

West Penn Township Board of Supervisors

27 Municipal Road

New Ringgold, PA 17960

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Regular 10AM Monthly Meeting

Monday, January 20, 2020

Present at the Meeting

Tony Prudenti – Chairman

Katie Orlick - Secretary

Tim Houser – Vice-Chairman

Paul Datte – Solicitor

Glenn Hummel – Supervisor

Rodd White – Lehigh Engineering, LLC

Karen Wittig – Treasurer (absent)

I. General

A. Anthony Prudenti called the meeting to order with the Pledge of Allegiance & Introductions at 10:00AM.

B. Approval of Monthly Bills

Chairman called for a motion to approve our monthly bills. Glenn Hummel made the motion. Tim Houser seconded the motion. All in favor. Motion was carried. 3-0

II. Public Comment on Agenda Items – None

III. Land Use

Chairman asked Rodd White from Lehigh Engineering if he had anything to discuss with the BOS about Land Use. Mr. White said we had an application for a minor subdivision, which will go in front of the Planning Commission at their January Meeting. Tim Houser asked the Engineer when would an applicant be required to submit a full plan for the whole property. Is there a limit of how many times a parcel can get subdivided? Mr. White said if the parcel gets subdivided into three dwelling units, you will have to take into account open space & recreation fees. Chairman asked if there is a time limit for subdividing your property that you didn't have to account for open space. Mr. White said there is no time limit associated with that. Mr. White said any property, since the Township's 1986 Ordinance would have to account for open space if they were to divide into three or more dwelling units.

IV. Old Business

A. Fire Rules & Appointments

Chairman asked Attorney Datte if the Township has the right to appoint anyone as Fire Chief & Asst. Fire Chief. Paul Datte replied; that is correct. Chairman said the Fire Chief for the Township is different from the Fire Chief of the Department. The Fire Chief of the Township is like a liaison between the Fire Department & the Township. Tim Houser asked if the Township received an Audit from the Fire Company yet? Chairman said no we did not. Glenn Hummel made a motion to appoint Jeff Bradford as Fire Chief. Tim Houser seconded the motion. All in favor. Motion was carried. 3-0 Chairman called for a motion to appoint an Acting Fire Chief or Chiefs. Glenn Hummel made a motion to appoint Dennis Fritzinger Jr. as the Acting Fire Chief of West Penn Township. Tim Houser seconded the motion. All in favor. Motion was carried. 3-0 Glenn Hummel made a motion to appoint any other acting chiefs in the order of the way the Fire Department has them placed under Dennis Fritzinger Jr, as Acting Chief. Tim Houser seconded the motion. All in favor. Motion was carried. 3-0

V. New Business

A. Motion to approve the Auditor's Minutes

Chairman said the Auditor's had their ReOrganization Meeting on Tuesday, January 7, 2020 @ 1PM.

The Auditors present were Delroy Haas & Robert Stegmeier. Robert Stegmeier nominated Delroy Haas as Chairman, all were in favor. 2-0 Delroy Haas nominated Robert Stegmeier as Secretary, all in favor. 2-0 The Auditors accepted a resignation from Pam Dumond, all in favor. 2-0 Chairman said the Auditors the set salary for any Supervisor that performs work as an employee of the Township, at an hourly rate of \$15.00/hour. Chairman called for a motion to accept the Auditor's minutes for 2020. Glenn Hummel made the motion. Chairman seconded the motion. All in favor. Motion was carried. 3-0

B. Solar Panel Fees – Letter from Tamaqua Area School District

Chairman read a letter from Tamaqua Area School District requesting the BOS to consider reducing permit fees for a solar panel project they would like to do. Chairman said our permit fees for commercial solar panels are \$200/panel. The School District would like to install 810 Panels, which would cost the school district \$162,000 for their permit fee. Chairman asked Solicitor Paul Datte if we can modify the permit fee for Tamaqua Area School District. Paul Datte suggested we charge at least \$200, for administration. BOS agree to charge \$200 plus costs for inspection. Chairman made a motion to charge TASD \$200 permit fee plus the costs of inspection. Glenn Hummel seconded the motion. All in favor. Motion was carried. 3-0

VI. Business from Anyone on the Board

Chairman asked the Solicitor, how do we determine services from a temporary committee are no longer needed?

Attorney Datte said it is a good idea to have a formal action to end a committee. Mr. Datte said whatever action you took to establish the committee; you should do the same to terminate it.

