

**West Donegal Township
Board of Supervisors Meeting
April 10, 2017**

The regular meeting of the Supervisors was held at 7:00 p.m. at the Township Municipal Building. Chairman, Roger Snyder called the meeting to order with the following Supervisors in attendance: Philip Dunn, John Yoder, Doug Hottenstein, and J. Clair Hilsher. Also in attendance were Zoning Officer, Wayne Miller; Township Manager, Gene Oldham; Roadmaster, Todd Garber; Office Manager, Jennifer Rabuck; Chief of NRLCPD, Mark Mayberry. Township Solicitor, Josele Cleary arrived at 7:08 pm.

- I. **Call Meeting to Order**
- II. **Pledge of Allegiance, Silent Prayer, Tape Announcement**
- III. **Roll Call of Supervisors – All Present**
- IV. **Approval of the March 27, 2017 Workshop Meeting Minutes** – Moved by Supervisor Yoder, seconded by Supervisor Dunn to approve the March 27, 2017 Workshop meeting minutes. Motion carried.
- V. **Public Hearing** – Crowe Realty, LLC requesting a change for 10.634 acres of land from General Commercial to General Industrial at 2388 North Market Street. **The public hearing was postponed until Solicitor Cleary could arrive due to traffic.**
- VI. **Public Comments** – Ralph Home, 1498 N Market Street – Inquired how the Code Enforcement Officer is making out in regards to his previous complaints against 521 Turnpike Road.
- VII. **Reports** - Moved by Supervisor Yoder, seconded by Supervisor Hottenstein to approve the monthly reports. Motion carried.
- VIII. **Consent Calendar**
 Moved by Supervisor Yoder, seconded by Supervisor Dunn to approve the following Consent Items A through C. Motion carried.
 - A. Approve the bid from Farhart Excavating, LLC for the Hess Road Culvert Replacement Project in the amount of \$193,399.50.
 - B. Approve the authorization to the Township Solicitor to: 1) prepare revised and consolidated Articles of Agreement for the NRLCPC; and 2) prepare and advertise the necessary ordinance, whereby the same is implemented in accordance with the recommendations proposed by the “NRLCPC Articles of Agreement Committee”.
 - C. Approve the proposal for survey services for the Moyer property from David Miller/Associates, Inc. in the amount of \$2,500.00.
- IX. **Actions**
 - A. Approve/Reject Ordinance 226/2017 an ordinance to amend the Code of Ordinances of the Township of West Donegal, Chapter 240, Zoning, by changing the zoning classification of a tract of land containing 42.698 acres more or less situated at 2388 North Market Street in the Township of West Donegal, Lancaster County, Pennsylvania from Part General Industrial (GI) District and part General Commercial (GC) District to General Industrial (GI) District. – **This item was postponed until Solicitor Cleary arrived and the hearing could be held.**
 - B. Moved by Supervisor Yoder, seconded by Supervisor Hottenstein to approve Bernard Brian Reidinger as a seasonal employee for snow removal at \$30.00/hour using Township equipment. Motion carried.
 - C. Moved by Supervisor Yoder, seconded by Supervisor Hottenstein to approve the purchase of a pick-up type bed for the 2005 GMC crew cab work truck, not to exceed \$4,000, with funds from the Capital Reserve Fund. Motion carried.

Solicitor Cleary arrived at 7:08 pm.

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- D. Moved by Supervisor Yoder, seconded by Supervisor Hilsher to approve the low bid from Rock Road Construction at \$231,900, for the Maytown Road Improvements Project, with the Township's portion to cost \$51,378.48. Motion carried.
- E. Moved by Supervisor Yoder, seconded by Supervisor Dunn to approve a change in the Capital Reserve Fund for the Maytown Road Improvements Project line item 430.745 from \$33,000 to \$55,000. Motion carried.

Public Hearing

Chairman Snyder opened the Public Hearing at 7:13 pm for Crowe Realty, LLC requesting a change for 10.634 acres of land from General Commercial to General Industrial at 2388 North Market Street.

