

## WAYNE TOWNSHIP MEETING NOVEMBER 19, 2018

The Wayne Township Board of Supervisors held a meeting on November 19, 2018 at 7:00 p.m. at the Wayne Township Municipal Building, with David W. Calhoun, James B. Maguire and Brad Rote present.

Those also in attendance: Rob Bowmaster of the Wayne Township Fire Company, Don White, Bobby Maguire, Carolyn Hanna, Linda Calhoun, Carl Bathurst, Marci Orndorf of the Wayne Township Landfill, Robin Condo, Mae Johnson, James Wark, Bob Johnson, Russ Johnson, Lorraine Shemory, Terry Condo, Marie Cramer, John Segursky, P.E. of Uni-Tec, Peggy Fanning, Zoning Officer Paula Kibler, and Paul D. Welch, Jr., Esquire

### **Public Participation**

#### **Mae Johnson**

Mae Johnson complimented the work done on Shoemaker Road by Charles Construction at the end of the lane leading to their property as far as getting the water to run into the inlet, however, during the last snow storm the drain was torn up by the Township snow plow and Mrs. Johnson requested the township make repairs because now the water does not run into the inlet.

Chairman Maguire said the Supervisors will look at the drain and inlet with regard to making repairs.

#### **Lorraine Shemory**

Lorraine Shemory said that she previously requested that the Supervisors consider her request to have trucks exiting H2O turn right rather than left onto Shoemaker Road as it is a shorter distance for trucks to travel. According to Mrs. Shemory, if trucks turn right (east) when exiting the H2O property, they would be travelling two-tenths of a mile and pass eleven (11) homes; if they turn left (west) travelling by her home, they travel one mile of the road and pass twenty-two (22) homes, stating she believes it is in the best interest of the township to have the trucks use the shortest length of the road.

Chairman Maguire said he believes there is a road bonding issue and a court order in place regulating the directions the trucks from H2O travel on Shoemaker Road and asked Solicitor Welch if the Supervisors have the authority to change the court order.

Solicitor Welch said the court order dealing with the conditional use for H2O did not deal with the issue of the direction of the truck traffic but dealt with the days and hours of operation.

Attorney Welch explained that should the Supervisors decide they would like to make changes to the conditions placed on the use of the property, they would have to notify the owner of the property for which the hearing was held and on which the conditions were placed, and the adjacent property owners, as they may have something to say about reopening the conditional use which would require a hearing before the Board of Supervisors.

Mrs. Shemory asked the Board to consider scheduling a hearing to change the condition placed on H2O regarding the direction of truck traffic exiting the property.

#### **Russell Johnson**

Russ Johnson reported that Charles Construction did not repair the area where his property adjoins Shoemaker Road and provided the Supervisors with pictures showing the grade and said that due to

the drop by the curb box which is about six inches higher than the road he was getting water in his basement so he hired another contractor to fill in, grade and pave the area.

The contractor provided him with the cost to bring the road back to its original condition prior to the Shoemaker Road Project and he presented that information to the Supervisors that included adding stone to area to bring it up to grade and chip and seal work for a total cost of \$2,540.

Russ also noted that the survey pins for his property also need to be put back in.

A discussion was held and it was noted that the work at the Johnson property was part of a change order and Charles Construction will be notified and given the opportunity to correct the problem noting the contractor was unable to complete the work due to weather conditions.

It was the consensus of the Board to contact Charles Construction about the problem.

The Supervisors also agreed to follow up with Rob Ohl, P.L.S. about having the survey pins put back in at the Johnson property and the property of Mary Prince.

### **Approval of Meeting Minutes**

Chairman Maguire asked if there were any questions or comments on the minutes of the October 15, 2018 meeting.

Chairman Maguire made a correction to Page 3 of the October minutes with regard to the McGinness subdivision, correcting the acreage of the parcel sold to 81.141 acres rather than 21 acres as stated in the minutes.

Supervisor Calhoun then made a motion to approve the minutes as corrected, seconded by Supervisor Rote, MCU.

### **Approval of Treasurer's Report**

Supervisor Calhoun made a motion to approve the Treasurer's Report as submitted; seconded by Supervisor Rote, MCU.

