

**RYE TOWNSHIP
SUPERVISORS' MEETING
June 22, 2009**

PAGE 1 OF 8

PRESENT: Chairman Robert Lightner, Vice-Chair, Ronald Evans, Supervisor Ken Quigley, Daisy Lightner, Secretary/ Treasurer, Ron Cree, Zoning Officer, Jean Snyder, Peggy and Sean Fedder, Raymond, (Pete) and Barbara Fitting, William and Barbara Holley, Donald Wood, Sr., Thomas Metz of Metz Engineering, Rick McGinnis, Kim Lenker, Charlie Cook of Act One Consultants, Nancy Sunday, Denby Quigley, Debra Mirezni, Wendy Holler, Marysville/Rye Library Director, Lisa Dorman, Peffer, reporter, and P. Richard Wagner, Esquire.

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.

APPROVAL OF THE MINUTES: Lightner made a motion and Evans seconded to approve the minutes of May 26, 2009 supervisors' meeting as submitted. Motion carried.

APPOINTMENT OF A SUPERVISOR: Evans made a motion and Lightner seconded to appoint Kenneth C. Quigley to fill the supervisors' position left vacant with the resignation of Sharon Cole Engdahl. Motion carried unanimously. The Board members welcomed Ken aboard. The Secretary/Treasurer noted that an Oath of Office is on file for Supervisor Quigley.

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

PERSONS TO BE HEARD: Wendy Holler, director of the Marysville/Rye Library Association, introduced herself and provided the Board with copies of a handout listing the Library's mission statement, the services offered by the Library, statistics for items borrowed, and a pie chart of the 2008 income sources. Holler explained the handout and the programs sponsored by the Library. She was pleased with the participation for the Summer Reading program. Holler expressed appreciation to Rye Township for their financial support throughout the years, especially since Perry County is one of the few counties in the State that does *not* receive funding from a county tax.

Holler thanked the Board for their continued support and left the meeting at this time.

Commercial Realtor, Rick McGinnis, addressed the Board on behalf of his client, Kim Lenker. Mr. Lenker is interested in purchasing the property addressed as 1790 New Valley Road to install a recycling facility.

Chairman Lightner offered that the Board was not aware that this item was on the agenda until today. Therefore, without any information or time to review it, the Board could not consider any action tonight. Lightner offered that for future meetings, the Board intends to set time deadlines for parties or persons to be placed on the agenda. Board members would then have the information needed and adequate time for review in preparation to discuss the subject(s) coming before them.

Mr. McGinnis asked the Board if he might briefly explain the intent of his client, Kim Lenker, to the Board in regards to the use of the property at 1790 New Valley Road. Chairman Lightner agreed. It was determined that the majority of the said property is zoned Residential 1, (R-1), with a small portion of the wooded area to the south zoned Conservation Forest, (CF). The 1790 New Valley Rd property was the site of the former Fry's Salvage Yard & is currently grandfathered for use as a junkyard. Donald Wood is the current owner/operator of the said property & Woody's Auto Salvage Yard. Kim Lenker previously attended a Rye Twp. Planning Commission meeting to seek direction and discuss a proposed center on a piece of commercial property owned by the Heisleys. However, the Heisleys are not interested in his proposal.

Mr. McGinnis explained that the proposed recycling center at the 1790 New Valley Road address would be available for homeowners and commercial companies to recycle items such as glass, dry wall, and new pieces of wood from construction projects. All recycling would take place inside buildings. McGinnis explained that even the 30,000 gallons of water used to keep down the dust created in the recycling process would be recycled.

Chairman Lightner mentioned that the County government currently runs the recycling program and their review and input on the proposed recycling center would be appreciated. Concerns with noise, dust, access to the site, increase in local traffic flow, an approved land development plan addressing storm water issues with the new construction, applications for permits for type and size of any newly constructed buildings etc were some of the items that would need to be addressed. Although Chairman Lightner offered that he personally is not in favor of this type of facility within this residential community, he encouraged Mr. McGinnis to proceed through the proper channels, perhaps beginning with the Rye Township Planning Commission or the Rye Township Zoning Board.