Todd Smeigh, DC Gohn and Brian Crowe, Crowe Realty LLC were present to present their request for the rezoning of a portion of 2388 North Market Street. Mr. Smeigh gave an overview of the parcel in which he stated that a long time ago there was a store planned for this parcel when it was owned by Agway. Many years ago, Agway went out of business and Crowe Realty purchased the property. Since the Crowe's have owned it, it has been the main office for their warehousing, logistics, and trucking operations. The reason for the request is the Crowe's would like to continue their use and continue what their good at – warehousing - on the eastern side of their property immediately West of North Market Street. The parcel, which is part of the rezoning petition, is a little over 10.5 acres. Mr. Crowe and Mr. Smeigh met with the West Donegal Township Planning Commission in March and the Planning Commissions recommendation was to also include the area on the north side of Industrial Drive as part of the rezoning request. Brian and Lucinda own property on the Northside of Industrial Drive which was previously used for their trucking operations and is currently used by Seedway which is split between Industrial and Commercial zoning use. Mr. Smeigh stated he has seen the draft letter from Lancaster County Planning Commission, who was also going to make the same recommendations as the West Donegal Township Planning Commission to avoid a spot zoning of this little tiny island of General Commercial; so that way it keeps this whole section as Industrial Zoning. However, after research was conducted, it was discovered that the Crowe's do not own all of the property in this area to the Township line. There is a small portion of land that is split between Londonderry Township and West Donegal Township that is owned by another party.

Solicitor Cleary stated that the additional parcel that is being recommended to be added to the rezoning request was not a part of the original rezoning request ordinance. The Municipalities Planning Code requires that any proposed ordinance goes to the County and Township Planning Commissions. She stated that there is a Commonwealth Court decision that states if you add land to something you have to start the process over. Since the original request has already advertised it seems reasonable to keep going the way it was planned; the Township has the choice to rezone what was originally requested. Spot zoning, if anything, it would be reverse spot zoning. Generally what spot zoning is, is zoning a small portion of land, different from anything else and generally it's for the benefit of or detriment of the land owner. That lands been zoned General Commercial for quite a long time. The only persons who generally file spot zoning challenges are persons who either a) can't do what they want with their land and in this case it would have to be a reversion spot zoning challenge and b) or people who are unhappy that somethings been rezoned like the neighbors in the residential district when a small parcel is zoned commercial or industrial. So is there an argument that it is somehow reverse spot zoning, it would be a tough argument to make and she doesn't know, since portions of the parcel are wetland and undevelopable, what difference does it make if it's zoned commercial or industrial because you can't develop the wetlands. So therefore, the only one left to make the spot zoning challenge is Brian Crowe. In which Brian noted there wouldn't be a challenge.

Mr. Smeigh, stated that he just wanted to bring the exhibits so the Supervisors would know exactly what was going on in that little corner of the Township. He did not have that information with him at the Planning Commission and couldn't recall all the details. Once he really looked at it, he knew it wouldn't work anyway. That is the long and short of the request to rezone that portion of the land that is zoned General Commercial to Industrial to allow Brian Crowe to do what they do best, warehousing.

Manager Oldham stated that the Supervisors will see in their packets that the Lancaster County Planning Commission and the West Donegal Township Planning Commissions thought that would be a consideration. But after hearing what the property looked like and thinking Brian Crowe owns the whole piece there and it wouldn't be a big deal. But knowing now that he doesn't and from what Josele has said he thinks we should proceed with the original request.

Solicitor Cleary noted that maybe the next time the Township is cleaning up the zoning ordinance and the zoning map that the Township could just rezone that part. There is nothing that says a property owner has to ask for a property to be rezoned. But unless you do a cover to cover rewrite and a whole new map, if you rezone land you have to send the property owner 30 days' notice of the date, time, and place of the public hearing which couldn't be

done at this point for the land that isn't owned by the Crowe's. She doesn't see that it is a major issue to leave this section zoned as General Commercial; it is just something that can be cleaned up later.

Chairman Snyder asked for any questions from the public. Hearing none, Supervisor Yoder made a motion, seconded by Supervisor Dunn to close the hearing at 7:24 pm. Motion carried.

