

MINUTES
REGULAR MONTHLY MEETING
Wednesday, September 3, 2014
MUNICIPAL BUILDING – MILLER SHAFT

Chairman Cooper opened the meeting at 7:00 pm., with the salute to the flag.

Roll call: Supervisor William Cooper – present; Supervisor Rick Olshavsky – present; Supervisor Jeffrey Kostan – present.

Public Participation

Before the Board opened the floor up for Public Participation, Chairman Cooper read a prepared statement written from our special counsel, Attorney Nathan Karn, regarding the Shoemaker Circle/Lumber Road issue. The following was read:

First, it is important to remember that these roads have been used by coal trucks for over 50 years and certainly many, many years prior to the Township accepting these roads as Township Roads in 2006. We point this out only to request patience from the Township residents. It is not reasonable to believe this issue can be solved so quickly.

Second, it has been reported that the Township residents have interpreted the statement we offered at the August meeting as being that the Supervisors are not going to discuss this matter at all in public meetings. Neither the content nor intent of our statement was that we would not discuss this matter at all. The purpose of the potentially involve litigation, and consequently, in the best interests of the Township as a whole, the Supervisors would not engage in discussions that could make the problem worse. When the Supervisors have something of relevance to share with the Township residents, that information will be shared.

Third, it is important to understand the Supervisors represent the interests of the Township as a whole, and not any one group of residents, regardless of what issue a group of residents may bring to the Board's attention. Any potential actions the Supervisors consider or ultimately actually take with respect to this issue, may result in whose trucks haul coal on those roads bringing a lawsuit against the Township. Therefore, it is essential to the financial welfare of the Township that the Supervisors only discuss in open meetings known facts, deliberations on final actions and of course, voting on any final actions as well. It would be a dereliction of our duty to discuss unconfirmed facts or hypothetical solutions, since everything said by the Supervisors could be used against the Township even if what was said was stated before facts were confirmed that may be contrary to what was known at the time or what was actually legally permissible under the Township Code and other state laws.

Lastly, to be clear, as of the August meeting, the Board of Supervisors was completely aware of the concerns of those individuals who live along Shoemaker Circle /Lumber Road. There was nothing new to add by the Supervisors at the August meeting. At this point, the Supervisors are working with the Township's special counsel and the Township Engineer to determine what authority and options exist. Since his appointment, the special counsel has been gathering information. Additionally, he has been working with the Township Engineer with respect to the investigation of the issues surrounding the use of Shoemaker Circle/Lumber Road. Furthermore, the special counsel is researching potential limitations Act 89 may have placed upon municipalities relative to posting and bonding of streets as it relates to traffic going to or from a permanent coal reprocessing or preparation plant.

We do want to make the public aware that the Township has received notice from DEP regarding Amfire's permit application to expand its facility. We understand that members of the public near the facility

have also received a similar notice. DEP has advised the Township's special counsel that a member of the public has already requested a public hearing, which DEP will schedule in the future. The Supervisors expect to advise DEP of the concerns of the residents living along Shoemaker Circle and Lumber Road, and the Supervisors will also keep the public aware of when and where the public hearing DEP schedules will be held once the Township is advised of hearing information. If any member of the public wishes to provide written concerns to DEP to the Supervisors, the Supervisors will include those concerns in the Township's submission. These written concerns should be provided to the Township no later than September 26, 2014.

During the public comment, you are welcome to provide us with additional information you believe we do not possess. We will make a note of that information without comment at this time, and if it warrants a comment at a future meeting, we will address it then. Additionally, while you are permitted to pose question to the Board during the public comment portion of the agenda, we will only make note of your questions at this time. If we are able to answer any questions at a future meeting and after consultation with the special counsel, we will do so at that time.

While we cannot guaranty any outcome, we want to ensure all Township residents we will listen to you and act in the best interests of the Township and in accordance with the law.

PUBLIC PARTICIPATION

The floor was then opened for public participation.

Resident Bill Offman addressed the Board asking what was found out regarding the water problem from the Drive-In. Supervisor Cooper advised Mr. Offman to go see Mr. Trimbath any time at all. Mr. Offman also asked about having a street going out of his place paved. Supervisor Cooper said no because that is not a street. Supervisor Olshavsky explained 911 gave him that address and that is not a street.

John Crum of 1205 Beech Street asked if the Board could please see about getting the road paved down there. The Borough owns half the road as does the Township. The road dust is terrible. He has talked with the Borough and they are willing to pave if the Township is willing too. The road itself is about 200 feet long. After some discussion, the Board is going to look at the road and will make a decision.

Joe Walters addressed the Board regarding a comment that was made and that it was his understanding throughout the public meeting you can ask questions and make statements and put them on record. Supervisor Cooper said yes if they know they are facts. If the person says they want their statement to go on record whether they know the facts or not, the Secretary has to put it on record. The response from the Board was yes. Supervisor Olshavsky then explained the public can ask any questions. If we know the facts we can answer right here, but if we do not know the facts as it has been explained to the Board by our Attorney, it can come back on us not giving out the right information/facts.

