

Chairman John B. Rebert called the regularly scheduled meeting to order at 7:00 p.m. with the following in attendance:

Supervisor Dennis Luckenbaugh
Supervisor Tanya Crawford

Mark E. Derr, Manager
William Poole, Solicitor
Dennis Sarpen, Engineer
Julie B. Maher, Recording Secretary
Approximately 75 citizens

I. Minutes

Motion by Crawford, second by Luckenbaugh, to approve the minutes of the regular meeting of October 20, 2009. All members voted aye; motion carried.

Motion by Crawford, second by Rebert, to approve the minutes of the special meeting of November 12, 2009. Two members voted aye; Luckenbaugh abstained. Motion carried.

II. Treasurer's Report

Motion by Luckenbaugh, second by Crawford, to approve the Treasurer's Report for October 2009 as presented. All members voted aye; motion carried. Mr. Derr noted that there was a deficit once again in October.

III. General Public Comment

None at this time. There will also be public comment as part of the 2010 budget discussion.

IV. Police Report and Police Board Report

No officer was present, so Mr. Rebert presented the information for October 2009.

Mr. Rebert also gave the Police Board Report for November 2009. He noted that Officer Lindenmuth was chosen as Hanover Officer of the Year, and there were a few other awards of note as well.

The police budget has increased slightly from last year; however, this is the lowest increase in the last four or five years. Mr. Luckenbaugh had a question on the proposed increase for raises, etc. Mr. Rebert noted that negotiations are still underway concerning salaries, raises, holiday pay, etc., and the proposed budget figure takes into account the highest increase, just in case.

Motion by Crawford, second by Rebert, to approve the police budget, including the proposed 2.65% increase. Two members voted aye; Luckenbaugh opposed. Motion carried.

V. Fire Company Report

Larry Wildasin presented the Fire Company report for October 2009. All fire equipment has the new radio equipment in place; re-programming efforts are continuing. The Company is applying for some grants.

VI. Permits, Plans, and Modules

A. H & H Excavation Co, George F. Hoke, Sr., Final Subdivision - re-approval of plan; recording time expired.

Motion by Crawford, second by Luckenbaugh, to re-approve the Final Subdivision Plan of H & H Excavation/George F. Hoke, Sr., because the recording time expired. All members voted aye; motion carried.

B. Ken and Nancy Lint - request for waiver of storm water pit on Permit #9-138 (replacing an existing building in the center of an 18-acre farm)

Motion by Rebert, second by Luckenbaugh, to approve the request by Ken and Nancy Lint for the storm water pit waiver on Permit #9-138. All members voted aye; motion carried.

C. David Kauffman - request for waiver of storm water pit (replacing single wide trailer with double wide B 250 square feet difference in impervious surface; property located on 9 acres)

Motion by Crawford, second by Rebert, to approve the request for waiver as written. All members voted aye; motion carried.

VII. Administrative Reports**A. Manager's Report**

1. Mr. Derr presented information to explain the 2010 budget. The Township made a number of budget cuts in 2009, but prior to that, the Township, beginning in 2006, failed to set taxes high enough to cover expenses. In 2006, the Township lost over \$160,000; in 2007, it lost double that amount; in 2008, the same, and in 2009, the budget anticipated a \$70,000 loss. Because of the past budgeting practice, the Township's reserves have been reduced significantly. The General Fund reserves available to carry over to 2010 are approximately \$470,000.00. The reason this is of particular concern is that the Township's Sewer Authority is also experiencing a significant shortfall in its revenues. The problem stems from Cornerstone's Colonial Crossings development which was never connected to the public sewer system. Due to complications with the PUC, the developer did not comply with their original agreement to connect to the Authority's sewer system. This has resulted in a loss of approximately \$720,000 in tapping fees and yearly sewer rentals of approximately \$320,000. As a result, the Authority does not have sufficient funds to pay their debt. The Township guaranteed the debt, which means that if the Sewer Authority cannot make the payment, the Township has to. Because of the lack of revenue from Colonial Crossings, the 2010 Sewer Authority Budget is approximately \$500,000 short of being able to make their 2010 debt payment. The Township, as noted above, only has about \$470,000 in General Fund account. Therefore, the Township can't live up to its guarantee. In order to make up the difference, the Township must either find another developer with at least 400 units to build, increase the sewer rates, increase the real estate taxes, restructure the debt, or some combination of the above. The Sewer Authority voted last night not to raise the sewer rates at this time but instead hope to restructure or issue additional debt in 2010 to make up the shortfall.

Summary for 2009 in revenues: real estate taxes are approximately \$20,000 less than budgeted. Per capita and real estate transfer tax revenues are down, as are refuse collections, recreation fees, and building permits.

Expenses for 2009 B manager's and zoning officer's salaries were less than budgeted, along with a number of smaller items.