Moved by Supervisor Yoder, seconded by Supervisor Hottenstein to approve Ordinance 226/2017 an ordinance to amend the Code of Ordinances of the Township of West Donegal, Chapter 240, Zoning, by changing the zoning classification of a tract of land containing 42.698 acres more or less situated at 2388 North Market Street in the Township of West Donegal, Lancaster County, Pennsylvania from part General Industrial (GI) District and part General Commercial (GC) District to General Industrial (GI) District. Motion carried.

X. Discussion Items

- A. A request has been received regarding a possible 25 mph speed limit on Poplar Path. The Township should also look at White Pine and Redtail Drives. These streets are only 20 foot in width. Manager Oldham and Chief Mayberry will look into the situation and come back to the board with recommendations.
- B. Discussion and direction regarding the 2017 proposed resolutions, Bylaws change, and Nominations Report for the PSATS State Conference. It was noted that John Yoder will be representing the Township as the voting delegate at the conference and it was consented for him to make his best judgment in voting.
- C. Liquid Fuels Tax Fund Audit for the period of January 1, 2015 to December 31, 2015 by the Department of the Auditor General found the Township in conformity with the Pennsylvania Department of Transportation requirements.
- D. Request for closure of West Ridge Road for a wedding on June 3 from 2 pm to 11 pm at the Hilsher property at 1717 West Ridge Road. The sight distance is limited for 200+ guests. Discussion was held regarding guests crossing the roadway where there are two 90 degree turns. It was consented to allow the road closure as requested. Supervisor Hilsher abstained from discussion due to a conflict of interest.
- E. GEARS letter dated April 3, 2017 indicates the use of the lower level of the Township building for two camps August 7th to the 11th and August 14th to the 18th from 12:30 pm to 4:00 pm.
- F. Timber Villa Retirement Community – There was a request from a resident of Timber Villa Retirement Community for consideration of the Township providing the snow plow services. Discussion was held regarding the fact that the streets in the Timber Villa Community were not built to Township standards and therefore not dedicated and turned over to the Township. Manager Oldham and Roadmaster Garber drove the area and due to the lack of following Township standards the roads are narrow and there is no place for the plow trucks to turn around. Supervisor Hottenstein stated that even if he considered the request there would be a lot of conditions and he doesn't believe that it would be cheaper for the Township to plow the private streets. It was consented by the Supervisors that the Township will not plow the private streets of the Timber Villa Retirement Community.
- G. Harrisburg Avenue and Colebrook Road Intersection – Patti Becker submitted a letter of concern and suggestions for improved traffic control at the intersection. The Township suggests review by the North West Regional Police Department. Manager Oldham stated that the intersection is part of a state road with a portion also belonging to Mount Joy Township. Manager Oldham and Chief Mayberry will look into the concern.
- H. Spring Clean Up for Township residents will be held on Saturday, May 13, 2017 from 7:00 am to Noon. The Shredding Event will be held on Saturday, September 9, 2017 from 8am to Noon.
- I. There will be a Workshop meeting on April 24 to discuss MS4.
- J. Manager Oldham noted that during the heavy rains the front of the building in the meeting room leaked extensively. The road crew had recently sealed the front of the building around the window areas so the water is coming in from a higher area of the building. Employees climbed into the rafters

and believe the water is coming through the joints in the stone below the peak area of the roof. It was consented for Manager Oldham to obtain quotes for the meeting on the 24th.

XI. **Zoning**

A. Code Enforcement/Zoning Officer Miller stated that a shed has collapsed on a property in the Township. He has sent numerous letters to the property owner and has not heard back. It was consented to have an enforcement notice sent. Mr. Miller also handed out information that will be discussed at the 24th meeting.

XII. **Executive Session** – There will be an executive session following the meeting for a personnel matter. However, no action will be taken.

XIII. **Bills Payable (Final Unpaid List)** – Moved by Supervisor Yoder, seconded by Supervisor Hilsher to approve the bills payable. Motion carried.

XIV. **Adjourn** – Moved by Supervisor Yoder, seconded by Supervisor Dunn to adjourn the meeting at 7:50 pm. Motion carried.

Prepared by Jennifer Rabuck for

Philip Dunn, Secretary