

**POCONO TOWNSHIP SUPERVISORS
REGULAR MEETING
October 1, 2012**

MINUTES

Chairman Frank Hess opened the meeting at 7:01 p.m.

PLEDGE OF ALLEGIANCE

ROLL CALL:

Present: F. Hess, Chairman; H. Werkheiser, Vice Chairman; Frank Froio, Township Administrator; David Horton, Township Engineer; Jeffrey Durney, Township Solicitor

ANNOUNCEMENTS/CALENDAR:

HJP Park Meeting on October 2, 2012 at 11:00 a.m.

Sewer Meeting on October 3, 2012 at 6:00 p.m.

Planning Commission Meeting on October 8, 2012 cancelled due to Columbus Day holiday

Pocono Park Board Meeting on October 10, 2012 at 7:30 a.m.

PUBLIC COMMENT:

None.

ENGINEER'S REPORT:

Reserve at Cherry Lane – Consideration of Road Dedication – D. Horton advised that Bob Brown, on behalf of the developer, requested that the Township accept dedication of the 840 foot roadway extension into the Reserve at Cherry Lane. Bob Brown was present and asked the Board to take dedication of the roadway. H. Werkheiser expressed his view that the nominal amount the Township would receive in Liquid Fuels monies would not justify the expense and liability associated with taking dedication of the road. Bob Brown offered that the developer or homeowners association could remain responsible for certain maintenance items. No motion was made to accept dedication.

The Reserve at Bryson's Farm Major Subdivision – Time Extension Request – D. Horton advised that a time extension request had been received. H. Werkheiser made a motion, seconded by F. Hess, to grant the time extension request as set forth in Applicant's September 24, 2012 letter. Roll call vote: H. Werkheiser, yes; F. Hess, yes. Motion carried.

The Lands of the Spirit of Swiftwater – Time Extension Request – D. Horton advised that a time extension request had been received. H. Werkheiser made a motion, seconded by

F. Hess, to grant the time extension request as set forth in Applicant's September 24, 2012 letter. Roll call vote: H. Werkheiser, yes; F. Hess, yes. Motion carried.

Dairy Queen Chill and Grill – Security Reduction Request No. 1 – D. Horton advised that TDQ Land Equities had requested a reduction in the security for the Dairy Queen project from \$417,189 to \$263,334 based upon the work completed to date. D. Horton advised that the work has been inspected and the reduction in security is appropriate. H. Werkheiser made a motion, seconded by F. Hess, to grant Security Reduction Request No. 1 reducing the security on the TDQ Land Equities Dairy Queen project to \$263,334. Roll call vote: H. Werkheiser, yes; F. Hess, yes. Motion carried.

SOLICITOR'S REPORT:

TDQ Land Equities – Conditional Use Hearing – PUBLIC HEARING. J. Durney advised that the Board would open a conditional use hearing regarding the application of TDQ Land Equities for the installation of a sign plaza at the front of the Dairy Queen restaurant being constructed on land that it owns located at 2927 Route 611 in Pocono Township. The proposed sign has a height of 22 feet and contains 3 two-sided business signs attached to a permanent steel structure with a stone veneer. The business signs attached area “DQ” logo sign, a “Chill and Grill” sign and a changeable electronic message board. The business signs will be internally illuminated. J. Durney provided instructions for any person who wished to become a party to the proceeding or otherwise wished to offer public comment.

J. Durney advised that the application was reviewed by the Township Planning Commission, which recommended (i) That the Applicant remove the 2 existing nonconforming off-premises advertising signs located on the property and abandon their use; and (ii) that the Board of Supervisors through the conditional use hearing process determine the Applicant to otherwise be in compliance with the applicable conditional use criteria contained in the Zoning Ordinance.

Marc Wolfe, attorney for the Applicant, provided an overview of the conditional use application. The Applicant offered the testimony of Brick Linder, Applicant's engineer. Mr. Linder was accepted as an expert witness. Mr. Linder testified in detail regarding the property and the proposed sign plaza. Mr. Linder stated that the location of the sign plaza would comply with all applicable setbacks. Mr. Linder further opined that the dimensions of the sign plaza comply with the provisions of Section 703 of the Zoning Ordinance. Mr. Linder offered testimony concerning the sight lines along Route 611 and the negative impact natural and man-made obstructions have on the ability to locate the Dairy Queen restaurant. Mr. Linder further testified that the proposed sign plaza would assist in the safe ingress and egress to the Dairy Queen restaurant by permitting drivers to better locate the property while driving along a congested area of roadway. Mr. Linder testified that the proposed sign plaza: would not be a hazard; would have no adverse impact on the adjoining properties or general neighborhood; is not contrary to the Township's comprehensive plan; and would not generate any noise, smoke or other nuisance in excess of that produced by adjoining properties.

