

MINUTES OF REGULAR MEETING OF MAY 18, 2005

The regular meeting of the Conemaugh Township Board of Supervisors was called to order at 7:02 p.m. on May 18, 2005 by Vice-Chairman Wayne Kauffman. Board members present were Wayne Kauffman, Vice-Chairman, and David Hart, Secretary/ Treasurer. Calvin Gindlesperger, Chairman, was absent. Solicitor James Beener was present.

Pledge to the Flag.

FLOOR OPENED TO PUBLIC COMMENT:

Ronna Marisa of 183 Marisa Lane wanted to inform the Supervisors that Patty Besyk had renewed her kennel license for 2005. She wanted to know what the Supervisors were going to do to enforce the Zoning Ordinance. Solicitor Beener informed her that he had a meeting scheduled for next week with the Supervisors to sign additional documents in this matter.

Kent McClain of 125 Linda Drive asked if the Township still had a Nuisance or “quiet time” Ordinance. He was informed there was such an ordinance. Mr. McClain asked how this pertained to rentals at Greenhouse Park. Mr. Hart answered the rental rules stated amplified music must end by 11:00 p.m., and he further stated he had heard about the recent noise complaint regarding Greenhouse Park. Mr. McClain indicated the last rental at the Park had music until midnight, but last year Thunder in the Valley had music until 2:00 a.m. He stated residents near the Park cannot sleep—he wanted the ordinance enforced. Mr. Hart answered that the Supervisors have every intention to enforce that ordinance. Mr. McClain stated he would call Supervisor Kauffman on the next complaint. Mr. Kauffman stated when Mr. McClain had called him concerning the most recent noise complaint, the Township police were told to enforce the ordinance.

Tom Rolish of Saylor School Road stated he was speaking on behalf of Kim Miller who resides on Saylor School Road between the upper and lower end of North Fork. He asked the Supervisors if it was possible to enforce the speed limit in that area, and also requested a “Watch Children” sign. Mr. Hart stated that was a State road and Penn Dot would have to be contacted in this matter. Mr. Kauffman noted the speed limit was not posted on that road.

Joe Stevens asked if the Supervisors had an answer to his question about Supervisor Calvin Gindlesperger not living in the Township and being a Supervisor. Solicitor Beener stated he had done research, and provided a letter to the Supervisors regarding the law in this matter. At this point, Solicitor Beener read the letter out loud.

The letter quoted the Second Class Township Code as follows: “Supervisors shall reside in the township from which elected and shall have resided in that township continuously for at least one year before their election.” The letter further stated that under Pennsylvania law, residence was a condition for certain elected officials, including Supervisors, and that the law of such situations was clear that an elected official (Supervisor) was not subject to immediate removal if the Supervisor does not live within the township boundaries on a continuous daily basis. Provisions of the Election Code relating to rules for determining residence were also quoted in the letter as follows: Residence – “That place shall be considered the residence of a person in which his habitation is fixed, and to which, whenever he is absent, he has the intention of returning.” “A person shall not be considered to have lost his residence who leaves his home and goes into another state or another election district of this State for temporary purposes only, with the intention of returning.” “The place where the family of a married man or woman resides

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shall be considered and held to be his or her place of residence, except where the husband and wife have actually separated and live apart, in which case the place where he or she has resided for two months or more shall be considered and held to be his or her place of residence.”

The letter further stated that the Supervisors were not empowered under any provision of the Second Class Township Code to remove or seek the removal of an elected Supervisor because of his residency status, and that the removal of a Supervisor under Pennsylvania law was by a quo warranto action filed by the Office of the District Attorney.

Also, in the letter, Solicitor Beener stated it was his opinion that the law was clear that the Board of Supervisors have no legal ability to seek the removal of an elected Supervisor because of residency requirements, and therefore, he did not review any of the facts and conditions of Mr. Gindlesperger’s residence and expressed no opinion on those facts – verification of the facts would remain within the discretion of the Office of the District Attorney.

Mr. Stevens stated he felt that, in the best interest of the Township, Mr. Gindlesperger should make known what his plans and intentions were to the Supervisors.

MINUTES:

There was a motion by Mr. Hart, seconded by Mr. Kauffman, to accept the minutes of the meeting of April 20, 2005. Roll call vote: Mr. Hart – yes, Mr. Kauffman – yes, and Mr. Gindlesperger – absent. Motion carried, two yes, one absent.

