

**MINUTES**  
**EXETER TOWNSHIP BOARD OF SUPERVISORS MEETING**  
**SEPTEMBER 27, 2004**

A Regular Meeting of the Exeter Township Board of Supervisors was held on Monday, September 27, 2004, at the Township Hall, 4975 DeMoss Road, Reading, Berks County, Pennsylvania. Dr. Christ L. Ganas, Vice Chairman, called the Meeting to order at 7:00 P.M., with the following in attendance:

**SUPERVISORS**

Lachlan MacBean, Chairman \*  
Dr. Christ L. Ganas, Vice Chairman  
Dona L. Starr  
Lisa M. Ciotti  
Dave F. Barbieri

**OTHERS IN ATTENDANCE**

Troy S. Bingaman, Manager/Secretary/Treasurer  
John A. Hoffert, Esquire, Solicitor  
Gerard A. Radke, Chief of Police  
Cheryl A. Franckowiak, Zoning/Assistant Code Enforcement Officer  
Paul A. Herb, Wastewater Treatment Superintendent  
Clarence D. Hamm, Highway Superintendent  
Joseph P. Rogosky, P.E., Great Valley Consultants

The Meeting was opened with the Pledge to the Flag.

\* Lachlan MacBean, Chairman planned to arrive later in the meeting.

**PUBLIC COMMENT**

**GLORIA SWIERZEWSKI**, 461 Rugby Road, stated she had a problem with a neighbor who was directing his pool water onto her driveway. She stated a representative from the Township came out and said the neighbor's action was legal. Mrs. Swierzewski stated at the time she felt what he was doing was not legal, and alleged the four pipes he put in were not hooked up to the french drain. Mrs. Swierzewski stated her neighbor made a ditch right to her property line. She presented pictures showing the water in her driveway. Dr. Ganas asked if the Engineering Department had visited her property to which Mrs. Franckowiak stated she had been to the property. Mrs. Swierzewski felt the water was not just coming from the pool because it was draining during the winter and caused her husband to fall on the ice on the driveway. She felt her neighbor was sump-pumping water out. The Highway Superintendent stated the neighbor had done what he was instructed to do and when they inspected, everything was in order. Dr. Ganas suggested Mr. Rogosky, accompanied by Mrs. Franckowiak reinvestigate and try to resolve the problem. The Board agreed.

**THOMAS HOWELL**, 4970 Hafer Road, felt his comments printed in the 9/13/04 minutes were not as presented. He felt the Reiff Place parking ban was discrimination of a certain class of individuals and that group was the students. He gave a long explanation on why he was against the Resolution to ban parking citing an investigation he did to determine whether or not there was trash and cigarette butts on Reiff Place and the surrounding streets and he found none. He felt no one had asked the students if they worked at jobs they might need to earn college tuition or had extracurricular activities that required them to leave immediately after school instead of waiting 20 or 30 minutes until they could get out of the lower parking lot. He chastised the Board stating it should have done a study during the summer to determine how many cars visit homes in this area and in general should have done a better job in research before they decided to ban parking on those streets and suggested the Board's action was unconstitutional.

**RICHARD NOBLE**, 9 Hearthstone Drive, stated he had lived in the Township for over 40 years. He stated he had applied for a bank loan and a lien appeared on the Title Search that went back to 1986. He asked the Board for some forgiveness on the interest & penalties that had grown since that time. He stated he received a registered letter in 1986; and thought he had paid it; however he cannot prove it. He offered to pay \$687.81 less the \$100 paid on account if the Board agreed to waive the interest and penalties. He also stated since there had been no communication in 18 years, the matter was never resolved. The Solicitor gave a brief explanation of Mr. Noble's situation, and stated the interest and penalties going back to 1986 would be in an amount in excess of \$1600.

**MOTION** by Mr. Barbieri, seconded by Mrs. Starr, to waive the interest and penalties, and revert back to the amount from 1986 and accept the payment of \$587.81 as payment in full of Mr. Noble's Sewer Bill. Motion carried with Dr. Ganas, Mrs. Starr, Ms. Ciotti and Mr. Barbieri voting in favor.

After the vote, the Solicitor instructed Mr. Noble to pay the amount at the Township Building, and to call him afterward, and the Solicitor would remove the lien.

**ERIC SIMMS**, 16 Nancy Circle, asked, in connection with the Crosstown Connector, if there were plans to widen Dunham Drive. The Board stated there were no plans to widen Dunham Drive.

