**Amity Township Board of Supervisors**

**Meeting Minutes**

## September 4, 2013

## **Call to Order/Pledge to the Flag**

The September 4, 2013 meeting of the Amity Township Board of Supervisors, held at the Township Municipal Building, 2004 Weavertown Rd., Douglassville, Berks County, Pennsylvania, was called to order at 7:01 PM by Chairperson Kim McGrath. The following were in attendance:

### SUPERVISORS

Kim McGrath

Robert Yanos

Paul Weller

Terry Jones

### STAFF

Manager, Charles Lyon

Pamela Kisch, Secretary

Brian Boland, Solicitor/Kozloff Stoudt

**ANNOUNCEMENTS**

None

**PUBLIC COMMENT (AGENDA ITEMS ONLY)**

None

**CHERRY, WEBER & ASSOCIATES** – Gregory Bitsko – Cherry, Weber & Associates

Jason Mildenberg – Cherry, Weber & Associates

Christine Taras – Pennoni Associates, Inc

Mr. Jason Mildenberg, representing Cherry Weber, presented detailed drawings, as well as detour information of their proposed work on the bridge on Weavertown Road, located between Limekiln Road and Daniel Boone Road. Mr. Mildenberg stated the proposal includes repairs to the box culvert and will involve minor roadway construction. Mr. Jones asked if funding was in place for the proposed repairs. Ms. Taras, of Pennoni Associates, assured him it was. Mrs. McGrath questioned why work was being completed on this particular bridge. Mr. Mildenberg stated the bridge was found to be structurally deficient in a recent study. Mr. Yanos questioned if anyone has notified FM Brown’s, who own the property on either side of the bridge. Ms. Taras stated they have not been, but will be notified after further review of the project. Mrs. McGrath questioned studies being done for wildlife. Mr. Bitsko, of Cherry Weber, stated studies were completed and submitted to Wildlife Services for their review. Ms. Denise Larive, a reporter, questioned the cost of the project. Mr. Mildenberg reported the cost of the project will be 1.2 million dollars. Mr. Jones questioned if other bridges in the Township have been rated and inspected. Mrs. McGrath asked the representatives if a report existed detailing other bridge work to be done within the Township. Ms. Taras stated she would look into which bridges have been reviewed, to determine if there is a schedule of additional bridge projects. Mr. Bitsko stated that the selection process to determine which bridges need repair is done separately and is outside of the scope of the work being proposed on the Weavertown Road project. Mr. Howell-Clarke stated drivers may utilize Browns Mill Road to get across Limekiln Road, which could cause liability. He questioned if Cherry Weber would provide signage on Browns Mill Road to deter drivers from using the road as part of the detour. Ms. Taras explained Penndot does not provide signage on township roads, because there would be no way to enforce the sign without an ordinance. It would be up to the individual townships to enforce use of the provided detour route. Mr. Howell-Clarke confirmed Browns Mill Road is a Township Road. Mr. Mildenberg stated the project would begin in the Summer of 2015 and would be complete before the beginning of the school year. Mr. Yanos, expressed the Board’s appreciation for work being completed around the school traffic.

**MINUTES**

Mr. Jones motioned, seconded by Mr. Weller to approve the minutes of August 21, 2013 as presented. Motion carried 4-0.

**FINANCE**

Mr. Jones moved, seconded by Mr. Yanos to approve the following disbursements:

1. Disbursements: $ 26,261.70 General Fund

$ 25,249.34 Sewer Fund

$ 19,419.48 EDU Fund

$ 769.55 Liquid Fuels

$ 71,700.07 Total

The motion passed 4-0.

**REPORTS**

***Code Enforcement***  Mr. Yanos mentioned the detention pond on Old Airport Road has been an ongoing problem. Mr. Lyon stated he previously sent a letter to the property owner stating that during the next dry weather period the pond must be opened up. Mr. Howell-Clarke mentioned yearly inspections were just done a few weeks ago on all detention ponds, and Mr. Loomis will be sending letters to all violators. Mrs. McGrath asked if letters should be sent certified, and if this is possibly a home owner’s insurance issue. Mr. Boland explained if it is negligent or intentional, a home owner’s policy may not cover work being done. Mr. Jones questioned if the Township could send a citation. Mr. Lyon stated the plans are too vague, and if a citation is to be written, it should be done by Mr. Boland in order to be successful against the home owner. Mr. Weller questioned Mr. Boland, believing it to be a legal obligation to maintain the detention pond in the property deed. Mr. Lyon stated the plan for Greenbriar Phase IV and Greenbriar Phase V had a note written on the plan. Mr. Jones stated the legal obligation would be to the developer, not the buyer. Mr. Boland disagreed, stating the legal obligation is for everyone, the developer and buyer(s). Mr. Boland will pull the original deed. The Board authorized Mr. Boland to prepare the citation and bring it to the next meeting for the Board of Supervisors to consider.

