

MINUTES OF REGULAR MEETING OF FEBRUARY 18, 2004

The regular meeting of the Conemaugh Township Board of Supervisors was called to order at 7:05 p.m. on February 18, 2004 by Chairman Calvin Gindlesperger. Board members present were Calvin Gindlesperger, Chairman, David Hart, Secretary-Treasurer, and Robert Rouser, Vice-Chairman. Solicitor James Beener was present.

Pledge to the Flag.

FLOOR OPENED TO PUBLIC COMMENT ON AGENDA ITEMS:

Tom Platt of Hyasota had a question about snowplowing. Chairman Gindlesperger informed Mr. Platt that this segment of the meeting was only to discuss items that were listed on the agenda. The floor was open for public comment on other matters at the end of the agenda and he could bring up his question at that time.

MINUTES:

There was a motion by Mr. Hart, seconded by Mr. Rouser, to accept the minutes of the special meeting of January 21, 2004. Roll call vote: Mr. Hart – yes, Mr. Rouser – yes, and Mr. Gindlesperger – yes. Motion carried unanimously.

BILLS:

There was a motion by Mr. Hart, seconded by Mr. Rouser, to pay the bills for the month of February 2004 in the amount of \$10,796.12 for the General Fund, and \$12,418.01 for the Liquid Fuels Fund, and \$4,050.15 for the Sewer Fund. Roll call vote: Mr. Hart – yes, Mr. Rouser – yes, and Mr. Gindlesperger – yes. Motion carried unanimously.

POLICE REPORT:

The police report as submitted by Acting Chief Howard Jackson for the month of January 2004 for Conemaugh Township and Benson Borough was read. There was a motion by Mr. Rouser, seconded by Mr. Hart, to accept the police report for the month of January 2004 for the Township and Benson Borough. Roll call vote: Mr. Rouser – yes, Mr. Hart – yes, and Mr. Gindlesperger – yes. Motion carried unanimously.

PERSONS TO BE HEARD:

Robert Miller of Thomas Mills had various questions to ask the Board. He wanted to know if prior to nominating and appointing Mr. Beener as Solicitor to the Board of Supervisors did the Board have his Statement of Financial Interest on file per the State Ethics Law. Solicitor Beener answered, no, and it was not required to be. Mr. Miller felt that was Mr. Beener's opinion. Solicitor Beener disagreed.

Mr. Miller also wanted to know that if prior to nominating Mr. Hart and Mr. Blasko for appointment to the Conemaugh Township Municipal Authority Board did the Supervisors hold their Statements of Financial Interest as required by law. Mr. Miller was informed that these forms are not due until May 1st of the current year for the prior year. Mr.

Miller stated that he believed that this was required when they were nominated, even ten days prior to their nomination that their Statement of Financial Interest for the previous year were to be on file. Solicitor Beener asked Mr. Miller if this matter related to his request for copies of Statements of Financial Interest for the CTMA, including solicitors and engineers. Mr. Miller answered, yes.

Solicitor Beener stated that Mr. Miller's letter of request was received, it was passed along to him and he reviewed it. Solicitor Beener stated he believed that Mr. Miller was reading Section 1104 of the Ethic's Act under Part B, which talks about this, but it does not apply to the designations that Mr. Miller was talking about--Subpart A does. Solicitor Beener said that he spoke with the staff of the Chief Counsel's Office of the State Ethics Commission, this matter was discussed, and they provided him when general information that confirmed that the method the Township was using was correct. Solicitor Beener further stated that he would be happy to have Mr. Miller contact them directly, rather than just relying on what he was telling him, but the procedure the Township was following was correct. Mr. Miller stated that he understood what he was telling him, but he did not agree with it, so he would take his actions.

