

PINE GROVE TOWNSHIP SUPERVISORS
175 OAK GROVE ROAD, PINE GROVE, PA 17963
MARCH 8, 2006 MEETING MINUTES



CALL TO ORDER - Chairman Larry Zimmerman called the March 8, 2006 meeting to order at 7 PM and opened the meeting with the Pledge of Allegiance. Attending were Supervisors Zimmerman, Herm Clemens, Allen Aungst, Judith Lehman and Jerry Wise. Also present were Solicitor Gino DiNicola, Sect. / Treas. Kathy Ferguson, John Heinbach, Clinton Koontz, Donald Wenrich, John Myers, Lee Zimmerman, Sallie Deichert, Tom Daubert, Diane Tobin, Tom McMullen, Robert Pankake, other residents; list on file.

PUBLIC COMMENT ON AGENDA ITEMS

- ♦ Kathy Ferguson said she would like to comment after the executive session.
- ♦ Clinton Koontz said draft copies of the minutes for the meetings should be available to the public for their comment before they are approved by the Board. Zimmerman disagreed saying the minutes are not a public record until they are approved by the Board. Donald Wenrich said he asked for a copy of minutes before a meeting and was denied, Zimmerman said that is correct. DiNicola said it has been the policy of the Township to release the minutes to the public after they have been approved, unless the Board wants to change their policy of past practices. Zimmerman said it is up to the Board to decide and if a member of the Board wants to, they can bring it up for discussion at the end of the meeting, then they would take it under consideration.
- ♦ Donald Wenrich asked if the agenda item "Motion from January Meeting" is his motion or Zimmerman's motion. Zimmerman said it is what Wenrich brought up and they will take care of it this evening. Wenrich said he would like to comment on the discussion.
- ♦ Donald Wenrich said he would like to comment before the executive session.
- ♦ Clemens said he would like to discuss voting machines under new business.

MINUTES / FINANCIAL ITEMS

- ♦ **January 11, 2006 Meeting Minutes** – Clemens moved to approve the January 11, 2006 meeting minutes, Aungst seconded the motion, all were in favor; motion carried 5 to 0.
- ♦ **February 8, 2006 Meeting Minutes** - Lehman moved to approve the February 8, 2006 meeting minutes, Aungst seconded the motion. Lehman, Aungst, Zimmerman and Wise voted in favor, Clemens abstained, stating he was not present at the February 8th meeting and motion carried 4 to 0.
- ♦ **Treasurer's Report** - Zimmerman said the General Fund beginning balance was \$157,666.39, the February General Fund receipts were \$52,842.64, February General Fund expenses were \$51,392.76 and the ending balance of the General Fund is \$159,116.27. Zimmerman said the ending balance of the Capital Reserve Fund is \$2,037,475.78, the ending balance of the Liquid Fuels Fund is \$11,870.91 and the Combined Township Fund ending balance is \$2,208,462.96. Clemens moved to approve the Treasurer's Report, Wise seconded the motion, all were in favor and motion carried 5 to 0.

Ferguson said the checks that were sent to pay the bills approved at the February meeting were not signed by the treasurer. Ferguson said she checked with PSATS and they sent an email saying the treasurer's signature should be on each check for two reasons; first the treasurer is the person who is bonded and without the treasurer's signature the bond is compromised, second the Pennsylvania code states the treasurer is the one who is to pay all monies at the direction of the Board. Ferguson said she discussed it with the Board before and just wants it noted for the record that her signature was not on the February checks.

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Treasurer's Report, cont.

Aungst asked what if the treasurer is sick or on leave and Wenrich asked if that was the case here and Aungst said no. Wenrich asked why the treasurer was bypassed. Aungst said they didn't think they needed her signature and when they were signing checks they just reacted to what the bank said about two signatures. Wenrich said the bank doesn't care which two sign the checks, but the supervisors should care. Clemens said for the record the treasurer's signature should be on the checks, Zimmerman said right.