**KARL SCHEMBERG**, 207 Lisa Lane, asked if the Board planned to consider the Reiff Place parking ban tonight because Mr. MacBean was not present? The Board said Mr. MacBean was expected. He suggested the Board wait for the construction to be completed before it banned parking because it was a bad time to pass an Ordinance like this. He stated when he rode by at lunch time, the construction workers cars were parked everywhere taking up the spaces students would be using to park. The Chief of Police stated he agreed with Mr. Schemberg. Mrs. Starr stated in a discussion with a resident of Reiff Place she discovered construction workers were taking up many of the parking spaces at this point. Mr. Schemberg stated he was not suggesting the Ordinance should not be put in place; but to just delay it until construction was complete. Mr. Schemberg stated he heard on Channel 69 news that the new Reiffon Fire Truck was not bought with taxpayers' money and asked the Board why they said that. The Board stated they did not say that and Mr. Schemberg should take his objection to Channel 69. The Solicitor stated the amount the Township paid was in excess of \$800,000 for the truck.

**PAUL ANGSTADT**, 111 Gibraltar Road, stated he was not at the last Board meeting; however, he read an article in the newspaper about the water problems regarding the runoff from Hafer Road and the flooding of Green Tree Road and the corrections that were necessary. He questioned if it was going to cost \$1 million to fix the problem as it was reported. He asked the Board's intentions. Mr. Rogosky from GVC stated a list of projects that needed to be done in the Township had been compiled, and the Township was looking into getting some emergency management funding to complete the projects because our system is overloaded and was causing problems. Dr. Ganas asked if this was a result of the heavy rains. Mr. Rogosky stated yes, that the Township had 16 to 19 inches of rain in July and our systems were not able to handle that volume of water. He stated they were working on possible solutions to the problem.

#### **MINUTES OF SEPTEMBER 13, 2004 MEETING**

**MOTION** by Ms. Ciotti, seconded by Mrs. Starr, to approve the minutes of the September 13, 2004 meeting as presented. Motion carried with Dr. Ganas, Mrs. Starr, Ms. Ciotti and Mr. Barbieri voting in favor.

#### **DISBURSEMENTS**

**MOTION** by Ms. Ciotti, seconded by Mrs. Starr, to approve for payment the bills presented on the Disbursement Lists dated September 24, 2004 in the amounts of \$84,166.82 in the General Fund; \$37,667.91 in the Sewer Fund; and \$35,664.53 in the State Fund. Motion carried with Dr. Ganas, Mrs. Starr, Ms. Ciotti and Mr. Barbieri voting in favor.

**DEPARTMENT REPORTS**

The Engineering, Highway, and Wastewater Treatment reports of scheduled activities for the week of September 27, 2004 were submitted for the Board's review.

**UNFINISHED BUSINESS**

**ADOPT AMENDED LOCAL LIMITS ORDINANCE #577**

The Township Manager stated this Ordinance was to replace the previously established local limits applicable to discharges of industrial wastewater.

**MOTION** by Ms. Ciotti, seconded by Mr. Barbieri, to adopt Local Limits Ordinance #577. Motion carried with Dr. Ganas, Mrs. Starr, Ms. Ciotti and Mr. Barbieri voting in favor.

**ADOPT AMENDED POLICE PENSION PLAN ORDINANCE #578**

The Township Manger stated this Ordinance was intended to comply with the mandatory changes in accordance with Act 30 of 2002.

**MOTION** by Mr. Barbieri, seconded by Mrs. Starr, to adopt amended Police Pension Plan Ordinance #578. Motion carried with Dr. Ganas, Mrs. Starr, Ms. Ciotti and Mr. Barbieri voting in favor.

**ADOPT ORDINANCE TO JOIN PENNSYLVANIA HEALTH INSURANCE COOPERATIVE #579**

**MOTION** by Ms. Ciotti, seconded by Mrs. Starr, to adopt an Ordinance to Join the Pennsylvania Health Insurance Cooperative #579. Motion carried with Dr. Ganas, Mrs. Starr, Ms. Ciotti and Mr. Barbieri voting in favor.

\* Mr. MacBean arrived at this time.

**ADOPT AMENDED TRAFFIC ORDINANCE-REIFF PLACE PARKING**

The Chief of Police felt the parking situation had not improved and more than likely would not until the construction was complete. The matter was deferred.

