

**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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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 3<sup>rd</sup> 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 14<sup>th</sup> 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 4<sup>th</sup> 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 4<sup>th</sup> 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.

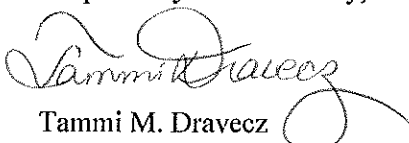
### **Courtesy of the Floor**

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
<b><u>GENERAL FUND CHECKING ACCOUNT</u></b>			
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

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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



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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 &amp; Inspection Account...</i>	<u>\$ 10,568.00</u>