

MINUTES OF REGULAR MEETING OF OCTOBER 19, 2011

The regular meeting of the Conemaugh Township Board of Supervisors was called to order at 7:00 p.m. on October 19, 2011 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.

FLOOR OPENED TO PUBLIC COMMENT ON ITEMS ON AGENDA:

Joe Marisa, Jr. of Stone Hollow Road had a question about Item #3 – Laurel View Village Restated Map (PRD) under New Business. He asked if there was going to be a public hearing on this. Solicitor Barbin answered, no; the plan had not been recorded in Somerset and the Supervisors would be approving only the existing buildings. He further stated that the Township could not tell them to tear the buildings down. Solicitor Barbin said the question was concerning uses that may have not been approved and a public hearing would be required on that matter. Mr. Marisa felt that this was a violation of the civil rights of the residents of the Township. Solicitor Barbin disagreed. He stated that the Township issued building permits and every resident had the right to rely on the permit(s) issued – the buildings that were there were valid.

Dan Rullo, attorney for Laurel View Village, explained the situation further. He stated that many hours were spent going through records. A good faith effort was made by all in this matter. Attorney Rullo said LVV PRD had not been recorded. The Supervisors had authorized the Conemaugh Township Planning Commission to deal with PRD's; this was not a zoning issue, it was an approval of a PRD. This plan showed all approvals/permits issued over the years. Attorney Rullo noted that failure to file the plan did not void prior approvals. He further stated that the other issue was a use issue regarding the restaurant, credit union, etc. which he believed was essential for the LVV community. LVV has agreed to go to the Planning Commission on this – they do not want to go to court.

It was further indicated by Attorney Rullo, Solicitor Barbin, and the Supervisors that the five duplexes listed on the map presented were not built yet and was not considered part of this map for certification. A note stating such was on the map. A new map would be presented for approval of the additional duplexes. Attorney Rullo explained that any changes to a PRD required a public meeting with the Planning Commission, with final approval of the Supervisors. If it would be disapproved, the reasons would be identified and then there could be a public hearing/variance.

Solicitor Barbin stated that the PRD map presented tonight did not need to go to the Planning Commission; the Supervisors only need to certify the map.

Mr. Marisa read a long list of items he said were required to be shown on the PRD map. Solicitor Barbin said the process for tonight was to clarify what was there based on approvals made in the past; the Supervisors were not agreeing to anything proposed for future development. He further stated that everything was listed on the map as required, except for the sewage facilities, which was not necessary.

Jerry Blough of Carpenters Park stated that as-builts should only show what was there, and the five proposed duplexes should be removed from the map. Solicitor Barbin reiterated that there

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was a note on the map identifying the section not for approval. Attorney Rullo stated that the proposed duplexes were on the map since there had been action by the Planning Commission on May 4, 2011 on the duplexes, and the legend on the map clearly stated they were not for approval.

Joe Marisa, Jr. stated that at the September 12, 2006 meeting of the Planning Commission LVV was required to obtain written proof of right-of-way for the extension of Cambridge Drive, which they never did. He said if future development was approved for LVV, they would be using a road that they had not been given approval of right-of-way from Terri Dovey to extend. Solicitor Barbin asked if Cambridge Drive was located on property owned by Ms. Dovey. Mr. Marisa answered, yes.

Dave Mishler, director of LVV, disagreed with Mr. Marisa. He stated that the right-of-way was conveyed to LVV and he had a signed document indicating such; Cambridge Drive was a part of LVV property. Attorney Rullo stated that if someone believed there was an encroachment, then let him see it.

Further discussion continued on the matter of the PRD map presented for approval.

Joe Stevens of Hollsopple stated he had read a recent article in the Tribune regarding the LVV matter where Chairman Buncich was quoted as saying that everyone was treated equally by the Supervisors, and Mr. Stevens wanted to know if that was a true statement. Chairman Buncich answered, yes. Mr. Stevens said it was commendable what the Supervisors were doing for LVV, but referring to the sewer department, he stated that there were people who were given free taps, which was not equal treatment. He also said he was not treated equal in how the Supervisors handled the issue with his sewer line in the past. At this point, Mr. Stevens was told that this was not an item on the Agenda and he would have to bring this up at the end of the meeting.

NOTIFICATION OF EXECUTIVE & WORK SESSIONS:

The Supervisors met on October 3, 2011 with Mark Walker, PennDOT, and Kimball Engineers regarding the CT Intermediate School drainage issue; on October 11, 2011 with Solicitor Barbin and representatives from the CT EMS to discuss the EMS request for financial assistance from the Township; and on October 12, 2011 with Dave Halverson of Mosholder Insurance to review the renewal of the Township's Business Insurance Package.

