

PENN TOWNSHIP BOARD OF SUPERVISORS
100 Municipal Building Road
Duncannon, PA 17020-1100

Henry A. Holman, Jr., Chairman

Robert E. Shaffer, Sr., Supervisor

Randy Plummer, Supervisor

MINUTES OF NOVEMBER 28, 2007

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The Penn Township Board of Supervisors (PTS) met on Wednesday, November 28, 2007 at 7:00 p.m. in the Municipal Building. Chairman Henry Holman, Jr., Supervisor Robert E. Shaffer, Sr. and Supervisor Randy Plummer were in attendance. Other personnel present were Helen Klinepeter (Secretary), Susan Long (Treasurer), Rich Wagner (Solicitor), Max Shradley (Engineer), and Alan Houck (Chief of Police). The meeting was recorded to aid in the preparation of the minutes. A list of visitors is on file in the Township office.

VISITORS

Don Haubert, Haubert Homes

Mr. Haubert was present to find out the status of his driveway permit application for the Nguyen property on 7 Hill Top Road. Chairman Holman noted that several residents of Hill Top Road feel that sections of Hill Top Road are private. He stated that the PTS has documentation that Hill Top Road has been under Township control since 1975, with the 20-foot wide section under Township control since 1913.

The Solicitor offered his opinion that there is no question Hill Top Road is a Township road, but stated that the question is the restoration of the original driveway to its original condition. He informed Mr. Haubert that the driveway permit application will be processed with due diligence. He also informed Mr. Haubert that the Occupancy Permit for the new house can not be issued until the roadway disturbed for the first driveway is restored. Mr. Haubert stated that he had every intention of restoring the first driveway and added that he will be in touch with the PTS for direction on the restoration.

Mr. Plummer stated that a speed study must be done on Hill Top Road before the driveway permit can be issued. He explained that the speed study can also allow for a shorter sight distance. After discussion, and upon a Shaffer/Plummer motion, the PTS voted unanimously to authorize a speed study for Hill Top Road. If the study is completed by the special-advertised meeting of December 6, 2007, an ordinance establishing the speed limit will be approved for advertising at that time.

Chairman Holman stated that he felt it was appropriate for the Secretary to send a letter to all residents of Hill Top Road explaining that the road is Township-owned.

Raymond Hall, Linton Hill Road

Mr. Hall asked if speed limit signs would be installed on Linton Hill Road between SR 274 and Creek Road. Chairman Holman responded that no speed study has been done on that section of Linton Hill Road and said he does not expect any study to be completed within the next several months.

Jodi Rissinger, Perdix Fire Company (PFC)

Ms. Rissinger stated that PFC representatives left before the end of the November 20, 2007 PTS meeting to discuss the budget. She asked if a decision was made on the request from PFC and Duncannon Fire Company (DFC) for an increase in the PTS contribution. Chairman Holman replied that each fire company would be given \$26,000 in 2008, delineated as follows: \$20,000 as per the contract, \$2,500 to continue the truck donations, \$2,500 to continue the fuel cost offset, and \$1,000 for a utility cost offset. He explained that he will be requesting the Penn Township Municipal Authority (Authority) to bill PFC for sewer usage and the \$1,000 will offset that cost. He said that the Township will continue to pay workmen's compensation and vehicle insurance premiums, as well as allowing PFC to continue to receive the rent for the scale-house property. He continued that he felt discussion

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on a fire tax should be continued in 2008 and that meetings could be held at the Township building to inform the public of the fire companies' and Township's fiscal conditions.

Chairman Holman then presented a revised agreement in the amount of \$26,000 for DFC to sign. After discussion, and upon a Plummer/Holman motion, the PTS voted unanimously to approve the revised agreement in the amount of \$26,000 for DFC, with the note that Chairman Holman will follow-through on holding open discussions concerning implementation of a fire tax.

Monte Supko, PFC

Mr. Supko presented a five-year breakdown showing the location of calls made by PFC, along with a graph showing how much it gets paid per call when it responds in Penn Township. The breakdown showed that, out of 657 calls, 420 were made in Penn Township. Mr. Shaffer noted that an inordinate amount of calls are the result of vehicular accidents on SR 11/15 and offered his opinion that those costs should be shared among the municipalities. He asked for a further breakdown showing the number of fire-related calls made by PFC in the Township.

Lee Wright, Hickory Drive

Mr. Wright stated that he had previously requested a breakdown of engineering expenses associated with the subdivision of his property. He asked if the Engineer had sent it. The Engineer responded that he had, but the Secretary stated that she had not yet been received it. The Engineer will send a copy of the breakdown directly to Mr. Wright.

