

*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 MARCH 6, 2012

Chairperson Gary Pearson called the meeting to order at 7:30 p.m. Vice Chairperson Nicholas Forte was in attendance with Supervisor Vincent Dotti, Solicitor Stephen Harris, Engineer Thomas Fountain, and Manager Linda McNeill. There were approximately seven persons in the audience including Liz Bowman of the Herald and Chris Ruvo of the Intelligencer.

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

**PUBLIC SESSION:**

Pearson announced that the Board held an executive session prior to the meeting to discuss ongoing litigation. He said that there was nothing to report at this time.

Bridgeton-Nockamixon Tinicum Ground Water Management Committee:

Bob Stanfield said that he was present to request funding for the Bridgeton Nockamixon Tinicum Groundwater Committee to install and monitor a data logger in Rapp Creek to establish a baseline for comparison due to the proposed gas drilling in Nockamixon. McNeill said that the approval from Nockamixon was for Beaver Creek and that should be clarified. Pearson agreed but said that the Board would still support the application.

Motion by Dotti, seconded by Forte to support a grant application for funding to establish a data logger and conductivity meter in Beaver Run and/or Rapp Creek. A second phase of the project would be to provide a second meter downstream in the event of drilling on the Cabot site and funding to provide technical support for the conversion of the BNT-GWMC archival files to a reader-friendly data base program. There would be no cost to the Townships.

Voted upon and passed.

PennDOT:

Martie Kyde said she was present to discuss the rip-rap placement on Headquarters Road. She said that it was her understanding that PennDOT had somewhat overstepped what was permitted for an Exceptional Value Stream.

Fountain said that the Township was advised of a complaint of disturbance to the stream due to Rip-Rap placement and he spoke with a DEP representative in regard to standards for the EV stream and spoke to PennDOT and the contractor in regard to the work there. He said that the rip-rap placement was in accordance with the plan, and Army Corps had inspected it. He said that DEP had no problem with the work. He said that there was a minor issue about the smaller rock and whether or not it would need to be augmented with more large rock. He said that Keystone's conclusion was that the placement of the rip-rap in the stream did not conflict with DEP's Exceptional Value regulations.

Dotti said that Fountain's memo was a good reporting of the position of the Conservation District, DEP, Army Corps and in their view, they could not site any violations, but he did not take the position that there were no violations. Pearson said that the Township did not regulate those activities and had no enforcement power.

Dotti said that the memo should not be taken as approval from the Township and that he had serious questions about what permits they should have gotten. He said that PennDOT's design manual had

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significant anti-degradation regulations regulating projects EV streams and he did not find that any of those regulations were followed.

Pearson and Forte suggested that Fountain's memo be posted on the website. Dotti said he did not see a benefit to posting the memo. Forte said that the Riverkeeper has ongoing litigation and there was nothing different Tinicum Township could do. Pearson said that this was public information. Dotti agreed, but said that this was an example of an EV stream basically being paved over which was a serious concern. Forte said that the memo shows that the Board has been proactive. Pearson said that he would like the memo posted with the last sentence (any questions, please call Tom) removed. He said that this memo only pertains to this single project. Pearson and Forte directed the Manager to post the memo.

#### UBREMS:

Adam Maziuk Chief of UBREMS said he was present to request that the Supervisors please send a letter to Bucks County EHS, regulating authority for ambulance dispatch in Bucks to place his ambulance as the second call (if the Revere ambulance was unavailable) the second UBREMS ambulance would be dispatched before other ambulance companies. He said that since 2001, when the response order was designed, many companies have gone out of business. He said that he was told 2.5 years ago, that they were going to meet with the emergency providers after their GIS system was complete. Forte asked which company was presently second call. Maziuk said Plumstead Ambulance would come up. He said that this was a problem, because the other ambulance companies were not as familiar with the roads, and bridges that were out. He said that UBREMS drafted a policy where the second truck would take a staging position so that they were at a midway point to cover any response within both locals. He said that the fact that his crew was in the ambulance, with it running, it negated any two mile overage. He said that some of the mutual service companies could take 45 minutes to respond. He said that if both UBREMS were unavailable then the order of mutual companies would be reviewed for the quickest response. Maziuk said if there were a bus accident that required 12 ambulances, the dispatch would have 12 ambulances in order to call. He said that UBREMS was not asking to cover any areas that they did not already cover. He said from an Emergency Management preparedness standpoint, the reorder would fill in holes where necessary.

