

**Board of Supervisors Work Session/Meeting
MINUTES**

April 10, 2007

The meeting was called to order at 7:30 p.m. by Chairman Jim Brownlow and opened with the Pledge of Allegiance.

Present: Supervisors: Karen Bedics, Jim Brownlow, Chuck Halderman, and Rob Zisko (Rod Wieder, absent for meeting—present for executive session) Also present: Scott MacNair, Solicitor; Sandy Everitt, Secretary/Treasurer; Rich Schilling, Township Manager.

Jim Brownlow noted that the Supervisors had an executive session prior to this meeting to discuss personnel matters. Chuck Halderman **moved** that the Board authorize Rich Schilling, Township Manager, to proceed with the process that was discussed in the Executive Session. Karen Bedics **seconded**; the motion was **approved** unanimously: Yes: Karen Bedics, Jim Brownlow, Chuck Halderman, Rob Zisko.

Scott MacNair, Township Solicitor, indicated that the matter discussed at the executive session was a personnel matter and was not a matter to be discussed in public out of respect to the personnel involved, and also to ensure that due process is served.

Approval of Minutes

Rob Zisko **moved** to adopt the March 13, 2007, minutes as presented. Karen Bedics **seconded**; the motion **passed** unanimously.

Chuck Halderman **moved** to adopt the March 27, 2007, minutes as presented. Jim Brownlow **seconded**; the motion **passed**. Yes: Karen Bedics, Jim Brownlow, Chuck Halderman. Abstained: Rob Zisko (not present at 3/27/07 meeting.)

Approval of Bills

Jim Brownlow **moved** to accept the bills for payment as listed on the March 14 – April 5, 2007, and April 6 – April 10, 2007, bills lists. Karen Bedics **seconded**; the motion **passed** unanimously.

Reports

Jim Brownlow noted that the **Road Department** and **Zoning/Building Reports** were posted on the bulletin board. There was no **police report**. Karen Bedics asked the status of the line painting and road signs for Bursonville and Township Roads. Rich Schilling advised that Rich Pursell is fitting that work into the other road work scheduled for this spring and summer.

Rich Schilling presented the **Township Manager's** report. He noted that on March 14 he met with Karen Freeh, Chairperson of the Historic Commission; Jackie Felion-Kooms, By Way Coordinator regarding our By Way submission. Rob Zisko questioned what the By Way grant was about. Rich indicated that there are different qualities that would designate a particular road as a "by way." Some are: Scenic, Recreation, Historic, etc. Obtaining a by way designation would permit the Township to leverage that with an 80% PennDOT grant opportunity, and the Township would only have to add the remaining 20%. For example, if the Township wanted to erect a pavilion off of the by way on the Township-owned property, PennDOT would conceivably cover 80% of the cost and the Township would pay for 20%.

On March 30, Rich met with Bob Wynn regarding RFP submissions that were received by the Township. A short list of four proposals was selected for the Board's review and action. These submissions will be distributed to the Board following the meeting for review and future action.

Rich mailed a letter to representatives at the state and federal level regarding the Township's need for a FEMA mobile home. He has since spoken to representatives at the Department of General Services and filed the required paperwork. The Department stated the mobile home could arrive in about three weeks. Scott Pepperman called on Friday, April 6, and indicated that there was no mobile home available at the Virginia location. They will be going to Mississippi this week and are optimistic that a suitable mobile home will be available there. There will be no additional transportation charges to have the home brought here from Mississippi.

Rich noted that Hans Reimann installed ceramic tile on the bathroom floor of the main floor of the Township building. Rich thanked Hans for donating his time to install the floor.

One item not included in the written report was the *Seal Coat/Paving Projects for 2007* that have been recommended to the Supervisors for their acceptance by Rich Pursell, Roadmaster. Roads proposed for seal coat work are: Blue Church Road, Clay Avenue, Greenwood Drive, Lakeview Drive, Mountain Avenue, Moyer Road, Nemeth Road, Springhill Road, Trolley Bridge Circle and Trolley Bridge Road. Wrecksics Road is suggested for repaving in 2007. Rob Zisko questioned what road improvements would be done by the subdivision currently underway on Moyer Road (Summit Farms/Mandarino). Rich Schilling will check whether there are road improvements involved with this subdivision. Rob Zisko **moved** to authorize the road department to proceed with the road improvements listed on the April 5, 2007, memo. Chuck Halderman **seconded**; the motion **passed** unanimously. Rich Schilling will ensure that there will be no duplication of work on Moyer Road before the seal coat is put out to bid.

