

**BOARD OF SUPERVISORS  
MINUTES**

**June 23, 2020**

**CALL TO ORDER**

The Newberry Township Board of Supervisors held their regular meeting at the Township Municipal Building, 1915 Old Trail Road, Etners, PA. The meeting was called to order by Chairman David Kirkpatrick at 6:00 P.M. Chairman Kirkpatrick proceeded with the pledge to the flag. Present at the meeting were Vice-Chairman Maxine Kauffman, Supervisor Brandt Cook, Supervisor Clair Wintermyer, and Solicitor Andrew Miller. Not present, Supervisor Miller.

Chairman Kirkpatrick starts the meeting off announcing there were executive sessions May 19<sup>th</sup>, 21<sup>st</sup> to hold interviews for the Township Manager's position.

**PUBLIC COMMENT- Read by Chairman Kirkpatrick:**

**Jason Christine Dubbers Dr.** – Asks why it takes so long to get the board agenda and minutes posted on the township website, other townships in our area are so much faster and timely with this task. Chairman Kirkpatrick explained we are short-staffed in the office and in the process of hiring an office assistant so hopefully in the next couple of weeks we can get an assistant in place and have those tasks done faster. Mr. Christine's email also asks where he can get a copy of the audit report from last year. To which Chairman Kirkpatrick asks Solicitor Andy Miller whether Mr. Christine needs to do a right-to-know act request for this, Solicitor Miller responds yes if he'd like the township to supply a copy of it.

**Barbara Whitehead, Midway Rd.** – Please tell me when the audit for the public will be on the website or be available for an immediate download. Chairman Kirkpatrick answered, at this time we don't know, since Andrew Popp from Newberry Town Breaking News had to bring it up. We are required by Pennsylvania law to do an audit of our books, that audit was started before the Covid outbreak and there have been delays due to the outbreak. That audit is due to the State by July, however because of Covid that has been delayed and we will let every know when that audit is available. As for the other audit that Mr. Popp keeps bringing up on Newberry Town Breaking News, that cannot be addressed at this time due to the fact there is personnel and legal issues still involved with that audit. Once the legal issues are worked through, we will also make that audit available.

**Doug Beshore 25 Robert Paul Dr.-** Due to the past ongoing storm water runoff from Robert Paul Dr. causing erosion damage to my driveway and property along the sediment runoff to the neighbors property. Mr. Beshore would like to request a discussion evaluating my situation with the proper township representative. He further writes that he's reached out before with limited response and no action. After reviewing the townships stormwater management ordinance #388 he doesn't feel the township is practicing best management practices which are referred to

countless times in said ordinance. He states the final subdivision plan can be referenced for lot 2b1 Stone manor for an overview of his property.

Chairman Kirkpatrick states he will have the Highway dept. and township engineer get in touch with Mr. Beshore regarding this issue.

Chairman Kirkpatrick states this concludes the public comments received thus far.

### **MINUTES**

Motion made by Supervisor Wintermyer, seconded by Supervisor Cook, to approve the April meeting minutes from May 5, 2020 and the May meeting minutes on May 26, 2020 as well as the special meeting minutes from May 13, 2020. Vote on motion. 4 ayes. Motion carried.

### **REPORTS**

**Highway:** Scott provided a written report. Last month's current work and still ongoing, working on the base repair on Roxberry Rd. and Miller road. Will move onto Midway Rd. between York Haven & Cly and Church Rd. They are the two roads that need the most base repair done before the tar and chip later this year. Sink holes are being worked on as needed apprx. 2-3/week. Drainage and swales issues are being addressed as well. Mowing is coming along as well after some delay due to Covid-19. Lastly, the advance warning signs are up for River Rd. and Midway.

**Police:** Chief Lutz provided a written report and read the stats contained therein. Chief Lutz relayed that since his last in-person reporting, the police department went through the Pennsylvania Chiefs of Police Accreditation process in which the dept. was up for renewal. Their files were reviewed and everything was good. He stated they will also come to the station on July 18<sup>th</sup> to review the station and other files/standards that could not be addressed remotely. They have had their accreditation since 2004. Of the more than 250 agencies he believes there are about 80 that are accredited departments throughout the state. For the safety of the community, we will be cancelling national night out. The department was just awarded a grant for body cameras from the state, the next step is to order them and then the state reimburses the township for their portion. It is a fifty-fifty grant so they will give us \$16,000 and we will have to pay \$16,000. Chief Lutz warns there may be a delay in receiving the cameras ordered due to what is going on in society right now. He feels confident however, that the department will have them and implement them in the next couple of months.

