

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

I. Minutes

**Motion** by Shearer, second by Luckenbaugh, to approve the minutes of March 20, 2007. All members voted aye; motion carried.

II. Treasurer Report

**Motion** by Shearer, second by Luckenbaugh, to approve the Treasurer's Report as presented. All members voted aye; motion carried.

III. General Public Comment

A. Robert Rebert of 1223 Krafts Mill Road reported that for over a year now, the Jefferson Codorus Joint Sewer Authority has been badgering him to allow them to place sewer lines through his property. The Authority has now come up with a different proposal - to bring a sewer line down out of Jefferson and put a large pumping station on his property and pump the sewage back through Jefferson and out to the development. That will open up the Rebert farm and the neighboring farms for development. As enticement, the Authority is claiming this line will increase the value of his property and make it more valuable with sewer access to it. He is a farmer and wants to remain a farmer. He and his family are opposed to this idea and since they pay their taxes to NCT, are requesting any assistance to fight this issue. Mr. Rebert stated that he is at the end of his patience and this issue is affecting his health and well being. Supervisor Shearer and the other members of the Ag Security Board are looking for authorization to have KPI look over the drawings and look at where they are locating the pump station and give us an idea if that is the best route as a secondary alternative before we go to an ALCAB hearing. The amount proposed for review of this issue should not exceed \$400-\$500. **Motion** by Luckenbaugh, second by Hall, to authorize KPI and Supervisor Shearer to do an on-site inspection of the area in question and review the alternative plan being offered in this case. All members voted aye; motion carried.

B. Dave O'Brien, the Heidelberg representative to the SWRPD Board (Board), was present with questions. Mr. O'Brien stated that neither Heidelberg Twp. or the SWRPD Board was aware of his presence at this meeting, nor was he expressing their opinions. In February, the police pension issue was very close to being resolved, in his opinion. The two (2) NCT members of the Police Board felt that there was still an existing legal problem. At their urging, the Police Board spent a lot of time and money researching the pension fund from the beginning. O'Brien stated that the Board used the wording of the NCT Solicitor at that time: the other solicitors okayed the language. None of the other Solicitors feel that anything has been done wrong with the transfer of pension funds. Mr. O'Brien continued that Supervisor Shearer continues to indicate that something was not done legally and that it is going to end up in court. Mr. O'Brien stated that he has not seen anything to indicate that something was done wrong. If something was done wrong, then it needs to be fixed, but he has to know what was done wrong from the NCT Supervisors. The issue is that there may have been a problem with turning over the over-funded portion of the NCT Police Pension. Supervisor Shearer stated that this issue was discussed last year when the last amendment to the Articles of Agreement was developed. That is the reason the pension issue was removed from the Third Amendment because it was a complicated issue. NCT had two (2) solicitors tell us that **it was discovered** last year that there might be a problem with the way the procedure was handled. No one ever said that it was knowingly done illegally. NCT shared written conversation between Atty. Tilley (SWRPD Solicitor) and Atty. Rudolf (representing NCT) noting that Act 600 states that after an intermunicipal agreement to form a regional police department, the law provides for the transfer of pension funds, provided that the amount of the assets transferred does not exceed the actuarial accrued liability. The Police Board wanted proof and that is why NCT had an actuarial study done. Atty. Tilley made a joke at the time when NCT was having the actuarial study done, "Now wouldn't it be funny if NCT finds out they owe more money?" The Police Board was not satisfied

