

LOWER TOWAMENSING TOWNSHIP SUPERVISORS REGULAR MEETING MINUTES

Tuesday, February 6, 2024 at 7:00 p.m., Township Office
595 Hahns Dairy Road, Palmerton, PA 18071

CALL THE MEETING TO ORDER: Chairperson Connie Brown called the meeting to order at 7:10 p.m. Members of the board present were Connie Brown, Mike Takerer, Jay Mullikin (via phone) and Solicitor Nanovic.

BILLS TO BE RATIFIED & EXPENDITURES:

Supervisor Takerer moved and Supervisor Mullikin seconded to ratify the bills that were paid - General Fund - \$63,611.19; Sanitation Fund - \$115.88; Lighting Fund - \$746.81; Hydrant Fund - \$249.75 & Fire Fund - \$1,099.26 and to pay all bills; General Fund - \$21,890.02 & Sanitation Fund - \$147,063.33. All voted yes. Motion passed.

MINUTES: Approve January 2, 2024 Reorganizational Meeting Minutes and Regular Meeting Minutes

Supervisor Takerer moved and Supervisor Mullikin seconded to approve the January 2, 2024 Reorganizational Meeting Minutes and the Regular Meeting Minutes. All voted yes. Motion passed.

BUSINESS FROM PERSONS PRESENT:

Attorney Mike Ozalas, represents M & W Real Estate – Architectural Polymers, which was owned by Marshall Walters (property along Little Gap Road). He stated that in September 2019, there was an approved Land Development Plan. Attorney Ozalas stated how there were a few issues that they would like to present. He stated that when the plan was originally filed, it was broken down into three phases. Attorney Ozalas stated how Darrin Heckman (Keystone Engineering), who was the engineer on the project, had informed him that phase one had been completed and that phase two and three were not. He stated that in order to complete phase two, for financial reasons, the owner wanted to separate phase two into phase 2A and 2B, which Mr. Heckman had filed the documentation showing that separation.

Attorney Ozalas stated how the 5 years under the protection period of Section 508 of the Municipality Planning Code would expire in September 2024 and they would like to request an extension of the protection period from the Board of Supervisors. He asked what they would need to provide in order for the Board to approve that extension and how he would follow up with Solicitor Nanovic.

Darrin Heckman stated that to give some background – there was a land development plan for a property located on Little Gap Road, which had been presented. He stated how there was an existing building at the lower end of the property and a proposed facility that was slated to be constructed under the next phase of the project. Mr. Heckman stated how they had received land development approval, subdivision approval and stormwater management approval and when they got down to building the project, the developers wanted to break up the phases.

Mr. Heckman stated how there was a storage building that was located on the northern section of the property and there was a driveway, which accesses that northern section. He stated how they had broken that down into phase one. Mr. Heckman stated how the developer's agreement had been secured and agreed upon by the Township. He stated how the developer had constructed that portion (phase of the project) of the property and now they were moving into phase two. Mr. Heckman stated how they were looking to separate phase two, which was the center section, into two separate parcels or phases.

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Mr. Heckman stated about adding an addition to the existing building at the lower section, more parking area, more turn around area and a storage building. He stated that financially, they were looking to keep the same security as they had, that had been approved for phase two, just breaking it down into two subsections. Solicitor Nanovic stated to Mr. Heckman how the Supervisors had already approved that separation. Mr. Heckman stated how they did approve the separation, but they were at the meeting because the Township Engineer took a different look at things. He stated how the Board approved from them to move forward with phase 2A & 2B . . . Solicitor Nanovic stated how the approval was conditioned upon, the agreement and the satisfaction of the Solicitor and Engineer. Mr. Heckman stated how Jill Smith had come back with the comment concerning getting their NPDES permit updated and to make sure their phasing cost were correct. He stated how they have a letter from the Carbon County Conservation District dated November, 22, 2023 granting them approval to break down phase two into two separate phases. Mr. Heckman stated how Ms. Smith asked if they prices were still valid, since their original project was from 2019. He stated how they had verified the prices (\$515,763.00 phase 2A) with Mr. John Fisher, who was the contractor on the project, which he verified that the prices were still valid. Mr. Heckman stated how they were looking to move forward with the project, breaking down phase two into phase 2A & 2B and work on phase 2A at that point in time.