The policy has been written and reviewed by the Pennsylvania Chiefs of Police and also a third party consultant to ensure it is compliance with the law and standards throughout the U.S. Lastly, three weeks ago Facebook was shut down, it has since been rectified and it can be accessed through the PD website [newberry.pd.org](http://newberry.pd.org) where the link will direct you to the new page.

Vice Chairman Kauffman asks Chief Lutz if the department has any body cams right now. The Chief answers yes, there are two that the department has been testing for the last 4 months. He added that they were not worn daily and were tested for how long they would last and how tough they were as well as how they would integrate with the department's current mobile recording system. Vice-Chairman Kauffman asked how long the department must keep the recording. Chief Lutz responded that currently under State law, there is no set time that the dept. must get

rid of the video footage of body worn cameras like there is for mobile video recordings. In the policy however, the Chief added day/time limits when they will or will not release (get rid of) the footage. The server size requirement to keep all the footage is prohibitive, so that is why he included the days/time limit retention excerpt in the policy which falls in line with the department's policy in keeping mobile video recordings. He further added that as of now, they plan to keep DUI arrests indefinitely and traffic stops will follow the law requirements. Chief Lutz stated that the body cameras merge with the officer's in-car camera so when downloaded, he can review both images simultaneously for a comprehensive look at the incident. He added that if other officers respond to the same incident, their body cameras will merge to allow for multiple perspectives as well. Supervisor Wintermyer inquired whether each officer will receive a body camera or just the officers on duty. Chief Lutz answered that since the department was getting the grant for this purchase, he decided to order one for each officer. He feels personal accountability for the equipment will aid in the care and maintenance as well as ease of tracking video documentation.

**Fire & EMS:** provided written reports.

**Zoning:** Jeff provided a written report- nothing further to add.

Supervisor Wintermyer states he'd like to keep everyone informed regarding Paddletown Rd. Jeff Martz, Zoning and Codes officer- states he's contacted York County Conservation and that with Covid-19 they have been working remotely. He was advised by the county that they were going to coordinate with DEP regarding that property because the DEP has enforcement on it because we haven't gotten a response back from the property owner. Supervisor Wintermyer added that the township can't do anything until the DEP finishes their reporting and finds. Jeff concurred that no improvements may be made to the road until we get the approval from DEP and the county. Township engineer Bill Rudy stated he received a call from RJ Fisher's office that they were going to look into that. Jeff stated they would be about the fifth engineering company that has called in the last year. They reach out to various engineers to start projects, but they are not completed. The house building process has been going on about seven years, they do have an outstanding building permit but there hasn't been any activity on it other than trying to control some of the storm water drain run-off.

Supervisor Wintermyer asked about Susquehanna Riding and the ATV issue. Solicitor Andy Miller states he has not had a chance to look into this. Jeff added that there was a riding trail built into the subdivision when the plan was approved. It was designated specifically for horses. No motorized vehicles, just foot traffic or horses. The township was contacted by the HOA stating they were under the impression that they can use it for ATV's, motorized vehicles etc. He adds that there is a comment in the recorded subdivision that says no motorized vehicles permitted. Jeff stated he reached out to the township engineer and the solicitor regarding this, because they are going to have to come back to the board and possibly the planning commission because it is recorded and now they want to change it. Jeff added that he let the president of the HOA know he would get back to her, the township can't intervene when there is a recorded document saying it can't be done. The HOA has retained an attorney and they will need to look into getting that wording changed in the recorded document. Supervisor Cook asks if this is enforceable as it stands now. Engineer Bill Rudy answers that it is a recorded document in the subdivision plan,

Solicitor Miller also answers that it would be enforceable by the township under the subdivision ordinance and would also probably be found in the HOA documents thereby also enforceable by the HOA. Chairman Kirkpatrick states the township can't send the police out there for this issue. Solicitor Miller continues that it would not be a criminal violation; it would be a zoning violation addressed at the township. He also comments that if the note is on the plan the township can cite any homeowners and if in the HOA documents the HOA can also cite. Supervisor Wintermyer asks whether the HOA needs the township's approval to make changes to their HOA. Solicitor Miller states the HOA can make changes without approval, but he doesn't know what these HOA documents say. Typically, when they do an HOA as part of a subdivision, the ordinance says initial HOA documents do require township approval. When his office reviews these ordinances, there are certain provisions they want to see that would allow the township to maintain storm water facilities, make other public improvements, and rights to place municipal liens on properties for any work done. In general, revisions to the HOA documents do not require township approval. However, any revisions done to the HOA documents that is contra to the subdivision plan that those come back to the board for approval. He further states that this change in particular would probably need to be brought to the board for approval.

