

SOLEBURY TOWNSHIP BOARD OF SUPERVISORS
April 5, 2016 – 7:00 P.M.
Solebury Township Hall

MINUTES

Attendance: Helen Tai, Chair, James Searing, Vice-chair, Noel Barrett, Paul Cosdon and Kevin Morrissey. Dennis H. Carney, Manager, Michele Blood, Finance Director, Jordan B. Yeager, Solicitor and C. Robert Wynn, Township Engineer were also present.

The meeting was called to order followed by the Pledge of Allegiance.

Approval of Bills Payable

Res. 2016-62 – Upon a motion by Mr. Cosdon, seconded by Mr. Morrissey, the lists of Bills Payable dated March 22, 2016 and March 30, 2016 were unanimously approved as prepared and posted.

Approval of Minutes – March 15, 2016

Mr. Searing expressed concern that the Minutes are being converted to transcripts rather than meeting minutes. Mr. Cosdon agreed pointing out that the purpose of minutes is to give an overview of the meeting, not a dialogue of the meeting. Ms. Tai stated that it is challenging for the minute taker to choose which elements of a statement to include in the minutes. In some cases, context is lost. Thus, providing the full statement ensures that both the context and meaning are clear.

Mr. Searing and Ms. Tai requested revision to the Minutes involving the EAC presentation, attachment of the STPC Annual Report, and discussion involving NHCS.

Res. 2016-63 – Upon a motion by Mr. Morrissey, seconded by Ms. Tai, the Minutes of March 15, 2016 were unanimously approved with correction.

Announcements/Resignations/Appointments

- Ms. Tai announced two executive sessions held on this date involving litigation and personnel.
- The Board again announced that the meeting originally scheduled for May 5th has been rescheduled to Tuesday, May 3rd.
- The Board announced the Watershed Associations and EAC clean-up was scheduled for this coming weekend.
- The Board announced that there will be a forum regarding human trafficking on May 3rd at 7:00 p.m. at Trinity Solebury Episcopal Church, 6587 Upper York Road. A notice has been posted on the Township website.

Public Comment – No early public comment was offered.

Supervisor Comment:

- Mr. Cosdon thanked Dudley Rice, Kim Wilson, Patti Beans-Clark and Gretchen Rice for helping to make the 2016 P&R East Egg Hunt a success.
- Mr. Searing congratulated the Lumberville General Store on its reopening.

- Mr. Searing noted that the Township Financial Statements normally issued by April 1st are delayed due to a delay by PMRS in providing the 900 municipalities with their pension disclosure information, noting that although our Financial Statements are complete the Township must wait for receipt of the information from PMRS to file.

PRESENTATION: - P&R 7th grade Girls Travel Basketball ICBA Division 12 League Championship trophy presentation.

Before introducing the team coaches, Greg Cathcart, Mike Dougherty and Gary Saxton, P&R Director Dudley Rice opened the presentation noting that this particular group of young players had been in the P&R program playing together for a long time.

The Coaches introduced the team members: Gabriella Vitelli, Grace Hanly, Kendall Cathcart, Kate Doughery, Juliana Covino, Rachel Saxton and Samantha Kruopas, who in turn presented the team trophy to Ms. Tai for display in the P&R trophy case in the main lobby.

Mr. Morrissey congratulated the team on its success, adding that the friendship and relationships they have created will last a lifetime.

OLD BUSINESS

New Hope Crushed Stone Quarry – Ms. Tai provided the following update on activities related to NHCS.

“At our last meeting, when discussing the possibility of intervening on NHCS’ recent appeal, concerns were raised by both fellow supervisors and residents. I’d like to address some of these tonight.

One concern is that we have already spent millions on lawsuits against the quarry, and that the current intervention will cost a lot of money.