with the results of the actuarial prepared by Conrad Siegel for NCT which showed the overfunding at \$600,000 plus; therefore, they had their own actuarial prepared by Standard which showed overfunding of \$500,000 plus. Supervisor Shearer stated that if two (2) solicitors have told us it was illegal to transfer the excess, then we have to find that out. O'Brien asked what part of it was illegal. Supervisor Shearer very patiently explained the Act 600 language to Mr. O'Brien again. O'Brien came back with the statement that the Advisory Committee talked about the fact that NCT would be overfunding the pension. Supervisor Shearer again stated that NCT did not know the language of Act 600 at that time. It was discovered since that in conversation between Tilley and Rudolf. O'Brien acknowledged seeing those e-mails, however, shrugged that fact off as conversation between attorneys. Shearer stated that both he and O'Brien had asked of Solicitor Tilley if this was legal. All that Tilley came up with was a formula to fix it. Shearer stated that you can't fix the issue until it is determined if it was done legally or not. Mr. O'Brien said that their solicitor did not come up with a formula to fix this until it was requested by Mr. Shearer to **appease** a new Board of Supervisors at NCT. O'Brien continued with the theory that if there is something wrong, the documents about credit will not fix something that is wrong. His position is that if there is a problem, it must be fixed. O'Brien said if you can get an attorney to fix what's wrong, if it was wrong, you won't have any trouble getting it through the Police Board. Chairman Hall made a statement to end the issue, as it also appears later on the agenda. Mr. Hall stated that he is not sure if anyone is wrong: at the time, it may be that the people involved did not know what was right or wrong. It seems that if you talk to five (5) attorneys, you will get equally as many opinions. It may have to go to court to make the determination whether the transfer of funds was right or wrong. The one issue that stands out to Mr. Hall, is that five (5) years ago, it was talked about and done. Now it comes to light last September that turning over all of the funds may not have been proper. Chairman Hall sees that as the only question - not whether it was right or wrong, but was it done incorrectly? If it can be determined that nothing was done wrong, in Mr. Hall's opinion, it becomes a dead issue. If something was done wrong, and overfunded money should not have been turned over that could be turned back to NCT, then the only value it has to NCT is if in fact it were returned, it could be put into the Non-Uniform Pension Fund, which is underfunded because of all the turnover of funds. The NCT minutes recognized this fact by saying "that NCT may now find we have to partially fund the Non-Uniform Pension beyond what State monies are provided". That has in fact happened. The Township has had to fund the Non-Uniform Pension by an increasing amount each year. Mr. Hall continued by saying, there is no issue if no mistake was made and there was no problem turning over the excess funds and if it was wrongly transferred and can be turned back, it still has no value unless it can be turned into the Non-Uniform Pension and fund it so that tax dollars do not have to be spent each year to fund it. Mr. Hall stated that NCT cannot just let it go because the Township has to contribute to the Non-Uniform Pension each year and that expense is not going to go away. Mr. O'Brien questioned whether or not something was done wrong and has been discovered, isn't that the Police Board's issue. Mr. Hall stated that it may be an issue that is beyond all of us and we may need a judge to make that decision. Mr. O'Brien stated that Rodney basically looks at the Police Board and tells them that this is their problem. Supervisor Shearer reiterated that he never said it was the Police Board's fault and stated at the last PD Board meeting that NCT is not accusing anyone of having done anything wrong, but since it was discovered, it has to be fixed. The only way to fix it is to find the answer whether the funds should have been transferred. Mr. Shearer went on to say that Atty. Tilley's stance is to look the other way. That will not solve this problem. Mr. Poole said that he is close to finalizing his opinion on this matter, but will not give it at a public meeting.

C. James Crawford of 3651 Aldinger Road, asked if NCT is paying for KPI to check out the Rebert issue. Yes, the Board approved \$500.

#### IV. Police Report

A. Sgt. Jack Greene gave the Police Report for March 2007. Supervisor Luckenbaugh questioned the number of 911 hang up calls. He state that some other municipalities are starting to do ordinances about this. Is this going to be a problem for NCT. Sgt. Greene did not think so. The 911 Center dispatches these calls and the department does check these out.

V. Permits, Plan, Modules

A. **Motion** by Shearer, second by Luckenbaugh, to approve Road Opening Permit #05-2007 for York Water Company to do a repair at 1732 Country Road. All members voted aye; motion carried.

B. **Motion** by Shearer, second by Luckenbaugh, to approve Resolution #04-04-2007 which amends the Act 537 Plan to include the Sewage Module for Twin Pine Farms Final S/D Plan #5024 and to forward the module to DEP. All members voted aye; motion carried.

