

June 14, 2012
7:00 PM

The regular meeting of the Monroe Township Board of Supervisors was called to order by Chairman Simmons.

ATTENDANCE

Samuel M. Simmons, III, Chairman
A.W. Castle, III., Vice Chairman
Phil Kehoe, Supervisor

Marjorie Metzger, Administrative Assistant
Michael Pykosh, Solicitor
Mark Bruening, Engineer

SPEAKERS FROM THE AUDIENCE

Don Isabella was present on behalf of York Waste, and offered to be part of the discussion on trash/recycling services at the proper time on the agenda.

Kevin Jacobs and Bob Kissinger were present on behalf of South Middleton Township Municipal Authority, and will present their matter at the proper time on the agenda.

APPROVAL OF MINUTES

Mr. Kehoe pointed out on page 4, under the Sewer Delinquency heading, the third paragraph, second line, the word "a" fiduciary should be "our" fiduciary.

On the motion of Mr. Castle, and seconded by Mr. Kehoe, and by unanimous vote of the Supervisors it was duly RESOLVED to approve the minutes of the May 10, 2012 Regular meeting, as amended.

REPORTS

ROADMASTER'S REPORT

On the motion of Mr. Kehoe, and seconded by Mr. Castle, and by unanimous vote of the Supervisors it was duly RESOLVED to accept the Roadmaster's Report.

ZONING OFFICER'S REPORT

On the motion of Mr. Simmons, and seconded by Mr. Castle, and by unanimous vote of the Supervisors it was duly RESOLVED to accept the Zoning Officer's report.

UNFINISHED BUSINESS

SOUTH MIDDLETON TOWNSHIP MUNICIPAL AUTHORITY FLOOD PLAIN WAIVER

Kevin Jacobs of Glace Associates and Bob Kissinger of South Middleton Township

Municipal Authority were present. They have submitted a request for a waiver from the floodplain ordinance 2009-1 in conjunction with the sewer plant upgrade project proposed.

A court stenographer was present for this specific agenda item, so a transcript will be prepared and provided at a later date. The oath was given to those who will provide testimony. Mr. Pykosh introduced a number of Exhibits (Monroe Exhibits #1 – 11).

Mr. Jacobs presented his testimony on behalf of SMTMA and responded to the list of items that must be considered by the Board for the waiver request, and responded to questions raised by the Solicitor and Board members.

Mr. Bruening reviewed his engineering comments dated June 14, 2012.

On the motion of Mr. Castle, and seconded by Mr. Kehoe, and by unanimous vote of the Supervisors it was duly RESOLVED to approve the floodplain waiver request for South Middleton Township Municipal Authority, contingent upon providing verification of the flood elevations, and for any elevations below the regulated flood elevation, that there is nothing at those levels that would be damaged during a flood.

Mr. Bruening was directed to issue a letter of the required contingencies to be met.

NEW BUSINESS

SOUTH MIDDLETON TWP. MUN. AUTH. – REQUEST FOR FEE WAIVERS

SMTMA has requested waivers from the various fees associated with the land development plan submission and review, stormwater management submission and review, Zoning Hearing Board submission and review, and building permit fees. In addition to the fees, the Township would assume all the third party fees.

On the motion of Mr. Castle, and seconded by Mr. Kehoe, and by unanimous vote of the Supervisors it was duly RESOLVED to waive the various fees associated with the South Middleton Township Municipal Authority land development plan, storm water management plan, Zoning Hearing Board application, and building permit fees pertaining to the sewer plant upgrade project.

UNFINISHED BUSINESS

PENN WASTE – ORDINANCE REVISIONS REQUEST & TRASH/RECYCLING BID OR EXTENSION

Mr. Pykosh's legal opinion is that the trash/recycling contract must be bid for 2013. He referred to the recent "Hanisco" court case. He also referred to the current contract with Penn Waste that does not specifically have a price for the three (1) year extensions. If there is no price in the contract, it has to be re-bid.

The Board mentioned the current RFP will have to be updated to specifically require a price be provided for the initial contract and any proposed extension years. Mr. Pykosh said it has to include a specific price, or a certain percentage increase or decrease for each extension year so no additional negotiating takes place for the pricing.

Don Isabella of York Waste said a typical trash/recycling contract is an initial three year contract with two (1) year extensions, or a flat five year contract. He suggested the consumer price index could be used for the extension year pricing.

Steve Hovis, legal representation for Penn Waste, does municipal law for 18 political subdivisions. His opinion of the "Hanisco" case is that you cannot deviate from the specific contract. The contract had a specific rate and the Board accepted a modified price for the extension, which was a violation. The modification made it a new contract, which would require re-bidding. In Monroe's case, the contract has language for the two year initial contract with three (1) year extensions that will be negotiated without the need for re-bidding. A mutual agreement between the township and waste hauler for the price for the extension must be reached within six months of the contract, which is what is being worked on presently. The ability to extend by negotiating without the need to re-bid is the best language. All bidders were on notice and the township had the legal authority to negotiate with the successful bidder, which is Penn Waste. Penn Waste has extended numerous contracts with these provisions.

