

**RYE TOWNSHIP
SUPERVISORS' MEETING
October 22, 2012**

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PRESENT: Chairman Robert Lightner, Vice-Chairman Ken Quigley, Supervisor Ron Cree, Daisy Lightner, Secretary/ Treasurer, Barbara and Raymond (Pete) Fitting, Sean Fedder, Kassie D. Quigley, Chris Peffer of Lou Harford Surveyors, Stephanie Peters, Robert and Tabatha Sultzaberger, A Bruce and Barb Reeher, Charles R. Shultz, Jeremy Gibboney of Burget and Associates, Jana Benscoter of the Patriot News, and Luke A. Roman of the Duncannon Record, and P. Richard Wagner, Esquire.

FORMER SUPERVISOR PRESENT: Charles Kunkle

The meeting was held at the municipal building and called to order at 7:30 PM. Chairman Lightner convened the meeting with the pledge of allegiance to the flag. The meeting was tape recorded to aid with the preparation of minutes.

CITIZEN PARTICIPATION: Chairman Lightner asked if there was any citizen participation at this time. None was offered at this time.

PERSON TO BE HEARD: Stephanie Peters of Bellview Acres development explained that she has an issue with two wild chickens living on her property and is seeking direction on how to catch and remove the wild fowl to a nearby farm. The chickens roost high in her arborvitae trees to avoid night predators. The Board understood her concern. However, the Township could not offer any remedy to assist her with catching the wild chickens on her private property. She thanked the Board. Stephanie plans to continue to search for a solution.

APPROVAL OF THE MINUTES: Supervisor Cree made a motion and Supervisor Quigley seconded to approve the minutes of September 24, 2012 supervisors' meeting as submitted. Motion carried unanimously.

Supervisor Quigley made a motion and Supervisor Cree seconded to approve the minutes of the budget meeting of October 4, 2012 as submitted. Motion carried unanimously.

Supervisor Cree made a motion and Chairman Lightner seconded to approve the minutes of the budget meeting of October 18, 2012 as submitted. Motion carried. Supervisor Quigley abstained from the motion because he was not present due to a previous commitment.

MONTHLY MUNICIPAL REPORTS: The September Zoning Report was submitted by Zoning Officer, James Hawk and available for review. Hawk read the report as follows: issued and hand delivered a "cease and desist" letter for 209 Brook Lane, on-site visit to 149 Fleisher Road relating to violation of a cease and desist notice; chicken and dog complaints, with zero (0) zoning permits and a total of zero dollars (\$0) in fees collected.

The Sewage Enforcement Report for October was submitted by Lenny Sizer of Madden Engineering and read by Chairman Lightner. Three (3) activities were reported: percs and probes for 2 new lots and the residual for Joel Heisley at the former Sally Eichelberger farm off SR 850; certified letter for 149 Fleisher Road and an on-site visit for potential septic violation reported at 149 Fleisher Road. Total due in fees of \$455.00.

A September Road Report was submitted by Road Foreman, Brad Sloop. Supervisor Quigley read the report and noted that the main activities for the month revolved around Fall Clean up activities. He reported that no additional progress has been completed on the design on the Pine Hill Road replacement bridge. The design plan is ready for review by PennDot's safety review Board.

Kassie Quigley of the Recreation Board was present. She announced the following final upcoming event for the year:

- ◆ Halloween in the Park at 6:00 PM on Saturday, October 27, 2012, rain date of Sunday October 28 at 5:00 PM. A bon fire, hay rides, costume judging, haunted trail, & refreshments are planned.

Cassie noted that the Recreation Board also provided the Board with 2013 budget estimates for recreation expenses for 2013.

No Emergency Management Report was offered. Assistant EMC Fitting encouraged all residents to check their flues and chimneys to assure they are clean and not blocked before the winter heating season begins. Fitting was provided with a copy of the recently updated EOP manual prior to the meeting.