C. Dave Lipinski of James R. Holley & Associates and Craig Kehoe of CDG was present on the plan for Colonial Crossings Lot #50. Lot #50 is the commercial use lot approved by L/D plan for Colonial Crossings. When the plan was approved, specific uses and square footage were assigned to the five (5) spaces. The applicant has changed the use of the proposed building area - the area approved for the two (2) office spaces is now a club house. The maintenance space will remain the same; the retail space and the food space will now become office space. The Zoning Officer will not approve the permit for a different use than was approved. Mr. Lipinski is purporting that there will be less parking necessary for the new uses. The Solicitor commented that the change in specific use within a recognized zoning use is allowable. Mr. Kehoe noted that Zoning Officer Jay Little has said that the proposed uses are permitted uses in this zone. Mr. Poole noted that the L/D plan will need to be reviewed in light of the proposed changes. It is not just a matter of making a motion to approve the change in use. This proposal is different from the original L/D plan in several ways, one of which is the location of the water service to the lot. When someone comes in to check details of a recorded plan, it should reflect what is on site. It was compared to as built drawings of a project. The Township has already approved revisions to this L/D Plan. To comply, the applicant should submit an amended plan with new signature blocks. Discussion was held on the issuance of a shell permit (for exterior construction only) which would show the building footprint. A shell permit is a construction permit. Mr. Picarelli said that he would not have a problem with this type of permit being issued as long as the building footprint wouldn't change; the the same setbacks and the same stormwater calculations should all apply. The Engineer added that by using the shell permit, the developer is taking a risk on what is going inside. The Manager noted that the NCT ordinances have no provision for a "shell permit". Mrs. Strausbaugh noted that in NCT, the use/zoning permit is issued first, and then a construction permit is issued.

Mr. Poole stated that if a permit is given now, the permit will be based on the uses that were approved on the L/D plan. How the developer chooses to build that out really does not matter, so long as the developer understands that until the L/D plan gets changed, that is what they live with. If the applicants decide later to change uses, they run the risk of the Township not approving the use change. Solicitor Poole made it very clear to Mr. Kehoe that the developer will have to live with whatever he has permitted. Mrs. Strausbaugh also brought up the relocation of the water connection to this lot. Evidently, the water line location has changed from what was approved on the plan. Mr. Picarelli stated that everyone understands that when you are out in the field, sometimes things change that require relocations of utilities, but the Township has the right to require as-builts upon completion. The Manager explained that the apartment complex currently has a water meter connection and this commercial lot will tap into that connection. There are already two (2) owners, CDG and Statewide Properties. Mrs. Strausbaugh does not want the Township to feel any repercussions in the future when the ownership changes. The Township Engineer feels this is a York Water Company problem. Supervisor Luckenbaugh wants the developer to put something in writing with regard to what they want to change. Mr. Hall made the point that the developer is required to amend their plan. Mr. Lipinski stated that all of the changes will be shown on the plan. It was indicated that Mr. Little can issue a permit for the uses stated on the approved L/D plan. The applicants were directed by the Supervisors to get a letter from York Water Company stating that the water connections are where the Water Company required them to be. All of the correct information shall be shown on the amended L/D plan that the applicants are required to provide for the change of use.

The applicants will provide a revised land development plan indicating the changes. They also would like to get the shell permit as soon as possible. They will provide the letter from York Water Company.

VI. Administrative Reports

A. Manager's Report

1. **Motion** by Hall, second by Luckenbaugh, to approve the attendance and payment of costs for Jay Little to attend the PSATS Floodplain seminar on May 9<sup>th</sup>, at a cost of \$35. All members voted aye; motion carried.

2. YCSWA Hazardous Waste Collection will be held May 5<sup>th</sup> from 9 a.m. to 1 p.m. at Crossroads Middle School in Lewisberry.

3. YCSWA in conjunction with Indian Steps Museum will host an Earth Day Celebration entitled Brother Worm and Sister Tree on April 19<sup>th</sup> from 9:30 a.m. to 2 p.m. at Indian Steps Museum.