BILLS:

There was a motion by Mr. Hart, seconded by Mr. Kauffman, to pay the bills for the month of May 2005 in the amount of \$215,343.70 for the General Fund, \$15,890.19 for the Liquid Fuels Fund, and \$49,370.27 for the Sewer Fund. Roll call vote: Mr. Hart – yes, Mr. Kauffman – yes, and Mr. Gindlesperger – absent. Motion carried, two yes, one absent.

POLICE REPORT:

The police reports as submitted by Chief Howard Jackson for the month of April 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 April 2005 for the Township and Benson Borough. Roll call vote: Mr. Hart – yes, Mr. Kauffman – yes, and Mr. Gindlesperger – absent. Motion carried, two yes, one absent.

PERSONS TO BE HEARD:

Ken Kozak of 118 Hebda Lane wanted to know when Hebda Lane would be paved, as had been promised. Mr. Kauffman stated the Township was working on repairing the bad spots on the roadways and once that was completed, his road would be taken care of. Mr. Kozak said this has been going on for 14 months and he wanted assurances that it would be paved. Mr. Hart stated that Hebda Lane would be done this summer. Mr. Kozak’s father also reminded the Supervisors of the pile of dirt that needed removed near his residence. Ken Kozak informed the Supervisors he would be leaving next month to go to Baghdad and hoped his road would be taken care of while he was gone—his father would continue to attend the meetings until it was paved.

Bill Tranovich of 147 Bethel Street reported that Bethel Street in Maple Ridge was supposed to be two lanes, but because of people parking on the roadway, it becomes one lane in some places, and even no lanes. He also stated drivers were not respecting the speed limit on that road, and

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the police did not patrol there unless they were called. Mr. Tranovich felt someone was going to get hurt or killed. Mr. Hart informed him Solicitor Beener was asked by the Supervisors to review the Townships ordinances regarding traffic, which should be completed within two or three months.

Steven Buncich, Chairman of the Conemaugh Township Recreation Commission, wished to ask the Supervisors some questions. Mr. Buncich asked what were the expectations the Supervisors had for the Recreation Commission. He stated support from the Supervisors seemed to have dropped – the Commission was told to raise funds and perform recreational functions with that. Mr. Buncich asked what the current plans were for Greenhouse Park. He noted the original plans were to include volleyball and basketball courts, lighting, and a walking trail. Mr. Buncich stated it was the opinion of the Recreation Commission that Greenhouse Park had turned into festival grounds. He indicated benefits to the residents were next to none. The Recreation Commission wanted Greenhouse Park turned into a park as planned, and wanted support to make that happen. Mr. Buncich asked what happened to the original grant money received for Greenhouse Park. He asked what was the current policy on who pays and who does not pay for the use of the Park. Mr. Buncich stated the Commission would like to know who had rentals at the Park, noting that the only way they can find out was by going to the Township's web site.

At this point, Mr. Buncich stated Brian Platt from the Conemaugh Township Youth League would also like to address the Supervisors.

Brian Platt, President of the Conemaugh Township Youth League, thanked the Supervisors for past support and financial help with maintaining the Hollsopple Baseball Fields. He stated last year major work was done totaling \$20,000.00, and the Supervisors gave \$5,500.00 toward that bill. Mr. Platt thanked the Supervisors for the mowing and rolling of the fields, and the cleaning of the restrooms. He noted he would like to improve communications between the Youth League and the Supervisors, and he proceeded to report on how the Youth League was run. Mr. Platt then presented the Supervisors with a list of priorities that they would like to see done this year at the ball field, which included paying off the \$5,000.00 balance still owed on last year's \$20,000.00 bill, new gates, fence guards, and bringing the bleachers up to code for insurance purposed by installing aluminum bleachers. The Youth League was requesting the Supervisor's assistance in meeting their priorities. Another member of the Youth League wanted clarification of the lease between the League and the Township pertaining to what they were responsible for and what the Township was responsible for.