### **Police Report**

Pine Creek Township Police Chief Dave Winkleman was not present for the meeting.

### **Executive Session**

Chairman Maguire made a motion to hold an Executive Session at 7:20 pm to discuss legal matters; seconded by Supervisor Calhoun, MCU. The regular meeting was reconvened at 7:42 pm.

### **Zoning Officer's Report**

Zoning Officer Paula Kibler reported she has issued Business Licenses to the following businesses:

Wayne Township Landfill  
Schuchert Associates  
Bill Kellander General Contractor  
Chatham Village  
Yvonne Hughes, CPA  
Pine Mountain Dental  
Goodman's Arms  
Fresh Start Chiropractic

Raymonds Office Works  
H2O Express  
Restless Oaks Restaurant  
Big Woods Land Company  
Hunters Archery & Sporting Goods  
Bald Eagle Truck Stop  
TruckLite  
Highway Equipment

The following Land Use Permits were issued between October 16, 2018 and November 19, 2018:

Audrey Patterson - handicap accessible ramp  
Byron Seyler – detached garage  
Fawn Shaffer – fence  
Miles Houseknecht – loafing shed

### **Monthly Engineer's Report**

John Segursky, P.E. stated that final drawings have been submitted to the Supervisors for the Linnippi Village project, the plans include repairing settlement on Pocahontas Trail and installing a 15" storm water pipe from the existing inlet on Hiawatha Trail to the inlets on Linnippi Trail.

He explained that 230 x 8 ft. section of Pocahontas Trail would be milled out rolled in repaved with base and topped with 5 1/2 inches of material. He said Supervisor Maguire was to obtain a quote for that work and according to John, he is sure the repairs could be made for less than what is being proposed by Uni-Tec, which would be a permanent repair.

Mr. Segursky asked for authorization to advertise for bids for one or both projects.

Chairman Maguire presented the quote from Charles Construction for Pocahontas Trail in the amount of \$4,921.58 which would be to mill out a 2 ft. x 200 ft. area, tar coat and then place 2 inches 9.5 MM 6 ft. x 200 ft. wearing coat.

He said that the Supervisors had Pine Creek Municipal Authority video their lines and the storm drain on Pocahontas Trail to see if there was something coming into the drains causing the depression in the road and nothing was found.

Mr. Sugursky said he believes the depression was due to settlement over the sewer pipe that has occurred over time and he recommended the Board have Charles Construction proceed with making the temporary repairs to Pocahontas Trail this year.

Supervisor Calhoun made a motion to accept the quote from Charles Construction for repairs to Pocahontas Trail and to approve the advertisement for the storm water repairs on Hiawatha Trail; seconded by Supervisor Rote, MCU.

### **Recreation Committee Report**

Recreation Committee Member Don White reported that the Dark Wood Haunted Trail Walk/ Halloween Trunk & Treat held at the Nature Park was a success with 187 children attending the event.

A Woodland Creature Christmas Walk will be held at the Nature Park on December 9th from 2:00 pm to 3:30 pm.

Mr. White requested approval to purchase an electric heater for the mechanical room in the restroom facility at the ball field. The cost to purchase the electric heater from Denney Electric is \$118.12 and Don stated he would install the heater, explaining the heater is needed because there is no way to drain some of the systems in the mechanical room.

Chairman Maguire made a motion to approve purchasing the electric heater from Denney Electric; seconded by Supervisor Rote, MCU.

Don White also requested permission from the Board for the insertion order to place an advertisement in the 2019 Clinton County Economic Partnership Community Profile & Membership Directory. The one-half page vertical advertisement will cost \$799.

It was the consensus of the Board to approve the insertion order for the advertisement.

**Old Business:**

**Shemory Eminent Domain**

Based on discussions held during the Executive Session, Supervisor Rote made a motion that Solicitor Welch send a letter to Attorney Donald Faulkner accepting the Shemory settlement proposal; seconded by Supervisor Calhoun, the motion passed 2-1 with Supervisors Rote and Calhoun voting in favor of the motion and Supervisor Maguire voting against the motion.

**Snow Plowing Issue**

Supervisor Calhoun said it has been brought to his attention that individuals are using their own equipment to plow township roads and for liability reasons, stating if the roads are damaged the Township would not be responsible for the cost of the road repairs.

