

MINUTES OF REGULAR MEETING OF APRIL 20, 2005

The regular meeting of the Conemaugh Township Board of Supervisors was called to order at 7:04 p.m. on April 20, 2005 by Chairman Calvin Gindlesperger. Board members present were Calvin Gindlesperger, Chairman, Wayne Kauffman, Vice-Chairman, and David Hart, Secretary/Treasurer. Solicitor James Beener was present.

Pledge to the Flag.

FLOOR OPENED TO PUBLIC COMMENT:

Ronna Marisa of 183 Marisa Lane stated the Besyk's filed on appeal on a fine they received for non-compliance of the Township's Zoning Ordinance, and she wanted to know if they filed to be placed on the court schedule. Solicitor Beener answered, yes, they did file. Ms. Marisa stated the Besyk's filed an appeal on the loss of their variance over a year ago, and she wanted to know if they had filed to be placed on the court schedule for this. Solicitor Beener answered, no, they did not. Ms. Marisa wanted to know what was going to be done about this—were these people going to continue to conduct their business even though they were told to close down over a year ago. Solicitor Beener stated a hearing was held in front of Magistrate Roush, a judgment was entered, they took an appeal on that, and he received it last week, which the Township has to respond to that appeal. He stated as to the second matter she referred to, the Besyk's have made promises in the past and have not been forthcoming, and the Township has to force them to take some response to that matter also. Solicitor Beener informed Ms. Marisa the Supervisors have told him to proceed.

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Joe Stevens of 126 Stevens Lane wanted to know why the Supervisors wanted to take over the Conemaugh Township Water Authority when they could not properly operate the sewer system. He stated the Township has one full-time Supervisor, two part-time Supervisors, and he suspected outside forces were running the Township Supervisors Office, and he did not like it. Mr. Stevens stated there were rumors that Supervisor Calvin Gindlesperger was not living in the Township. He stated that according to the Township Code, anyone elected to office had to live in the Township. Mr. Stevens wanted to know where Mr. Gindlesperger's primary residence was, if he was living out of the area; and if he was, he should have the decency to resign. Mr. Stevens addressed Solicitor Beener stating if Mr. Gindlesperger was living outside of the Township, he wanted a ruling as to whether he was eligible to be on the Board of Supervisors. Chairman Gindlesperger answered that he was at present living out of the Township, and his permanent residence was still where he has resided for the last 20 years; he pays taxes there. He stated he was up in the air as to where he may be residing yet. Mr. Gindlesperger said he moved closer to his place of work for the time being because of his work schedule, until he made a decision as to what he was doing.

Mr. Stevens asked the Solicitor what the limitations were on this matter as far as the Township Code was concerned. Solicitor Beener answered that he could not quote him the time limit from the Township Code, he would have to double check. Solicitor Beener further stated the issue of service by any supervisor was set forth in the Township Code, but it was not something the Supervisors had any authority over. He indicated there was a procedure in the Code that set forth how the taxpayers could deal with Mr. Gindlesperger. Mr. Stevens asked of Solicitor Beener could give him an answer on this by the next meeting. Solicitor Beener stated that would be up to the Supervisors. Chairman Gindlesperger informed Mr. Stevens there would be an answer for the next meeting. Solicitor Beener noted he would put it in writing.

Dave Koch of Pittsburgh indicated he was here to see how the Township's sewer project was going, and to inquire about the treatment plant presently being constructed. He wondered if the Supervisors planned to man the plant with a certified operator. Mr. Hart answered that the Township had a certified operator, Randy Younkin, at this time. He stated until the new plant was up and running, which would not be until next March, and until decisions were made, it was unknown what would be done.

MINUTES:

There was a motion by Mr. Kauffman, seconded by Mr. Hart, to accept the minutes of the meeting of March 16, 2005. Roll call vote: Mr. Kauffman – yes, Mr. Hart – yes, and Mr. Gindlesperger – yes. Motion carried unanimously.

