

The regular meeting of the Bear Creek Township Board of Supervisors was held at the Community house on Mountain Lake. Chairman Zingaretti called the meeting to order. Roll was called. Mr. Smith, Mr. Masi, Ms Wasilewski, Mrs. Koval and Mr. Zingaretti were present. The salute to the flag followed.

**MINUTES:** Minutes from the June 7, 2010 regular meeting were reviewed and a motion was made by Ms Wasilewski to accept, seconded by Mrs. Koval. Vote: Mr. Smith and Mr. Masi abstained, Ms. Wasilewski, Mrs. Koval and Mr. Zingaretti voted yes.

The treasurer's report for June 2010 was read by Mr. Zingaretti.

**RECEIPTS:** Income for the month of June was \$47,065.48. Motion to approve the receipts, subject to audit was made by Mrs. Koval, seconded by Mr. Masi. Vote: unanimous yes.

**DISBURSEMENTS:** Expenses for the month of June were \$49,340.19. Motion to approve, subject to audit was made by Mr. Masi, seconded by Mrs. Koval. Vote: Mr. Smith, no; Mr. Masi, yes; Ms Wasilewski, yes; Mrs. Koval, yes and Mr. Zingaretti, yes.

Ms Wasilewski questioned as to why Attorney Vinsko is billing the township separately for work done for the Act 537 Plan. Mr. Zingaretti replied that this was done to keep our expenses separate for reimbursement under Act 537. Attorney Vinsko explained that all prior bills from 2007 and forward have been re-categorized for reimbursement purposes. Ms Wasilewski asked that Attorney Vinsko include bills back to 2004 from when he became the township solicitor to the present.

Mr. Wende asked Mr. Smith why he voted no on the disbursements. Mr. Smith replied that he has a concern that there is not enough source documentation associated with certain expenditures and plans on drafting and proposing a policy which will be presented to the Supervisors at the next meeting.

**FIRE DEPT REPORT:** 7 Calls for the month of June 2010 were reported: 3 motor vehicle accidents, 1 vehicle fire, 1 structure fire, 1 pipeline gas vent and 1 assist.

**WIND FARM:** Mr. Zingaretti read the report for the Bald Mountain Wind Farm. For the month of June 2010 production was 4105M Wh, site availability was 86%.

**ZONING OFFICER'S REPORT:** For the month of June there were 3 contractor's licenses, 3 building permits, 1 subdivision fee, 1 sale of zoning book, 1 zoning permit and 1 occupancy permits for a total of \$955.00. BIU collected fees of \$3315.94.

**ROAD MASTER REPORT:** Mrs. Koval reported that the road crew took care of the weekly recycling, maintained the pavilion and rec fields, did shop work, worked on vehicles, patched pot holes, cleared ditches, cut grass ran the flail and sweeper and made repairs on the older mowers and vehicle and machinery repairs were also made.

**OPEN RECORDS REPORT:** Mr. Masi reported that there were no new or outstanding requests.

**ACT 537 REPORT:** No formal report received from Reilly but the plan is about ready to be submitted to our Planning Board and Luzerne County Planning which is the next step before it goes public. The engineer has been doing some recalculating to match things back to the original plan.

Mr. Smith asked about 2 issues holding the process up. The first was defining what Llewellyn Corners is and Reilly is close to resolving that. Mr. Zingaretti replied that he believes that it is resolved based on source documentation from a prior version of the plan.

The second issue Mr. Smith referenced was previously raised by Ms Wasilewski concerning the possibility of assessing vacant properties a sewer fee. Mr. Smith had asked Attorney Vinsko previously to look into this. Attorney Vinsko responded that there is currently no other municipality that assesses a fee for vacant land. He has been in contact with WWSA and said that there is nothing prohibiting the assessment of fees in the second-class township code. Research that WWSA did led them to believe it would not hold up in court so they do not assess where water is actually shut off.

Mr. Smith questioned whether the Board needed to determine if they are going to assess vacant land owners a fee prior to submitting the Act 537 Plan for comment from the Planning Board and the public. Attorney Vinsko said he would defer this question to Reilly. Ms Wasilewski stated that she felt everyone in the affected area benefits from it and needs to pay something towards the cost of that expense on the people who are burdened by it.

Discussion followed. Mr. Zingaretti asked Mr. Smith to follow up with Reilly concerning these issues.

### **PLANNING BOARD RECOMMENDATIONS:**

**Resolution 22-2010-** A resolution approving the Klosowski subdivision at 159 Lake Aleeda Blvd. The Planning Board has signed off on the changes as drafted. A motion to approve was made by Ms Wasilewski, seconded by Mrs. Koval. Vote: unanimous yes.

### **ORDINANCES AND RESOLUTIONS:**

**Resolution 20-2010-** is a resolution rescinding Resolution 16 of 2007 which prevented political use of the Township Municipal building. A motion was made by Mr. Masi, seconded by Mr. Smith. Vote: Mr. Smith, yes; Mr. Masi, yes; Ms Wasilewski, no; Mrs. Koval, no; and Mr. Zingaretti, yes.

Mr. Zingaretti gave a history on the 2007 resolution explaining that it eliminated any political events or fundraisers from township facilities. Mr. Zingaretti felt we were missing out on an opportunity for income for the township.

Mr. Smith asked why this resolution was originally drafted. Bonnie said she recalled that because of receiving federal funding, Luzerne County Community Development said that political events were not allowed. Mr. Zingaretti said he believed that this was not the case.

Mr. Smith asked Attorney Vinsko what he recalled concerning this issue. He responded that the Board did not want to use the main building for political purpose, there would not be enough money generated and they wanted to keep a neutral approach.

