**Amity Township Board of Supervisors**

**Meeting Minutes**

## December 18, 2013

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

The December 18, 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, Chair

Robert Yanos, Vice-Chair

Paul Weller

Terry Jones (arrived at 7:13PM)

Richard Gokey

### STAFF

Charles Lyon, Manager

Pamela Kisch, Secretary

Brian Boland, Solicitor, Kozloff/Stoudt

John Weber, Engineer, LTL Consultants

Mrs. McGrath stated Mr. Jones would be joining the meeting a few minutes late.

**ANNOUNCEMENTS**

None

**PUBLIC COMMENT (AGENDA ITEMS ONLY)**

None

**MINUTES**

Mr. Gokey made a motion to approve the December 4, 2013 minutes as presented, seconded by

Mr. Weller. Motion passed 4-0.

**FINANCE**

Secretary Kisch reported 3 (three) additional disbursements were made on 12/17/13. Additional disbursements were for VCT floor cleaning and reimbursement, paid out of the General Fund. The third payment was for hydrant billing, paid from the Fire Fund. Mr. Gokey moved, seconded by Mr. Weller to approve the following disbursements:

Disbursements: $ 50,984.52 General Fund

$ 26,819.46 Sewer Fund

$ 59,310.03 Fire Fund

$ 26,274.83 EDU Fund

$ 5,317.44 Liquid Fuels

$ 168,706.28 Total

Motion passed, 4-0. The November Treasurer’s and Tax Collector’s reports were presented to the Board for their review.

**REPORTS**

***Fire Companies*** Chief Zomolsky reported Santa Claus will be making rounds in Amity Township on Sunday, December 22nd. Assistant Chief Kline reported the cashew and peanut sale will continue at Monarch Fire Company through the end of the year. Mr. Gokey reminded fire personnel that the Board does not find it easy to raise taxes and asked them to be judicious in their spending of taxpayer’s monies. Mrs. McGrath thanked both fire companies for their dedication and service to the community.

***Planning Commission*** Due to the paucity of agenda items, the Planning Commission meeting scheduled for 12/11/2013 was canceled, therefore there was no report.

**UNFINISHED BUSINESS**

None

**SOLICITOR’S REPORT**

Mr. Boland requested the Board’s authorization to appear and represent the Township at the upcoming hearing for the Luckenbach citation. Mr. Yanos moved, seconded by Mr. Weller to authorized representation, as requested. Motion passed, 4-0. Mr. Boland reported receiving notice that the Township was successful in the decision from the Unemployment Compensation appeal for Corporal Oesterling. The Appeal Referee made a well written opinion based upon facts provided. Notice was also given that the attorney for Corporal Oesterling has filed an appeal, asking for the record to be supplemented, however, it can’t be supplemented as the record is closed. Mr. Boland stated he’s communicated with the Manager regarding the Air Lease Agreement with Pioneer Crossing Landfill. Mr. Boland stated he had not yet, but would contact the Solicitor for Douglass Township regarding termination or re-negotiation of terms for the Intermunicipal Agreement. Mr. Gokey reported receiving a complaint from a resident about “offensive” material on the digital sign located at Diva’s. Mr. Gokey asked if there was anything restricting images or words on signs. Mr. Boland stated it is something that would require looking at, and is a complicated issue regarding First Amendment Rights. Mrs. McGrath recalled a request made by Supervisor Greenawalt asking her to ensure the club remained in complete compliance. Mr. Jones arrived at 7:13PM. After further discussion, Mr. Gokey and Mrs. McGrath asked Mr. Boland to pull all documentation necessary and work with Mr. Loomis to ensure Diva’s is in full compliance of all codes, ordinances, including sign ordinances.

**ENGINEER’S REPORT**

Mr. Weber stated the Land Use Assumptions Report (LUAR) was in the beginning stages of review. Permit data was gathered to help project development for the next 10 (ten) years. Permits issued from 2000 through 2005 were approximately 199 per year, from 2005 through 2010 approximately 45 per year, and from 2010 through 2013 approximately 18.7 per year, respectively. The kickoff meeting will be at the first Planning Commission meeting of the New Year. Mr. Weber recommended release of the entire remaining escrow balance, Release #2, for Brutto Land Development (Vincenzo’s) in the amount of $91,321.77. All required improvements and inspections have been completed. Mr. Weller moved, seconded by Mr. Gokey to release the entire escrow amount of $93,321.77 as proposed by LTL’s letter dated 12/6/2013. Motion passed 4-0. Mr. Yanos abstained from the vote, due to his business relationship with the owner. Mr. Weber reported all items of High Meadows Development Phase 1 and 2, for Release #3, were inspected and approved by Amity Township personnel. Based upon his review of the documentation, he recommended the release in the amount of $22,551.93. Mr. Yanos moved, seconded by Mr. Weller, to approve the release. Motion carried, 5-0. Mr. Lyon stated he will be meeting with Mr. Boland and Mr. Weber to discuss final disposition of High Meadows before entering into an 18-month maintenance agreement.

