

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

Henry A. Holman, Jr., Chairman

Lucinda (CeCe) Novinger, Vice-Chairman

Vince Bernhard, Supervisor

MINUTES OF JANUARY 8, 2010

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The Penn Township Board of Supervisors (PTS) met on Friday, January 8, 2010 in the Municipal Building. Chairman Henry Holman, Jr., Vice-Chairman CeCe Novinger, and Supervisor Vince Bernhard were in attendance. Other personnel present were Helen Klinepeter (Secretary), P. Richard Wagner (Solicitor), Police Chief Paul Sheaffer, Officer Mark Jackson, and Susan Long (Recording Secretary). Chairman Holman called the meeting to order at 2:30 p.m. with the Pledge of Allegiance and a moment of silence. He announced that the meeting was being recorded to aid in the preparation of the minutes. A list of visitors is on file in the Township office.

ORDINANCE 2010-01, DUNCANNON FIRE COMPANY (DFC) NO. 1, INC. TO PROVIDE FIRE SERVICES TO PENN TOWNSHIP

INTRODUCTORY REMARKS

Chairman Holman turned the meeting over to the Solicitor for introductory remarks. The Solicitor stated his understanding of the heightened issue being discussed at the meeting and asked for respect for those making public comments.

The Solicitor explained that the Second Class Township Code provides for a municipality to appropriate monies for the use by a fire company within a township and to make rules and regulations for governing that fire company. A municipality may also contract with, and make grants to, fire contracts in adjacent municipalities. These provisions are known as "may" bills - the municipality may appropriate funds, may enact an ordinance establishing rules and regulations, and may contract with an outside fire department.

The Solicitor informed the public that, according to the appellate court in 1976 in a case involving Warminster Township, the power given to a township includes the power to exclude a company from all firefighting activities. He stated that he provided that information so that the public realized that this issue is not unique from a legal perspective.

In that regard, the PTS approved a contract from Duncannon Fire Company (DFC) on December 29, 2009 to provide fire protection throughout Penn Township. The necessary call boxes were changed and fire protection has been provided to the residents since that date by DFC and Marysville Fire Company. The Solicitor stated that on December 29th the PTS authorized the publication of an ordinance providing for extinguishment of firefighting activities by Perdix Fire Company (PFC) in The Patriot-News on January 1, 2010. Today's meeting was scheduled to consider the adoption of the ordinance.

The Solicitor recommended that Chairman Holman call for a motion and second to adopt the ordinance, after which public input would be received. He noted that, while the opportunity for public comment must be given, it is not intended to be never-ending and time limits can be established.

At this time there was a Holman/Novinger motion to adopt ordinance 2010-01.

PUBLIC COMMENT

Paul Soltis – Mr. Soltis stated that he was the Emergency Management Services Coordinator for Penn Township for 14 years, and resigned last April partially because of this issue. He deals with fire companies with his employment and has found this issue to be a major discussion item with all of them. He stated that the feeling out in the fire community is that this ordinance and having only one fire company, is the way to go. He offered his opinion that it was time to put aside the bickering and

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arguing, and start offering the residents of Penn Township the type of fire protection they deserve, and that it could best be done by adopting this ordinance.

Jonathan Bigley – Mr. Bigley stated that he was present to inform the PTS that Susquenita School District opposes the adoption of the ordinance for public safety reasons. He explained that every weekday there are 2,000 students and 400 employees on campus, more than at any other location in Penn Township. He stated that the District is not taking a PFC versus DFC stance. However, with PFC located within one mile of the District, it knows that PFC's response time is faster than that of DFC. He stated that PFC has helped the District on many occasions with crowd control and with the development of the District's photo security system.

Mr. Bigley relayed the District's opposition of the ordinance for financial reasons. He noted that the insured value of the District's buildings is \$48,000,000.00, the largest taxpayer financial investment in the Township.