- 1) *With respect to the amount of money **previously** spent on litigation. The administration has verified that expenses related to NHCS totaled about \$1.7 million for the sixteen-year period 2000-2015, an average of about \$106,000/year. The majority of this amount is for legal, but also includes fees for environmental consultants, engineers and miscellaneous expenses.*
- 2) *This indeed is a large number, so I completely understand the community’s concern over excessive spending. However, to put it in perspective, this amount is less than 1% of annual revenue or expenses. Additionally, the circumstances during those time periods were very different from what they are now. During the last 16 years, the township faced several unfavorable conditions:*
 - a. *The township filed 2 injunctions for excessive noise and dust. Monitoring of the noise and dust was also required.*
 - b. *The township had constant battles with the quarry mining below its permitted depth as well as constant battles with the DEP, including appeals to the EHB, for making decisions in the quarry’s favor at the expense of our water, environment and public safety*
 - c. *The township also hired technical experts to support township appeals and actions. Note that the data provided by these technical experts were taken into consideration by the EHB when they made their ruling against the quarry and the DEP in July, 2014.*
- 3) *What we are talking about now is very different. We now have the July, 2014 EHB ruling that the quarry is a “Public Nuisance” We have the DEP attempting to bring the quarry into compliance with this ruling. When we voted to intervene in the appeal, we stood on the same side as DEP and more importantly, we stood on the same side as Solebury residents over the profits of one company. While it is not prudent for the township to share its legal strategy, I will say the following:*
 - a. *First, the costs of intervention are relatively low. As intervenors, we are not the main parties in the suit. NHCS must provide the burden of proof and DEP must defend its actions. Intervening allows us to participate in the process as much or as little as we choose.*
 - b. *Next, the board is highly sensitive to the concerns regarding spending and will monitor costs as we go to ensure they are in line with our objectives.*

- c. *Lastly, the township financial health is very good. Our general fund has increased significantly over the past eight years, from \$200,000 at the end of 2008, to approximately \$2.2 million at the end of 2015. We also have a capital reserve fund of \$1.2 million. While this doesn't mean we should spend indiscriminately, it does mean that we have the financial flexibility to pursue legal action when the township interests are threatened.*

The next concern is that pursuing this action will push the quarry into bankruptcy, and that this will result in no reclamation at all. Kevin Morrissey will speak to this when he updates us on recent DEP actions.

The last question I'd like to address is "why can't the board take less drastic measures? Aren't there other things we could do that wouldn't cost any money?"

We have taken and will continue to explore all avenues to address this issue. In the last year and a half, some of the actions we have taken:

1. *Since DEP has the responsibility and authority to enforce the EHB ruling, we have written several letters to the DEP requesting that they do their job.*
2. *In January we requested a meeting with the quarry in the hopes of an amicable resolution. However, the quarry refused our request.*
3. *Earlier this year, we sought and were granted a meeting with DEP Secretary Quigley. The tone of the meeting was encouraging, and the Secretary promised to follow up on several items. As a result of that meeting, the DEP set up a Communication Group to ensure that the township, Primrose Creek Watershed Association, and Solebury School get the information we need with respect to the DEP & quarry, including actions the DEP is proposing or taking. Kevin will provide more detail regarding first steps as a result of the Communications Group meeting.*

If I believed that these actions alone would be sufficient to bring the quarry into compliance, I wouldn't advocate for intervention. After all, I am also a taxpayer in Solebury and am not interested in wasting the township time or money.

However, as a board, we have the responsibility to protect the health, safety, and welfare of our residents, and sometimes that means taking legal action. Since the EHB ruling in July 2014, 6 new sinkholes have formed – we are fortunate that no one has been injured or killed. With such serious potential consequences, I feel a responsibility to take strong action."

Mr. Morrissey summarized the first meeting of the Communication Group consisting of Solebury Township, Solebury School, DEP and the Primrose Creek Watershed Association. The Communication Group meets on a monthly basis and has agreed upon establishing a publicly available website to access DEP files and letters as follows: http://www.dep.pa.gov/About/Regional/SoutheastRegion/Pages/Community-Information.aspx#.VwPQD_PD-Uk

Mr. Morrissey provided the following update on the status of the reclamation:

1. Secretary Quigley will hold NHCS accountable;
2. 3.12 years from January 2016, the reclamation will be complete;
3. The quarry is restricted to pumping 500,000 gallons per day;
4. Weekly inspections reports will be available;
5. DEP wants to raise the bond limit;
6. DEP looking at the financial viability of NHCS;
7. DEP meeting with NHCS at the end of April regarding a possible settlement.

Mr. Cosdon stated that he had previously stated that the Township had spent \$450,000 in legal fees between 2002 and 2011, but that was wrong. The Township spent \$1 million in legal fees during that timeframe and has spent approximately \$54,000 in legal fees between 2012 and 2016.

Mr. Cosdon added that there are three reasons taxes increased between 2002 and 2011: 1) borrowing for open space; 2) inordinate amount of money spent for the Roeser property; 3) \$1.7 million spent on the quarry matter.

Responding to a question from Mr. Searing about the different numbers, Mr. Cosdon clarified that the \$1.7 million represents all costs associated with the quarry matter between 2000 and 2015. The \$54,000 represents legal fees only between 2012 and 2016.

