

**Benner Township Supervisors**  
**April 1, 2019**

The regularly scheduled meeting of the Benner Township Board of Supervisors was called to order at 7:00 p.m. by the Chairman, Randy Moyer with member David Wise present. Mr. Capriani was absent. Also in attendance were Dennis O’Leary, Don Franson, Tim Robinson, John Elnitski, Edward Galus, Renee Krendell, Andrea Murrell, Kevin Abbey, James Lanning, Nate Campbell, Helen Alters, Thomas Eby, Rich Davis, Joeleen Stocker, Dick Lahr, Cory Stocker, Steve Lanich, Czapla, Charles Dawson, Thomas Kalinowski, David Roberts, Mike Mussett, Alan Leonori, Heather Manning, Stephanie Grove, Jeffrey Lucas, Mike Gstello, Dorothy Blair, John Kostes, Shirley Gryczuk, Douglas Mason, Lynne Heritage, Rebecca Reese, Lisa Roberts, Andy Johnson, Tom Moyer, Warren Miller, Brad Karch, Chris Aumiller, Bob Poole, Talley Fisher and Sharon Royer.

**PERSONS TO ADDRESS THE BOARD**

Renee Krendell: Ms. Krendell read a statement aloud what a zoning ordinance is and what she feels the next one should represent and what the elected officials should be considering when drafting the new zoning ordinance. Concerns included school crowding, transportation problems, lack of water and excessive sewage disposal.

David Roberts: Mr. Roberts was present and asked the Board to keep the entire Spring Creek Canyon Overlay Ordinance intact. He noted that he has special restrictions on his property and doesn’t see why there should be an issue with properties being located in the Spring Creek Conservation Zone. He noted that he also feels that property rights should be the same regardless of lot size. He also stressed that he feels that environmentals also must be added back into the ordinance and that if these items are not included that he and other residents will be forced to take action in court to protect their constitutional rights.

Dorothy Blair: Ms. Blair noted that she was present from the Nittany Valley Environmental Coalition. She read a prepared a statement, however noted that Mr. Roberts stated most of what she has to say. She noted that the Coalition support ordinances 104 and 108 and feel that they need to be kept intact.

Kevin Abbey: Noted that he is present tonight representing ClearWater Conservancy. Mr. Abbey expressed that ClearWater supports the need to protect the Canyon and encourages the Canyon Overlay to be placed back into the Ordinance. Mr. Abbey recited a brief history on the Canyon and how it became open to the public. He noted that with this property being open to the public that it has had a very strong economic impact on the community. He cited that through various studies and surveys done that it was found that Spring Creek and areas in the Canyon has been voted to be the most popular fished trout stream in the Commonwealth by a factor of over 25 times as the stream ranked #2.

John Elnitski: Mr. Elnitski noted that he is still waiting for a response from the township on his letter concerning Bellefonte Airport and the Airport Overlay Ordinance. Mr. Beard noted that he has reviewed the court case that Mr. Elnitski provided. Mr. Beard noted that after 1984 all township’s that had airports were to have provisions protecting airport hazard zones. Benner Township does and will be carrying forward regulations into the new zoning ordinance. Mr. Beard noted that he has looked at the two model ordinances that the Bureau of Aviation has put out, noting that one is more complex than the other. He stated that he has not meet with the Supervisors to discuss these models. He noted that most townships only have one airport, while Benner Township has two making it unique. Mr. Elnitski noted that he believes that the Supreme Court case states that property owners don’t have rights in the hazard zones, as it states in the Township’s current ordinance it gives property owners rights up to 75’

which allows them to hold the airport owners hostage. Mr. Elnitski noted that he feels that the Township's Ordinance goes beyond the model and believes that it infringes on his rights of being an airport owner. Mr. Beard noted that he believes that the Supreme Court case states that the Municipality must adopt regulations to address airport hazards but leaves it up to the municipality to create those regulations. Mr. Elnitski noted that he also objects to Bellefonte Airport being a conditional use in the AG zone when it is being proposed that the University Park Airport is a Use by right in the Industrial Zone and feels that this is in violation of the Equal Protection Act. Mr. Beard noted that he disagrees, different uses can be different in each zoning district. Mr. Elnitski then questioned about the arbitrary number of acres listed in the ordinance for an airport. Mr. Beard noted that he doesn't feel that it is arbitrary if the requirement has been in place for years and is being carried over. Mr. Beard concluded that he will respond to Mr. Elnitski's concerns in writing.

