

**MINUTES OF NOCKAMIXON TOWNSHIP  
BOARD OF SUPERVISORS  
February 16, 2011**

The regular scheduled meeting for February was held on February 16, 2011 in the Township building in Ferndale, PA. Chairperson, N. Janyszeski opened the meeting at 7:30 P.M. with a salute to the flag. Other members present were Supervisors B. Keyser, A. Santopietro and C. Bahnck. Other attendees: Township Solicitor, J.B. Yeager, Township Engineer, S. Baluh, Secretary, A. Eichlin and Treasurer, K. DeLuca. Vice Chairman Wm. Sadow, Jr. arrived at 9:40 P.M.

**SCHEDULING:**

The schedule for the month was reviewed by Chairperson, N. Janyszeski.

**MINUTES OF MEETING:**

A motion was made by A. Santopietro, seconded by C. Bahnck, to approve the January 19, 2011 minutes as presented. The motion carried 3-0-1, with B. Keyser abstaining, he did not attend the meeting.

**PUBLIC COMMENT:**

-Nancy Hamm presented paperwork to the Board members and requested a status update of 212 Church Hill Road. Chairperson, N. Janyszeski read information contained in the Zoning Report. The Board requested an update from the Zoning Officer for the March Meeting, that he visit the site, contact the Township Engineer, and confirm whether or not he was contacted by the resident.

-James Litzenberger thanked the Road Department for a great job during the ice and snow events.

**REQUEST TO BE ON THE AGENDA:**

a. Sgt. D'Angelo, PSP - Introduce Himself to the Township - He commented about the status of the Township and advised that the number of 'Calls for Service' did not increase in 2010.

**CONDITIONAL USE HEARING:**

a. Meadows - Conditional Use Hearing - Grants Extension to March 31, 2011 - A motion was made by N. Janyszeski, seconded by B. Keyser, to grant an extension of the Meadows Conditional Use Hearing until March 31, 2011. The motion carried 4-0-0.

**STAFF REPORTS:**

**a. ROAD REPORT - January 2011 -**

A motion was made by A. Santopietro, seconded by C. Bahnck, to approve the January 2011 Road Report as presented. The motion carried 4-0-0. Tim McHenry is being considered as a part-time, as needed, CDL driver for the Road Department. A motion was made by A. Santopietro, seconded by B. Keyser, to hire Tim McHenry as a part-time, as needed, CDL driver for the Road Department. The motion carried 4-0-0.

-Chairperson, N. Janyszeski, commented that Wild & Scenic acquired grant money to do base-line water testing in Townships that are part of the designated Lower Delaware Wild & Scenic area. Several wells were tested and found to contain TCE and were reported to the PADEP. Another round of testing is scheduled for April 2011 to include wells beyond the SR611/412 corridor. She suggested that anyone approached take advantage of the opportunity to have their water tested. Those who meet the criteria are eligible for the installation of whole house filtration systems.

-Salt Contract Participation Agreement 8/2011-7/2012 - Resolution #2-16-2011 - A motion was made by N. Janyszeski, seconded by A. Santopietro, to approve the Salt Contract Participation Agreement from 8/2011 thru 7/2012 for the purchase of Sodium Chloride (Road Salt) as Resolution #2-16-2011. The motion carried 4-0-0.

-Exemption of CMV (Commercial Motor Vehicle) Driving Time Limits During Emergencies - Resolution #2-16-2011A - A motion was made by N. Janyszeski, seconded by C. Bahnck. To approve the exemption of the number of hours a driver can operate a

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commercial motor vehicle having GVW ratings of 17,000# in intrastate operations as Resolution #2-16-2011A. The motion carried 4-0-0.

-Appointment of Alternate to declare "CMV-only" emergencies - A motion was made by N. Janyszeski, seconded by A. Santopietro, to approve Co-Chair, Wm. Sadow, Jr. as the alternate to declare "CMV-only" Emergencies. The motion carried 4-0-0.

-Thank you letter-George Mullenax for assistance with Township Truck - A motion was made by N. Janyszeski, seconded by B. Keyser to write a thank you letter to George Mullenax for his assistance with the Township Truck. The motion carried 4-0-0.

