

**RYE TOWNSHIP  
SUPERVISORS' MEETING  
September 22, 2008**

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**PRESENT:** Chairman Ronald Evans, Vice-Chair, Robert Lightner, Supervisor, Sharon Cole Engdahl, Daisy Lightner, Secretary/ Treasurer, Ron Cree, Zoning Officer, Pete and Barbara Fitting, Sean Fedder, William and Barbara Holley, Mike and Joan Tomko, Freda Baker, Beverly Miller, Jean and Larry Kuhn, Richard Myers, Mike Drewett, Timothy A. Wood, Sr., John W. Smith, Florence Pinci, Gary Roth, Thom Casey of the Duncannon Record, and P. Richard Wagner, Esquire.

Former Supervisor present: Phyllis Page.

The meeting was held at the municipal building and called to order at 7:30 PM. Chairman Ron Evans 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 Evans welcomed everyone to the meeting and asked if there was any citizen participation at this time. None was offered at this time.

**APPROVAL OF THE MINUTES:** Lightner made a motion and Cole Engdahl seconded to approve the minutes of the August 25, 2008 supervisors' meeting minutes as submitted. Motion carried unanimously.

Lightner made a motion and Cole Engdahl seconded to approve the minutes of the September 9, 2008 special supervisors' meeting as submitted. Motion carried unanimously.

**PERSONS TO BE HEARD:** Richard Meyers of 5 Willow Street approached the board to ask for clarification on set backs for the placement of a shed and dog kennel installed by his adjoining neighbor, which encroaches on to Meyer's property. According to Meyers, his lot, which he purchased in 2006, was recently surveyed and verified that the shed and dog kennel are located partially on his property. The date of the placement of shed was not known, but it was installed prior to Meyer's purchase of the lot. The survey revealed that the shed is approximately 4/10 of a foot on his property. Meyers said the more recent installation of the dog kennel substantially changed the direction of the storm water run off onto his property. The water now runs under the shed eroding the ground and causing the shed to slowly slip down on to his property. Meyers said he spoke with Zoning Officer Ron Cree with no resolve and was seeking further clarification from the Board and Solicitor. He sent his neighbor a letter to no resolve. Meyers provided the Board with pictures of the shed and dog kennel. He explained his concerns, but said the main concern is the placement of the dog kennel. Meyers asked if there might be a Township ordinance that would provide him the relief he was seeking.

Zoning Officer Cree said he spoke with Mr. and Mrs. Meyers and instructed them to have their property surveyed to determine if the shed and kennel actually encroached upon his property. Cree said he further directed Mr. Meyers to take his concern to the local District Justice, because this was a property dispute among neighbors, which should be addressed civilly in the courts.

Discussion ensued with Solicitor Wagner and the Board.

Solicitor Wagner advised Mr. Meyers to go back to the title company that did the title search when he purchased his property and ask why they did not pick up that the shed is located on his property. Solicitor Wagner said the Township is not the appropriate authority to handle property disputes among property owners. The matter must be handled between the two property owners, their respective attorneys, and the Court.

**MONTHLY MUNICIPAL REPORTS:** Corporal Clint Shoop submitted copies to the Board and Supervisor Lightner read the August Police Report as follows: 89.2 gallons of fuel used, drove 228.8 miles, worked a total of 168 hours, 1 burglary, 1 domestic, 1 fraud, 1 disorderly conduct, 1 harassment, 1 fraud case, 2 motor vehicle accidents, 10 traffic citations and 1 non-traffic citations and 5 warnings. Total fines collected from the District Justice were \$ 226.10.

The September Zoning Report was submitted by Zoning Officer, Ron Cree and available for review. Zoning Officer, Cree read the report as follows: 10 complaints, three (3) zoning permits, zero, 0 certificates of use, mileage reimbursement for 150.1 miles, fees collected totaled \$205.00.

Since there was not much activity during the last month, no September Sewage Enforcement Report was submitted by SEO Mike Higgins.

The September Road Report was submitted by Road Foreman, Brad Sloop. Chairman Evans read the report and placed it on the table for review. Evans noted the delivery of a new 2009 dump truck in early September, which was purchased from Five Star International and Industrial Motor Supply.

Pete Fitting, a member of the Rec Board, announced the following upcoming event:

- ◆ Halloween in the Park at 6:00 PM on Saturday, October 25, 2008, rain date of Sunday October 26 at 5:00 PM. The time for the rain date on Sunday is earlier because of daylight savings time. A bon fire, hay rides, haunted trail, & refreshments are planned.