The September Treasurer's Report was submitted for review by the Secretary/Treasurer & with no discussion was accepted as read pending the independent auditors' review. The Secretary/Treasurer noted the receipt of the Foreign Fire Insurance Relief monies in the amount of \$14,629.22, which checks were listed for approval on the October check register and distributed equally to the Marysville and Shermans Dale Fire Companies.

SUBDIVISION LAND DEVELOPMENT: Chris Peffer of Lou Harford Surveyors approached the Board to gain final approval for the Matthew W. Fleisher Final Subdivision Plan. The purpose of this plan is to create a ten acre lot (Lot 7A) to be added to existing Lot #7 from PB 53, Pg 196. The plan subdivides lot 7A from Matthew W. Fleisher to be transferred and incorporated into a unified deed description for Jennifer M. (Fleisher) Cromleigh and cannot be sold separately. The addition will allow for Jennifer Fleisher Cromleigh to qualify for Clean and Green. The plan does not propose any site improvements or building, construction or earth moving activity.

Perry County Planning Commission reviewed the plans and comments were received and addressed. The Fleisher plan received approval at the October 2, 2012 Rye Township Planning Commission meeting conditional upon the addition of building setback lines to the plan for the future potential road connection of Reed Drive and Fleisher Road consistent with the Rye Township Comprehensive Plan.

Upon due consideration and with the addition of the building set back lines as requested, Supervisor Cree made a motion with a second from Supervisor Quigley to approve the Matthew W. Fleisher Final Subdivision Plan. Motion carried unanimously.

Jerry Gibboney of Burget & Associates approached the Board to request final approval of the Lawrence and Jean Kuhn Final Minor Subdivision/Lot Addition Plan. The Kuhn's are the property owners of three parcels located off Flowers Lane totaling 13.19 acres. Two of the three lots contain dwellings. The Kuhn's live on a private drive on the lot closest to Flowers Lane addressed as 1061 Mimosa Lane. The plan proposed to add .59 of an acre from the adjacent lot to the .741 acre lot #3 to create a new lot totaling 1.331 acres. The Planning Commission conditionally approved the Kuhn plan at their October 2, 2012 meeting.

Upon due consideration and discussion, Supervisor Quigley made a motion with a second from Supervisor Cree to approve the request for waiver of Article 5, Section 501 (Preliminary Plan Submission) and to approve the Lawrence M. & Jean H. Kuhn Final Minor Subdivision/Lot Addition Plan conditional upon the addition of the following note #20 to the plan:

1. No residential building or dwelling is permitted on Lot 1A and Lot 1A cannot be sold as a separate lot.

Motion carried unanimously.

Jerry Gibboney acknowledged the condition, thanked the Board, and left the meeting at this time. He indicated that he would return the revised Kuhn plan to the Township office for signatures in the near future.

RESOLUTION: Supervisor Cree made a motion with a second from Supervisor Quigley to approve Resolution 12-22 to authorize the Secretary/Treasurer to transfer between funds \$17,000.00 designated for bridge expenses from the General Fund Savings money market account in the Bank of Landisburg into the Capital Reserve Fund as a short term 11 month Certificate of Deposit (.65% APY) at Members First Credit Union in Enola designated for use with the Pine Hill Road bridge replacement expense anticipated in the 2013 General Fund Budget. Motion carried unanimously.

LEGAL BUSINESS: Solicitor Wagner discussed the ongoing zoning violations at 149 Fleisher Road and 209 Brook Lane. Both addresses are in violation of the Zoning Ordinance because they began building construction on their parcels without the issuance of a building or zoning permit on file. Both residences were issued stop work orders from BIU and “cease and desist” orders from Rye Township.

Robert and Tabitha Sultzaberger, the owners of lot 149 Fleisher Road, were in attendance and discussed the zoning issues with the erection of a new structure on their lot. The Zoning Officer clarified that following a “Cease and Desist” letter and on-site visit, an application was received from the Sultzabergers, but a permit was not issued because of a building set back issue. The Zoning Officer expressed concern that the construction began without a permit and continues and may possibly not be located within the building setback lines of this 149 Fleisher Road property. He could not certify that the structure was permissible.