Public Comments on Agenda Items

Hans Reimann commented on the Supervisors Comments regarding Conservation Easements. The EAC has been asked to work on the language for a model Springfield Township Conservation Easement proposal to be modeled after the Heritage Conservancy's model they used for Upper Makefield. Rich Schilling indicated Scott Douglas plans to approach the Board at their April 24 meeting with this project.

Old Business

1. Resolution Designating Berkheimer as EMS Tax Collector – Karen Bedics **moved** to adopt Resolution 2007-006 designating Berkheimer Tax Administrator as the EMS tax collector. Rob Zisko **seconded**; the motion **passed** unanimously.

Karen Bedics **moved** to adopt Resolution 2007-007 appointing the Township Manager as liaison between Berkheimer and the Township for the purpose of sharing confidential tax information with the Township for official purposes. Jim Brownlow **seconded**; the motion **passed** unanimously.

Karen Bedics **moved** to adopt Resolution 2007-008 appointing Berkheimer Tax Administrator as the Township's tax hearing officer for the purpose of adjudicating tax appeals. Chuck Halderman **seconded**; the motion **passed** unanimously.

Rob Zisko **moved** to authorize the chairman of the Board to sign the Berkheimer contract. Chuck Halderman **seconded**; the motion **passed** unanimously. Scott MacNair noted that although the contract does not include the contract time period, that is covered in Resolution 2007-006 and is designated as a three-year period, beginning January 1, 2007, and ending December 31, 2009. Collection of delinquent taxes is provided for in Resolution 2007-006. A schedule of cost for Berkheimer to collect Township taxes will be attached to Resolution 2007-006.

2. 2006 Audit Report – Rob Zisko moved to accept the report of the auditors for 2006. Karen Bedics seconded; the motion passed unanimously.

New Business

1. Award Bid for Paving Materials – Rich Schilling provided a copy of the Invitation to Bid which was advertised. The Township received one bid from Coopersburg Asphalt, Division of Naceville Materials, 483 Springfield Street, Coopersburg, PA 18036. Their bid for 500 tons of Superpave 9.5mm wearing course material, 100 tons of Superpave 19.00mm wearing course materials and 75 tons of High Performance Cold Patch, was \$34,838.00. Rich Schilling noted that this is in addition to the free paving material provided by this company to the Township. Rich noted that Bob Wynn still needs to ensure that the bid complies with bid specifications. Rob Zisko moved to award the bid for paving material(s) to Coopersburg Asphalt conditional upon approval from Bob Wynn, Township Engineer. Karen Bedics seconded; the motion passed unanimously.

2. Draft Ordinance on Limiting the Number of Plans for the Same Parcel of Land – At the last meeting, the Township Solicitor was asked to prepare a draft ordinance to limit to one the number of plans that could be submitted concurrently on one tax map parcel. Scott MacNair went over the process to make a change in the Subdivision and Land Development Ordinance. First, the Township Planning Commission and the Bucks County Planning Commission must be notified of the intent to change the ordinance. Then the Board must authorize advertisement of the ordinance prior to a public hearing. At the public hearing, comments would be entertained. In addition, copies of the draft ordinance will be available at the Township Building and at the Bucks County Law Library for the public to review.

Scott summarized the proposed ordinance as follows: When a pending plan exists for a parcel and the Township receives a substantially different plan, this ordinance would permit the Township to deem it a new plan. When this occurred, the Township could then (based upon this ordinance) deny all prior plans in existence and review only the new submission. Determination of whether a submitted plan is “new” or “revised” would be based upon whether the new submittal is responsive to a Township Engineer’s review letter. The other provision of this ordinance deals with “Stale Plans.” This provides that any plan filed with the Township which has not been revised within six months from the date of the last Township Engineer’s review letter can be deemed inactive and may be denied for failure to promptly process the plan.