***Roads:*** Mr. Howell-Clarke stated the gas powered cut-off saw’s main arm broke due to age of the equipment and prolonged use. The equipment is over 15 years-old, and repair would be over $500. The Road Department shares the tool with the WWTP, as needed. Due to age of the equipment, and cost to repair, his recommendation was to purchase a new saw. Mr. Weller asked about trade in allowance. Mr. Howell-Clarke explained there would be no trade in allowance because the motor has lost compression. Mr. Howell-Clarke stated money is still available the 2013 Road Department budget to make the purchase. Mr. Jones moved, seconded by Mr. Yanos to purchase the new Stihl gas powered cut-off saw, at a price not to exceed $1,575.16. Motion passed unanimously, 4-0.

Mr. Howell-Clarke thanked the Board for their approval.

**UNFINISHED BUSINESS**

Mr. McAfee and Mr. Kershner, both of Hillview Road, were in attendance seeking help to resolve the drainage issue on their properties. Mr. McAfee explained when Mr. Gokey was out at his property, he didn’t fully understand the problem, stating it was a “natural run-off”. Mr. Howell-Clarke stated work was done a few weeks ago at the make shift catch basin to facilitate its function. Mr. McAfee stated this did not resolve the drainage issues. Mr. Yanos asked Mr. McAfee for suggestions how the Township should address the problem. Mr. McAfee suggested the Township could force the storm water along the side of the road in a storm sewer. He believes that would resolve approximately 90% of the problem, and he would handle the rest on his own. Mr. Yanos asked Mr. Lyon if the Engineers were able to conclude the work would resolve the problem as stated by Mr. McAfee. Mr. Lyon stated they hadn’t done so with an exact percentage. Mr. Kershner explained the Township had started the project before, however funds were not available to complete it. Mr. Lyon explained Mr. Weber had previously designed a two-phase project. Water was redirected up to the second cross pipe. However, Right of Way was needed on the East side, and the property owner was unreceptive to offering the easement necessary to pace the catch basin. Mr. Lyon stated the first phase of that project’s cost was between $20,000-$40,000. Mrs. McGrath added that figure was for materials only. Mr. Howell-Clarke also mentioned Penndot may also require permits to tie into their storm water system, although he was not familiar with necessary requirements. Mrs. McGrath asked Mr. Howell-Clarke to check into what must be done and what permits are necessary with Penndot. Mrs. McGrath will talk to Mr. Roberts and Mr. Clauser, neighbors on Hillview Road. She stated the Township will need to identify what funds will be used to pay for completion of the work needed. Mrs. McGrath asked when Mr. McAfee first brought this to the Township’s attention. He stated it was 25 to 30 years ago, with little response. Mrs. McGrath offered to go out and evaluate the problem when there is a heavy rain. She took Mr. McAfee’s phone number to contact him directly. This will be unfinished business for the next BOS meeting, 9/16/2013.

Mr. Lyon stated the cost of the 2010 update of Act 537 cost $58,422.00. Arro had prepared a Professional Services Agreement to file an amendment to the Township’s approved 2010 Act 537 Plan. The PSA is proposed to be billed at time and materials, not to exceed $16,850.00, and be completed in 60 days. Mr. Lyon stated the charges would be paid from the EDU Fund. Mr. Weller asked when the Board needed to approve the PSA. Mr. Lyon stated he will have the 5 year budget plan for 2014-2018 available for review at the September 16th Board of Supervisors Meeting. Mrs. McGrath asked to table the issue, placing this under “old business” for that meeting, pending review of the 5 year budget.

**SOLICITOR’S REPORT**

Mr. Lyon requested Mr. Boland review a lease agreement for use by Amity Fire Company, to lease their old truck to Lower Frederick Township. Mr. Jones explained Lower Frederick had purchased a truck they found they didn’t need. Amity Fire Company purchased this truck, contingent on delivery of the truck being made to Amity on a specific date. Lower Frederick Fire Department was notified their new truck would be delayed, and asked to lease the old Amity Fire Company truck. Mr. Weller stated Lower Frederick provides $1 Million in liability, however he felt the Township must also keep the current insurance on the truck, because it is still owned by Amity Township. Mr. Lyon asked if this is considered a mutual aid agreement? Mr. Boland said the agreement memorializes Lower Frederick is using the truck. Mrs. McGrath stated we would keep our liability insurance, and they would cover collision. Mr. Boland agreed. Mrs. McGrath asked to move this to unfinished business for 9/16/2013 Board of Supervisors meeting.