- ♦ **Approval of Bills** – Clemens said the bill from Nestico shows we are paying the lawyer for minutes for the Zoning Hearing Board; since they have a stenographer, he feels the minutes need only be a simple account of the meeting. Zimmerman said the problem is they have no secretary. Aungst said they will address that with the part time person.

Aungst asked Ferguson about the bill from Huber and Associates. Ferguson said it is for the preliminary work they did before the audit and we are usually billed in two or three separate billings.

Aungst asked if the bill from the tax collector for the envelopes and postage was split with the County and Ferguson said yes it was for our half of the bill.

Aungst moved to approve paying the bills totaling \$16,095.68; Lehman seconded the motion, all were in favor and motion carried 5 to 0.

PERSONS TO BE HEARD – None.

REPORTS

Engineers Report / Planning Commission Report

- ♦ **Donofrio Estate, Request for Planning Waiver** – John Myers said the applicant made corrections as Benesch requested and after discussion of the plan, Aungst moved to approve the request for the Planning Waiver and Non-Building Declaration for the Donofrio Estate Lot 1 and send it to DEP, Clemens seconded the motion, all were in favor, motion carried 5 to 0.

Landfill Inspector – Wise asked about the PVC pipes being replaced at the landfill and why they are cracking, if it was because of the acidity of the leachate. Lee Zimmerman said the flex hose and pipe cracks due to age and Lehman said the landfill continues to settle which leads to cracking of the pipes. Lee Zimmerman said the pipes are monitored on a continuous basis.

Roadmaster – No comments.

Zoning Officer – Lehman asked about the two complaints listed and Koontz said the one was from before and the other one was solved with a phone call. Clemens asked if the calls were routine and Koontz said he had a list if they wanted it.

OLD BUSINESS

Road Inspection Report – Zimmerman asked for discussion from the Board on the report and said that a copy should be given to John. Zimmerman asked who will take care of Item 10 (water standing on Rt. 895 in Chickentown after it rains). Aungst said John can use the digital camera and take pictures to send in. Lehman said she will draft a letter to send and will work with Heinbach on the item.

Aungst said it was the general consensus that Pleasant Hill Road and Swopes Valley Road from the county line to as far as we can pave is what should be done this year. Heinbach said it would be at least two miles and Joe Kretulskie was coming on March 24th to help estimate the cost so he would have figures for the next meeting.

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Road Inspection Report, cont.

Aungst asked if lines needed to be painted this year and Heinbach said some may need to be done. Zimmerman said he should figure out what roads need to be done for next meeting.

Aungst moved to get plans together for paving Pleasant Hill Road and Swopes Valley Road to amount covered by Liquid Fuels, Wise seconded the motion, all were in favor and motion carried 5 to 0.

Ferguson asked if they wanted to advertise it now and Zimmerman said to wait until the April meeting, they would discuss it then.

Appointment to Joint Treatment Authority Board - Zimmerman said last month we received a letter from John Stahl stating the Township EDU's have surpassed the Borough's; so the Township is entitled to appoint the third member to the Joint Treatment Authority Board. Zimmerman said since this letter was only received a few days before the meeting, they tabled it until this month. Zimmerman said in the meantime the Borough sent us and the Joint Treatment Authority a letter saying that it was not done properly and technically the area near the interstate is not hooked into the sewer, they are going into Feeser's sewer plant. Zimmerman said the Joint Treatment Authority should have notified us last year, but notified us in February; the Borough should have appointed someone in January, but appointed someone in February. Zimmerman said it is now to a legal point where we have to fight for our right to appoint a third person to the Joint Treatment Authority Board or let the Borough have the remainder of this year and take the seat that will become available next year. He said his opinion is there is no sense in fighting it for the nine months left this year.

Clemens asked the solicitor for a legal opinion. DiNicola said when the Joint Treatment Authority was created the articles of the corporation for the five member board stated the Township had to notify the Borough of their intent to place the third person on the board after it was determined the Township users exceeded the Borough by 110%. DiNicola said the Borough says the Township users don't exceed by 110% and have already placed their third member on the Board; the Joint Treatment Authority is asking the Township and the Borough to reach a consensus. DiNicola said if the Township intends to place the third person on the board next year, they should send a letter to the Borough or the Township can take a more aggressive stance and require an independent auditor and litigate.

