

MINUTES OF REGULAR MEETING OF JUNE 15, 2005

The regular meeting of the Conemaugh Township Board of Supervisors was called to order at 7:01 p.m. on June 15, 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.

Tom Lynch and Joe Muscatello were scheduled to discuss the refinancing of the sewer bond at this time, but were not yet present.

FLOOR OPENED TO PUBLIC COMMENT:

Ed Naugle of West Campus Avenue said he had given five complaints about the problem by his residence (cow manure and mud on the roadway) to all three Supervisors, and gave a sixth complaint to the Police. He stated the police officer informed him that he talked to a Supervisor who had said it was a State road and he did not want to get involved. Mr. Naugle thought it was the Supervisors' responsibility to enforce the law whether it was a State road or not. He said Commissioner Jim Marker came to look at the problem and told him it was the Supervisors' responsibility. Mr. Naugle noted he had telephone numbers to give to Mr. Hart so he could talk to individuals who would show him how to solve this problem.

Joe Stevens of 126 Stevens Lane requested an answer regarding Calvin Gindlesperger's situation. Mr. Gindlesperger stated that he would either turn in his resignation or would be a resident of the Township by the next Board meeting. Mr. Stevens indicated that he accepted that. Mr. Gindlesperger further stated that his personal life was his business and his situation was just a temporary one. Mr. Stevens felt that Mr. Gindlesperger's personal life should not interfere with his Supervisor's job. He thought it was a bad thing to have only one full-time and one part-time Supervisor, stating that Mr. Gindlesperger was elected to be a full-time Supervisor. Mr. Gindlesperger responded by stating that his personal life had not interfered with his Supervisor position, and that he stopped into the Township office one or two times per week.

Ruth Villa of Jerome stated she wanted something done about the water that has been running into her garage and ruining her garage doors ever since her road was blacktopped, indicating that she did "love" the blacktop work that was done. She stated she had never had this problem for the four years she had her garage. Mr. Hart noted the problem arose when the alley was paved, but the Supervisors cannot tear it up because the water would then run into her neighbors. Mrs. Villa stated she wanted the pavement taken out and the road properly graded.

Mrs. Villa further stated that the residence across from her that was renovated by the Redevelopment Authority of Somerset County for the Township was supposed to be sold, but there was not a For Sale sign out. She further stated that the yard was a mess and needed maintained. Mrs. Villa indicated she had talked with Ms. Popovich of the Redevelopment Authority who had informed her it was up the Township to sell this property. The Supervisors and Solicitor Beener stated they were unaware that the Township was to sell the property. Chairman Gindlesperger said the Supervisors would talk to Ms. Popovich and the property would be sold. Mrs. Villa noted that something should also be done with the other half of the yard.

Ernest Spory of 133 Ham Road, Emergency Management Coordinator, stated he had received

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numerous calls from residents concerning the condition of Kring Street and Soap Hollow Road due to the sewer project. He stated there were very large holes in the roads, along with uneven pavement that could cause an accident. Mr. Spory wanted to know how the contractors had received approval from Penn Dot to use cold patch on these roads. Chairman Gindlesperger answered that this was just temporary until the road was paved and that cold patch lifts out. Ben Faas of The EADS Group informed Mr. Spory that paving was scheduled for the week of June 27th.

Joe Stevens stated he heard the request earlier in the meeting regarding the Besyk matter, noting that he was an alternate member on the Conemaugh Township Zoning Hearing Board. He wanted to know why it was not being enforced if the Zoning Board made a ruling and a finding of fact in that matter. Solicitor Beener indicated the Township was doing something about it. Mr. Stevens wanted an explanation stating it was public knowledge. Solicitor Beener stated he could not give the explanation at present because things were being done now, and to give a proper explanation he would have to explain how some other individuals made some fairly significant errors. He assured Mr. Stevens that matters would be taken care of.