Frank Riccobono, Managing Member of Applicant, testified about the Dairy Queen franchise and the addition of the Orange Julius product line. Mr. Riccobono testified that Orange Julius is a separate product line and brand. Mr. Riccobono testified about the franchise requirements imposed by Dairy Queen, which include certain minimum signage requirements. Mr. Riccobono indicated that the proposed sign plaza would be very similar to the sign plaza in place at the Dairy Queen in Smithfield Township. Mr. Riccobono advised that the owners of Merchants Plaza and Resort Beverage, who own adjoining properties, had both indicated that they had no opposition to the proposed sign plaza. Mr. Riccobono testified regarding the two existing signs on the property for which he has non-conforming use certificates. He advised that he would be willing to remove these signs as a condition of approval of the proposed sign plaza. Mr. Riccobono testified regarding the dimensions of the signs to be removed along with the proposed sign plaza. Mr. Riccobono advised that he would be relinquishing 256 square feet in nonconforming signage. Mr. Riccobono also testified concerning the LED portion of the sign and the manner in which the sign would be used and the nature of the display. Mr. Riccobono stated that he is willing to permit the Township to utilize the electronic display portion of the sign plaza for messages in the event of an emergency. Mr. Riccobono also testified regarding other existing signs in the Township which are comparable to or exceed the dimensions of the proposed sign plaza.

Tom McKeown, a local real estate broker and appraiser, testified on Applicant's behalf. Mr. McKeown was accepted as an expert witness. Mr. McKeown prepared and presented a Community Impact Study concerning the sign plaza. Mr. McKeown testified that the proposed sign plaza would not have any negative impact on the values of surrounding properties.

At the conclusion of the Applicant's presentation of evidence, J. Durney confirmed that no one wished to enter an appearance or otherwise make a public comment on the application. There was no public comment or questions from the audience. M. Wolfe submitted a legal memorandum for the Board's review and consideration. The submitted exhibits were accepted into evidence and the record was closed. The Board advised that it would review the legal memorandum and further digest the evidence presented. The Board will deliberate at its October 15, 2012 meeting and issue a decision at that time.

ADMINISTRATOR'S REPORT:

HJP Park Board – Appointment of Pocono Township Board Member – F. Froio advised that the HJP Park Board had requested the appointment of a Board member from Pocono Township. H. Werkheiser made a motion, seconded by F. Hess, to appoint F. Hess as the Township's representative to the HJP Park Board. Roll call vote: H. Werkheiser, yes; F. Hess, yes. Motion carried.

Benecon – Killed/Died in Service Benefit – F. Froio advised that the Township may wish to consider including a killed/died in service benefit that would permit the surviving spouse and/or dependents of a Township employee to remain on the health plan for up to 90 days after the employee's death. The Board approved this provision by consensus.

Benecon – Consideration of Adoption of Plan Document – F. Froio advised that, after approving the move to Benecon at the last Board meeting, the Township now needed to formally adopt the Plan Document. H. Werkheiser made a motion, seconded by F. Hess, to adopt the Plan Document. Roll call vote: H. Werkheiser, yes; F. Hess, yes. Motion carried.

Benecon – Consideration of Adoption of Business Associate Agreement – F. Froio advised that, after approving the move to Benecon at the last Board meeting, the Township needed to formally adopt the Business Associate Agreement, which covered, *inter alia*, the Township’s obligations with respect to the handling of protected health information. H. Werkheiser made a motion, seconded by F. Hess, to adopt the Business Associate Agreement. Roll call vote: H. Werkheiser, yes; F. Hess, yes. Motion carried.

HIPPA – Appointment of Pocono Township Security Officer and Privacy Officer – F. Froio advised that Benecon requires that the Township appoint a Security Officer and a Privacy Officer with respect to compliance with the Township’s HIPPA obligations. F. Froio advised that he and F. Hess had been through the telephone training required. F. Hess made a motion to appoint F. Froio as Security Officer and Privacy Officer. There was no second. H. Werkheiser stated that F. Hess should be appointed, as F. Froio was only to be with the Township temporarily.

