

The regular meeting of the Conemaugh Township Board of Supervisors was called to order at 6:00 p.m. on March 19, 2003 by Chairman Robert Rouser. Board members present were Robert Rouser, Chairman, Albert Zuccolotto, Secretary-Treasurer, and David Hart, Vice-Chairman. Solicitor William Barbin was also present.

Pledge to the Flag.

**FLOOR OPENED TO PUBLIC COMMENT ON AGENDA ITEMS:**

None.

**MINUTES:**

The minutes of the regular meeting of February 19, 2003 were distributed. There was a motion by Mr. Zuccolotto seconded by Mr. Hart, to accept the minutes of the regular meeting of February 19, 2003. Roll call vote: Mr. Zuccolotto – yes, Mr. Hart – yes, and Mr. Rouser – yes. Motion carried unanimously.

**BILLS:**

There was a motion by Mr. Hart, seconded by Mr. Zuccolotto, to pay the bills for the month of March 2003 in the amount of \$10,955.13 for the General Fund, \$31,617.39 for the Liquid Fuels Fund, and \$83,499.67 for the Sewer Department. Roll call vote: Mr. Hart– yes, Mr. Zuccolotto – yes, and Mr. Rouser – yes. Motion carried unanimously.

**POLICE REPORT:**

This month the police report was submitted by Sgt. James McKnight since Chief Barclay was deployed to Kosovo. The police report as submitted for the month of February 2003 for Conemaugh Township and Benson Borough was read. There was a motion by Mr. Zuccolotto, seconded by Mr. Hart, to accept the police report for the month of February 2003 for the Township and Benson Borough. Roll call vote: Mr. Zuccolotto – yes, Mr. Hart – yes, and Mr. Rouser – yes. Motion carried unanimously.

**PERSONS TO BE HEARD:**

**Leo Marisa** of Hollsopple asked how could the Township issue a non-conforming variance to a business on a private lane owned by someone else. He stated this road was not suitable for a business. Solicitor Barbin indicated that although he did not know all of the facts surrounding this variance, he would try to answer. The variance was granted seven years ago, and generally if it is not appealed within thirty days of the approval of the Zoning Hearing Board, it is final whether it is right or wrong. Solicitor Barbin stated that the Zoning Hearing Board variance did not give the business the right to use a road that is not theirs. After further discussion with Mr. Marisa, it was found that a written easement did exist allowing the Besyks to use the lane, but since the variance was approved for their business, other people also use the lane. Solicitor Barbin stated that anytime up to twenty-one years Mr. Marisa had the right to say that the easement was restricted, but he would have to prove that, and the Besyks would have the right to say that the easement was unlimited, with a judge deciding in the matter. Mr. Marisa also asked who would be responsible for the maintenance and insurance coverage for this lane. Solicitor Barbin stated that Mr. Marisa would carry the insurance to cover himself since there was more risk with the other people driving across his property. If it were not written into the original easement that the Besyks would have to share in the cost of taxes and insurance, then it would be up to a judge to interpret. Solicitor Barbin said that maintenance of the lane was different in that if two people used a road and one person pays the cost for upkeep to keep it open and passable, that person could apply to the court to order the other side to pay some of that cost. Mr. Marisa also stated that he recently installed speed bumps on the lane and has had the police up several times. He was also called by the Besyks who said they were going to remove the speed bumps. Mr. Marisa felt that since he owned the lane, they could not do that. Solicitor Barbin informed Mr. Marisa that the Besyks also own the lane because of the easement that says they have the right to use it, and Mr. Marisa could not interfere with their right to use it. Solicitor Barbin said that if the Besyks would physically remove the speed bumps, then he could sue them in court for destroying his property. Solicitor Barbin further advised Mr. Marisa not to start a fight over this because the one who starts the fight is wrong. Mr. Marisa further complained that since the beginning of this business, people would walk right into his residence, thinking they were at the Besyk business, and he asked how to stop this. Solicitor Barbin answered that No Trespassing signs should be posted and when the people trespass, they can be charged.

Further discussion ensued with Solicitor Barbin stating that he believed there were some conditions in the variance that was granted. The Township's jurisdiction continues to enforce these conditions. He stated that Mr. Marisa had the right to make a complaint in writing to the Township's Zoning Officer, who would inspect the situation, and would make a determination as to whether it was a violation or not. If he thought it was a violation, he would send a form stating the violations to the violator, giving thirty days to correct. If the violation were not corrected in thirty days, the business would be told to cease and desist. If the business disagreed, they would need to send a letter to the Zoning Officer. Either way, the Zoning Officer decides, and there is the right to appeal that decision to the Zoning Hearing Board, who makes the final decision. This decision could then be appealed to court.