Mr. Kehoe said the new court ruling could make the history of bidding these contracts null and void. We have not changed the material of our contract, but Mr. Pykosh says material includes a price. The court ruling may set a precedent for change. Who knows if the new court decision will be appealed.

Mr. Simmons is inclined to agree with the house lawyer. Mr. Castle feels all lawyers will have different opinions. He wants the township residents to come out ahead. The service Penn Waste has provided has been excellent, along with the price.

Ed Ward of Penn Waste said two years ago the price for trash/recycling service in Monroe Township was approximately \$75 a quarter. That rate went down with Penn Waste to approximately \$45 a quarter, including new toters and recycling containers. He asked for the Board's support of extending the contract.

On the motion of Mr. Castle, and seconded by Mr. Simmons, and by majority vote of the Supervisors it was duly RESOLVED to re-bid the contract for trash/recycling services for 2013. Mr. Kehoe voted no.

SOUTHERN SEWER COSTS

On the motion of Mr. Kehoe, and seconded by Mr. Castle, and by unanimous vote of the Supervisors it was duly RESOLVED to table the southern sewer costs matter, and to continue the discussions that have been taking place with the Monroe Township Municipal Authority level.

AQUA BOND REQUEST

On the motion of Mr. Castle, and seconded by Mr. Kehoe, and by unanimous vote of the Supervisors it was duly RESOLVED to table the Aqua request for bond release.

ATV DONATION

Mr. Pykosh has reviewed the matter and has talked with the agency that provided the grant for the ATV purchase originally for emergency management use. There are no restrictions attached. If donated to the school agriculture program, the ATV would continue to be used by members of the community through the school. Mr. Simmons suggested making the presentation of the ATV at a school board meeting.

On the motion of Mr. Castle, and seconded by Mr. Kehoe, and by unanimous vote of the Supervisors it was duly RESOLVED to provide the ATV unit to the Cumberland Valley School for use in their agriculture program, as long as they accept the donation.

NEW BUSINESS

SINCLAIR ROAD PRELIMINARY PLAN

Mark Hackenburg present. The cluster development was approved and the final was approved in 2010 as one phase when the economy was different. The only change on the revised plan is making it two phases for financing purposes. There is one additional waiver for the temporary cul-de-sac which will have 15 units in the street rather than the permitted 11 units by the ordinance. He is receipt of the engineer's comments for the township and authority. The primary issue is concerning the dedication of land or paying the recreation fee in lieu of. The request has been made to pay the recreation fee when the building permit is applied for, instead of paying the lump sum prior to recording the plan. The traffic and emergency services fees are paid that way. This would mean the delay of a payment for recreation in the amount of \$58,500.

Mr. Pykosh said the concern for the recreation fee would be to make sure anyone buying this plan would be aware and understand the recreation fee has not been paid up front, and must be paid when the building permit is issued. A note can be put on the plan and the developer's agreement can be recorded. The money is to be used for the acquisition, design, construction, and development of recreation facilities and is to be used in three years. Mr. Simmons mentioned the school board wants the township to be developer friendly, so this would be helpful in getting more homes and children in the township.

The plan is projected to have 10 units built per year, with a total build out in 8 years.

On the motion of Mr. Castle, and seconded by Mr. Kehoe, and by unanimous vote of the Supervisors it was duly RESOLVED to grant the waivers as requested, which are as follows: 1) Provide a Park and Recreation Report (402.5.4); 2) Soils structure and characteristics shall be provided for all proposed detention basins with an embankment that is 6' or more in height (SWMO 98-2, 304.4.3); 3) Side lot lines shall be radial to street lines for a

distance of half the lot depth (611.4.1); and 4) Street trees are required along all road frontages (618.3).

On the motion of Mr. Kehoe, and seconded by Mr. Castle, and by unanimous vote of the Supervisors it was duly RESOLVED to approve the Sinclair Road preliminary subdivision plan, contingent upon the township engineer's comments dated June 7, 2012 being satisfied.

SINCLAIR ROAD FINAL PHASE 1

The engineer's comments dated June 7, 2012 were reviewed. There was discussion about using stone backfill in the streets. The developer would like to use existing materials and compact them and have the proper testing done. Mr. Bruening said stone backfill is required in the road surface. It is the technique. The inspection is paid for by the developer, not the contractor. Mr. Simmons said the only way to consider this is to go back to the Planning Commission. Mr. Kehoe suggested giving the developer the choice. Mr. Bruening must provide specifications to the developer so they know what is required to take to the Planning Commission. A time extension would also be needed on the plan.