Karen Bedics moved to authorize the Solicitor to advertise this ordinance when appropriate. Chuck Halderman seconded. Rob Zisko asked if this ordinance had been requested by the Planning Commission. Chuck Halderman stated it was brought up at the last Supervisors meeting (which Rob Zisko was not able to attend). Barbara Lindtner, Planning Commission Chairperson, said they have needed this type of ordinance for some time. Jim Brownlow called for the question. The motion passed unanimously.

3. Draft Ordinance Requiring Disclosure of Certain Property Issues for Buyers of New Construction – Scott MacNair summarized the proposed ordinance as follows: This ordinance deals exclusively with new construction. Following the enactment of this ordinance, a seller who is either selling an empty parcel or a parcel that has new construction on it will be required to provide a list of things to the buyer that might include any open space or easements on the parcel, any restrictions on the parcel, existence of a home owners’ association, where the lot lines are located, where the setbacks are located, the amount of impervious surface still available, height limitations, delineating of natural resources, etc. Both the seller and the buyer will need to sign this written disclosure statement. Rob Zisko questioned who in the Township would enforce such an ordinance. Chuck indicated that obtaining signatures of the buyers prior to the sale would indicate they understood the need for

maintaining stormwater facilities, retaining a second septic system site in case of future failure of their system, etc., thus assuring that in the future, if they do not comply and a problem develops, we have a legal basis for remedial action through our zoning officer. Rob feels that this ordinance is too restrictive for property owners. Karen Bedics asked that existing carbonate geology on a property be added to the draft ordinance.

Chuck Halderman **moved** to authorize the Solicitor to advertise the ordinance with the addition of the carbonate geology feature. Karen Bedics **seconded**. Voting **Yes**: Karen Bedics, Jim Brownlow, Chuck Halderman. Voting **No**: Rob Zisko.

4. PSATS Proposed Resolutions for the April State Convention – Rich Schilling indicated that the Board has designated Karen Bedics as the voting delegate to the April PSATS Convention. To permit her to cast votes representative of the wishes of the entire Board, Rich provided a list of the Resolutions that will be voted upon. Karen requested Members of the Board to mark their thoughts on their copies of the list of Resolutions no later than Friday, April 20. Chuck Halderman thanked Rich Schilling for providing the proposed actions to the Board members for their input prior to the Convention. Karen read several of the proposed resolutions so that residents understood the type of decisions that would be made.

Correspondence

Jim Brownlow acknowledged receipt of the following items of correspondence:

1. Miscellaneous correspondence from Solicitor/Township engineer
2. Durham Township Newsletter
3. 2007 PA Stormwater Management Symposium Brochure
4. Bucks County Conservation District NPDES Review letter for *Burland*
5. DelVal Soil & Environmental Consultants, Inc., *Rolling Hills Subdivision*
6. DEP letter for *Woodruff* application for Planning Modules
7. *Rural Perspectives* Newsletter
8. FEMA letter on NFIP Map Update
9. Letter from G. Christian Kimmerle on natural gas production
10. Letter from Law Office of Edwards & Litman on multiple development applications involving the same parcel.
11. Bucks County Planning Commission Review Letters for the *Joseph, Rennie* and *Hall Subdivisions*.

Public Comments

Robert Bell asked if the Township would be responsible for the accuracy of information contained in the Disclosure Statements referred to in the draft ordinance previously discussed. Scott MacNair indicated that even though the Township is requiring the disclosure, accuracy of the information provided would be the responsibility of the builder who prepared the documents. Scott added that disclosure statements such as the one being considered are already being effectively used throughout Bucks County by other townships and/or municipalities.

Majda Newman requested whether the Board would reduce the \$3,000 per lot fee-in-lieu of road improvements for the three lots of her subdivision, since her subdivision was approved prior to adoption of the ordinance requiring these fees.

Jim Brownlow reviewed action taken at the March 27 Supervisors meeting when the Supervisors voted that required roadway improvements would need to be made. He indicated that at that time, the Township was willing to accommodate Ms Newman's and her neighbors' request to waive these improvements contingent upon a contribution to the Highway Capital Improvement Fund. This contribution would guarantee that any problems that arise in the future because the road frontage improvements had not been made could be corrected by the Township from the funds contributed by Ms. Newman to the Highway Capital Improvement Fund. Action was taken at that meeting to deny her waiver request because she was unwilling to contribute to this fund.