Mr. Bigley noted that there were no financial details provided about the contract with DFC and requested a clarification today of the financial arrangement. He stated his understanding that there had been no independent fire study done. He felt such a study would show the needs of the Township, the available resources, and the needed resources.

Mr. Bigley stated that the District felt it unwise to adopt the ordinance because of the lack of public input on this issue, noting that there was no agenda for either the December 29th or today's meeting posted on the Township website. Mr. Bigley then offered his opinion as a public citizen that he was taken aback that the PTS would move so swiftly into a contract that would change fire protection services.

The Solicitor responded that the agenda for each of the past number of months included the topic of fire service provision. Additionally, the PTS has held public meetings with the fire companies.

Mr. Bigley agreed that there have been meetings to discuss whether or not to initiate a fire tax, but not to discuss a contract with one specific fire company.

Chairman Holman reported that he had attended every meeting with the fire companies and had recommended holding two meetings per month in 2009, to no avail. He noted that the departing supervisor had suggested at the December 2008 public PTS meeting that a motion be made to abandon the PFC and give fire protection responsibility to DFC, a suggestion that did not meet with any disagreement from those attending.

Mr. Bigley offered that the PTS should have waited until Supervisor Bernhard took office before taking action (on December 29th). He stated that he hoped the PTS was not "returning malice with malice" and asked the PTS to table the ordinance to give the new supervisor the opportunity to get up to speed.

Chairman Holman informed the residents that Supervisor Bernhard had an opportunity to avail himself of all available information on the issue. Supervisor Novinger noted that Supervisor Bernhard had received information not available to the public for the November and December 2009 PTS meetings.

Mona Klobe – Ms. Klobe offered her opinion that there must have been closed-door meetings held, because of the manner and expediency with which this issue was dealt. She stated that the PTS was voted into office to help the taxpayers, not to keep them in the dark. Ms. Klobe stated that her

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insurance was going to increase, to which Chairman Holman responded that the ISO ratings will not change.

Gene Hollenbaugh – Mr. Hollenbaugh stated that he knows the PTS has the authority to take this action. He stated his concern over Section 3 of the ordinance and asked what authority is given the PTS to abolish a 501.C.3 organization that was approved by the IRS. He stated that he felt that the ordinance is out of order because of the terminology of Section 3, which would also allow the PTS to abolish the EMS, the Lions Club and the Perry County Recreation Association.

The Solicitor replied that PA Commonwealth Court conveyed the authority in 1976 when it indicated that Townships could dissolve and abolish fire companies, and make them merge. Mr. Hollenbaugh referred to a letter from Larry Smeigh, Perry County Emergency Coordinator indicating that PFC could respond to Marysville, and asked how the PTS could abolish PFC, as opposed to stopping PFC from fighting fires in Penn Township. The Solicitor reiterated his interpretation that Commonwealth Court allows for abolishment, with the distribution of the assets up to PFC. Mr. Hollenbaugh said that he understood the Solicitor but felt that the word "abolishment" should be changed.

Chairman Holman asked the Solicitor about the legality of the language. The Solicitor replied that the case allowed for the abolishment of two fire companies to merge them into one. Chairman Holman stated his understanding that the ordinance would allow PFC to fight fires in any other municipality. Mr. Hollenbaugh stated his understanding that abolishment meant the PTS was putting PFC out of business. Chairman Holman replied that the Solicitor's interpretation was that PFC could not fight fires in Penn Township.

Shade Reidlinger – Mr. Reidlinger read from a letter from Sheetz, Inc. stating its appreciation of the support given to Sheetz by the PFC and its desire to have PFC continue its fire protection for its store on State Road. The letter then listed the assistance provided, such as providing emergency generators during power outages, cleaning up fuel spills, helping with minor accidents at the entrance and exit, and assisting with children locked in cars.

Tom Valintakonis, Linton Hill Road – Mr. Valintakonis pointed out that an accident on SR 11/15 at the mountain will prevent DFC from responding to Kinkora, the District, and commercial businesses in the Cove. A second accident in Marysville will prevent any response to those locations. He stated that there is only one way in and one way out – SR 11/15 – and time and distance equals response time.

