

**Benner Township Supervisors
February 6, 2023**

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 members Larry Lingle and Tom Moyer present. Also in attendance were Rodney Beard, John Elnitksi, Kathy Evey, Susan Kempton, Kenny Kempton, Wes Reitz, John Middlesworth, Christine Line, Rick Weyer, Lee Copper, Terry Cable, Deb Smeal, Thomas Eby, Suzanne Weinstein, Roxanne Toto, Edward Galus and David Capperella.

PERSONS TO ADDRESS THE BOARD

No one had asked to be placed on the agenda and no one present requested permission to address the Board.

NEW AGENDA ITEM

Mr. Larry Lingle moved to add the agenda item for the appointment of a replacement for Dan Hoffman who recently passed away to fill the vacancy he left on the Spring Benner Walker Joint Authority Sewer Board. Mr. R. Moyer seconded the motion.

Vote: Mr. T. Moyer – yes Mr. Lingle – Yes Mr. R. Moyer – yes

MINUTES

The minutes of January 3, 2023, were presented to the Board for their review and comments. Mr. Lingle moved to approve the minutes as presented. Mr. R. Moyer seconded the motion.

Vote: Mr. T. Moyer – yes Mr. Lingle – Yes Mr. R. Moyer – yes

BILLS

The bill list for February 6, 2023, were presented to the Board for their review and approval. Mr. R. Moyer moved to approve the General Fund Accounts Payable in the amount of \$98,227.81. Mr. Lingle seconded the motion.

Vote: Mr. T. Moyer – yes Mr. Lingle – Yes Mr. R. Moyer – yes

Mr. R. Moyer moved to approve the accounts payable for the State Fund in the amount of \$11,422.36. Mr. Lingle seconded the motion.

Vote: Mr. T. Moyer – yes Mr. Lingle – Yes Mr. R. Moyer – yes

It was noted that the General Fund Accounts Receivables were \$65,460.08.

OLD BUSINESS

There was no old business for the agenda.

NEW BUSINESS

Surety Reduction for the Benner Pike Shopping Center: Mr. R. Moyer noted that the Benner Pike Shopping Center is requesting a surety reduction from \$875,738.81 to \$13,640.00. It was noted that this request has been reviewed by the Township Engineer and the paperwork has been found to be in order. Mr. R. Moyer moved to approve the reduction request. Mr. Lingle seconded the motion.

Vote: Mr. T. Moyer – yes Mr. Lingle – Yes Mr. R. Moyer – yes

Surety Reduction for the Village of Nittany Glen Phase IV: Mr. R. Moyer noted that the Village of Nittany Glen Phase IV is requesting a surety reduction from \$2,841,545.97 to \$443,446.60. Again, this request has been reviewed and approved by the Township Engineer. Mr. R. Moyer moved to approve. Mr. Lingle seconded the motion.

Vote: Mr. T. Moyer – yes Mr. Lingle – Yes Mr. R. Moyer – yes

RCS RP Land Development Plan Surety: Mr. R. Moyer noted that he will be excusing himself from acting on this document due to the fact that he has done work on this project.

Mr. Lingle moved to accept the surety agreement for the RCS RP Land Development in the amount \$32,560.00 that was approved by the Township Engineer for the remaining work to be done on the project. Mr. T. Moyer seconded the motion.

Vote: Mr. T. Moyer- yes Mr. Lingle – yes Mr. R. Moyer – abstained

Witmer Subdivision- Component I Sewage Planning Module: Mr. R. Moyer moved to approve the Component 1 Sewage Planning Module for the Witmer Dubin Subdivision lot addition. Mr. Lingle seconded the motion.

Vote: Mr. T. Moyer – yes Mr. Lingle – Yes Mr. R. Moyer – yes

Zoning Hearing Board Vacancy: Mr. R. Moyer noted that with the passing of Dan Hoffman, the Township is in need of a replacement on the Zoning Hearing Board. Mr. R. Moyer announced to the public if anyone knows of someone who would be willing to serve, to have them submit a letter of interest to the office.

Spring Benner Walker Joint Authority Appointment: Mr. Larry Lingle moved to appoint Bill Hughes to the remainder of Dan Hoffman’s term. He noted that he served on the Board previously and is willing to serve again. Mr. R. Moyer seconded the motion.