Mr. Heckman stated how phase 2A was going to be an expansion of a concrete area; the existing building on the property (shown on the plan), they want to expand that area, build a retaining wall and add a 32' x 120' storage building. Attorney Ozalas stated how the storage building was not on the original filed land development plan. Mr. Heckman stated how there was no additional impervious coverage; from a stormwater management point, they were not adding anything to stormwater. He stated how they were going to be putting a building in a place where there was supposed to be a parking area; for a utility area for workers. Solicitor Nanovic stated about an email he had received from Ms. Smith and how it stated that they needed to provide the specific stormwater calculations showing that the existing basin in the southeast corner of the site along Little Gap Road was sufficient to accommodate the additional runoff from phase 1 and proposed phase 2A in the interim condition until phase 2B, which was the construction of basin, was completed. He stated how she also wanted them to clarify if the retaining wall or just a portion of the retaining wall and its limits, will be constructed in phase 2A; it may have been reviewed with the building permit submission, but it was the other discussion item at a previous Planning Commission meeting. Solicitor Nanovic stated how Ms. Smith was looking for two things; their stormwater calculations and clarification on the retaining wall.

Mr. Heckman stated how the stormwater calculations were reviewed and approved by the previous Township engineer and they have gone back to the Conservation District, revising the phase and got their approval to move forward in that aspect. Solicitor Nanovic asked Mr. Heckman if he believed that was sufficient to accommodate Ms. Smith first concern regarding their stormwater calculations and would she agree with him. Mr. Heckman stated how he did not know that, but the Conservation District said "yes".

Supervisor Mullikin stated while the Board might be new, the planning commission was not. He stated how he has been on the planning commission for several years and he did not recall it being a three-phase project; furthermore, the last time they came before the planning commission, the building was on top of an inlet per the original design. He asked if it had been changed and if so, has the Township engineer had a chance to review it. Mr. Heckman stated how there were two yeses to the questions. He stated how the building was over top of an inlet; the plan had been adjusted; the plan had been preapproved by the Conservation District. He stated how the plan had been approved as one entire project through the Board of Supervisors and financially it was broken down into three separate sections/phases of construction.

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Mr. Heckman stated how it was not recorded as a phase plan; it was recorded as a single land development approval; however, the developer's agreement was divided up into three separate phases as well as their approval through the Conservation District for stormwater management and earth disturbance permit approvals. He stated that the plans, which were in front of the Board, showed exactly how they were following in the steps of the land development approval. Mr. Heckman stated how there was an existing stormwater basin on the property. He stated how there was an adjacent stormwater conveyed system that will capture the water and it was located in an industrial park development. Mr. Heckman stated how there were stormwater management systems in place that convey it under Little Gap Road down to the Aquashicola Creek. He stated how they were following the overall approval; they were just breaking it down with subsections, basically for financial reasons for the owner/developer.

Supervisor Mullikin stated how the Township engineer had questions: 1) the inlet being covered up - had the Township engineer had a chance to review it; 2) was the downstream pond capable of handling the additional impervious because they were not building the upstream pond behind the wall until a later phase. Solicitor Nanovic stated how Ms. Smith questioned if that pond, which was going to be built later, assuming it would never get built, be sufficient. Supervisor Mullikin stated that because the pond was upstream of all of the other stormwater controls, which was very unusual, to his knowledge has not been addressed. Mr. Heckman stated that when they look at the sequence of construction, they were building from the bottom up. He stated how he could not build a stormwater basin above the area that they were building; however, they were putting in impervious coverage that was not going to be captured by that proposed basin.

Mr. Heckman stated that what was currently in place, there was an existing stormwater basin on the lower portion of the property, which they were adding a little bit of impervious coverage to it. He stated about the inlet that was going to be covered over with the building, which was a proposed inlet. Mr. Heckman stated that the building was going to be constructed on a proposed impervious coverage area, the roof leader would go down into a collection system and get into the existing stormwater collection system that was currently in place. He stated that what they were adding was very minimal. Mr. Heckman stated how the basin that was going to be constructed with the larger part of the land development was going to be warranted by phase 2B. He stated how they were following the sequence of construction from the Conservation District, building from the bottom up.