Byron Worner, Chief, DFC

Mr. Worner stated that he had asked the DFC's solicitor to review its contract with the PTS. He noted Section 4, "Any time during the calendar year the Township does not believe the fire company has beneficially served the Township, the Supervisors can, with thirty days notice, repudiate the contract." He questioned if the use of "does not believe" is legal. Chairman Holman responded that DFC, not the PTS, drafted the verbiage of the contract.

Mr. Worner asked for the reasoning behind giving only a \$1,000 increase in contributions to the fire companies. Chairman Holman responded that it was due to the Township's tight budget and the PTS's desire not to raise taxes. Mr. Worner stated that DFC's expenses are more than its revenues, that Penn Township is the second busiest township behind Carroll Township, and that Carroll Township gives more to their fire company than the PTS gives to DFC and PFC put together. Mr. Worner stated that, without a significant increase in revenue, it will be forced to sell off some of its apparatus.

Mr. Worner asked if it would be possible for the PTS to establish a committee to meet with the fire companies on a workshop basis, as opposed to a public meeting. Chairman Holman stated that it could be done but felt that, if the fire companies want the support of the public, the public should be involved. Mr. Worner reiterated that the time has come for an increase in contributions, or the fire companies will be going down the road to financial trouble and service cuts. Chairman Holman again stated his willingness to hold a public meeting to inform the residents that they must give financially through an increase in their personal donations or through a fire tax.

Brian Waters, DFC

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Mr. Waters was present to discuss the storm water management plan for the DFC property along SR 274. He stated that he wanted to make sure that what the DFC wants to do is what was approved by the PTS. Chairman Holman responded that he has met with DFC representatives several times on this issue and that Heath Sands is aware of what needs to be done. He reminded Mr. Waters that the PTS will require a financial security bond.

MINUTES

Upon a Shaffer/Plummer motion, the PTS voted unanimously to approve the minutes of the October 31, 2007 meeting as presented.

INVOICES AND EXPENDITURES

The Treasurer provided the PTS with a list of Invoices and Expenditures for the period November 1 through November 30, 2007 for approval. After due consideration, and upon a Shaffer/Plummer motion, the PTS voted to approve payment of checks 20559 through 20623 from the PLGIT General Account in the amount of \$26,518.59 and six ACH transfers from the Newport Bank General Account in the amount of \$4,793.05.

TREASURER REPORT

Upon a Holman/Plummer motion, the PTS voted unanimously to accept the Treasurer's Report for the period November 1 through November 28, 2007, subject to yearly audit.

HIGHWAY DEPARTMENT REPORT

The November 2007 Highway Department report was reviewed.

Shoulder Paver

Discussion was held on the purchase of a shoulder paver from Dickinson Township. After discussion, it was the consensus for Chairman Holman to inspect the shoulder paver and for the Secretary to send a letter to Dickinson Township offering \$3,100 for the paver, conditional upon the approval of both Townships.

PENN TOWNSHIP PLANNING COMMISSION (PTPC) REPORT

Jason Gehman Final Subdivision Plan, File #2006-08

The Secretary presented a letter from the PTPC recommending approval of a time extension until March 26, 2008 for the above-mentioned plan. The Secretary explained that the time extension is necessary for Mr. Gehman to file for a zoning variance.

Chairman Holman stated his understanding that time extensions can not be denied and asked the Solicitor if that was true. The Solicitor stated that time extensions did not have to be given and the plan could be disapproved. However, from a practical standpoint, if the plan is disapproved, the developer will submit a replacement and the same issues will have to be dealt with. Mr. Shaffer offered his concern that plans can be "open books" forever. He offered his opinion that, at some point in time, if there is no activity, there should be no more time extensions and the plan should be disapproved. The Solicitor stated that the PTS can do that at anytime it wishes, and the applicant will have to re-file the plan and start over. Mr. Shaffer offered that, perhaps a developer submits a plan before new ordinances take effect, and then stalls. He added that might not be the case with this plan, in that the developer needs to submit a variance request.

After discussion, and upon a Shaffer/Holman motion, the PTS voted unanimously to approve a time extension until March 26, 2008 for the Jason Gehman Final Subdivision Plan, File #2006-08.

Charles Stoner/Marcia Andri Preliminary Subdivision Plan, File #2007-05

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The Secretary presented a letter from the PTPC recommending approval of a time extension until March 26, 2008 for the above-mentioned plan. The Secretary explained that the extension was necessary to allow Mr. Stoner to respond to engineering comments and perform a hydrological study. After discussion, and upon a Shaffer/Plummer motion, the PTS voted unanimously to approve a time extension until March 26, 2008 for the Charles Stoner/Marcia Andri Preliminary Subdivision Plan, File #2007-05.