Mr. Miller stated that according to the Sunshine Law, all deliberations were to take place at an open public meeting. He indicated that contrary to the Sunshine Law, this Board was holding meetings not open to the public and deliberating on topics, then coming to the meetings and only voting. Mr. Miller offered the following examples: At one of the meetings, the Supervisors came in with a telephone contract, quotes, etc., with no prior knowledge of this in a public meeting – no prior requests, no prior discussion, all of a sudden two of the Supervisors were holding quotes for telephones. Mr. Miller felt this was suspicious. Another example would be when the Supervisors bumped the police officers from full-time back to part-time – there was a vote, it was passed; there were no deliberations, no open meeting. Mr. Miller felt that the decision was done prior to the meeting. He further stated that the appointments to the CTMA was done without mentioning at a prior meeting that there were any openings so that people could submit an application or resume; the Supervisors just came to the meeting with two resumes and asked for an appointment to the CTMA. Mr. Miller felt that was wrong.

Mr. Miller stated that the Supervisors voted tonight on the meeting minutes and he had public comment in those minutes. He felt that without having a copy of the minutes, how do they know that what was in the minutes was what he had said. Chairman Gindlesperger stated that was why the tape recorder was used. Mr. Miller still felt that he had just as much right to see the minutes prior to the meeting – even with a tape recorder the secretary could have made typographical errors. Chairman Gindlesperger stated that could not be done until the minutes were approved. Mr. Miller asked how the Supervisors could approve what he said -- that would be like them writing his check, they could not write his check. Chairman Gindlesperger pointed out that Mr. Miller did not work for the Township. Mr. Miller understood that he did not work for the Township, but he understood that he was a taxpayer in the Township, and he understood that he had the right to speak at a meeting like this, and he thought he also had the right to determine whether what was put in the minutes was what he said. Mr. Miller stated he

could take them back to the minutes he had and it was not what he said. Chairman Gindlesperger stated that the tape does not lie. Mr. Miller stated that the tape does lie. Then he said he was not saying the tape lies, he was saying that the way it was worded was incorrect. Mr. Miller then proceeded to say that he was not sure if he had the minutes of the meeting that he talked in, but the tape does lie. Chairman Gindlesperger told Mr. Miller that if there were something wrong with the minutes, the Supervisors would amend them at the next meeting. Mr. Miller said that did not resolve the issue; he would like that opportunity, but that did not resolve the issue that the Supervisors were okaying minutes that were incorrect. He was sure there were other people in the room that had said things that have discussed this same exact thing. Mr. Miller stated it was the same thing with the agenda; the people come in and get an agenda with nothing on it, but then the Supervisors limited Mr. Platt who wanted to talk about items on the agenda, and they were not going to let him talk. Chairman Gindlesperger stated that Mr. Platt was going to be permitted to speak at the end of the agenda -- Mr. Platt was not going to talk about agenda items. Mr. Miller wanted to know where in the Sunshine Law did it say that the only comment a person was allowed to make were items according to the agenda. Chairman Gindlesperger once again informed Mr. Miller that there was public comment at the end of the meeting. Mr. Miller said that he had a copy of the Sunshine Law and it said that a person was allowed to make comments about anything that was of concern to him, so why were the Supervisors limiting this. Solicitor Beener explained to Mr. Miller that there were two sections pertaining to public comment on the agenda, the one in the beginning of the meeting was permitting individuals to speak on the agenda items, and there was a section at the end where people could speak. He further indicated that the Sunshine Law clearly did not say when during the meeting all the public comment had to be provided. Mr. Miller stated that he knew what he was saying; he did go to school, he graduated. Solicitor Beener stated that he did also, and Mr. Miller was saying that he did not know what he was talking about. But, Mr. Miller said he was trying to tell him that this Board needed to alter the way it handled its meetings, and the only way this could be done was if people like himself got up and told the people in the back that they would like to see the way the meetings were run altered. Mr. Miller stated that he had a conversation with Mr. Hart and he said he clearly told him to come out with a public comment per agenda item, and then the Supervisors just went through 15 agenda items. He wanted to know how that could be justified -- if there was an agenda item, then the public comment should be opened up per agenda item, not at the beginning of meeting because he felt that as the Supervisors go through the agenda, everyone forgets. Mr. Miller asked for the Supervisors' comments on this. Solicitor Beener said there were two periods of public comments, this was permitted, but he understood what Mr. Miller was saying. He further stated that Mr. Hart related to him that Mr. Miller wanted the agenda to be reformatted. Solicitor Beener stated that he felt there was no question that the Supervisors were complying with the Sunshine Law and the public comment period, noting that Mr. Miller did not like the way it was arranged, and the Supervisors could look at that, but he assured Mr. Miller again that the Supervisors were complying with what the law requires. Solicitor Beener said what he thought Mr. Miller's complaint was that he did not like the order that it flowed in, and he understood that -- he could not tell him that they would change it, but he understood what he was saying. Mr. Miller wanted to know what the Supervisors' comments were on this. Chairman Gindlesperger asked