The owners said they made application in August, but did not receive a permit. The Solicitor advised that does not give them a right as homeowners to continue to build after a stop work order and cease and desist were issued. The Solicitor further advised that all of this could have been avoided if the owners would have come to the Township *first* and acquired the proper permits prior to beginning any type of construction. There are two main issues here:

1. Building without a permit is a direct violation of the Zoning Ordinance and can cause citations to be issued with civil and criminal penalties.
2. An injunction can be filed by the Township to shut down the whole construction.

At this point, Robert Sultzaberger verbally agreed not to work on this project any further until he hears from the Township that all issues are resolved. The Board agreed to not proceed to file an injunction at this point as long as Sultzaberger cooperated with the Township and BIU.

Supervisor Quigley asked if the Sultzabergers were aware of a recorded subdivision plan for this property. Robert Sultzaberger denied that knowing anything about a recorded plan for his parcel. A Karl Palm Subdivision plan from May 1981 indicates the front building set backs lines are pulled in with a fifteen feet wide (15') drainage easement and a sixty (60') foot wide Township R-O-W. An additional building limitation exists to the south side due to a twenty foot (20') R-O-W access to the adjoining property, which is located to the rear of the 149 Fleisher Road parcel. The Solicitor advised the Board and Zoning Officer to acquire the entire May 1, 1981 Karl Palm plan with all of its notes for review to better determine the BSL of this parcel.

Chairman Lightner asked the procedure if indeed the proposed new construction is not within permitted BSL lines. Solicitor Wagner advised if the construction is in violation of the BSL according to the Zoning Ordinance, the remedy may be either to request a variance from the Zoning Hearing Board or possibly the owner may be required to tear down the structure.

Bruce and Barbara Reeher, owners of Lot # 10 of Brook Lane, were present to express concerns with a new construction underway at 209 Brook Lane, Lot #8 of the Brook Lane Estates Phase II Subdivision Land Development without proper permits. Charles Schultz owner of Lot #9 was also concerned and in attendance.

The Zoning Officer offered that when he became aware of the situation, he conducted an on-site inspection and hand delivered a "Cease and Desist" letter last week along with Ken Brady of BIU, who also issued a Stop Work order. At that time he explained to the owner that no further building or construction activity is permitted until permits are approved and issued. The owner said they would make application for the permits. To date no permit application has been received. The owner, Donald Barlup indicated a land survey would be completed.

Bruce Reeher provided a copy of the Brook Lane Estates Phase II Subdivision Plan and reviewed the building set back lines, the deed restrictions, and the history of this development. Mr. Reeher said he does not want the building set back lines violated again. He referred to a previous 1999 Alteration of Requirements granted by the Board of Supervisors that permitted the erection of a large garage storage building on Lot #8. Mr. Reeher offered that as an adjacent property owner he did not sign or grant his approval or permission for any alteration in 1999 and did not want to see this happen again with the current proposed construction at 209 Brook Lane.

The Solicitor requested the Secretary/Treasurer acquire the minutes of the July 1999 minutes for details of the approval of the first Alteration of Requirements.

Supervisor Quigley appreciated Mr. Reeher providing the history of the lot.

Solicitor Wagner advised Mr. Reeher that even if the supervisors grant relief from their Ordinances, that does not necessarily obviate the right of the individual land owner to enforce deed restrictions. The Board of Supervisors does not have the authority to override or void restrictions set forth in a deed.

Solicitor Wagner advised the Secretary/Treasurer to contact Capital Tax Collection Bureau to proceed to file a civil complaint at the District Justice level for delinquent trash fees against the owners of the 3122 Valley Road property.

OLD BUSINESS: Chairman Lightner announced that the Board designated Trick or Treat Night for Wednesday, October 31, 2012 from 6-8:00 PM.