Jerry Johnson – Mr. Johnson pointed out that DFC has a busy schedule in that it responds to calls in Dauphin and Halifax Boroughs, and Wheatfield and Reed Townships. He felt that Duncannon residents should be concerned that, while DFC is a good fire company, it is now being stretched thin. Mr. Johnson stated that the PTS is putting people and property in jeopardy.

Lynn Harbold – Mr. Harbold reported that he had a house fire and that PFC was on the scene before the tones went off. He then noted that both Chairman Holman and Supervisor Novinger always told him that it was 50-50 between the fire companies. Supervisor Novinger responded that Mr. Harbold was correct. It has always been a 50-50 split, including this past year when DFC was given \$4,000.00 for repair of its tower truck and PFC was given a matching amount for vehicle fuel. She stated that the same information was asked for from both fire companies, but was not received from both. When monthly financial reports were requested, more information than was asked for was provided by DFC. PFC did not provide monthly financial reports. She stated she was told that they could not be provided until the PFC was audited. She offered that PFC should have been willing to provide the information so that the taxpayers would know its financial condition. Mr. Harbold asked why a contract wasn't offered to PFC.

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Chairman Holman stated that the threat (by PFC) in October of trucks not rolling because of lack of fuel was the reason why he made the motion to donate the \$4,000.00 toward fuel.

William Hill – Mr. Hill stated that his son is a firefighter. He asked the PTS to consider the implications if their grandson is in an accident and his son and other firefighters can't help because they face going to jail and paying a fine.

Supervisor Novinger referred to the minutes of the October 15, 2009 meeting, during which PFC spokesmen Monte Supko said that the PTS will get what it pays for and PFC will determine how much protection it can provide after it receives its funding. Mr. Supko also stated at that meeting that the PTS will start receiving monthly reports when it gets involved in the operation of PFC. Supervisor Novinger offered that she felt the citizens were being held hostage, in that it appeared that PFC would decide which services to offer and when.

Police Chief Sheaffer stated that many times when he arrives at an accident, he finds PFC doing its job, but it tends to block the accident scene. When he asked for help with traffic control, he was told that PFC would assist the PA State Police, but not Penn Township police. He stated that he is busy with firefighters, EMS personnel, injured parties, bystanders, and oncoming traffic and has asked for help, but did not receive it from PFC.

Jodi Rissinger – Ms. Rissinger agreed that PFC has reduced its assistance in removing downed trees and downed wires when not causing harm, relaying that Chairman Holman stated the PTS would pay the highway crew overtime to take care of them. She stated that PFC has no trained, certified Fire Police for traffic control. Absent fire police, she stated she did not know who is responsible for traffic control if it is not the local police. In regards to blocking the accident scene, she stated that PFC blocks the highway to incoming traffic to protect the safety of the firefighters.

Regarding the October 15th minutes, Ms. Rissinger noted that it further states that Supervisor Novinger acknowledged receipt of all documents requested in January. Ms. Rissinger stated that, under the Second Class Township Code, PFC has a responsibility to advise the PTS of how the money it donated was spent. PFC provides this accounting before it receives the next year's allotment. Ms. Rissinger noted that the PTS requested future accounting for those monies donated, (this year it was \$31,000.00) along with receipts, which the PFC is willing to provide. Ms. Rissinger noted that the request for monthly statements was not put in writing. She stated that the October minutes reflect that, had it been, the information would have been provided. She added that, at the November meeting, the PTS was given a detailed list of expenditures, which was reviewed line by line with Supervisor Novinger. Additionally, a copy was also provided at that time to supervisor-elect Bernhard. Ms. Rissinger stated that the PTS was asked in November if there were further questions. She stated that Supervisor Novinger was presented, at the beginning of the year, with a binder outlining the 2009 budget and account line expenses, and that all supervisors were invited to look at PFC's books.