Chairman Maguire said that due to the depth of the snow, not only was there a skid steer on the road, there was also a backhoe clearing a number of driveways and pushing snow off the edge of the road as well as 4-wheelers plowing snow. He said he believes it was a case of individuals trying to help themselves as well as their neighbors.

**New Business:**

**Russell Johnson Conditional Use Determination**

The Board considered the Conditional Use request of H2O and after consideration of the information presented at the Public Hearing, the Board, upon motion duly made and seconded, determined that the subject real estate was located in the Village Center Zoning District and that the use requested, office space for a trucking business and possibly for an insurance company, was a Conditional Use allowable in that particular zone.

The Board unanimously determined, after motion and second, that:

- A. The proposed Use was compatible with existing and potential land uses on adjacent tracts;
- B. The specific site was an appropriate location for the use;
- C. The use would not adversely affect the neighbourhood;
- D. The use would not create undue nuisance or serious hazard to vehicles or pedestrians; and
- E. There were adequate and appropriate facilities for the use.

The Board also determined that there would not be any noise, glare or odor effects from the use and that ingress/egress through the property, off-street parking, waste collection, available of utilities, screening/buffering, signs and required yard/open spaces were not applicable. Said determination came via unanimous vote after motion and second.

The Board determined to place the following two (2) conditions upon the use.

The first condition imposed is that no trucks related to Mr. Johnson's trucking business will be parked on the premises for any great length of time and none overnight. Service utility trucks obviously could

park at the premises to provide whatever services may be needed during the time the service will be provided.

The second condition requires that Russell Johnson obeys all Federal, State, and Local statutes, ordinances, regulations and rules applicable to the use. Said condition was approved via motion, second and unanimous vote.

Finally, the Board determined, via unanimous vote, upon motion duly made and seconded, that the Solicitor issue a written opinion consistent with the Board's determination.

### **2019 Budget**

Supervisor Calhoun made a motion to approve the preliminary 2019 Budget as presented; seconded by Supervisor Rote, MCU.

### **Personnel Policy**

Supervisor Rote made a motion to adopt the revised Personnel Policy effective January 1, 2019; seconded by Supervisor Calhoun, MCU.

### **Vacant Auditor Position**

Secretary/Treasurer Darlene Macklem explained that there is a vacant Auditor's position for the Board to fill and also explained the function of the Board of Auditors.

The Second Class Township Code requires that Township Auditors to meet the day following the Township's Organization Meeting even though the Supervisors appointed a certified public accountant to audit the accounts of the township, the Auditors must meet to reorganize and elect a Chairman and Secretary and also determine the hourly rate paid to supervisors employed by the township in the event an increase is requested by the Board of Supervisors.

A discussion was held and it was the consensus of the Board that the vacant Auditor's position be advertised.

### **Charles Construction Pay Application #11 – Shoemaker Road Project**

The Board discussed Pay Application #11 in the amount of \$240,995 received from Charles Construction for the Shoemaker Road Project, noting that it is the final payment for the project.

Supervisor Calhoun said he was in favor of paying the invoice but wants to make sure that the problem at Russell Johnson's property will be taken care of.

Secretary/Treasurer Macklem stated that there is a retainage of \$3,218 under the contract and the repairs at the Johnson property total \$2,540 so the retainage would cover the cost of that work and in her opinion it would be acceptable to pay the application for payment.

Supervisor Calhoun made a motion to approve payment of Application #11 in the amount of \$240,995 to Charles Construction; seconded by Supervisor Rote, MCU.

### **Bob Maguire – Request to Change Zoning Map**

Bob Maguire indicated that on September 10, 2018 he submitted a written request to the Planning Commission requesting a zoning change for property on the north side of Reservoir Road, currently the properties are zoned Residential (R1) and the request is for the zoning to be changed to Highway Interchange (HI) stating that he owns one of the properties and the other two properties are owned by

Big Woods Land Company and Bill Bitner. The properties are bordered by the HI Zoning District on two sides and are serviced by public water, sewer, natural gas, and three phase electric.

