

**LOWER NAZARETH TOWNSHIP
BOARD OF SUPERVISORS
MINUTES
December 19, 2007**

The Lower Nazareth Township Board of Supervisors held a regularly scheduled meeting on Wednesday December 19, 2007. The Vice-Chairman called the meeting to order at 6:05 PM.

Present were:

Eric E. Nagle	- Vice Chairman	Tammi Dravec	- Assistant Secretary/Treasurer
Ricky T. Johnson	- Supervisor	Kelly J. Sullivan	- Office Clerk
Robert S. Kucsan	- Supervisor	Lori B. Seese	- Zoning Administrator
Timm A. Tenges	- Manager,	Gary Asteak	- Solicitor
	Secretary/Treasurer	Albert Kortze, P.E.	- Engineer

Dr. Alan Dilsaver, Chairman arrived at 7:30 p.m.

Approval of Minutes

Motion to approve the meeting minutes from December 5, 2007 was moved by Mr. Johnson and seconded by Mr. Kucsan. Mr. Murphy abstained. The motion carried.

Reports

There was no discussion under Reports.

Correspondence

There was no discussion under Correspondence.

Subdivision/Land Development

Essroc Storage Dome Facility - Preliminary Land Development - Present were Karl Kline, attorney for Essroc, various representatives of Essroc along with Jill Geist, Engineer from Pany & Lentz. Jill Geist provided a general overview of the Plan for the storage dome facility to be located at Essroc Plant No.1 along Rt. 248. After review of his letter dated December 19, 2007, Mr. Kortze recommended preliminary approval. Before a motion was offered, Mr. Murphy questioned what the outside finish of the dome would be. Ms. Geist offered that there is an option of changing the outside balloon color of white to a more natural brown if that were to please the board. A motion to approve Preliminary Land Development contingent upon the requirements outlined in Mr. Kortze's letter was moved by Mr. Johnson and seconded by Mr. Murphy. The motion carried unanimously.

Green Acres - Final Land Development - Time Extension - A motion to accept the time extension through February 28, 2008 was moved by Mr. Johnson and seconded by Mr. Murphy. The motion carried unanimously.

First Park 33 (First Industrial) - Preliminary/Final Land Development - Time Extension - A motion to accept the time extension through March 29, 2008 was moved by Mr. Murphy and seconded by Mr. Johnson. The motion carried unanimously.

Trio Farms III Conditional Use & Land Development - Time Extension – A motion to accept the time extension through March 31, 2008 was moved by Mr. Murphy and seconded by Mr. Johnson. The motion carried unanimously.

Haltzman Farms Subdivision - Time Extension – A motion to accept the time extension through March 31, 2008 was moved by Mr. Murphy and seconded by Mr. Johnson. The motion carried unanimously. Tammi Dravec will request from the Applicant a new letter stating the correct year.

Supervisor's Comments

The Supervisors wished everyone Happy Holidays.

Mr. Kucsan stated he attended a Colonial Regional Police Department meeting on Monday, December 17 and also attended a meeting of the Agricultural Security Committee wherein the Yeska Application was approved.

Supervisor Nagle stated he also attended the CRPD. Noteworthy is the Hearing regarding the police building scheduled for January 14, 2008. Mr. Nagle acknowledged receipt of an email from Mr. Piergiovanni a township resident, outlining his concern for the repaving of Meadow Drive. Mr. Nagle asked Mr. Murphy to speak to that issue.

Mr. Murphy stated there is no scheduled rebuilding of Meadow Drive at this time; a spec will need to be developed and although they may not like the appearance of the road, it does in fact ride well. The rebuilding will be based upon priority.

Manager's Report

2008 Meeting Schedule - Mr. Tenges asked the Board to review, comment and provide authorization to advertise the 2008 Meeting Schedule. Mr. Tenges acknowledged the official newspaper of publication is the Express-Times and noted that the meeting schedule is always subject to change.

Mr. Green asked what the first few meeting dates and times were. Mr. Nagle advised January 7th and 9th, both at 7:30 unless something changes with the IDI Hearing.

A motion authorizing the advertisement was moved by Mr. Kucsan and seconded by Mr. Johnson. The motion carried unanimously.