Ed McGahan opined that the bulk of the \$1.7 million represented expenses for experts, engineering and legal fees. Of the expenditures for research done by the experts retained, none of it was used in court. Mr. McGahan asked if there is a reason why NHCS expenses are not shown as a separate line item.

In response Mr. Cosdon noted that all expenses are shown on the bill runs. There are two legal expense line items: One for general expenses and one specific to quarry litigation.

Dennis Mankin commented that the principle cause of the tax increase was not litigation and he challenged Mr. Cosdon's comments. Mr. Cosdon stood by his statement that the tax increase was the result of all three items.

Ms. Tai noted that there was one last item, that being a Confidentiality Agreement and provided the following statement:

"In light of the previously mentioned appeal and related ongoing issues, the township may benefit from receiving or sharing confidential information with each of the other primary interested parties, including Solebury School, the DEP and the quarry. In order to be able to do so, while preserving the confidential nature of information shared, the Township could enter into limited confidentiality agreements with each of the parties."

Res. 2016-64 – Upon a motion by Ms. Tai, seconded by Mr. Searing, it was unanimously agreed to authorize the Township Solicitor to enter into limited confidentiality agreements with the Pennsylvania Department of Environmental Protection, Solebury School and/or New Hope Crushed Stone & Lime Co. in furtherance of the Township's interests with respect to compliance with the Environmental Hearing Board's July 2014 Decision.

NEW BUSINESS

Snow Plowing Bid – The Township received two bids for snow plowing and both bidders are currently used by the Township for plowing and salting operations. The administration recommended that the bids from both Professional Landscape Services (PLS) and Blooming Glen Contractors be accepted at the rates as submitted. Mr. Carney noted that Blooming Glen Contractors had increased its hourly rate by \$20.00.

Responding to questions from Mr. Cosdon, Mr. Carney advised that it is not uncommon to receive a low number of bids, and the pricing was compared to prices received by Buckingham Township.

CeCe Brillman addressed the Board about contractors plowing snow into the street.

Res. 2016-65 – Upon a motion by Mr. Barrett, seconded by Mr. Cosdon, it was unanimously agreed to award the snow plowing bid to Professional Landscape Services and Blooming Glen Contractors, based upon their bids as submitted.

2016 Road Paving Program – The following bids were received and opened on March 29, 2016:

Paving Bid:

Bray Brothers, Inc.

Base Bid #1 - \$126,642 (Street Paving)

Base Bid #2 - \$35,475 (Driveway/Parking Area Paving – Public Works Facility)

Haines Paving

Base Bid #1 - \$142,903.75 (Street Paving)

Base Bid #2 - \$38,225 (Driveway/Parking Area Paving – Public Works Facility)

James D. Morrissey, Inc.

Base Bid #1 - \$128,417 (Street Paving)

Base Bid #2 - \$43,219 (Driveway/Parking Area Paving – Public Works Facility)

Blooming Glen

Base Bid #1 - \$129,400.75 (Street Paving)

Base Bid #2 - \$39,462.50 (Driveway/Parking Area Paving – Public Works Facility)

Microsurfacing – Bituminous Seal Coat Bid:

Asphalt Maintenance Solutions - \$54,459

Asphalt Industries - \$58,600

Mr. Carney noted that the low bids received were within the amount budgeted.

Res. 2016-66 – Upon a motion by Mr. Cosdon, seconded by Mr. Searing, it was unanimously agreed to award the Paving Base Bid #1 and Base Bid #2 to Bray Brothers, Inc. and the Microsurfacing to Asphalt Maintenance Solutions.

SUBDIVISIONS/CONDITIONAL USES/LAND DEVELOPMENTS

Giuliano Tract – Escrow Release #8 – The Township Engineer has certified that certain expenses in connection with this land development have been incurred by the applicant for stormwater and landscape fees and that \$170,476.81 can be released at this time.

Res. 2015-67 – Upon a motion by Mr. Cosdon, seconded by Mr. Searing, it was unanimously agreed to authorize the release of escrow funds in the amount of \$170,476.81 as approved by the Township Engineer for costs associated with the Giuliano subdivision.

Public Comment

- Ed McGahan addressed the Board concerning the timeframe for paving Aquetong Road between Windy Bush and River Road, and also about removal of trees damaged during the recent storms.
- Ms. Tai announced an executive session to follow the regular meeting concerning litigation.

Adjournment:

Res. 2016-68 – Upon a motion by Mr. Cosdon, seconded by Mr. Searing, the meeting adjourned at 8:00 p.m.

Respectfully submitted
Dennis H. Carney, Manager