He received a letter from the Planning Commission; a copy of which he provided to the Supervisors, and said that one of the statements in the letter is the Planning Commission would like to protect the neighbors to the south of Brittan Lane. So taking that into consideration, he then made a formal request to the Planning Commission the following month and last week he attended the November Planning Commission meeting and they suggested that he wait until the new Comprehensive Plan is in place and he is not willing to do that. Members of the Planning Commission also wanted to know exactly what he was going to do with regard to protecting the neighbors and that he told them that there are protections in place such as setback requirements and he would listen to any reasonable condition placed on the use of the property and used the trees being planted at the prison as an example.

Bob Maguire said the meeting digressed very quickly into personal attacks on him and it was a very aggressive meeting and at this point in time he has not made any progress with the Planning Commission and said HI is the highest and best use of the property and the zoning would fall in line with the Clinton County and Township's Comprehensive Plan.

According to Mr. Maguire, it was suggested that some members on the Planning Commission were unhappy with what happened with First Quality Warehouse Bldg. #10 and the height of the building and he felt that issue was being used against him.

He asked the Board of Supervisors what the next step would be as he believes the Planning Commission has treated him inappropriately. He added that he went to all the neighbors and advised them of his plans and it was suggested by one of the members of the Planning Commission that he forged Mr. Bitner's signature, and has supplied that individual with evidence that Mr. Bitner signed the application.

Mr. Maguire said when he talked with another neighbor, that individual asked to be enjoined in the request to have his property also rezoned to HI. In addition, Mr. Bitner had been previously contacted by TruckLite to sell a portion of his property and a zoning change would be required if TruckLite would decide to expand.

Terry Condo, Chairman of the Planning Commission, responded to Mr. Maguire's claims stating that the Planning Commission did receive a letter requesting that three properties be rezoned and they did not turn him down but asked for a few things. The Planning Commission asked for proof that Mr. Bitner wanted his property changed and the second thing asked for, that is very important to the Planning Commission and to Wayne Township, was how the neighboring properties would be protected.

The reason the Planning Commission feels very strongly about changing some of the properties to HI is what happened at the First Quality property and this is history of Wayne Township. At that time the property was RI and it was changed to LI and what happened was First Quality came in and built their building and no one could see what would happen to the adjoining property owners which were zoned R1. It was legal for First Quality to build the warehouse but the adjoining property owner is sitting there now with a 10 ft. bank beside them in R1, stating it is an atrocity that the Township did not see how that rezoning would affect the adjoining residential property.

The Planning Commission is supposed to plan for the township and believes that one property owner is just as important as 100 land owners and disagrees with Bob Maguire's statement that he does not have to do anything other than what is required in the Zoning Ordinance.

Chairman Maguire noted that he presented a letter of potential conflict of interest prior to the meeting stating he may have a conflict with some of the items discussed during the meeting, and went on to state that the Township has a Zoning Ordinance with setback requirements for all the zoning districts,

and there are no permitted uses in HI. If it is determined that setbacks need to be greater or other conditions need to be placed on the use of the property, then that is done at a conditional use hearing and at this point there has been no specific request made for the use of the property.

Terry Condo objected to Supervisor Maguire speaking on this matter as a Supervisor due to a conflict of interest as he is one of the landowners requesting the zoning change.

A discussion was held and Solicitor Welch provided input on the matter explaining that this matter should not be before the Planning Commission at this time, stating that a request to amend the zoning map may be made directly to the Board of Supervisors by an individual, a company or by the Planning Commission because the Supervisors are the ones who consider changing the zoning. When the Board receives a request they have the option of doing nothing or they can request the Solicitor prepare an ordinance to present to the Planning Commission for comment, and then a public hearing must be held to obtain input from the public. The Board of Supervisors may then vote on whether or not to change the zoning. If the zoning is changed, the property owner must then follow the requirements of the Township's zoning ordinance, stating it is premature of the Planning Commission to present input at this time.

The Municipal Planning Code states that if there is a zoning map amendment to be made the Board of Supervisors must have an ordinance prepared and then present it to the County and Township Planning Commission and allow 45 days for both entities to provide input on the proposal. At that point a public hearing must be held and after the Board holds a public hearing and receives input from the County Planning Commission and Wayne Township Planning Commission, the Supervisors may then consider the zoning request.