VII. Correspondence

A. Letter/Email about Water Extraction

Dated January 13, 2020 – The letter was from Beth Pelo, a resident who wanted to express her concerns about water truck traffic on her road & the toll that it is having on her life.

Dated January 15, 2020 – Email from Philip & Lindsey Kulp. The email expressed their concerns about water extraction & water usage in their area and how they feel it is affecting their property & their pond.

Chairman asked the BOS what we should do about the letter/email. Tim Houser said to our dismay the Township cannot regulate everything about Water Extraction. Chairman said the Township cannot regulate where water is drawn from & how much water is drawn out but the Township can put some actions in place, which is why we are updating our Ordinance.

Tim Houser said the municipality does not have the right to say you cannot pump water. DRBC has our hands tied.

Karen Moyer –said on Pine Hill Rd. there used to be 4 artesian wells, which pumped 60gals/min. What happens if the wells stop all together? Tim Houser said we do not have control of how much water can be extracted. Tim Houser said we have to go to our legislators. We do not have an answer because the Township is restricted on what they can & cannot do.

Karen Moyer asked if the water extractors own or lease the property they extract water from & can we control it that way? Paul Datte said from a zoning stand point, whether the property is leased or owned, it is the use of the property, not necessarily how the user owns or has the legal right to use the property. It is the use that is governed by zoning. There are strict limitations on what the Township can do, in regards to zoning.

Paul Datte said there is a fine line of what we can & cannot do and everyone will have to be treated the same way, whether commercial or single family residential homes.

Chairman spoke about the aquifer & zone of influence.

Jay Land spoke about pump tests & models that will define the zone of influence.

Paul Datte said what we are doing as a Township & what we were advised to do by our outside land use counsel was to engage a Hydrogeologist to advise us, which we did. Mr. Datte said the advice from the outside land use counsel & the hydrogeologist's advice is what will be going into the Ordinance not someone's opinion. Attorney Datte stated there will be another public hearing on the zoning ordinance dealing with the water extraction provisions themselves. Paul Datte also said as far as the BOS approach to the water extraction issue, generally the last component is enforcement. Attorney Datte asked the BOS to have an executive session to discuss that component.

Karen Moyer also feels the BOS should have more enforcement on property maintenance. Tim Houser agrees that property maintenance is important.

Chairman recommends we send the water extraction letter/email to Representative Jerry Knowles & Senator Dave Argall.

B. PPL Letter

Chairman read a letter from PPL to inform the residence that PPL will be doing work in the area starting January 27, 2020 and be completed by February 28, 2021. PPL will be upgrading the existing transmission lines.

C. Senior Service Letter

Chairman read a letter from Senior Services requesting the Code Enforcement Officer to look at a property to determine if the conditions are livable for the homeowner to occupy. Senior Services is concerned for the safety & well-being of the homeowner. If the code enforcement officer finds poor conditions, senior services will assist and help the homeowner find better & healthier living arrangements.

Township Code Enforcement Officer did inspect the property and found poor conditions.

D. Storb Environmental Incorporated

Chairman read a public notice from Storb Environmental Inc. advising the Township that Fegley Oil Company has the Twp. listed on its Spill Prevention Response Plan. Storb Environmental Inc. stated as to date, the facility has not had any spills or release of any substances stored.

E. Zoning Steering Committee Report to West Penn Twp. Supervisors

Chairman read a report about the Zoning Steering Committee & their concerns. The Letter was from Zoning Steering Committee's Chairman, Ted Bogosh. The Zoning Steering Committee suggested they could meet without Mr. Schmehl, propose a few additional changes; forward the changes to the BOS and then to Mr. Schmehl for approval or disapproval. These changes should be included in time for public review before the next public meeting. The Committee also recommends that the Township Zoning Enforcement Officer should not be an employee of the Engineering Firm that works for West Penn Twp.

Ted Bogosh III asked the Chairman of the BOS if he feels the Zoning Steering Committee's job is complete without reviewing the final draft. Chairman said he considers the Committee's work complete, however, the work on the Ordinance is not complete and that is why we have open meetings to get public input. BOS feel that the Zoning Steering Committee job is complete & they do not have to continue meetings.