Supervisor Wintermyer announces that Save Rite got their new vent system installed, which made a big difference. Jeff Martz adds that he and Bill Rudy met with them and their engineer at the beginning of the month and they are coming up with an as built plan so we can get a better lay out of the as built. Also, they are going to start looking into the other things that need to be addressed per zoning that was required.

**Solicitor:** Andrew Miller provided a written report. He went on to highlight a few of the topics. He met with Jane and went over various accounts within the Township. He is working on a summary of that meeting to present to the board. Also, he updated on a couple ordinances that have been discussed. He leaves them up to the board to bring up if they want to move forward as they are not on the agenda for this meeting.

Vice-Chairman Kauffman brought up York Traditions bank taking over some of the township accounts and that they have a municipal department. She would like the township to see what they have to offer. Solicitor Miller defers to the board for a decision on that as he has no preference or opinion which bank the township uses. He advises that a resolution will be required if any accounts are moved appointing the new bank as an authorized depository institution and ensure that proper collateral is in place for those accounts following the same process we've done with Member's 1<sup>st</sup> and other banks. Vice-Chairman Kauffman clarified she just would like to have York Traditions bank come in to talk about what they have to offer and then the board could make a decision. Vice-Chairman states she will have them reach out to Jane.

Vice-Chairman Kauffman addressed a question to Jeff Martz stating she heard from Tom Powers who said he called Jeff about a chicken permit. Jeff replied that he got an email from him as well and that he (Mr. Powers) wants the board to waive the requirements. The ordinance requires a minimum of a half an acre allowing up to six hens. Mr. Powers is under the half acre requirement, he (Jeff) believes his lot is .38. Jeff advised the resident that he would need to ask the board for this exception. Jeff further adds that if the board does approve this exception then the township might as well get rid of this ordinance. General consensus amongst the board was that this would not be a good idea.

**Engineer:** Bill Rudy provided a written report. Traffic signal updates, for Old Trail and 83 Southbound Ramp and Old Trail and Pines Rd. 83 Northbound ramp, He received the estimate back from Percs \$2,625.00 which is under the estimate for re-timing of those two signals that were approved through Penn Dot. His office received an email from the county saying if want to put process on hold due to Covid-19 and traffic not being normal that would be okay. Pennoni's recommendation is to move forward with the re-timing. There is a two-step process after perc does re-timing Penn Dot with go out with the county and Pennoni and make sure the re-timing was done correctly. Later once traffic is back to normal, the county has it in their budget for a traffic engineer who is also Pennoni, to go out and verify it is working as intended. Mr. Rudy is asking for authorization to do the re-timing. Motion made by Supervisor Wintermyer, seconded by Supervisor Cook to authorize the re-timing of the two traffic signals at Old Trail and 83 Southbound Ramp and Old Trail and Pines Rd. 83 Northbound ramp. Vote on motion. 4 ayes. Motion carried.

**Sewer Department:** Brent Zeiders provided a written report. Brent also requests permission to solicit quotes for approximately 150' of fencing. Over the last couple of years, with the DEP inspection of the plant it has been suggested the plant enclose the pole building and propane tank. Brent would like to move the power gate outside of pole barn so once fenced it is all enclosed and secure. It is not mandatory, but a suggestion. He states there is money in the budget for capital improvements that won't be spent this year and feels it is the right time to get quotes. Chairman Kirkpatrick asks that when quotes are received to let Chief Lutz know because he also needs fencing. Brent asked for recommendation on fence companies to contact.

