

MINUTES OF REGULAR MEETING OF SEPTEMBER 17, 2008

The regular meeting of the Conemaugh Township Board of Supervisors was called to order at 7:00 p.m. on September 17, 2008 by Chairman Steven Buncich. Board members present were Steven Buncich, Chairman, Wayne Kauffman, Vice-Chairman, and Albert Zuccolotto, Assistant Secretary/Treasurer. Solicitor William Barbin was present.

Pledge to the Flag.

At this point, Chairman Buncich introduced the new Township Solicitor, William Barbin.

FLOOR OPENED TO PUBLIC COMMENT:

Sherry Spiker of the Cambria/Somerset Association of Realtors (CSAR) stated that they were opposed to the pressure testing Ordinance up for adoption by the Supervisors tonight. She said that dye testing cost the homeowner approximately \$50.00 to perform versus the cost of pressure testing, which could cost anywhere from \$4,000.00 to \$13,000.00 to perform because all lines would need replaced, including those under the floor, if the test failed. Ms. Spiker noted that most houses would fail due to old terra cotta lines and PVC joints. She further stated that pressure testing was not required by DEP, and requested that the Supervisors consider a dye testing Ordinance instead of pressure testing.

Chairman Buncich stated that the Ordinance advertised was for dye testing only, but the Supervisors were definitely considering a pressure testing Ordinance for the future.

ORDINANCE NO. 666: There was a motion by Mr. Zuccolotto, seconded by Mr. Kauffman, adopt Ordinance No. 666 requiring dye testing of all real property with structures located thereon to determine if illegal storm or surface water is connected to the sanitary sewer and to set forth regulations there to. Roll call vote: Mr. Zuccolotto – yes, Mr. Kauffman – yes, and Mr. Buncich – yes. Motion carried unanimously.

Doug Horner of 160 Simpson Street stated that if the Township had a pressure testing Ordinance, then the burden of expense would be placed on the homeowner selling his residence to have the pressure test done within five days of the closing of the sale. He was asking the Supervisors to consider giving residents thirty days before the sales agreement was signed to perform the pressure test.

Chairman Buncich noted that the Supervisors were sent a letter in June from DEP requesting an ordinance be adopted, it had been postponed until now, and the Township had to have something in place.

Sharon Fisher of 513 Govier Lane said she had some items going on her property for the sewer project and she wanted to be sure that someone discussed this with her. Josh Kalp of the EADS Group stated that two laterals and concrete culverts would be installed on her property and he would call her tomorrow on this.

Ernest Spory of 133 Ham Road wanted to suggest that for the new sewer project the manholes be installed in the center of the traffic lane or on the center line so vehicles would not run over them with their tires. Chairman Buncich said this would be discussed with the Engineers.

MINUTES OF SEPTEMBER 17, 2008 MEETING CONTINUED.

Joe Marisa, Jr. of Stone Hollow Road stated he had suggested a few months ago that the Supervisors enact an Emergency Services Tax (EMST) to be given to the Fire Companies and he wanted to know if this was going to be done. Chairman Buncich answered that the sewer project was taking top priority at this time, but this tax would be discussed in the future.

Rich Maldet of Fernwood Drive wanted to know if there had been any progress on fire protection for Laurel View Village. Chairman Buncich stated that the wing that just re-opened passed all the required pressure testing. Mr. Maldet asked if the Supervisors approved plans for a new section to be built at Laurel View at their last meeting. He was answered, yes. Mr. Maldet asked how the Planning Commission could even approve a new building for Laurel View and send it to the Supervisors for approval when the plan included fire hydrants, but there was no water to feed them. Chairman Buncich answered that they were permitted to build, but not to occupy if they did not pass the tests.

Solicitor Barbin stated that Laurel View had certified tests done, signed by the Conemaugh Township Municipal Authority, that said they had pressure and flow to meet the standards of the Fire Protection Code. Mr. Maldet said these tests were not for the new addition and he felt the Supervisors had to take a stand—they had to quit issuing permits to Laurel View and let them take the Township to court. He felt people's lives were at stake; there was not enough water there to fight a fire.