Solicitor Wagner advised that there are a multitude of issues involved with this proposed recycling facility at 1790 New Valley Road and elaborated as follows:

1. Does the non-conforming use in this residential district of an existing junkyard permit the construction of a proposed recycling facility as part of the natural expansion when you are expanding a non-conforming use?
2. If the license expires for the existing property, what is the timeframe within which you have to move forward to operate that expansion of that non-conforming use before it is abandoned?
3. Who makes the decision for approval of the proposed recycling facility?
The Zoning Officer may be the one who decides and, dependent on his interpretation and decision, the issue may come before the Zoning Hearing Board for a decision and not before the Board of Supervisors.

Solicitor Wagner offered that he is not trying to give anyone a hard time, but advised Mr. McGinnis to seek legal counsel or a consultant from an engineering firm for interpretation of the Township's regulations in light of the proposed recycling facility to determine how best to proceed.

ORDINANCE: Proof of Publication is on file for **Floodplain Ordinance 09-02**, which amends Ordinance No. 79-2 and all provisions thereto requiring all persons, partnerships, businesses, and corporations to obtain a zoning permit for any construction or development; providing for the issuance of such zoning permits; setting forth certain minimum requirements for new construction and development within areas of Rye Township, which are subject to flooding, and establishing penalties for any persons who fail, or refuse to comply with the requirements or provisions of this Ordinance. The Floodplain Ordinance was reviewed by the Perry County

Planning Commission and the Rye Township Planning Commission. All written comments provided were addressed.

Upon due consideration, Supervisor Quigley made a motion and Supervisor Evans seconded to adopt Floodplain Ordinance 09-02, which updates and amends Rye Township Ordinance 79-2 and all provisions thereto; Motion carried unanimously. The Board signed the Ordinance at the end of the meeting.

SUBDIVISION PLANS: Charlie Cook of Act One Consultants approached the Board for approval of the Kauffman Land Development Plan. Cook explained that Brent and Dawn Kauffman of 407 Mountain Road applied for a permit to construct a rather large building for the storage of boats, which was to be connected to an existing pole building, which currently the existing building is permitted as an in-home business and is used as a shop to install plastic on the bottom of boats. Cook explained that he was initially hired to prepare a stormwater management plan to account for the roof runoff for the proposed new boat storage area. Upon investigation of the site, Cook realized that the project was going to be complicated. In the meantime, Kauffman excavated the site for the proposed construction. Zoning Officer Cree offered that Kauffman began the excavation without the proper permits. Perry County Conservation District became involved and inspected the site and Kauffman received a citation. Cook explained that in addition to the proposed building, Kauffman is at the same time constructing a rather large pond from an existing on-site spring. Cook explained that Kauffman expanded the spring to gain more water for his large pond and created a point discharge, which greatly upset the Department of Environmental Protection.

Zoning Officer Cree indicated he visited 407 Mountain Road today and the site excavation is stabilized. However, the Perry County Conservation District has not conducted their final inspection for compliance, which is scheduled for later this week. The Kauffman plan was reviewed and informally approved with conditions by the Rye Township Planning Commission. Review filing fees of \$30 were paid to the Township office. The Transmittal letter from Act One Consultants clearly identifies the submission brought to Rye Township as a land development plan. However, the application form was not signed by the owner or the applicant's agent. At their June 2, 2009 meeting, the Planning Commission advised Cook to come before the Board of Supervisors for final approval.

The Township's 33 feet R-O-W for Dean's Gap Road was discussed. The Board expressed concern that Kauffman has placed boulders in the Township's R-O-W at Dean's Gap Road. The Board noted that the R-O-W is not designated on the survey or the plan before the Board.