4. **Motion** by Luckenbaugh, second by Hall, to approve the payment of and attendance of any interested Supervisor at the PSATS Seminar, Assessing Your Financial Condition on May 31<sup>st</sup>, at a cost of \$50 per attendee. All members voted aye; motion carried.

5. The Liquid Fuels Funds were received in the amount of \$236,413.24, of which \$220,253.24 is the regular allocation for maintenance of our roads. The Road Turnback Program funds this year amounted to \$16,160 - this is the first year for Bentz, Messersmith and Tunnel Hill inclusion, along with the increased dollar value per mile.

6. The Township received from the Auditor General's Office the NCT Relief Association Audit for the period 1/1/03 to 12/31/05 and will be placed on file for anyone to view.

7. **Motion** by Luckenbaugh, second by Hall, to authorize payment of and attendance at the seminar regarding the differences between the 2003 and 2006 Construction Code, sponsored by the PA Construction Codes Academy at a cost of \$125. All members voted aye; motion carried.

B. Engineer's Report

1. Kevin Capp from Vulcan Materials Company was present to discuss the materials bids. Vulcan bids the crushed aggregates. Kevin asked if the Board considers the other factors in the bid recommendations when the bids are close. His explanation centered around the Aggregate A10 bid item, labeled Driving Surface Aggregate, which is the material used in the dirt and gravel projects. Kevin explained that this material has to have the optimal moisture content to get the most from the material. Vulcan's material has a lower moisture content which would require less material and cost the Township about \$242 less. Their material also has a lower specific gravity which produces more coverage area. Real total value would be about \$391 less. Kevin stated that the Vulcan bid would be lower than the lowest bidder, if consideration were given to these factors. Chairman Hall questioned why Vulcan had not shared this info with KPI earlier. The Solicitor pointed out that those factors are not specified to that degree. Other bidders could come in and make the same argument. Kevin indicated that ON Minerals had the Township bid two (2) years ago and could not meet quality on one type of stone - Vulcan honored the lower contract price for the Township to continue the job. The Manager indicated that 2006 was the first time ON had our aggregate bid in many years and we had no problems. Kevin was referencing a different supplier, it was not ON minerals. It was a problem during paving but the supplier was York Bldg Products, not ON Minerals. Mr. Capp apologized. KPI has already prepared their award recommendations for the materials bids. Mr. Picarelli recommends the following:

O & N Minerals, crushed aggregate, Bid items A1 through A11; Site \$70,165 Plant \$43,165

Chemung Supply, storm sewer pipe, Bid items B1 through B4; \$5,503.70

Kinsley Construction, cement concrete ready mix, Bid items C1 through C3; \$16,380

Stewart & Tate, emulsified asphalt, Bid item D1; \$48,600

Recon Construction, calcium chloride, Bid item E1; \$10,100

York Building Products, bituminous concrete, Bid items F1 through F3; Site \$13,497.50 and Plant \$12,325.

**Motion** by Luckenbaugh, second by Shearer, to award the 2007 Materials Bids as outlined above to the lowest bidders and to authorize KPI to notify the successful bidders and prepare the contracts. All members voted aye; motion carried.

2. C.S. Davidson completed the design on the box culvert for Buffalo Valley Road. **Motion** by Shearer, second by Hall, to authorize KPI to advertise the Buffalo Valley Road box culvert. All members voted aye; motion carried. Once the project begins, there may be times that KPI will need to consult with the CSD bridge design crew. The Board agreed.

3. In discussion with the Manager and Township staff about some road problems that have recently surfaced, Mr. Picarelli suggested that it may be to the Township's advantage to have Gil prepare a road survey and maintenance schedule to put the Township roads on a continual list to stay abreast of the road maintenance that needs to be done each year. KPI has done that for several of their municipalities. It alleviates the continual patching and puts the emphasis on more permanent repairs. It is just a suggestion. It might be a good idea, given the fact that the sewer project is underway. Mr. Picarelli will go with the Supervisors and Road Crew on the next road inspection.

