

Chairman Lee Hall called the meeting to order at 7:00 p.m. Supervisors present: Rodney Shearer, Dennis Luckenbaugh. Present on behalf of the Township: Manager Joy Strausbaugh, Solicitor Bill Poole and Gil Picarelli of KPI Technology. Also present: Recording Secretary and 15 citizens.

I. **Minutes**

Motion by Shearer, second by Luckenbaugh, to approve the minutes of the meeting of January 16, 2007. All members voted aye; motion carried.

II. **Treasurer's Report**

A. **Motion** by Shearer, second by Luckenbaugh, to approve the Treasurer's Report as presented, including Payroll #2-07 in the amount of \$13,403.95; Payroll #3-07 in the amount of \$15,872.05; Payroll #4-07 in the amount of \$14,936.67; the Non-Uniform Pension for 1/1 to 12/31/06 with a total in both funds of \$493,751.63; and to authorize the payment of bills for January, 2007 in the amount of \$276,226.18; and to approve the Financial Report for January, 2007 with a total in the General Fund of \$1,345,619.68 and a total in all funds of \$1,561,976.91. All members voted aye; motion carried.

III. **Public Comment**

None at this time.

IV. **Police Report**

No one was present from the police department.

V. **Permits, Plans, Modules**

A. **Motion** by Shearer, second by Luckenbaugh, to approve Road Opening Permit #4-2007, submitted by C. S. Davidson on behalf of Columbia Gas to install a gas line on Old Joseph Road. All members voted aye; motion carried. It was noted that the work has not yet been completed.

B. Bruce Ruhlman was present on behalf of the Roy Neal Revocable Trust Final Subdivision Plan #243605EF46 located on Thoman Drive. The Supervisors previously approved (9/19/06) the use of a shared driveway for these two (2) lots with an easement/shared maintenance agreement. The developer has incorporated the easement information in with the wording of the deed. It was faxed to Mr. Poole for review earlier in the day. Mr. Poole suggested adding more information to the easement reference for Lot #3 including a reference back to the Subdivision Plan. The shared maintenance issue was discussed - even though what is included is bare bones reference, Supervisor Shearer commented that it is not the intent of this Board to define how the driveway should be maintained. The applicant is requesting a waiver of the driveway isolation distance. The driveway already on an occupied adjoining lot will be too close to the planned driveway for Lot #1 on this plan. **Motion** by Shearer, second by Luckenbaugh, to approve the Waiver request for Lot #1 to Section 165.42.C of the NCT Code, which requires minimum driveway isolation distance, for the Roy Neal Revocable Trust Final

Subdivision Plan #243605EF46. All members voted aye; motion carried. Gil, the engineering representative, questioned if ever the second driveway were needed, could it be gotten on the lot? The answer was yes - it was not being done now due to the expense of removing the bank. Supervisor Shearer felt the sight distance could be met. This would need a State Highway Occupancy Permit to do so. Also, another waiver would be required for the isolation distance on that side.

Supervisor Luckenbaugh questioned the location of the easements for the septic systems. The system sites for both lots are off of the main lots. DEP approved the Sewage Module for this subdivision as submitted with only the replacement areas actually on the lot. If the applicant had been made to deed the entire easement area onto the lot, this would create a greater portion than is allowed to be subdivided in this area. **Motion** by Shearer, second by Luckenbaugh, to approve the Roy Neal Revocable Trust Final Subdivision Plan #243605EF46 located on Thoman Drive. All members voted aye; motion carried.

C. No one was present on the Robert H. Dubbs, et al, Final Subdivision Plan #L-5110 located on Dubbs Road. The only thing required tonight is the approval of the Sewage Module and its submission to DEP. The SEO had no problems with the Module. **Motion** by Shearer, second by Luckenbaugh, to approve Resolution #03-02-2007, to amend the Act 537 Plan to include the Robert H. Dubbs Sewage Module and to forward this module to DEP. All members voted aye; motion carried.