Albert Zuccolotto of 110 Wilshire Boulevard addressed his questions to Mr. Hart. He asked how many roads paved last year were done with Liquid Fuels money. Mr. Hart answered that all the roads paved were. Mr. Zuccolotto stated Carl Muir's road was paved last year and it was a private road. Mr. Hart answered that road was paved to the line. Mr. Zuccolotto disagreed with Mr. Hart, and wanted to know who gave him permission to pave that roadway since Liquid Fuels money could not be used to pave private roads. He stated they wanted to pave that road when he was a Supervisor, but the State said no. Mr. Zuccolotto further stated Liquid Fuels money cannot be used on a road that was not certified – Mr. Muir's road was not a Township road and was not even on the Township map- and he wanted to know who was going to pay for it. He stated he would be looking into this further and would not drop the issue, noting the Township was setting precedence, and he had a copy of a Township ordinance that stated the resident needed to bring the road up to specifications themselves and then the Township was permitted to take it over. Mr. Zuccolotto also stated Mr. Hart did a road in Jerome that the resident tried to get the Township to do when he was on the Board, but it could not be done. As was explained

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by the State, that road went to a dead end and any street that went to a dead end must have a 50' cald de sac, and the resident must prepare that road themselves. Mr. Zuccolotto stated Mr. Hart used Township equipment and materials, dug up that road, put the base in with the promise the Township would come back this summer to black top it. He was not letting that go either – he was going to the State. Mr. Zuccolotto asked Mr. Hart who gave him permission to do this. Mr. Hart informed him he would not answer at this time; he was listening to his complaints. Mr. Zuccolotto asked when Mr. Hart would answer him. Mr. Hart stated, at the next meeting.

Mr. Zuccolotto referred to a particular roadway in Jerome that he would have gladly done when he was a Supervisor, but the Township was not allowed to do it, and he stated the current Supervisors were not allowed to do it either. At this point, Ken Kozak asked Mr. Zuccolotto if he was talking about his alley. Mr. Zuccolotto stated he had no idea where his alley was. Mr. Kozak stated when Mr. Zuccolotto was in charge at the Township, he did the Jerome Street Extension and the School Street Extension and there were no turn-arounds there. Mr. Zuccolotto stated when the Supervisors did Jerome the State was there and authorized the streets that were done; there was one particular street that went to a dead end. and the State would not let the Township do it. Mr. Kozak again asked if Mr. Zuccolotto was talking about his street. Mr. Zuccolotto stated he did not know where he lived. Mr. Kozak informed Mr. Zuccolotto of his name and address on Hebda Lane. Mr. Zuccolotto asked Mr. Kozak if he lived in a trailer at a dead end. Mr. Kozak answered, no, and Mr. Zuccolotto said then it was not his road he was referring to. Mr. Kozak stated he was leaving to serve his Country and Mr. Zuccolotto was telling him that he could not have a little bit of paving done. He stated his road was legally a dead end, but there was a turn-around there, but Jerome Avenue and School Street that Mr. Zuccolotto did when he was a Supervisor were legally dead ends and there were no turn-arounds there. Mr. Zuccolotto stated he did roads that were permitted to be done, and he expected this Board of Supervisors would do the same. Mr. Hart asked Mr. Zuccolotto what street in Jerome he was referring to. Mr. Zuccolotto answered that there was no name on it. Mr. Hart asked where the road was located. Mr. Zuccolotto stated Mr. Hart would see. Mr. Hart stated everything that was done in Jerome was through Bill Smearman from Penn Dot who approved the Liquid Fuels paving. Mr. Zuccolotto stated the road he was referring to was not a Township road. Mr. Hart stated, then, it was not paved. Mr. Zuccolotto stated this Board of Supervisors was working on this roadway, it was dug up, a base was put in, and it was promised to come back this year to pave it; which she (the resident) tried to get him to do and the Township's ordinance stopped the Supervisors from doing it. If the Supervisors were going to do it for some, they had to do it for all – how could they turn people down.

Mr. Zuccolotto also asked what the Township's practice was on pipe. He stated when he was Supervisor, a resident could purchase stocked pipe from the Township if it was for a driveway, and the Township would install it or the Township paid for the pipe and the resident installed it. Mr. Zuccolotto asked if the Supervisors were still following that practice. He also wanted to know if any pipe was special-ordered for residents – pipe that the Township did not use. Mr. Zuccolotto said he knew of a situation where pipe was special-ordered for a resident and installed, delivered by a Township truck by two trips. He noted the resident did pay for the pipe, but the Township made two special trips with the big trucks and trailer to pick up the pipe and deliver them to the property. Mr. Zuccolotto said it happened to be Mr. Hart's father. Mr. Zuccolotto wanted to know if Mr. Hart's father paid for the delivery of that pipe. Mr. Hart stated that his father did not buy any pipe. Mr. Zuccolotto then wanted to know who did, since he had pictures of it sitting on his property at the Sporting Goods Store. Mr. Hart stated there was no pipe on his father's property. Mr. Zuccolotto stated Mr. Hart was in for a big surprise.