Ms. Rissinger stated there was no public input at the fire study meetings. They were advertised for the purpose of negotiations, with each fire company getting 45 minutes to speak, and no recognition of visitors. She took issue with the comment by Supervisor Holman that there were several public meetings, stating that the public would not have been given the opportunity to speak if they had attended. Chairman Holman stated that the public would have been given the opportunity to speak.

Ms. Rissinger then offered her opinion that the October minutes were written to make the PFC look bad. She questioned their validity, stating there is no flow to the minutes, which jump from one topic to the next, and said she felt that it was either editorial (revisions) or a copy and paste error.

Ms. Rissinger acknowledged receipt of the \$4,000.00 for vehicle fuel. She said that the PTS was told it was not needed for fuel this year, and that PFC was told to keep it for next year. She noted

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hypothetically that, in the future, PFC might not have money for heating oil or insurance, but would not be allowed to use the donation for those purposes.

Ms. Rissinger stated that, when the PTS released its 2010 proposed budget, PFC conceded that it would not be getting additional funding. There was never a discussion of merger. PFC offered accountability plans throughout the year, in which the PTS would keep control of the donations, PFC would present the invoices, and the PTS would pay the bills.

Ms. Rissinger stated that she did not know how to respond any of the other comments. She stated that she and Mr. Supko are very passionate and aggressive when dealing with these issues, which was obviously offensive.

Supervisor Bernhard stated that he has been in office four days and finds today's turnout to be commendable, in that it shows taxpayers are concerned over Township issues. He offered that he feels it is sad to see a small community become divisive within itself, when the people tear the community apart. He felt it was a shame that this has been going on for such a long time and that cooler heads did not see the need for independent arbitration.

Supervisor Bernhard offered his opinion that the PTS should have commissioned someone to research whether or not the ISO ratings in the Township would change, to alleviate residents' concerns. In the event the ratings would not change, the homeowners could have taken that information to their homeowner's insurance carrier. He stated that he did ask an insurance agent what would happen if a fire company shuts down. He stated he was told the insurance premium would probably go up, and in cases of low ISO ratings, the insurance coverage might be dropped.

Supervisor Bernhard commented on the fire study. He noted that it dated back to 2003 and stated that, whether the study was liked or not, it was a commissioned study which cited municipality requirements. He offered that another fire study could have been done, one with a specific scope that would assess the impact of this issue on businesses, the District, and residents as to whether the Township would be fully provided with the necessary coverage to take care of itself.

Supervisor Bernhard commented that the 2003 study indicated that seven pieces of equipment needed to be replaced. He noted that it is virtually impossible for fire companies to finance that large of an expense through the sale of chicken dinners. The 2003 study indicated that the average response per incident was 8 persons for PFC and 9 persons for DFC. It did not indicate that that was more than enough personnel to satisfy the peak requirement of 4,500 gallons per minute flow, nor did it indicate there was a surplus of equipment between the two fire companies, leading to his concern of lack of personnel and equipment. He stated that a tailored fire study would have shed some light on whether the Township had the resources it needed, or what it would have to do in order to get those resources.

Supervisor Bernhard summarized his understanding of the residents' concerns – safety and future costs. He stated he felt that an ISO insurance impact assessment and a modified fire study could have showed that safety and security would still be provided. Regarding future costs, he was not sure how much equipment can be moved from PFC to DFC, or if DFC would have to purchase additional equipment, but felt that a modified study would have provided that information also.

Chairman Holman noted that he never found any recommendation in the 2003 fire study that was agreed to by both fire companies.

After a loud outburst from the visitors, Chairman Holman called for order and then for a vote to the motion on the floor. The motion to adopt Ordinance 2010-01 passed, with Supervisor Bernhard voting in opposition to the motion.

ADJOURNMENT

With no further business to be conducted, and upon a Holman/Novinger motion, the PTS voted unanimously to adjourn at 3:37 p.m.

Respectfully Submitted,

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Susan E. Long
Recording Secretary