Clemens asked if the situation would impede any grants and DiNicola said not to his knowledge.

Aungst said he felt they should allow the person the Borough appointed on the Board this year and exercise their option on the next appointment, Wise agreed.

After further discussion, Zimmerman moved to have DiNicola send the Borough and the Joint Treatment Authority solicitors letters stating our intent to let it go the way it is and to request an audit from the Joint Treatment Authority on the amount of flow into the new sewer plant to determine when we have surpassed our amount so we can send a letter to the Borough. Wise seconded the motion. Zimmerman, Wise, Clemens, Aungst voted in favor of the motion, Lehman opposed the motion, motion carried 4 to 1.

Part Time Office Position – Ferguson said we received more applications and interviews are scheduled for March 16th. Aungst said it is a screening process to recommend two or three to the full Board for hiring. Zimmerman asked if another meeting was needed and asked if it must be a public meeting to hire someone. DiNicola said yes, it is a legislative function of the Board, they would be making a decision. After discussion the Board agreed that Aungst and Ferguson should do the interviews, Clemens and Wise would meet with them on Tuesday, March 21st and Zimmerman moved to advertise a public meeting on Thursday March 23rd at 7 PM to hire the part time office help. Clemens seconded the motion; all were in favor and motion carried 5 to 0.

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Truck for Sale – Zimmerman said there is a bid in the correspondence folder and asked if it had been advertised on eBay. Ferguson said it had not because Lehman had set up an appointment with someone to look at it. Lehman said Hollingers Equipment from Lancaster had said they would look at it, but never showed up. Zimmerman opened the bid, said it was for \$800 and a check was enclosed. After discussion of previous attempts to sell the truck, DiNicola said he felt the Board had satisfied all the requirements to sell the truck. Clemens moved to accept the \$800 bid for the 1981 International truck, Lehman seconded the motion, all were in favor and motion carried 5 to 0.

Aungst asked about the grader, Ferguson said she talked to Mr. Kerton and he planned to be in the area around March 15th or mid-April and said he would be happy to send more money if they would continue to hold it for him. The Board agreed to ask Kerton for more of the money on the grader.

Motion from January Meeting – Wenrich said in the January meeting the people presented a petition and asked Zimmerman what statute he used to refuse to recognize the motion he made. Zimmerman said Wenrich is not a voting member of the Board, the Sunshine Law gives the public their right to comment, but he is not part of the technical portion of the meeting and can't make a motion. Wenrich said the first amendment of the Constitution gives him the right to petition the government for redress of grievances; the Sunshine Law confirms the Constitution. Zimmerman said a motion is not a petition; a petition is when people present a paper to their elected officials stating we would like you to take care of this problem. Zimmerman said if Wenrich had a problem with the meeting in January he should have talked to one of his elected officials and asked them to support him and bring it before the Board. Zimmerman said he doesn't know how make it more clear to Wenrich and said "end of subject".

Continuation of Executive Session from February 8, 2006

Zimmerman said he would like to hold the executive session until the end of the meeting, but gave Wenrich the floor to comment as he requested when the meeting began.

Wenrich read a statement (on file in the Township office) saying the executive session that was held was in violation of the Sunshine Law because the affected parties were not given twenty four hours advance notice allowing them to have the hearing held in a public forum, enlist witnesses and have legal counsel. Wenrich added that the February 8th meeting was adjourned therefore no continuation of this meeting can be held.

Zimmerman said the attorney will take it under advisement and gave Kathy Ferguson the floor to comment. Ferguson said last month she had asked to comment after Koontz spoke about office personnel and when it was decided to take it into executive session she was told she could speak after the executive session; however after the executive session the meeting was adjourned without acknowledging her chance to speak. Ferguson said also that after the executive session the solicitor noted a decision was going to be made and that was the first she was aware the executive session was considered a decision making meeting on the grievance she filed. Ferguson said the grievance she filed has not been handled in accordance with the employee handbook and had she been aware that the executive session was going to be for decisions on the grievance, she would have requested it be held in public as her right in the employee handbook.