**GARY KUBOVCSAK LETTER**

Dr. Ganas stated the Board had read his letter subsequent to Gary's previous presentation. He asked Mr. Kubovcsak if he had further comment. Dr. Ganas asked the Board if it wanted to take any action on this matter, to which the Board stated, no. Ms. Ciotti stated the Board had chosen to stand behind the opinion of the Township's Engineering Department. She stated he had the right to appeal it. The Solicitor stated Mr. Kubovcsak had the right to submit and go through the entire process again. Mr. Kubovcsak stated he received case law from Byron Yatron saying it was the burden of the Township to prove the evidence of some overt, inequitable, physical manifestation of the landowner's intent to integrate the lots into one parcel through the landowner's affirmative actions. Dr. Ganas stated the Board was not questioning the attorney and Mr. Kubovcsak had the right to appeal the Township's decision. Mrs. Franckowiak stated they had the deed, which clearly indicates the merger of the three lots into one, as acknowledged by Mr. Kubovcsak's former attorney, Mark Koch. She further indicated this would be presented as evidence should the matter end up in the courts.

Mr. MacBean took the Chair.

**NEW BUSINESS**

**WOOD LANE SEWER BACKUP CLAIMS**

**SHAWN HUNTZINGER**, 201 Wood Lane, stated he was representing several residents on Wood Lane, Center Lane, Mays Avenue and Circle Drive in Phase I of Jackson Meadows, who have experienced sewer backing up in their basements. He stated the residents would like to see some action taken to correct this problem. He stated he, like everyone else, likes to see construction happening in the Township because it is a boost to the tax base; however, the infrastructure has not been updated to support the growth. He stated this was evidenced by

the failure of the sewer system to adequately handle the sewer. He stated anyone who drove along Wood Lane during a rainstorm could see ground water and sewage coming out of manhole covers. He stated as of right now, some of the residents still have environmental hazards in their basements and have not been able to clean up because the cost ranges from \$5,000 to \$10,000 to clean the raw sewage that backed up into their basements. He stated these homes needed professional clean up. Mr. Huntzinger stated the sewer line in front of their homes had not been updated since 1967 according to the Wastewater Treatment Superintendent. Mr. Huntzinger stated someone needed to be responsible for this, because he had this problem two times since 1993. He stated he invested over \$6,000 to solve the problem in his home; but it did not work. The backflow plug he had installed, upon the recommendation of the Wastewater Treatment personnel, did not work because it could not hold the water back. He stated the first time he had 6 inches of sewage back up into his home and this time he had 14 inches of raw sewage back up into his home. He also felt this problem was decreasing their property values and the Township had to take some of the responsibility to correct this problem. He stated he does not want to sue the Township to resolve the problem and should not have to sue. He wants action to be taken although he had received some comments from Board members. He stated he was out close to \$50,000 and he just did not have the kind of money required to solve this problem. He also stated those neighbors who did not actually have sewage back up into their homes were getting sewer gasses in their basements. He then presented a petition with 45 signatures asking the Board for financial reimbursement and to correct the problem to avoid any future incidents. The petition also asked that the system be upgraded before agreeing to add any more homes to it. Mrs. Starr asked the Wastewater Superintendent to explain why the problem existed for these residents and what could be done to solve the problem. The Wastewater Superintendent stated the trunk line should be replaced or enlarged, and has been delayed by the Berks County Conservation District's review of the documents related to accomplish this job. He stated the sewer line should be replaced or enlarged from Schmeck's Villa to the bird sanctuary on Shelbourne Road; but, was not sure that would entirely take care of the problem if the Township again experienced 21 inches of rain which was the level reached at the Sewer Treatment Plant this July. He stated he and the engineering department also was working on the storm sewer project on Oley Turnpike Road, which was scheduled to start in the spring of 2005. Mr. Rogosky stated the Oley Turnpike Road Project should prevent some of the water runoff from coming down to Wood Lane. The Solicitor suggested the Board take immediate action and direct the Township's consulting engineers, in conjunction with the Wastewater Superintendent, to review any issues relating to the purpose of conservation and the delay of the necessary permits for this project. He also suggested GVC consult with Gannett Flemming, the Sewer Authority's consultants, and report to the Board on this matter because residents came to the Board to seek relief and the Board should be a part of this solution. Mr. MacBean stated something had to be done immediately because this was a health hazard. Dr. Ganas asked if the Board could do more to facilitate eliminating the 6 month delay in the permitting process to which the Wastewater Superintendent stated, he would contact Gannett Flemming tomorrow to review ways to bring pressure to get the permit. The Solicitor stated he would contact the insurance provider and request a re-evaluation of this subject to seek some financial relief for these residents. Dr. Ganas stated the Board would be looking into this and would have an answer for the residents by the next meeting in two weeks.