MINUTES:

There was a motion by Mr. Zuccolotto, seconded by Mr. Kauffman, to accept the minutes of the regular meeting of September 21, 2011, and special meeting of October 6, 2011. Roll call vote: Mr. Zuccolotto – yes, Mr. Kauffman – yes, and Mr. Buncich – yes. Motion carried.

BILLS:

There was a motion by Mr. Kauffman, seconded by Mr. Zuccolotto, to pay the bills for the month of October 2011 in the amount of \$59,918.56 for the General Fund, \$11,065.84 for the Liquid Fuels Fund, \$138,315.92 for the Sewer Fund. Roll call vote: Mr. Kauffman – yes, Mr. Zuccolotto – yes, and Mr. Buncich – yes. Motion carried.

POLICE REPORTS:

The police report as submitted by Chief Louis Barclay for the month of September 2011 for the Conemaugh Township Police Department was available for review. Total complaints generated

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by Somerset County 911 Center were 193, and total reported incidents/complaints entered in IR System for Conemaugh Township were 168. There was a motion by Mr. Zuccolotto, seconded by Mr. Kauffman, to accept the police report as submitted for the month of September 2011. Roll call vote: Mr. Zuccolotto – yes, Mr. Kauffman – yes, and Mr. Buncich – yes. Motion carried.

PERSONS TO BE HEARD:

1. **Steve Cooper** – Regarding the Golf Haven. - Not present.

CORRESPONDENCE:

1. A letter was received from Al Meehleib requesting help in addressing problems with the alley that connects Rt. 403 at the Township Hardware and the East Campus Avenue location at the rear of the Video Hut. Chairman Buncich noted that this request had been received a few times before. Mr. Zuccolotto stated that this was a private road and they had tried to get it paved in the past; a petition had been signed and turned over to the Township, but one property owner had not signed, therefore the Township could not take the road over. Chairman Buncich further stated that he had talked to a resident in that area tonight who asked that the Township NOT take the road over. No action was taken on this request.

2. A letter was received from Terri Ann Dovey requesting correction of error in zoning of her property. Ms. Dovey believed that the designation of her farm as R1 and R2 was a result of a clerical mistake made by the Township. The property was listed as RR on the map in the Township's Comprehensive Plan of 1971. Mr. Zuccolotto noted that the Township would look into this matter and would consult with Solicitor Barbin.

OLD BUSINESS:

None.

NEW BUSINESS:

1. **PENSION PLAN MUNICIPAL OBLIGATION – STATE AID DEPOSIT:** There was a motion by Mr. Kauffman, seconded by Mr. Zuccolotto, to ratify the September 29, 2011 deposit of \$11,722.00 to the Police Pension Plan and \$56,499.00 to the Non-Uniformed Pension Plan with Mass Mutual Retirement Services, which represents the minimum municipal obligation of \$68,221.00 due to the Plans for the year 2011; \$67,239.64 from 2011 State Aid and \$981.36 from General Fund. Roll call vote: Mr. Kauffman – yes, Mr. Zuccolotto – yes, and Mr. Buncich – yes. Motion carried.

2. **FOREIGN FIRE RELIEF FUND DISTRIBUTION:** There was a motion by Mr. Kauffman, seconded by Mr. Zuccolotto, to ratify the September 29, 2011 distribution of the 2011 Foreign Fire Relief Funds in the amount of \$63,463.95 as follows: Krings Volunteer Firemen Relief Association (CT Fire Co.) - \$21,154.65; Ideal Volunteer Fire Company Firemen's Relief Association - \$21,154.65; and Jerome Volunteer Firemen's Relief Association - \$21,154.65. Roll call vote: Mr. Kauffman – yes, Mr. Zuccolotto – yes, and Mr. Buncich – yes. Motion carried. Chairman Buncich noted that the amount received this year was \$21,000.00 more than was received last year. A letter was received from the Attorney General's Office stating that this was a onetime increase and not to expect it next year.

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3. **LAUREL VIEW VILLAGE RESTATED MAP (PRD):** There was a motion by Mr. Zuccolotto, seconded by Mr. Buncich, to approve the restated map showing buildings completed in the Laurel View Village Planned Residential Development, with the exception of the notation for the duplexes approved by the Conemaugh Township Planning Commission on May 4, 2011. Roll call vote: Mr. Zuccolotto – yes, Mr. Buncich – yes, and Mr. Kauffman – no. Motion carried, one no.

