

**LOWER NAZARETH TOWNSHIP
BOARD OF SUPERVISORS
MINUTES
July 14, 2010**

The Lower Nazareth Township Board of Supervisors held a regularly scheduled meeting in the Township Municipal Building on Wednesday July 14, 2010. The Chairman called the meeting to order at 6:30 PM.

Present were:

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

Absent was:

| | |
|-------------------|---------------------------------|
| Martin J. Boucher | - Supervisor |
| Tammi Dravec | - Assistant Secretary/Treasurer |

Approval of Minutes

A motion was moved by Mr. Pennington and was seconded by Mr. Johnson to approve the meeting minutes for May 12, 2010. Mr. Kucsan abstained. The motion carried.

Approval of the meeting minutes from June 9, 2010 and June 21, 2010 were deferred to the next meeting due to a lack of quorum from those meetings.

Reports

Reports are available for review at the Township Office and are posted on the Township's website.

Mr. Nagle acknowledged the receipt of the Financial Statement for May 2010, the Planning & Zoning Administrator's Report for May & June 2010, and the Hecktown Volunteer Fire Company Incident Report for June 2010.

Correspondence

There were no items to discuss under Correspondence.

Subdivision and Land Development

Lower Nazareth Elementary School Solar Array – Final Site Plan – Continuation – Attorney James Zulick; Lewis Lengyel, NASD Facilities Manager; Michael Dykstra, Kenyon Energy; and Thomas Marr, School Board Member were present.

Mr. Zulick stated that they were there to ask the Board for final approval of the solar panel array for Lower Nazareth Elementary School. Mr. Zulick reviewed the history of this project including various correspondence between Mrs. Seese, Mr. Lengyel, the Planning Commission, and Board of Supervisors. The applicant was upset because they are being asked to return to the Zoning Hearing Board for an opinion. Mr. Zulick believed that was unnecessary and argued that it is a permitted use. In addition he commented that a \$960,000 grant has already been received.

Attorney James Preston, who is representing the neighbors, was in attendance. Mr. Elston and Mr. Bernaski were also present. Attorney Preston discussed Section 916.2 of the Pennsylvania Municipalities Planning Code (MPC)

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July 14, 2010**

which states that if an applicant plans to move forward with a project, based on an opinion, the applicant is required to publish that opinion in the newspaper for 2 weeks.

Attorney Preston believes that this is a standalone principal use and requested that the Board not to approve the plan tonight and make the applicant go through the proper channels; either challenge the Zoning Officer's interpretation or seek a variance from the Zoning Hearing Board.

Solicitor Asteak stated that new information, not included as part of the application, was addressed at last meeting on June 9, 2010. Information including the nature of the relationship between Kenyon Energy and Nazareth Area School District, the lease and that the school district receiving reduced electric rates. He questioned if there was a lease agreement between Kenyon Energy and the School District. There is in fact a lease, and the escrow agreement clearly states that, but the owner statement of intent does not make mention of the lease.

Solicitor Asteak reviewed the definition of accessory use. The proposed solar array is 3- 4 acres and will have 1,000 panels. The footprint of this array is as big, if not bigger than footprint of school; therefore it is not customarily incidental nor is it subordinate to the school use. In addition, the property is being leased to a 3rd party – a for-profit enterprise and the school would be receiving reduced electric rates, in lieu of lease payments.

Solicitor Asteak interpreted this proposal as a subdivision and principal use that is separate and distinct from an educational use. All of this information points to the need for a full hearing to flesh out all of the details. This proposed solar array is not what the Board had in mind when they put solar systems in the Zoning Ordinance. The applicant should have supplied all details from the beginning.

Solicitor Asteak stated that the Board's options are to approve the site plan and it would be up to the Zoning Officer to issue a building permit, deny the site plan for not being in conformance with the Zoning Ordinance and that the applicant should have followed the subdivision & land dev process, or the school could grant us a time extension. An extension would put this phase of the review on hold until the applicant sought an interpretation and/or variances from the Zoning Hearing Board.

Mr. Zulick stated that the school district was not willing to grant a time extension. He commented that this lease arrangement is a normal arrangement for solar array systems. It can be compare to leasing a copier machine and having the option to purchase the machine at the end of the lease. Mr. Zulick reiterated that they believe that this is a permitted use by the Zoning Ordinance.

Mr. Dykstra commented on his experiences with the installations of solar arrays. He stated that there is currently no lease; nothing has been signed. Solicitor Asteak asked the nature of the relationship and stated that, if there is no lease, the escrow agreement has false information.