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At this point, Mr. Zuccolotto turned around and faced the audience, stating the quickest way to have matters settled concerning Calvin Gindlesperger was for the residents to get a petition together, hand it to the District Attorney, who would then take action. He stated the District Attorney would act on it quickly because what Mr. Gindlesperger was doing was illegal. Mr. Zuccolotto stated what Solicitor Beener's letter said sounded like it could possibly be legal, but if the background was looked into as far as what was going on in Mr. Gindlesperger's life, it would be found out that it was absolutely illegal.

Mr. Zuccolotto noted that he had a lot more to say, but he was going to bring it up at the next Board meeting.

CORRESPONDENCE:

None.

OLD BUSINESS:

None.

NEW BUSINESS:

1. AWARD BIDS FOR 2005 ROAD PAVING/SEALING MATERIALS, HOT ASPHALT DELIVERED, AND COLD PATCH: Mr. Hart stated after reviewing the bids for paving/sealing materials, hot asphalt delivered, and cold patch that were opened at the April 18, 2005 meeting, it would be best to award the bid to HRI, Inc. based on lower prices and the location of the plant being closer. There was a motion by Mr. Hart, seconded by Mr. Kauffman, to award the bid for the 2005 road paving/sealing materials, hot asphalt delivered, and cold patch, which was as follows:

FOB At Plant:

ID-2 Wearing Course (9.5mm) at a unit price of \$33.25/ton

ID-3 Wearing Course (19mm) at a unit price of \$31.50/ton

ID-2 Binder Course (19mm) at a unit price of \$29.75/ton

BC-BC Base Course (25mm) at a unit price of \$28.75/ton

Cold Patch at a unit price of \$36.00/ton

Hot Asphalt Delivered to Job Site: (25 mile radius of Twp.):

\$52.00/hr. per triaxle truck

Roll call vote: Mr. Hart – yes, Mr. Kauffman – yes, and Mr. Gindlesperger – absent. Motion carried, two yes, one absent.

2. OPEN BIDS FOR FINANCING OF STREET SWEEPER: Vice-Chairman Kauffman noted this matter would not be addressed at this meeting. The bid opening would be moved to a Special Meeting of the Supervisors to be held on June 3, 2005.

3. RE-ADOPT OFFICIAL TOWNSHIP ZONING MAP: Mr. Hart stated the Supervisors needed to re-adopt the Township Zoning Map as re-certified by The EADS Group. There was a motion by Mr. Hart, seconded by Mr. Kauffman to re-adopt the official Conemaugh Township Zoning Map as presented by The EADS Group. Roll call vote: Mr. Hart – yes, Mr. Kauffman – yes, and Mr. Gindlesperger – absent. Motion carried, two yes, one absent.

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4. **MINOR SUBDIVISION:** The Conemaugh Township Planning Commission, at their meeting of May 10, 2005, approved the Non-Building Waiver and Subdivision Plan, excluding the County line delineation thereon. Solicitor Beener noted this subdivision was okay for approval. There was a motion by Mr. Hart, seconded by Mr. Kauffman, to approve and sign the Non-Building Declaration and the Subdivision Plan, excluding the County line delineation, for Thomas L. and Sandra L. Buchan, property owner, and Douglas Todorich, applicant, to create a parcel containing the existing Camoset Village Mobile Home Park, which said new parcel will bisect the parent parcel which crosses the County line, and to convey the Camoset parcel to Mr. Todorich; (most of the proposed Camoset Village parcel is in Cambria County, with a small portion thereof located upon the above-referenced portion of the singular parent parcel, said parcel having been recorded in both Cambria and Somerset Counties.) Roll call vote: Mr. Hart – yes, Mr. Kauffman – yes, and Mr. Gindlesperger – absent. Motion carried, two yes, one absent.

TIRE HILL SEWER PROJECT:

1. **CHANGE ORDER #4:** Ben Faas of The EADS Group stated this Change Order was okay for approval. There was a motion by Mr. Hart, seconded by Mr. Kauffman, to approve Change Order #4 in the amount of \$14,820.64 for Kukurin Contracting, Inc. on Contract 5 for unit price pay item for 10” gravity sewer, 16’ to 20’ depth, tree removal, and open cut of state roads. Roll call vote: Mr. Hart – yes, Mr. Kauffman – yes, and Mr. Gindlesperger – absent. Motion carried, two yes, one absent.