Mr. Miller where he would like to see the public comment period. Mr. Miller said he would like to see it before every agenda item. He continued to say that if there were six or seven agenda items, how could someone talk to an agenda item prior to the Supervisors voting on it, unless they sat back and kept track of it. Chairman Gindlesperger stated that the agenda items were what the Supervisors were doing this evening. Mr. Miller asked when did he get the agenda. He was answered that he got the agenda when he walked in the door. Mr. Miller stated that was right and how could he address an agenda item – the Supervisors had a month to think about it -- and he had from the time that he walked through the door to present. He further stated that if he had to guess, he would think the agendas were not put out before 6:30 p.m. or so. Mr. Hart noted that the agendas were sitting on the podium this morning. Mr. Miller reiterated that the Supervisors had 30 days and he only had one day. Mr. Hart mentioned that a lot of the agenda items came up within the last several days before the meeting. Mr. Miller felt that did not matter if it were several days or one day, the Supervisors still had time to discuss it among themselves, where the people in the audience did not have time to discuss anything. At this point, Mr. Miller thanked the Board for their time, and he hoped that they understood where he was coming from, and he wanted them to understand that he was going to file a complaint with the State Ethics Commission.

CORRESPONDENCE:

1. Chairman Gindlesperger stated that a letter was received from Robert Miller. He was requesting copies of the Statements of Financial Interest on the CTMA members, including past and present Solicitors and Engineers, for the last five years, as established by the State Ethics Commission. Chairman Gindlesperger informed Mr. Miller that he would have to request this information from the CTMA since the Township did not have any of the CTMA Statements of Financial Interest; they had them on file at their office. Mr. Miller asked if the law did not say those forms should be filed with the governing body of the political subdivision. Solicitor Beener stated that Mr. Miller had asked for five years and that was what he was referring to earlier, these forms were not filed with the Supervisors, they were filed with the CTMA -- he was asking for five years back and they would have those on file. Solicitor Beener also noted, as they were talking earlier, that Mr. Miller contends 1104 Subpart B of the Ethics Law says ten days prior to nominations, and that was a different issue, that was the Township's issue; he did not think that applied at all. Solicitor Beener stated again that he had checked with the Ethics Commission. Mr. Miller stated that he would do what was suggested, but was going to file a complaint with the State Ethics Commission. Solicitor Beener said that this was his right, but he was telling him that in response to the request for Statements of Financial Interest for the CTMA, the request must go to them to supply that information. Mr. Miller stated that what Solicitor Beener was telling him was that the Township did not have the Statements on file here. Solicitor Beener answered for five years back, they were not filed with the Township. Mr. Miller then stated that he had spoken with Mr. Hart earlier today, approximately 10:00 a.m., and if this was what the Supervisors wanted him to do, why did not Mr. Hart call him back and inform him of such. Solicitor Beener stated that Mr. Hart sent him Mr. Miller's letter of request, indicating that he had talked with Mr. Miller, asking him to review it this afternoon. Solicitor Beener was not sure of