**NEW BUSINESS**

***Resolutions*** ***13-21 through 13-26*** Mrs. McGrath asked for clarification of Resolution 13-24, relating to the Police Pension. Mr. Yanos explained the resolution is considered annually. If the Police Pension Plan is under-funded, member contributions to the Amity Township Police Pension Plan are not waived, meaning the Township can impose up to 5% member contributions to compensate for the shortfall between the minimum obligation and state pension funding. Mr. Weller moved, seconded by Mr. Jones to adopt resolutions 13-21 through 13-26 setting the tax rates and pension contributions for 2014. Motion passed, 4-1. Mr. Yanos opposed.

***Resolution 13-27*** Mr. Gokey moved, seconded by Mr. Weller to adopt the updated Berks County Hazard Mitigation Plan, as presented in Resolution 13-27. Motion passed, 5-0.

***Municipal Tax Sheet*** Mr. Gokey moved, seconded by Mr. Weller to approve the Municipal Tax Sheet as presented. Motion passed, 5-0.

***Approval to Advertise 2014 Meeting Dates*** Mr. Weller moved, seconded by Mr. Gokey to approve advertisement of 2014 meeting dates, as presented. Motion passed, 5-0.

EMPLOYEE/OFFICIAL REPORTS

**Manager:** Mr. Lyon stated he will require an Executive Session to address two police personnel matters, two administrative personnel matters, one legal matter, and one Zoning Hearing Board Personnel matter. The Manager compiled recommendations regarding replacing ZHB Solicitor Jeffrey Sommer, which he will present in the Executive Session. He provided an update to outstanding WWTP projects: 1. Equalization Tank – This project is complete with the exception for backfill and seeding. 2. Pump Station #1 – This work will begin within the next week or so.

3. Reed Bed Cleaning Project – The bid package for this project must be reconstructed to show all material will be taken locally, which extends the completion date. Hauling distance would make it improbable for another landfill to provide a competitive bid. The Manager explained the Delaware River Basin and NPDES permits will expire on 06/30/14 and 06/30/15, respectively. Mr. Lyon requested the Board’s authorization to have ARRO assist in completing the permits. Mr. Yanos made a motion to authorize use of ARRO to complete permits, seconded by Mr. Jones. Motion passed, 5-0. The Manager solicited five firms for proposals for the Act 209 Update, of which four responded. Responses were received from McCormick Taylor, McMahon, Bogia Engineering, and TPD (Traffic Planning and Design). Although McCormic Taylor and TPD have outstanding reputations, their bids were almost double that of Bogia. McMahon was competitive but more than Bogia. Mr. Weber and Mr. Lyon reviewed the bids and were comfortable using Bogia Engineering. Mr. Yanos moved, seconded by Mr. Jones to accept the Bogia Engineering proposal to conduct the traffic review, at the price of $28,150.00. Motion passed, 5-0. Mr. Lyon stated the first meeting will be in January, with direction dependent upon Mr. Weber’s progress with the Land Use Assumptions Report (LUAR). Mr. Jones asked if the Act 209 Committee had all agreed to serve, to which the Manager confirmed they had. With only seven Comcast customers within the Amity Township boundary, the Comcast Cable Consortium is close to having a final agreement for execution, which will serve as a basis for the Service Electric Cablevision agreement. The Manager recommended not paying the 2013 Solvency Fee regarding Unemployment Compensation due to the paucity of needs. The Board agreed. Mr. Lyon received notice that a final EIT payment will amount to $175,216.74 for the November collections. He suggested the surplus from the 2013 budget could be put into a Capital Reserve Fund. A Capital Reserve Fund was previously established by a Board motion on February 15, 2012. The first deposit was set at $350K, however, an ordinance was never passed to actualize the fund. Mr. Boland confirmed an ordinance is required, and there are two types of Capital Reserve Funds, Specific Reserve Funds and General Reserve Funds. He explained Specific Reserve Funds would be created with a particular project(s) in mind, limiting uses. General Reserve Funds allow more flexibility in how funds are spent. At the Board’s direction, Mr. Boland will prepare a draft of a General Capital Reserve Fund for further review and discussion by the Board. Mr. Linsenbigler delivered an article to the Manager, regarding outdoor furnaces for the Board in the event they wanted to be proactive in regulating smoke from these facilities. The Township had received several complaints of mailboxes being knocked off posts during the recent heavy snow and ice storm on December 14th. Mr. Lyon stated the mailbox policy was changed approximately five years ago, to state damages incurred as a result of a collision with a plow truck or blade were the only damages that may be considered for possible reimbursement. Reports of mailboxes knocked off posts from the December 14th storm were determined to be related to the weight of snow and ice thrown from the plow blade; no damages reported were a result a plow truck or blade. Staff explained the mailbox policy to residents. Mr. Lyon reported most mailboxes are not placed the 6-8” behind the curb line, as recommended by the United States Postal Service. The Board agreed, in curbed areas, if mailboxes are installed using that recommendation, there would be no way a plow or blade could come into direct contact with the mailboxes. Jim and Pamela Kerr attended the meeting, to discuss reimbursement for their mailbox which was knocked off the post. The Kerrs felt the damage was caused by the Township, and should be replaced likewise. Staff and Chairperson McGrath viewed photos submitted by Mr. Kerr, finding the damage to be caused by snow and ice that was cleared by the plow, not by the plow or blade itself. Mr. Boland explained municipalities have Governmental Immunity, meaning they are protected from ordinary negligence: e.g., residents suing them to force action of replacement or repairs. Mr. Boland stated without this type of immunity, residents would not have access to public recreation areas or school activities. Several Supervisors remarked they, too, had mailboxes that required replacement, forcing them to buy cheaper mailboxes, less expense for replacement or cement posts into the ground to make them sturdier. Mr. Lyon also shared a letter from a resident on Weavertown stating that because they have no curb; that combined with plow trucks excessive speed, during the recent storm the ice and snow was thrown onto their porches. Many of the residents on Weavertown Road also signed this letter, asking the drivers to respect their properties and slow down when plowing. Mr. Lyon stated employees were made aware of the complaint and the speed issue was addressed.