***TOBOLSKI PROPERTY TRAFFIC STUDY REQUIREMENTS***

***MOTION*** by Ms. Ciotti, seconded by Dr. Ganas, to have the project consultant for the Tobolsky Property Land Development conduct a traffic study in accordance with the scope defined by PennDOT requirements. Motion carried with Mr. MacBean, Dr. Ganas, Mrs. Starr, Ms. Ciotti and Mr. Barbieri voting in favor.

***REZONING REQUEST – SPENCER***

Eugene C. LaManna, Esq., representing John Spencer, stated Mr. Spencer owned a tract of ground currently zoned Medium Density Residential (MDR) and located south of Rugby Road, immediately south of Pathfinder and from Shelbourne Road eastwardly to Schoffers Road, which is surrounded by an SRI residential zone. He stated he was requesting the MDR zone be changed to SRI due to the topography of the ground, to become compatible with existing uses and for uniformity of zoning. Mr. LaManna stated limiting the use to single

family homes instead of having the potential for town homes to be built on that site would be more beneficial when it came to the infrastructure in the area. He asked the Board to direct this matter to the Township's Planning Commission for consideration. Mr. MacBean felt this should be done; however, the Solicitor advised the Board not to give an opinion prior to review by the Planning Commission. The Solicitor stated he would attend the Planning Commission Meeting when this matter was discussed.

**MOTION** by Dr. Ganas, seconded by Mr. Barbieri, to refer the rezoning request of Spencer to the Planning Commission for consideration. Motion carried with Mr. MacBean, Dr. Ganas, Mrs. Starr, Ms. Ciotti and Mr. Barbieri voted in favor.

**ADOPT RE-AFFIRMATION OF OLEY AGRICULTURAL SECURITY AREA RESOLUTION #04-16**

**MOTION** by Ms. Ciotti, seconded by Dr. Ganas, to adopt re-affirmation of Oley Agricultural Security Area Resolution #04-16. Motion passed with Mr. MacBean, Dr. Ganas, Mrs. Starr, Ms. Ciotti and Mr. Barbieri voting in favor.

**WAIVER REQUESTS:**

**SHAW BRIEF SUBDIVISION; EXETER GOLF CLUB ESTATES PHASE VI; FOREST HILLS SUBDIVISION; & EXETER COMMUNITY LIBRARY PRELIMINARY PLAN.**

**MOTION** by Ms. Ciotti, seconded by Mr. Barbieri, to grant waiver requests for Shaw Brief Subdivision from the requirement for SALDO Section 4.283 and Section 6.204; for Exeter Golf Club Estates Phase VI for SALDO Section 4.283 and 5.216; Forest Hills Subdivision for SALDO Section 3.81 and 4.283; and Exeter Community Library Preliminary Plan for SALDO Section 4.239 and 4.287 as recommended by the Planning Commission. Motion carried with Mr. MacBean, Dr. Ganas, Mrs. Starr, Ms. Ciotti and Mr. Barbieri voting in favor.

**PATHFINDER MEADOWS SECTION 2**

**MOTION** by Ms. Ciotti, seconded by Dr. Ganas, to grant a waiver request for Pathfinder Meadows Section 2 from the requirement of SALDO Section 5.514, lot depth to width ratio for Lots #13 and 51. Motion carried with Mr. MacBean, Dr. Ganas, Mrs. Starr, Ms. Ciotti and Mr. Barbieri voting in favor.

**ESCROW RELEASES:**

**COUNTRY CLUB ESTATES III, PHASE I, REQ. #3**

**MOTION** by Ms. Ciotti, seconded by Dr. Ganas, to authorize an Escrow Release for Country Club Estates II, Phase I, Req. #3 in the amount of \$153,620.50 for earthwork, sanitary sewers, storm sewers, water supply, concrete work, sub-base & paving, inspection fees and miscellaneous. Motion carried with Mr. MacBean, Dr. Ganas, Mrs. Starr, Ms. Ciotti and Mr. Barbieri voting in favor.

**LAUREL VILLAGE APARTMENT COMPLEX, REQ. #5**

**MOTION** by Ms. Ciotti, seconded by Mrs. Starr, to authorize an Escrow Release for Laurel Village Apartment Complex, Req. #5 in the amount of \$17,385.00 for erosion & sedimentation, earthwork, storm sewers and sanitary sewers. Motion carried with Mr. MacBean, Dr. Ganas, Mrs. Starr, Ms. Ciotti and Mr. Barbieri voting in favor.