BILLS:

There was a motion by Mr. Hart, seconded by Mr. Kauffman, to pay the bills for the month of April 2005 in the amount of \$95,840.49 for the General Fund, \$20,143.13 for the Liquid Fuels Fund, and \$46,718.08 for the Sewer Fund. Roll call vote: Mr. Hart – yes, Mr. Kauffman – yes, and Mr. Gindlesperger – yes. Motion carried unanimously.

POLICE REPORT:

The police reports as submitted by Chief Howard Jackson for the month of March 2005 for Conemaugh Township and Benson Borough were read. There was a motion by Mr. Kauffman, seconded by Mr. Hart, to accept the police reports for the month of March 2005 for the Township and Benson Borough. Roll call vote: Mr. Kauffman – yes, Mr. Hart – yes, and Mr. Gindlesperger – yes. Motion carried unanimously.

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PERSONS TO BE HEARD:

Ken Kozak was scheduled to be heard, but was not present

Joe Stevens of 126 Stevens Lane noted he did not have any grudges against any present or past Supervisors. He stated his sewer problems in the past were never addressed, and he wanted a written definite answer on what his alternatives were. Mr. Stevens indicated past Supervisors Albert Zuccolotto and Robert Rouser quoted him a five-year statute of limitations in the matter and that time had run out. He wanted to know when the statute of limitations starts – when the problem was created or when it was found. Mr. Stevens stated he had discussed his problem with present Supervisors David Hart and Calvin Gindlesperger, both of whom had visited the site, and he had also discussed the matter with Supervisor Wayne Kauffman. He further noted that Mr. Gindlesperger had informed him there was a seven-year statute of limitations, and an attorney that Mr. Stevens had talked to who was familiar with the building of the sewer system had told him there was a 21 year statute of limitations. Mr. Stevens wanted to know which was correct.

Mr. Stevens stated his problem was that a sewer line was installed through his property. He wanted to know if the residents involved with the sewer system being constructed now were told they had no use of their land once the sewer goes through – they were not allowed to build on it or use it. Mr. Stevens stated he was never told this and was never compensated for this. He said he had a fairly valuable piece of land that could be sold for commercial development. Mr. Stevens noted land for housing alone was selling for about \$50,000 per acre, commercial was more. He stated 1.5 acres of his land was ruined, which he had invested in for his retirement. Mr. Stevens felt he was being cheated out of \$75,000 to \$100,000. Mr. Stevens wanted to know

if the individual going around to solicit easements for a sewer project was required to inform the residents they had no use of their land once the sewer line goes through.

Mr. Stevens further stated the land involved was never surveyed, and the construction company put the sewer line anywhere they pleased. He stated there was a situation between himself and his neighbor where the sewer line was 12 ½ feet off. Mr. Stevens indicated he was told when he put his mother-in-law's house there that he could not tap in to the sewer line because there was a five foot easement he had to go through on his neighbor's property in order to tap in. Mr. Stevens noted he had a deed of easement made up, which he would show the Supervisors – this easement was never signed, never instituted. He stated he had received a letter for Russ McCauliff, former Sewer Manager, which stated he was not permitted to get into that sewer line. Mr. Stevens said the fact was that the sewer line was not built where it was supposed to be; he was never paid or compensated. He noted he was permitted to tap in to the sewer line from his mother-in-law's house. Mr. Stevens said the past Board of Supervisors, Albert Zuccolotto, Robert Rouser, and Dave Hart, and their solicitor, had told him he had to prove that the sewer line was off base. He felt that the document he had, along with the letter from Mr. McCauliff would confirm that it was off base, and he had to prove nothing. Mr. Stevens informed the Supervisors if they did not deal with this matter, they would be faced with a situation where someone wants to build a house somewhere and they had to go through a half-dozen properties to put a sewer line in, ruining an area 15 feet wide through a half-dozen properties, because he had the proof they can go through a piece of property without an easement. Mr. Stevens stated the Supervisors had to deal with him and work this out. He offered to meet privately with the Supervisors to discuss this to see if a settlement could be reached, if not he could do it at a public meeting. Mr. Stevens said he was tired of the arrogance of the Supervisors not wanting to deal with this problem, noting it was not the Supervisor's fault, it was the fault of the construction

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company. He felt there should be a legal answer to this, if not the Supervisors were going to be faced with a big problem, noting that he would tell everyone what happened to him and that it could happen to them. Mr. Stevens wanted answers in writing from the Solicitor.