4. **MARISA REQUEST TO ROUTE WATER LINE IN TOWNSHIP R-O-W:** There was a motion by Mr. Zuccolotto, seconded by Mr. Kauffman, to grant permission to Neil & Kim Marisa to route Greater Johnstown Water alongside the Covered Bridge Road from the top location at Govier Lane down to 257 Farm Lane for a distance of 2200 feet from public water to their lane entrance, subject to the issuance of a Highway Occupancy Permit. Roll call vote: Mr. Zuccolotto – yes, Mr. Kauffman – yes, and Mr. Buncich – yes. Motion carried.

5. **MINOR RE-SUBDIVISION:** This plan was approved by the Conemaugh Township Planning Commission on October 5, 2011, contingent upon the plan being corrected to show the accurate lot sizes and to have the proper engineering seal affixed. A corrected plan was received. There was a motion by Mr. Zuccolotto, seconded by Mr. Kauffman, to approve the re-subdivision plan of Richard Maldet, property owner, and Michael & Tanya Yancovitz, applicants, to create Lot 3A containing 5.06 acres as a building lot owned by Mr. Maldet and to be sold to Yancovitz; and to create Lot 1A containing .256 acre from Lot 1 owned by Adam Thomas, which is to be merged with the adjoining property of Mr. Thomas identified as Tax Map Parcel S12-004-004; contingent upon DEP acceptance of the Sewage Facilities Planning Module. Roll call vote: Mr. Zuccolotto – yes, Mr. Kauffman – yes, and Mr. Buncich – yes. Motion carried.

6. **SEWAGE FACILITIES PLANNING MODULE:** Mr. Walker reviewed this module as certified by the SEO and all was in order. There was a motion by Mr. Zuccolotto, seconded by Mr. Kauffman, to approve the Sewage Facilities Planning Module Component I for Lot 3A for the Maldet re-subdivision plan; contingent upon DEP acceptance of this Module. Roll call vote: Mr. Zuccolotto – yes, Mr. Kauffman – yes, and Mr. Buncich – yes. Motion carried.

7. **LAND MERGER SUBDIVISION:** This plan was approved by the Conemaugh Township Planning Commission on October 5, 2011. There was a motion by Mr. Kauffman, seconded by Mr. Zuccolotto, to approve the land merger subdivision of Dale & Linda Weissner, owner & applicant, to convey an 8.50 acre portion of the existing Weissner property, initially containing 35.68 acres, to the adjacent property of Jeffrey L. & Janet L. Bassette; with the Weissner property retaining 27.18 acres; no new lots are to be created. Roll call vote: Mr. Kauffman – yes, Mr. Zuccolotto – yes, and Mr. Buncich – yes. Motion carried.

PHASE II BENSCREEK SANITARY SEWER PROJECT

1. **ENGINEER UPDATE:** Chairman Buncich stated that the engineers were not present, but they furnished the following:

2. **CHANGE ORDER NO. 6 – CONTRACT 05-S-04:** There was a motion by Mr. Zuccolotto, seconded by Mr. Kauffman, to approve Change Order No. 6 for Contract 05-S-04 – Benscreek Sewers – Area B in the amount of \$4,800.00 for work required to stabilize the stream embankment along the North Fork of Benscreek. Roll call vote: Mr. Zuccolotto – yes, Mr. Kauffman – yes, and Mr. Buncich – yes. Motion carried.

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3. **AMENDMENT NO. 2 – ENGINEERING AGREEMENT:** There was a motion by Mr. Zuccolotto, seconded by Mr. Kauffman, to approve Amendment No. 2 to the Township's Engineering Agreement with The EADS Group for additional work completed for the Lost Valley Drive Extension and additional work required for the extended duration of construction. Roll call vote: Mr. Zuccolotto – yes, Mr. Kauffman – yes, and Mr. Buncich – yes. Motion carried.

4. **PROJECT INVOICES:** There was a motion by Mr. Zuccolotto, seconded by Mr. Kauffman, to approve sewer project invoices for submission to PENNVEST for reimbursement in the total amount of \$148,817.56. Roll call vote: Mr. Zuccolotto – yes, Mr. Kauffman – yes, and Mr. Buncich – yes. Motion carried.

ITEMS FOR DISCUSSION:

1. **Update on the matter regarding the development of Laurel View Village.** – Solicitor Barbin stated he needed to work out procedures for the Conemaugh Township Planning Commission regarding a public hearing for the use issues.

FLOOR OPENED FOR PUBLIC COMMENT – GENERAL:

Joe Stevens of Hollsopple returned back to his comments earlier in the meeting regarding the statement made in the Tribune that everyone was treated equally. He said everyone was not treated equally; what was done to him was not right. Mr. Zuccolotto said the Supervisors had no more comment on his issue. Solicitor Barbin informed Mr. Stevens that he had given the opinion repeatedly that he had no right for payment of his easement for the sewer line. He further stated that there were some instances of payments for easements in the past and there may have been some “handling” of tap fees in the past that was not proper, but as soon as this present Board of Supervisors found them they were corrected – that was the best that could be done. Mr. Stevens said his opinion was that not everyone was being treated fairly.

