

**ROBESON TOWNSHIP BOARD OF SUPERVISORS**  
**REGULAR MEETING MINUTES**  
**May 19, 2011**

The Regular Meeting of the Board of Supervisors of Robeson Township was called to order by Chairman Feeg at 7:00pm prevailing time. The meeting took place in the Robeson Township Municipal Building located on Route 724 in Gibraltar, Berks County, Pennsylvania. The following members of the Board were present: Supervisors Deeds & Smith. Supervisor's Love & Brown were absent. Also in attendance were Engineer Gary Kraft, Solicitor Christopher Hartman, Chief of Police Mark T. Phillips, Road Master David Wicklein, Manager Thomas C. Keim, Code Enforcement Officer Joseph Boulanger and Roxanne Weaver of CRS.

**Pledge to the Flag and Moment of Silence**

**ROADS, CODES & PUBLIC PROPERTY**

**Auction at Exeter Township May 23<sup>rd</sup>** – Road Master Wicklein stated the International Mower was taken to Exeter for auction. After a brief discussion it was determined to allow the IM to be auctioned for a minimum of \$3,500.00. The BOS & RM also discussed a tamper that is available for purchase by Spring Township. Chairman Feeg moved to authorize Road Master Wicklein to purchase the tamper for a price not to exceed \$500.00.

RM Wicklein stated repairs have been made to the Evergreen Road Bridge; photographs of the repairs have been sent to STV for their review.

**Review Truck Bids & Award** – Manager Keim announced there was one bid received from Merritt's Paving for \$37,000.00 and noted the purchase would be made from the General Fund and explained the Township is still down on EIT revenue. He suggested taking the funds out of the Quarry Fund which is for the purchase of equipment for the Road Maintenance Department. Supervisor Deeds moved to purchase the 2002 Sterling truck and use the money from the Quarry Fund. Following a second by Supervisor Smith, the motion passed unanimously.

**POLICE**

**Adopt Resolution #11-08 - Temporary Closing of SR 724, July 23<sup>rd</sup> – Lights & Siren Parade** – Chief Phillips stated he has received approval from PennDOT. Supervisor Smith moved to adopt Resolution #11-08; following a second by Supervisor Deeds, the motion passed unanimously.

**Adopt Resolution #11-09 - Closing Furnace Road for Hay Creek Historical Association Fall Festival** – Chief Phillips stated he received a request from the HCVHA and all documentation required has been received. Chairman Feeg moved to Adopt Resolution #11-09; following a second by Supervisor Smith, the motion passed unanimously.

**Practical Kinesic, Interview & Interrogation: Highspire Police Dept. June 27, 28, 29 - 2 Officers @ \$295.00 p/p** – Chief Phillips stated the schedule for this time period falls when both Officers are not scheduled with the exception of June 29<sup>th</sup> when the schedule provides for 2 Officers on duty; this may cause some overtime. Supervisor Smith moved to authorize the Officers to participate in the class as stated. Following a second by Supervisor Deeds, the motion passed unanimously.

Chief Phillips noted the "Bike Patrol" will be activated in the very near future and has drafted an SOP.

Manager Keim stated that a Special Meeting will be held on May 24<sup>th</sup> @ 7:00PM at the Municipal Office with Brian Gottschall of the Berks County Department of Emergency Management Services regarding the new County radio system. This meeting will need to be advertised. Supervisor Deeds moved to authorize the advertisement; following a second by Supervisor Smith, the motion passed unanimously.

The agenda was taken out of order to discuss the parking issue on Proudfoot Drive.

Chief Phillips discussed a complaint he received from residents on Proudfoot Drive. He has spoken with a resident that is in favor of the Snow Emergency Ordinance stating no parking be allowed at anytime on Proudfoot Drive. Following discussion, Solicitor Hartman determined that the no parking regulation could be added to the Ordinance in the future.

