

MINUTES OF MEETING OF TOWNSHIP OF PINE BOARD OF SUPERVISORS

Monday, May 4, 2009

Township of Pine Municipal Building

This meeting of the Township of Pine Board of Supervisors was called to order at 6:30 p.m. by Michael J. Dennehy, Chair.

PLEDGE OF ALLEGIANCE

ROLL CALL

Members in attendance were: Michael J. Dennehy, Chair; Philip D. Henry, Vice-Chair; Edward J. Owen; Frank J. Spagnolo; and Ed Holdcroft. Also in attendance were Gary Gushard, Solicitor; Cheryl N. Fischer, Township Manager; Scott D. Anderson, Assistant Manager; Larry A. Kurpakus, Director of Code Enforcement; Jack Fasick, Director of Public Works; and Pasquale Avolio and John Lombardo of the Planning Commission.

There were approximately twenty-five visitors present.

CORRESPONDENCE

Mrs. Fischer stated there was no additional correspondence.

PUBLIC COMMENT

There were no requests to address the Board of Supervisors at this time.

APPROVAL OF MINUTES

Motion was made by Mr. Henry and seconded by Mr. Holdcroft to approve the minutes of the Board of Supervisors meeting of April 6, 2009. The aye vote on the motion was unanimous. Motion carried.

FINANCIAL STATEMENT – March 2009

Motion was made by Mr. Owen and seconded by Mr. Spagnolo to approve the March 2009 Financial Statement and the payment of bills thereon. The aye vote on the motion was unanimous. Motion carried.

UNFINISHED BUSINESS

COMMUNITY CENTER SILVER SNEAKERS PROGRAM

Mrs. Fischer reminded that consideration of the Silver Sneakers agreement was tabled at the April 13, 2009 meeting for additional review. She advised that the Director of Parks and Recreation is now recommending approval of the American Healthways Services agreement for a Silver Sneakers program at the Community Center.

Mr. Henry questioned if the agreement can be terminated if found unsatisfactory.

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UNFINISHED BUSINESS

COMMUNITY CENTER SILVER SNEAKERS PROGRAM (Continued)

Mr. Gushard counseled that the agreement can be terminated, but a period of time is stipulated before a competing program could be utilized. Mr. Gushard then pointed out that the initial term of the agreement is to December 31, 2009.

Motion was made by Mr. Holdcroft and seconded by Mr. Spagnolo to execute a Healthways Provider Agreement with American Healthways Services, Inc., to provide fitness services, benefits and programs to eligible members at the Pine Community Center. The aye vote on the motion was unanimous. Motion carried.

Mr. Dennehy recommended that the availability of the program be widely advertised.

2009 LAWN MAINTENANCE

Mr. Dennehy referred to the minutes of the bid opening for 2009 Lawn Maintenance and pointed out that the Gleaming Gutter Company was the low bidder.

Mrs. Fischer noted that positive references were obtained.

Motion was made by Mr. Spagnolo and seconded by Mr. Henry to award the contract for 2009 Lawn Maintenance to the Gleaming Gutter Company in the amount of \$193.00 per cutting (not including the cemetery on Twin Oak Drive) and \$20.00 for four cuttings of the Twin Oak Cemetery area. The aye vote on the motion was unanimous. Motion carried.

CUSTODIAL CONTRACT

Mr. Dennehy referred to the custodial bids and pointed out that Coverall Health-Based Cleaning System was the low bidder.

Mrs. Fischer reminded that a part-time employee is currently cleaning the Community Center and the Director of Parks and Recreation feels that is sufficient at this time.

Mr. Gushard counseled that the bid appears to include both the Municipal Building and the Community Center combined, or each building separately.

Motion was made by Mr. Spagnolo and seconded by Mr. Henry to award the 2009 Custodial Contract for the Municipal Building to Coverall Health-Based Cleaning System in the amount of \$230.00 per month, or \$19.00 per hour, conditioned upon evidence of required insurance coverage. The aye vote on the motion was unanimous. Motion carried.

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UNFINISHED BUSINESS

HIGHCROFT LEARNING CENTER

Mr. William Hansen, President of the Highcroft Board of Trustees, expressed his appreciation to Mr. Kurpakus for explaining the Township Code requirements. Mr. Hansen stated that it appears 2009 season concerns will not be possible, although he is seeking some degree of understanding for 2010 concerts. Mr. Hansen expressed his understanding that the Highcroft agreement remains valid, although they may need to meet with the Solicitor in an attempt to amend it. He expressed his opinion that the Highcroft Learning Center will be a valuable asset to the Township and asked that some type of accord be reached. Mr. Hansen stated that finances are a tremendous issue and it was their hope to work out an agreement to permit three concerts in the summer of 2010 to raise funds to construct the learning center.