Solicitor Wagner asked why Cook as Kauffman's surveyor was coming before the Board of Supervisors. Wagner advised that the Board of Supervisors does not have jurisdiction over a private property owner's parcel, unless they are doing something on that lot that constitutes land development. Wagner offered that arguably this should be a land development plan, which is recorded. The concern is that the Rye Township Planning Commission is saying in their minutes that this is not an official land development plan. Zoning Officer Cree offered that his opinion is that this is a land development plan. Solicitor Wagner suggested that Cook return to the next Planning Commission meeting on July 7, 2009 for their input and their determination if what Kauffman has done and is proposing to do with the construction of the boat storage addition on his parcel at 407 Mountain Road does in fact constitute land development. Supervisor Quigley offered that there was a permit required for soil disturbance. Chairman Lightner offered to

discuss this concern at July 7, 2009 Planning Commission and request that possibly Tom or Gordon attend the July 27, 2009 supervisors' meeting. Upon due discussion Supervisor Evans made a motion with a second from Supervisor Quigley to table any action on the Kauffman Land Development Plan to gain clarification from the Planning Commission and to determine if the proposed construction at 407 Mountain Road constitutes land development. Motion carried unanimously.

The Secretary/Treasurer indicated she would add the Kauffman plan to the July 7, 2009 Planning Commission agenda and to the July 27, 2009 Board of Supervisors' meeting.

Cook acknowledged the direction, but indicated he would be unavailable to attend the July 27th meeting. However he would send another representative.

The Board of Supervisors directed the Secretary/Treasurer to draft a resolution for the Board's consideration at the July 27, 2009 meeting setting a time frame of the Monday before the meeting as the last day for persons or parties to be added to the Supervisors' meeting agenda.

Chairman Lightner explained that the Barlup and Barlup Subdivision Land Development Plan was granted preliminary plan approval with conditions at the March 23, 2009 supervisors' meeting. The applicant agreed to the conditions. However, no further action or submissions have been made by the applicants or Burget Associates, the applicants' agent. Chairman Lightner asked what action is required by the Board at this point.

Solicitor Wagner advised that the Board does not need to take any further action. According to the Municipal Planning Code, MPC, the applicant has (5) years from preliminary plan approval to submit the final plan to the Township. The disadvantage to waiting several years to come back for final approval is that the plan will be subject to any changes or revisions to the Ordinances.

Since no action has been taken on the Woody's Salvage Yard Land Development plan for several months, Chairman Lightner asked the status of the said Plan. Tom Metz, engineer for Donald Wood, said Mr. Wood plans to proceed with his plan. Financial hardships have hindered the process, but their intent is to attend the July 7, 2009 Planning Commission meeting.

Tom Metz approached the Board to request a 60 day time extension for the Donald Wood Auto Salvage Yard Land Development Plan to allow for deficiencies to be addressed and bring said plan into compliance with all regulations. Supervisor Quigley made a motion and Supervisor Evans seconded to grant an additional sixty (60) day time extension for the Donald Wood Auto Salvage Yard Land Development Plan to allow the applicant time to address all deficiencies and bring the plan into compliance with all regulations. Motion carried unanimously. This brings the time extension for a decision to be rendered by the Board on Woody's plan to August 21, 2009. Tom Metz and Donald Wood left the meeting at this time.

The Board discussed the **Ditmar/Corl Subdivision Land Development for the property located at the top of Pine Hill Road**. This plan came before the Planning Commission, who agreed to waive review of the plan because the majority of the development occurs within Carroll Township. Since the Dittmar/Corl plan contains in part, a tract in Rye Township, the Township would have the jurisdiction to review that section of the plan in accordance with the applicable Township ordinances. The developer however, has requested that the Township waive the requirement to review the plan. A waiver can be granted. The MPC clearly says that the governing body may grant a modification of the requirements of 1 or more provisions if the literal enforcement will exact undue hardship of peculiar conditions pertaining the land, provides such modification will not be contrary to public interest that the purpose and intent of the ordinance is observed. Therefore it is up to the Board of Supervisors to determine if review of the plan can be waived.