**ACCEPT RESIGNATION OF HAROLD E. BOONE, PLUMBING INSPECTOR**

**MOTION** by Dr. Ganas, second by Mr. Barbieri, accept the resignation of Harold E. Boone as Township Plumbing Inspector as of October 15<sup>th</sup> with regrets and send a letter thanking him for all of his years of service to the Township. Motion carried with Mr. MacBean, Dr. Ganas, Mrs. Starr, Ms. Ciotti and Mr. Barbieri voting in favor.

**SOLICITOR'S REPORT**

**SCHWEITZER CONVEYANCE**

The Solicitor stated he had recorded the deed for conveyance of the parcel of land that the Herb family donated to the Township.

**WOODGATE SECTION 3 IMPROVEMENTS AGREEMENT**

The Solicitor stated he sent the Municipal Improvement Agreement for Woodgate Section 3 to Benner & Wilde and they had acknowledged the receipt.

**EARTHCARE BANKRUPTCY SETTLEMENT**

The Solicitor stated he received a compromise and settlement agreement from the Earthcare Bankruptcy, which were approved by the Bankruptcy Trustee in Texas. He stated Ms. Ciotti had reviewed the documents and thanked her for her expertise. He then recommended execution of the agreement and forwarding it to them for their signature.

**MOTION** by Ms. Ciotti, seconded by Mrs. Starr, to authorize the Solicitor to execute the stipulation to settle the Earthcare litigation. Motion carried with Mr. MacBean, Dr. Ganas, Mrs. Starr, Ms. Ciotti and Mr. Barbieri voting in favor.

**INDIVIDUAL REPORTS**

**EXECUTIVE SESSION**

The Township Manager requested an Executive Session to be held after the meeting to discuss personnel matters. The Board agreed.

**FALL AUCTION**

The Highway Superintendent stated he would like to hold a joint auction the last Monday in October along with Amity Township and the School District if they had anything to auction. The Board had no objection.

**ACT 90 SURCHARGE – SLUDGE CONTRACT**

Dr. Ganas stated the Township had certain obligations one of which was to pay our bills. He stated we owe Pioneer Crossing approximately \$115,000 in surcharge fees, and just like we pay all our bills and expect everyone to pay us, felt we should pay our obligations, under protest.

**MOTION**, by Dr. Ganas, seconded by Mr. Barbieri, to pay Pioneer Crossing Landfill the \$115,000 owed to them, under protest. Mr. Barbieri asked the Solicitor for his legal opinion. The Solicitor stated the Township was obligated to pay this amount. He stated all other municipalities, other than two who were challenging it, had paid the \$4 a ton surcharge and felt the Township was obligated to pay this pass-through tax, which was collected by the Landfill; but, was to be sent to the State. He stated the money did not go to Pioneer Crossing Landfill. Mrs. Starr asked how the Township would get the money back to which the Solicitor stated, he could prepare a document to accomplish that saying in the event that any appellate court would review it, Pioneer would repay it to the Township. Dr. Ganas stated that would be the reason the Township would pay it under protest. Mr. MacBean asked if the price per ton would go up if we did not pay this to which the Wastewater Superintendent stated it would probably go up anyway. Dr. Ganas stated there was a motion on the floor and Mr. Barbieri stated he would second it with the documentation that if the court reversed it, the Township would get its money back. Motion carried with Mr. MacBean, Dr. Ganas, Mrs. Starr, Ms. Ciotti and Mr. Barbieri voting in favor.

**EXETER YOUTH ALLIANCE**

Mrs. Starr reported on the progress of this committee. She stated the school would be sending out a questionnaire to students in grades 2 through 11 asking them what they would like to see in the form of activities for them in the Township. She stated the next meeting would be in November and more students would be attending. She stated this group was formed as the result of the vandalism that was occurring in the Township.

**ACRE INITIATIVE**

Mr. Barbieri asked if the letter had been sent to which the Township Manager responded in the affirmative.

*ADJOURNMENT*

*MOTION* by Dr. Ganas, seconded by Mr. Barbieri, to adjourn the Meeting. Motion carried with Mr. MacBean, Dr. Ganas, Mrs. Starr, Ms. Ciotti and Mr. Barbieri voting in favor. The Meeting adjourned at 8:12 P.M.

Respectfully Submitted,

Troy S. Bingaman  
Township Secretary