TOM LYNCH & JOE MUSCATELLO – REFINANCING OF SEWER BOND

Joe Muscatello of Arthurs, Lestrangle & Company, Inc., and **Tom Lynch**, bond attorney, were present to discuss the refinancing of the Township's 1999 series sewer bonds. At this point, Mr. Muscatello gave his presentation on this matter. He gave the Supervisors a copy of a financial analysis of the bonds the Township currently had. Mr. Muscatello noted there was a \$108,000.00 payment due in October 2005, noting that by refinancing the bonds there would be a savings of approximately \$86,000.00, which would reduce that \$108,000.00 payment this year. He reviewed the new debt service payments, noting the Township went from an interest rate of 4.45% to 5.75% to yields of 2.5% and 4.5% which was a savings of approximately a point and a quarter over a 24-year period. Mr. Muscatello indicated the new bond issue would be \$2,590,000.00. There would be an insurance premium of almost \$25,000.00, which guarantees Triple A rates in the market place. Mr. Muscatello noted that these bonds could be refinanced again on October 1, 2010. The settlement date was projected to be July 20, 2005.

Mr. Lynch indicated they were comfortable with the Department of Community and Economic Development (DCED), noting that Mr. Muscatello had made the presentation to them, and the steps would be for the Supervisors to adopt the Ordinance presented tonight. There was a Bond Purchase Agreement, (reviewed by both himself and Solicitor Beener) which needed to be signed by the Supervisors now to lock in the rates. Mr. Lynch stated he would leave the Ordinance and the DCED documents with Solicitor Beener to have these executed at the end of this meeting and sent back. There were also Bond Purchase Contracts that needed signed tonight to lock in the rates.

ORDINANCE NO. 660 TO INCREASE NONELECTORAL DEBT:

There was a motion by Mr. Hart, seconded by Mr. Kauffman, to enact Ordinance No. 660 of the Township of Conemaugh increasing the nonelectoral debt and the exclusion of said debt as self-liquidating indebtedness of the Township by the issuance amount of - general obligation bonds, series of 2005, for the purpose of providing moneys for (1) advance refunding of the prior series of 1999 bonds, and (2) paying the costs of the bond issue; approving the engineer's report and cost estimate; fixing the form, numbers, date, interest rates and maturities of said bonds; pledging the sewer revenues and levying any necessary tax for payment of debt service charges; authorizing execution, sale and delivery of said bonds; authorizing the filing for approval of said debt with the

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Pennsylvania Department of Community and Economic Development; authorizing the paying of the required filing fee therefor; directing the filing of said departments approval certificate with the records of the Township; pledging of the full faith, credit and taxing powers of the township for the repayment of said bonds; and authorizing the filing for approval of said nonelectoral debt with the Pennsylvania department of community and economic development, including the filing of a self-liquidating debt exclusion certificate regarding the series of 2005 bonds and related documentation, and authorizing the payment of the required filing fee and issuance costs therefor. Roll call vote: Mr. Hart – yes, Mr. Kauffman – yes, and Mr. Gindlesperger – yes. Motion carried unanimously.

MINUTES:

There was a motion by Mr. Kauffman, seconded by Mr. Hart, to accept the minutes of the meeting of May 18, 2005. Roll call vote: Mr. Kauffman – yes, Mr. Hart – yes, and Mr. Gindlesperger – yes. Motion carried unanimously

BILLS:

There was a motion by Mr. Kauffman, seconded by Mr. Hart, to pay the bills for the month of June 2005 in the amount of \$52,933.86 for the General Fund, \$9,735.74 for the Liquid Fuels Fund, and \$57,512.06 for the Sewer Fund. Roll call vote: Mr. Kauffman – yes, Mr. Hart – yes, and Mr. Gindlesperger – yes. Motion carried unanimously.