Vote: Mr. T. Moyer – yes Mr. Lingle – Yes Mr. R. Moyer – yes

Rezoning Request Hearing TD2 will begin at 8:00 p.m.

EXECUTIVE SESSION: It was noted that the Board will adjourn to and Executive Session to discuss litigation matters and will reconvene. The time was 7:08 p.m. The meeting reconvened at 7:24 p.m.

Rick Weyer: Mr. Weyer asked the Board if they knew of a status update on the public sewer extension. Mr. R. Moyer noted that he contacted Warren Miller to get an update. It was noted that the Environmental Hearing Board lawsuit has been dismissed. He noted that he thinks that the project is in the permitting process currently with the stream crossings, etc. Mr. Miller indicated that he thinks that it could be possible for people to be connecting in late 2024. Mr. Weyer questioned if he thought that it was possible if water could be brought at the same time. Mr. Moyer indicated that the kick off for DEP’s meeting for a waterline feasibility study is going to start on Wednesday. Mr. Moyer noted that finding a participating water supply could be the problem. Mr. Eby noted that the feasibility study needs to be completed first and DEP is funding that study. Mr. Eby noted that DEP wants it done and they are trying their best to make it happen. He noted that no matter who would possibly take this on that it will be a maintenance intensive proposition. Mr. Eby noted that this will take time.

Mr. Weyer questioned where they should go to get solid answers regarding the values of their properties. Mr. R. Moyer noted that DEP and the EPA will need to lead the way on this endeavor. But until additional questions are received we are kind of at a standstill.

Questions were asked if there was any update on finding a responsible party for the contamination. Mr. R. Moyer noted that the Board only has the updates that are provided to us by DEP. Mr. R. Moyer noted that this problem is bad throughout the country.

Mr. Lingle noted that he is on the Airport Authority Board and noted that DEP has sent out notices making businesses aware that an investigation is ensuing.

Mr. T. Moyer noted that he spoke with Cheryl SinClair from DEP and she put together a couple page question and answer sheet. Mr. Moyer gave his copy to a member of the audience.

Mr. Eby noted that currently DEP's mission is to get safe drinking water to residents first, investigating the cause will come later.

Questions were asked about who called this meeting this week. Mr. Eby noted that DEP called the meeting with their Engineering firm to start this investigation.

Mr. Weyer questioned what is the environmental impact with the soils being disturbed when the sewerline is installed. Mr. Weyer noted that he doesn't feel that there has been enough dialog with the neighborhood with this sewerline extension. He noted that he feels like they are just being told that you are getting a sewerline, here it is and you're getting it. Mr. R. Moyer noted that they should be attending the Spring Benner Walker Joint Authority for questions on the sewerline extension.

AGENDA AMENDMENT

Mr. R. Moyer moved to add the item of a Resolution to the Environmental Review Board hearing. Mr. Lingle seconded the motion.

Vote: Mr. T. Moyer – yes Mr. Lingle – Yes Mr. R. Moyer – yes

Mr. Beard reported that through discussions that took place in executive session that the township and Mr. Stocker have come to an agreement to resolve the litigation. It was noted that Mr. Stocker's counsel will draft the agreement for the settlement for signatures. Mr. Beard noted that the Supervisors now need to make a motion to approve the agreed upon amount that was discussed in Executive Session. Mr. R. Moyer moved to approve the amount that was discussed in the Executive Session. Mr. T. Moyer seconded the motion.

Vote: Mr. T. Moyer – yes Mr. Lingle – Yes Mr. R. Moyer – yes

Mr. R. Moyer moved to approve signing the settlement agreement before the deadline of February 17th. Mr. T. Moyer seconded the motion.

Vote: Mr. T. Moyer – yes Mr. Lingle – Yes Mr. R. Moyer – yes

Ms. Smeal questioned how would the residents know what this settlement is and how it was reached? Mr. Beard noted that it is subject to a right to know request. It isn't normally something that any party would normally want to be made public.

Ms. Smeal also questioned what the surety agreement reductions were about. Mr. R. Moyer noted that if items are not completed in land development plans the developers are required to post funds to insure that the funds are available to complete these necessary items incase the developer would go under. As the developer completes these necessary items it is common for them to ask that their amounts are reduced. The list of items and amounts are derived by the developer's engineer and then are reviewed and approved by the Township's Engineer. Mr. Lingle noted that the Supervisors wouldn't approve a reduction without the approval of the Township's Engineer. These would be for things like paving, stormwater, etc.