**NEW BUSINESS**

***Approval to Reimburse WWTP Employees Certification Fees*** Mr. Yanos questioned why certification fees are reimbursed, given that certified employees are paid at a higher hourly wage. Mr. Jones asked if it was policy or part of the bargaining agreement. Mr. Lyon explained it is not policy or in the agreement, however the Township has reimbursed these fees in the past to at least one employee. Mr. Yanos suggested the Township may have originally decided to reimburse certification fees based upon the benefit of having more employees certified. More employees being certified allows more efficient scheduling of required shifts for certified employees. This lessens overtime being paid for certified operator hours. Mr. Jones suggested this should be addressed at future contract negotiations, however, the reimbursement should be done for these employees, based upon past practice. Mrs. McGrath agreed. Mr. Weller moved, seconded by Mr. Jones to approve reimbursement to each employee, not to exceed $230.00 for each employee. Motion passed unanimously, 4-0.

***Zoning Hearing Recommendation – My Dad’s Flooring***

Mr. Brian Boyer, representing Mr. Ed Graefe, proposed erecting a 40’x92’ pole building to warehouse flooring materials, over an existing macadam area. Mr. Boyer explained the owner currently rents a building in Union Township for this purpose. When River Bridge Road is closed at the end of 2013 for redecking the Schuylkill River Bridge, the detour will have a negative effect on the business. Mrs. McGrath asked if one of the buildings would be coming down. Mr. Brian Boyer stated it would be, adding that this would be less than 1,000 square feet increase in overall building space. Mr. Weller asked about height of the building. Mr. Boyer stated it would be a 15 foot ceiling, total of 21 feet in height. Mr. Yanos asked for an explanation of the hardship. Mr. Boyer explained that placement of the pole barn was based upon on maneuverability of box trucks delivering materials. Mrs. McGrath asked Mr. Graefe what the use was of the property behind the store. Mr. Graefe stated it was a detention basin.

Mr. Jones moved, seconded by Mr. Weller to recommend the Zoning Hearing Board grant this request. Motion passed, 3-1. Mr. Yanos objected, based upon failure to prove hardship.

***Zoning Hearing Recommendation – Hess Corporation*** Mr. Gavin, representing Hess Corporation, proposed relocating existing diesel fueling stations to a separate canopy, allowing more efficient use of the facility for tractor trailer fueling. Mr. Gavin stated Penndot can take up to 50 feet of their property to widen Route 422, and Hess has a little over 60 feet. Because the Right of Way includes the canopy, this creates the need for the variance. Mr. Gavin explained placement of the canopy provides safety and better maneuverability of large trucks when fueling. Mr. Gavin confirmed each canopy will clearly identify which canopy each truck type should be utilizing when fueling.

Mr. Gavin also mentioned the existing signs would be all refaced, making the property more attractive. Mr. Yanos asked if this plan blended with the previous plan. Mr. Jones stated it did not, because the prior plan was a tear down and rebuild. Mr. Boland stated the old plan was approved. Mr. Gavin explained Hess abandoned the previous plan, due to inability to finance the changes proposed. Mr. Yanos asked if the courts deemed this a hardship. Mr. Boland stated this is an example of a Hirshberg Variance, whereas a part of the structure (canopy) infringes upon the setback.

Mr. Jones moved to recommend the Zoning Hearing Board to grant this request, seconded by Mr. Weller. Motion passed unanimously, 4-0.

***Zoning Hearing Recommendation – New Rhoads Transportation, Inc*** Mr. Yanos recused himself from the discussion and voting, due to the fact he is employed by New Rhoads. Mr. Steve Rhoads represented himself, proposing the BOS recommend the Zoning Hearing Board allow him to keep his limousine and bus sign on site at 324 E Benjamin Franklin Hwy. The property use is currently rental property (residential) and, the basement is used for file storage. Mr. Jones stated the sign replaced the one that was damaged by a motor vehicle accident. Mr. Rhoads explained he had a permit for an “on-site” sign, but when he moved the business back to the Weavertown Road location in 2008, the Township considered the sign to be “off-site” and non-compliant. Mr. Rhoads explained he was told specifically by Mr. Loomis to request the variance, because the sign was too close to the sign on 422 East, and because it is constructed on a two wooden poles, not a steel pole. Mr. Boland stated without evidence of the business on that property, such as a limousine parked on the lot, he would define it as an off-site sign. Mr. Rhoads stated if the sign is removed, he believes people will think his business has closed, negatively impacting his business. Mr. Weller moved, seconded by Mr. Jones to recommend the Zoning Hearing Board grant the request. Motion passed 3-0. Mr. Yanos abstained.