Mr. Zuccolotto stated he had given a strong argument on this subject and he was told by authorities that Laurel View Village passed the tests. He said the tests do not say to "hook a fire truck up and see if the pressure goes down". Mr. Zuccolotto said that the Supervisors had to go by the attorneys, the law, and certified authorities on matters and they were unequivocally told and shown that Laurel View had passed the tests.

Solicitor Barbin said the Township had a letter signed and sealed by Laurel View's engineer saying they had run tests and they passed. The Supervisors requested a letter from the Conemaugh Township Municipal Authority (CTMA) confirming this, which they did. Solicitor Barbin also noted that the state wide Uniform Construction Code was followed and the Township did not have the power to over ride that Code. Mr. Maldet wanted to know if the Supervisors would not be responsible if there was another major fire at Laurel View. Solicitor Barbin stated the Supervisors were covered if there was a problem at Laurel View, and that the Supervisors actually went one step further and asked for confirmation from CTMA in addition to the engineers.

Ernest Spory stated that a water tank was being installed at Laurel View, but in order for them to be issued the Occupancy Permit there had been a lot of pre-planning done by the fire companies.

Terry Reparic stated that the plans included a mile and one tenth laying of 5" lines. He said there was 1.2 million gallons of water to be supplied by Twin Island Farm with a secondary water source of 80,000 gallons or more to come from the Dovey pond. Mr. Reparic stated another 140,000 gallons of water would be used from the Pine Crest pond for the tankers. He noted that even with these water sources and the new tank at Laurel View, which held 32,000 gallons of water, there would never be enough water to fight any fire anywhere of the size that Laurel View's fire was—even if there was a 2' water main. Mr. Reparic noted that the 32,000 gallon tank would supply every sprinkler head in the building for thirty-two minutes. He further noted there were also stand pipes in the building now and the fire companies could take a 2 ½"

MINUTES OF SEPTEMBER 17, 2008 MEETING CONTINUED.

line in with two 1 1/2" lines coming off of that and hook up right inside Laurel View, which feeds off the 32,000 gallon tank. Mr. Reparic stated the fire companies could fight the fire from inside Laurel View with a stand pipe inside the building instead of running it from the engine water and having to drag it up the steps and around. He said there was a lot of items taken into consideration to make things safer at Laurel View Village, indicating that there were also sprinklers in the attic that were not there before.

Mr. Maldet wondered what would happen if the ponds would freeze. Mr. Reparic said they would chop through the ice.

NOTIFICATION OF EXECUTIVE SESSSION:

The Supervisors held an executive session on September 8, 2008 at the Township Building for the purpose of negotiations on a new contract for the Sewer Department workers.

MINUTES:

There was a motion by Mr. Zuccolotto, seconded by Mr. Kauffman, to accept the minutes of the regular meeting of August 20, 2008. Roll call vote: Mr. Zuccolotto – yes, Mr. Kauffman – yes, and Mr. Buncich – yes. Motion carried unanimously.

BILLS:

There was a motion by Mr. Kauffman, seconded by Mr. Zuccolotto, to pay the bills for the month of September 2008 in the amount of \$114,436.45 for the General Fund, \$9,708.76 for the Liquid Fuels Fund, and \$163,397.48 for the Sewer Fund. Roll call vote: Mr. Kauffman – yes, Mr. Zuccolotto – yes, and Mr. Buncich - yes. Motion carried unanimously.

POLICE REPORTS:

The police report as submitted by Chief Louis Barclay for the month of August 2008 for the Conemaugh Township Police Department was available for review. Total reported incidents were 208. There was a motion by Mr. Kauffman, seconded by Mr. Zuccolotto, to accept the police report as submitted for the month of August 2008. Roll call vote: Mr. Kauffman – yes, Mr. Zuccolotto – yes, and Mr. Buncich – yes. Motion carried unanimously.

PERSONS TO BE HEARD:

Steve Cooper was scheduled to speak, but did not show.