Motion by Forte, seconded by Dotti to write a letter on behalf of the Board to Bucks County Emergency Health Services, reallocating the boxes as Maziuk suggested. Voted upon and passed. The Board thanked the UBREMS staff for all they do for the Township.

#### **A. Old Business:**

##### Jugtown Hill Road Bridge Update:

McNeill said that the contractor sent copies of the detailed plan for Jugtown Hill Bridge. Pearson said that he thought they could be posted on the website. McNeill said that the Township would be given two weeks notice before the work began. McNeill said that Joe Bush told her that the dry hydrant could not be installed the way the abutments were designed. She said he suggested the Township could install a hydrant after completion. Pearson said that he would like the County to help with funding for the parts for the dry hydrant as they committed to installing a hydrant.

#### **B. Reports from Police & Public Works:**

#### **C. New Business:**

Nockamixon Township Board of Supervisors requests that the Tinicum Township Board of Supervisors authorize the services of its Fire Police during the Buckingham United Soccer Club Tournament to be held at Palisades High School, Saturday, March 17<sup>th</sup> and Sunday, March 18, 2012 from 8:00 a.m. to 6:00 p.m.

Motion by Forte, seconded by Dotti to authorize that Nockamixon Township has requested that Tinicum authorize Fire Police to work St Patrick's Day and the Sunday after.

**1) MINUTES:**

Motion by Pearson, seconded by Forte, to approve the Minutes of the Meeting of January 17, 2012 as written. Voted upon and passed.

Motion by Pearson, seconded by Forte, to approve the Minutes of the Meeting of February 21, 2012 as written. Voted upon and passed.

**2) TREASURER'S REPORT & BUDGET RECAP:**

The Treasurer's Report and Budget Recap for February 2012 will be presented on March 20th.

**3) PAYROLL REPORT:**

Motion by Pearson, seconded by Forte, to approve the Payroll Report for the period ending February 24, 2012. Voted upon and passed.

**4) DISBURSEMENTS:**

Motion by Pearson, seconded by Forte, to approve the below-listed Disbursements:  
 General Fund: McNamara, Bolla, Williams & Panzer \$598.00; Exxon Fleet Services \$246.12; Gall's Inc. \$363.87; Harrow Wash Station \$112.00; Central Bucks Special Response Team \$3,000.00; Police Chiefs Association \$50.00; Keystone Municipal Services Inc \$2,160.00; Ricoh Cust Finance Corp \$536.51; Safeguard Business Systems \$139.44; Intelligencer \$143.00; Joan Tanner \$58.27; Ricoh \$28.64; Verizonwireless \$256.32; Bucks County Recreation Council \$25.00; Keystone Municipal Services Inc \$2,010.00; YIS/Cowden Group, Inc. \$56.65; Gary Bickel's Garage \$1,013.33; DVHIT-W7090 \$19,667.17; Selective Insurance \$17,962.00; Trustees Insurance Fund \$963.60; Courier Times, Inc. \$403.50; Staples \$297.67;  
 Met-Ed \$103.87 & \$406.73; eftsps \$1481.59.  
 Payroll Fund: Payroll for pay period ending 2/24/12; eftsps Federal \$5078.52; State \$805.05.  
 State Fund: Wehrung's \$163.22; Drive Kore \$349.00; Farm & Home Oil \$1410.29.  
 Escrow Fund: River Road Quarry LLC \$750.00.  
 Open Space Fund: \$118,210.00

**5) A. PLANNING:****B. SUBDIVISION & LAND DEVELOPMENT:****6) ZONING:**

Request for review of Zoning Information by C.C. Johnson & Malhotra, P.C. on behalf of the Pennsylvania Department of Conservation and Natural Resources (DCNR) as they apply for a General Permit (GP-11) with Pennsylvania Department of Environmental Protection (DEP) to rehabilitate and replace the superstructure of an existing bridge over the Delaware Canal at Bridge Five Lane.

Dotti said that this involved a general NPDES permit. He said that the Township had a 30 day comment period and he recommended that the Township try to track down the detailed plan so that there were not surprises.