POLICE REPORT:

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

PERSONS TO BE HEARD:

Kenneth G. Kozak of 274 School Avenue was present on behalf of his son, Ken Kozak, who was being shipped overseas. He wanted to know when the Supervisors planned on paving Hebda Lane. Chairman Gindlesperger stated Hebda Lane would be done with the Township's paving schedule when the paving contractors come into this area.

CORRESPONDENCE:

None.

OLD BUSINESS:

At this point, Mr. Hart wished to respond to the inquiries made at the last Board meeting by Steve Buncich, Chairman of the Conemaugh Township Recreation Commission. He informed Mr. Buncich that the Supervisors had applied for an AmeriCorps person to work with Township and Recreation Commission in getting grants for recreation. Mr. Hart further indicated that Mike Quinn of the Recreation Commission had applied for a grant for playground equipment. He stated that if the grant would not come through he was looking at the possibility of putting some funding in next year's budget for playground equipment or other work to be done at Greenhouse Park.

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NEW BUSINESS:

1. **OPEN BIDS FOR FINANCING OF STREET SWEEPER:** Chairman Gindlesperger stated that only one bid was received for the financing of the new street sweeper in the amount of \$164,000.00. The bid was received from Leasing II, Inc. of Tampa, Florida with the first payment of \$37,349.00 due April 1, 2006 at an interest rate of 4.85%. There was a motion by Mr. Hart, seconded by Mr. Kauffman, to award the financing bid in the amount of \$164,000.00 for the lease/purchase of a new street sweeper from U.S. Municipal Services to Leasing II, Inc. of Tampa, Florida with an interest rate of 4.85%, first payment of \$37,349.00 being due April 1, 2006. Roll call vote: Mr. Hart – yes, Mr. Kauffman – yes, and Mr. Gindlesperger – yes. Motion carried unanimously.

2. **APPOINTMENT TO CT RECREATION COMMISSION BOARD:** Chairman Gindlesperger stated that a letter was given to the Supervisors by Steve Buncich indicating that William Cuppett was interested in becoming a member of the Recreation Commission, and Mr. Hart had talked to Steve Favreau who was also interested in becoming a member. There was a motion by Mr. Hart, seconded by Mr. Kauffman, to appoint Steve Favreau to the Conemaugh Township Recreation Commission Board to fill the vacant seat left by Shawn Adams. Roll call vote: Mr. Hart – yes, Mr. Kauffman – yes, and Mr. Gindlesperger – yes. Motion carried unanimously.

3. **MINOR SUBDIVISION:** The Conemaugh Township Planning Commission approved this plan on June 14, 2005, pending the revision of the ownership of the adjacent Green property. There was a motion by Mr. Kauffman, seconded by Mr. Hart, to approve the subdivision plan for A. Dean & Juanita H. Yoder, owner and applicant, to create Lot No. 2-A containing approximately 0.47 acres of unimproved land, pending the change in name of ownership of the property abutting the west side of Residue Lot No. 2 to Joseph A. & Trudy J. Green. Roll call vote: Mr. Kauffman – yes, Mr. Hart – yes, and Mr. Gindlesperger – yes. Motion carried unanimously.

4. **MINOR SUBDIVISION-ADJOINING LAND MERGER:** The Conemaugh Township Planning Commission approved this plan/merger on June 14, 2005, pending receipt of favorable comment from the Somerset County Planning Commission. Favorable comment was received from the County Commission on June 15, 2005. There was a motion by Mr. Kauffman, seconded by Mr. Hart, to approve the subdivision plan and merger for Ronald & Adrienne L. Punako, owner and applicant, to merge the properties #S12-017-017-00 and #S12-027-021-00 into a singular parcel having a total combined area of approximately 13.52 acres. Roll call vote: Mr. Kauffman – yes, Mr. Hart – yes, and Mr. Gindlesperger – yes. Motion carried unanimously.