**Chief of Police:**

**Swearing in of new Police Officer** - Chairperson McGrath swore in part-time officer John Dzurek. Chief Kent Shuebrook presented him with his Badge numbered 124.

The Chief presented his report, with call detail. Mrs. McGrath commented on the high number of residential alarms. Chief Shuebrook stated the current ordinance is strict enough. Fines are given for the third and subsequent false alarms. The Chief requested review and approval of the Volume 1, Chapter 1, Rules and Regulations of General Conduct, specifically Obedience to Law and Rules. The policy states “Employees shall obey all laws, ordinances, rules, policies, and procedures, and directives of the Department. An employee who is charged with any summary, misdemeanor or felony offense will immediately report same to the Chief of Police via the most expeditious manner and submit an Administrative Report as soon as practical”. Mr. Yanos questioned if the timeframe given in this policy was adequately defined. After lengthy discussion, the Chief explained he and Mr. Boland reviewed the policy and found it sufficient. Giving specific offense and penalties restricts opportunity to mitigate penalties if circumstances warrant it. Mr. Jones moved, seconded by Mr. Weller to approve the policy as requested. Motion passed unanimously. Chief Sheubrook requested Executive Session, with possibility of return.

###### SUPERVISORS

Mr. Yanos stated some parting remarks. He proclaimed in his first term on the Board, he was labeled “pro development” which he said was really driven by the farming and housing economy. In his second term, through re-zoning and the downturn of the economy some of the residential development was reduced instead of increased. Mr. Yanos stated he’d always admired Ronald Reagan, and utilized his famous words, “Good night and God bless the United States of America”. Mr. Gokey recognized he often disagreed with Mr. Yanos, but admitted that he will be sadly missed; adding that Mr. Yanos always spoke his mind, and he hoped Mr. Hackett would do the same. Mr. Jones said he too disagreed at times, but commended his dedication to serving the people of the Township.

**PUBLIC COMMENT**

None

**EXECUTIVE SESSION**

At 8:34PM, with there being no further business, and upon a motion by Mr. Jones, and seconded by Mr. Gokey, the meeting was adjourned to an Executive Session, with intent to return. Executive Session items cited were to discuss two police personnel matters, two administrative personnel matters, one legal matter, and one ZHB personnel matter. Motion passed, 5-0.

Mr. Weller motioned, seconded by Mr. Jones to reconvene from Executive Session at 9:03PM.

Mr. Yanos moved, seconded by Mr. Weller to appoint Fred Mogel and Andrew George of Mogel Bobb Speidel & Kershner as the ZHB Solicitor, replacing Jeffrey Sommer. The Board thanked Mr. Sommer for his years of service. Motion passed, 5-0.

Mr. Jones moved, seconded by Mr. Gokey to change the employee status for Michael DiMaria from temporary part-time to temporary full-time.

Motion passed, 5-0. Mr. Boland asked for a motion to change the employee status of Pamela Kisch from probationary to permanent full-time. Mr. Yanos moved, seconded by Mr. Gokey. Motion passed, 5-0.

For the Good of the Order, Manager Lyon stated he enjoyed his relationship with Mr. Yanos and commended him for his dedication to the Board, stating his vision for the Township is something all residents have benefitted from, whether they realized it or not.

Upon a motion by Mr. Gokey at 9:05PM, seconded by Mr. Jones, the meeting was adjourned. Motion passed, 5-0.

Respectfully submitted,

Pamela Kisch

Secretary