CORRESPONDENCE:

1. A letter was received from James Marlowe resigning as Alternate Zoning Hearing Board member, effective immediately. Chairman Buncich explained that this was due to the fact that Mr. Marlowe no longer resided within the Township. There was a motion by Mr. Zuccolotto, seconded by Mr. Kauffman, to accept the resignation of James Marlowe from the Conemaugh Township Zoning Hearing Board as Alternate Zoning Hearing Board member. Roll call vote: Mr. Zuccolotto – yes, Mr. Kauffman – yes, and Mr. Buncich – yes. Motion carried unanimously.

Chairman Buncich noted that this would leave an opening on the Zoning Hearing Board for an Alternate member and if anyone was interested in serving in that position to submit a letter to the Supervisors.

MINUTES OF SEPTEMBER 17, 2008 MEETING CONTINUED.

2. A letter was received from Reverend Bob Simonsick requesting permission to utilize Greenhouse Park trash cans and to have the Township also dispose of the trash for an event to be hosted by the Conemaugh Area Churches called "Blessing for those who Serve" at St. David's Church on October 4, 2008. The Township's fire companies, EMS, and police will be invited and thanked for their services. There was a motion by Mr. Zuccolotto, seconded by Mr. Kauffman, to approve the above request of Reverend Bob Simonsick. Roll call vote: Mr. Zuccolotto – yes, Mr. Kauffman – yes, and Mr. Buncich – yes. Motion carried unanimously.

OLD BUSINESS:

1. AWARD BIDS FOR PHASE II BENS CREEK SANITARY SEWER PROJECT:

These bids were received, opened, and tabled for review at last month's Supervisor's meeting:

- a) There was a motion by Mr. Kauffman, seconded by Mr. Zuccolotto, to award Contract 05-S-01 – Tire Hill Sewage Treatment Plant Dewatering Building – General Contractor to low bidder Gordon L. DeLozier, Inc. in the amount of \$727,985.00. Roll call vote: Mr. Kauffman – yes, Mr. Zuccolotto – yes, and Mr. Buncich – yes. Motion carried unanimously.
- b) There was a motion by Mr. Zuccolotto, seconded by Mr. Kauffman, to award Contract 05-S-02 – Tire Hill Sewage Treatment Plant Dewatering Building – Electrical Contractor to low bidder Church & Murdock Electric, Inc. in the amount of \$61,349.00. Roll call vote: Mr. Zuccolotto – yes, Mr. Kauffman – yes, and Mr. Buncich – yes. Motion carried unanimously.
- c) There was a motion by Mr. Zuccolotto, seconded by Mr. Kauffman, to award Contract 05-S-03 – Benscreek Sewers – Area A to low bidder Ligonier Construction Co. in the amount of \$4,412,857.05. Roll call vote: Mr. Zuccolotto – yes, Mr. Kauffman – yes, and Mr. Buncich – yes. Motion carried unanimously.
- d) There was a motion by Mr. Zuccolotto, seconded by Mr. Kauffman, to award Contract 05-S-04 – Benscreek Sewers – Area B to low bidder Ligonier Construction Co. in the amount of \$3,605,407.93. Roll call vote: Mr. Zuccolotto – yes, Mr. Kauffman – yes, and Mr. Buncich – yes. Motion carried unanimously.
- e) There was a motion by Mr. Zuccolotto, seconded by Mr. Kauffman, to award Contract 05-S-05 – Benscreek Sewers – Area C to low bidder Ligonier Construction Co. in the amount of \$3,791,518.10. Roll call vote: Mr. Zuccolotto – yes, Mr. Kauffman – yes, and Mr. Buncich – yes. Motion carried unanimously.

2. **AWARD BID FOR SALE OF 2004 CROWN VICTORIA:** There was a motion by Mr. Kauffman, seconded by Mr. Zuccolotto, to award the high bid in the amount of \$1,880.00 for the sale of a 2004 fully equipped Crown Victoria police cruiser to Rogers Auto Sales. Roll call vote: Mr. Kauffman – yes, Mr. Zuccolotto – yes, and Mr. Buncich – yes. Motion carried unanimously.