Mr. Stevens asked for an update on the McKool lawsuit. Solicitor Barbin stated that Mr. McKool filed an appeal with the Supreme Court two days before the deadline. He noted that Mr. McKool owed the Township approximately \$272,000 plus 10% interest per year plus all attorney fees. The Township would have to go back to Somerset Court for one more hearing to have the final attorneys' fees assessed. Solicitor Barbin said that he filed an objection to the Petition for Allowance of Appeal and he was waiting to hear what the Supreme Court had to say - no one knew when the Supreme Court would act on it.

Mr. Stevens stated that the sewer rates were raised due to McKool and wanted to know if when he “settled up” with the Township would the rates be “righted”. Mr. Zuccolotto stated that the rates were already “righted” since approximately two million dollars had been cut out of the recent sewer project and as a result the minimum sewer bill was \$32.00 a month. It was noted that McKool's payment had been already figured into the sewer project.

Maria Fulmer of Keim Street stated she had heard that the Supervisors planned to either raise taxes or adopt an ordinance making residents buy memberships from the EMS due to the EMS requesting financial assistance from the Township. She was against this since her insurance covered 100% for this service. Chairman Buncich noted that the EMS did not receive all of the insurance money. Ms. Fulmer said that was not her problem. Mr. Zuccolotto stated that the Supervisors did not want to raise taxes and an ordinance making residents pay the

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membership was unconstitutional. He further stated that the Supervisors have looked into having the EMS equipment insured under the Township's insurance, and would contact the Steelworkers Healthcare. The EMS was also considering closing their building.

Joyce Graham of Lost Valley Drive asked if the Supervisors were considering placing the EMS employees on the Township's healthcare plan and if so, she would like to be put on also. Mr. Zuccolotto said the Steelworkers Health and Welfare Fund would be contacted just to see if the EMS employees could be placed on the insurance coverage, but the EMS would pay for it. He said the Supervisors were doing everything they could to save them.

Brian Shoff felt that consolidation should be considered since fire companies were consolidating everywhere- all options should be looked into. Chairman Buncich said the Supervisors were looking to save the EMS from closing their doors prematurely.

Jerry Blough asked if an upgrade was done at the sewage treatment plant to accept leachate from the landfill. Mr. Zuccolotto answered yes; the Township was looking into pretreating and may be able to take more in the future. Currently four loads a day were being brought in from the landfill in our Township, but not Shade Township.

Terry McClemens of West Campus Avenue asked about the storm water runoff at the Conemaugh Township Intermediate School. Chairman Buncich stated the Supervisors had met with PennDOT and the problem was on school property and PennDOT right-of-way, but PennDOT said it was the Township's problem to take care of. The PennDOT representative did say he would take the matter to his supervisors. Someone needed to figure out what the flows were.

Mr. McClemens also wanted an update on his request for the establishment of setbacks from public buildings regarding the use of explosive by mines. Solicitor Barbin said that the Township could not regulate explosives, only the State could do that. He further stated that there was a Adam's Township case before the Supreme Court now regarding setbacks for mines and they have been waiting for approximately 1 ½ years for a decision on that. Solicitor Barbin asked the Supervisors if they wanted him to do an ordinance on mine setback requirement – 1,000 foot setback. He noted that the strip mines would appeal it since they were aware this was currently before the Supreme Court. Once the Adam's Township case was decided, there would be no court challenge.

Mr. McClemens asked if municipalities were being empowered more with the permitting process regarding gas wells. Solicitor Barbin answered, no, the State had pre-empted completely, which had been decided by the Supreme Court. He said that Township did have the right to prohibit gas wells in R1 and R2 zoning districts, but then that would prohibit people from participating in the gas wells.

Ed Shoemaker of Davidsville asked if there was any gas drilling in the Township. Chairman Buncich answered; no they have not done any testing yet.

ANNOUNCEMENTS:

1. Trick or Treat was scheduled for Thursday, October 27th from 6 to 8 p.m.

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2. The next regularly scheduled meeting of the Township Supervisors will be held on Wednesday, November 16, 2011 at 7:00 p.m.

ADJOURNMENT:

There was a motion by Mr. Kauffman, seconded by Mr. Zuccolotto, to adjourn the meeting at 8:14 p.m.

Submitted by,

Cindy L. Walerysiak, Secretary/Treasurer