

Incorporated March 12, 1738

TINICUM TOWNSHIP

Bucks County

BOARD OF SUPERVISORS

163 Municipal Road
Pipersville, Pennsylvania 18947

GARY PEARSON, CHAIRPERSON
NICHOLAS C. FORTE, VICE-CHAIRPERSON
VINCENT J. DOTTI, SUPERVISOR

TINICUM TOWNSHIP BOARD OF SUPERVISORS MINUTES OF THE MEETING FEBRUARY 21, 2012

Chairperson Gary Pearson called the meeting to order at 7:30 p.m. Vice Chairperson Nick Forte was in attendance with Supervisor Vincent Dotti, Engineer Tom Fountain, Solicitor Stephen Harris and Manager Linda McNeill. There were approximately 12 persons in attendance, including Liz Bowman from the Herald, and Chuck Malinchak from the Morning Call.

PLEDGE OF ALLEGIANCE: Pearson led those present in the Pledge of Allegiance.

PUBLIC SESSION:

Announcement: Pearson announced that John McFarland's Memorial Service will be held on Saturday, March 24th and that details are available at www.nockamixon.us

A. Reports from Fire Companies & Police:

Delaware Valley Volunteer Fire Company:

Delaware Valley Fire Chief Chris Chevalier said that he would not be able to attend next month's meetings. He gave his monthly report for January stating the company responded to 12 calls, (6 fire, 5 QRS and 1 fire police).

Chevalier announced that a clothing shed has been installed at the Fire Company for used clothing. He said that the Fire Company would receive a financial benefit based on the poundage of donated clothing.

Chevalier said that spaghetti dinners were starting again will be held on March 9th and will be held each month on the second Friday from 5:30 pm – 7:30 pm.

Chevalier asked for updates on bridges. Pearson said that the Manager would give a brief update on the Jugtown Bridge, but there was nothing new to report on the others.

Tinicum Township Police Department:

Police Chief Sabath said that the Department has handled 275 complaints in the last 30 days. He said there was one burglary of a vacant house on Frankenfield Road where copper was taken and this was not similar to the other burglaries, which seemed to have stopped. He said that the citizens have been calling as requested, about suspicious vehicles and the Department appreciated their help.

B. Old Business:

Jugtown Hill Road Bridge Update:

McNeill said she spoke with the contractor and the start date for demolition and replacement of the bridge has been moved to March 12th. She said that a meeting was scheduled for February 24th at PennDOT offices for discussion about excavation, stabilization and demolition and if those issues were resolved, the start date would be March 12th at which time the road and bridge would be closed for the project. She said that the contractor said the Township would be given 2 weeks notice. Pearson asked McNeill to notify the ambulance provider of the change of dates.

Office Hours: Mon. Tue. Thurs. Fri. 9am-5pm, Wed. 9am-Noon
Phone: (610) 294-9154
Fax: (610) 294-9889

C. New Business:

Herman Pond Discussion: Amendment to provide for unilateral declaration in place of conservation easement and Operation and Maintenance Agreement.

Harris said that there were three things to be discussed this evening. He said that the Conditional Use decision stated that there would be a Conservation Easement requiring that no more than 20 percent of the trees could be removed and an Operation and Maintenance Agreement requiring that the silt be removed from the pond if requested by the Delaware Valley Fire Chief.

Harris said that he prepared the dry hydrant agreement that he has used in the past and McNeill provided the Hermans with the agreement that the Township normally used. He said that the Agreement that the Hermans signed was not recordable, such that the Hermans would need sign a recordable agreement.

Harris said that he prepared an alternative to the Conservation Easement Agreement and proposed substituting a Unilateral Declaration of Restrictive Covenants. He said that he also prepared an Operation and Maintenance Agreement for the pond with three conditions as follows:

- The property owners will not use their well to fill the pond.
- The property owners will maintain the pond so that the dry hydrant remains operational and will remove silt from the pond if requested by the Delaware Valley Fire Company Chief
- The pond will be constructed using best management practices and no more than 20 percent of the trees will be removed for construction of the pond.

Harris said that the issues before the Board were which dry hydrant agreement they would like to use, and to make a decision on whether it was acceptable to use a Unilateral Declaration of Restrictive Covenants rather than the Conservation Easement provided for in the Conditional Use Decision.