EMPLOYEE/OFFICIAL REPORTS

**Manager:** Mr. Lyon mentioned that Community Days will be held this coming weekend at Amity Community Park, and there will be fireworks on Saturday night.

Mr. Lyon received a letter regarding the inaccuracy of the completion date proposed in our Corrective Action Plan (CAP) with the PADEP. The response provided an additional year for completion and now extends until December 31, 2015.

Mr. Lyon reported the aerators for the equalization tank rehab have been delivered to the plant. The project will begin the week of September 9, 2013.

Mr. Lyon received a complaint regarding trucks idling and oil leakage. Act 124 is known as the motor Vehicle Idling Act, passed in 2008. Mr. Lyon shared the 16 page FAQ’s that were listed for Act under the DEP’s Diesel Idling Web site. The Act states “owners and operators of location at which vehicles subject to Act 124 load or unload, or locations that provide 15 or more parking spaces for vehicles subject to Act 124, must erect and maintain a permanent sign to inform drivers that idling is restricted”. Mr. Lyon concluded there are multiple properties within the Township that fall into this category. The property referenced in the complaint provides for 15 or more spaces, however, per Chief Shuebrook, rarely is there more than 8 or 9 of these vehicles in this particular lot at the same time. The Chief further stated that the property owner/operator and vehicle operators have always been responsive and complied whenever a police have responded to that property in the past.

Mr. Lyon stated he’d like clarification on who enforces the Act and how the Township will require property owner(s) to comply. Mr. Lyon asked the Board for direction. It was the direction of the Board of Supervisors that staff was not to compile a listing of facilities required to be placarded. In regard to the complaint, the property owner volunteered to erect the signs.

Mr. Lyon stated there are no surprises in the 2014 budget forecasting. Revenues remain flat, while expenses continue to grow. He does not budget for dividends for the 2014 budget year, adding that last year’s dividends totaled over $120,000. If dividends are received, they will be an unanticipated revenue. Mr. Lyon mentioned the Township receives very attractive electrical rates, which are especially realized at the WWTP where the most electricity is used. This saving is not fully reflected in the draft of the budget at this point. The Fire Fund remains challenging, and may be necessary to cut contributions by $29,000 for each fire department. Mr. Weller questioned if this is a result of purchasing the radios, to which Mr. Lyon confirmed. Mr. Lyon mentioned PA American Water has applied for a 5% increase to the PA PUC. Manager Lyon will have the 5 year budget projection for 2014-2018 prepared for review at the September 18, 2013 Board of Supervisors meeting.

**Chief of Police:** Chief Shuebrook presented his report, noting both fatal accidents in August continue to be under investigation. He believes charges will be filed in the accident on 08/23/2013 through the District Attorney. The Chief requested an executive session to discuss a personnel issue.

###### SUPERVISORS

None

**PUBLIC COMMENT**

None

**EXECUTIVE SESSION& ADJOURNMENT**

Mr. Yanos moved, seconded by Mr. Jones to recess to an Executive Session at 8:50PM with intent to return, as requested by Chief Shuebrook to discuss personnel action.

Mr. Jones moved to reconvene the meeting from Executive Session at 9:35PM, seconded by Mr. Weller. In the Executive Session it was resolved that the Board of Supervisors authorized scheduling a Local Agency Hearing based upon the Police Tenure Act. The Hearing will be held on Tuesday, September 10, 2013 at 10:00AM at the Township Municipal Building. The Board further authorized the advertisement of this hearing. Mr. Boland explained the Police Tenure Act requires hearing be private, unless it is requested by the Officer to be public. The Act also requires the hearing be held within 10 days. If the Officer would like to request a change in date, he must do so prior to September 10, 2013.

There being no further business, the meeting was adjourned at 9:40PM on a motion by Mr. Yanos, and seconded by Mr. Weller.

Respectfully submitted,

Pamela Kisch

Secretary