

HEREFORD TOWNSHIP BOARD OF SUPERVISORS

April 5, 2022

Due to the COVID-19 Pandemic the regular meeting of the Hereford Township Board of Supervisors was held via Zoom and in person. Those present were Supervisors John Membrino, Keith Masemore, Secretary/Treasurer Diane Hollenbach, Engineer Jennifer Van Dyke, Solicitor Eugene Orlando,

Guests: Joseph Brooke, David Hopkins, Bob Stockdale, Bill Weaver, Liz Nicholas, David Dunne, Chad Quinton, Jeff Ney, Kevin Schultz, Larry Iampietro, Matt Moyer, Steph & Bret Marks, Barbara Krasulak Snyder, Gary Snyder, Allison Louis, Thomas Spar, Matt & Jen Spangenberg, John Yanan, Cliff Kerchner, Caryl Pettijohn, Vic See, Zoom attendees: Tom O'Connor, Harlan Snyder, Candace Perry

Mr. Membrino called the meeting to order at 7:30 PM

MINUTES

Mr. Membrino made a motion and Mr. Masemore seconded approving the March 15, 2022, regular meeting minutes. All were in favor. Motion passed.

PAYMENT OF BILLS

Mr. Membrino made a motion and Mr. Masemore seconded to pay the bills and approve the Treasurer's bill list. All were in favor. Motion passed.

WORK CREW REPORT

Mr. Masemore reported the road crew worked on replacing inlets on Old Mill Road, patching potholes, and getting ready for the upcoming roadwork. The township failed to win the bid for a used belt loader. Joseph Brooks of Crow Road asked the Board what was being done about the poor condition of Log House Road, Crow Road, Township Road, and Five Points Road. Mr. Masemore stated that Five Points will be paved this year, and he will speak to the road foreman about Log House Road where it meets Seisholtzville Road. John Yanan of Sigmund Road asked if there were plans for the millings from the roadwork. Mr. Masemore stated that they are reused in the base.

ENGINEER

Arborist Work Update

Ms. Van Dyke reported that the draft bid package for Hollyberry Road tree removal had been circulated for comments. Solicitor Orlando will review the bid package so the Board may act at the April 19th meeting. No further work has been done by the arborist since March when he completed Quadrants 1 and 4. The arborist will not do Quadrants 2 and 3 until letters are sent on the work already completed. Ms. Van Dyke asked for the Board's thoughts on the drafts she circulated today.

Public Comment on the Arborist Work

Larry Iampietro of Five Points Road stated the sixteen graffiti marked trees on his property, some of which are live trees, are along the Met-ed powerline and will require a crane to remove. There have been storms recently with 40 and 60 mph winds and not one branch was lost from the trees. Met-ed spent a week last year trimming along the power lines and only cut little twigs.

John Yanan of Sigmund Road spoke with the Met-ed forester. Met-ed is on a two-to-four-year cycle, and there were only two to three trees that concerned the forester. Mr. Yanan discussed a live poplar tree next to the road that was marked. He asked if the Board would modify or discard the ordinance or if a petition needs to be brought to the board. Mr. Membrino responded that to overturn the

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ordinance, we would have to say the trees are not dangerous and are not in danger of falling, but the trees are dangerous, and the dead ash trees will fall.

Comments made by members of the audience who did not identify themselves:

- An act of God has been turned into a liability.
- In the past, utility companies maintained their rights of way meticulously. Now they wait for the trees to fall because they are overwhelmed with work.
- The ordinance covers all township properties. Why isn't the arborist marking trees along the state roads? Mr. Membrino stated the Board decided to concentrate on township roads at this time.

Bill Weaver of Wetzel Road commented that during a subdivision process in the past, the Township required him to expand the township right of way from twenty-five feet to fifty feet. Now he is expected to maintain the township's right of way.

Cliff Kerchner of Hollyberry Road did not understand why the Board is addressing township roads and not state roads. He asked what happens if a new Board of Supervisors take office, follows the ordinance, and puts liens on people's properties. He also did not want his taxes to pay to cut other people's trees down. This could increase taxes. Mr. Masemore responded that one option could be to do a bond to cover the cost of the tree removal. Mr. Kerchner asked if the trees will be removed or let lay after they are cut down because removal is a big expense. Once they are on the ground, they are not dangerous anymore. Mr. Membrino clarified that the ordinance allows a lien to be put on properties only after the township cuts the trees down and the property owner does not reimburse the township for the work. Mr. Kerchner stated with the rate of inflation and the price of gas, a lot of folks are struggling to pay their property taxes and cannot afford to take down trees as well.

Victor See of Township Road asked about the letters notifying residents of the dangerous trees on their property. Mr. Membrino stated that the letter will identify the kind of tree, the size and level of danger. Property owners will have six months to remove the trees identified. Mr. See asked if the Board is choosing to not change the ordinance. Mr. Membrino stated that is correct. Mr. See spoke to Matt Ferdock of Weaver Road. Mr. Ferdock has hired a legal team and was waiting for this Supervisors' meeting to see if changes would be made to the ordinance or if it would be necessary to file a lawsuit against the township and arborist for trespass, damage to property, and violating his Constitutional rights. He felt there has been no discussion for options or compromise. Mr. Ferdock's lawyer will speak to the Township Solicitor.