Supervisor Mullikin stated how he fully understood following the sequence of construction; however, it did not sound like the information had been provided in regards to the questions from the Township engineer. Mr. Heckman stated how the Township engineer was new to the project and there was no disrespect to Ms. Smith and that he was happy to work with her on any calculations; however, the plan has gone through the land development process and they have also divided it up into phases, worked with the Township Solicitor, provided security for the appropriate phases and now all they were looking to do was to divide phase two into two separate subsections. He stated how he did not want to open up another can of worms looking at breaking it down and having more review fees for his client. Mr. Heckman stated how they had gone through the process and it was not a new plan. He stated how it was a plan that has been approved by the County, the Township and the Conservation District. He stated that all they were trying to do was to make it affordable for the developer to move forward.

Supervisor Mullikin stated that from what he has read over the last couple of days, he did not think the Township engineer was satisfied with the calculations. He stated how he understood breaking it down into phases, to make it more affordable, but the questions have been asked by the Township engineer and as far as he knew, they have not been answered.

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Supervisor Mullikin stated how he was asking for them to provide Ms. Smith with the answers to her questions. Mr. Heckman stated that if that was the wishes of the Board, they would gladly go through the process, but they have been through that before. Supervisor Takerer stated how there was a reason behind her asking for that information. He stated that if they would complete phase 2A and then not continue with the project, they want to know that the stormwater was adequate to handle it for long term. Mr. Heckman stated about Ms. Smith's letter and how it goes back to phase one. He stated how it would go back to the start and how he did not want to start all over again.

Angela Farrell stated to Mr. Heckman on how he was the engineer from the beginning on the project (he designed it). She stated how he has been coming to the Board for almost a year to move forward with it. Ms. Farrell stated how Ms. Smith has been asking for clarification during that time period. She asked Mr. Heckman as to why he would not give her the calculations. Mr. Heckman stated how it was not that they would not give them to her, but it has been done in the past. Ms. Farrell stated how it would solve the problem. She stated to Mr. Heckman on how he was trying to represent his client to alleviate the problems for them, but he was also perpetuating the problem. Ms. Farrell stated that as the Township, they were not going to move forward without their professional advising them to do so. Mr. Heckman stated how Carbon Engineering had already approved it and now Ms. Smith wanted something different. Ms. Farrell stated how she did not think that Ms. Smith was looking for something different. Mr. Heckman stated how she was looking for downstream conveyance, which was never required from them before. Supervisor Mullikin stated how Carbon Engineering was no longer the Township engineer.

Solicitor Nanovic stated how they had made changes to the plan and when they make changes to the plan, the Township has the right to have their engineer review those changes. Mr. Heckman stated how they did provide Ms. Smith with a copy of the approved plans from the Conservation District and a response letter to her last review letter of October 27th. Solicitor Nanovic stated to Mr. Heckman about contacting Ms. Smith, because he could not expect the Board of Supervisors to do something other than what their Township engineer was suggesting. He stated how they had agreed to split the phases to help the owner save money. Solicitor Nanovic stated how they were not discouraging him, they wanted him to build and improve the property. He stated how they were not trying to stop him, they just wanted to make sure it did not create a stormwater problem.

Steve Meining asked about fulfilling the position of a code enforcement officer. Supervisor Takerer stated how they were discussing a plan with their existing personnel with the possibility of hiring someone to help with research, enforcement and posting.

Mr. Meining stated how the information on the website (supervisors and meeting dates) needed to be updated.