the time Mr. Hart and he had spoken, but it was late this afternoon and the meeting was now. Mr. Miller asked when Solicitor Beener received the letter. Solicitor Beener answered, later this afternoon. Mr. Miller said that was not what Mr. Hart told him. Solicitor Beener noted that it was faxed to his office and he was not sitting right by the fax machine. Mr. Hart indicated that it was faxed to Solicitor Beener's office this morning. Mr. Miller again stated that was not what Mr. Hart told him on the telephone and that was why some of the discussion that was taking place here tonight was taking place. He said that all Mr. Hart had to tell him was that the Supervisors did not have the five years of Statements, but did have one or two years of them. Mr. Hart noted that the Township has none of these Statements on file. Solicitor Beener indicated that he was going to try to explain this matter to Mr. Miller one more time. There were two different questions that Mr. Miller was asking. Solicitor Beener said that Mr. Miller was asking for copies of the Statements of Financial Interest for the last five years for the CTMA members and the Township did not have those. Mr. Miller asked, why. Solicitor Beener told him they were not filed with the Township. Mr. Miller asked, why; was not the Township the governing body of the political subdivision that represents.... Solicitor Beener reiterated, no, those Statements were filed with the Authority. Solicitor Beener noted that was one question, and the second question that Mr. Miller asked was a little different, asking if the Township had filings of the Financial Interest Statements ten days prior of the designation of a person to the CTMA, including solicitors and engineers – this was a separate question. Solicitor Beener stated that this did not apply, and he suggested that Mr. Miller look at Section 1104, A, which did apply. Mr. Miller stated that in his other inquiries for information, he received a letter back stating the Township's reasons for not providing that information. He would like another letter on this information. Solicitor Beener informed him that this would be done.

2. Chairman Gindlesperger stated that a letter was received from the Jerome Memorial Day Committee requesting a donation of \$500.00 for their Memorial Day Services that would be held on May 31, 2004. This was a yearly request and last year the Township gave them \$350.00. There was a motion by Mr. Rouser, seconded by Mr. Hart, to donate \$350.00 to the Jerome Memorial Day Services. Roll call vote: Mr. Rouser – yes. At this point, Mr. Miller indicated that he had a few things he would like to say. Chairman Gindlesperger informed Mr. Miller that the Supervisors were not finished with the roll call vote. Mr. Miller stated that he felt he had the right to object – did not the Supervisors believe that there should be public comment. Chairman Gindlesperger answered, no, the roll call vote had to be finished; there was no public comment right now. Chairman Gindlesperger then asked Mr. Miller what he wanted to object to. Mr. Miller asked the Supervisors if there should not have been some public comment on this matter. He, himself, being a veteran agreed with the Supervisors whole-heartedly, but he thought that something should not just be brought up with the Supervisors voting on it, and then moving on without public comment. Mr. Miller did not think the Supervisors were allowed to do that. Chairman Gindlesperger continued on with the roll call vote: Hart – yes, and Mr. Gindlesperger – yes. Motion carried unanimously.

OLD BUSINESS:

1. **APPOINTMENTS TO ZONING HEARING BOARD:** Chairman Gindlesperger stated that these appointments were tabled from the January 5, 2004 reorganization meeting. There was a motion by Mr. Rouser, seconded by Mr. Hart, to re-appoint Leo Marisa to a three-year term on the Conemaugh Township Zoning Hearing Board, and to re-appoint Joseph Stevens to a three-year term as an alternate member on the Conemaugh Township Zoning Hearing Board. Roll call vote: Mr. Rouser – yes, Mr. Hart – yes, and Mr. Gindlesperger – yes. Motion carried unanimously.

2. **DONATION OF ONE MILL TO FIRE COMPANIES:** Chairman Gindlesperger stated that also tabled had been the fire companies' request for the one mill of tax dollars that was ear marked to be given to the fire companies. It was said that the Supervisors would discuss this, and it was also talked about at the last meeting to spread this donation out over three payments distributed in April, July, and October. Mr. Rouser agreed, noting that the Township did not have any tax dollars coming in until April – the Township was operating on revenues from last year. Chairman Gindlesperger also noted that then the Township would not have to borrow any operational funds. There was a motion by Mr. Hart, seconded by Mr. Rouser, to pay the one mill of tax dollars to the volunteer fire companies with the first payment in April, the second payment in July, and the third payment in October. Roll call vote: Mr. Hart – yes, Mr. Rouser – yes, and Mr. Gindlesperger – yes. Motion carried unanimously.