Dotti said it was agreeable to him to use the Unilateral Declaration. He asked Harris if the Conditional Use Decision would need amendment. Harris said that he did not think that would be necessary if the Supervisors approved the Declaration of Restrictive Covenants in its place.

Herman said he was comfortable with the agreement exception except for item #2, which is a design item. Pearson agreed with Herman. Harris said that he could revise the dry hydrant agreement with the proposed change without changing the signature page. He said that he would revise page #1 and have it recorded after all parties signed.

Motion by Forte, seconded by Pearson, that the requirement for the Conservation easement and Operation and Maintenance Agreement stated in the Conditional Use Decision be resolved by requiring that the Hermans sign the Unilateral Declaration of Restrictive Covenant Agreement and that Chairperson Gary Pearson and Manager, Linda McNeill be authorized to sign both Agreements on behalf of the Township. Voted upon and passed.

Asplundh: Proposed remediation:

Ed Murphy, Esquire was present with property owner Carl Asplundh, Greg Glitzer, P.E. of Gilmore and Associates and builder, Chance Worthington.

Murphy said that this home, located at 1 Bridge Three Lane was originally built in the 1940's and was know as Lynnwood Lodge. He said that the Asplundhs had owned the property for the last seven years and had been inhabitable for much of this time due to floods. He said that Mr. Asplundh met the Planning Commission (PC) last fall and proposed removal and replacement of Lynwood Lodge. He said that this proposal was not well received by the PC, in part because they thought the proposed style was not appropriate for the area, and also because they thought that the current home had historical significance. He said that the Asplundhs then met with some consultants and were presenting what they thought might be viable.

Murphy said that they were present to discuss the concept tonight but thought that going forward, they would probably need to ask for relief from some ordinance requirements.

Glitzer showed photos of the ¾ acre property at 1 Bridge Three Lane and diagrams showing where this property was in relation to the floodway and the Flood Fringe. He said that the existing house

sat on a level pad on the northern section of the property. He said that part of the house was located in the floodway but that the bulk of the house was within the Flood Fringe. He said that the base flood elevation (BFE) was 109.2 throughout the entire property. He said that the downstream area was wooded.

Glitzer said that the lowest floor of the house was 96.1 and the second floor was 105.9, so below the 109.2 BFE. He said that to elevate the entire home above the flood plain, the ground floor level being living space, and the home would be too high for the area. He said that everyone agreed that this was the wrong solution.

Forte said that this property has been before the Board in the past and he recalled that it was represented that the lower level was not living space.

Asplundh said that when he purchased the property, there was a master bedroom, bath, laundry room, fireplace and utility room on the 1st floor. He said that he did not change anything.

Dotti asked if the kitchen was on the second floor of the property. Asplundh said the kitchen was on the second floor.

Glitzer said that they would like to elevate what is presently the second floor 6 feet and move the property 5 feet further from the River. He said the 1st floor area would have FEMA compliant vented floodwalls and no living space. He said that in order to recover the living space they proposed a largely glass addition between the house and garage.

Forte asked about the height of the house. Worthington said they recognized the Township's 30 foot height limitation and proposed this house to be 30 feet +/- 2 feet. Worthington said the intention was to eliminate the entire first floor. He said that they did a cost breakdown of complete demolition and that the new house that was presented to the Planning Commission, was the least expensive option for the property owner.

Worthington said that they then thought to chop off the bottom level of the house, raise the existing house 6-7 feet and at that elevation, add on to the house at that elevation in a style consistent with the existing.

Worthington said that the existing turret would not be high enough once the home was elevated and that they would probably need relief to extend it. He said that the turret was an architectural feature he thought everyone would like to see remain.

Worthington said that the addition would consist of the replacement bedroom, bathroom and a mechanical area. He said that the first floor would be just piers and vents so that floodwaters could pass through. He said that the patio and fireplace chimney would need to be removed and the second story bridge with steps that go to the canal bank would have to be looked at as well. He said that during reconfiguration, the asphalt and impervious would be less, even with the addition.