Hecktown Volunteer Fire Company Lease – Mr. Tenges asked the Board for authorization to execute the 10 year Lease Agreement. The main purpose of the use of the building will be for storage of ancillary equipment. Lower Nazareth would be responsible for the cost of heat which is provided through means of an LP tank and the maintenance of the property such as grass cutting and snow plowing.

Mr. Asteak advised there was a slight modification to the final draft on page 5 paragraph 6 which narrows Lower Nazareth Township's responsibility to any acts of negligence.

A motion authorizing execution upon approval of Hecktown Fire Company was moved by Mr. Johnson and seconded by Mr. Kucsan. Mr. Murphy questioned the workability of the generator. The motion carried unanimously.

Financial Subdivision/ SALDO Amendment Discussion – Mr. Tenges asked the Board to look over and digest what he referred to as a “last best draft” of a SALDO Amendment, however keeping in mind that we would want to take a more global approach to a SALDO amendment and incorporate other items as it is a lengthy and involved process. Mr. Tenges suggested hearing comments from the Board at the January 9th meeting.

2008 SPCA Contract – Mr. Tenges received the new proposal from the Center for Animal Health and Welfare formerly known as the SPCA. Mr. Tenges is not prepared to make a recommendation on this since it appears some of the issues that have come up with cats this year have brought us back to issues we’ve had in the past. No action taken.

Agricultural Security Committee – Henry Yeska Application – Mr. Tenges stated that the Lower Nazareth Planning Commission along with the Lehigh Valley Planning Commission have provided comments on the Yeska application. Mr. Kucsan will be providing written comments from his meeting of the Agricultural Security Committee so we are prepared to schedule the Hearing of this application for January 9th. A motion to schedule the hearing for January 9th was moved by Mr. Kucsan and seconded by Mr. Johnson. The motion carried unanimously. Mr. Tenges will speak to Mr. Asteak regarding the procedure for advertising.

Lastly, Mr. Tenges wished everyone a happy holiday.

Mr. Kucsan questioned whether anyone had received information regarding the Library Budget. Mr. Kucsan was under the impression that Lower Nazareth Township was to have some input in the development of what we were paying. Mr. Tenges mentioned that he thought they had prepared it themselves and noted the request for 2008 was not substantially more than what was paid out last year. After further discussion, Mr. Tenges mentioned that he thought we would be in need of a Library representative.

Engineer’s Report

Rota Corp. – Letter of Credit Reduction - Mr. Kortze reviewed his letter dated December 19, 2007 recommending a reduction from \$35,772.00 to \$2,981.00 and the commencement of the eighteen month maintenance period.

Motion to approve the \$32,791.00 reduction and to commence with the maintenance period was moved by Mr. Johnson and seconded by Mr. Kucsan. The motion carried unanimously.

Sikh Temple – Letter of Credit Reduction - Mr. Kortze reviewed his letter dated December 19, 2007 recommending a reduction from \$201,582.00 to \$16,798.50 and the commencement of the twelve month maintenance period.

Motion to approve the \$184,783.50 reduction and to commence with the maintenance period was moved by Mr. Kucsan and seconded by Mr. Johnson. The motion carried unanimously.

Mr. Kortze wished everyone a happy holiday and thanked the Board for allowing Keystone Engineering the opportunity to serve as Township Engineer. Mr. Kortze also wanted to thank Gary, Timm and the township staff for helping to make his job a lot easier.

Solicitor's Report

Dutch Springs – Deed of Dedication – Mr. Asteak asked the Board to make a motion to accept the Deed of Dedication for the Right of Way on Hanoverville Road which should be the final piece of this puzzle. A motion to accept the Deed of Dedication was moved by Mr. Johnson and seconded by Mr. Kucsan. The motion carried unanimously.

Mr. Asteak wished everyone a happy holiday.

Old Business

There were no comments under Old Business.

New Business

There were no comments under New Business.

Payment of the Bills

Motion to approve the bills dated December 19, 2007 was moved by Mr. Johnson and seconded by Mr. Kucsan. The motion carried unanimously.

Courtesy of the Floor

Township resident Ron Siedlecki of 411 Mayfield Circle spoke regarding his concern on the appearance of the road surface of Mayfield Circle. Mr. Siedlecki described the surface appearance of the road as a “very erratic patch quilt” which he and his neighbors consider to be a detriment to the value of their properties and questioned what the schedule is to get the resurfacing completing.