Solicitor Welch said Bob Maguire must present a proposal to the Board of Supervisors who may then decide to move forward or decide not to take any action on the request.

Bob Maguire then requested the Supervisors consider the proposal to change the zoning and requested an additional land owner be added to the request.

Solicitor Welch said he did not feel it was appropriate for Mr. Maguire to speak on behalf of someone else, stating the property owners should present information to the Supervisors on their own behalf rather than being dependent on one person. At that point Bob Maguire submitted a letter from James Wark requesting that his property be rezoned and said all three land owners signed off on the proposal with the exception of Mr. Wark who is present and can speak for himself. He also presented a statement from Bill Bitner indicating that it was his signature on the zoning request.

Supervisor Rote said he attended the October Planning Commission meeting and asked Terry Condo to clarify his position as stated during the meeting which was concern for the neighbors but generally in favor of the rezoning because it would help some of the property owners.

Terry Condo agreed with Supervisor Rote's statement.

Supervisor Rote said that protecting the adjoining property owners is his concern as well and asked if Mr. Maguire presents something from the neighbors that they are agreeable to the proposal whether the Planning Commission would move forward.

Terry Condo said he did not think it would be appropriate to answer that question, stating that is a question that should be answered by the Board of Supervisors.

Solicitor Welch clarified that the Planning Commission cannot act until they receive an ordinance that includes tax parcel numbers for the properties involved.

Supervisor Maguire asked if he could speak on the matter.

Solicitor Welch advised him that he could speak on the matter but could not vote adding that he would have the ability to vote if he submitted a letter of possible conflict of interest and there is a tie vote.

James Wark appeared and affirmed that he submitted a letter requesting that his property identified as Tax Parcel #02-01-0039-002 be rezoned from Residential to Highway Interchange.

Supervisor Rote made a motion that Solicitor Welch prepare an ordinance to amend the Zoning Map from R1 to HI for the four properties as requested; seconded by Supervisor Calhoun, the motion passed with Supervisors Rote and Calhoun voting in favor of the motion and Supervisor Maguire abstaining.

The Public Hearing was tentatively scheduled for January 7, 2019 at 6:00 pm.

### **TruGreen Contract**

The Board reviewed the TruGreen Contract for vegetation control services for the upcoming year with a total cost of \$2,957.00.

Supervisor Calhoun made a motion to approve the contract with TruGreen for vegetation control; seconded by Supervisor Rote, MCU.

### **Snow Removal Agreement – Central Filtration Water Authority**

The Board reviewed the proposed contract with the Central Clinton County Water Filtration Authority for the Township to provide snow removal services and noted the Township plowed snow for the Authority on November 15<sup>th</sup>.

Supervisor Calhoun made a motion to enter into the contract for snow removal with the Central Clinton County Water Filtration Authority retroactive to November 15, 2018; seconded by Supervisor Rote, MCU.

### **Change Orders for the Ball Field Project**

Supervisor Calhoun reported that there were change orders were for additional concrete at the dugouts for a handicapped walkway and from the electrician that eliminated light switches and installed light sensors in the restrooms.

The inspection by DCNR went well and the Township has until the end of December to submit the final grant documents to DCNR.

Supervisor Calhoun made a motion to approve change orders as submitted; seconded by Supervisor Rote, MCU.

Supervisor Calhoun then made a motion to approve payment to Jessica Sheets for the invoice dated November 18, 2018 in the amount of \$687.20; seconded by Supervisor Rote, MCU.

### **1987 Truck**

The Board approved advertising the 1987 Truck with snow plow and spreader for sale on Municibid and in The Express with a minimum bid of \$2,500 to be sold "as is".

### **Jersey Shore State Bank Line of Credit**

Secretary Treasurer Macklem updated the Board of Supervisors on the Jersey Shore State Bank Line of Credit used for the Shoemaker Road Project in that she has been in contact with Dave Gundy of



Jersey Shore State Bank and he is preparing paperwork to convert the line of credit into a term loan. The outstanding balance is approximately \$187,000 and the interest rate will be 1.43% for a 10 year term with the monthly payment being approximately \$1,887.00.