ZONING OFFICER (ZO) REPORT

The November ZO Report was reviewed without comment.

Holy Spirit Hospital (HSH) Systems

The Secretary reported that HSH has requested a variance of the Zoning Ordinance as it pertains to the number of allowable signs. After discussion, it was the consensus that the PTS does not need to be represented at the zoning hearing when the variance request will be acted upon.

Penn1155

The Secretary reported that she has received two zoning variance requests for Mountainside East and West in which the decision of the ZO is being appealed. She stated that no date has yet been set for the zoning hearing. After discussion, it was the consensus for the Solicitor, the Engineer and Chairman Holman to meet prior to any anticipated zoning hearing held on this variance request.

SEWAGE ENFORCEMENT OFFICER (SEO) REPORT

The November SEO Report was reviewed without comment.

PENN TOWNSHIP PARK AND RECREATION BOARD (PTPRB) REPORT

The PTPRB Report for November 2007 was reviewed without comment.

Reappointment of Mike Freeman

PTPRB Chairman Jim Renner reported that Mr. Freeman's term of office on the PTPRB would expire on December 31, 2007. Mr. Shaffer offered his understanding that re-appointments are to be made at the January 7, 2008 PTS re-organization meeting.

PENN TOWNSHIP MUNICIPAL AUTHORITY (AUTHORITY)

PFC Sewer Billing

Chairman Holman stated that he would ask the Authority to consider rescinding a motion approved in 2004 which waived the monthly sewer rental charges for PFC. The Secretary was requested to draft a letter to the Authority, informing it of the PTS's action to reimburse the PFC for monthly sewer rental, and asking the Authority to rescind its motion to waive sewer rental fees.

SECRETARY REPORT

Dino's Grille Nuisance Complaint

The Secretary reported that a hearing concerning the nuisance complaint against Dino's Grille was held on November 9, 2007 at 11:30 a.m. with Chairman Holman, the Solicitor and herself in attendance. Chairman Holman reported that he felt that the owner had done the work requested by the PTS and that the Solicitor had recommended that the nuisance complaint be withdrawn.

Mr. Shaffer asked at what point of time the restoration of the building would be complete. The Secretary responded that the PTS had only asked the owner to repair the roof or demolish the building and that the owner had not obtained a permit for any additional restoration. Mr. Shaffer offered his frustration over the length of time that complete restoration might take. Chairman Holman offered his opinion that there were other premises in Penn Township in the same shape and nothing is being done about them. He asked the Solicitor how the PTS could force the owner to finish the interior or open a business before he is ready. The Solicitor responded that sufficient progress was made to

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stop the magisterial process. In addition, he felt that it would be diminishing returns for the owner not to restore the property since he is paying real estate taxes on it. He pointed out the PTS does not have an ordinance in place to force completion of the restoration. Mr. Shaffer asked if the PTS had the power to declare the property a public nuisance, with the Solicitor responding that it does. Mr. Shaffer asked if there was any remedy under the Uniform Construction Code (UCC), with the Treasurer responding that the UCC only applies to new construction, and the PTS had not adopted a maintenance code.

Linton Hill Speed Limit Ordinance, 2007-06

The Secretary stated that the ordinance to establish a speed limit on Linton Hill Road had been duly advertised. After discussion, and upon a Shaffer/Plummer motion, the PTS voted unanimously to adopt Ordinance 2007-06, establishing a speed limit of 35 mph on Linton Hill Road.

Mountain Street Parking Ordinance, 2007-07

The Secretary stated that the ordinance to restrict traffic flow and parking on Mountain Street had been duly advertised. After discussion, and upon a Shaffer/Plummer, the PTS voted unanimously to adopt Ordinance 2007-07, establishing one-way traffic flow patterns and no parking on the east side of Mountain Street.

Local Services Tax (LST) Ordinance, 2007-08

The Secretary stated that the ordinance to enact a LST had been duly advertised. After discussion, and upon a Shaffer/Plummer motion, the PTS voted unanimously to adopt Ordinance 2007-08, repealing the Emergency and Municipal Services Tax and enacting the LST.