## **OLD BUSINESS**

Zoning Ordinance: The Board acknowledged receipt of the following Zoning Ordinance Comments submitted from the **draft unadvertised** zoning ordinance dated 2/12/2019:

- a. Bellefonte Borough
- b. Centre County Planning Commission
- c. David Thomas Roberts
- d. Spring Township
- e. Patton Township
- f. Clearwater Conservancy
- g. Spring Creek Watershed Commission

Mr. Wise noted that after all of the comments that were received, the Board has agreed to put the overlay back in with modifications. It was noted that the main modification would be to take the Airport out of the overlay.

Mr. Franson noted that the entire township falls under the Spring Creek Act 167 Stormwater Management Plan. He noted further that every township located in the Spring Creek Watershed has adopted this plan. Mr. Franson reviewed some of the main focal points of this Ordinance and how stormwater is managed by it. It was noted that DEP now looks at pre and post construction stormwater requirements while reviewing NPDES permits.

Mr. Franson explained how the Spring Creek Canyon Overlay Ordinance contradicts the Stormwater Ordinance when dealing with complete infiltration. He noted that this can cause problems in areas that are prone to sinkholes.

Questions were raised about the amount of water being seen flowing along Rock Road in the last year or two. Mr. Franson noted that in 2018 we received 65" of rain, in a typical year we get 39". He noted further that there are springs that have developed and started to flow that never existed before. The ground was so saturated this year that there was no infiltration. He commented that the Townships that he works for received complaints of water problems that never had water problems before.

Mrs. Alters noted her concerns about stormwater and the buildings being built along the Benner Pike that seem to be having an impact on Paradise Hill Road. It was noted that the properties that Mrs. Alters is commenting on are located out of the Spring Creek Canyon Overlay.

Residents questioned if Mr. Franson has reviewed the Spring Creek Master Plan before making his recommendation to remove the zone 2 of the overlay ordinance and that if he hasn't that he should.

Mr. Kostas questioned the Stormwater Ordinance and how "as built" are reviewed. Mr. Franson noted that "as built" are typically done as soon as the subdivision is complete. He noted that usually problems

begin once homes are built and individuals grade their own building lots which can change the stormwater design. He noted that some municipalities require a site plan review for each home that is being built that shows how the lot will be graded, Benner Township does not.

Jim Lanning noted that he feels that the Supervisors need to take a step back and look at what is being proposed.

Mr. Franson noted that the Township's Stormwater Ordinance regulations kick in at 5,000 sq. feet of disturbance, the NPDES permit requirements at an acre.

Ms. Murrell questioned how many permits this past month have been issued under the pending ordinance status? Mrs. Royer noted that there have been some decks and sheds, a new home in Fox Ridge Development and several homes in the Village of Nittany Glenn. No permits were issued where the Spring Creek Canyon Overlay existed. It was noted that since it's existence there have been very few permits issued in the overlay. Using the pending regulations would only be the permits in the Village of Nittany Glen and that is in construction method only.

Walnut Grove Sewer: Mr. Wise expressed that with the concerns noted earlier in the meeting about pollution to Spring Creek Canyon that getting public sewer to these aging systems is a vital step in protecting the aquifer in the Canyon area. It was noted that there is 75 homes that is being proposed to be connected in addition to 8 to 10 vacant lots as well as the Commercial area in the township along Shiloh Road.

Mr. Wise noted that he has probably now spoken with half of the effected property owners and feels that it is safe for him to say that the vast majority are reluctantly in favor of the project proceeding.

Mr. Wise noted that he was contacted by some of the homeowners asking if it would be possible to have natural gas run at the same time the sewer line would be put in. Mr. Wise noted that he made the inquiry to Columbia Gas who responded that it may be possible depending on the number of people who want it. It was noted that both the Sewer and the gas lines can't be located in the same ditch.