Zimmerman asked Ferguson if she is requesting a public hearing and Ferguson said if the Board is making a decision on her grievance she would like it handled in public. Zimmerman said fine, we can set up another public meeting.

Zimmerman asked Sallie Deichert if she wanted a public hearing and Deichert said no, but she would like to speak with Koontz in executive session. Zimmerman said that she might not have the right and asked her if she wanted a public hearing after she hears the outcome. Deichert said no she thought she and Koontz could resolve some things, but if she doesn't have the right it's ok.

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Continuation of Executive Session from February 8, 2006, cont.

Zimmerman asked Lehman if she wants a public hearing for her grievance and Lehman said she is not pushing her grievance, but she is using the handbook as a supervisor and Koontz was insubordinate.

Zimmerman asked DiNicola for advice on the public hearing. DiNicola said he needs to unscramble everything, in the paperwork filed there was no request for a public hearing, but he has no problem with the Board scheduling it, he believes the Board can go into executive session to resolve a couple of pending issues and deal with Kathy's grievance separately.

Koontz asked when the grievance he filed gets addressed. Zimmerman asked him if the grievance he filed was what he talked about back there and Koontz said correct. Zimmerman said it will get resolved in executive session.

Aungst asked Ferguson if she wanted to speak at the last meeting why she didn't say something. Zimmerman told Aungst to stop, saying this could go into litigation and this question was brought up before we postponed two meetings.

Executive Session - At 8:12 PM Zimmerman stated the Board of Supervisors and Solicitor DiNicola were going into the executive session continued from the February meeting. Later the Board asked Clinton Koontz to join the executive session and asked Sallie Deichert to join the executive session with Koontz. Koontz and Deichert left the executive session and Kathy Ferguson was asked into the executive session. Ferguson left the executive session and it continued.

The meeting resumed at 9:42 PM.

Zimmerman said corrective action has been taken by the Board on the grievance issue, the public hearing is denied by the Board.

NEW BUSINESS

Resolution for New Sovereign Account – Zimmerman moved to adopt a resolution for the new Sovereign bank account, Aungst seconded the motion, all were in favor, motion carried 5 to 0.

DCED Survey of Financial Condition Report – Lehman moved to approve and file the DCED financial Condition report, Clemens seconded the motion, all were in favor, motion carried 5 to 0.

Zoning Hearing Board, Increasing Members to Five – Zimmerman said they had not received anything official from the Zoning Hearing Board and feels they should table this until the Zoning Hearing Board requests it.

Clemens asked if their secretary resigned, Zimmerman said not from the Board, just as secretary and Koontz said she is still a member of the Board.

Clemens asked if there are any applicants for the Zoning Hearing Board, Zimmerman said not that he is aware of; Ferguson said there is one applicant on file.

Aungst asked if it was in their minutes the secretary resigned, Ferguson said we did not get any minutes, but there was a note on the pay request sheet.

CORRESPONDENCE – Zimmerman said there is correspondence here for people to look at and Pad 12 response documents.

PUBLIC COMMENT

- ♦ Tom Daubert said he was at several zoning hearings and only two members were there for the beginning of the meeting, the third member came late and the alternates were not there; either the alternates should be notified or they should have more members.