TREASURER'S REPORT

GENERAL FUND

Balance 11.30.2023	793,676.47
Receipts	124,579.99
Expenditures	<u>72,433.75</u>
Balance 12.31.2023	845,822.71

LIQUID FUELS FUND

Balance 11.30.2023	61,703.46
Receipt	277.55
Expenditures	<u>0.00</u>
Balance 12.31.2023	61,981.01

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GARBAGE FUND

Balance 11.30.2023	974,409.58
Receipts	9,875.69
Expenditures	<u>24,295.33</u>
Balance 12.31.2023	959,989.94

CAPITAL PROJECTS FUND

Balance 11.30.2023	88,146.76
Receipts	324.16
Expenditures	<u>0.00</u>
Balance 12.31.2023	88,468.92

FIRE FUND

Balance 11.30.2023	3,416.80
Receipts	211.32
Expenditures	<u>0.00</u>
Balance 12.31.2023	3,628.12

HYDRANT FUND

Balance 11.30.2023	20,922.52
Receipt	76.94
Expenditures	<u>0.00</u>
Balance 12.31.2023	20,999.46

LIGHT FUND

Balance 11.30.2023	9,545.02
Receipts	112.73
Expenditures	<u>746.81</u>
Balance 12.31.2023	8,910.94

ESCROW FUND

Balance 11.30.2023	6,500.00
Receipts	9,091.60
Expenditures	<u>0.00</u>
Balance 12.31.2023	15,591.60

Supervisor Takerer moved and Chairperson Brown seconded to accept the Treasurer's Report. All voted yes. Motion passed.

TAX COLLECTOR'S REPORT

December 2023 - Real Estate (G.F.)	\$3,954.38
Fire	\$1,099.26
Light	\$120.29
Hydrant	\$28.09
Per Capita (G.F.)	<u>\$280.50</u>
Total	\$5,482.52

Exonerations for 2023

Per Capita \$ 250.00

Delinquents for 2023

Real Estate	\$ 8,937.82
Fire	\$ 2,654.22
Light	\$ 577.40
Hydrant	<u>\$ 86.36</u>
Total	<u>\$12,255.80</u>
Per Capita	\$ 3,075.00

Pennsylvania State Veterans' Commission – Veteran's Exemption – Rodney J. Alexander

Chairperson Brown moved and Supervisor Mullikin seconded to accept the Tax Collector's Report along with the exonerations, delinquents and exemption. All voted yes. Motion passed.

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SUPERVISOR'S BUSINESS:

- **Responsible Recycling Services – Electronic Recycling Events**

Supervisor Mullikin moved and Supervisor Takerer seconded to approve the electronic recycling events for Thursday, June 6th and Saturday, October 19th. All voted yes. Motion passed.

- **Agreement – To Authorize Electronic Access to PennDOT Systems**
- **Resolution – To Authorize Signer for PennDOT Agreement**

Supervisor Takerer moved and Supervisor Mullikin seconded to adopt the PennDOT Resolution and Agreement. All voted yes. Motion passed.

- **Mutual Aid Agreement for Plowing with Palmerton**

Chairperson Brown moved and Supervisor Takerer seconded to approve the mutual aid plowing agreement with Palmerton. All voted yes. Motion passed.

CORRESPONDENCE:

- FEMA – Pennsylvania Post-Flood Recovery Check List
- DeSousa Oil & Service Corp – Annual DEP Spill Prevention Response Plan Letter
- DEP – PA Clean Streams Law – Heating Oil Release Blue Mountain View, Kunkletown
- PennDOT – LTAP – Moving Forward Winter 2024

SUPERVISOR'S REPORTS:

- Supervisor Brown – No report.

• Supervisor Mullikin – stated how they had received a complaint concerning a short-term rental – via email, but he did not know if they needed to actually fill out their complaint form. Secretary-Treasurer Ahner stated how they had just received that complaint and she had handed it to the zoning officer, Duan Dellecker. Supervisor Mullikin stated how they needed to pursue the complaint as soon as possible.

- Supervisor Takerer – No report.