Award of Snow Plowing Bid – F. Froio advised that the Township had solicited bids for snow plowing. Two bids were received and the lowest bid was from Kobalt Construction at a rate of \$110 per hour. H. Werkheiser made a motion, seconded by F. Hess, to award the snow plowing contract to Kobalt Construction at a rate of \$110 per hour. Roll call vote: H. Werkheiser, yes; F. Hess, yes. Motion carried.

Award of Road Material Bid – F. Froio advised that the Township had solicited bids for road materials. Four bids were received for some or all of the items. Linde submitted the low bid for aggregate, while Locust Ridge submitted the low bid for paving materials. H. Werkheiser advised that Eureka and possibly others elected not to bid because they do not use PennBid. No motion was made to award the contract. The Board instructed F. Froio to solicit bids in the traditional manner by advertising in the newspaper.

Issuance of Connection Letter to Sanofi – F. Froio advised that based upon testing, the sewer system was now capable of receiving flow from Sanofi and that it was now time for the Township to advise Sanofi of same. F. Froio requested that the Board authorize the Chairman to sign a letter to Sanofi advising of their obligation to connect and remit the tapping fees. H. Werkheiser made a motion, seconded by F. Hess, to authorize the Chairman to sign a letter to Sanofi advising them of their obligation to connect to the sewer system. Roll call vote: H. Werkheiser, yes; F. Hess, yes. Motion carried.

Donation to Pocono Township Volunteer Fire Company – F. Froio advised that the Fire Company worked for several hours in connection with the testing of the sewer lines and pumped 86,400 gallons through the lines. F. Froio suggested that a donation to the Fire Company might be appropriate. The Board supported the idea and will discuss further.

Department Head Discussion of Capital Item Requests for 2013 Budget – F. Froio advised that he requested that all Department Heads provide their capital item requests for consideration in developing the 2013 budget. F. Froio advised that from the Administration, he recommended codifying the Township’s ordinances. F. Froio provided information on the codification process and the costs. F. Froio also suggested that the HVAC ducts in the Administration building should be cleaned and that some carpet replacement be considered.

Chief Phil Riley advised that the Police Department would request the following capital items: Two 2013 Ford Sedan Police Interceptors; new computer server and two new work stations; two Beretta 92FS 9mm duty weapons; two Remington 887/1100 shotguns; two long rifles; and three tasers. Chief Riley also indicated that he would like to add another full-time police officer to the force. He also indicated that certain maintenance and repair should be done on the inside of the Police Building. Chief Riley explained each of the requests and answered questions. There was also a discussion concerning a replacement schedule for vehicles and equipment.

H. Werkheiser advised that he had not worked on a budget request for the Maintenance Department.

PAYMENT OF BILLS:

H. Werkheiser made a motion, seconded by F. Hess, to approve payment of the semi-monthly bills on the Bill Payment List dated October 1, 2012 (GENERAL FUND: \$190,795.35; PARK FUND: \$55.69). Roll call vote: H. Werkheiser, yes; F. Hess, yes. Motion carried.

APPROVAL OF MINUTES:

H. Werkheiser made a motion, seconded by F. Hess, to approve the minutes of the September 17, 2012 Board of Supervisors Meeting. Roll call vote: H. Werkheiser, yes; F. Hess, yes. Motion carried.

OLD BUSINESS:

None.

NEW BUSINESS:

None.

PUBLIC COMMENT:

A question was raised about the International truck. J. Durney advised that discussions with the dealer continued, though there had been no significant developments since the last Board meeting.

Jane Cilurso asked about the status of the police contract negotiations. F. Froio advised that he anticipated the contract would be presented for ratification at the next Board meeting. Jack Manuel, the shop steward for the police union, stated that the union had

requested that negotiations begin in January 2011, a year in advance of the contract's expiration, but the prior Board failed to respond to the union's request until September 2011.

ADJOURNMENT:

H. Werkheiser made a motion, seconded by F. Hess, to adjourn the meeting at 9:30 p.m., until October 15, 2012, at 7:00 p.m., at the Pocono Township Municipal Building. Roll call vote: H. Werkheiser, yes; F. Hess, yes. Motion carried.