On the motion of Mr. Simmons, and seconded by Mr. Castle, and by unanimous vote of the Supervisors it was duly RESOLVED to table the Sinclair Road final Phase 1 plan.

WHITE ROCK SECTION M BOND

Mr. Pykosh said the developer is required to provide storm water management improvements in Section M. They have provided a check in the amount of \$24, 228.60 to the township for security because there were never any bonds. There are also new people on the Penn Products board now. Mr. Pykosh will get a prepared agreement to Penn Products attorney and get it ironed out. No action was required.

KREIDER – WHITE ROCK SEWER REPAIRS – PAYMENT CERTIFICATE #1

The Board acknowledged receipt of the first payment certificate and request from B. R. Kreider & Son, Inc. for payment for sewer repair work being performed in White Rock. This request will be forwarded to the state for coverage from the H2O grant. No action was required.

LEHRMAN SCHOLARSHIP COMMITTEE

Wilmer Harris advised the Board he is stepping down from serving on the Lehrman Scholarship Committee. Sue Sunday said the second scholarship has been awarded, and is good for four years as long as the eligibility requirements are met. She was selected as the next chairman of the Scholarship Committee. Mr. Castle mentioned Mr. Lehrman wants to replenish the scholarship fund. Ms. Sunday mentioned she prepared a news release that has not been placed in the Patriot or Sentinel.

Mr. Kehoe suggested appointing Carol Kehoe. Sue Sunday suggested appointing Heather Dunn. Mr. Castle suggested appointing Penny Ginter.

On the motion of Mr. Castle, and seconded by Mr. Simmons, and by unanimous vote of the Supervisors it was duly RESOLVED to accept Wilmer Harris' resignation from the Lehrman Scholarship Committee and to provide a letter of thanks.

BILLS

On the motion of Mr. Kehoe, and seconded by Mr. Castle, and by unanimous vote of the Supervisors it was duly RESOLVED to approve the bills as prepared.

STAFF COMMENTS

Mr. Kehoe mentioned the Municipal Authority talking about collection of liens and getting a plan together. Ms. Lowery put some information together, that has been reviewed by the Authority, but it must also be reviewed by the Supervisors. An abbreviated version of this information will be placed in the newsletter, and then the entire article will be included with the next sewer billing. It will also be placed on the website. This is for properties that already have liens against them.

Mr. Simmons mentioned Randy Jackson said the Dillsburg Authority, before a property is lienied, has their lawyer contact the mortgage company of the delinquent properties, and the mortgage company puts pressure on the home owner to come current with their bill.

Mr. Pykosh mentioned he got the title searches back. We are working for an overall plan for those properties, but including a contact with the mortgage company is something to consider for inclusion.

Mr. Kehoe mentioned he met with South Middleton Supervisors Brian Gembusia and Ron Hamilton to discuss the sewer project at an executive level. The end result was the thought that a workshop should be held on a Saturday with the key stakeholders of South Middleton and Monroe Townships. The meeting would have to be advertised, and the intent would be to discuss the critical parts of the project and highlights of dates, scope of project, and through that then identify the needs of each township, what is outstanding, what is needed from each other, and some technical nuances. He suggested the Supervisors and Managers should remain aligned and communicating. Mr. Gembusia said if there is anything outstanding, let him know, don't wait for the meeting. The meeting should include the Supervisors, lawyers, engineers, and managers.

On the motion of Mr. Kehoe, and seconded by Mr. Castle, and by unanimous vote of the Supervisors it was duly RESOLVED to coordinate a workshop with South Middleton Township to address the critical items with the sewer project.

Mr. Kehoe suggested appointing an action committee through the Municipal Authority. Mr. Simmons was not in favor and said when things get too big, the wheels come off.

Mr. Bruening mentioned a situation in White Rock with the Valente's driveway where two sewer lateral repairs need to be done, which are under the edge of their driveway. The Board agreed not to make the repairs at this time.

Mr. Castle commended Mr. Kehoe on a good meeting with South Middleton. They showed concern and know there are problems. Mr. Castle asked Sue Sunday to provide a list of names of persons who helped with the "Save Monroe" project. Remember the troops who are still fighting the war. Fly your flags. July 12 is the next meeting. The Township received \$3,600 for state police fines. We still need volunteers for community day. God Bless America.

Mr. Simmons invited everyone to community day to enjoy the band and fireworks.

Mr. Simmons requested an executive session after the meeting to discuss legal matters.

ADJOURN

On the motion of Mr. Simmons, and seconded by Mr. Castle, and by unanimous vote of the Supervisors it was duly RESOLVED to adjourn at 9:40 PM.

Respectfully submitted,
Marjorie E. Metzger, Administrative Assistant