Residents of Proudfoot Drive were in attendance; Michele Cobb of 72 Proudfoot Drive stated during the past few weeks there has been parking on both sides and Emergency Vehicles and large trucks can not get through because there are anywhere from 1 to 4 cars parked in the street. Those residents do have driveways where they can fit at least 2 cars. The parking problem being experienced is something new but if there were a parking Ordinance, even for a safety issue, it would be a good idea for the Police to have something to fall back on. Chairman Feeg explained the Ordinance before the BOS for enactment this evening is primarily for snow removal. He suggested the Chief investigate possibilities as to what the Township can do to help out the situation on Proudfoot Drive.

Chief Phillips stated while working this past weekend he observed a residence where 3 cars were parked on the street and 2 were in the driveway so there was no other place for parking. He stated he could get through however there is no question that there were cars parked out on the street. Supervisor Deeds suggested parking on one side. Solicitor Hartman explained that for that to be enforceable it would need to be included in the Ordinance at a later time. Chief Phillips and BOS members will meet @ Proudfoot Drive to view the situation.

### **PUBLIC HEARINGS**

Solicitor Hartman stated there were 2 Public Hearings (PH's) held last month, one regarding Erling Jenson & Christine Mueller regarding 1657 Cocalico Road and a second regarding Timothy & Kathleen O'Byrne at 130 Timber Ridge Road. He noted both PH's were regarding Code Enforcement matters regarding unlicensed, unregistered & uninspected vehicles on the property as well as some other rubbish items. Both of those PH's were continued until tonight's BOS meeting in order to attempt to gain some partial or complete resolution of those matters. The first to be continued was 1657 Cocalico Road. Solicitor Hartman then recalled Joseph Boulanger of Kraft Code Services. Mr. Boulanger understood that he continued to be sworn for the following proceedings.

**Mr. Erling T. Jenson & Ms. Christine N. Mueller** (1657 Cocalico Road) – Solicitor Hartman called the Hearing to order at 7:30PM. He asked Mr. Boulanger if he recollected the proceedings from last month where Mr. Jenson was asked to consider constructing some addition on his property where he could house the materials that are the subject of the Code Enforcement matter; Mr. Boulanger answered yes. Mr. Boulanger had discussion with Mr. Jenson since the last Hearing as to what actions would be taken. Additional exhibits were identified and marked. Mr. Boulanger submitted an updated report dated May 19, 2011 and gave a brief summary.

Mr. Boulanger stated progress is being made to clean up the property. Also, he reviewed plans provided by Mr. Jenson for constructing an addition. Daniel Jenson entered his appearance and understood that he is still under oath. Solicitor Hartman discussed the plan submitted to Mr. Boulanger and requirements that need to be complied with. Daniel Jenson stated 2 cars have been restored however they are not yet inspected. The other remaining items will fit under the structure for which plans have been submitted.

Solicitor Hartman recommended the BOS consider a determination be made that Mr. Jenson is in violation of the Ordinance but that Mr. Boulanger be directed to not take further action provided Mr. Jenson takes certain actions as will be specified by the BOS. Chairman Feeg made the motion finding that the property at 1657 Cocalico Road is in violation of the Ordinance #84-21 at this time; Mr. Jenson must seek a permit within 30 days to construct the addition and will have 60 days to start construction upon issuance of the permit and no further enforcement would be taken by the Codes Officer at this time. Following a second by Supervisor Deeds, the motion passed unanimously. Solicitor Hartman will issue the written decision reflecting the BOS decision with the understanding that if compliance is not met on this then this could be before the BOS again for action. The Hearing concluded at 7:51PM.

**Timothy M. & Kathleen P. O'Byrne** - 130 Timber Ridge Road – Solicitor Hartman called the Hearing to order at 7:52PM. He stated that Mr. Boulanger testified as to the conditions of the property and that Mr. O'Byrne was not present for the Hearing last month. Mr. O'Byrne indicated just prior to last month's Hearing that he was going to have numerous vehicles on the property inspected and that 1 vehicle would be sold and removed; also proposed to enclose 2 remaining uninspected vehicles under a "shelter logic instant garage." Mr. Boulanger was directed by the BOS to investigate those types of garages for the BOS information.