Mr. Johnson asked about why, as a good neighbor, the applicant did not take it upon themselves to notify the neighbors of their intent to install the solar array. The applicant stated that they did not notify nearby residents because Mrs. Seese said it was not required.

Mr. Nagle again asked for a time extension, the applicant denied an extension and requested the Board's vote on the application.

A motion was made by Mr. Pennington and was seconded by Mr. Johnson to deny the plan and send the applicant back to the Zoning Hearing Board. The motion carried.

Selvaggio Industrial Subdivision – Sketch Plan – Cliff Johnston presented the sketch plan for the 50 acre parcel between Route 191 & Route 946. The board was not interested in moving forward with Sketch Plan "A" that was before them a few months ago; this is Plan "B". He stated that if the Board would like to revisit that original plan they would be happy to do so. The plan depicts a 4-lot subdivision with warehouses and office space, including a

bus terminal. The subdivision would be served by private drives. They have tentative tenants, but nothing is definite. One possible tenant has asked to consolidate two lots so they may be returning with a 3-lot subdivision versus the 4-lot plan before the Board tonight. Mr. Johnston commented that this is not the ideal development of the property; they would like nothing more than to revisit Plan "A".

Mr. Kucsan recommended a traffic study and noted concern of only two entrances including accessibility for emergency vehicles. Mr. Pennington questioned whether there would be sufficient parking for people who would be parking a car to ride the bus.

Mr. Kortze reviewed his June 14th letter. Mr. Johnston stated that they are well aware of the need for a connector road; unfortunately the economics do not permit them to consider installing a connector road.

Mr. Tenges commented that this project will need to go through the Conditional Use process which will ferret out the apparent inadequacies with this proposal.

Supervisors' Comments

Mr. Kucsan attended the Library Budget Committee Meeting.

Mr. Pennington and Mr. Nagle had no comments.

Mr. Johnson reported that he would be unable to attend the August 4th meeting.

Manager's Report

Project Status Report – Mr. Tenges reported that Trio Farms formally withdrew the Trio Farms Phase III Conditional Use and Trio Farms Phase III Preliminary/Final Land Development plans.

Time Extension Report – Mr. Tenges reported that the township accepted a time extension from Keystone Foods through June 18, 2011.

Street Light – Northwood & Corriere Intersection – Resolution #LNT-13-10 – This resolution is for the installation of a street light at the intersection of Northwood Avenue and Corriere Road. The agreement is with Met-Ed. A motion was moved by Mr. Johnson and was seconded by Mr. Pennington to approve Resolution #LNT-13-10. The motion carried.

Library Budget – The library has held the line for two years; this year there is a slight increase. A motion was moved by Mr. Pennington and was seconded by Mr. Johnson to commit to the 2011 library budget of \$82,591.00. The motion carried.

Microsurfacing Project – Mr. Tenges reported that the microsurfacing project is complete. In general, the project went well and the township only received a few complaints. Those roads should serve us well for the next 20-25 years.

FDR Project – Mr. Tenges had hoped to award the project tonight. There was an issue that he assumed responsibility for and the project had to be re-bid. It will be awarded at the August 4th meeting.

Summer Park Program – Mr. Tenges reported that we are at the mid-point of this year's program. This year we reached the maximum participants and had to turn numerous people away.

Railroad Crossing Repair – Norfolk Southern will be making repairs to the railroad crossing on Hanoverville Road. Mr. Tenges reported that repairs will be made the week of August 2, 2010. The crossing on Georgetown Road is in

worse shape, however we are holding off due to the impending bridge replacement. The road will be closed for the duration of the repairs; therefore the township will be setting up detours. The work will take about a week.

Engineer's Report

Lower Nazareth Commons –

Lots 1 & 5 – Letter of Credit Reduction & Commencement of Maintenance – Mr. Kortze reviewed his letter dated July 8, 2010 and recommended a reducing the letter of credit from a current balance of \$251,413.88 to \$227,950.10. He also recommended commencing the 18-month maintenance period. A motion was moved by Mr. Kucsan and was seconded by Mr. Johnson to reduce the security by \$23,463.78. A motion was moved by Mr. Pennington and was seconded by Mr. Johnson to commence the 18-month maintenance period. The motions carried.