Mr. Dennehy questioned if their request to hold concerts in 2009 is withdrawn, which Mr. Hansen confirmed. Mr. Dennehy questioned if the Highcroft Board of Trustees intends to fulfill the conditions of the original approval.

Mr. Hansen confirmed that they do intend to meet all the conditions at some point, although their legal counsel, Frank Salpietro, feels there is a need to revisit that agreement.

Mr. Owen questioned if the agreement could be amended without it then being subject to the current Code.

Mr. Kurpakus addressed the possibilities of amending the Code or accepting application under an existing Code provision for special events.

Mr. Lombardo reported his recent visit to the site. He recommended that a third party engineer inspect the existing stage.

Mr. Holdcroft questioned if sanitary facilities and lights were present to which Mr. Lombardo replied negatively.

Mr. Henry questioned why the concerts couldn't be held at the high school or in the Community Park.

Ms. Kimberly Nussbaum, Highcroft Board of Trustee, remarked that the aesthetic qualities of Highcroft are what originally attracted her, although she would not oppose the temporary setting of the Community Park for their concerts.

Mr. Spagnolo questioned if there are nearby residents to the Highcroft amphitheatre who may be offended by the music.

Ms. Nussbaum advised the Prybys are across the street at 697 Mt. Pleasant Road and the Boudreau house is behind the site.

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UNFINISHED BUSINESS

HIGHCROFT LEARNING CENTER (Continued)

Mr. Hansen stated that the structural safety of the stage was not questioned at the Planning Commission meeting. He advised that the concerts will occur between 7:00 and 8:30 p.m. and will not be offensive to adjoining properties.

Mr. Dennehy suggested they continue working toward planning their 2010 season. He explained that the Supervisors feel the plan concept is admirable, but there is nothing before them at this time on which they can vote.

COOPERATIVE AGREEMENT

Mr. Gushard reported his preparation of the required ordinance to permit the Township to reimburse Marshall Township for paving of the short section of Mt. Pleasant Road in Pine.

Motion was made by Mr. Spagnolo and seconded by Mr. Henry to authorize advertisement of an ordinance to execute a cooperative Road Repair Agreement with Marshall Township, for resurfacing of Pine's portion of Mt. Pleasant Road. The aye vote on the motion was unanimous. Motion carried.

NEW BUSINESS

ICHIBAN CUISINE

Mr. Gushard counseled that the Pennsylvania Liquor Control Act requires that a municipality considering accepting the transfer of a liquor license must hold a public hearing to determine that the transfer will not be detrimental.

Motion was made by Mr. Owen and seconded by Mr. Holdcroft to open a Public Hearing to consider the inter-municipal transfer of a liquor license for Ichiban Cuisine, Inc., at 1500 Village Run Road. The aye vote on the motion was unanimous. Motion carried.

Mr. Gregory Szallar, Flaherty & O'Hara, distributed information on the Ichiban Cuisine restaurants which seats approximately 130 patrons. He provided background information on the owner, who also operates similar facilities in Cranberry Township, the Waterworks Mall, and Robinson Towne Centre. Mr. Szallar clarified that alcohol sales will serve as a compliment to the serving of food. He specified that there will be no takeout of alcohol and no entertainment and all servers will receive Responsible Alcohol Training Program certification.

Mr. Gushard questioned if there would be any outside dining, to which Mr. Szallar responded negatively.

Mr. Dennehy opened the Public Hearing to public comment with no requests to address the issue.

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NEW BUSINESS

ICHIBAN CUISINE (Continued)

Motion was made by Mr. Owen and seconded by Mr. Spagnolo to close the Public Hearing for consideration of an inter-municipal restaurant liquor license transfer for Ichiban Cuisine, Inc. The aye vote on the motion was unanimous. Motion carried.

Motion was made by Mr. Henry and seconded by Mr. Holdcroft to enact Resolution 797, approving a request for the proposed transfer by Ichiban Cuisine, Inc., of Pennsylvania Liquor Control Board restaurant liquor license R-16482 into the Township from the City of Pittsburgh, pursuant to act 141 of 2000. The aye vote on the motion was unanimous. Motion carried.

GIANT EAGLE LIQUOR LICENSE

Motion was made by Mr. Henry and seconded by Mr. Spagnolo to open the Public Hearing for the consideration of an inter-municipal liquor license transfer for Giant Eagle, 155 Towne Center Drive. The aye vote on the motion was unanimous. Motion carried.