NEW BUSINESS: Supervisor Cree made a motion and Supervisor Quigley seconded to renew the May 24, 1980 winter maintenance agreement between Rye and Carroll Townships for 2013, whereby Rye Township agrees to plow and cinder Carroll Township's portion of Pine Hill Road for the year beginning January 1, 2013 and ending December 31, 2013 for a fee of \$60 per round trip. The cost per round trip remains the same as last year. Motion carried unanimously.

Supervisor Cree made a motion with a second from Supervisor Quigley to authorize the Secretary/Treasurer to advertise a revised fee schedule for 2013 for adoption at the 2013 Organization meeting. Motion carried unanimously.

Upon due consideration, Supervisor Quigley made a motion and with a second from Supervisor Cree to tentatively approve the 2013 proposed budget and authorize the advertisement of the proposed 2013 budget for public review for the next twenty (20) days with tentative adoption at the November 27, 2012 supervisors' meeting; motion carried unanimously. The record notes the budget is balanced with the use of reserves for bridge expenses and road projects and without a tax increase.

The 2013 proposed budget was placed on the front table and made available for public review.

Supervisor Robert Lightner announced that proposed **Resolution 12-23**, the 2013 Salary Schedule, includes his spouse, Daisy Lightner. In particular, Resolution 12-23 lists the Administrative Department positions of the Secretary/Treasurer, the Code Enforcement/ Zoning Officer and the part-time Clerk and the part-time temporary/seasonal road workers and full time non-union road laborers. With no further discussion, Supervisor Cree made a motion to approve **Resolution 12-23**, the 2013 Salary Schedule, which establishes the salary increase for all non-union employees effective for the first payroll in January 2013. Supervisor Quigley seconded; motion carried. The record notes that Chairman Lightner abstained, because of any perceived or potential conflict of interest with Daisy as his spouse.

Chairman Lightner announced the following upcoming events:

- ◆ Election Day – November 6, 2012; polls open 7:00 AM to 8:00 PM
- ◆ Office Closed Monday, November 12, 2011, Veterans' Day
- ◆ The office will be closed for the Thanksgiving Holiday on Thursday, November 22nd and Friday, November 23rd. And on Monday, November 26th for deer season.
- ◆ November supervisors' meeting changed to: Tuesday, November 27, 2012.
- ◆ December supervisors' meeting changed to: Monday, December 17, 2012
- ◆ December 18th- Santa will be at the Township office; 6-7:00 PM; Free fingerprinting.

APPROVAL AND PAYMENT OF THE BILLS: The Secretary/Treasurer provided an October expense check register and submitted the following checks for approval and payment: General Fund Checks #s 13698-13736 in the amount of \$43,936.64. No checks void.

Payroll checks #s 6306-6313 in the amount of \$3,766.30. No payroll checks void.

Payroll checks #s 6314-6324 in the amount of \$4,495.11. No payroll checks void.

Chairman Lightner made a motion and Supervisor Quigley seconded to approve the checks and pay the bills except for check number 13703 issued to Daisy Lightner in the amount of \$34.69 for mileage. Motion carried unanimously.

Supervisor Quigley made a motion and Supervisor Cree seconded to approve check number 13703 issued to Daisy Lightner for mileage. Motion carried. Chairman Lightner abstained because Daisy is his spouse.

CITIZEN PARTICIPATION: Chairman Lightner asked if there was any citizen participation at this time.

Former Supervisor Charles Kunkle asked about the proposed length of time for closure of Pine Hill Road during the full replacement of the existing bridge. Supervisor Quigley offered that unfortunately three months is the estimate. However, the Board insisted the construction begin in June and end in August before school resumes. Dewatering of the stream, Quigley explained, takes time with excavation and piping. And then there are weather delays to consider.

ADJOURNMENT OF THE MEETING: There being no further business before the Board, Supervisor Cree made a motion and Supervisor Quigley seconded to adjourn the meeting at 8:35 pm. Motion carried unanimously.

Respectfully submitted,

Daisy Lightner, Secretary/Treasurer