Mr. Wise noted that others were also inquiring if public water could also be run at the same time. He noted that he inquired about that as well and found out that it would probably not be feasible at this time due to the size of line that would be required and the number of users. There would be too much stagnant water in the lines causing the lines to have to be drained too often and costing too much money.

The question was asked if connection would be optional to the sewerline. It was noted that connection to the public sewer will be mandatory.

Mr. Wise moved that Benner Township Supervisors authorizes and supports a special study process to prepare an amendment to the Township's Act 537 Plan to include public sewer services for the Shiloh Road/Rock Road/Walnut Grove areas of the Township as soon as practical. Mr. Moyer seconded the motion.

Vote: Mr. Capriani – absent

Mr. Wise – yes

Mr. Moyer – yes

A member of the audience asked where the third supervisor is and what is the reason that he isn't, once again, in attendance. The Board noted that they could not answer that question.

Executive Summary – One Water for Integrated Management of Water Resources: Mr. Wise noted that he has spoken with other municipalities and most of those involved feels that this is so complex that training should be held to educate the municipalities on what this means before asking anyone to comment or recommend this document. This item will remain tabled.

**MINUTES**

The minutes of February 4, 2019 remain tabled due to the absence of Mr. Capriani.

The minutes of March 4, 2019, were presented to the Board for their review and comments. Mr. Wise moved to approve the minutes as presented. Mr. Moyer seconded the motion.

Vote: Mr. Capriani – absent                      Mr. Wise – yes                      Mr. Moyer – yes

**BILLS**

The bills of April 1, 2019, were presented to the Board for their review and approval. It was noted that the accounts payable for the General Fund were in the amount of \$70,416.70. Mr. Moyer moved to approve the bills as presented. Mr. Wise seconded the motion.

Vote: Mr. Capriani – absent                      Mr. Wise – yes                      Mr. Moyer – yes

The bills of April 1, 2019 State Fund were presented in the amount of \$7,962.97. Mr. Moyer moved to approve the bills as presented. Mr. Wise seconded the motion.

Vote: Mr. Capriani – absent                      Mr. Wise – yes                      Mr. Moyer – yes

**ROAD SUPERINTENDENT’S REPORT**

Mr. O’Leary noted that the road crew has been working on cleaning up the roads after the winter season and prepping for the road work to be done this spring. It was noted that brush collection will also take place at the end of this month.

**NEW BUSINESS**

Road Material Bids: Sealed bids were opened for the following materials with the bid results listed below:

Product	HeiWay LLC		Hanson Aggregate		HRI, Inc.		Glenn O. Hawbaker	
3000 PA 2A			7.50	11.25			<b>7.27</b>	<b>11.10</b>
1000 Select Granular 2RC			<b>7.00</b>	<b>10.75</b>			7.27	11.10
ASSHTO No 1			9.50	13.25			<b>9.21</b>	<b>13.04</b>
ASSHTO No 57			9.50	13.25			<b>9.21</b>	<b>13.04</b>
ASSHTO No 8			<b>14.50</b>	<b>18.25</b>			17.00	20.83
Washed ASSHTO 8			<b>14.50</b>	<b>18.25</b>			17.00	20.83
Washed ¾"			<b>11.00</b>	<b>14.75</b>			11.25	19.67
#3			9.50	13.25			<b>9.21</b>	<b>13.04</b>
R4			11.25	15.00			<b>10.00</b>	<b>14.40</b>
R5			12.75	<b>16.50</b>			<b>12.00</b>	16.60
R6			13.50	<b>17.25</b>			<b>12.70</b>	17.68
Surge Stone			<b>10.00</b>	<b>13.75</b>			10.00	13.83
Superpave 9.5 wearing					59.90		<b>59.00</b>	
Superpave 12.mm wearing					<b>57.90</b>			
Superpave 19mm wearing					<b>54.90</b>		55.00	
Superpave 19MM binder					<b>54.90</b>		55.00	
Superpave 25 mm binder					48.90		<b>48.00</b>	
DSA			<b>12.25</b>	<b>16.00</b>			13.00	16.83
Limestone Sand			9.25	<b>13.00</b>			<b>9.20</b>	13.03
UPM Cold Patch	<b>86.00</b>	<b>103.00</b>					130.00	
Cold Patch	<b>86.00</b>	<b>103.00</b>					130.00	

Mr. Moyer moved to accept the lowest bidder on each of the materials let. Mr. Wise seconded the motion.