3. **REJECT BIDS RECEIVED FOR SALE OF 2005 DODGE DURANGO:** There was a motion by Mr. Zuccolotto, seconded by Mr. Kauffman, to reject all bids received for the sale of a 2005 fully equipped Dodge Durango due to the bids being too low. Roll call vote: Mr. Zuccolotto – yes, Mr. Kauffman – yes, and Mr. Buncich – yes. Motion carried unanimously.

MINUTES OF SEPTEMBER 17, 2008 MEETING CONTINUED.

Bob Burkhart stated that the 2005 Dodge Durango would make a good first response unit for the Conemaugh Township EMS and the Supervisors should come up with a deal on this vehicle for them. Chairman Buncich replied that this was one of the cruisers that had belonged to Shade Township involved in the dissolved Police Agreement with them. He stated that Shade wanted paid \$1,900.00 for the 2004 Crown Victoria cruiser and \$17,000.00 for the 2005 Dodge Durango cruiser and has filed a lawsuit against Conemaugh Township. Chairman Buncich stated the Supervisors would consider the options available, also noting that there were possibly two municipalities wanting to purchase the Durango.

NEW BUSINESS:

1. **TRICK OR TREAT NIGHT:** Chairman Buncich stated he had talked with the School District and October 31st would be after the regular football season, although there may be playoff games. He also stated that most other municipalities were holding trick-or-treat night on October 31st. Chairman Buncich asked for anyone's comment on this. Bob Burkhart felt that it would be a good idea if the Supervisors organized trick-or-treat at Greenhouse Park to keep the children off the streets for safety reasons. He stated that local businesses could donate treats. Chairman Buncich noted that a local church was considering doing the same thing. There was a motion by Mr. Kauffman, seconded by Mr. Zuccolotto, to set trick or treat night in the Township for Friday, October 31, 2008 from 6:00 p.m. to 8:00 p.m. Roll call vote: Mr. Kauffman – yes, Mr. Zuccolotto – yes, and Mr. Buncich – yes. Motion carried unanimously.
2. **RESOLUTION R04-08:** There was a motion by Mr. Kauffman, seconded by Mr. Zuccolotto, to adopt Resolution R04-08 authorizing Township officials to file property condemnations for the Benscreek/Ideal Sanitary Sewer Project. Roll call vote: Mr. Kauffman – yes, Mr. Zuccolotto – yes, and Mr. Buncich – yes. Motion carried unanimously.
3. **RESOLUTION R05-08:** There was a motion by Mr. Zuccolotto, seconded by Mr. Kauffman, to adopt Resolution R05-08 approving a Cooperation Agreement between the Township and the Redevelopment Authority of the City of Johnstown to remedy wet-weather bypassing of raw sewage; to correct inflow and infiltration problems into the regional sewer collection system; and to satisfy the requirements of DEP to accomplish the same within a period of no more than ten years. Roll call vote: Mr. Zuccolotto – yes, Mr. Kauffman – yes, and Mr. Buncich – yes. Motion carried unanimously.
4. **ORDINANCE NO. 667:** There was a motion by Mr. Zuccolotto, seconded by Mr. Kauffman, to adopt Ordinance No. 667 increasing the indebtedness of Conemaugh Township by the issue of a guaranteed revenue bond in the amount of \$12,711,384.00 by private sale to the Pennsylvania Infrastructure Investment Authority for construction and improvements to the sewage collection and treatment system. Roll call vote: Mr. Zuccolotto – yes, Mr. Kauffman – yes, and Mr. Buncich – yes. Motion carried unanimously.
5. **MINOR SUBDIVISION:** This subdivision plan was approved by the Conemaugh Township Planning Commission on September 3, 2008, contingent upon the receipt of favorable comment from the Somerset County Planning Commission. Favorable comment was received. There was a motion by Mr. Zuccolotto, seconded by Mr. Kauffman, to approve the subdivision plan of Paul F. & Rosalie M. Baer, owners and applicants, to subdivide the current Paul F. & Rosalie M. Baer property, containing approximately 130.132 acres (Parcel A), with the residue parcel containing approximately 129.142 acres, and Parcel A, containing 0.99 acres being conveyed and made a part of the 3.26 acre property of Paul F. Jr. & Patricia J. Baer property

MINUTES OF SEPTEMBER 17, 2008 MEETING CONTINUED.