4. There are three (3) security reduction requests pending from Cornerstone Development for Colonial Crossings.. Since the inspections were done by CSD, it was given to them for review. KPI will be handling any future security reduction requests for Colonial Crossings. Current requests are for Phase I to reduce from \$68,000 to 50,703; Phase II, from \$38,287 to \$14,360; and Phase III from \$42,999 to \$31,031. **Motion** by Shearer, second by Luckenbaugh, to approve the requests for security reductions for Colonial Crossings Phases I, II and III security per the recommendations of the engineers. All members voted aye; motion carried.

5. **Motion** by Luckenbaugh, second by Hall, to authorize Mrs. Strausbaugh to sign the DEP Permit Application for the Strickhouser Road culvert project. All members voted aye; motion carried.

#### C. Solicitor's Report

1. A public hearing was opened by Chairman Hall on Ordinance #199-04-2007, which sets out the stipulations for relocating, opening and adopting a portion of Brush Valley Road. No public comment. Hearing closed. **Motion** by Shearer, second by Luckenbaugh, to adopt Ordinance #199-04-2007, for the Relocation, Adoption, and Vacation of a Portion of Brush Valley Road. All members voted aye; motion carried.

2. A public hearing was opened on Ordinance #200-04-2007, regulating speed on Freedom Drive. No public comment; hearing closed. **Motion** by Luckenbaugh, second by Shearer, to adopt Ordinance #200-04-2007, setting the speed limit at 25 mph on Freedom Drive, at the intersection with Ambau Road to its end, as recommended by Traffic Study #15332 prepared by York County Planning Commission. All members voted aye; motion carried.

3. **Motion** by Shearer, second by Luckenbaugh, to authorize the advertisement of the refuse contract for residential collection for bids. All members voted aye; motion carried.

4. DEP is now requiring that the Township sign the Planning Module Exemption forms. Up to now, the Sewer Authority has signed these forms. The issue is that if the Township Manager or Board Chairman signs the form, they are certifying that there is sufficient sewage capacity and no overload will exist within the next five (5) years, items over which the Township has no control or knowledge of. The Sewer Authority Chairman has provided a letter certifying the above items. One planning module has already been returned because the Township representative did not sign it. Mr. Poole suggests adding a letter to DEP explaining this information. The Board will review this new procedure and the letter. This will be on next month's agenda.

#### D. Police Board Report

1. The Police Building Buyout was discussed. Is the Township satisfied with the 10-year buyout for the whole amount (the amount of our original investment)? If the appraised amount is over the original investment, the withdrawing municipality would get their payment contribution percentage amount of the portion over their original investment, all of this occurring in a ten (10) year period. The Police Board wants the two-tiered repayment plan. Mr. Poole pointed out that you are not guaranteed getting your original investment back. That only holds true if the building is worth the same as or more than the original investment amount. You are guaranteed of getting up to the percentage back at the time of purchase. The Police Board wants an answer from NCT with regard to this purchase by their next Board meeting. Tom Waltersdorff, the Police

Board resident representative, wanted to be here tonight, but could not due to a death in the family. Mr. Poole debated the 2-tiered repayment with Solicitor Tilley, who responded that was what the Police Board wants. The Manager pointed out that the Township will hold no ownership in this building, and will have no say in this building. Mr. Shearer reported that, in the event that the police building is damaged and cannot be used for a time, the Police Board would like to be able to take the insurance money and secure housing wherever possible. The Police Board will make all decisions with regard to the building. Mr. Poole pointed out that in worst case scenario, the Township could have a building for which you are still paying off a loan that is not being repaired or put back in a usable function. These issues are all lawful and legal; they become policy decisions for this Board to decide. Mr. Shearer added that the Police Board wants leaving the department to be a penalty. Do the members of the Board of Supervisors have a problem with that? There has to be some leeway there in that type of situation. The latest revision has not been received from Attorney Tilley since the last meeting. Mr. Hall will not make a decision without the updated proposal. Mr. Luckenbaugh does not like the 10-year repayment idea, and he is not too eager to give away \$600,000 of the Township money toward this building. Mr. Poole noted that the Police Board is not under any obligation to be good stewards of the Township money, especially in the event of damage to the building. The Police Board could conceivably use all of the insurance money to secure a new location, and then ask the Township to contribute more money to fix up the old building. Chairman Hall confirmed that the lease on the police building will remain the same until September 1, 2008. Discussion was held on the process required to secure a loan; can the DCED application be started with a ballpark figure of the funds needed? Supervisor Shearer will take the information back to the Police Board - Jim Crawford, who is present tonight can verify there was no decision made.