SOLICITOR JAMES NANOVIC:

- DTA Alliance

Solicitor Nanovic asked Dan Connor if he submitted an application to construct a building or change the use. Mr. Connor stated how it was to construct a building. Solicitor Nanovic asked if there were any other buildings on the property. Mr. Connor stated “yes”. Solicitor Nanovic stated that in his opinion, it was land development and that they had to get land development approval to construct another building. Mr. Connor stated how they were regulated under their mining permit. He stated how they were looking to construct a maintenance building. Solicitor Nanovic stated how he did not know if there was some exemption from SALDO with the mining permit. He stated that he knew how a mining permit was exempt from some municipal government enforcement but not under the zoning or MPC (Municipal Planning Code).

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Mr. Connor stated how he had submitted a zoning permit application to the Zoning officer with plans for the building and location plan for the building was going to be placed. He stated how the Zoning officer had submitted it to the planning board for their review. Mr. Connor stated how he was told that he would receive comments a week after that meeting, but he still has not received any comments. Solicitor Nanovic asked if the Township had received a review letter from Ms. Smith. Supervisor Takerer stated how he has not seen anything from her regarding DTA. Solicitor Nanovic stated how they would purpose the same question to her in regards as to why she felt they were exempt; however, it was still under review by the Township engineer and she might need some additional information.

- CAD Waiver and Mutual Releases – Agreement with CEI

ROAD MASTER REPORT:

- 2024 Road Project

Supervisor Takerer stated to Supervisor Mullikin that he knew how he had his reservations concerning oil and chip and asked if he had received the information from their Road master. Supervisor Mullikin stated how he did get a chance to meet with Mr. Cressley. He stated how he was not a fan of oil and chip, but he did understand with the limited budget they had, it was probably their best option. Mr. Cressley stated how they might be able to take out a loan (half million) and apply their liquid fuels allotment to that loan every year for five years. He stated how they would be able to do a larger project, which might result in a better price. Supervisor Takerer stated how that might be something for them to consider in the future. Mr. Cressley stated how he was scheduled to meet with John Davis in two weeks to write up a contract. Supervisor Takerer stated how the project would entail oil and chip on the following roads: Stoney Ridge Road, Maple Drive, Club Drive, Walnut Drive and a portion of Spruce Road.

Supervisor Takerer moved and Supervisor Mullikin seconded to authorize Mr. Cressley to meet with John Davis to assemble a bid package for oil and chip on the following roads: Stoney Ridge Road, Maple Drive, Club Drive, Walnut Drive and a portion of Spruce Road. All voted yes. Motion passed.

ZONING REPORT

- Hanover Engineering – Minor Subdivision – Dorthea, Tim & Kyle Strohl – 1180 Stoney Ridge Road - Review letter #2
- Planning Commission Minutes from December 14, 2023
- Carbon County Planning – Strohl Subdivision/Lot Line Revision Review Letter
- **Strohl Subdivision – to approve conditional plan approval, meeting the requirements listed on Hanover Engineering - Jill Smith's December 11, 2023 review letter and the acceptance of the right-of-way on Stoney Ridge Road.**
- Hanover Engineering – Strohl Sewage Facilities Planning Module Component review #1
- Serfass Family Permit Denial Letter
- 2023 Zoning/Building Permit List

Steve Kerbacher, surveyor for the Strohl subdivision project along Stoney Ridge Road – stated that they were subdividing a lot off for Kyle Strohl to build a single-family dwelling. He stated that due to the septic testing locations, they had to realign the other existing lot lines.

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Mr. Kerbacher stated how the property currently holds two single family dwellings, a business garage and multiple out buildings. He stated that with the alignment of the new lots; Lot #1, which houses a single-family dwelling and the garage, will share a driveway with Lot #2, which houses the other single-family dwelling. Mr. Kerbacher stated how Lot #3 will have a new single-family dwelling with its own driveway onto Stoney Ridge Road. He stated how the single-family dwellings on Lot #1 & #2 share a well, but have their own separate septic systems. Mr. Kerbacher stated how the subdivision plan has an easement for access on Lot #1 for Lot #2 and an easement on Lot #2 for Lot #1 to have maintenance access to the well if needed. Solicitor Nanovic asked about a maintenance agreement of the driveway. Mr. Kerbacher stated how they had submitted that agreement with all of the paperwork. He stated how they also prepared a description of dedication to the Township of the Stoney Ridge Road right-of-way.