Forte said that he would have to think about the blending of the two impervious surfaces. Murphy said he understood that this property was pre-existing non-conforming as far as impervious. Glitzer said he thought it was maybe 1 percent over the permitted impervious.

Murphy said that once they knew all the details, they would work with the Board, the Solicitor and the Engineer. He said that they knew they would need to go through all the necessary reviews and hearings.

Forte said that he was familiar with this property and its history and this conceptual plan maintained the character. He said that the turret was part of that and he agreed it was important to retain. He said that he was just speaking off the cuff and liked the plan but had not looked in the ordinance book.

Dotti asked if anything other than the fireplace was of importance on that first floor. Asplundh said there was nothing else of significance. Dotti said that he was favorable to the concept and he agreed that the property was significant. He said that the Board would need to see how the materials and addition blended with the historical home, but this seemed to be the practical solution and he also agreed that the turret was significant and he was favorable towards saving it.

Pearson said that knowing how that property flooded, he thought that this was a good way to save the house and thought this was the right direction.

Dotti said that he felt this was a good plan for the Asplundhs and the community.

Murphy said they would move forward and then review the types of relief they would need for the project. Murphy asked for the Board to authorize Fountain and Harris to interface with himself and design team to move the project forward.

Motion by Pearson seconded by Forte to permit interface with Fountain and Harris. Voted upon and passed.

Ordinance 179 Oil and Gas Drilling discussion:

Harris said that the State adopted a new oil and gas act and it stated that municipalities must allow oil and gas drilling in each district. He said that the Township's Ordinance 179 regulates oil and gas in Tinicum. He said that Chapter, the State's act, requires that all townships must come into compliance with the State's act.

Harris said that presently there is a moratorium on drilling in the Delaware River Basin. He said that he believed the Township would see a number of ordinances being composed to comply with the new act. He said that rather spending a lot of time trying to change Ordinance 179, he believed the Township should repeal it and start over. He said that the repeal must be sent to the Bucks County and the Township's Planning Commissions for review.

Motion by Forte, seconded by Dotti, to send the proposed ordinance to the County and to the Township Planning Commission for review.

Discussion: Pearson asked what would happen if the Township did not do this. Harris said that there was a provision in the State's act that if a municipality was reckless in behavior, someone who attacked the ordinance would be entitled to their attorney costs. Dotti said that this passage from Act 13 particularly irked him: "Notwithstanding any other law to the contrary, environmental acts are of statewide concern and, to the extent that they regulate oil and gas operations, occupy the entire field of regulations, to the exclusion of all local ordinances. The Commonwealth by this section, preempts and supercedes the local regulation of oil and gas operations regulated by the environmental acts, as provided in this chapter." Dotti said this sounded like Big Brother taking over local self-rule, and he noted that the MPC still charged the Township with making a plan to protect potable water supplies and the environment. Pearson said this was almost as bad as the coal mining regulations. Dotti said that a little to the north of us, at the Cabot site in Nockamixon, he understood there was an application for drilling. He said that the joint groundwater management committee (BNT GWMC) was developing a proposal to conduct baseline salt level measurements of the Rapp Creek before any drilling started.

Voted upon and passed.

Pearson said that he was concerned about the Township's roads and the impact of drilling equipment. Harris said he spoke with Skelton and Fountain. He said that Skelton initially said he felt the appropriate weight restrictions were in place in the Township.

Harris said that the township could do an engineering study, and if it justifies it, the Township can put restrictions on the road. He said that if someone overweight, or over height wanted to use the road, they would have to come to the Township and enter into an agreement with the Township, and that the Township can require bonding of "x" dollars per mile. He said that they would then agree to repair any damage they cause. Harris said that he has PennDOT's manual on this, and if Sabath or Skelton think any roads need protection, that do not have it, this could be discussed further.

McNeill said that Skelton was concerned about the frequency of trucks doing long-term damage and the narrowness of our roads for use by large trucks. Harris said that the Township needed to think about whether or not a convoy of trucks would use Tinicum Roads and if so, which roads they would use. Pearson directed the Manager to talk to the Chief and Public Works Director about this and report back to the Board.

1) MINUTES:

Approval of the Minutes of the Meeting of January 17, 2012 was tabled to the March 6th meeting.