Benny Selapack then addressed the Board about a sign that currently reads Storm Avenue, it should read Storm Street. Supervisor Olshavsky was aware of this, and advised Mr. Selapack that he will correct it. It may just take a little bit of time.

Jill Lamar of 1527 Gillespie Avenue, stated that every time it rains the water comes from Conemaugh, Jefferson to Gillespie and spills out all over the road, the ground, and into the yards. In 2006 - 2007, Ms Lamar feels it was approved (the present Board at that time) to replace pipe the whole way down the street and that it was funded through a grant. From Ms. Lamar's recollection all they did was just put a second pipe in which is currently blocked leading to all the water spillage. The Board is going to check the minutes within that time frame and also go down to check the problem out.

Resident Mark Leturgey related to the Board that he feels if something is not done there is going to be an accident at the end of Gigguetown onto Frankstown Road. With the pine tree and the hedge sticking out the way it does, you have to pull out onto the road just to see. It is a State Highway, Supervisor Olshavsky said. He has already contacted them regarding this because there was a previous complaints. The State is to send a

safety guy to inspect the situation. Supervisor Olshavsky said the State is who needs to take the action. We can keep calling them to make sure something is done.

Deanna Lee of Prospect Street, representing Portage Area Hockey Association was asking for the Township to please make a donation for their project on constructing a new outdoor skating rink for the community. She gave the Board a written letter along with a pledge form. Supervisor Cooper said they will need to check into the budget regarding any type of donation. Supervisor Olshavsky asked if they were a non-profit organization in which Ms. Lee said they are in the process of doing this.

Glenn Calderwood of 236 Allen Street addressed the Board regarding the run off when it rains. The Road Master was up there and looked at it. At some time they will try to get up there to try to slant the road to change the way the water goes.

A resident asked about the weight limit. Supervisor Cooper then explained about Act 89 is just a part of when the taxes raised. PennDot is coming up with new rules and regulations that will limit the Township regarding posting and bonding any road. This is a big hold up regarding this and no one seems to really know what is going to take place. The money we actually have spent so far on the road study could be thrown right out the window. The new special counsel is currently working on this. This Act 89 has really changed everything around. Supervisor Olshavsky reread a portion of the prepared statement to help reiterate what Supervisor Cooper was saying. Supervisor Olshavsky stated that we can only do what the law will allow us to do. As soon as special counsel receives the facts and all the stipulations of Act 89 that he talked about the Board will act appropriately. The Board does not know anything else relative to the Road Study at this time.

Supervisor Olshavsky did say we can thank all of this to our fine Governor of this State for all of this. "We (the Township) are the lowest on totem poles in Townships and Boroughs."

Another resident asked about how Act 89 is going to help them if their driveway is blocked and they are trapped and can't get out. Supervisor Cooper understanding what the resident is saying, but said this is the part that the Supervisors are still trying to understand themselves with regards to this Act.

Karen Maul then spoke saying she does not want friction between the public and the Supervisors. They are seeking a solution. With Amfire there it has become ten times worse. She then asked about the numbers on the trucks. She does not want the Supervisors and "US" meaning the residents of Shoemaker Circle against each other and the Supervisors agreed. Supervisor Olshavsky spoke saying he can understand that they think that sometimes the Supervisors don't act quick enough or not giving complete and true answers because we just don't know some things. We are trying to get the correct information so we can make the proper moves. Karen Maul said all we really want is solutions.

Supervisor Cooper told the public we did have a meeting with InterPower. All the trucks that InterPower use are owned by the Hite Trucking Company. Supervisor Cooper did ask them to please respect the residents and their property. To please go slow. They also are sending a sweeper truck of their own. So really two sweeper trucks are going through there to help keep the dust down. Supervisor Olshavsky also wanted them to know that Amfire has started the wind fence. This fence is designed to cut the wind from 100% to 40 %. Not sure if it is done or not but they were committed to it and it seems they have stuck to it along with DEP enforcing it.

Supervisor Cooper then asked if they saw the notification on DEP expansion and that the Township will forward any written comments to send along to the hearing with the Solicitor and the Supervisors before September 26, 2014.

A resident asked what was the explanation given as to why they couldn't take the other safe way out. Supervisor Olshavsky stated that it was still under investigation (InterPower) but it was mostly legal issues and permits. InterPower did state to the Supervisors that they are committed to have respectful and good drivers.

Paul Maul asked about Mine Road if they got a pole up there. Supervisor Cooper did talk with the Historical Society regarding this and they are thoroughly convinced that that is not the correct spot up there. Supervisor Cooper said if the Historical Society wants to do something up there to make a formal request and the Supervisors would all agree to help in any way. Benny Selepack said maybe ask Fred Brown for surveys or maybe go to Mine Safety map to show where the shaft was. Or even DEP Mining to have maps. If we the Supervisors can get some concrete evidence then we can definitely look at it.