NEW BUSINESS:

1. **REJECTION OF TIRE HILL SEWER PROJECT BIDS:** Chairman Gindlesperger stated that the Supervisors had received notification from the sewer department that they needed to reject the bids that had been received for the Conemaugh Township Tire Hill Sewer Project. Solicitor Beener noted that an extension on these bids were granted and the Township was still within the extension period, but his recommendation was that the Supervisors would not be in a position to award the bids within the time frame permitted, and therefore these bids should be rejected now, which would free the bidders and also the Township. The Township would proceed to keep pace with the project, but bids could not be awarded at this time. Solicitor Beener stated that based on consultations with the sewer department, his recommendation would be to reject the bids. There was a motion by Mr. Hart, seconded by Mr. Rouser, to reject the bids received from Kukurin Contracting, Inc. for Contract #1 and #5, B & B Designed Systems for Contract #2, Kircon Breco, Inc. for Contract #3, and Kircon Breco, Inc. for Contract #4 for the Conemaugh Township Tire Hill Sewer Project. Roll call vote: Mr. Hart – yes, Mr. Rouser – yes, and Mr. Gindlesperger – yes. Motion carried unanimously.

2. **REQUEST FOR EXTENSION ON PENNVEST CLOSING FOR TIRE HILL SEWER PROJECT:** Chairman Gindlesperger stated that the sewer department asked that a request be made to extend the PENNVEST closing date for the Conemaugh Township Tire Hill Sewer Project to November 1, 2004. This would enable the Township to keep the 1% interest rate on the sewer project loan for thirty years. There was a motion by Mr. Rouser, seconded by Mr. Gindlesperger, to request an extension for the PENNVEST closing date to November 1, 2004 for the Conemaugh Township Tire

Hill Sewer Project. Roll call vote: Mr. Rouser – yes, Mr. Gindlesperger – yes, and Mr. Hart – yes. Motion carried unanimously.

FLOOR OPENED TO PUBLIC COMMENT:

Tom Platt of Hyasota asked if there was an order that the road crew goes by when plowing snow as to what areas were hit first. Mr. Hart answered that there were seven or eight trucks leaving the building depending on what was available for the day. The crew goes out in seven or eight different directions and the first priority was to hit the bus routes. Mr. Platt asked if they hit one area first all the time. He stated that the crew did a good job, and he was sure everyone had some problems, but his area did not get done until 2:00 or 3:00 in the afternoon, if not until the next day, and he saw that other areas were cleaned up already. Mr. Platt asked if the Supervisors ever considered rotating the plowing order. Mr. Hart noted that this year he had left it up to the crew to plow the way they normally plow. Mr. Rouser stated that the order was to hit the school bus routes first and then start on the individual routes. Mr. Hart informed Mr. Platt that changing the routes could be discussed.

Mr. Platt referred to last month's meeting where it was discussed about eliminating the Township police force. He wanted to inform the Supervisors that in the Hyasota area there were at least four incidents where police officers had to come out there. Mr. Platt noted that an individual at the meeting had said he had no problems, but he did not know where this person lived because the Township had approximately 518 calls last month. Mr. Platt asked if the Supervisors were thinking about what they were going to do with the police force. Solicitor Beener indicated that talks between police union and the Township were ongoing at this time. Mr. Platt asked if the Supervisors had thought about having a survey sent out to the public if they want the police force, since most people did not come to the meetings. Mr. Hart said that maybe they would consider that. Mr. Platt indicated that a lot of people did not know what was going on or how many full and part time police there were, etc. Chairman Gindlesperger suggested that the Township could put a letter out stating how many officers there were – what the Township does have – how many trucks, how many employees – just an informational letter.

Mick Jordan of the Jerome Volunteer Fire Company asked at what time during the months of April, July, and October would the fire companies receive the one mill donation. Mr. Hart answered that the money would be distributed during the second or third week of the month. Mr. Jordan also wanted to know how much each payment would be. Mr. Hart answered it would be three equal payments of \$8,000.00 each.

ANNOUNCEMENTS:

1. The next regularly scheduled meeting of the Township Supervisors will be held on Wednesday, March 17, 2004 at 7:00 p.m.

ADJOURNMENT:

There was a motion by Mr. Rouser, seconded by Mr. Hart, to adjourn the meeting at 7:35 p.m.

Submitted by,

(signed) David A. Hart, Secretary/Treasurer