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- ♦ Tom McMullen asked if they said the public hearing was denied and Zimmerman said yes. McMullen asked if the vote was unanimous on that. DiNicola said procedurally speaking the Board should entertain a motion for the record. Zimmerman moved to deny the public hearing because of the untimely manner, Wise seconded the motion. Zimmerman, Wise, Clemens, Aungst voted in favor, Lehman opposed the motion, motion carried 4 to 1.
- ♦ Tobin said they mentioned when they paid the bills they paid a professional to do the minutes for the Zoning Hearing Board, but they said later they don't have the minutes. Zimmerman said that is correct.
- ♦ Robert Pankake said the Zoning Hearing Board is responsible to find someone to do the secretarial work if their secretary resigned in January. Pankake said at the hearings he was at the attorney ran the meeting, not the Zoning Hearing Board.
- ♦ DiNicola said he received a letter from Atty. Joe Zerbe regarding the property owned by Dick and Margo Ward; it is a parcel off Old Forge Road. DiNicola said it is a sliver of land that the Wards are interested in donating to the Township if they would pay the taxes owed. Discussion on the parcel followed and Zimmerman moved to decline the offer, Clemens seconded the motion, all were in favor and motion carried 5 to 0.
- ♦ Wise said he is planning to contact the fire company to arrange a quarterly meeting.
- ♦ Aungst asked Ferguson if she had heard from Berkheimer about the new company listing, Ferguson said no.
- ♦ Aungst said the Recreation Board is seeking approval to plant trees costing approximately \$585 along the east end of the walkway and the playground surface needs to be brought up to the insurance company specifications, it will cost about \$350. Zimmerman moved to approve the purchase of the trees and the material for the playground, Wise seconded the motion, all were in favor and motion carried 5 to 0.
- ♦ Clemens said he thought we should send a letter to the Zoning Hearing Board asking for the minutes we paid for; Zimmerman and Aungst agreed.
- ♦ Clemens said he spoke to someone at the Election Bureau about putting a voting machine here so people could see how they work. Clemens moved to contact the Election Bureau to place a voting machine in the Township Building for demonstration, Aungst seconded the motion, all were in favor and motion carried 5 to 0.
- ♦ Zimmerman said the fire company issues are resolved and all four fire companies respond to structure, barn, or commercial fires in the Township. Wise noted that in the past when all four did not respond there was an error from the dispatch center, not the fire companies.
- ♦ Zimmerman said he has received complaints about paperwork that was done at the meeting not being finished by the secretary. Zimmerman said the minutes are not being done on time and need only include who was present, the time of the meeting, motions and do not need to have word for word of what people said.

Zimmerman moved that subdivision prints must be out by Friday lunchtime and the minutes of the meeting must be sent to the supervisors on Monday before the secretary leaves.

Aungst said if she has a problem with the minutes she should state it if she wasn't able to get them done.

Lehman asked Zimmerman to clarify if his motion includes what is supposed to be in the minutes. Zimmerman said he doesn't care if the minutes are twenty pages long, so long as she has them done before she leaves on Monday.

Aungst seconded the motion. Zimmerman, Aungst, Wise voted in favor of the motion, Clemens, Lehman opposed the motion, motion carried 3 to 2.

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- ♦ McMullen told Zimmerman he is demanding too much for the secretary to complete the minutes by Monday when he doesn't know who might come into the office and all the other work the secretary is doing. McMullen said Zimmerman's tone of voice is not nice; he shouldn't talk to her like that.
- ♦ Ferguson said she received four pay request sheets from Donna Chamberlain on February 24th for the Zoning Hearing Board along with a note from her stating it is up to the Supervisors if they want to pay the Zoning Hearing Board for meetings to execute decisions when there are no hearings held. Ferguson said one of the pay requests was for January and she put that in this month's payroll, however the other three date back to August, September and October of last year, and since it states on the pay sheets they are to be submitted by the end of each month, she wanted direction from the Board to pay them. Ferguson said the pay request for August may have been paid, she is researching that one and the September pay request is the one Donna notes is for executing a prior hearing decision.

After discussing the pay requests, the Board said they are not going to pay the September pay request for meetings to execute decisions.

Zimmerman said Ferguson should process the other pay request sheets but hold the checks for signature until the April meeting. Zimmerman said he will talk to the Zoning Hearing Board and let them know they need to put the pay request sheets in on time.

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ADJOURNMENT

At 10:23 PM Aungst moved to adjourn the meeting, Lehman seconded the motion and all were in favor; motion carried 5 to 0 and meeting was adjourned.

**Respectfully submitted,
Kathy Ferguson, Secretary / Treasurer**