Mr. Stanley Wolowski, Flaherty & O'Hara, requested that Pine approve the inter-municipal transfer of a restaurant liquor license for use at 155 Towne Centre Drive to provide the convenience of beer sale to their customers. He counseled that the Pennsylvania Liquor Code permits the transfer of a license from one municipality to another as long as the receiving municipality approves the transfer by passing a resolution. Mr. Wolowski provided the history and operation of Giant Eagle. He then noted that the liquor license is a full restaurant liquor license and Giant Eagle will meet and exceed all Liquor Control Board requirements. He advised that several modifications to the existing structure will be made and that area will remain as a restaurant use with approximately 45 employees who will all receive extension training. He specified that beer will only be sold in the restaurant area between 10 a.m. and 9 p.m., there will be no music or entertainment, there will be no beer displays outside of the restaurant, and consumption will be restricted to the restaurant. Mr. Wolowski stated that beer sales will not negatively affect the municipality.

Mr. Dennehy questioned if the alcohol sales would be limited to beer and Mr. Wolowski replied that sales would be limited to beer at this time.

Mrs. Linda Chomos, Wexford Beer, requested to address her objection to the transfer.

Mr. Wolowski counseled that the Pennsylvania Liquor Code only recognizes objections of municipality residents.

Mr. Gushard agreed, but pointed out that the Township charter provides for business consideration also.

Mrs. Chomas questioned if the grocery customers would be required to purchase food items at the restaurant checkout.

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NEW BUSINESS

GIANT EAGLE LIQUOR LICENSE (Continued)

Mr. Wolowski replied that prepared foods can be paid for at either the restaurant or grocery checkout.

Mrs. Chomos stated that Pennsylvania law prohibits the sale of alcohol in a grocery store. She asked that the transfer be denied as she felt Giant Eagle's proposal is clearly an attempt to evade that law. Mrs. Chomos expressed her opinion that the sale of beer should remain in a controlled environment. She pointed out that a restaurant liquor license will permit sales from 7:00 a.m. to 2:00 a.m. and clerks will have limited training and may be easily persuaded to sell to minors. Mrs. Chomos asked that the Board deny the license transfer in the interest of Township citizens.

Mr. Andy Chomos, Wexford Beer, stated that permitting Giant Eagle to sell beer will have an adverse affect on the community and on small business owners. He stated there are currently five beer distributors in the Township and another is not needed. Mr. Chomos added that the issue, at hand, is bigger than it appears.

Mr. Spagnolo questioned if Wexford Beer sells cases or six packs of beer.

Mr. Wolowski clarified that distributors are restricted to selling by the case and Giant Eagle would be restricted to two six packs per sale. He stated that Giant Eagle is not circumventing the law as their licensure became legal in 2008.

Mrs. Chomos stated the licensure has been appealed to the Pennsylvania Supreme Court.

Mr. Owen remarked that their objections were reasonable and the Township sympathizes, but they can only base their denial on whether the transfer will be detrimental to Township residents. Mr. Owen noted that the Board will be reviewing the Business Gross Receipt tax later this year in view of the current market to assist small business.

Motion was made by Mr. Owen and seconded by Mr. Spagnolo to close the Public Hearing for consideration of an inter-municipal liquor license transfer for Giant Eagle, 155 Towne Center Drive. The aye vote on the motion was unanimous. Motion carried.

Mr. Chomos asked that the Board evaluate what is needed in Pine Township. He stated that the Township has the opportunity to deny the request at this time.

Motion was made by Mr. Owen and seconded by Mr. Holdcroft to enact Resolution 798, approving a request for the transfer by Giant Eagle, Inc. of Pennsylvania Liquor Control Board Restaurant Liquor License R-13059 into the Township of Pine (within the "Village at Pine" development) from the Borough of Swissvale, pursuant to Act 141 of 2000. As there was not a consensus, a roll call vote was taken with Mr. Spagnolo voting aye, Mr. Dennehy voting aye, Mr. Owen voting aye, Mr. Holdcroft voting aye, and Mr. Henry abstaining. Motion carried.

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NEW BUSINESS

RESOLUTION 799

Mr. Anderson explained that Resolution 799 will authorize the filing of an application for funding assistance for the pedestrian improvements at the future Wexford Fire Station.

Motion was made by Mr. Spagnolo and seconded by Mr. Owen to enact Resolution 799, requesting a grant from the Allegheny County Economic Development Community Infrastructure and Tourism Board, requiring matching funds. The aye vote on the motion was unanimous. Motion carried.

SPORRER LAND DEVELOPMENT PLAN

Mr. Kurpakus reported that the Sporrer Land Development Plan, approved June 18, 2007, was not recorded with the Allegheny County Department of Real Estate within the required 90 days and the applicant is therefore requesting re-approval.

Motion was made by Mr. Spagnolo and seconded by Mr. Henry to grant preliminary and final approval of the Sporrer Land Development Plan, with all conditions of the June 18, 2007 approval. The aye vote on the motion was unanimous. Motion carried.

LUDWIG LAND DEVELOPMENT PLAN

Mr. Kurpakus reported that the Ludwig Subdivision Plan proposes the two lot subdivision of approximately 100 acres fronting on Babcock Boulevard, with transfer of Parcel "A" of 75 acres to the Allegheny Land Trust.