VI. Administrative Reports

A. Manager's Report

1. Mrs. Strausbaugh noted that there are several seminars being offered. Previous information was provided to the Supervisors. It might be a good idea to offer the information on the "Duties of a Planning Commission" seminar to the Planning Commission members. **Motion** by Hall, second by Shearer, to authorize the attendance of any Planning Commission members wishing to attend the "Duties of a Planning Commission" held on Sunday, April 22nd and to authorize the payment of the fees and related costs of attendance. All members voted aye; motion carried.

2. The 2006 Year End report was received from the Susquehanna Stray Animal Shelter and will be placed on file.

3. York County Planning Commission is assisting the York County Ag Land Preservation Board with the review of the 2007 Conservation Easement Applications and has provided NCT with notification of those applying. The following have applied: Tim Lau, 123 acres in NCT (28 acres in Seven Valleys Boro); Dennis Martin, 113 acres; and Wayne Yeager, 82 acres. **Motion** by Shearer, second by Luckenbaugh, to renew the objection to Mr. Yeager's application to the Ag Preservation program, noting that Mr. Yeager has already sold off all of his land that can be developed, the balance is not good tillable land and the acreage has still not been corrected to deduct the subdivided land. All members voted aye; motion carried.

4. YCSWA Roadside Litter program will be held March 31st through May 31st. Any civic groups, schools and neighborhoods can clean up and dispose of the litter free of charge at the YCSWA Resource Center. Groups must pre-register.

5. Rodney Shearer of 5244 Shearer Lane, Spring Grove has submitted an

application for an NPDES permit for a CAFO operation at the same address.

6. York Co. EMA Elected Officials seminar will be held on March 28th at the Pleasant Acres complex. There are two sessions that day. Mr. Luckenbaugh will let Mrs. Strausbaugh know if he can attend.

B. Engineer's Report

1. Mr. Picarelli is still working on the materials bids and will finalize the work in a week or so. There are a few quantities that still need to be fine tuned. **Motion** by Shearer, second by Luckenbaugh, to authorize the advertisement of the materials bids as soon as the information is ready. All members voted aye; motion carried.

2. C. S. Davidson is finalizing the design on the box culvert for Buffalo Valley Road. Does the Township want to include guide rails on this road? Guide rails were not included in the budgeted cost for this project, and there are no guide rails there now. The Board agreed to include guide rails in this project. Mr. Picarelli will inform C. S. Davidson to include that in the design.

C. Solicitor's Report

1. **Motion** by Shearer, second by Luckenbaugh, to approve Resolution #02-02-2007 appointing the CPA firm of Smith, Elliott, Kearns and Company to audit the Township financial records for 2006 at a cost NTE \$4800. All members voted aye; motion carried.

2. **Motion** by Hall, second by Luckenbaugh, to authorize the Manager and the Solicitor to begin work on the refuse contract. All members voted aye; motion carried.

3. Supervisor Shearer questioned if Mr. Poole had found out anything about the procedures surrounding the ALCAB (the body within the State Dept. Of Agriculture responsible for hearing eminent domain issues within agricultural security areas) hearing process. Mr. Poole spoke at length with Doug Wolfgang, the Chief of Land Use and Natural Resources Division of the Department of Agriculture. The ALCAB Board is made up of different individuals from other State agencies such as DEP, Dept. Of Ag, etc. The party wishing to condemn the property has to initiate the process of an ALCAB hearing. ALCAB must convene a joint hearing and act on the application within sixty (60) days. The participants of the hearing will be: ALCAB, County Commissioners, Municipal Ag Security Board (if there is one) and the Municipal Governing Body. Each body will make an independent decision on the issue - ALCAB will make their decision at that time - the other bodies have up to sixty (60) days from the date of the application to make their decisions. If no decision is made within that time period, the expectation is that would be a presumption of agreement. A majority of all four bodies must agree to the condemnation. If any one of the factions disagrees, the condemnation cannot happen. Mr. Poole asked if there were any written regulations for this process - NO. Most of the bodies will have met before this hearing and be ready to issue a decision.