**a. Treasurer's Report**

Keith DeLuca gave the Treasurer's Report

-In inquiring as to the cost to update the Township Code Book he contacted Keystate Publishers on behalf of the Township. According to our contract the cost for each added or changed side of a page is \$15.00. That fee includes an update of the electronic format as well as the posting on the internet. If the Board agrees, he will provide Keystate with the ordinances adopted since our last update for an estimate. **A motion was made by N. Janyszeski, seconded by B. Keyser, to provide Keystate with the ordinances adopted since the last Township Code Book update. The estimate will include an update of the electronic format as well as posting to the internet. The motion carried 4-0-0.**

-It is renewal time for the Township property and liability insurance and he has met with our representative from Thomson Insurance to discuss ways to reduce our costs. In a continuing attempt to lower the cost of insurance he will be meeting with other companies in the near future.

-He spent a majority of this month reconciling the Township Escrow accounts. It was more complicated than he originally envisioned. He still has some research to continue but he is confident that this will be completed in the near future.

-He has looked at the three workshops offered at the PSATS convention Sunday, April 17, 2011 and concluded that the "Comprehensive Municipal Finance Workshop" would be the most beneficial to the Township. **A motion was made by N. Janyszeski, seconded by B. Keyser, to approve the attendance of the Treasurer on Sunday, April 17, 2011, the "Comprehensive Municipal Finance Workshop" for \$125 plus expenses. The motion carried 4-0-0.**

-The PennDOT form MS-965 and DCED CLGS-69 were both submitted on 1/25/2011.

-2010 W-2's and 1099 forms were sent out 1/26/2011.

-As directed by the Board he returned a signed contract to Hutchinson, Gillahan & Freeh to perform the 2010 audit for the amount of \$7,500.00.

-For the billing period of December 25, 2010 to February 4, 2011 the Zoning Officer/Building Inspector collected \$6,998.00 in permit fees, while billing the Township \$7,533.02 for their services.

-Total bills being presented tonight; General Fund, \$32,936.49, Road Improvement Fund \$3,800.00; State Fund, \$9,796.11; Escrow Fund,\$9,953.73.

-Transfers; \$3,800.00 from the Road Improvement Fund to General Fund.

**-A motion was made by C. Bahnck, seconded by B. Keyser, to approve the February 2011 Treasurer's Report as presented. The motion carried 4-0-0.**

**-A motion was made by A. Santopietro, seconded by B. Keyser, to approve the February 2011 Bill List as presented. The motion carried 4-0-0.**

**-A motion was made by N. Janyszeski, seconded by A. Santopietro, to transfer \$3,800.00 from the Road Improvement Fund to General Fund. The motion carried 4-0-0.**

**COMMITTEE ACTION ITEMS:**

-Open Space Committee: Ellen Chapman, Co-Chair, wanted to know if Work Sessions have been scheduled for the Committee. The Board commented they will be scheduled shortly. She requested the procedure for updating OSC information on the Township website. No one has contacted the Township to make that request.

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-Historic Commission set a timeline to complete projects and seek grants to cover costs.

-Emergency Management declared a snow emergency in early February.

**SOLICITOR'S REPORT:**

The Solicitor had one item for discussion and it would be addressed in Executive Session.

