the Township in 2008 was 176.1 tons. Donald explained this is the Township's first attempt for grant money that is available through the program. Maryann Lantz encouraged Mike Sacks to contact Gena for further information for possible participation by the school.

Steve Wyka made a **motion** authorizing approval and signature of the 2008 Application for the Municipal Recycling Program Performance Grant.

Discussion of Topton Pool Contribution

Maryann Lantz addressed the issue relative to the Township's contribution to the Topton Pool and stated she feels the Agreement should be fulfilled in the spirit of municipal co-operation since the donation was budgeted for last year.

The Board tabled the issue for further review and discussion with the Borough regarding possibly making the donation this year only, with the understanding the Township would then consider the donation on a year-to-year basis in the future.

Maryann Lantz made a **motion** authorizing the Township Treasurer to issue re-imbursements to Township residents for 2009 pool passes already purchased this year; Steve Wyka seconded the motion. All in favor.

Review and Approval of Township E-Mail Management Policy

Maryann Lantz made a **motion** to authorize adoption of the E-Mail Management Policy for the Township Staff in order to conform to the Right-To-Know Law; Steve Wyka seconded the motion. All in favor.

NEW BUSINESS

Request for Approval to Exonerate Tax Collector to Collect Taxes – Real Estate 2009 (\$46.63)

Maryann Lantz made a **motion** to authorize the Tax Collector's request for exoneration to collect 2009 Real Estate Taxes totaling \$46.63; Maryann Lantz seconded the motion. All in favor.

Township Mission and Vision Statement for Consideration of Adoption by Resolution

Chairman Siegfried reviewed a Township Mission and Vision Statement created by Kristi Chase for the Board's consideration and approval for adoption.

Steve Wyka made a **motion** adopting Resolution #2009-16 as the Township's Mission and Vision Statement; Maryann Lantz seconded the motion. All in favor.

Dutch School – Request for Use of Township Meeting Room

Approval was granted for the use of the Longswamp Township Meeting Room for Dutch Class every Thursday from 7:00 p.m. until 8:30 p.m. beginning September 3, 2009 until December 10, 2009. There will be a \$10.00 registration fee for each attendee which in turn will be given to the Township in order to cover expenses, such as heat, electric, etc. Steve Wyka made a **motion** to grant approval for use of the Township Meeting Room to the Dutch School; seconded by Maryann Lantz. All in favor.

Request Made by Berks Visiting Nurse Association for "Community Nurse Services" Donation from 2010 Annual Budget

The Board recommended consideration would be given to the Berks Visiting Nurse's Association request for a donation at the 2010 Budget Workshops which will be scheduled

at a later time.

Request to Approve Cancellation of Township Post Office Box

The Township Treasurer addressed the Board for consideration of cancelling the Township's post office box and have all mail delivered directly, as well as picked up, at the Township Building effective January 1, 2010. Mrs. McPike stated the cancellation would result in an approximate savings of \$55.00 annually to the Township.

Maryann Lantz made a **motion** approving the request to discontinue use of the Township post office box effective January 1, 2010; Steve Wyka seconded the motion. All in favor.

Go21

Chairman Siegfried stated he and Maryann Lantz attended a meeting with a representative from Go21 and explained the organization encourages Townships to support increased railway transportation in order to receive tax breaks being offered for those supporting the program. Donald stated the representative suggested municipalities send letters of support of increased freight rail hauling capacity to members of Congress and consider passing a Resolution of support as well.

Maryann Lantz made a **motion** authorizing support by signing letters to State Senators and State Representatives as well as adopting Resolution No. 2009-18, Supporting Increased Freight Rail Hauling Capacity; Steve Wyka seconded the motion. All in favor.

RECORD NOTES

None at this time.

APPROVAL OF BILLS

Steve Wyka made a **motion** to approve processing for payment, bills totaling \$231,799.97 and transfers totaling \$99,748.31; Maryann Lantz seconded that motion. All in favor.
Roll Call Vote: Maryann Lantz, Yes; Steve Wyka, Yes.

BOARD COMMENTS

None at this time.

ADJOURNMENT

Steve Wyka made a **motion** to adjourn the meeting at 9:17 p.m.; Maryann Lantz seconded the motion. All in favor.

Respectfully submitted,

Jennifer A. Wassell-Bonser
Township Secretary