

**RYE TOWNSHIP
SUPERVISORS' MEETING
March 22, 2010**

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PRESENT: Chairman Robert Lightner, Supervisor, Ken Quigley, Daisy Lightner, Secretary/Treasurer, Ronald L. Cree, Zoning Officer, Jean Snyder, Elliott, Sr. and Joyce Chotas, Brenda Werner, Nancy Sunday, Susan A. Baker, Linus Fenicle, Esquire, Raymond Witmer, William Miller, Darrin K. Foster of Lou Harford Surveyors, Sherri Zimmerman of South Central Assembly, and P. Richard Wagner, Esquire.

ABSENT: Ron Evans, Supervisor, recovering from back surgery

FORMER SUPERVISOR PRESENT: Phyllis Page

The meeting was held at the municipal building and called to order at 7:30 PM. A quorum of the Board was established. Chairman Robert 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 welcomed everyone and asked if there was any citizen participation. None was offered at this time.

APPROVAL OF THE MINUTES: Supervisor Quigley made a motion to approve the minutes of the February 22, 2010 supervisors' meeting. Chairman Lightner seconded; Motion carried unanimously.

MONTHLY MUNICIPAL REPORTS: Corporal Clint Shoop submitted copies to the Board and Chairman Lightner read the February Police Report as follows: 0 gallons of fuel used for the Impala, 64.7 gallons used for the Crown Victoria, drove 1,142 miles, worked a total of 143.0 hours for full time, 3 incidents: including 1 traffic warning. Total fines collected from the District Justice were \$129.02 and \$422.81 from Perry County court.

The February/March Zoning Report was submitted by Zoning Officer, Ron Cree & made available for review. Zoning Officer Cree read the report as follows: twenty-four (24) calls/complaints, one (1) driveway permit, two (2) zoning permits, two (2) certificates of use, mileage reimbursement for 85 miles, \$250.00 in fees collected.

The Sewage Enforcement Report was submitted by Mike Higgins, SEO. Chairman Lightner read the report as follows: 1 activity: renewal permit for Van Boskirk for a total due in wages of \$ 60.00.

The March Road Report was submitted by Brad Sloop, road foreman. Supervisor Quigley offered that the trucks and equipment were cleaned, the old backhoe repaired and various drains cleaned. Quigley placed the report on the table for public review.

Nancy Sunday said the Recreation Board met on March 8, 2010 to continue to plan for the following upcoming events:

- ◆ Easter Egg Hunt - March 27 at 11:00 AM - free for all children 10 years and younger. Rain date of March 28 at 2:00 PM.
- ◆ NEW for this year! Spring Fest with a Master Gardener on April 10th at 12 noon.
- ◆ Strawberry Festival, June 6 at 6:00 PM. This event is FREE.
- ◆ Fishing Derby on June 19, 2010 at 9:00 AM- this event is also "free."

Nancy explained that the Recreation Board would like to purchase an additional spring toy called a bobble rider and how the Recreation Board plans to transfer monies budgeted for another item to allow for the purchase. The Board of Supervisors had no problem with the purchase since the monies were already budgeted for park use in 2010.

No Emergency Management report was provided. EMC Jim Cassidy contacted the office and said he plans to attend the April meeting. However, he is out of town and unavailable to attend tonight's meeting.

The February Treasurer's Report was submitted for public review and read by the Secretary/Treasurer & with no discussion was accepted as read pending the final approval of the independent auditors.

The Secretary/Treasurer reported that the Township received their 2010 Liquid Fuels allocation on March 1, 2010 as authorized by Governor Rendell in the amount of approximately \$84,600.00, a decrease from the previous year.

In addition, the Secretary/Treasurer noted that the independent auditing firm of Smith, Elliott, and Kearns, (SEK) would be present at the April supervisors' meeting to present a report to the Board and the public. Chairman Lightner encouraged the public to attend to hear the results of the financial audit.

SUBDIVISION LAND DEVELOPMENT PLANS: At the last meeting the Board tabled any action on the William Miller Preliminary Subdivision Land Development Plan to allow residents in the area the opportunity to review their deeds and seek legal counsel regarding the right of way and private drive access disputes.

Linus Fenicle advised that he represents Elliott, Sr. and Joyce Chotas of 175 Stiles Drive, which lot is located in the Grier Point Estates Subdivision, Rye Township, Perry County. He explained the concerns of the Chotases and other residents on Stiles Drive relating to the proposed access for the William Miller Subdivision Plan which proposes to unilaterally relocate the private drive that the Chotases and other neighbors use to access their properties and modifies the express easement granted to the Chotases. Attorney Fenicle requested that a March 15, 2010 letter sent to the Board of Supervisors regarding the same concern be noted in the minutes and made a part of the record. A copy of the Chotas' deed and a copy of case law *McNaughton Properties LP v. Barr* 981 A.2d 222 (Pa.Super.2009) was enclosed with the March 15, 2010 letter to the Board with a copy provided to Township Solicitor Rich Wagner.