Proposed for 2010 - real estate tax up from 1 mill to 1.75 mills. Earned income taxes are budgeted at slightly less than what was actually received in 2009. Mr. Luckenbaugh reported that if Harley Davidson leaves this area, about \$2 million in county revenue will be lost, among other things. Mr. Derr is proposing turning the refuse collection billing over to the refuse handler when the new contract goes into effect in July, rather than have the Township continue this service. The cable television contract is up for renewal this year and an increase in the franchise fee is anticipated. The health insurance contract was renegotiated, with a substantial savings. Pension costs have increased due in large part to the downturn in the financial markets. The proposed budget reflects depreciation in the various departmental budgets. This will be used to fund future equipment replacements. Legal fees are proposed at a higher rate, anticipating litigation expenses for the Colonial Crossings sewer issues. Engineering fees are anticipated to be higher, anticipating the correction of stormwater issued and various other on-going problems in some of the developments. The fire department budget reflects an increase mostly due to the new depreciation line item. A full-time zoning officer's salary is included in the 2010 budget. Mr. Derr commented that many of the problems that the Township is experiencing with developers, builders, and zoning issues could be eliminated by returning to a full-time position.

The Township projected the budget on the screen so that the audience and the Board could review it together. As changes were proposed, Mr. Derr inserted them into the budget. With each proposed change, he showed the changes in the revenue/expense numbers, and how each change would affect the bottom line of the 2010 Budget. The proposed changes included: reducing the real estate tax to 1.5 mills; implementing an emergency services tax of \$52; instituting a charge for peddler's permits and leaf collection, raising the franchise fee for cable TV, eliminating depreciation for all departments except public works, and reducing the zoning officer's salary to \$40,000.

From the audience, a resident asked of the validity/legality of taxing the residents who do not use the public sewer system in order to pay off the Sewer Authority's debt of \$500,000. He feels that it's not fair for the non-users to have to help pay off a debt that the users were forced to sign up for in the first place. Mr. Poole explained that it is legal and provided an in-depth explanation. The bottom line is that the Township is obligated to assure that there are no shortfalls.

Michael Chiaro, Palmer Avenue, feels that the Authority is the situation with Cornerstone Development only because of the Township's actions and because of that, the sewer users alone shouldn't have to correct the problem. The Townships taxpayers should also have to share the burden.

Mike Breighner, Bahn Avenue, asked how Cornerstone got out of paying the proper fees in the first place. He feels that this developer was treated differently from the general public and asked if they could be taxed to make up the shortfall. Mr. Poole noted that the Sewer Authority was making those decisions, not the Board of Supervisors. Mr. Poole explained the situation with Cornerstone, which is explanation that Mr. Derr provided when he opened the budget discussion. Mr. Poole noted that separate sewer rate districts can be created but not different real estate tax rates for individuals or entities.

Greg King, Noss Road, asked about different tax rates. Tax rates and sewer rates are two different items, Mr. Poole explained. Is the Township using tax revenue to pay the sewer bills and is this included in the real estate tax increase? No, the real estate tax increase does not reflect any increase to address the shortfall

in sewer revenues. Cornerstone will pay the same tax millage rate as anyone else. However, a tax increase could be required because of the Township's guarantee of the Sewer Authority's debt. Why isn't the Township suing the developer? Mr. Poole noted that the Township is exploring all of its legal options at this time.

Debbie Flynn, Smith Hill Road, asked about the December 1st deadline for the Sewer Authority to certify that there's enough money to pay their bills. Was that deadline met last year? Yes, it was.

Discussion was held with questions and answers about DEP, the PUC, the Sewer Authority and the residents of Colonial Crossings/Cornerstone, CMV Sewage Company (the sewer plant operator), etc.

If the developer wants to upgrade their treatment plant, could the Board deny an upgrade permit? No, DEP is responsible for permitting; however, it would be contrary to the Township's Act 537 plan. Who owns the land where the water is discharged? It's unknown who owns the land but the discharge is to a stream, all waters are owned by the Commonwealth.

Mr. Chiaro asked about negotiations between the Authority, the Township, and the developer. Mr. Poole noted that there have been plenty of negotiations between all the parties, to no avail and noted again that the Township is exploring all of its legal options at this time.

Other rates and budget items were reviewed with the Board members giving their approval or input to each item.

Discussion was held on the full-time or part-time zoning officer. Each Board member gave his or her reasons for supporting or not supporting a full-time officer. It's possible that a full-time zoning officer would reduce the amount of money spent on an outside inspection agency, would bring in additional revenue by catching violations, and would be available to address problems that we are finding in existing developments because no one from the Township was tracking what was going on.

Reductions were made to several charitable organizations. Discussion was held on selling various properties that the Township owns. It was noted that the Township is being taxed for several properties that it owns, which should not be happening.

Motion by Luckenbaugh, second by Crawford, to lay the budget open for inspection with a .5 mill real estate tax increase. All members voted aye; motion carried.

2. **Motion** by Crawford second by Rebert, to increase the fire hydrant tax from 0.14 to 0.21 mills. All members voted aye; motion carried. Mr. Poole will prepare the appropriate ordinance.