Corriere Road & Northwood Avenue - Letter of Credit Reduction & Commencement of Maintenance – Mr. Kortze reviewed his letter dated July 8, 2010 and recommended a reducing the letter of credit from a current balance of \$295,808.32 to \$200,042.12. He also recommended commencing the 18-month maintenance period. A motion was moved by Mr. Pennington and was seconded by Mr. Johnson to reduce the security by \$95,766.20 and to commence the 18-month maintenance period. The motion carried.

Solicitor's Report

There were no items to discuss under Solicitor's Report.

Old Business

There were no items to discuss under Old Business.

New Business

There were no items to discuss under New Business.

Payment of the Bills

A motion was made by Mr. Johnson and seconded by Mr. Pennington to approve the bills dated July 14, 2010. The motion carried.

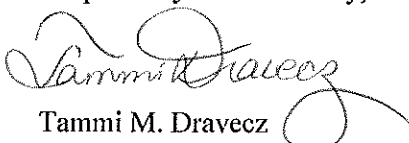
Courtesy of the Floor

Len Salvage, 4355 King George Drive, questioned why the Board does not want to look into changing the zoning to commercial for the Selvaggio Plan. He thinks there are enough warehouses in the township; we do not need another one. Mr. Salvage believed they changed the zoning for Sikh Temple, which, by the way, is a mess. Mr. Tenges stated that it is noteworthy, that Mr. Selvaggio asked for the light industrial zoning; now he wants to change it again.

Adjournment

A motion was moved by Mr. Pennington and seconded by Mr. Kucsan to adjourn the meeting at 8:15PM.

Respectfully transcribed by,


Tammi M. Dravec
Asst. Secretary/Treasurer

**Lower Nazareth Township
Bills To Be Approved
July 14, 2010**

| Num | Name | Memo | Amount |
|---|--|---|-------------|
| <u>GENERAL FUND CHECKING ACCOUNT</u> | | | |
| 10883 | Selective Insurance Company of America | Workers Compensation Insurance | \$ 3,128.00 |
| 10884 | PLGSA | Conference | \$ 510.00 |
| 10885 | E.J. Brenneman, L.P. | Traffic Control Supplies | \$ 3,172.55 |
| 10886 | Staples Business Advantage | Office/Public Works Supplies | \$ 45.15 |
| 10887 | Suburban Propane | Propane Tanks Filled for Tack Buggy | \$ 110.62 |
| 10888 | Kimball Midwest | Public Works Supplies | \$ 82.56 |
| 10889 | Valley Tire Factory Outlet, Inc. | Public Works Tools/Equipment | \$ 68.00 |
| 10890 | Master Supply Line | Municipal Building/Public Works Supplies | \$ 168.10 |
| 10891 | Harold's R.V. Center | Public Works Equipment Parts/Supplies | \$ 53.86 |
| 10892 | ISOBunkers, LLC | Equipment Motor Fuel | \$ 2,075.30 |
| 10893 | The Express Times | Advertisement | \$ 956.80 |
| 10894 | Herceg Hauling | Trash Removal | \$ 250.00 |
| 10895 | Guardian Fire Equipment | Fire Company Insurance | \$ 143.65 |
| 10896 | Horwith Freightliner | Fire Company Equipment Maintenance | \$ 90.00 |
| 10897 | Kistler O'Brien | Fire Company Extinguisher Inspection | \$ 239.25 |
| 10898 | PenTeleData | Fire Company Equipment | \$ 7.98 |
| 10899 | Deer Park | Municipal Bottled Water | \$ 18.82 |
| 10900 | Cogan Blueprint | Plan Copies | \$ 204.00 |
| 10901 | Walmart Community BRC | Municipal Building Supplies | \$ 47.64 |
| 10902 | Highway Materials, Inc. | Paving/Patching Material/Capital Construction | \$ 925.83 |
| 10903 | Safeguard Business Systems | Office Supplies | \$ 137.75 |
| 10904 | Mr. John | Temporary Restrooms | \$ 619.50 |
| 10905 | Beyer-Barber Company | Pension Plan Administrative Fees | \$ 2,075.00 |
| 10906 | Eastern Industries, Inc. | Aggregate Supplies | \$ 380.88 |
| 10907 | Kistler O'Brien | Fire Company Sprinkler Inspection | \$ 270.00 |
| 10908 | Nextel Communications | Fire Company Wireless | \$ 325.34 |
| 10909 | Staples Credit Plan | Fire Company Office Supplies | \$ 96.33 |
| 10910 | Grainger Parts | Fire Company Equipment Parts/Supplies | \$ 187.94 |
| 10911 | AT&T | Municipal Office / Public Works Long Distanc | \$ 51.13 |
| 10912 | Lowe's Business Account | Park/Municipal Bldg/Public Works Supplies | \$ 375.73 |
| 10913 | Associated Fasteners, Inc. | Equipment Parts/Supplies | \$ 8.20 |
| 10914 | Reliable Sign & Striping, Inc. | Pavement Marking Supplies | \$ 80.00 |