Attorney Fenicle argued from the position that Mr. Miller may own the property. However, Mr. Miller bought the property and was subject to the existing fifty (50) foot right of way. Therefore he requested that the Board not approve the Preliminary William Miller Subdivision Plan.

Discussion ensued about the 14'-6" cartway located within the fifty (50) foot right-of-way. Attorney Fenicle indicated that there is no reference to the 14'-6" private drive on the deed, but still he contends that the Board lacks the authority to relocate an express easement in order to permit the owner of the servient estate to develop its property.

Discussion ensued about the possibility of bringing the proposed roadway up to Township specifications. Chairman Lightner said the Board of Supervisors' policy was to not accept any further public road dedications. Furthermore, Supervisor Quigley noted that this section of roadway does not meet the current regulations because the existing roadway with a cul-de-sac already exceeds the maximum length of five hundred feet.

Darrin Foster of Lou Harford Surveyors representing William Miller respectfully disagreed. Mr. Foster stated that the right of way or easement is not being relocated or altered. The 14 ½ foot cartway would be altered, but not the fifty (50) foot right-of-way.

Solicitor Wagner suggested that the Board consider tabling any action on the Miller subdivision plan to allow Mr. Miller time to gain legal counsel.

Supervisor Quigley suggested the neighbors might consider talking among themselves to resolve these issues.

William Miller verbally requested a sixty-five (65) day extension for the William Miller Preliminary Subdivision Plan.

Chairman Lightner made a motion and Supervisor Quigley seconded to grant a sixty-five (65) day time extension for the Board to take action on the **William Miller Preliminary Subdivision Plan** to allow additional time to gain legal counsel relating to the relocation of the access way and the legal challenge from neighboring residents. Motion carried unanimously. The record notes the time period for action on the **Preliminary William Miller Subdivision Plan is May 26, 2010.**

Chairman Lightner made a motion and Supervisor Quigley seconded to table any action on the William Miller Preliminary Subdivision Land Development Plan until the April 26, 2010 supervisors' meeting. Motion carried unanimously.

Darin Foster and William Miller left the meeting at this time. Elliott, Sr. and Joyce Chotas, Brenda Werner, Susan Baker, & Raymond Witmer also left the meeting at this time.

LEGAL BUSINESS: Solicitor Wagner requested the Secretary contact him tomorrow afternoon regarding a letter from his office for the grant application for the police computer.

Solicitor Wagner advised that the old police car can be used for other purposes as long as whoever uses it does not activate the lights and siren or in any way impersonate a police officer.

Solicitor Wagner offered information from the Borough of New Bloomfield who was dissatisfied and discontinued their contract with Benchmark. Benchmark Energy did not follow through with what was promised and their electric service was almost shut off due to lack of payment.

Upon due consideration Supervisor Quigley made a motion to repudiate the contract with Benchmark Energy and pursue another bulk energy contract. Chairman Lightner seconded. Motion carried unanimously. The Secretary was directed to send a letter canceling the contract.

Chairman Lightner made a motion to schedule a mandatory pre-bid meeting for the Teats clean up on May 3rd. Supervisor Quigley seconded. Motion carried unanimously.

Upon further consideration, Chairman Lightner made a motion to rescind the previous motion to schedule a pre-bid meeting for the Teats clean up on May 3rd. Supervisor Quigley seconded. Motion carried unanimously.

Chairman Lightner made a motion and Supervisor Quigley seconded to authorize the Secretary/Treasurer to advertise the Teats Clean up bid proposal; to establish the mandatory pre-bid meeting for Friday, April 23rd & to advertise for the pre-bid meeting on April 23 and a special meeting May 3rd to award the bid for the Teats Clean up. Motion carried unanimously.

RESOLUTIONS: Chairman Lightner made a motion and Supervisor Quigley seconded to approve **Resolution 10-08**, which directed the Secretary/Treasurer to make the following transfers of a portion of the 2010 Highway Aid Allocation in the amount of \$84,600.00 from the Highway Aid Savings Account into the Highway Aid Checking Account transferred by Highway Aid Check number 715 to a nine (9) month no penalty Certificate of Deposit at Members First Credit Union in Enola. Motion carried unanimously.