Chairman Gindlesperger noted to Mr. Stevens that building was only prohibited just on top of the sewer line, not the entire property. Mr. Stevens had indicated he had lost 1.5 acres, but the only place building was prohibited was directly on top of the sewer line. Mr. Stevens asked how much acreage a 15-foot wide and 2,000 – 3,000 foot long area contains. Mr. Gindlesperger reminded Mr. Stevens he had said his property was worthless now, and Mr. Stevens stated he did not say that.

Solicitor Beener asked Mr. Stevens what year this sewer problem occurred so he could research the statute of limitations question. Mr. Stevens answered, 1996-1997. Solicitor Beener also asked Mr. Stevens if he had a survey of his ground he could have. Mr. Stevens answered that he did, and the Solicitor could have a copy.

Albert Zuccolotto was scheduled to be heard, but was not present.

CORRESPONDENCE:

A letter was received from the Conemaugh Township Area Historical Society requesting a monetary donation. It was noted there was \$1,000.00 budgeted for this. There was a motion by Mr. Kauffman, seconded by Mr. Hart, to donate \$1,000.00 to the Conemaugh Township Area Historical Society, as budgeted. Roll call vote: Mr. Kauffman – yes, Mr. Hart – yes, and Mr. Gindlesperger – yes. Motion carried unanimously.

OLD BUSINESS:

None.

NEW BUSINESS:

1. **OPEN BIDS FOR 2005 PETROLEUM PRODUCTS:** Chairman Gindlesperger opened the only bid received for petroleum products, which was from William G. Satterlee & Sons, Inc. as follows:

- Unleaded Regular Gasoline - Rack price as of 4/6/05 - .6585 + delivery - .1425 = 1.810/gal.
- Diesel Fuel – Rack price as of 4/6/05 - .1.7025 + delivery - .1425 = 1.845/gal.
- #1 Heating Oil – Rack price as of 4/6/05 - .1.6965 + delivery - .1425 = 1.839/gal.

There was a motion by Mr. Kauffman, seconded by Mr. Hart, to accept the bid for the 2005 petroleum products from William G. Satterlee & Sons, Inc. as presented. Roll call vote: Mr. Kauffman – yes, Mr. Hart – yes, and Mr. Gindlesperger – yes. Motion carried unanimously.

2. **OPEN BIDS FOR 2005 ROAD MATERIALS:** Chairman Gindlesperger opened the following bids received for road materials:

Road Materials (Delivered):

Bids were received from New Enterprise (NE), and Homer R. Sleek & Sons (SL) as follows:

#8 Limestone (or) Anti-Skid Limestone Equivalent	NE – 12.00/ton	SL – 12.65/ton
Type 2 Slag – Anti-Skid – Limestone Only	NE – No Bid	SL – 10.60/ton
#57 Stone – Limestone Only	NE – 11.57/ton	SL – 12.30/ton

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2A Stone – Limestone Only	NE – 10.25/ton	SL – 10.75/ton
2RC Stone – Limestone Only	NE – 10.25/ton	SL – 10.35/ton
#1 Stone – Limestone Only	NE – 11.75/ton	SL – 12.30/ton
Milling Material	NE – No Bid	SL – 14.00/ton
ASSHTO #10 Dust	NE – 10.75/ton	SL – 9.75/ton
Road Salt	NE - No Bid	SL – 54.50/ton

Road Paving/Sealing Materials (FOB at Plant):

Bids were received from New Enterprise (NE), HRI, Inc., and Quaker Sales (QS) as follows:

ID-2 Wearing Course or 9.5 mm	NE – 33.65/ton	HRI – 33.25/ton	QS– 33.00/ton
ID-3 Wearing Course or 19 mm	NE – 30.75/ton	HRI – 31.50/ton	QS- 30.75/ton
ID-2 Binder Course or 19mm	NE – 30.75/ton	HRI – 29.75/ton	QS- 30.75/ton
BC-BC Base Course or 25 mm	NE – 29.10/ton	HRI – 28.75/ton	QS- 29.25/ton

Hot asphalt material delivered to job site – 25 mile radius of Township:

New Enterprise	59.00/hr. per truck
HRI	52.00/hr. per truck
Quaker Sales	55.00/hr. per truck

Cold Patch (FOB at Plant):

New Enterprise	37.00/ton
HRI	36.00/ton
Quaker Sales	36.00/ton

After a brief discussion, Solicitor Beener stated that all materials bid could be awarded by line item, if the Supervisors desired. There was a motion by Mr. Hart, seconded by Mr. Kauffman, to award Homer R. Sleek & Sons the bid as submitted for milling material, ASSHTO #10 dust, road salt, and type 2 slag anti-skid limestone; and to award New Enterprise Stone & Lime the bid as submitted for #8 limestone (or) anti-skid limestone equivalent, #57 stone – limestone, 2A stone – limestone, 2RC stone – limestone, #1 stone – limestone. Roll call vote, Mr. Hart – yes, Mr. Kauffman – yes, and Mr. Gindlesperger – yes. Motion carried unanimously.

The bids received for road paving/sealing materials (FOB at plant), hot asphalt material delivered to job site, and cold patch (FOB at plant) will be reviewed and awarded at the next Supervisor's meeting.

3. **SOUTHERN ALLEGHENIES LANDFILL SETTLEMENT AGREEMENT:** Solicitor Beener recommended approval of this Agreement stating this matter had been going on for some time. There were a number of other taxing bodies involved, appraisals had been done, and this Agreement was viewed as very fair and reasonable. There was a motion by Mr. Kauffman, seconded by Mr. Hart, to approve the Settlement Agreement as presented by the Solicitor of the real estate tax assessment appeal by Southern Alleghenies Landfill, Inc. filed in the Court of the Common Pleas of Somerset County, Pennsylvania (No. 592 Civil 1998), under which the assessed value was agreed to be \$1,404,500.00; no real estate taxes paid will be refunded by the Township for tax years 1998 through the current year and the assessed value will be fixed for a period of seven years and thereafter subject to reevaluation as appropriate. Roll call vote, Mr. Hart – yes, Mr. Kauffman – yes, and Mr. Gindlesperger – yes. Motion carried unanimously.

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4. **APPOINTMENT OF POLICE CHIEF:** There was a motion by Mr. Hart, seconded by Mr. Kauffman, to appoint Howard Jackson as the Conemaugh Township Chief of Police, effective March 16, 2005. Roll call vote, Mr. Hart – yes, Mr. Kauffman – yes, and Mr. Gindlesperger – yes. Motion carried unanimously.

5. **RESOLUTION R07-05:** Mr. Hart noted the final payment was made to Fisherworks and the Township would be submitting to receive the funds backs that were invested in this project. There was a motion by Mr. Hart, seconded by Mr. Gindlesperger, to adopt Resolution R07-05 to close out the Conservation Partnerships Grant Project, which was for a trolley trail feasibility study. Roll call vote, Mr. Hart – yes, Mr. Kauffman – yes, and Mr. Gindlesperger – yes. Motion carried unanimously.

6. **APPOINTMENT TO CONEMAUGH TWP. CONSTRUCTION CODE BOARD OF APPEALS:** There was a motion by Mr. Kauffman, seconded by Mr. Hart, to appoint Thomas A. Telenko and William H. Shetler to replace Brian Mako and Robert Cable on the Conemaugh Township Construction Code Board of Appeals, to serve until their successors are appointed. Roll call vote, Mr. Kauffman – yes, Mr. Hart – yes, and Mr. Gindlesperger – yes. Motion carried unanimously.