Supervisor Cooper was asked by Paul Maul about a noise study. Supervisor Cooper related to Mr. Maul that he called Harrisburg regarding this and that the secretary told him that is the worst Ordinance you can have. You have to have special equipment which costs a lot of money, then you need someone specially trained on that equipment to sit there and monitor it 24-7. Mr. Maul said he was asking to see if it could be done now before the whole business is there so that you could compare. Supervisor Cooper then related to him when you do a noise study you have to do the whole Township not just Shoemaker Circle. The worst violators of a noise ordinance is tractors. Other Townships have had this ordinance and it cannot hold up in a court of law. A noise ordinance cannot just be put in one area of the Township. The DEP will regulate the existing noise of the facility.

Benny Selepack did say about the noise study being done for the Windmills. The Supervisors will check into the Windmill noise study that was to have been done years ago. Supervisor Cooper did say he does remember when the noise study was done that there was some kind of trouble regarding the reading and decimals. Supervisor Cooper will find out costs, but will not agree to do this noise study until then.

Approval of Minutes

August 6, 2014 Regular Monthly Meeting

Supervisor Olshavsky made a motion to approve the August 6, 2014 Regular Monthly Meeting Minutes with Supervisor Kostan to second the motion. **Motion carried. 3-0.** Supervisor Olshavsky – yes; Supervisor – Cooper – yes; Supervisor Kostan – yes.

Secretary's Report

The secretary's report was presented to the Board and Supervisor Cooper made a motion to accept the secretary's report as presented. Supervisor Olshavsky seconded the motion. **Motion carried 3-0.** Supervisor Olshavsky – yes; Supervisor Cooper – yes; Supervisor Kostan – yes.

Road Master's Report

The Road Master's report was presented by Supervisor Cooper.

The Road Master worked on the following:

1. Paved Township Roads
2. Burmed the newly paved Township Roads
3. Cleaned ditches
4. Repaired machinery as needed.

Supervisor Kostan made a motion to accept the Road Master's Report, with Supervisor Olshavsky seconding the motion. **Motion carried 3-0.** Supervisor Olshavsky – yes. Supervisor Cooper – yes; Supervisor Kostan – yes.

Code Enforcement Officer's Report

The Code Enforcement Officer's Report was presented to the Board by Supervisor Cooper which included the following:

1. Received a complaint with excessive dog barking on Jefferson Avenue – tried to contact person regarding the complaint with no return call.
2. Received a complaint from a resident on Allen Street regarding two dogs chasing and nipping her while she was walking. This case had to be referred to the State Dog Warden. Township has no ordinance for dangerous dog (law).
3. Received a complaint from a resident on Front Street concerning a residence that needs a severe cleaning up. The Code Enforcement Officer contacted the residence and the property is currently cleaned up.

Old Business

- a. Update on the Dulancey Speed Limit Study through PennDot

Supervisor Cooper stated that we received a letter from PennDot concerning the Dulancey Speed limit road study. They agreed to perform and it will take four to six weeks. This letter is dated August 26, 2014.

New Business

- a. S & T Bank Certificate of Deposit Renewal (9/8/2014)

Supervisor Olshavsky related to the Board that S & T notified the Township that the CD we had with them has matured and we had ten days after that date to either renew or cash it in. We did get some information from Summit Bank with interest rates on placing in a money market account or another CD. Supervisor Olshavsky made a motion to cash it in and place it in the highest interest rate offered into money market account which we currently have in Summit Bank. If we put it in a CD the money will be tied up for two years and the interest isn't as high. Supervisor Kostan seconded the motion. **Motion carried 3-0.** Supervisor Olshavsky – yes; Supervisor Cooper – yes; Supervisor Kostan – yes.

- b. UPMC Health Insurance Plan

Supervisor Olshavsky asked to table this until we meet with the lady who has the knowledge regarding this new information received. Supervisor Olshavsky made a motion to table this until the next meeting with Supervisor Cooper seconding the motion. **Motion carried 3-0.** Supervisor Olshavsky – yes; Supervisor Cooper – yes; Supervisor Kostan – yes.

Adjourn

Supervisor Olshavsky made a motion to adjourn with Supervisor Cooper seconding. (8:10 pm)

Those attending the meeting: John Crum, Aaron Offman, Deanna Lee, Jill Lamar, Glen Calderwood, Joe Walters, Paul and Karen Maul, Ben Selepack, Bill Offman, Alfred Maul, Francis Maul, Amanda Petrunak, Bob Lutz.

Respectfully submitted by Michelle Kostan, Township Secretary.

Minutes subject to approval by the Board.