OLD BUSINESS: Three requests for proposals were received for the Spring Clean-up scheduled for Friday, April 30, and Saturday, May 1, 2010 as follows:

	<u>Sylvester's Services</u>	<u>York Waste</u>	<u>Tiger Trash</u>
Hauling fee	\$ 90.00	\$000.00	\$00.00
Haul fee w/waste	<u>\$ 90.00</u>	<u>\$220.00</u>	<u>\$190.00</u>
Total per pull	\$ 180.00	\$210.00	\$190.00
Tipping fees	\$ 64.00	\$ 61.00	\$ 65.00
Charge Scrap	-----	-----	-----
Metal Containers	\$ Zero	\$ Zero	\$ Zero

Upon due consideration, Supervisor Quigley made a motion to award the Spring Clean up contract to Sylvester's Services the lowest bidder as noted above for the delivery of and hauling away of roll offs, tipping fees, and scrap metal disposal conditional upon the receipt of a certificate of Workers Compensation and Liability and a certificate of compliance with Federal CDL requirements for drug and alcohol testing for their drivers; Chairman Lightner seconded; motion carried unanimously.

NEW BUSINESS: Chairman Lightner reported the receipt of certification of Township taxes for the year 2010 from tax collector, Stanley Humbert and read it as follows:

Real Estate	\$160,852.22
Per Capita	\$ 9,255.00

Chairman Lightner explained that this is the ideal amount of taxes that could be collected. However this amount is never realized by Rye Township due to delinquencies, discounts and exonerations.

Upon due consideration Supervisor Quigley made a motion and Chairman Lightner seconded to appoint Kurt Matter to mow the Rye Township Community Park on New Valley Road at a cost of \$110.00 per mowing as stipulated in the simple contract proposed. Motion carried unanimously.

Upon due consideration Supervisor Quigley made a motion and Chairman Lightner seconded to appoint Ken Snyder to mow Oak Grove Cemetery on Oak Grove Road at a cost of \$110.00 per mowing as stipulated in the simple contract proposed. Motion carried unanimously.

Chairman Lightner announced that the Township office would be closed for Good Friday on April 2, 2010.

APPROVAL AND PAYMENT OF THE BILLS: The Secretary/treasurer provided a March expense check register and submitted the following checks for approval, signature and payment: General Fund Check s #s 12444-12481 in the amount of \$36,831.45 and check 12443 issued to PP & L for \$409.28 on Feb. 25, 2010. Void check 12375 lost in the mail. Reissued check 12480 on March 22, 2010 to R. C. Makkibin to replace voided check 12375.

Payroll checks #s 5667-5682 in the amount of \$7,035.28. No payroll checks void.

Payroll checks #s 5658-5666 in the amount of \$6,215.35. No payroll checks void.

An electronic transfer, ELF was made from the General Checking account by PCI, Insurance on March 22, 2010 in the amount of \$5,623.25 for April's health insurance.

Chairman Robert Lightner made it known that there might be a possible conflict of interest on check number 12451 issued to Daisy Lightner, his spouse, for mileage. Chairman Lightner presented the recording secretary a signed memorandum stating his possible conflict. Solicitor Wagner advised to note this possible conflict of interest in the minutes. However, Wagner said the amount of \$16.75 is very minimal and the mileage rate is set by the IRS.

With no further discussion on the bills presented, Supervisor Quigley made a motion & Chairman Lightner seconded to approve and sign the checks & pay the bills. Motion carried unanimously.

CITIZEN PARTICIPATION: John Smith of Cove Road requested the placement of 2AMod stone on Cove Road sometime in April/May. The Board indicated they would install the requested stone later this spring.

Jake Auxt of Valley Road asked about Supervisor Ron Evans. Chairman Lightner said he is currently in rehab at Kinkora Home in Duncannon due to a slow recovery from back surgery in January. Mr. Evans would like to return by the next meeting.

Sherri Zimmerman, Executive Director of the South Central Assembly, SCA, introduced herself and indicated she was here to observe. Ms. Zimmerman offered that her organization works with Benchmark Energy and she has heard the concerns expressed here tonight. However, she knows Jamie Rubb and Bill Welsch and believes that Benchmark is only lacking in customer service and is suffering from growing pains.

The Board did not agree with her conclusions and did not appreciate her reducing their serious issues with Benchmark Energy to poor customer service.

Solicitor Wagner asked to whom she reports and what would be done with the information received tonight about Benchmark Energy. Ms. Zimmerman said she is the executive director of the SCA and would monitor Benchmark and the municipalities' dealings with Benchmark and take action to find another energy supplier, if deemed necessary.

ADJOURNMENT OF THE MEETING: There being no further business before the Board, Supervisor Quigley made a motion and Chairman Lightner seconded to adjourn the meeting at 8:28 pm. Motion carried unanimously.

Respectfully submitted,

Daisy Lightner
Secretary/Treasurer