(Parcel S12-009-141-003) which will increase that property to 4.25 acres. Roll call vote: Mr. Zuccolotto – yes, Mr. Kauffman – yes, and Mr. Buncich – yes. Motion carried unanimously.

6. **APPOINTMENT OF LAW FIRM FOR SEWER PROJECT:** There was a motion by Mr. Kauffman, seconded by Mr. Zuccolotto, to appoint the law offices of Barbera, Clapper, Beener, Rullo & Melvin to record easements and file liens in Somerset for the Phase II Benscreek Sewer Project. Roll call vote: Mr. Kauffman – yes, Mr. Zuccolotto – yes, and Mr. Buncich – yes. Motion carried unanimously.

ITEMS FOR DISCUSSION:

None.

ANNOUNCEMENTS:

1. The next regularly scheduled meeting of the Township Supervisors will be held on Wednesday, October 15, 2008 at 7:00 p.m.

At this point, Chairman Buncich asked if there was anyone else who would like to speak:

Jerry Blough of Carpenters Park Road wanted to know if the Supervisors had a Sewer Department meeting at a scheduled time. Chairman Buncich answered, no. Solicitor Barbin stated that public policy for the Sewer Department was set by the Supervisors at the Supervisor meetings. He said that tonight the Supervisors awarded the contracts and authorized condemnations which were all Sewer Department matters. Mr. Blough said the Supervisors awarded millions of dollars in contracts tonight and what did the public know about them. Solicitor Barbin noted that there were advertised bid openings. Mr. Blough wanted to know the discussions that went into how the Supervisors approached their decisions, noting that the Water Authority had very informative meetings. He also asked if there was a Sewer Department Manager. He was answered, not at this time. Mr. Blough felt there should be a Sewer Department meeting every month which would be open to the public so they would know what was going on. Mr. Zuccolotto explained that in the past when the sewer was under an Authority monthly meetings were required, but now that it was a Department within the Township monthly meetings were not required. It was noted that the Supervisors were thinking of hiring a manager for the Sewer Department and that manager could give a report at the Supervisor meetings on the Sewer Department.

Sharon Fisher stated that with her situation, if the Township would have had a meeting on the sewer project she would have been more aware of what was to be put on her property. Chairman Buncich noted that the Township had several meetings for each of the specific sections of the sewer project, letters were sent out, but these meetings were very poorly attended. Ms. Fisher stated she had not received a letter.

Alice Trinder of Jerome said the State was in to look at the water coming out of the hillside by her residence in Jerome and she wanted to know if anything became of that. Chairman Buncich stated that the State advised the Supervisors not to do anything with this until it was researched to see how and when that water line was constructed and whether it was constructed by the Township or privately constructed, which the Supervisors did not have a chance to do yet. It was noted that this could be almost impossible to figure out.

MINUTES OF SEPTEMBER 17, 2008 MEETING CONTINUED.

Bill Holbay of Ligonier Pike wanted to know who to see about the condemnation of the 384 properties. Solicitor Barbin stated that the Supervisors authorized the condemnation of 384 property tonight, which included everyone who had not signed an easement, but if people signed their easement between now and October, they would be taken off the condemnation list.

Mr. Holbay wanted to know what the procedure would be if someone did not sign their easement. Solicitor Barbin stated that in approximately two weeks there would be a blanket condemnation filed, which had to be done or the Township could not close by the end of October. He said the grant money expired before October 31, 2008, but an extension had been given until November 18, 2008. Solicitor Barbin stated that in order to meet that extension date, PENNVEST required the Township to have proof that it had every property needed for the project in place on October 28, 2008. He explained that by counting the time backward from October 28th, the condemnation needed to be filed October 1, 2008.

Mr. Holbay said that the property owner who did not sign their easement would have their property condemned and the Township would “steal” their property. Solicitor Barbin said it would be an easement, but it would still be their property. He noted that the sewer line was going on their property whether they signed an easement or not.