Roadmaster Mr. Murphy stated that the patching of Mayfield Circle was completed this past summer and is one of the roads being considered for resurfacing this spring. Specs will be developed this winter and bids will be received and a determination will be made at that time regarding which roads in the Township get priority.

Mr. Siedlecki was asking for a more definitive timeline regarding the schedule of getting Mayfield Circle resurfaced and Mr. Asteak clarified that no decisions will be made on the priority of roads to be resurfaced until spring based upon need, results of the bids, and budgetary constraints. Mayfield Circle will be one of roads taken under consideration for micro-surfacing this summer.

The Board recessed from 7:06 – 7:20PM.

Industrial Developments International (IDI) – CU2007-02 – Continuation

Mr. Asteak opened the proceedings by stating the hearing was being reconvened from the adjourned meeting of November 28, 2007. At the November 28, 2007 hearing the public comment period was concluded and all individuals who were present at that meeting were given the opportunity to provide public comment. Mr. Asteak asked that all individuals standing at the rear of the building to please take a seat in the available empty chairs.

At the November 28, 2007 hearing, Attorney Ferretti was in the midst of questioning Kevin Stewart for which she resumed this evening.

Ms. Ferretti stated she provided to Mr. Marles a sampling of the source materials for which Mr. Stewart based his testimony including the documents which support Exhibit 49.

Mr. Marles stated he received the approximate ¾" stack of documents yesterday December 18th, pursuant to the November request and did what he could to get through it.

Mr. Stewart began his testimony by identifying each document and stating that they were in fact the documents for which he based his testimony and proceeded to review each document.

Mr. Marles proceeded to cross-examine Mr. Stewart by reviewing each document which was used in Mr. Stewart's opinion one-by-one.

The Board recessed from 9:09 – 9:18PM.

Mr. Marles concluded his cross with a discussion about the site as Mr. Stewart acknowledged he reviewed the Sketch Plan, Traffic Impact Study, Conditional Use Application and aerial photographs.

Attorney Bruno had no questions for Mr. Stewart

Attorney Ferretti had no re-direct of Mr. Stewart.

Attorney Ferretti called witness Richard Tucker of 3105 Hecktown Road, Palmer Township. A letter written by Mr. Tucker dated December 14, 2007 addressed to the Board of Supervisors was introduced into evidence as Exhibit 50. Mr. Tucker lives approximately ½ mile from the site in question and very near the SuperValu on Hecktown Road. Mr. Tucker testified to the history of sink holes in the immediate area and the lack of monitoring by Lower Nazareth Township of the Conditions of Approval that were imposed on SuperValu when it was built.

Mr. Marles stated for the record that a thorough geotechnical review of the site will take place.

Attorney Ferretti asked the Board to accept a letter into evidence from a Palmer Township resident with a debilitating lung disease who could not attend the meeting on November 28, 2007. Mr. Asteak accepted the letter into evidence, marked as Exhibit 51.

Attorney Ferretti made an Offer of Proof in lieu of testimony from Ken McPherson, a resident of Oxford Drive and truck driver for more than 30 years. He can refute some of the assumptions made by IDI relative to the path a truck driver will take to get to the site. In his experience he has seen an awful lot of violations. Mr. Asteak and Mr. Marles accepted Ms. Ferretti's statement in lieu of requiring Mr. McPherson's presence.

Attorney Ferretti requested that Exhibit 49 be removed from the record.


Mr. Bruno did not have any witnesses but did present evidence to the Board. A Stipulation between Applicant IDI and the Township of Palmer was read by Mr. Bruno and accepted into evidence as Exhibit 52. Mr. Bruno acknowledged that this agreement is not something that is binding upon the Board however asked the Board to give it the thought and consideration they believe it deserves.

The continuation of the IDI proceedings will continue at the regularly scheduled Board of Supervisor's meeting scheduled for January 23, 2008 at the Lower Nazareth Township Municipal Building, 306 Butztown Road at 7:30 PM. Counsel for all parties should submit to the Board suggested findings of fact and conclusions of law, 7 days prior to the meeting and appear at the meeting on January 23, 2008 at which time the Board will accept oral argument and close the record for the purpose of making a decision.

Adjournment

The meeting was adjourned at 10:28 PM.

Respectfully submitted,


Kelly J. Sullivan
Clerk