No Emergency Management Report was offered.

The August Treasurer's Report & General & Solid Waste Fund Balance Reports were submitted for review by the Secretary/Treasurer & with no discussion were accepted as read pending the auditors' final review.

**LEGAL BUSINESS:** Solicitor Wagner reviewed a letter received by the Board from Michael C. Drewitt expressing concern that a stream, which flows on to his property at 3549 Grier Point Road, has stopped flowing on a daily basis beginning on August 20, 2008. Drewitt alleges the cause of the lack of flow in the stream is due to a pond, which is located south of his property on a property addressed as 3552 Grier Point Road. Drewitt requested the Board of Supervisors take action against the property owner(s) of 3552 Grier Point Road to enforce the Nuisance Ordinance 84-2/13, Section II.H., which states Nuisances, including, but not limited to the following are hereby declared to be illegal upon confirmation by the Board of Supervisors: *H. Interfering with the flow of a stream, creek, or other waterway, by means of dam construction or otherwise.*

Solicitor Wagner discussed details of this concern with Zoning Officer Cree. Cree said he went on site to check the concern and directed Drewitt to contact the Pennsylvania Department of Environmental Protection, DEP. Wagner asked if DEP permitted the installation of the pond.

At the Zoning Officer's advice, complainant, Michael Drewitt said he contacted DEP and was told that DEP was not sure if they had jurisdiction over this pond and his concern. DEP has not provided a response to date. Therefore, Drewitt requested the Board enforce his concern under the local Nuisance Ordinance.

Solicitor Wagner said that case law dictates that the situation with the pond and the minimal flow of water from the pond into this small stream must not only be declared to be a nuisance, but must be able to be proven in court to constitute a nuisance to successfully prosecute the situation. Solicitor Wagner said, in his opinion, he would be hard pressed to convince a court in this County that the drying up of a stream from a lack of flow from a pond constitutes a nuisance.

Discussion ensued.

Supervisor Cole Engdahl asked when the dam at the pond was installed.

Drewitt said the dam was installed after the Howers built their home at 3552 Grier Point Road, which was definitely after the 1984 Nuisance Ordinance was adopted. Drewitt was unsure when the pond was installed, but Drewitt knew the pond was not in existence in 1986. *(Township records indicate that the Howers occupied their new home in March of 1995.)*

Supervisor Robert Lightner, whose family resided and farmed the western end of Rye Township for many years, said the pond was in existence at least since 1939, because Paul Lightner used it as a watering hole for his hogs. Lightner said he visited the site on Friday, September 19, 2008 and found that the pond has been updated and is definitely more elaborate. But the pond was not initially installed by the owners of 3552 Grier Point Road. Supervisor Lightner said the water was flowing in this small feeder stream on Friday, September 19th when he visited the site.

Drewitt said the stream flow changed on August 20, 2008 and insisted that the current residents are the ones responsible for the construction of a dam at this pond, which Drewitt believes is the cause of the hindrance of the flow of water to the stream, which flows unto his property at 3459 Grier's Point Road.

Solicitor Wagner reiterated his advice that, from a legal perspective, the consequential drying up of a stream from a pond on an irregular basis does not constitute a nuisance. Even if the residents installed the dam in 1995, the pond was installed over thirteen (13) years ago. The statute of limitations for enforcement of the Nuisance Ordinance ranges from 2-4 years. Wagner advised that the better resolve is to deal with this difficulty through private redress with his neighbor. Mr. Michael Drewitt and Mr. Richard Myers left the meeting at this time.

**RESOLUTION:** Lightner made a motion and Cole Engdahl seconded to adopt **Resolution 08-11**, which authorized the Secretary/Treasurer to transfer \$48,800.00 from the Highway Aid Checking account into a short term investment CD of 11 months for a better interest rate of 3.05%. Motion carried unanimously.

**OLD BUSINESS:** Lightner made a motion with a second from Chairman Ron Evans to table any action on the issuance of a 2009 salvage license to Donald Wood until an inspection is conducted in regards to the status of outstanding conditions placed on the previous salvage yard license and to investigate complaints that the facility has been operating the business early in the morning and later in the evening. Junkyard Ordinance No. 9 stipulates the hours of operation from 7:00 AM to 6:00 PM. Motion carried unanimously.

Neighboring property owner Florence Pinci of 1840 New Valley Road said trucks are running into the salvage yard as early as 5:00 AM and run throughout the day until after dark disturbing the peace in the neighborhood. She further expressed concern for damage to the roadway pavement with the daily truck traffic into the salvage yard.