Mr. Holbay stated there were so many “hoops” to jump through with a farm before that property could be condemned. Solicitor Barbin agreed he had his work cut out for him, but the first “hoop” was a resolution from the Supervisors authorizing the condemnation. He further stated he felt he could accomplish all the things that needed to be done within the two week time frame because if it was not done, the Township would lose the two million dollar grant for this project. Mr. Holbay stated he did not care.

Someone asked what happened after the condemnation was filed. Solicitor Barbin answered that a notice would be served by certified mail to the owner(s) and they would have thirty days to file an objection saying that the procedures were improper or the property was not being taken for a public purpose. He stated it was his responsibility to make sure the procedures were right, and noted that a public sewer line was a valid public purpose so there should be no legitimate objections that could be filed. Solicitor Barbin said at the end of the thirty days if no objections were filed or the court heard an objection and found that the procedures were right or the sewer line was a valid public purpose, he could ask the court for a writ of possession. He explained that a writ of possession allowed the Township to enter onto the property to construct the sewer line. Solicitor Barbin further explained that the property owner had five years to file for a Board of View if they felt the value of their property had been diminished. He said the standard in the Eminent Domain Code was that they had to have an appraisal and that appraisal had to state the value of the property before the sewer line was installed and the value of the property after the sewer line was installed, showing that the value was less with the sewer line than it was before without the sewer line. Solicitor Barbin felt there would undoubtedly be some properties that did have diminished value, but there would be very few with most properties appraised value rising with the presence of public sewer so there would not be any money owed. He further noted that every citizen had the right to file objections and the right to ask for a Board of View.

It was asked what the cost would be if every property owner filed an objection. Solicitor Barbin said it would be very costly, and the resident then stated it would be better if everyone signed the easements because if not, it would add a lot of cost to the project, they would not gain anything, and everyone else would have to pay for it.

MINUTES OF SEPTEMBER 17, 2008 MEETING CONTINUED.

Joe Marisa, Jr. asked if Solicitor Barbin was informed on the Agricultural Security Law. Solicitor Barbin answered yes, and he could condemn an Ag Security property for a sewer or water line, but he could not acquire the property.

Someone asked what the tap-in fees were going to be for this new sewer project. Mr. Zuccolotto answered that the *estimated* tap-fee was \$1,500.00. But Solicitor Barbin stated if the condemnations added substantial cost to the project, those fees would need to be raised because the project cannot go negative—it had to balance out. He stated that tap-in fees were not being accepted by the Township at this time and could be raised, but once they were accepted the rate could not be raised. Chairman Buncich said the tap-in fee would not be accepted until the Supervisors settled on the properties—the rate will not be set until the Supervisors were sure what the costs were.

Sam Mazzaresse of Hollsopple stated that when the prior sewer project was done, there was one right-of-way that was not taken care of; the plant was started up and it cost the Township \$225,000.00. He wanted to know how that one property without a right-of-way got by the officials, noting that Solicitor Barbin had said if all the rights-of way were not gotten, then the Township would lose the grant. Solicitor Barbin said he had heard of this matter, but he did not know what happened on the last sewer project since he was not here at that time. But, he did state that he had been told that the sewer plant could not be started and the Township had to pay interest without getting receipts—the revenue was lost because the Township could not use the plant because they did not have that last piece. Solicitor Barbin reiterated he did not know what happened or why, but he felt it did need looked into. Mr. Mazzaresse asked why the Township did not lose the grant. Solicitor Barbin stated there was no grant available for that project, but this current project did have a grant awarded.

Mr. Zuccolotto stated he had brought the above matter up to Solicitor Barbin as to what the Supervisors needed to do to make sure this never happened again. He noted that the Supervisors were still going to look into this in the future, but right now they were on tight time constraints with this new sewer project.

ADJOURNMENT:

There was a motion by Mr. Kauffman, seconded by Mr. Zuccolotto, to adjourn the meeting at 7:47 p.m.

Submitted by,

Cindy L. Walerysiak, Secretary/Treasurer