Supervisor Shearer went on to lay out the Rebert issue and the confusion of the NCT Ag Security Board. In 1989, the Robert Rebert farm was signed up into NCT Ag Security, just like they did a lot of the farms along Green Valley Road. Many of those farms lay in NCT and CT. The tax parcels on most of them are in NCT, because most of the land is in NCT. The pamphlets published at that time stated that the Ag Security Area had to be registered at the Court House, which was done by Tax Parcel #. The entire Rebert parcel was registered in NCT Ag Security. Letters were sent to adjoining municipalities that NCT was planning to do the Ag Security area.

In 1989 the NCT Ag Security Board, with help from Patty McCandless at the County level, thought they had done the procedures correctly. As far as the NCT Ag Security Board is concerned, all of the Rebert land **is in Ag Security**. Codorus Township is taking the stand that the portion of land in CT is not in Ag Security, because CT did not put it in their Ag Security. There are farms along Green Valley Road that sold their development rights off and one of the requirements to do that is participation in an Ag Security Area. Those farms did exactly as Mr. Rebert did - their boundaries cross into CT, but their property was entered into NCT Ag Security. York County accepted those farms as being in Ag Security, but the Rebert farm isn't? Mr. Shearer stated that Ag Security is a waste of our time and efforts, if the first time it is put to the test, someone can say our properties are not in it. Mr. Poole said the Ag Security law is pretty clear in that it says that if you have a property that crosses municipal boundaries, it is automatically included in the Ag Security area of the municipality that has the larger share of the parcel only if the other municipality has no Ag Security Area. If the other municipality does have an Ag Security Area, that municipality must approve including it in the larger municipality's Ag Security Area. If the tax parcel is assigned to NCT (for example), how could it then be registered by that same parcel in another area? The acreage should have been broken apart to reflect the acreage in each municipality. The procedure was done the same way for the Steve Martin farm and the hog farm on Green Valley Road and it was satisfactory for York County Land Preservation. Suddenly, the procedure was not done right. None of these have been done correctly. Rightly or wrongly, the applicant in this situation has taken the position that the Rebert farm is not in Ag Security and therefore has cancelled the ALCAB hearing. Only the applicant can request or cancel an ALCAB hearing. Chairman Hall asked what role this Board plays? The Solicitor responded that the Ag Security Board approves or disapproves properties located in our municipality. Bobby Rebert questioned how all the taxes are recouped that were paid on this property that supposedly belongs to CT? For the purposes of taxes, municipal boundaries are not relevant. The entire parcel is taxed in the municipality that the house is located in. The taxes were only paid one time to one municipality. The Township only had two small pamphlets to work from - why weren't all these laws provided then? Chairman Hall questioned what happens now since the ALCAB hearing was withdrawn and what role can the Township play? The Reberts will have to file preliminary objections and the Court will have to rule on those objections. The Township cannot play any role in that part of the procedure because the Township is not a party. Mr. Poole said the Township could try to intervene. Shearer said the Ag Security Board is going to respond. Mr. Rebert asked "how do the zoning laws enter into CT taking this by eminent domain?" Zoning has very little bearing on the issue of eminent domain. In general, a party may be able to take the land, but they may not be able to use the land in the manner they wanted to, depending on the allowed uses for that zone. Mr. Poole cannot comment on the CT Zoning laws. Barry Rebert questioned from the audience the legality of the Jefferson Codorus Sewer Authority condemning land of Bob Rebert's when Jefferson Boro agreed for land that Bob Rebert owns in the Borough to be placed in the NCT Ag Security Area. Unfortunately, they are not trying to condemn any of that parcel - it was an individual parcel. If that were the case, we would already be at an ALCAB hearing. Bob Rebert pointed out that NCT sent CT a notice in 2003 of land being in the NCT Ag Security area. CT dropped the ball and did not respond. Whether the notice cures the potential defect in

the procedure would have to be decided by a Court. But if NCT did not have the power to put the land in their Ag Security Area in the first place, no amount of notices will give them the power to do that. The Ag Security Board is not willing to let this drop. If what we did here wasn't legal, then how could they take those farms on Green Valley Road. Mr. Shearer said the Ag Security Board and the Reberts need to contact some State Senators and State Representatives and have the County Preservation Board and the State Agriculture Board explain how all of this could happen. Rodney Shearer advised the Ag Security Chairman Nelson Breneman to contact all of these people and set up a meeting. We need to get all of these people in one room at the same time. There are some fairly large issues pending here that need attention. Solicitor Poole thinks this would be a good idea because the County has some real problems if they bought development rights that did not meet the criteria.