Rich Schilling asked that Ms. Newman submit in writing what she is requesting from the Board so that our professional staff can review and make recommendations on the implications of waiving or reducing the fee. Ms. Newman's extension for completing the required improvements expires on April 25, so her written request could be reviewed by the Supervisors at their April 24 meeting. Rich added that she should be prepared with a request for an extension for completing the improvements in case the Supervisors decide not to lower the \$3,000 fee per lot.

Ms. Newman plans to give the property to her brother on Friday, April 13. She was advised that since the escrow fund for improvements is in her name, she will be responsible for completing the improvements, regardless of who owns the property. Ms. Newman then stated that she wished to pay the \$3,000 per-lot fee so that action could be taken at this meeting. Jim Brownlow **moved** to waive the subdivision requirements for road improvements in exchange for a \$3,000 per-lot (number of lots in this subdivision to be confirmed by Bob Wynn, Township Engineer) contribution to the Highway Capital Improvement Fund. Rob Zisko **seconded**; the motion **passed** unanimously.

Morning Call Reporter asked whether the comments made by Scott MacNair at the opening of the meeting were in regard to Scott Huber. Rich Schilling indicated the matter discussed was a personnel matter and no further comments would be made. The reporter asked what Scott Huber's status of employment was with the Township. Rich indicated we would not comment further.

Intelligencer Reporter asked who was running the Police Department. Rich Schilling advised that the department is functioning and is being run by the police.

Hans Reimann referred to the correspondence from FEMA on the NFIP map update. Rich Schilling will provide a copy of that item to Hans for the EAP meeting.

Supervisor's Comments

Chuck Halderman advised that the Upper Bucks Regional EMS would have an event on Friday, April 13, at the Springtown Rod & Gun Club. Rich Schilling advised that the flyer came in via email on Monday, April 9, and was posted on the Township bulletin board. Additional flyers are available for the public to pick up on the table under the bulletin board.

Karen Bedics spoke to the following issues:

1. Conservation Easements, Zoning Infractions, Stormwater Management Issues, Environmental Damage in Cook's Creek Watershed – Karen wants to know if we can “put some teeth” into our enforcement of conservation easements, stormwater runoff, etc. There have been infractions over the past year and she wants to know what legal recourse the Township has to 1) stop violations, 2) provide consequences if someone is in violation.

Scott MacNair indicated that Jeff Mease, Zoning Officer, should be notified of any violations. If normal steps taken on the Township level are not successful, Jeff would contact the Solicitor and appropriate action could be undertaken on behalf of the Township. In the case of conservation easements, follow up would be governed by the specific easement document. With zoning issues, initial action would probably take place in District Court. Stormwater issues would be governed by enforcement measures within the Stormwater Ordinance. All actions, however, are dependent upon the Township Zoning Officer being notified of problems that exist and then having him initiate contact with the Solicitor's office so that they can assist.

Rich Schilling noted that there would need to be a protocol established to avoid neighbor feuds causing Jeff to incur solicitor charges. Jeff should make an initial determination as to whether or not there has actually been an infraction of an ordinance, easement, etc., and second, whether he needs assistance from the solicitor. Then, he needs to go through the enforcement procedure mandated under the MPC. When those steps have been followed with no results, then the case could move to the solicitor for further action. Rich noted that some of the concerns Karen listed are not in the jurisdiction of the zoning officer to manage. For example, environmental damage in Cook's

Creek Watershed would typically fall under the jurisdiction of the DEP or the Conservation District. Stormwater Management would fall under the NPDES (Bucks County) and our Township Engineer.

Chuck Halderman feels that other townships enforce all the regulations, including soil runoff, etc. DEP has basic language to protect the health of the water and the welfare of the people. Chuck feels we need to be able to enforce people in our Township abusing soil erosion, runoff into streams, etc. Rob Zisko asked how conservation easements were involved in this discussion. Chuck stated that when Township funds are being used for conservation easements, punitive damages must be included in the language of the easement, and the Township should safeguard these easements and hold the easement property owners accountable for infractions of the easement regulations. Rob Zisko stated that logging is permitted on properties with easements, and if the Township wants property owners to execute conservation easements, they cannot over-regulate what property owners can do on their properties. Rob reiterated what he has stated before; he feels the purpose of conservation easements is to prevent people from developing their property—to stop houses from being built. Rob reminded the Board that Agricultural Easements are different from Natural Areas Easements. Ag Easements are through the County and State and the Township has no right to enforce an Ag Easement. To do so could put the Township in jeopardy of a civil rights violation.