**PUBLIC HEARING:**

**b. Berger Road Hearing - Ferreira Petition to Close Road.**

The Solicitor, J.B. Yeager, opened the public hearing at 8:10 P.M. for the Ferreira Petition to improve, close or vacate Berger Road from 2042 Berger Road to the intersection of Traugers Crossing Road. Court Stenographer, Justine A. Gregor, was in attendance. The petition was filed under 53 P.S. §67304, §67305, §67314 and 2 Ps.C.S. §553, concerning the Township's power to vacate a specific Township road. The Board can decide to grant or deny the petition. If denied, a written decision will be provided in 30 days. The solicitor introduced a packet of Board Exhibits-1 thru 8 for the record. The following residents requested party status: Edward & Debby Litzenberger, Fred Albe, Jeff Snyder, M. Leidetke, Scott Segreaves, Al Berger and Skip Shick. Attorney, John M. Heley, Esq. Counsel for the applicants José and Alison Ferreira, was in attendance. He reviewed the Ferreira's previous requests to close Berger Road from 2004 thru 2008. The applicants are requesting that this road be brought up to the Township's own standards or to vacate from 2042 Berger Road to Traugers Crossing Road. Attorney Heley entered current pictures of the snow-covered roadway and a copy of the Dr. George Govatos report as Exhibits P-1a, b, c thru P-2. Cynthia L. Kopp, a resident of 2039 Berger Road, gave sworn testimony for the Ferreira's. The Township Engineer, Steven Baluh gave testimony for the Township. He commented that he had reviewed the report by Dr. Govatos and did a site inspection of the road. His testimony continued with an explanation of safety and design standards for the Township (SALDO) and PennDOT and how they pertain to new and existing roads. He noted that PennDOT acknowledges in their standards that they will grant exceptions to their standards when improvements are not cost effective or unworkable due to road limitations e.g. narrow bridges. Low-cost, economical, safety improvement standards include warning signage, painting lines and cutting back vegetation. He noted that there are many roads in the Township, including State Roads that do not meet design standards. He commented that Berger Road meets PennDOT's Liquid Fuels standards if it were a new road being applied for status on Liquid Fuels Funding. Public Works has no documentation of problems or accidents on this roadway. Berger Road provides a second access to Rte 412 for emergency services and the movement of farm equipment to Traugers Crossing Road to access various farm fields, thereby avoiding SR412. General cost estimates: \$200,000-250,000 to bring up to PennDOT standards. Total reconstruction: \$500,000.00. Road as it stands is acceptable. Several residents granted party status had questions for the Engineer. Attorney Heley cross-examined S. Baluh regarding his testimony. Several questions, comments were offered by the Board. The Solicitor opened the meeting to the public. Several residents/concerned citizens offered testimony requesting that Berger Road remain open including: Tom Rimmer of Ottsville Volunteer Fire Company, Jeff Snyder, Albert Berger, Fred Albe, Skip Shick, Howard Roth and Glenn Neebe. Ed Litzenberger presented a petition to the Board, signed by residents, requesting that the road remain open. The Solicitor marked the petition as exhibit R-1. Attorney Heley suggested that it be taken under advisement. The Solicitor explained the reason for the public hearing. If improvements were to be made there were no acknowledgements from Attorney Heley's clients that they would be responsible for the cost of those improvements. The Solicitor, J. Yeager, addressed the petition under §67314 2<sup>nd</sup> class Township Code. As the Board is considering the applicants' petition, he wanted to be clear and in agreement as to

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how they are proceeding and, if that is the section of Township Code, that his clients understand that the cost of those improvements would be the responsibility of the property owners. Attorney Heley commented that his clients would not be 100% responsible for cost of improvements, maybe some. There being no further evidence, the Solicitor closed the hearing at 9:37 P.M. The agreement, as discussed with Attorney Heley, was that the Board would have 30 days to issue a written decision. Due to the nature of the matter, the Board can deliberate during Executive Session. The Solicitor recommended that the Board deliberate and, with the Board's guidance, he would draft an opinion consistent with the Board's deliberation for presentation at the March meeting.

**SUBDIVISION:**

**a. D. Gross/Byers Road-TMP# 30-15-33; -33-1 & -41-1 - Awaiting extension (expires February 28, 2011) - An extension was received today by the Township from the applicant, Dwayne Gross, granting a six-month extension until August 28, 2011. -A motion was made by N. Janyszeski, seconded by C. Bahnck, to approve the six-month extension for the D. Gross/Byers Road TMP# 30-15-33; -33-1 & -41-1 until August 28, 2011. The motion carried 4-0-0.**

**LAND DEVELOPMENT:**

**a. Wehrung's Phase II L/D TMP# 30-15-35 - Grants extension to April 30, 2011 - A motion was made by C. Bahnck, seconded by A. Santopietro, to approve the Wehrung's Phase II L/D, TMP# 30-15-35, extension to April 30, 2011. The motion carried 4-0-0.**

**OLD BUSINESS:**

**a. Lonely Cottage Road Bridge over Beaver Creek - Temporary Reinforcement - Ludwig Engineering - Discussion.** Steve Baluh, Township Engineer, commented that the board authorized Ludwig Engineering to develop a design for the temporary repair which was submitted to the Township. These temporary repairs would bring the bridge up to a more reasonable weight limit range and allow safe travel for a few years. The Public Works Dept. would be making the repairs with fabrication assistance as needed. He suggested that the Board authorize Public Works to gather pricing for materials and fabrication assistance. It was the consensus of the Board to move forward with pricing for the temporary bridge repairs. Wm. Sadow, Jr. arrived at 9:40 P.M. during the bridge discussion