Mr. Cable questioned if the Supervisors have questioned DEP about the findings of EDB in Mr. Stocker's well. They noted that they have not. Mr. R. Moyer noted that maybe it will be discussed on

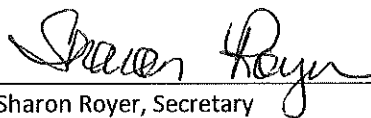
Wednesday. Mr. Beard noted that the correspondence related to 5. ii is an email from Cheryl Sinclair that states that these test results were forwarded by DEP to the Township at the request of Gene Stocker and that they are not PFAS related but were taken to track levels of a contaminant that was found in his well back in 2016, which was never able to be traced. A copy of the meeting packet was given to Christine Line.

CORRESPONDENCE

The Board acknowledged receipt of the following correspondence:

1. SBWJA Minutes –December 12, 2022 & January 9, 2023
2. Benner Township Water Authority Minutes of December 20, 2022
 - i. Key Points January 17, 2023
3. Centre County Planning Commission Letters
 - i. Commencement with Construction letter Greater Buffalo Run Valley UMC
 - ii. Comments on Rezoning Request Walker Township – Mark’s Custom Meats
 - iii. Notice of Benner Pike Shopping Center Phasing Schedule
 - iv. Notice of the Harvest Meadows Phasing Schedule
 - v. Time Extension Benner Pike Hotel
 - vi. Josh Chalfa Minor Land Development
4. Engineering Review Comments
 - i. Bellefonte Warehouse 3rd Review (Franson)
5. DEP Letters
 - i. Notice of Chapter 102 Permit ARL
 - ii. Gene Stocker’s Test Results
 - iii. PFAS Investigation Update
 - iv. PFAS Frequently asked questions
6. Penn State Aboveground Storage Downstream Notification
7. JJ Powell storage tanks Downstream Notification

The meeting was adjourned the time being 7:56 p.m.



Sharon Royer, Secretary

REZONING REQUEST FOR TD2, LLC
Tax Parcel 12-003, 160A
February 6, 2023

The hearing for the rezoning request for Tax Parcel 12-003,160A was called to order at 8:00 p.m. by the Chairman, Randy Moyer with members Larry Lingle and Tom Moyer present. Also in attendance were Rodney Beard, John Elnitksi, Kathy Evey, Susan Kempton, Kenny Kempton, Wes Reitz, John Middlesworth, Christine Line, Rick Weyer, Lee Copper, Terry Cable, Deb Smeal, Thomas Eby, Suzanne Weinstein, Roxanne Toto, Edward Galus and David Capperella.

Mr. Beard noted that a court stenographer is present and will swear everyone in that wants to speak this evening.

Mr. Beard noted that this hearing was advertised according to the Municipalities Planning Code in the Centre Daily Times on January 18, 2023 and January 25, 2023. The property was also posted as required by the Municipalities Planning Code.

Mrs. Boring swore those who planned to speak in the proceedings this evening.

Mr. Capperella noted that he purchased the property with the intention of developing a retail business on the property located at 116 Paradise Road which is 1.721 acres in size from Agriculture to Commercial. It was noted that the property it located at a signalized light.

Mr. Beard submitted into the record the following exhibits:

1. Rezoning Application, 2 pages dated 10/28/22
2. Aerial GIS photograph
3. A copy of the Deed for Tax parcel 12-003,160A
4. A copy of the legal advertisement
5. A letter dated 1/23/23 from the Centre County Planning Commission regarding the rezoning application.

Testimony was given by John Elnitski noting that he doesn't believe that action on this request should be rendered this evening due to the fact that Penn State and Clear Water Conservancy who holds a Conservation Easement on the Penn State property were not made aware of this request. Mr. Elnitski also questioned the method that this property was acquired and why it was not done publicly and not first offered to those in the area (Penn State, Game Commission).

Additional testimony was given and may be read in the transcription done by Boring Court Reporting, Inc. consisting of a total of 33 pages.

Mr. R. Moyer moved to approve the rezoning request of TD2 for tax parcel 12-003,160A from Ag to Commercial. Mr. Lingle seconded the motion.

Vote: Mr. T. Moyer – yes

Mr. Lingle – Yes

Mr. R. Moyer – yes

The hearing concluded the time being 8:30 p.m.



Sharon Royer, Secretary