2. Mr. Shearer discussed the SWRPD Pension Plan issues. Manheim Township is not interested in discussing the issue any further. The general feeling is either do something or forget about the whole thing. Mr. Tilley feels that it is a waste of time. Mr. Shearer requested an Executive Session following this meeting to discuss this matter. Mr. Poole noted that he is not finished doing his research on this issue, so nothing could be accomplished at an Executive Session. Mr. Shearer is expected to respond at the next SWRPD Board meeting.

E. Fire Company Report

1. Fire Chief Larry Wildasin presented the Fire Company Report for March 2007. He asked about Stoverstown Road; it was noted that one lane will be shut down during sewer construction. Lehman Road will be totally shut down for construction, but there has been no specific date set as yet. Upon receiving a start date, the Fire Department will be notified.

The Board of Supervisors is interested in looking at the Relief Association Records for 2004, 2005, and 2006. Mrs. Strausbaugh has requested this review in a letter; all she needs is a list of the revenue and expenses for those three years. Larry will see that the information is provided.

VII.

Old Business

A. There is still a vacancy on the Sewer Authority. There is an applicant, but the Township feels that due to his employment with the contractor installing the sewer system, that poses conflict of interest. Mrs. Strausbaugh will inform the applicant of the Township's position and welcome his participation in another capacity within the Township.

B. Mr. Shearer asked about the transfer of the deed to the Waste Treatment Plant land from the Township to the Sewer Authority. Still pending. Also discussed was the storm water management surrounding the sewer plant. Evidently, there is a problem there that needs to be addressed. Mr. Shearer has spoken to both David Boyer and Terry Myers about the problem. Mr. Shearer will put something in writing to request action on this issue.

VIII. New Business

A. **Motion** by Shearer, second by Hall, to approve the Fire Police attendance at the Annual Spring Grove Community Day on May 19<sup>th</sup>, from 7 a.m. to 2 p.m. (rain date May 20) and at the Jefferson Borough Fire Company Carnival, July 16<sup>th</sup> thru the 21<sup>st</sup>. All members voted aye; motion carried.

B. **Motion** by Luckenbaugh, second by Hall, to approve the purchase of a laser printer for the printing of refuse bills at a cost NTE \$1250; this is a budgeted item. All members voted aye; motion carried.

C. **Motion** by Luckenbaugh, second by Hall, to approve the purchase of a computer server from Freedom Systems at a cost of \$10,190.52. This is a budgeted item. All members voted aye; motion carried. Mr. Luckenbaugh has volunteered to help relocate the modems, wires, etc.

D. **Motion** by Luckenbaugh, second by Hall, to approve the purchase of trees for the North Codorus Township Park at a cost NTE \$2700, which is a budgeted item. All members voted aye; motion carried.

IX. Announcements

- A. There will be no Zoning Hearing Board meeting this month.
- B. The Recreation Board will meet on April 23<sup>rd</sup> at 7 p.m.
- C. The Planning Commission will meet on April 24<sup>th</sup> at 7 p.m.
- D. The Board of Supervisors will meet on May 15<sup>th</sup> at 7 p.m.
- E. The SWRPD Board will meet on May 9<sup>th</sup> at 7 p.m. at 6115 Thoman Drive.
- F. The Sewer Authority will meet on May 21<sup>st</sup> at 7 p.m.

**Motion** by Shearer, second by Hall, to adjourn. All members voted aye; motion carried. The meeting adjourned at 9:23 p.m.

Respectfully submitted,

Joy Ann Strausbaugh, Township Manager