Solicitor Hartman addressed a report provided by Mr. Boulanger dated May 19, 2011 that was marked as an exhibit. Mr. Boulanger gave a description of that exhibit and noted that vehicles are still on the property. The garage in a box comes with a 1-year warranty.

Mr. Timothy O'Byrne was sworn in & stated he is the owner of the property located at 130 Timber Ridge Road. Solicitor Hartman discussed conversations Mr. O'Byrne had with him & Mr. Boulanger regarding multiple vehicles on the property that were to be removed and/or inspected. Mr. O'Byrne reviewed the repairs, plans, etc. for each vehicle at length. Mr. Boulanger stated there has been no change to the property/vehicles since his last report. Mr. O'Byrne stated the vehicles have been moved around and are parked neatly at the bottom of his driveway and he is in the process of having them taken care of.

Solicitor Hartman stated this is the time for the BOS to take action based on the progress. The proposed placement & use of the "shelter logic instant garages" was discussed. Mr. O'Byrne requested additional time. Further testimony regarding disposition of the vehicles followed.

Solicitor Hartman stated that if the BOS were to adopt option #1 which would be the finding that there is a violation and direct Mr. Boulanger to file a citation with the District Justice (DJ); there will not be a hearing for a few weeks so there is a time period that Mr. O'Byrne could come into compliance with the Ordinance. However, with Option #1 there is risk of fines being imposed by the DJ where as option #2 postpones until the BOS takes subsequent action to authorize a citation to be filed with the DJ. The difference between option #1 & #2 is the heightened risk of a fine being imposed if Mr. O'Byrne does not come into compliance prior to the date of a hearing that is scheduled by the DJ. Supervisor Smith made a motion to proceed with Option #1.

Solicitor Hartman explained what "compliance" means for the BOS. Mr. O'Byrne expressed his concerns of not being able to comply within the proposed time frame and that he wants to work with the Township. Discussion followed re the temporary garages, repairs and disposition of the vehicles. Mr. O'Byrne requested he be given 30 days; if he hasn't completed what needs to be done, the BOS can do whatever they want.

Supervisor Smith's motion failed due to lack of a second.

Chairman Feeg made a motion as follows: Mr. O'Byrne has until the next Regular BOS Meeting (June 21, 2011) to obtain inspections on all of the vehicles on the property other than the two 1991 Oldsmobile's; if not accomplished, a citation will be issued and that the Code Enforcement Officer has access to the property to determine progress. Supervisor Deeds seconded the motion which did not pass on the following roll call vote:

Feeg	- Yes	Deeds	- Yes
Smith	- No		

Manager Keim stated that a fourth Supervisor may be joining the meeting later in the evening and this could be put on hold until that time. Solicitor Hartman suggested closing the record and allow the stenographer to depart but to hold open the decision until later this evening or another time. Discussion followed.

Solicitor Hartman recommended the BOS close the Hearing, accept the exhibits and go off the record to discuss the matter at a later time without any further testimony. Chairman Feeg moved to close the Hearing at 8:40PM and any decision would be made on a date specified. Supervisor Deeds seconded the motion which passed unanimously.

Mr. Boulanger reviewed complaints that were received regarding 174 Seyfert Drive and recommended proceeding with scheduling a Hearing regarding junk vehicles & rubbish. He also stated neighboring residents approached him stating that the owners of the property come there and depositing more debris; no attempt to clean up the property has been done by the owners. Solicitor Hartman stated there is a public nuisance process under the 2<sup>nd</sup> Class Township Code that could be exercised; a Hearing could be held regarding the public nuisance which would cause the structure to be demolished and lien the property for the cost of demolition. Discussion followed.

Solicitor Hartman stated that under the Code, Robeson Township does not have direct authority to demolish the property but the process that the law allows would be to enact an Ordinance authorizing action to be taken and then demolish the structure and impose a lien on the owner; this Ordinance could also include securing the property (ie, boarding up). A volunteer firefighter stated that the Fire Marshall had "do not enter" tape placed around the structure because it is no longer structurally sound so boarding it up may not be possible. Following a lengthy discussion, Supervisor Smith moved to schedule a public hearing with the property owners. Supervisor Deeds seconded the motion which passed unanimously.