7. **MINOR SUBDIVISION:** The Conemaugh Township Planning Commission approved this Plan on April 12, 2005, pending receipt of favorable comment from the Somerset County Planning Commission, which was received April 19, 2005, and has recommended approval by the Board of Supervisors. Solicitor Beener stated this was okay to approve. There was a motion

by Mr. Kauffman, seconded by Mr. Hart, to approve the subdivision plan for Dean Luther and Anna Mae Glessner, property owner and applicant, to create Lot No. 2 containing approximately 0.20 acres and having an existing frame garage thereon, with the parent residue Lot No. 1 containing approximately 1.08 acres; the property boundary along fire company was adjusted by the creation of Lot No. 3 pursuant to an old unrecorded agreement between property owner and the fire company. Roll call vote, Mr. Kauffman – yes, Mr. Hart – yes, and Mr. Gindlesperger – yes. Motion carried unanimously.

8. **MINOR SUBDIVISION:** The Conemaugh Township Planning Commission approved this Plan on April 12, 2005, pending receipt of favorable comment from the Somerset County Planning Commission, which was received April 19, 2005, and has recommended approval by the Board of Supervisors. Solicitor Beener stated this was okay to approve. There was a motion by Mr. Kauffman, seconded by Mr. Hart, to approve the subdivision plan for Joel Yoder, property owner, and Keith C. Ofsanko, applicant, to create a 2.0-acre parcel expressly for merger with adjacent parcel owned by Keith Ofsanko, with the resulting residue containing approximately 22.718 acres. Roll call vote, Mr. Kauffman – yes, Mr. Hart – yes, and Mr. Gindlesperger – yes. Motion carried unanimously.

TIRE HILL SEWER PROJECT:

1. **PENNVEST PAY REQUEST NO. 4:** There was a motion by Mr. Hart, seconded by Mr. Kauffman, to approve PennVest pay request #4 in the amount of \$555,368.43 as presented. Roll call vote, Mr. Hart – yes, Mr. Kauffman – yes, and Mr. Gindlesperger – yes. Motion carried unanimously.

2. **UPDATE SEWER PROJECT:** Thomas Reilly of The EADS Group reported Kukurin was approximately 21% complete on Contract 5. There were three pipe crews working, and a **MINUTES OF APRIL 20, 2005 MEETING CONTINUED.**

testing crew was testing pipe, after which restoration would begin. He further stated Galway Bay had begun clearing and grubbing the sewer treatment plant site for construction on Contract 1.

ITEMS FOR DISCUSSION:

Solicitor Beener wished to ask Ernest Spory, Emergency Management Coordinator, if he had heard anything from Verizon concerning his complaint from the last meeting. Mr. Spory stated that he had and now has additional telephone numbers in order contact Verizon for an immediate response to an emergency situation. Solicitor Beener noted he had written a letter to Verizon concerning the problem of them not responding in a timely fashion, and they had called him with an apology, indicating there had clearly been a miscommunication somewhere, and it would be resolved.

In another matter, Solicitor Beener stated the Supervisors needed to retain a special consultant for a personnel matter and recommended Attorney Robert I. Boose. There was a motion by Mr. Hart, seconded by Mr. Kauffman, to retain Attorney Robert I. Boose to represent the Conemaugh Township Supervisors in a personnel matter. Roll call vote, Mr. Hart – yes, Mr. Kauffman – yes, and Mr. Gindlesperger – yes. Motion carried unanimously.

ANNOUNCEMENTS:

1. The next regularly scheduled meeting of the Township Supervisors will be held on Wednesday, May 18, 2005 at 7:00 p.m.

ADJOURNMENT:

There was a motion by Mr. Kauffman, seconded by Hart, to adjourn the meeting at 7:50 p.m.

Submitted by,

David A. Hart, Secretary/Treasurer