Vote: Mr. Capriani – absent                      Mr. Wise – yes                      Mr. Moyer – yes

Summer Park & Rec.: It was noted that the fee for the Summer Park & Rec has remained unchanged for many years. With the cost of events and wages increasing every year it has been determined that it is time to raise the participation fees. It is being suggested that the fee be \$50 per participant if residing in the Township and \$150 for each non-resident participant. Mr. Moyer moved to approve these fees. Mr. Wise seconded the motion.

Vote: Mr. Capriani – absent                      Mr. Wise – yes                      Mr. Moyer – yes

Rishel Hill Traffic Signal Modification: It was noted that the Traffic engineer is recommending that this be tabled until the comments are received back from PennDot. It was noted that this should be ready for approval at the next board meeting.

Planet Aide: It was noted that a representative of Planet Aide was in the Township office asking if the Township Supervisors would be interested in having one of their donation boxes placed at the municipal building. The Board indicated that they are not interested.

Village of Nittany Glenn (waiver request)- It was noted that the Village of Nittany Glenn Phase V-A.1 & V-A.2 is seeking a waiver from the street standards ordinance for a modified "P" shaped Cul-De-Sac at Fulton's Run Road in lieu of the 80' diameter cul-de-sac.. It was noted that the Township's Engineer, Don Franson, has reviewed this request and recommends approval of this request. Mr. Moyer moved to approve this waiver request. Mr. Wise seconded the motion.

Vote: Mr. Capriani – absent                      Mr. Wise – yes                      Mr. Moyer – yes

Final Subdivision of Lands of BHP Development LLC Non-Substantive Change: It was noted that the following non-substantive change has been requested concerning the Subdivision of the Lands of BHP Development LLC – It will noted that a 50' wide cross lot easement for access between the Proposed Rishel Hill Road driveway and the shared access road (Expedition Drive) was created and will be reflected on the plans. Mr. Moyer moved to approve this non-substantive change. Mr. Wise seconded the motion.

Vote: Mr. Capriani – absent                      Mr. Wise – yes                      Mr. Moyer – yes

SilcoTek Non-Substantive Change: It was noted that SilcoTek Manufacturing Facility is seeking a non-substantive change with their land development plan. It was noted that they wish to increase the size of their western parking facilities by an additional 36 parking stalls from 97 to a total of 133. There were also some ancillary adjustment of stormwater conveyance piping, landscaping, grading and lighting. It was noted that this request was reviewed by both the Township Engineer and Zoning Officer and found to be acceptable. Mr. Moyer moved to approve these non-substantive change request. Mr. Wise seconded the motion.

Vote: Mr. Capriani – absent                      Mr. Wise – yes                      Mr. Moyer – yes

## **CORRESPONDENCE**

The Board acknowledged receipt of the following correspondence:

1. SBWJA Minutes – February 25, 2019 and March 11, 2018
2. Benner Township Water Authority Minutes February 19, 2019
3. Water Authority Key Points March 19, 2019
4. 2016/2017 State of the Water Resource Report
5. Centre Count Planning Office Time Extensions
  - a. Homeland Manufacturing
  - b. ARL Test Site Building 3
  - c. SilcoTek
  - d. Nittany Express
  - e. Keystone Payroll
  - f. Mammoth Restoration & Construction
6. Sewage Planning Module Approval Rutter's Convenience Store
7. Engineering Comments on Village of Nittany Glenn Phase V-A.1 and V-A.2

8. Engineering Comments ARL Test Site Building #3
9. NPDES Completeness Notification Village of Nittany Glen
10. NPDES approval Rutters Convenience Store

**ADJOURNMENT**

The meeting was adjourned the time being 8:35 p.m.

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Sharon Royer, Secretary