Chairman Feeg moved to authorize Solicitor Hartman to prepare and advertise for enactment at the June BOS meeting an Ordinance authorizing the BOS to make decisions under §1533 of the MPC. The draft Ordinance will be reviewed at the Special Meeting scheduled for May 24<sup>th</sup>. Following a second by Supervisor Smith, the motion passed unanimously. Discussion followed as to where the owner is residing to provide notice of the Public Hearing.

### **CITIZENS CONCERNS**

Janette Martin of 105 Evergreen Road asked how the Evergreen Road Bridge is progressing. Chairman Feeg stated that patching was completed this past Monday. Mrs. Martin asked when the Bridge would be replaced because she and her neighbors are still having difficulty getting public services (ie, oil trucks, etc.). Manager Keim stated Robeson Township has been working with the County for funding however that fell through several years ago; in the interim the Township has been putting funds aside annually for a bridge by-pass road. Currently there is \$135,000.00 saved. Discussion Followed.

Mike Miller stated he will not be handling the annual "bike race" this year. He will be consulting with the promoters of the race. The date of the race has been moved up to the end of July; tentatively scheduled for July 31<sup>st</sup>. Supervisor Deeds moved to authorize the bike race to be held tentatively on July 31<sup>st</sup>. Following a second by Chairman Feeg, the motion passed unanimously.

Mr. Miller also discussed property located on Chestnut Hill Road. He lives in Mountaineer Village (MV) (Caernarvon Township) and discussed the pleas of the MV residents at the Zoning Hearing Board Meeting held in April. He noted that it has been stated to the MV residents that the current owner and the former potential buyer backed out and the owner is looking to sell to a concrete manufacturing company and wants to buy all 50 acres. Mr. Miller requested the BOS that during the planning phases of this potential development that the consideration of the MV community be considered; the potential development could allow development up to 100 feet away from the MV residents along Settlers Trail. The current owner has 2 potential buyers and the residents of MV are trying to find a solution albeit a compromise. Mr. Miller requested the BOS, PC & EAC consider the quality of life of the MV residents when development is considered at the Chestnut Hill Industrial Lots. Discussion Followed.

Harold Steve asked about setting hours for the Thun Trail. Supervisor Smith explained the rules, etc. were received. Kathy Farrell will provide a copy to him. Mr. Steve stated the trail is not posted with the rules.

### **APPROVE PAYMENT OF BILLS**

Supervisor Deeds moved to pay bills for the period of April 16, 2011 thru May 13, 2011. Following a second by Chairman Feeg, the motion passed unanimously.

### **MINUTES**

Minutes of the Supervisors Workshop of April 14, 2011 and Regular Meeting of April 19, 2011 were reviewed and unanimously approved upon a motion by Supervisor Smith that was seconded by Supervisor Deeds.

### **APPROVAL OF REPORTS** (April 2011)

The Treasurer's Summary/Report, Sewer Report, Road & Building Reports & Police Report were reviewed and approved upon a motion by Supervisor Smith and seconded by Supervisor Deeds.

It was duly noted the Fire Reports from Geigertown FC for December 2010, January 2011 & April 2011 and the Fire Reports for Gibraltar FC from November 2010 thru April 2011 have not been submitted.

### **PLANNING & ENGINEERING**

**Weaver Orchard's Planning Waiver Request** - Engineer Kraft reviewed the proposed waiver of a land development plan and noted the PC determined the applicant must have SWM and E&S plans completed. The PC granted the waiver of a land development plan to construct a small agricultural building to provide safe and secure storage of the various pesticides and herbicides used at the Orchard. Also, the PC further noted that there shall be no additional overall planning waivers granted for future buildings or additions. Supervisor Smith moved to approve the waiver subject to the conditions in Engineer Kraft's review. Following a second by Supervisor Deeds, the motion passed unanimously.