Chairperson Brown moved and Supervisor Mullikin seconded to grant conditional plan approval for the Strohl subdivision based on the Township engineer's review letter dated December 11, 2023 and the acceptance of the dedication of the right-of-way on Stoney Ridge Road. All voted yes. Motion passed.

Chairperson Brown moved and Supervisor Takerer seconded to go into an Executive Session at 8:20 p.m. for possible litigation. All voted yes. Motion passed.

Supervisor Takerer moved and Supervisor Mullikin seconded to exited their Executive Session at 8:37 p.m. All voted yes. Motion passed.

Chairperson Brown moved and Supervisor Mullikin seconded to approve the settlement with Carbon Engineering, which calls for the Township paying the invoices totaling \$33,620.46; Carbon Engineering providing all of the CAD drawings, documents, etc. which were requested from them to Arro Engineering; the Township will sign the CAD drawing waiver as submitted and they will execute a mutual release and settlement agreement between Carbon Engineering and Lower Towamensing Township, which the agreement will be prepared by Attorney Rockman and approved by the Township Solicitor. All voted yes. Motion passed.

CLOSING BUSINESS FROM PERSONS PRESENT:

Ms. Farrell asked about the follow up for Stoney Ridge Road, which they had requested the engineer to review. Chairperson Brown stated how she did not get there yet. Mr. Cressley stated how there was an inlet box in that area of Stoney Ridge Road, but it was not in the Township's right-of-way and he did not know who installed it. Steve Kuhns stated how Mar Costenbader had that inlet installed.

Mr. Kuhns asked about tire recycling. Secretary-Treasurer Ahner stated how they needed to discuss it. Mr. Kuhns stated how they needed to do something, because he has been seeing them more and more on the side of the road. He stated how he did not mind paying a fee to get rid of them. Mr. Cressley stated how they had been in contact with someone who would be willing to pick them up from the Township, which there would be a fee per tire (car & truck). Secretary-Treasurer Ahner stated how they had started to look into it last year, but they were not sure how the Board wanted to handle it; residency & garbage bill checked, charging per tire, no charge, limits, etc. Supervisor Takerer stated how they would have to come up with a date and how they wanted to handle it with fees.

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Ms. Farrell asked Doug Kopp if there was a time frame for getting the CAD files from Carbon Engineering. Kris Porter asked if they were setting a time limit on getting the files. Solicitor Nanovic stated how they were probably looking at a two-week time period. Ms. Porter asked what it meant for the time line for the Sewer Project. Solicitor Nanovic stated how it might have delayed them a month. Supervisor Takerer asked Mr. Kopp about a time frame for a set of plans once they have received all of the documents. Mr. Kopp stated that producing a set of plans would probably take three – six months.

Supervisor Takerer stated how they have to discuss a pressurized system versus gravity fed system because of issues they might have with certain areas with the sewer lines. He stated that when he drove through Little Gap stretch a few weeks ago, it was a lake from the railroad to the mountain. Supervisor Takerer asked how would they build a gravity fed system through that area, which was completely inundated with water. Mr. Kopp stated how it was very hard to keep sewer lines in that situation anywhere close to water tight. He stated that with that much water, they might get a significant infiltration of water in that area. Ms. Porter asked about the idea of grinder pumps. Supervisor Takerer stated how grinder pumps were a very good way to combat ground water. He stated that if they would go with a gravity fed system, it would fill up with water and there would be no movement of wastewater from any portion of the system. Mr. Kopp stated how the pumping station and/or the sewer plant would be inundated with water. Ms. Porter asked if the amount in the agreement was the amount the Township owed to Carbon Engineering for past services. Solicitor Nanovic stated “yes”. Ms. Porter asked how they felt about the current situation. Solicitor Nanovic stated how they see the light at the end of the tunnel. Supervisor Takerer stated how they were looking for a quick resolution.

ADJOURNMENT:

Chairperson Brown moved and Supervisor Takerer seconded to adjourn the meeting. All voted yes. Meeting adjourned at 8:56 p.m.

RoniSue Ahner
Secretary/Treasurer