TIRE HILL SEWER PROJECT:

1. **CHANGE ORDER #5:** There was a motion by Mr. Kauffman, seconded by Mr. Hart, to approve Change Order #5 in the amount of \$125,708.96 for water line work performed by the Conemaugh Township Municipal Authority, which was to be paid as part of the sewer line contract with the water Authority reimbursing the agreed amount as detailed on the Change Order; Conemaugh Township Sewer Department being responsible for \$31,186.50, which was included in the original contract. Roll call vote: Mr. Kauffman – yes, Mr. Hart – yes, and Mr. Gindlesperger – yes. Motion carried unanimously.

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2. **PENNVEST PAY REQUEST #6:** There was a motion by Mr. Hart, seconded by Mr. Kauffman, to approve PennVest Pay Request #6 in the amount of \$896,115.33 as presented. Roll call vote: Mr. Hart – yes, Mr. Kauffman – yes, and Mr. Gindlesperger – yes. Motion carried unanimously.

3. **2005 MS-4 ANNUAL REPORT:** There was a motion by Mr. Kauffman, seconded by Mr. Hart, to authorize the EADS Group to prepare and file the DEP 2005 MS-4 Annual Report, and to approve the signing of same. Solicitor Beener noted this report had already been completed and was ready for filing with DCED. Roll call vote: Mr. Kauffman – yes, Mr. Hart – yes, and Mr. Gindlesperger – yes. Motion carried unanimously.

4. **UPDATE SEWER PROJECT:** Ben Faas of The EADS Group stated that the general construction of the sewer treatment plant continued to move forward without major incident, and that Contract No. 5 - sewer lines was approximately 46% complete, with the plant being approximately 15% complete total. He further stated that paving was to begin next week. Mr. Faas noted that complaints were low.

ITEMS FOR DISCUSSION:

Mr. Hart stated that last month Albert Zuccolotto questioned the Supervisors about some things that were being done by the Township. He indicated the Supervisors were accused of paving Carl Muir's lane to his house. Mr. Hart stated he went to see Mr. Muir who gave him a receipt from LTM Paving showing that Mr. Muir paid to have his own paving done up to his house, the Township did not do that paving.

Mr. Hart stated the Supervisors were accused of hauling pipe to the homes of residents, using Township equipment. He noted this was a past practice of the Township for years—pipe has always been delivered to residents. Mr. Hart stated that in the case Mr. Zuccolotto was referring to, the Township took two loads because 500 feet of pipe was delivered; the pipe was paid for by the recipient, as was past practice. Mr. Hart said in the past prior to him being a Supervisor he had pipe delivered to his own residence. He talked to the State about this matter and was informed it was a common practice in most Townships.

Mr. Hart stated he was accused of having pipe delivered to his father's place in Tire Hill, the Hart's Sporting Center. He noted the pipe was not even on his father's property and that the neighbor John Horvath ordered the pipe, the Township delivered the pipe, and he subsequently paid for that pipe.

Mr. Hart stated he talked to the State in regard to paving Hebda Lane, and according to the State any road named a Lane that was an alley maintained by the Township was permitted to be maintained or paved by the Township using General Fund money. Therefore, everything the Township had done was according to State regulations.

Mr. Hart turned the last item over to Solicitor Beener to address. Solicitor Beener stated he was asked to look at Township records concerning a statement made or question raised at the last Board meeting.

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At this point, Solicitor Beener read his letter addressed to the Township Supervisors regarding "Fire Department Real Estate Tax Allocation":

"At the May meeting of the Supervisors, former Supervisor Albert Zuccolotto charged that the Supervisors had failed to properly distribute real estate taxation to the various fire companies within the Township. Mr. Zuccolotto indicated that while he was a member of the Board of Supervisors, one mill of tax was "dedicated to the fire companies". His statements suggested misuse of real estate taxes by the Township."