Mr. Smith asked if it were legal to restrict. Mr. Vinsko said that it was. Ms Wasilewski said that there were stipulations in the agreement with Luzerne County Community Development. It stated that they were not allowed to use the building for political purposes within the first five years of it being constructed.

**SOLICITOR'S REPORT:** Attorney Vinsko reported:

**Stella Abbott Matter-** A meeting on discovery responses will be held on Monday, July 12<sup>th</sup> with Attorney Doherty.

**Concini litigation-** Correspondence has been sent to counsel for the Concini's and also to Attorney Dougherty and to Attorney Polichak from Aqua. Information received from Attorney Murphy and discussed at an executive session was inaccurate. Response has not been received from any of the parties concerning this issue. The matter of the Concini's pool not being fenced in has also been addressed in the recent correspondence and as soon as a new Zoning Officer is appointed action can be taken concerning the pool/fence. Attorney Vinsko agreed to put a memo together for the new Zoning Officer to have on hand when he speaks to the Concini's.

**Aqua PA-** A meeting was held with counsel for the insurance company that is handling this matter. A decision was reached on how to address the matter. Aqua PA filed a mandamus action against the township and Mr. Andrews last August. They are refusing to withdraw that because they are concerned that we will be successful in having this instant action dismissed. A response has been crafted a response that will be circulated once finished by the insurance counsel.

**Development Agreement-**Since the last meeting, the Judge has allowed limited discovery of the Twp Supervisors or the Charter School or whoever they would like. The opposing counsel has sought a request from the court, despite letters and phone calls have not attempted to schedule any depositions nor have they served any additional discovery. Attorney Vinsko said he is sending weekly correspondence so the court can see that we are doing everything we can to proceed.

**Multiscape**- Attorney Vinsko spoke with Attorney Ferentino concerning the amount that the Township was willing to pay to resolve the matter with Multiscape. Attorney Ferentino offered \$6000.00 that it would be settle in full and no party would have any issue going forward.

A lengthy discussion followed concerning the many problems that existed with the pavilion. The Supervisors discussed the poor workmanship of the pavilion and also if the final punch list outlined in a letter to Multiscape was ever signed off on.

**Resolution 23-2003**- A resolution approving the payment of \$6000.00 to Multiscape, Inc. in full satisfaction of outstanding Pavilion debt. A motion to approve was made by Mr. Masi, seconded by Mr. Smith. Vote: Mr. Masi, yes; Mr. Smith, yes; Ms Wasilewski, no; Mrs. Koval, no and Mr. Zingaretti, yes.

**Resolution 21, 2010**- is a resolution selecting Slusser Brothers for the Bear Creek Township paving project which includes the following roads: Azalea Trail, Oak Lane, Tanager Terrace, Birch Lane, Promontory Drive and Beech Drive, all within White Haven Poconos. It is further resolved that the Board is hereby authorized to expend an additional Seventy Two Thousand Five Hundred Nine Dollars from the general fund to pay for the remainder of the paving project, which has a total cost of an amount not to exceed Three Hundred Twelve Thousand Five Hundred Nine Dollars.. A motion to approve was made by Mrs. Koval, seconded by Ms Wasilewski. Vote: Unanimous yes.

A brief discussion followed among the Board.

Mr. Southward asked why we selected Slusser Brothers when it seemed like we had so many problems with them in the past. Mrs. Koval responded that there were only minor issues with a previous paving project and Slusser Brothers rectified all issues.

#### **OLD BUSINESS:**

**Zoning Officer Vacancy**- The interviews have been scheduled with the Board. Ms Wasilewski asked if the job description had been agreed upon. Mr. Smith answered that it had not been agree upon but felt interviews could be held and the job description settled upon afterward

**Street Light Request**- PPL said that cannot put the street light on Thornhurst Road where it was requested. Mrs. Koval said she will follow up to find a new location.

**Flood Plain Ordinance**- Mr. Zingaretti said he would take the task on of updating and incorporating the suggested changes to the township flood plain ordinance.

**Route 115 Safety Corridor/Grant Application**- Mr. Zingaretti said the deadline for approval was June. Now it is supposed to be decided upon on July 7, 2010. Mr.

Smith also brought up that the criteria have changed. Mr. Zingaretti said that originally every submission needed to be tied to how it impacted gaming. Now its concerns health and safety, public benefit, public need etc.

**Crossin Issue**- Attorney Vinsko stated he sent a letter out to Crossin Agency on May 4, 2010. The money should have been to the township by March. Attorney Vinsko suggested that another letter be sent out giving Crossin Agency 30 days to submit payment.

**Hillcrest Road Right of Way**- The estimate has not been received from Pennoni.

**Windfarm permits**-Mr. Zingaretti asked if a member of the Board would take on this issue. The Board discussed how the permit process should be handled. It was decided that Attorney Vinsko would contact Todd at the windfarm and set up a meeting with them, BIU and any interested Board members.

Mr. Masi asked if future reports from the Windfarm would include more pertinent information including blade changes and repairs that are being made.

#### **CORRESPONDENCE/NEW BUSINESS:**

#### **PUBLIC COMMENT:**

**Mark Wende**- asked if there were any township laws concerning a business in a residential area. Mike Rebovich clarified by asking what does the township zoning laws say about a home being rented out as a vacation home.

Attorney Vinsko said that the laws surrounding this issue are vague and he would research the matter. He explained that certain types of businesses are allowed in a residential area such as a no impact home business. Attorney Vinsko said it sounded like a special exception would be needed for the type of business they were discussing but he would need to look into it further.

A motion to adjourn was made by Ms Wasilewski, seconded by Mrs. Koval. All were in favor.

Respectfully submitted,

Paula Weihbrecht, Secretary