D. Police Board Report

1. As the Police Board meeting was cancelled on 2/14, it has been rescheduled for tomorrow evening. Therefore, Mr. Shearer had no report.

E. Fire Company Report

1. Fire Chief Larry Wildasin gave an annual report for 2006 and a monthly report for January 2007. The reports noted the amount and type of calls and the amount of loss resulting from those calls. In March, a pre-construction meeting is being held with KME on the new fire truck. It would be nice to have one of the Supervisors present. It will be about a 6-8 hour trip. They will travel to KME to discuss the building of the new fire truck.

VII. **Old Business**

A. The Township needs to appoint representatives to the Local Government Advisory Committee. This has not been done for the last couple of years. No decision made.

B. **Motion** by Luckenbaugh, second by Shearer, to appoint Stacey E. Gingerich of 5520 Stormy Hill Road as the Township Auditor to fill the vacancy created by the resignation of Robert Leichter. All members voted aye; motion carried. This term runs to the end of 2007 and is the position up for re-election. Stacey would need to run for the position this year.

C. Mr. Shearer reported on the Police Building buyout, noting that Mr. Hall had indicated that the Supervisors have no problem with who owns the building as long as we have a very specific agreement tying each municipality to the building. NCT wants the municipalities to have an individual say in what happens to the building - that each municipality has to agree to enlarge or borrow against the building, those two being used as examples. There are also still some issues with regard to what happens if there is ever a need for buyout, whether due to disbandment or withdrawal from the department. Another issue is how new members will fall into the ownership of this building. The Police Board wants the building to be in the Police Board's name. The Supervisors are all in agreement with regard to terms. Mr. Shearer will take the Supervisors' concerns and wishes to the Police Board meeting tomorrow night.

VIII. **New Business**

A. A crack sealer was included for purchase in the budget for 2007. The plan is to purchase this equipment thru the State Contract. The Road Foreman has requested that purchase at this time. **Motion** by Hall, second by Shearer, to approve the purchase of the crack sealer

under the State Contract at a cost of \$36,499, to be delivered by May 1, 2007, but no earlier. All members voted aye; motion carried.

B. The Fire Company's service truck needed repairs in the amount of \$1,825.74. This truck is owned by the Relief Association and the repairs can be paid by Relief Funds. Since the Township now gives all the Relief funds to NCT, the Fire Company was to pay all of the bills from Relief funds that are allowed. **Motion** by Hall, second by Luckenbaugh, to approve the Township paying the two (2) invoices totaling \$1,825.74 for repair of the Service Truck owned by the NCT Relief Association. All members voted aye; motion carried.

C. **Motion** by Hall, second by Luckenbaugh, to approve the request by the Menges Mills Historic Horse, Steam and Gas Association for the use of NCT Fire Police for a show scheduled from July 20-22, 2007 at the York County 4-H Center. All members voted aye; motion carried.

D. **Motion** by Luckenbaugh, second by Shearer, to authorize the Chairman to sign the Utilization Report for the Army Corps of Engineers prepared by C.S. Davidson on behalf of the Sewer Authority for the Waste Treatment Plant Land. All members voted aye; motion carried.

IX. Announcements

- A. There was no Zoning Hearing Board meeting this month.
- B. The Recreation Board will meet on February 26th at 7 p.m.
- C. The Planning Commission will meet on February 27th at 7 p.m.
- D. The Board of Supervisors will meet on March 20th at 7 p.m.
- E. The SWRPD Board will meet on February 21st and on March 14th at 7 p.m. at 6115 Thoman Drive.
- F. The Sewer Authority will meet on March 19th at 7 p.m.

Motion by Luckenbaugh, second by Shearer, to adjourn. All members voted aye; motion carried. The meeting adjourned at 8:33 p.m.

Respectfully submitted,

Joy Ann Strausbaugh, Secretary