Forte said that this was DCNR bridge on a private lane, not PennDOT and not the Township. He said that Pennsylvania Museum Commission pretty much dictated what the bridges should be. He said that it was fair that the Township look at it, but it should be another historically correct canal bridge. He said that the residents in that area were informed.

McNeill said that she made a request to Wayne Nguyen, Civil Engineer for a copy of the plan, but she has not received it yet.

Board of Supervisors written decision Property Owner, Louis A. Cicalese:

Outdoor Wood Fired Boiler (OWFB) pursuant to Pennsylvania Local Agency Law 2 Pa. C.S.A. § 551, et seq on his property located at 629 Headquarters Road, Ottsville, Tax Parcel No. 44-14-9.

The Board signed the Cicalese decision.

Grading Permit, Zoning Permit Earth Disturbance Enforcement, Property Owner Paul Havis, 465 Cafferty Road, Erwinna, PA Tax Parcel No. 44-14-64-3:

Paul Havis of 465 Cafferty Road was present for the discussion. He said he was his own General Contractor on the job. He said he was present to apologize to the township. His engineer, Jason Smeland joined the discussion.

Havis apologized for all the time and effort that the Township was expending on his behalf, and secondly for his transgression. He presented aerial photos of the property. He said that the repair that was made was to an existing farm lane. He explained the property - part of Turtle Rock settlement. He showed what it looked like in its natural state. He said that his reason for doing this had nothing to do with his building site. He said he sent his excavators down to the valley to do some cleanup. He showed photos of tires and debris that his cleanup crew missed and said that the Tinicum Creek was not the pristine clean stream everyone thought it to be. He said that his clean up crew straightened up the lane to access the creek to clean up.

Havis said that because this was now considered part of his building site, or disturbed area, BCCD was coming out to the property on Monday to make a determination on disturbance areas. He said that he might have to redraw his plan to stay under the one-acre limit of disturbance. He said that he was ready to correct the disturbance to the satisfaction of the Township, and to accept financial responsibility, whether that is a fine or reimbursement of man-hours put into this matter. Havis asked the Board how it would like to proceed to correct this matter.

Harris said that he had two issues. The Conservation Easement must be rectified with the Tinicum Conservancy; and the two zoning enforcement notices for the grading violation must be resolved.

Harris said that violations of the zoning ordinance would need to go before the ZHB. He said that there was a thirty-day limit for filing with the ZHB for the Feb 9th enforcement notice. He said that he was not sure whether Havis would need Conditional Use approval for construction in the Tinicum Creek Watershed Overlay District and the Riparian Buffer. Fountain said that the Riparian Buffer Overlay District prevents any disturbance, even removal of brush. He said that the Zoning Officer was not sure if this disturbance was in the steep slopes as it was outside of anything shown on the plans. He said there was an exemption for conservation and farm uses in the ordinance that permit some disturbance, but that exemption did not apply to the Riparian Buffer and did not apply to the grading permit. He said that some amendment to the grading permit would be required as well as some addition erosion control measures (which were needed immediately). He said that for the applicant to do the stabilization necessary required conditional use.

Dotti said that he read that agriculture was an exemption in our grading ordinance as farmers have a right to farm, but, "operated in accordance with a conservation plan or erosion sedimentation control plan filed approved in writing with the Conservation district." Dotti asked if Havis performed agricultural operations on the property. Havis said he did not. Dotti asked if he had any plan on file, Havis said not at the current time, but it was a possibility.

Dotti asked what Havis was prepared to do to restore this. He said that the ordinance was not meant to deny Havis the use of his property. He asked if Havis planned to leave it as a walking trail. Havis said yes. He said that it was stabilized with straw bales presently (he showed the Board photos) Harris said that although it was not the Township's responsibility to enforce the conservation easement, the conservation easement says the trail should be limited to a width of three feet. Dotti asked if a three-foot trail was adequate.

Havis said that he thought it would do more damage to bring it back to three feet. Havis said that the lane was already there, in place and he just made in level. He said that he realized that the

conservancy had limits on trails, and he had no plans to add more. He said that the most minimal impact would be to not return it to three feet.

Smeland suggested filling in the embankment, or cutting the embankment and planting some vegetation. He said that he would prepare a plan.