HVAC Repair Contract

The Secretary presented three quotes for the HVAC repair contract for one, two and three year lengths. After discussion, and upon a Plummer/Shaffer motion, the PTS voted unanimously to accept the quote from H. B. McClure for a three-year contract at the rate of \$1,326 per year

ENGINEER REPORT

Sheetz Car Wash

The Engineer reported that he reviewed the November 19, 2007 proposal from CEDG, Sheetz's design engineer, concerning modifications needed for the stormwater basin and sent a response letter of what he feels needs to be done. Mr. Shaffer asked when Sheetz's financial security was due to expire, with the Secretary reporting it would expire June 2008. Mr. Shaffer asked if the Engineer's expenses were being passed back to Sheetz. The Treasurer responded that she was not aware costs could be passed back, but would start to do so.

Dollar General Stormwater Issue

The Engineer reported that he had performed a site review of the drainage swale at the Dollar General Store and offered the following comments to the PTS:

- The new swale does not extend to the area of ponding along the shoulder of SR 11/15 and does not appear to be able to drain the ponding.
- The depth and vertical sides of the new swale could be a safety issue for persons walking from the parking area.
- There is no stone to prevent erosion where the swale exits onto Norfolk Southern property.

Chairman Holman referred to a letter from Cocca Development reporting on the meeting between the Engineer, Mr. Plummer, and Cocca Development and the agreed-upon solution to the ponding issue. The letter explained that a swale would be constructed from the front to the rear of the property and asked for permission to complete the work within the next several weeks. Chairman Holman offered

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his opinion that the PTS has incurred enough legal expense over this issue and that the PTS has some responsibility to help correct the problem. He offered to provide personal equipment and labor and stated that Mr. Plummer has agreed to also provide labor, so that there would be no further expense to the PTS.

Mr. Shaffer stated that this drainage issue was a result of Dollar General not installing its driveway in accordance with the approved plan and the resultant concern over ponding and freezing. He stated that Dollar General chose to dig the ditch when it should have asked for feedback from the PTS beforehand. He added that it was a magnanimous gesture on Chairman Holman's part and cautioned him about personal liability.

The Solicitor referred to a letter from Mark Hutson, counsel for Cocca Development, in which it was said that, "Since we have completed the work agreed upon..." He stated that this appears to be contradictory to Mr. Shaffer's statement that there was no agreement to dig the ditch and asked if there was some understanding of what was to be done. The Engineer reported that, at the meeting, the understanding was that Dollar General would install a swale at the location of the ditch, along with possible installation of pipe. He added that there was no detailed proposal at that time.

A detailed discussion was held concerning how to best correct the problem so that ponding is stopped and freezing does not occur. The Solicitor stated that he is satisfied that there was a genuine misunderstanding and that this seems to be the best solution. He cautioned that it should be made clear that Cocca Development is allowing Chairman Holman to work in a private capacity, and this is not a Township project in that all costs are paid by Cocca Development.

John Leiter Subdivision

The Engineer reported that Mr. Plummer and he had performed a site visit to review the storm water facilities. He stated that everything seems to be stabilized and functioning, with no operational issues. He will send the PTS a written report of his findings and include a recommendation that the PTS release the financial security bond in the amount of \$28,010.88. After discussion, and upon a Shaffer/Holman motion, the PTS voted unanimously to accept the Engineer's recommendation to return Mr. Leiter's financial security bond.

Driveway Paving Permit

Discussion was held on the need for requiring a permit for the paving of a driveway, to ensure that the paving abuts the Township road smoothly. No action was taken.

SOLICITOR REPORT

Penn 1155

The Solicitor reported that he had met with counsel for the developer of Mountainside East and West. He stated that the discussion concerned the approach that has been taken regarding submissions made and positions taken and the "bridges" that were burned and the need to recognize that the previous approach needs to be re-addressed in hopes of building back those "bridges". He stated that discussion did not center on "if we do this, will you do that?" or "will you do this if we do that?" but rather have we burned too many "bridges" that we will be forever in litigation.

Business Campus One (BCO) Water Service

Mr. Shaffer referred to an application of United Waste Water Pennsylvania (UWPA) submitted to the PA Public Utility Commission (PUC) for acquisition of the water assets of BCO at a purchase price of \$75,000. He stated that he has several concerns over the application and asked that the PTS share these concerns with the Authority and encourage the Authority to respond to the PUC within the thirty day response time.

Mr. Shaffer offered his concern over section 16, in which it is stated that, "No other entities are now furnishing or have corporate or franchise rights to furnish public water service in the requested territory." He stated that is not true, since the Authority currently has that right. He then noted the next

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sentence, "No competitive condition will be created by approval of this application" and stated that he wants to make sure that it is the case, because of the Authority. He also offered concern over section 12, in which UWPA refers service to potential customers outside of BCO. He stated that he would like the Authority to get on record with the PUC that the service area should be confined to BCO. He then questioned section 15, offering that the existing well's 20 gallons per minute capacity does not compute to meet the 30,000 gallons per day projected demand. He was also concerned over UWPA's capability to meet all of the demands of BCO.