Chairman stated that the Township is working on some major issues. Some of the issues we are dealing with are updating the Zoning Ordinance, Water Extraction & Sewage. Chairman got responses from different individuals that want to know why things are taking so long. Chairman stated there is a law that is called the Pending Doctrine Law. The Township had a public meeting for their Zoning Ordinance. Once you have a public meeting the law goes into effect. Chairman said anyone that would propose a Water Extraction Business, Animal Husbandry Business another Trailer Park, whatever someone would propose, it would have to be on hold until Ordinance would be in place. Chairman stressed that it is our job to protect the Township & the Liabilities of it.

Karen Moyer asked if there is going to be another public meeting on the Zoning Ordinance. Chairman said, yes.

Chairman Datte said he wants to make it a point that you have to temper your expectations by what the Township legally can & cannot do.

Karen Moyer said she has two concerns is water & sewage. Karen Moyer said she has concerns about sewage in Andreas because she owns two properties there.

Chairman discussed what would be involved with getting sewage in Andreas.

Todd Zimmerman – said he filed a Right-to-Know to have a copy of the Document from Attorney Yeager that included “Task #2”. Chairman said that he does not have a document that talks about a Task #2”. Attorney Datte said that what Mr. Zimmerman is referring to is the engagement letter that pointed out two topics Attorney Yeager was going to address. Attorney Datte said that part of the response from Attorney Yeager cannot be disclosed at this time due to pending litigation. And at this point it is Attorney – Client Privilege and will not be release at this time.

Jay Land & his wife asked the BOS to explain “Task #2”. Attorney Datte said there is nothing classified as Task #1 or Task #2. Attorney Datte said there is a single sentence that is part of the engagement letter from the Yeager firm. The second part of that sentence talks about potential enforcement actions. The engagement letter states, “The letter is to confirm our agreement to represent West Penn Township in connection with reviewing the draft water extraction ordinance and assisting the Township in determining the best options for resolution of current & outstanding water extraction issues before the Township.” The Township engaged the Yeager firm among other things to determine whether there were any potential ordinance violations. Attorney Datte said Yeager did not classify anything of Task #1 & Task #2.

Todd Zimmerman asked Attorney Datte if it is currently under litigation. Attorney Datte said currently we are calling it pending litigation. Attorney Datte said we cannot release it right now. Attorney Datte said it is an Attorney – Client document.

Jay Land expressed his feelings about the Water Resource Steering Committee. Mr. Land said he had concerns about the Township being misrepresented. Attorney Datte asked Mr. Land to provide the Township with any documents that he is concerned with & the BOS will review them.

VIII. Executive Session

Chairman made a motion to go into executive session at 11:35AM. Tim Houser made the motion. Glenn Hummel seconded the motion. All in favor. Motion was carried. 3-0

Chairman called the meeting back to order @ 11:50AM

IX. Public Comment on General Items

Delroy Haas asked the BOS if the Township can get something per truck load of water to assist the Township. Tim Houser said we cannot do that. Mr. Houser said if Water Extraction was under Mineral Extraction then yes but with it being Agriculture we cannot. Attorney Datte said we can look into it.

Jay Richards had a concern about a property maintenance issue on Park Drive. Chairman suggested Mr. Richards should file a complaint.

Mr. Richards also had a complaint about a ditch that runs by his driveway & across the road. Chairman referred Mr. Richards to Clint Schock the Road Master. Mr. Richards spoke about Park Drive and Liquid Fuels Tax.

Daryl Nothstein asked about DAT Emergency Services & his RTK. Mr. Nothstein wanted to know how can they Appeal. Attorney Datte said they have a right to Appeal. They Appealed the Zoning portion of the NOV's which will go in front of the Zoning Hearing Board.

Ted Rosen asked Attorney to clarify the engagement letter from Attorney Yeager.

Attorney Datte read "The letter is to confirm our agreement to represent West Penn Township in connection with reviewing the draft water extraction ordinance and assisting the Township in determining the best options for resolution of current & outstanding water extraction issues before the Township."

Robert Stabler asked the BOS for an accident report. Chairman asked the Chief if he can get Mr. Stabler his report by the end of the week.

X. Anything Else from the Board - NONE

XI. Adjournment

Chairman called for a motion to adjourn the 12:07PM meeting. Tim Houser made the motion. Glenn Hummel seconded the motion. All in favor. Motion was carried. 3-0

Transcribed By:

Katie Orlick

West Penn Township Secretary