**Cylcewski Variance Application** - Engineer Kraft stated Michael & Raymond Cylcewski have submitted a variance application to transfer approximately 0.75 acres from Raymond's property to Michael's adjoining property. A variance is required because the resulting Raymond Cylcewski property will be reduced to approximately 2 acres where 3 acres is required. The Application contained very little information related to existing features; so in recommending approval, the PC included the provision that a detailed plan noting the locations of structures, wells, septic systems, etc. be provided. Supervisor Deeds moved to endorse the plan. Following a second by Supervisor Smith, the motion passed unanimously.

**Green Hills Subdivision Preliminary / Final (Info Only)** – Engineer Kraft reported this subdivision plan will not be considered at this meeting. He will report back to the PC regarding the paving of Gunhart Road that was discussed at the BOS Workshop.

**Beaver Valley Subdivision – Releases from Maintenance Obligation & Escrow Fund** – Engineer Kraft reported the 18-month maintenance period has expired and the remaining escrow funds have been requested. Following inspection of the site, Engineer Kraft identified minor corrective work to be completed prior to approval of the release and requested this be added to the agenda for the Special Meeting to be held on Tuesday, May 24<sup>th</sup>.

**Leppold – Seyfert Drive Drainage** – Engineer Kraft reported that he has been advised by e-mail that Mr. Leppold that the work to redirect the flow of water has been completed.

**SOLICITOR****Approve MacMinn Non-Development Agreement & Authorize Chairman Feeg to Execute Agreement –**

Solicitor Hartman reviewed the Agreement with the BOS and recommended they approve & authorize execution. Supervisor Deeds moved to approve the agreement & authorize execution by Chairman Feeg. Following a second by Supervisor Smith the motion passed unanimously. This document will be released to Mr. MacMinn for recording with the Record of Deeds.

**Public Hearing & Enactment - Ordinance #2011-02 Regulating Parking, Snow Emergency Restrictions, etc.**

– The BOS reviewed this last month and changes were made as discussed. Supervisor Deeds moved to enact the Ordinance. Following a second by Supervisor Smith, the motion passed unanimously.

**Public Hearing & Enactment - Ordinance #2011-03 Establishing Regulations – Transfer of Fire Insurance Proceeds** - Supervisor Deeds moved to enact the Ordinance. Following a second by Supervisor Smith, the motion passed unanimously.

**Approve Birdsboro Pharmacy Improvements Agreement, Bond, and SWM BMP O&M Agreement –**

Chairman Feeg moved to approve the Agreements and accept the Bond instead of a Letter of Credit for financial security. Following a second by Supervisor Smith, the motion passed unanimously.

**FINANCE**

**H<sub>2</sub>O Grant Award Received for Geigertown Area Sanitary Sewer Project – \$267,198.00 & Insurance Payment Received for Sign @ 8 Boonetown Road - \$896.00** – both have been received.

The BOS recessed to Executive Session @ 9:52PM upon a motion by Chairman Feeg that was seconded by Supervisor Smith.

Supervisor Brown joined the Executive Session. The BOS reconvened @ 10:38PM.

Supervisor Deeds moved to approve the Uniformed Contract. Following a second by Supervisor Smith, the motion passed unanimously.

Supervisor Deeds moved to make a decision that Mr. O’Byrne is in violation but no prosecution will be taken if he brings his property into compliance by June 21, 2011. Following a second by Chairman Feeg, the motion passed on the following roll call vote:

Feeg	- Yes	Brown	- Yes
Deeds	- Yes	Smith	- No

Chairman Feeg moved to release the escrow money for Beaver Valley upon completion of items identified by Engineer Kraft. Following a second by Supervisor Smith, the motion passed on the following roll call vote:

Feeg	- Yes	Brown	- Yes
Deeds	- Abstained	Smith	- Yes

The BOS again recessed to Executive Session @ 11:02PM.

The BOS adjourned at 12:32AM upon a motion by Chairman Feeg that was seconded by Supervisor Deeds.

Respectfully Submitted,  
Kathleen C. Farrell,  
Recording Secretary