Mr. Marisa asked what could be done about excessive speed and dust. Solicitor Barbin stated that since these items were conditions in the variance, they could be enforced. If the Zoning Officer feels that he has good evidence, he can take action based on information received, but he would rely on the testimony of the complainant. At this point, Solicitor Barbin indicated that he did not want to go any further on this subject since it was the Zoning Officer's job to make the decision in this matter.

Mr. Zuccolotto asked how the Township police could be called out in this matter since it involved a private road. Solicitor Barbin said that the police would respond for breach of peace only. Solicitor Barbin advised Mr. Marisa to send a written complaint to the Township Zoning Officer regarding the terms and conditions of the variance or any violation dealing with the Township Zoning Ordinance.

**CORRESPONDENCE:**

None.

**OLD BUSINESS:**

None.

**NEW BUSINESS:**

1. **2003 ROAD & PETROLEUM BIDS:** There was a motion by Mr. Zuccolotto, seconded by Mr. Hart, to advertise for bids for the Township's

2003 road and petroleum materials. Roll call vote: Mr. Zuccolotto – yes, Mr. Hart – yes, and Mr. Rouser – yes. Motion carried unanimously.

2. **2003 SPRING CLEAN UP:** There was a motion by Mr. Hart, seconded by Mr. Zuccolotto, to advertise spring clean up week for April 7-11, 2003. Roll call vote: Mr. Hart – yes, Mr. Zuccolotto – yes, and Mr. Rouser – yes. Motion carried unanimously.

3. **ORDINANCE NO. 649:** Solicitor Barbin stated that this pretreatment ordinance controls what businesses and residents are allowed to dump into the sewer system such as gasoline and chemicals. This ordinance covers the part of the Township that is connected to Johnstown as well as the part of the Township that the Sewer Department operates with the treatment plants. This is a standard EPA ordinance. There was a motion by Mr. Zuccolotto, seconded by Mr. Hart, to adopt Ordinance No. 649, which prohibits introduction of pollutants into the municipality wastewater system and provides for the equitable distribution of the cost of the municipal wastewater system. Roll call vote: Mr. Zuccolotto – yes, Mr. Rouser – yes, and Mr. Hart – yes. Motion carried unanimously.

4. **REVISION TO POLICE SCHEDULING POLICY:** There was a motion by Mr. Zuccolotto, seconded by Mr. Hart, to approve the revised Conemaugh Township Police Department Scheduling Policy, adding the statement that no part-time officer shall be scheduled for more than 32 hours within a workweek, and defining a workweek. Roll call vote: Mr. Zuccolotto – yes, Mr. Rouser – yes, and Mr. Hart – yes. Motion carried unanimously.

5. **2003 CDBG ENTITLEMENT APPLICATION COOPERATION AGREEMENT:** There was a motion by Mr. Zuccolotto, seconded by Mr. Hart, to authorize signing the Cooperation Agreement between the County of Somerset, Conemaugh Township Supervisors, and the Redevelopment Authority of Somerset County for the Township's 2003 CDBG Entitlement. Roll call vote: Mr. Zuccolotto – yes, Mr. Hart – yes, and Mr. Rouser – yes. Motion carried unanimously.

6. **RESIGNATION OF PART-TIME POLICE OFFICER:** Mr. Zuccolotto stated it was with regret that this resignation would be accepted. Mr. Plunkard is a good police officer and he has accepted a full-time position with the Johnstown police force. There was a motion by Mr.

Zuccolotto, seconded by Mr. Hart, to accept the resignation of part-time police officer, Michael Plunkard, from the Conemaugh Township Police Department, effective March 28, 2003. Roll call vote: Mr. Zuccolotto–yes, Mr. Hart – yes, and Mr. Rouser – yes. Motion carried unanimously.

**FLOOR OPENED TO PUBLIC COMMENT:**

**Ruth Villa** of Jerome wanted to know what the status was on the demolition of the double house in Jerome. Solicitor Barbin answered that the Township had tried to remove the individual from the other side of the house, but in order to do that, according for Federal Law, the Township would have to provide him with a new home. Therefore, the Township sent a letter to the Redevelopment Authority of Somerset County authorizing them to use the Township’s CDBG funds to fix the sidewall of his residence so that the other half, which is owned by the Township, can be torn down. A new outside wall will also have to be constructed. The Township will own the property of the half that is torn down.

**ANNOUNCEMENTS:**

1. The next regularly scheduled meeting of the Township Supervisors will be held on Wednesday, April 16, 2003 at 6:00 p.m.

**ADJOURNMENT:**

There was a motion by Mr. Hart, seconded by Mr. Zuccolotto, to adjourn the meeting at 6:32 p.m.

**Submitted by,**

**(signed) Albert E. Zuccolotto, Secretary-Treasurer**