After discussion, and upon a Shaffer/Holman motion, the PTS voted unanimously to send a letter containing Mr. Shaffer's comments to the Authority and ask that they be forwarded to the PUC.

Barnett Drive Stormwater Issue

The Solicitor reported that the complaint against Furnley Frisch for violation of his stormwater management plan will be served within the next several days.

The Solicitor and Engineer were excused from the meeting at this time.

POLICE REPORT

The Monthly Police Incident Report was reviewed without comment.

Tobacco Compliance Checks

After discussion, and upon a Shaffer/Plummer motion, the PTS voted unanimously to approve an addendum to the Tobacco Compliance Checks Agreement with the Cumberland-Perry Drug & Alcohol Commission, extending the term of the agreement from October 31, 2007 through March 31, 2008.

Perry County Crimestoppers (Crimestoppers)

Chief Houck reported that Crimestoppers is trying to make itself more visible, and is requesting that municipalities purchase and install Crimestoppers road signs. After discussion, and upon a Plummer/Shaffer motion, the PTS voted unanimously to purchase and install five Crimestoppers signs.

Mountain Street Parking Spaces

Chief Houck recommended that perimeters of parking spaces on Mountain Street be painted in an effort to delineate the open thoroughfare. Mr. Shaffer offered his concern over setting a precedent and recommended that the PTS take a "wait and see" attitude over the effects of the newly-approved ordinance regulating traffic flow on Mountain Street.

BUILDING, ZONING, DRIVEWAY, AND SIGN PERMIT REPORT

The October 2007 Permit reports were reviewed with the note that the error in the September report had been corrected as requested.

CORRESPONDENCE

Community Development Block Grant (CDBG) Application

The Secretary reported that the Township had received the application for the annual CDBG funding by the Perry County Commissioners and that she had forwarded a copy to the Authority for its use.

Perry County Association of Township Officials (PCATO) Convention

The Secretary reported that the annual PCATO convention would be held on Saturday, February 23, 2008 at Greenwood Elementary School. She requested the supervisors to inform her by January 7, 2008 of their desire to attend.

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Tri-County Regional Planning Commission (TCRPC)

The Secretary reported that the TCRPC is requesting municipalities to nominate a voting member for the TCRPC. She stated that the Township's area of Perry County is currently being represented by Robert Rhoades. After discussion, and upon a Shaffer/Holman motion, the PTS voted unanimously to re-appoint Robert Rhoades as a voting member on the TCRPC.

Municipal Planning Advisory Services for 2008

The Secretary reported that the PTS has again been invited to enroll for the municipal planning advisory services offered by the Perry County Planning Commission. She noted that the cost was \$1,000 for a base agreement and \$500 for an on-call agreement. She added that the PTS had enrolled in 2006, but not in 2007. After discussing that the Engineer can provide the same services, it was the consensus to not enroll for the advisory services.

Duncannon EMS

The Secretary reported that the Duncannon EMS was asking for door prize donations for its December 15, 2007 Christmas party. After discussion, it was the consensus that Mr. Plummer would provide the EMS with Penn Township hats.

Chairman Holman stated that he had been informed by Lee Williams that the EMS can only collect \$100 from Medicare for each call to a nursing home. He was also informed that the EMS can no longer get reimbursed for oxygen. He stated that he is planning on meeting with Mr. Williams to review the EMS's insurance reimbursements for nursing home calls.

OLD BUSINESS

Perdix Sewer Connections

The Secretary provided an updated spreadsheet listing properties remaining to be connected to the sanitary sewer.

NEW BUSINESS

Website

The Secretary was requested to upload monthly meeting agendas onto the Township's website.

Resignation of Elected Auditor

The Secretary presented a letter from Lucinda Novinger, tending her resignation as an elected auditor due to being elected as a Township supervisor. After discussion, and upon a Shaffer/Plummer motion, the PTS voted unanimously to accept the resignation of Lucinda Novinger as an elected auditor, effective December 31, 2007.

EXECUTIVE SESSION

At 9:40 p.m. the PTS entered into executive session to discuss personnel issues. At 10:20 p.m. the meeting was reconvened with no action taken.

ADJOURNMENT

With no further business to be conducted, and upon a Holman/Plummer motion, the PTS voted to adjourn at 10:21 p.m.

Respectfully Submitted,

Susan E. Long
Recording Secretary

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