"According to Mr. Zuccolotto's statements, the 2004 budget reflected this tax. A review of the Minutes of the Board of Supervisors from November 19, 2003, reflecting action on the 2004 proposed budget, included the following:

"...Mr. Zuccolotto indicated that there would be no tax increase or sewer rate increase. He also stated that the Township had sent a letter out to the public asking them if they wanted to support one mill of tax being put back on for the fire companies. The survey came back 70% in favor of this. Mr. Zuccolotto stated that the Township is dedicating in its 2004 budget one mill to the fire companies, but there would be no need to increase taxes. But he noted the new Board of Supervisors could change this in January, if they so desire."

"The Minutes reflect that all three Supervisors, Zuccolotto, Rouser and Hart were present during this discussion."

"Township records indicate that in the fall of 2002, a card was sent to Conemaugh Township residents which posed the following question:

"Should the Township institute a one mill property tax to be dedicated to the support of the volunteer fire companies serving our Township to help maintain current levels of fire and emergency service protection?"

"The Minutes of the November meeting indicate no further action instituting an additional one mill of tax on Township residents."

"The Minutes of the December 2003 meeting of the Supervisors (Zuccolotto, Rouser and Hart present) state that the Minutes of the November meeting were approved as accurate and were included in the Township records."

"A review of further actions by the Township Supervisors does not reveal any action on the part of the Supervisors to enact an additional one mill tax dedicated to the fire companies. The 2004 budget as approved by the Supervisors includes a budgeted amount equal to one mill of tax, but not an imposed one mill of tax dedicated to the fire companies."

"Accordingly, the statement that a dedicated one mill tax exists for the fire companies is incorrect. As the Minutes of November 19, 2003 state, the amount was budgeted as part of the normal budget process, but not imposed as a dedicated tax and as Mr. Zuccolotto stated in the Minutes, the Supervisors could change the budget or future budgets."

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“Applicable township law provides for a specific procedure under which taxes are imposed and adopted. Ordinance No. 651, adopted at the December 17, 2003 Supervisors’ meeting (Zuccolotto, Hart and Rouser present and voting yes), does not include a tax of one mill for the fire companies. No other action has been taken by Conemaugh Township to impose a dedicated tax as suggested by Mr. Zuccolotto at the May 2005 meeting.”

ANNOUNCEMENTS:

1. The next regularly scheduled meeting of the Township Supervisors will be held on Wednesday, July 20, 2005 at 7:00 p.m.

ACT 57 STUDY – SEWER TAP FEE: Mr. Hart stated the Township had an Act 57 study done by The EADS Group that dictated the maximum amount the Township could charge for a sewer tap, which was approximately \$5, 950.00. He noted originally residents were told the tap fee for the sewer project would be \$1,500.00, but this was further discussed with Ben Faas of The EADS Group and the amount decided for a sewer tap for the first phase of the Tire Hill sewer project was \$1,750.00. There was a motion by Mr. Hart, seconded by Mr. Kauffman, to charge \$1,750.00 per sewer tap for the first phase of the Tire Hill sewer project. Roll call vote: Mr. Hart –yes, Mr. Kauffman – yes, and Mr. Gindlesperger – yes. Motion carried unanimously.

Nick Panasci of 168 Jerome Avenue (Jerome Volunteer Fire Company) asked the Supervisors if they had any plans to put the money for the fire companies back into “play”, noting that the Jerome Fire Company alone probably saved the Township approximately \$250,000.00 a year. Mr. Panasci stated they would like one mill of tax distributed equally between the four fire companies. He also thought if the Supervisors would pass a card out asking the Township residents if they wanted taxes raised one mill to give to the fire companies the answer would be, no. Mr. Hart noted that the last survey sent out regarding the one mill of tax for the fire companies came back 70% in favor. Mr. Panasci stated that survey was worded wrong. Mr. Hart agreed, and it was his opinion that the residents thought the survey was asking them if they wanted to take one mill of taxes from General Fund and distribute it to the fire companies. Mr. Panasci stated he was asking the Supervisors to figure out a way to give the one mill to the fire companies. Mr. Hart stated he did not have an answer and the Supervisors would have to study this during the budgeting process. Solicitor Beener noted, for the record, all he was asked to look at was the theory that was exposed last month that there was in fact one extra mill of tax imposed on the residents and that was to be paid to the fire companies. He further stated if one mill of tax were imposed, collected, and not turned over the fire companies, that would be a very serious matter, but that was not what happened. Chairman Gindlesperger stated the Supervisors would look at everything to see what could be done, and they would try to have an answer within the next two Board meetings.