Discussion ensued with Timothy A. Wood, Sr., who resides at the house in the salvage yard addressed as 1790 New Valley Road said his father, Donald Wood did plant some trees.

Supervisor Lightner read from Junkyard Ordinance No. 9, Section 6. (e). *Such premises shall not be open for business nor shall any work be done therein in connection with the storage, processing and transporting or removal of junk at any time before seven o'clock AM or after six o'clock PM on any day with the exception that emergency calls due to highway accidents might be serviced at any time.* Lightner said Donald Wood has a copy of Ordinance No. 9 and the operation of the salvage yard in this residential neighborhood must be in compliance for the Board to approve a new license for 2009.

**NEW BUSINESS:** Three proposals were received for the costs of delivery/hauling of containers and tipping fees for the October 3 and October 4- Fall clean-up as follows:

	<u>Cocolamus Creek</u>	<u>Tiger Trash</u>	<u>Sylvester's Services</u>
Haul Fee	\$120.00	\$215.00	\$260.00
Delvry Fee	\$135.00	\$ - 0 -	\$- 0 -
Tip Fee	\$ 61.50	\$ 66.00	\$ 65.00

Discussion ensued. Upon due consideration of all bids received, Cole Engdahl made a motion and Lightner seconded to award the Fall Clean up contract to the lowest bid received from Sylvester's Services Disposal Service of Duncannon to provide roll-off containers, including the containers needed for scrap metal at no extra charge. The approval and motion is contingent upon the receipt of a certificate of Worker's Compensation and liability insurance, tickets signed by the municipality for each roll-off delivered, and a certificate of compliance with Federal CDL requirements for drug and alcohol testing for their truck drivers. Motion carried. All members voting in favor.

Chairman Evans announced the following:

- Recycling, Saturday, September 27<sup>th</sup>, 8 AM to 12 noon
  - Recycling bins – 24/7 in gravel parking lot, October 1st
- Supervisor Lightner said the bins were received through a State recycling grant. Lightner said to watch for the article in the Fall Newsletter for more information.
- Budget Meetings Thursday, October 2, 2008 at 7:00 PM
  - Fall Clean Up, Friday, October 3 & Saturday, October 4
  - Office Closed Monday, October 13, 2008, Columbus Day
  - Trash collected Tuesday, October 14, 2008

**APPROVAL AND PAYMENT OF THE BILLS:** The Secretary/treasurer provided a September expense check register and submitted the following checks for approval and payment: General Fund Check #s 11646-11671 in the amount of \$28,119.73. No checks void.

Payroll checks #s 5228--5235 in the amount of \$6,103.29. Payroll checks #s 5236--5246 in the amount of \$5,868.29. No payroll checks void.

An electronic transfer, ELF was made from the General Checking account by PCI, Insurance on September 22, 2008 in the amount of \$6,783.02 for October's health insurance

With no further discussion on the bills presented, Lightner made a motion & Cole Engdahl seconded to approve the checks & pay the bills, except for check # 11638 issued to Daisy Lightner in the amount of \$35.69 for mileage expense. Motion carried unanimously.

Supervisor Cole Engdahl made a motion to approve check # 11638 issued to Daisy Lightner for mileage expense. Chairman Evans seconded. Motion carried. Supervisor Lightner abstained due to a conflict of interest, because Daisy is his spouse.

**CITIZEN PARTICIPATION:** Michael and Joan Tomko of 1 Ridge Road asked what the set back is for placement of a fence and for the placement of a mail box.

Discussion ensued. Zoning Officer Ron Cree said the fence can be on the property line. Questions arose regarding what the Zoning regulations state. Research revealed that the set back for fences according to the definition of a Fence in Zoning Ordinance 03-01 is on or within two (2) feet of side or rear lot line when a structure is erected to divide or define and mark the property line.

Chairman Evans said the United States post office dictates the regulations for mail boxes and their location.

**EXECUTIVE SESSION:** The Board recessed to executive session at 8:47 PM to discuss the terms of a union contract proposal received from the Teamsters on behalf of the road crew.

**RECONVENE THE MEETING:** Chairman Evans reconvened the meeting at 8:58 PM. He explained that the union contract for the road crew was discussed. The Board is in the middle of negotiations and no decisions were made.

**ADJOURNMENT OF THE MEETING:** There being no further business before the Board, Cole Engdahl made a motion and Lightner seconded to adjourn the meeting at 8:59 pm. Motion carried unanimously.

Respectfully submitted,

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Daisy Lightner  
Secretary/Treasurer