The Solicitor discussed the recommendation from the Planning Commission to waive the planning review of the Dittmar/Corl Plan involving the area at the top of Pine Hill Road to Carroll Township. Solicitor Wagner advised that the Board of Supervisors is the one that has the authority to waive the review. However, the Planning Commission is only a recommending body. Since the bulk of the Dittmar/Corl Subdivision Land Development Plan at the top of Pine Hill Road falls within Carroll Township's jurisdiction, Supervisor Quigley made a motion with a second from Supervisor Evans to waive review of the Dittmar/Corl Subdivision Land Development Plan involving the area at the top of Pine Hill Road to Carroll Township, except the review is not deferred as it relates to stormwater management impact in Rye Township. The stormwater management plan and calculations will be requested from Carroll Township for review by the Rye Township Planning Commission. Motion carried unanimously.

The Secretary/Treasurer was directed to notify Carroll Township, the applicant and the applicant's agent in writing that the Board of Supervisors has deferred review of the Dittmar/Corl Plan involving the top of Pine Hill Road to Carroll Township. However, it is not deferred as it relates to stormwater management impact in Rye Township.

Supervisor Evans made a motion with a second from Supervisor Quigley to grant a time extension request until **August 24, 2009** from Burget Associates on behalf of the Dittmar/Corl Subdivision Land Development Plan to allow the applicant time to gain approvals from Perry County Conservation District and to address the engineer's comments. Motion carried unanimously.

MONTHLY MUNICIPAL REPORTS: The Police Report for June was not available. Corporal Shoop was on vacation and thought the monthly board meeting was next week.

The June Zoning Report was submitted by Zoning Officer, Ron Cree and available for review. Cree read the report as follows: six (6) complaints, three (3) zoning permits, 0 certificate of use permit, and mileage of 52 miles for a total of \$215.00 in fees collected.

Cree offered that an onsite inspection conducted at Lehman's on Cove Hill Road revealed that the proposed garage is under construction with no apparent violations at this time.

The Sewage Enforcement Report was not available because the SEO is also on vacation.

The June Road Report was submitted by Road Foreman, Brad Sloop. Chairman Evans read the report and placed the report on the table for anyone to review.

Recreation Board member, Bill Holley reported a very successful strawberry festival with 95 people in attendance. Holley announced the following upcoming events:

- July 10 - Friday, Pool Party-Marysville Pool-7-10:00 PM, with concession stand open
- Aug. 16- Ice cream social at the Park-6:30 PM; FREE
- Sept. 12- Pot Luck Supper-6:00 PM-Bring along a covered dish
- Oct. 31- Halloween in the Park

No Emergency Management Report was offered.

The May Treasurer's Report & General & Solid Waste Fund Balance Reports were submitted for review and read by the Secretary/Treasurer & with no discussion were accepted as read pending the independent auditor's approval.

LEGAL BUSINESS: Solicitor Wagner said the injunction to clean up the property and remove abandoned junk and mobile homes was filed and served by the Sheriff's department to the 295 Pine Hill Road address. The owner has twenty (20) days to file a response. If no response is filed, then an additional ten (10) days notice is given. If they still do not respond, then the Township takes a default judgment.

The Board discussed the application for renewal of a salvage yard license at 1790 New Valley Road for property owner and operator, Donald Wood, whose license expires June 30, 2009. Solicitor Wagner recommended that in the event that a renewal application is not filed on or before June 30, 2009 that the Board notify Woods that his license is expired. Supervisor Evans made a motion and Supervisor Quigley seconded the motion to notify Donald Woods that if a junk yard license application is not received on or before June 30, 2009 that his license is Expired and he is unable to operate his junk yard. Motion carried unanimously. And in the interim timeframe, Wood's license will be expired until the Board reviews such application at the July 27, 2009 meeting and makes a decision on whether to renew the license.