**b. Harrow Station LLC, Sr. Housing - 3<sup>rd</sup> Addendum O&M Agreement - Resolution #02-16-2011B - Steve Baluh commented that there are two items for Board consideration: the 3<sup>rd</sup> amendment of the O&M (Operation & Maintenance) agreement and a resolution adopting the Sewage Facilities Planning Module to include the Senior Housing property. He recommends that the Board proceed with the approvals while awaiting the results of a new PNDI search. A motion was made by N. Janyszeski, seconded by C. Bahnck, to approve the third addendum to the O&M Agreement. The motion carried 5-0-0. -- A motion was made by N. Janyszeski, seconded by A. Santopietro, to the Sewage Facilities Planning Module, Resolution #02-16-2011B, conditioned upon the receipt of the PNDI search. The motion carried 5-0-0.**

**NEW BUSINESS:**

**a. Dept. of General Services - Form AG385 - Approval - A motion was made by N. Janyszeski, seconded by A. Santopietro, to approve the Form AG385 for submission. The motion carried 5-0-0.**

**b. Clean-Up Day - Saturday, April 23, 2011 - permission to contact volunteers and businesses. Since that is Easter Weekend, the Board moved the date one week prior to April 16, 2011. A motion was made by N. Janyszeski, seconded by Wm. Sadow, Jr., to grant permission to the Secretary to contact volunteers and businesses to have**

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the Township participate with the annual PA Clean-Up Day on Saturday, April 16, 2011. The motion carried 5-0-0.

**c. Request Waiver of Fees - Mark Glazer - Camp Nock-A-Mixon** - Gary Glazer was in attendance. Camp Nock-A-Mixon is seeking relief from the Escrow Fees for the installation of their septic system as required by the Township. The Solicitor commented that there is a set of standards applied equally by the Township to residents in similar situations when calculating escrow fees and believes it would be problematic to suggest that there be a complete waiver of the escrow amount. It was suggested that Steve Baluh provide the Board with a proposal of the systems and escrow fees for their consideration at the next meeting. Gary Glazer requested a copy of the proposal.

**d. Fifth Annual PCF - 5K Challenge - May 7, 2011 @ 9:00 AM - Board Approval**  
-A motion was made by N. Janyszeski, seconded by B. Keyser, to approve the Fifth Annual PCF, 5K Challenge scheduled for May 7, 2011 @ 9:00 A.M.  
The motion carried 5-0-0.

**e. Geehring Lot-Line Adjustment - TMP# 30-4-47 & 30-4-47-7 Final Plans for Signature - based on receipt of all agreements.** The Solicitor commented that his office has prepared an Easement Right-Of-Way for the plan, but the Deed of Consolidation and conveyance would be provided by the applicant. Plans cannot be signed until receipt of those documents. The Board took no action on the plans.

**COMMITTEE REPORTS:**

**a. Zoning Report - C. Clayton, Zoning Officer, was not in attendance.**

N. Janyszeski discussed information that was provided to the Township by Ron Martin from PennDOT regarding the removal of signs that are placed in the site line at intersections or, are hanging from existing PennDOT signs. The Board requested that the Zoning Officer be made aware that he can remove the signs, bring them to the Township Building and contact the owners to have them pick up. **A motion was made by N. Janyszeski, seconded by C. Bahnck, to approve the February 2011 Zoning Report. The motion carried 5-0-0.** The Solicitor requested a copy of the zoning report prior to the meeting.

**b. Emergency Management** - Discussed earlier in the meeting.

**c. Environmental Advisory Committee** - Jeffrey Petersen, Co-Chair, was in attendance - no report due to lack of quorum.

**d. BNT Ground Water Committee** Carl Bahnck, Liaison, gave a report to the Board. At their meeting the Committee discussed changes to their by-laws. The Board reviewed the changes and, after a lengthy discussion, the liaison will advise the BNT Committee and seek clarification of several items.

**e. Open Space Committee** - An Executive Session was held after the regular meeting.

**f. Park & Recreation Board** - No one was in attendance - no new business.

**g. Nockamixon Historic Commission** - Discussed earlier in the meeting.

-The Solicitor left the meeting at 10:45 P.M.

At 10:16 P.M. the Chair, N. Janyszeski, commented that the Board would be meeting in Executive Session to discuss Litigation followed by an Executive Session with Open Space to discuss Real Estate. The Chair, N. Janyszeski, commented that the Board returned from Executive Session at 11:00 P.M.

**ADJOURNMENT:** A motion was made by Wm. Sadow, Jr, seconded by B. Keyser, to adjourn the Board of Supervisors meeting at 11:00 P.M. The motion carried 5-0-0.

Respectfully submitted,

Arlene E. Eichlin, Recording Secretary