Mr. Avolio provided the Planning Commission's recommendation for preliminary and final approval of the Ludwig Subdivision Plan with the following conditions: 1) Compliance with the April 7, 2009 review of Lennon Smith Souleret Engineering. 2) Recorded plan to delineate the location and required setbacks of the well and septic field on Lot 1. 3) Plan to indicate a 50 foot right-of-way on all public streets adjoining the plan.

Motion was made by Mr. Henry and seconded by Mr. Spagnolo to grant preliminary and final approval of the Ludwig Subdivision Plan, pursuant to Drawings 1, 2, and 3, drawn by Tait Engineering on March 2, 2009 and revised April 1, 2009 with the following conditions: 1) Compliance with the April 7, 2009 review of Lennon Smith Souleret Engineering. 2) Recorded plan to delineate the location and required setbacks of the well and septic field on Lot 1. 3) Plan to indicate a 50 foot right-of-way on all public streets adjoining the plan. The aye vote on the motion was unanimous. Motion carried.

COMMUNITY PARK RESTROOM PLUMBING BID

Mr. Dennehy referred to the minutes of the bid opening for the Community Park restroom fixtures and pointed out that Plumbers Equipment was the low bidder.

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NEW BUSINESS

COMMUNITY PARK RESTROOM PLUMBING BID (Continued)

Motion was made by Mr. Henry and seconded by Mr. Holdcroft to purchase Community Park restroom fixtures from Plumbers Equipment in the amount of \$5,650.17. The aye vote on the motion was unanimous. Motion carried.

COMMUNITY CENTER FINANCING

Mr. Dennehy reported that after reviewing bank note proposals for refinancing the Community Center loan, it is evident that the existing loan is preferable, therefore requiring no action from the Board.

WEXFORD VOLUNTEER FIRE COMPANY EVENT AUTHORIZATION

Motion was made by Mr. Holdcroft and seconded by Mr. Owen to authorize the Wexford Volunteer Fire Company to attend the following events: April 25, 2009 – Parkvale Bank for Community Banking Week activities; May 6, 2009 – Wexford Elementary School Health Fair; May 14 through 17 – Fireman’s Convention; May 22, 2009 – Northway Christian Community Car Cruise; May 25, 2009 – Adams Township Memorial Day Parade; May 28, 2009 – McKnight Elementary School Picnic at the North Park Lodge. The aye vote on the motion was unanimous. Motion carried.

Mr. Henry asked that the Township residents be better educated to the fact that the Wexford Volunteer Fire Company serves and is funded by the Township of Pine.

WEXFORD VOLUNTEER FIRE COMPANY SUPPORT

Mr. Gushard counseled that authorization is needed to advertise for an ordinance to set the annual contribution to the Wexford Volunteer Fire Company as their financial support must be detailed for financing of the new station. He advised that the Board must determined specifics of the donations.

Motion was made by Mr. Henry and seconded by Mr. Holdcroft to authorize advertisement for an ordinance setting the annual contribution to the Wexford Volunteer Fire Company. The aye vote on the motion was unanimous. Motion carried.

BUSINESS GROSS RECEIPTS TAX

Mrs. Fischer reported that a recent e-mail complained about the Business Gross Receipts tax. She explained that the Township’s method of tax collection was established on Pennsylvania’s Tax Enabling Act.

The Board requested that Mrs. Fischer respond to the e-mail and provide a copy of that response to them.

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PENNSYLVANIA TURNPIKE PROJECT

Mr. Anderson reported that the Pennsylvania Turnpike Commission recently awarded a contract for Turnpike expansion through the Township. The project will include the removal of 1.3 million cubic yards of fill. Mr. Anderson questioned if the Board was interested in receiving fill adjacent to the Municipal Building to lessen the grade difference with the building and provide for possible future expansion. Mr. Anderson explained that engineering review would be needed.

The Board was agreeable to explore the possibility of acceptance of a portion of the fill.

EXECUTIVE SESSION - Personnel

Motion was made by Mr. Holdcroft and seconded by Mr. Henry to conduct an Executive Session at 8:30 p.m. for the purpose of discussing personnel. The aye vote on the motion was unanimous. Motion carried.

Motion was made by Mr. Spagnolo and seconded by Mr. Henry to adjourn the Executive Session at 8:50 p.m.

REGULAR MEETING

Mr. Dennehy questioned Mr. Gushard if the prior Executive Session met the guidelines of the Sunshine Act and Mr. Gushard responded affirmatively, as the discussion related to personnel.

ADJOURNMENT

Motion was made by Mr. Holdcroft and seconded by Mr. Owen to adjourn. The aye vote was unanimous. Motion carried.

The meeting adjourned at 8:50 p.m.