Karen is particularly concerned with watershed violations. She feels people are ignoring the regulations regarding the watershed and nothing is being done to stop the violations.

Summarizing, Rob Zisko asked the Solicitor whether it was accurate to say that when the Township has paid money for an easement, the Township can enforce the rights as defined in that particular easement language. Scott MacNair agreed that this was correct. If there is no language in the easement giving the Township authority, then the Township has the same authority that it would have with any other property owner.

Jim Brownlow indicated there are different levels with some of the issues of concern. For instance, there are subdivision plans approved that contain stormwater management plans which require that certain things be done by the developer. He questioned what enforcement potential the Township has to ensure that these requirements are maintained over the life of that property by subsequent owners. Jim is not referring to someone filling in stormwater facilities; rather, he is talking about natural filling in over the course of time. Because of the multi-levels involved in some of these issues, Jim feels the question is, “What can the Township do to enforce any of these areas?” It isn’t a simple answer when you move into areas that involve County, State, etc., to determine what authority the Township has. Scott MacNair indicated that in a case like Jim described, the Township can go after the homeowner under the Township Ordinances, you can contact the County to go after them under the State regulations, and move right on up the line of authority. It is not a rigid situation where one agency pursues compliance and all others must drop off.

Chuck asked how the Township Zoning Officer can be authorized to take immediate action when there is an infraction in our township rather than calling an outside agency which may take a month to respond. Scott MacNair said that we need to have a stand-alone ordinance to permit this. He will bring the Wrightstown Ordinance for the Board’s review.

Rich Schilling reminded the Board that we have one Zoning Officer who is stretched to the limit. Rich would like to re-advertise for a part-time Zoning Officer with at least three to five years verifiable experience in zoning or Zoning Hearing Board activities. Karen Bedics **moved** to authorize Rich Schilling to re-advertise for an assistant part-time zoning officer with three to five years verifiable experience in zoning. Jim Brownlow **seconded**; the motion **passed** unanimously.

Karen attended a *Building Greener* seminar in March. She brought back a lot of literature from that seminar that she will share with whoever is interested. Copies will be available at the Township Building for Township residents.

Karen Bedics **moved** that the Board authorize the Township Manager to send a letter to the County specifically requesting that no spraying for mosquitos be done in the Township because of the Cooks Creek Watershed. She

suggested as a healthy, environmentally safe alternative to spraying, that the Township could use funds earned from the paper retriever to buy some lumber and have some local youth group(s) build some bat houses. Residents would submit their names to the Township if they are interested in having a bat house and the bat houses would be given out using the lottery system. Chuck Halderman **seconded** the motion. Rob Zisko feels that we should have mosquito spraying in the Township. **Yes:** Karen Bedics, Chuck Halderman, **No:** Jim Brownlow, Rob Zisko. The motion **failed**.

Rob Zisko feels the best way to preserve the Cooks Creek Watershed is to control development and the additional houses that it brings. More homes draw more water from the watershed and release more septic effluent into the watershed. He is also concerned about over-regulation in our Township. People will not utilize conservation easements that are overly restrictive to them as property owners.

Rob Zisko thanked Rich Schilling for his diligence in working with our representatives toward having the bridge on Old Bethlehem Road repaired instead of replaced. PennDOT contacted Rich Schilling and advised that the repair work will be done in 2007.

Rich Schilling, referring to the Cooks Creek Watershed Roadside Cleanup scheduled for Saturday, April 14, indicated that the Township police and road department will assist by providing safety backup for the volunteers. Rich asked for authorization to pay overtime to the road department to provide support if needed. Rob Zisko **moved** to authorize overtime pay for the road department to protect the volunteers involved in roadside cleanup on April 14. Karen Bedics **seconded**; the motion **passed** unanimously.

Adjournment

At 9:03 p.m., Rob Zisko **moved** to adjourn the meeting. Karen Bedics **seconded**; the motion **passed** unanimously.

Respectfully submitted,

Sandra L. Everitt
Secretary

Next meeting: April 24, 2007