2. **PENNVEST PAY REQUEST #5:** There was a motion by Mr. Hart, seconded by Mr. Kauffman, to approve PennVEST pay request #5 in the amount of \$610,651.26 as presented. Roll call vote: Mr. Hart – yes, Mr. Kauffman – yes, and Mr. Gindlesperger – absent. Motion carried, two yes, one absent.

3. **UPDATE SEWER PROJECT:** Ben Faas of The EADS Group updated the sewer project indicating the general contractor was excavating for SBR Tanks, and was starting to backfill. Kukurin was making great progress on Contract 5. Very little complaints were received on the Project. Mr. Faas noted the Project was approximately 33% complete on the lines, and 26% total.

ITEMS FOR DISCUSSION:

1. **COMPREHENSIVE TRAFFIC ORDINANCE:** Solicitor Beener stated last year he had gone through the Township’s five traffic ordinances that dated back to the 60’s with the latest being adopted in the 80’s. One was a road weight limit, a couple pertained to a 25mph speed limit on a few roads that were not identified by name, but by number, there was one very small area of no parking in all the ordinances, and two more pertaining to a bridge limit. Solicitor Beener felt for a Township as big as Conemaugh Township with the number of roads it had that was an amazingly spare amount of traffic regulations. He stated the Supervisors had requested he look at everything there was, and the recommendation he had made at the time was to take all of those ordinances and add additional areas that need attention. Solicitor Beener noted the Township did not have cart blanche to just do what they wanted to, there were certain requirements with traffic studies and weight limits. The thought was to get areas that needed attention brought to the Supervisors so those could be added to the ordinance.

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Mr. Tranovich suggested the Township paint police lines on the road to slow the traffic down on Bethel Street. Solicitor Beener asked him what the speed limit was on that road. Mr. Tranovich stated he did not know, but way down at the end there was a 25 mph speed limit sign, and he thought that was the only sign. Mr. McClain asked if it was true that if the speed limit was not posted in a residential area within the Township, it was understood the speed limit was 25 mph. Solicitor Beener answered, no, according to the Township's current traffic ordinances. He stated that by compiling this comprehensive traffic ordinance, the Supervisors would be able to attempt to get control over some of these situations. The State would have to be contacted regarding any State road problems.

ANNOUNCEMENTS:

1. There will be a Special Meeting of the Township Supervisors held on June 3, 2005, and the next regularly scheduled meeting of the Township Supervisors will be held on Wednesday, June 15, 2005 at 7:00 p.m.

At this point, **Albert Zuccolotto** stated while he was on the Board of Supervisors, a motion was passed to give the fire companies one mill of taxed, noting Mr. Hart was involved in this also. He stated the Supervisors needed to give the fire companies their one mill of taxes – the Supervisors gave them money, but did not give them one mill of taxes. Mr. Zuccolotto said one mill of taxes was to be dedicated to the fire companies and could only be used for that purpose. He wanted to know why one mill of taxes was not being distributed to the fire companies. Mr. Hart informed Mr. Zuccolotto one mill of taxes was distributed to the fire companies last year. Mr. Zuccolotto stated it was distributed out of the General Fund, indicating that one mill of taxes was to be given and not used for anything else but the fire companies, and if they were not giving it to the fire companies, it was a misappropriation of funds, noting the motion was passed. Mr. Hart informed Mr. Zuccolotto each fire company received \$24,000.00 last year. Mr. Zuccolotto wanted to know from where it was distributed. Mr. Hart answered the funds came from taxes collected in the General Fund. Mr. Zuccolotto wanted to know what was being done this year. Mr. Hart stated the Supervisors were not giving the fire companies anything this year. Mr. Zuccolotto felt if one mill of taxes was dedicated to the fire companies by motion that would be the same as having millage designated for equipment – that was all those funds could be used for. Mr. Hart indicated that would have to be done by resolution. Mr. Zuccolotto stated he was going to challenge this.

ADJOURNMENT:

There was a motion by Mr. Hart, seconded by Kauffman, to adjourn the meeting at 8:02 p.m.

Submitted by,

David A. Hart, Secretary/Treasurer