**Lower Nazareth Township
Bills To Be Approved
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GENERAL FUND CHECKING ACCOUNT CONTINUED

| | | | |
|-------|---|--|--------------|
| 10915 | Sherwin-Williams | Pavement Marking Supplies | \$ 152.70 |
| 10916 | Verizon | Municipal Office/Public Works Telephone | \$ 549.20 |
| 10917 | Medical Life Insurance Company | Employee Life Insurance | \$ 1,446.00 |
| 10918 | Edwards Business Systems | Copier Maintenance | \$ 297.13 |
| 10919 | Lori Peck, OCR | Stenographer | \$ 250.00 |
| 10920 | Green Pond Nursery, Inc. | Park Facilities Maintenance | \$ 390.00 |
| 10921 | Shellhammer Emergency Equipment | Fire Company Equipment Parts/Supplies | \$ 358.85 |
| 10922 | Brian Woodward d/b/a Autumn Breeze Gr | Outdoor Storage Facility | \$ 4,899.00 |
| 10923 | Volunteer Companies Loan Fund | Fire Company Loan | \$ 965.26 |
| 10924 | Capital Blue Cross | Employee Health Insurance | \$ 17,808.88 |
| 10925 | Colonial Regional Police Department | Police Contract Payment | \$ 83,779.89 |
| 10926 | Keystone Nazareth Bank & Trust | Land Loan Payment | \$ 1,095.15 |
| 10927 | Volunteer Companies Loan Fund | Fire Company Loan | \$ 1,011.77 |
| 10928 | Harris | MSL Code Software Maintenance | \$ 1,665.16 |
| 10929 | Deer Country Farm & Lawn, Inc. | Public Works Equipment Parts/Supplies | \$ 393.78 |
| 10930 | Asteak Law Offices | Legal Services | \$ 3,468.75 |
| 10931 | Pitney Bowes | Postage Meter | \$ 227.50 |
| 10932 | Keystone Consulting Engineers, Inc. | Engineering Services | \$ 2,074.25 |
| 10933 | Bath Supply Co., Inc. | Park Facilities Maintenance | \$ 23.93 |
| 10934 | Valley Industrial Rubber Products | Public Works Equipment Parts/Supplies | \$ 98.13 |
| 10935 | Highway Materials, Inc. | Pavement Maintenance | \$ 4,631.28 |
| 10936 | Easton Suburban Water Authority | Hydrant Assessment | \$ 12,200.00 |
| 10937 | Home Depot | Public Works & Park Tools/Equipment/Supplies | \$ 1,079.22 |
| 10938 | BWP-Carquest Auto Parts | Public Works Equipment Parts/Supplies | \$ 77.53 |
| 10939 | PA One Call System, Inc. | Monthly Fax Activity | \$ 47.25 |
| 10940 | Easton Area Joint Sewer Authority | Capital & Operating Expenses | \$ 927.47 |
| 10941 | U.S. Municipal Supply, Inc. | Traffic Control Supplies | \$ 594.50 |
| 10942 | Staples Business Advantage | Office/Zoning Supplies | \$ 91.66 |
| 10943 | Master Supply Line | Park Supplies | \$ 168.84 |
| 10944 | Met-Ed | Traffic Signal Electric | \$ 216.62 |
| 10945 | CodeMaster Inspection Services, Inc. | Building Inspection Services | \$ 55.00 |
| 10946 | Memorial Library of Nazareth & Vicinity | Library Service | \$ 20,132.25 |
| 10947 | The Express Times | Advertisement | \$ 473.80 |

Lower Nazareth Township
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DEVELOPMENT & INSPECTION ACCOUNT

| | | | |
|------|--------------------------------------|--|---------------------|
| 1648 | CodeMaster Inspection Services, Inc. | Building Inspection Services | \$ 7,243.00 |
| 1649 | Barry Isett & Associates, Inc. | Building Inspection Services | \$ 310.00 |
| 1650 | Lower Nazareth Township General Fund | Administrative Fee | \$ 2,855.00 |
| 1651 | DCED | Training Contribution - 2nd Quarter | \$ 160.00 |
| | | <i>Total Development & Inspection Account...</i> | <u>\$ 10,568.00</u> |