Karen Budd of the Tinicum Conservancy said they held the easement and were responsible to monitor that easement at least once per year. She said that the IRS was very adamant about that property being monitored annually to insure that the easement was upheld in perpetuity. She said that that a baseline document was done at the time an easement was settled. She said that the monitors were trained volunteers. She said that she was the monitor for this property since the late 1990's. She said that the baseline done in 2005 did not show the farm lane but that she has used that farm lane to monitor the property from the beginning; and although the easement called for trails no wider than 3 feet, the trail was probably 5 feet in width since she has been monitoring. She said that the easement also states that there should be no mechanized vehicles on these trails. Budd said that Havis met with Jim Engle and other representatives of the Conservancy on the site prior to purchasing the property and asked what he could and could not do on this property before he purchased it. She said that although he made some mistakes here he was a consciences property owner.

Dotti asked Budd if she was stating that the baseline width of the trail was approximately 5 feet. She said she never measured it, but she thought it was and said that it did not show in the pictures because it was indistinct.

Forte asked Smeland if it was approximately 8 feet wide presently Smeland said that it was and said that the slope should be cut back a bit more to get a 2:1 slope to plant vegetation. He said that if it was filled in, instead of cut back, it would return it to the five foot width. Smeland said he would put together a plan for the township engineer to review.

Pearson said he was not sure what the Board could do. Harris said that there was no question that a Conditional Use (CU) Application must be filed to work within the Riparian Buffer and Tinicum Creek Overlay District. He said that the issue was whether or not McGlynn would be satisfied that the CU application would solve the violation to the zoning ordinance. He said that if McGlynn was satisfied, the CU and the amendment to the grading permit would resolve the enforcement issue. He said that if it did not, it would require an appeal to the Zoning Hearing Board. Harris said that McGlynn would have to decide if the CU and new grading plan was acceptable. Harris said that the Bucks County Conservation District would need to weigh in on this and tell the township what their requirements were. He said that Havis should speak to McGlynn about the enforcement notice.

Fountain asked, if McGlynn said yes to those items, was the proposed width 5-feet. Dotti said the Conservancy has jurisdiction over the easement, but the Township has jurisdiction over its grading ordinance. He said he agreed that 5 feet was appropriate for a recreational path.

Smeland asked if they could avoid the CU process as this was an existing road. Harris and Fountain both said it could not be avoided. Harris then said it was really McGlynn's call, but he did not think it was likely. Harris said he believed the Conservation District would tell the applicant what he needed to do immediately to protect the stream and the Township was not going to stop the applicant from doing that.

Havis asked for relief from the stop work order to do minor things on his construction project. Harris said Havis must speak to McGlynn.

**7) POLICE:**

**8) PUBLIC WORKS:**

**9) ZONING HEARING BOARD APPLICATIONS:**

**10) MISCELLANEOUS:**

Township Park:

Harris announced that the Board of Assessments granted the tax exempt status to the Township for the Cooper parkland tract.

Executive Session:

Pearson recessed the regular meeting at 8:35 p.m.

Pearson called the regular meeting back to order at 9:03 p.m. and announced that matters of personnel and litigation were discussed.

Motion by Pearson, seconded by Dotti, to authorize filing a Civil Complaint for the Andrew Lykon violation. Voted upon and passed.

Motion by Pearson, seconded by Forte, to direct the Tinicum and the Bucks County Planning Commission to review the draft Airport Ordinance. Voted upon and passed.


**11) ADJOURNMENT:**

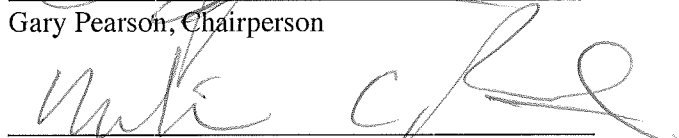
Motion by Pearson, seconded by Forte, to adjourn the meeting at 9:05 p.m. The next regularly scheduled Supervisors' meeting is March 20, 2012 at 7:30 p.m. in the Township Building.


TINICUM TOWNSHIP SUPERVISORS

Attest:

  
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Linda McNeill, Township Manager

  
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Gary Pearson, Chairperson

  
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Nicholas C. Forte, Vice Chairperson

  
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Vincent J. Dotti, Supervisor