Solicitor Wagner explained that Blue Ridge Cable, BRC, is requesting clarification of section 4.1, the term "community related" events. BRC does not wish to grant free advertising service on their community channel to all community agencies. Upon due consideration, the Board clarified section 4.1 of the franchise renewal agreement with the following sentence, "Rye Township and Township agency sponsored events to include the Marysville Fire Company and Marysville/Rye Library". The Secretary/Treasurer indicated she would add this sentence for clarification and send the revised page of the agreement to BRC for their approval.

Questions have come before the Board recently relating to responsibilities for maintenance and operation of the 1799 New Valley Road Park leased by the Township for 25 years from the Rye Township Community Association. The Solicitor read a portion of the 2002 lease and explained that the day to day activities and maintenance of the improvements at the site shall be the responsibility of Rye Township. Both parties agree that the Township has passed an Ordinance creating a Park and Recreation Board, which shall be responsible on behalf of the Township for the day to day operations and maintenance of the improvements at the site.

Recreation Board chairperson, Nancy Sunday, asked if the lease included the use of the Community Building and if so, then questioned why the Township does not have a key to access the Community building. Solicitor Wagner offered that according to the lease, the Township has leased the entire tract of the park containing 8.34 acres and the facilities or improvements thereon.

Access to the Community building was discussed. Discussion ensued on the charges or donations requested at the time of rental by the RTCA for the use of the community building and the use of the electricity at the pavilion. Solicitor Wagner said the Board is leasing the facility and the RTCA has no right to charge or request compensation for use of the facility or the electric. The Township pays an annual fee for the lease to the RTCA, which includes the use of the property and improvements at the site.

For further clarification on a previous issue, Chairman Lightner asked the Solicitor if the lease permits the Recreation Board to trim and maintain the brush on the tract. Solicitor Wagner confirmed trimming brush is part of the day to day operations and maintenance at the site. However, the Recreation Board or Township could not undertake the construction of a new building.

Solicitor Wagner advised the Board send a simple letter to the Rye Township Community Association clarifying and reminding them of the terms agreed upon in the 25 year lease.

Referring to a church's annual strawberry festival, Chairman Lightner asked the Solicitor if there was any other way to annually close the same section of public roadway without advertising an Ordinance for adoption every year. Solicitor Wagner advised all temporary closures of public roadways must be advertised individually. There is no provision to close the same road on a certain date over several years. An Ordinance must be advertised and adopted for each separate road closure.

Chairman Lightner asked the advertising requirements under the Sunshine Law for the Board to meet with employees and discuss personnel issues and day to day operations. Solicitor Wagner advised the Board to advertise the meeting for whatever day and time decided upon. The Solicitor offered the following sample wording for the advertisement: *Please take notice that the Rye Township Board of Supervisors shall meet in addition to their regularly scheduled meeting every whatever week day from 9:00 AM to 11:00 AM to conduct regular business that may come before the Board.* If the Board does not wish to hold the advertised meeting, a sign can be posted on the door and the meeting may be cancelled. There are no advertising requirements for canceling a meeting. The Secretary/Treasurer indicated she would advertise the meeting.

RESOLUTION: Supervisor Evans made a motion with a second from Supervisor Lightner to approve **Resolution 9-13**, which authorized each Board member and the Secretary/Treasurer to sign checks, receipts or order for payment or withdrawal of funds deposited at First National Bank of Marysville and **Resolution 09-14**, which authorizes the Board of Supervisors, the Secretary/Treasurer and the Recreation Board chairperson and the Recreation Board treasurer to sign checks, receipts or order for payment or withdrawal of recreation funds deposited at the First National Bank of Marysville. Three signatures are required for the expense account checks. Two signatures from the Board and/or the Secretary/Treasurer are required to sign the payroll checks. Three signatures are required for the Park/Recreation expense checks with at least one signature of either a member of the Board of Supervisors or the Secretary/Treasurer. Motion carried unanimously.

