

Commissioners' Board Meeting August 30, 2007

The Berks County Board of Commissioners met in regular session on Thursday, August 30, 2007, at 10:30 A.M. in the Board meeting room on the thirteenth floor of the Berks County Services Center, pursuant to due notice to Board members and the public.

Commissioner Chair Judith L. Schwank called the meeting to order with Commissioner Thomas Gajewski and Commissioner Mark C. Scott in attendance. Also present were County Solicitor Alan Miller, Esq., and County Administrator William E. Dennis. Chief Clerk Terry Styer did not attend the meeting.

Commissioner Schwank opened the meeting with a moment of silence and Pledge of Allegiance to the Flag.

Approval of Minutes

Commissioner Scott made a motion that was seconded by Commissioner Schwank to approve the August 21, 2007 Commissioner workshop minutes and the August 23, 2007 Commissioners meeting minutes, all voted yes to approve, with Commissioner Gajewski abstaining as he was not in attendance at either meeting.

Consent Agenda Items

1. A motion was made by Commissioner Scott, seconded by Commissioner Gajewski and all voted unanimously to approve the items listed below:
 - 251.07 A. Human Resource Recommendations per list dated August 28, 2007.
 - 252.07 B. Adopt Resolution authorizing the execution by Judith L. Schwank, Chair, of a grant agreement between the Berks County Department of Parks and Recreation with the Pennsylvania Council on the Arts for \$10,000; \$5,000 goes to the county for The Parks Department Summer Concert Series and the remaining \$5,000 is re-granted to the Berks Arts Council for their annual programs. The grant is for activities that occur between 1/01/08 and 12/31/08.
2. Motion authorizing execution of Contract Agreements/ Amendments as furnished by the Contract Coordinator, per listing dated August 24, 2007.

It was noted that the Budget Transfers presented at Tuesday's workshop have been pulled for further information.

Reports

1. County Treasurer –Bill Dennis read report for Nelson Long, CPA.
2. County Controller –Scott Sterner, Manager of Auditing, read report for Sandy Graffius, Controller.

Miscellaneous

Commissioner Scott noted that he attended the check presentation by US Attorney Patrick Meehan for the Weed and Seed Program, presented to District Attorney Mark Baldwin. In addition, the Commissioners and Baldwin were presented with a plaque from the US Department of Justice for Operation Night Light. Commissioner Scott made special note of DA Baldwin and Sr. Judge Stallone for bringing the program to the Commissioner's attention for funding.

Citizen Comment/Business From The Floor

Eugene LaVergne, attorney for Louis J. Mascaro, and Ethan-Michael, Inc., came to speak to the board about the Union Township appeal of the zoning board decision, as he felt that the Board may not have been fully apprised of the situation prior to their vote to give Union Township \$25,000 toward legal fees at Tuesday's meeting. He stated that he felt that Mr. Mascaro has been subject to civil rights violations due to the length of time (7 years) that the zoning board took to reach a decision. He added that Union Township hired an expert, Ronald Agulnick, who, after several more months of hearings, recommended that all approvals requested should be approved. The Union Township Zoning Board, on his recommendation, did approve Mr. Mascaro's requests. The Union Township Board of Supervisors has voted to file an appeal of this ruling, and the Commissioners approved \$25,000 toward legal fees if an appeal is filed. Mr. LaVergne stated that there is no reasonable factual dispute nor a reasonable legal dispute to warrant filing this appeal. He reiterated that he feels that the Board was misled and asked for the Board to re-vote to either ratify or rescind Tuesday's resolution, and to go on record as to where the \$25,000 is coming from. Commissioner Scott offered that the money is coming from our Environmental Defense Fund, which is used for such occasions. Commissioner Scott also said that he felt that the Board was reasonably well informed. All Commissioners had been in contact with Township Supervisors. He said that in light of Mr. LaVergne's visit to the meeting today, Union Township would have more legal fees and in fact \$25,000 might not be enough. Commissioner Scott made a motion that was seconded by Commissioner Schwank and all voted yes to the following resolution:

- 253.07 C. Resolution authorizing the revision of Resolution No. 250-07 to increase the amount of payment from the Berks Environmental Defense Fund to Union Township for the restricted purpose of defraying legal expenses incurred by Union Township regarding the proposal by Ethan-Michael, Inc. to develop a racetrack from \$25,000.00 to \$30,000.00.

Commissioner Scott finished by stating that he is not convinced that all delays were at the hand of Union Township. He was called to testify and saw legal maneuvering by the applicant's legal staff as well.

Commissioner Schwank announced that the Board would be going into Executive Session for a short meeting on personnel matters immediately following this meeting.

There being no further business, the meeting adjourned at 11:08 A.M.

Respectfully Submitted,

Sally O'Reilly, Assistant to Chief Clerk