Motion by, seconded by Dotti, seconded by Forte, to approve the Minutes of the Meeting of February 7, 2012 as written. Voted upon and passed. Pearson abstained as he was not present for the meeting.

2) TREASURER'S REPORT & BUDGET RECAP:

The Treasurer's Report and Budget Recap for January 2012 was presented.

3) PAYROLL REPORT:

Motion by Pearson, seconded by Forte, to approve the Payroll Report for the period ending February 10, 2012.

4) DISBURSEMENTS:

Motion by Pearson, seconded by Forte, to approve the below-listed Disbursements:

General Fund: Delguericco's Disposal Service \$125.00; Keystone Municipal Engineering \$2,511.60; United Inspection Agency, Inc. \$275.00; Selective Insurance \$10,403.00; Ricoh \$79.14; Met-Ed \$23.67; Blum-Moore Reporting Services \$250.00; Courier Times Inc. \$372.00; Petty Cash \$60.08; Bucks County Consortium of Municipalities \$25.00; M2 Associates Inc. \$202.50; Met-Ed \$636.72; Met-Ed \$208.02; Beers, John Jr. \$102.36; Bucks County Children's Advocacy Center \$25.00; L. McNeill \$102.00; Earth Link \$21.95; Valero \$1,576.16; Safeguard Business Systems \$139.44; Harris and Harris \$4,256.00; J. Tanner \$56.82; Gary Bickel's Garage \$18.00; Staples \$279.69; efts \$ 2049.03

Payroll Fund: Payroll for pay period ending 2/10/12; efts Federal \$5131.34; efts State \$822.30.

State Fund: Joseph Finkle & Son \$142.42; Wehrung's \$265.34; Richard Miller & Sons \$155.00; Compressed Air Systems \$596.89; NAPA of Ottsville \$ 623.45; Vanderlely's Sales and Service \$139.78.

Voted upon and passed.

5) A. PLANNING:**B. SUBDIVISION & LAND DEVELOPMENT:**Main Street Development petition to Supreme Court:

Harris announced that the Supreme Court denied the township's petition for appeal of the Main Street case. He said that the ball was now in the developer's court.

6) ZONING:**7) POLICE:****8) PUBLIC WORKS:****9) ZONING HEARING BOARD APPLICATIONS:**

Pearson announced the following:

Hearing scheduled for February 23, 2012 at 7:00 p.m. #2-2012 Property Owner/Applicant River Road Quarry, LLC, requests a Special Exception for storage and/or sale of tree crops and processing into landscape mulch. Present use of property listed as sale and storage of firewood, woodfiber, landscape mulch, top soil and stone products. The Special Exception is requested under Article XI, Section 1107, subsection a, b, c of the Tinicum Township Zoning Ordinance. Request is from the 5 acre minimum lot size, Section 704 Table of Use Regulations. This property is identified as Tax Parcel No. 44-7-48-3 and is a 3 acre +/- tract located in the Extraction (E) Zoning District.

10) MISCELLANEOUS:

Pearson recessed the regular meeting at 8:30 pm for an executive session. Pearson reconvened the meeting at 9:35 p.m. and announced that personnel and litigation matters were discussed.

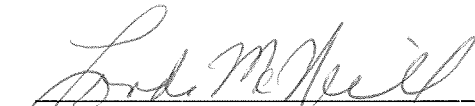
Motion by Pearson, seconded by Forte to authorize Fountain to attend the River Road Quarry Zoning Hearing Board hearings. Voted upon and passed.

11) ADJOURNMENT:

Motion by Forte, seconded by Dotti, to adjourn the meeting at 9:38 p.m. The next regularly scheduled Supervisors' meeting is March 6, 2012 at 7:30 p.m. in the Township Building.

TINICUM TOWNSHIP SUPERVISORS

Attest:



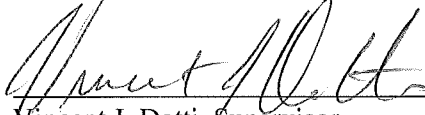
Linda McNeill, Township Manager



Gary Pearson, Chairperson



Nicholas C. Forte, Vice Chairperson



Vincent J. Dotti, Supervisor