Also, the balance due on the PennVest Loan for the Linnwood Drive Project is \$93,867.94 and the last payment on the loan will be in May, 2023.

### **Rob Bowmaster – Wayne Township Fire Company**

Rob Bowmaster of the Wayne Township Fire Company asked the Board if they would be making a decision on the Fire Company's request made at the September meeting with regard to replacing two older pieces of equipment with a new piece of equipment estimated to cost between \$540,000 and \$550,000 and would require less man power.

Supervisor Maguire indicated that the Board of Supervisors still has not received the 2014, 2015, 2016 and 2017 audits from the fire company and it is a requirement that the township be provided with the audits before providing financial assistance to the fire company.

Mr. Bowmaster said that every time he comes before the Board of Supervisors there is an additional request of the fire company and asked why these requests could not be made at the same time.

Supervisor Rote said he just recently learned about NIMS requirement and that is why his request for the NIMS information was not made previously and said as the Board moves forward with the request from the Fire Company additional matters came to light.

Resident Linda Calhoun questioned why the Township did not request the audits from the fire company back in September when Mr. Bowmaster originally made the request for financial support to the Board and stated if the fire company is more than two years in arrears with providing their audits to the Supervisors that, "someone should have been on top of that."

Chairman Maguire stated that the Supervisors have not made a donation to the fire company for the last three years because they have not provided the Board with the audits.

Solicitor Welch suggested that if the Fire Company complied with the law and provided the audits they may get an answer from the Board.

Mr. Bowmaster said he was unaware of that law.

Solicitor Welch explained that the law is that the Fire Company must provide audits to the Supervisors before the Supervisors provide financial assistance to the Fire Company. The Supervisors have already made donations to the Fire Company in the past that were in violation of the law against his advice and the Fire Company has been advised as to the law requirements.

Chairman Maguire stated that every time there is a request for funding from the Fire Company the Supervisors request a copy of the audit and spent close to \$70,000 in prior years to pay for the fire company audits.

Chairman Maguire suggested that he and Rob Bowmaster participate in a conference call with Shearer Barnhart of PSATS who is heading up a program to enhance volunteer fire companies; adding it would be good for the fire company to hear what is being done at the state level to try to enhance volunteer fire companies.

Rob requested the NIMS information provided to Supervisor Rote be returned to him and when Secretary/Treasurer Macklem requested a copy of that information to provide it to the Township's EMS Coordinator, Mr. Bowmaster refused to provide a copy and responded that the EMS Coordinator should contact him directly.

**Invoices**

Chairman Maguire asked if there were any questions on the invoices.

Supervisor Calhoun questioned where the UPM road material purchased for the amount of \$4,267 was used.

Supervisor Maguire said it was placed on several roads, including Reservoir Road and the Pine Mountain Road

Supervisor Calhoun made a motion to approve the invoices as submitted; seconded by Supervisor Rote, MCU.

**Adjournment**

There being no further business, Supervisor Maguire made a motion to adjourn the meeting; seconded by Supervisor Rote, MCU, and the meeting was adjourned at 9:00 p.m.

Respectfully submitted,

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Darlene S. Macklem  
Secretary/Treasurer

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James B. Maguire, Chairman

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David W. Calhoun

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Brad L. Rote

Supervisors

Financial Business – November 19, 2018:

General Fund Accounts:

First National Bank Checking	\$24,582.52	.65%
First National Bank – MM Acct.	\$36,572.48	1.30%
FNB – Linnwood Drive Project	\$ 3,755.44	.00%
Jersey Shore State Bank MM	\$ 8,581.66	1.05%
Jersey Shore State Bank CD	\$60,000.00	1.35%
Muncy Bank Money Market	\$194,550.34	2.75%
PLGIT – Checking	\$47,714.99	1.92%
PLGIT PLUS	\$ 6,630.90	1.97%
PLGIT – Sewer Fund	\$5,646.39	1.92%
Woodlands Checking Account	\$ 62,314.16	1.24%
Woodlands Certificate of Deposit	\$147,940.83	2.0%
Woodlands Bank – Act 13 Funds	\$1,506.43	.95%

State Fund Account:

PLGIT Checking	\$213,581.06	1.92%
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