3. **Motion** by Crawford, second by Luckenbaugh, to request a traffic study for Brown Road. All members voted aye; motion carried.

An audience member requested that the Sewer Authority minutes be published on the Township's website. This will be done, but it was noted that minutes are not official until approved.

B. Engineer's Report

1. Mr. Sarpen noted a concern in the restoration of the area in the John Shearer Partnership case. The applicant has requested a reduction in the letter of credit. Mr. Sarpen feels that a reduction of \$37,400.00 is more realistic, as opposed to the applicant's request of \$58,000.00. Mrs. Crawford asked for some clarification from Bob Nedzel, who was present on behalf of the applicant. The original letter of credit was to cover work proposed on the plan. However, it appears that the plan cannot be completed as approved.

The Township is not sure what the applicant is proposing to do, because no revised plan has been submitted. There are storm water issues outstanding because the applicant has not obtained a stormwater easement from a downstream property owner that would be affected, which is a very real concern. The Township doesn't want to be stuck with outstanding issues and work to be done and not enough money set aside to do it. Does the applicant have a sufficient bond in place to complete the work as shown on the plan? Some permits are still required, and it's difficult to say what could happen if those permits are not obtained. Mr. Nedzel reported that the applicant is still in negotiations with the property owner. The Township doesn't want the work left uncompleted, leaving storm water discharging onto someone's property flowing uncontrolled onto the Township road. The plan was approved with the premise that an NPDES permit was not required; however, DEP is requiring the permit. Ultimately, the work proposed on the plan cannot be completed as shown under the existing conditions. The Township does not want to be under-bonded. The applicant must obtain the stormwater easement and NPDES permit to discharge the stormwater as shown on the plan or will need to submit a revised plan to deal with the storm water issue. It was noted that York County Conservation District's approval letter only addresses the Erosion and Sediment Control Plan. It does not assume any responsibility for the implementation of the plan or the construction of the stormwater controls contained on the plan, including the inlets and pipes. What's to stop the applicant from not completing the rest of the Township's requirements if the letter of credit is reduced? Mr. Nedzel feels that the applicant has an obligation to the Township to finish the project and comply with the requirements. The problem is that the Township has had trouble in a similar situation with a developer. The Supervisors are reluctant to allow a reduction in the letter of credit without more assurance that the applicant will hold up their end of the deal. Mr. Nedzel feels that this project is not exacerbating the existing storm water problems in the area.

Motion by Rebert, second by Luckenbaugh, to approve a reduction in the letter of credit by \$25,000.00 and to authorize the manager and engineer to meet with the York County Conservation District/DEP representative and the applicant's engineer to evaluate the run-off area and to find a solution. It was noted that the developer is responsible for providing the solution, not the Township, DEP or the Conservation District. Two ayes; Crawford opposed. Motion carried.

2. Lynwood subdivision B Mr. Sarpen and Mr. Derr reviewed the area and found some problems with inlets, sediment basins, stormwater ponds and other issues. Is there any money left on the letter of credit to complete this work? Are there inspection records and proof of adoption? Would this area have passed inspection/adoption in its current state? There was also a question of whether the proposed number of fire hydrants were actually installed in this development. Mr. Derr and Mr. Sarpen will meet with the developer to address these issues prior to the next board meeting.

Mr. Poole urged that all the lots that the developer still owns should be tied into a declaration of covenant, wherein the unsold lot owners should be obligated jointly and severally to the maintenance of the stormwater pond. He noted that this cannot be required of any lots that are already sold.

C. Solicitor's Report

The Board retired to an Executive Session at 10:14 p.m. to discuss pending litigation and personnel issues.

Motion by Crawford, second by Rebert to authorize the Solicitor to initiate litigation against Colonial Crossings. All members voted aye; motion carried.

Motion by Luckenbaugh, second by Crawford to authorize the Solicitor to prepare a tax ordinance reflecting a 1.5 mill tax rate. All members voted aye; motion carried.

Motion by Crawford, second by Luckenbaugh to authorize the Solicitor to draft an EMS tax. All members voted aye; motion carried.

Motion by Crawford, second by Luckenbaugh to authorize the Solicitor to draft a letter to the Sewer Authority outlining the conditions of the guarantee, rate covenant, etc. and the need to increase rates. All members voted aye; motion carried.

VIII. **Old Business**

None at this time.

IX. **New Business**

None at this time.

X. **Announcements**

- A. The Recreation Board will meet on January 25, 2010.
- B. Planning Commission will meet on November 24.
- C. The Board of Supervisors will meet on December 15.
- D. The SWRPD Board will meet on December 9.
- E. The Sewer Authority will meet on December 21
- F. Zoning Hearing Board - none for December

Motion by Crawford, second by Luckenbaugh, to adjourn. All members voted aye; motion carried. The meeting adjourned at 11:30 p.m.

Respectfully submitted,

Mark Derr
Township Secretary/Manager

Julie B. Maher,
Recording Secretary