Dan Griffith of 3040 Somerset Pike stated he was no longer affiliated with a fire department, noting he belonged to Krings Volunteer Fire Company for twenty years. He asked if the Supervisors did pay the fire companies. The Supervisors informed him the fire companies were paid last year. Mr. Griffith wanted to know where that money came from. Mr. Hart answered that it was budgeted within the 2004 General Fund budget. Mr. Griffith stated his understanding was there was not supposed to be a tax increase, but rather than reducing taxes, one mill was to go to the fire companies. Mr. Hart stated he never heard that before. Solicitor Beener stated they should forget about what they heard or did not hear, he was telling them that was not what happened – there was no dedicated mill of taxes for fire companies ever put on. Again, Mr. Griffith wanted to know where the money came from for the fire companies. He was again told

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that money came from the General Fund. Mr. Griffith wanted to know where General Fund money came from. Solicitor Beener answered, from the general taxes collected. He further explained a dedicated tax of one mill meant that mill had to go to that specific thing it was dedicated to. He continued that general revenue coming from the general millage goes into the General Fund and that was what was budgeted for the fire companies – it was not dedicated. Mr. Griffith indicated he knew exactly what Solicitor Beener was saying, but his point was if he was still Treasurer of Krings Fire Company (Conemaugh Township) he would suggest that the fire departments all bring their keys up and lay them right on the desk and say here it is, now you have paid fire companies because it was up to the Supervisors to provide fire protection for the Township. Mr. Griffith further stated, as a Township resident and taxpayer his whole life, that one mill of tax was supposed to go to the Township fire companies—that was why the card was sent out. Mr. Hart stated the card meant to raise taxes one mill. Mr. Griffith stated, no it did not, and the Supervisors gave the fire companies money last year out of the General Fund—he wanted the money given to the fire companies next year out of the General Fund. Mr. Hart reiterated that the card said “to institute a one mill tax”- institute means to raise taxes one mill and give it to the fire companies, institute did not mean take it out of General Fund to give to them. Mr. Griffith disagreed. Mr. Hart stated there were places in the budget where money was saved and the Supervisors were able to give money to the fire companies last year. Mr. Griffith noted that the Township was saving money now, \$86,000.00 was just saved on the bonds. The Supervisors explained to Mr. Griffith the \$86,000.00 was sewer department funds, not the General Fund – money was not transferred back and forth between those two funds. Mr. Griffith wanted to know what the fire companies were supposed to do. Mr. Hart stated he did not have an answer. Chairman Gindlesperger noted the Supervisors had tried to talk to the fire companies about certain solutions, but no one would discuss it. Mr. Griffith wanted to know if he was talking about consolidation. Chairman Gindlesperger answered, yes. Mr. Griffith further stated if the Township had \$200.00 a month to pay for a motorcycle, they should be able to give to the fire departments. He stated he would be at the next month’s Board meeting and he wanted a detailed list of what it was costing for the radios, lights, insurance, and training for the motorcycle, because it was his money. Chairman Gindlesperger asked Mr. Griffith if he wanted to include the savings the motorcycle would bring to the Township. Mr. Griffith stated the fire companies need money—he signed the card to give the fire companies money, and he wanted to know what the Supervisors were going to do about it. He stated he wanted an answer by next meeting.

ADJOURNMENT:

There was a motion by Mr. Kauffman, seconded by Hart, to adjourn the meeting at 8:03 p.m.

Submitted by,

David A. Hart, Secretary/Treasurer