Supervisor Wintermyer asked Brent about the Exxon gas station and what they need in order to sell fried chicken. Brent answered that the business currently is tied into the sewer with a 300-gallon grinder pump. What he needs is to put in a 1000 gallon concrete outside grease tank. Brent further adds that they came in about 6 months ago to ask that a smaller tank be allowed, and the board denied this request. Supervisor Wintermyer asked if there was a reason for this size requirement. Brent answered that it is in the ordinance or rates, rules and regulations about anyone producing grease or high B.O.D that they need to have a 1000 gallon outside concrete grease tank. Engineer Bill Rudy comments that people don't regularly dump those and asks Brent if he does inspections on them. Brent answered yes, he inspects all of them in the township and tries to do it twice a year for both indoor and outdoor ones. Bill Rudy adds that this size requirement is not uncommon amongst the various municipalities he's worked with.

**Treasurer:** Jane Deamer provided a written report. Jane highlighted her report. She states that we will continue to monitor the earned income tax. There may be a decrease in liquid fuels income that the township normally gets. Kudos to Tom Alstead for receiving the grant for the EMA Trailer. The audit began in January and then Covid-19 happened so the firm performing the annual audit is behind. The QuickBooks version the township utilizes is approaching the end of its life cycle. She is hoping to upgrade the system in the next year. She is attempting to recover some money via grants available to the township for money spent in response to the Coronavirus. Lastly, she is looking into a community block grant that was used years ago for the highway to make repairs to some roads within the township. The township will be making annual

bond payments for the township and the sewer dept. in the next few weeks. Jane relays that it was suggested by the insurance company to create a safety committee.

**Manager:** None.

**Supervisors:** Chairman Kirkpatrick announces that an offer was made, and the applicant subsequently turned the offer down for the position of Township Manager. The board will need to discuss the plan moving forward probably in an executive session. He adds that it has been previously disclosed that the township will be looking to hire an office assistant to replace Christie.

Chairman Kirkpatrick asked if it's ok to get rid of the office vehicle that Jeff was using. Supervisor Wintermyer asked if the police department gets the money from the sale, yes, answered Chairman Kirkpatrick. Supervisor Wintermyer stated he's ok with that. Chairman Kirkpatrick asks Vice-Chairman Kauffman if she is ok with it and she answers yes. Then directed Chief Steve Lutz to put the vehicle on Municibid for sale.

### **OLD BUSINESS**

Hold off on Noise ordinance until an open meeting is available for the residents

### **NEW BUSINESS**

**Approve resolution 2020-15- Grant application PEMA/FEMA for recovery of funds spent for Covid-19 protection.** Motion made by Supervisor Cook, seconded by Supervisor Wintermyer to approve resolution 2020-15. Vote on motion. 4 ayes. Motion carried.

**Approve resolution 2020-16 – Dept. of Justice Grant for the police department two laptops.** Motion made by Supervisor Wintermyer, seconded by Supervisor Cook to approve resolution 2020-16. Vote on motion. 4 ayes. Motion carried.

**Approve resolution 2020-17 - Janney- Change signers to current BOS and add Jane Deamer**

Motion made by Supervisor Cook, seconded by Supervisor Wintermyer to approve resolution 2020-17. Vote on motion. 4 ayes. Motion carried.

### **SUBDIVISION AND LAND DEVELOPMENT**

**None.**

### **PAYMENT OF BILLS**

Motion made by Vice-Chairman Kauffman, seconded by Supervisor Cook, to approve payment of bills as listed: (67319-67384) (1031-1033) (2031-2033) (3192-3197) (12480-12500)  
Vote on Motion. 4 ayes. Motion Carried.

### **EXECUTIVE SESSION**

The Board recessed to Executive Session at 6:52 P.M. To discuss personnel issues.

Reconvened from executive session at 7:55.

Motion made by Supervisor Wintermyer, seconded by Vice-Chairman Kauffman to make Jeff Martz full-time, and giving him a \$2.00/hour increase. Vote on motion. 4 ayes. Motion carried.

Vice Chairman Kauffman asked about making a motion for the part-time assistant for 16 hours/week @ \$10/hour for the summer. Motion made by Supervisor Cook, seconded by Vice-Chairman Kauffman to hire a part-time assistant @ \$10/hour. Vote on motion. 4 ayes. Motion carried.

### **ADJOURNMENT**

Motion made by Supervisor Cook, seconded by Vice-Chairman Kauffman to adjourn the June, 23<sup>rd</sup>, 2020 Board of Supervisors Meeting. Vote on Motion. 4 Ayes. Motion carried.

The Meeting was adjourned at 7:59 P.M.

Respectfully Submitted,