Supervisor Evans made a motion and Supervisor Quigley seconded the motion to approve **Resolution 09-15**, which authorizes the Secretary/Treasurer to combine road equipment monies from 2008 in the amount of \$22,816.74 in the General Savings account and the 2009- 1st and 2nd quarter road equipment tax distribution monies in the amount of \$21,456.67 in the General Checking account and transfer the combined total into a short term CD designated for road equipment for a better investment rate of interest. Motion carried unanimously.

Supervisor Evans made a motion and Supervisor Quigley seconded the motion to approve **Resolution 09-16**, which authorized the Secretary/Treasurer to open accounts at the Bank of Landisburg in Shermans Dale to take advantage of this local community bank's investment rates. Motion carried unanimously.

Signature cards for the above approvals were signed at the end of the meeting.

OLD BUSINESS: Solicitor Wagner explained that with the rate caps coming off of electricity January 1, 2010, companies such as PACE and Benchmark are attracting municipalities to create a larger user base to purchase energy at a discount. Discussion ensued on joining Benchmark and entering into an intermunicipal agreement. Upon due discussion, Supervisor Quigley made a motion and Supervisor Evans seconded to table a decision to enter into and sign the Benchmark Intermunicipal Agreement until the July 27, 2009 supervisors' meeting. Motion carried unanimously.

Chairman Lightner reported that a request was received from the Marysville Fire Company to purchase and pump diesel fuel from the Township pumps. Discussion ensued. Concerns were expressed with access to the pumps at all hours of the day and night. It was the consensus of the Board, as much as they appreciate and would like to assist the Marysville Fire Company, to not permit the MFC to purchase fuel and fill their trucks at the Township facility.

NEW BUSINESS: The Board of Supervisors received a request from Ralph Turner to open the rear lot of the Township building for ball games since the parking available is limited due to the fall 2008 placement of the recycling bins in the gravel parking area. Discussion ensued. Solicitor Wagner advised that opening the gate would potentially create additional liability for the Township. Pete Fitting offered that the main concern for additional parking is during the tournament in August. Chairman Lightner offered to assist with opening the rear lot, if depending on the team's standing, the tournament is held at Rye Township's field.

APPROVAL AND PAYMENT OF THE BILLS: The Secretary/treasurer provided a June expense check register and submitted the following checks for approval and payment: General Fund Checks #s 12033-12085 in the amount of \$33,330.03. No checks void.

Payroll checks #s 5441-5452 in the amount of \$6,515.12. No payroll checks void.

Payroll checks #s 5453-5463 in the amount of \$6,616.75. No payroll checks void.

Payroll checks #s 5464-5473 in the amount of \$6,593.72. No payroll checks void.

The Secretary/Treasurer noted the electronic transfer to Pennsylvania Chamber Insurance, (PCI) for monthly payment for health insurance in the amount of \$5,192.27.

Supervisor Evans made a motion to approve the checks and pay the bills. Quigley seconded. Supervisor Lightner approved of the motion, but abstained from approval of check number 12036 in the amount of \$60.78 issued to Daisy Lightner for mileage expense, since Daisy is his spouse. Motion carried with Supervisor Lightner abstaining from approval of Check # 12036 as indicated above.

CITIZEN PARTICIPATION: Peggy Fedder of 2985 Valley Road congratulated Supervisor Ken Quigley for his appointment to the Board of Supervisors.

ADJOURNMENT OF THE MEETING: There being no further business before the Board, Evans made a motion and Quigley seconded to adjourn the meeting at 9:17 pm. Motion carried unanimously.

Respectfully submitted,

Daisy Lightner, Secretary/Treasurer