David Dunne of Sigmund Road asked who gave the arborist permission to go thirty feet onto his property. Trees that were marked, if they fall, will be stopped by other trees. Mr. Membrino explained that the original bid asked the arborist to mark the fall zone and after hearing from residents, the Board asked the arborist to stop doing that. Mr. Dunne asked that the arborist "unmark" the trees and suggested that the trees simply be topped instead of requiring that the whole tree be cut down to mitigate some of the cost. Mr. Dunne asked why tiny saplings were marked. Mr. Membrino stated that once a property owner receives their letter, they may submit a plan of action for review and topping trees sounds like it would be acceptable.

Kevin Schultz of Stein Road questioned the ordinance and the Board's expectations for property owners to inspect their trees on a schedule. He hoped the Board realized the liability put on the property owners by this ordinance.

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Comments made by members of the audience who did not identify themselves:

- Expressed disbelief that the Board was changing the rules after trees were marked in two quadrants and disbelief that the arborist would spend the time to create a spreadsheet for every tree he marked.
- It was asked why the Board could not wait for the trees to fall on their own and did not see the dead trees as a safety concern. Why is it a safety concern now when it was not in the past.
- Who would be liable if a tree in the right of way falls on a car?
- Is there a legal basis for the ordinance? Mr. Membrino stated that the Township Code allows the Board to adopt the ordinance.
- Have other townships done ordinances like this. A member of the audience stated that Saucon Valley had such an ordinance.
- What is the Board going to do about the red marks on the trees? The paint does not come off easily.
- Since the Board is changing the arborist's instructions and he will no longer be going thirty feet onto private property, will those trees already marked in Quadrants 1 and 4 be removed from the property owner's list. Mr. Membrino stated that they could still be included so the property owner has the information.
- Comments were made regarding ownership and responsibility of road right of way. The question was asked why the property owner was now responsible for removing trees in the township right of way when there is no substantial evidence that these trees are a great danger.
- Why is this different from when the gypsy moth went through years ago and killed trees?

Mr. Membrino suggested that property owners start by removing the trees that were the easiest to take down first then get a quote for the more difficult trees that remain. The issue on Hollyberry is what brought the dangerous tree issue to light and started this process. The township will be taking care of the trees on Hollyberry and had to budget for it. The situation with the ash trees is that they are fragile and unpredictable. There can be no disagreement that the ash tree is dangerous. Mr. Masemore stated that the Board will allow roads to be closed to take down trees as long as the Township has at least three days' notice.

PERSONAL APPEARANCES

Allison Louis, the new executive director of the Upper Perkiomen Valley Chamber of Commerce introduced herself to the Board and thanked them for their ongoing support. She outlined some of the events and services such as the Perk Up business tours for 10th graders, scholarships, Hometown Hero Banners, the Business Expo and Job Fair on April 26th and the legislative lunch being held May 12th at the Green Lane Fire Company.

ZONING OFFICER

Ms. Van Dyke reported that the Zoning Officer will be investigating a car complaint at the end of the week. A stop work had been issued for work being done without a permit. A demolition permit has since been issued for that work.

SEWAGE ENFORCEMENT OFFICER

The Board reviewed a copy of the SEO report for March 2022.

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BUILDING INSPECTOR

The Board reviewed a copy of the Building Inspector's report for March 2022.

SOLICITER

Pine Tree Road Auction

Mr. Membrino made a motion and Mr. Masemore seconded adopting Resolution 09-2022 authorizing the chairman to complete the sale of tax parcel #52000000000028 off Pine Tree Road including satisfaction of municipal liens and signing of all deeds and other documents. All were in favor. Motion passed.

Wawa Sidewalk Easement – Mr. Orlando explained that HRES Hereford had proposed an easement for the maintenance of the sidewalk at the Wawa property that put the responsibility on the township. Ms. Van Dyke stated there is a SALDO requirement for sidewalk. Wawa did a fee in lieu of sidewalk for only a portion of the property. The Board instructed Mr. Orlando to contact the developer and let them know the township is not agreeing to maintain the sidewalk. Mr. Orlando suggested that a sidewalk maintenance and snow removal ordinance be considered as the Mixed-Use District develops.

Act 537 Plan Working Group – Mr. Orlando felt that the consultant would be ready soon to make a presentation to the Board. The current discussion on providing service to the public sewer district is on a positive track, and the township could end up where the infrastructure needed to provide service to the residents may not have to be paid for by the township or the residents.

SECRETARIES REPORT

Ms. Hollenbach reported that the items that the Board had asked her to address had been completed and the items from the audit had been taken care of as well. W9 forms had been mailed to vendors to assist with 1099 process. Mr. Masemore stated he would like to look at direct deposit for the employees.

UNFINISHED BUSINESS

Use of Tollgate Eco Park

Mr. Membrino made a motion and Mr. Masemore seconded to approve the use of Tollgate Eco Park for the Community Fish and Game annual children's fishing contest on May 14 and May 15, 2022. All were in favor. Motion passed.

Mr. Membrino made a motion and Mr. Masemore seconded to authorize the Hereford Fire Police to provide traffic control on Sunday, May 15, 2022, from 9a.m. to 3p.m. at Hill Road and Tollgate Road for the annual children's fishing contest. All were in favor. Motion passed.

Ambler Bank Signature Cards

Mr. Membrino made a motion and Mr. Masemore seconded to authorize the Board to sign the signature cards and resolutions to update the signers on the Turkey Hill Holding Tank Account, Suburban Investment Holding Tank Account, Molls Garage Holding Tank Account, Jack R. Romig Holding Tank Account, Berks Properties Holding Tank Account, and the Hereford Township Certificate of Deposit. All were in favor. Motion passed.

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NEW BUSINESS

Reallocate Unbudgeted Funds in the State Liquid Fuel Account

Mr. Membrino made a motion and Mr. Masemore seconded to adopt Resolution 10-2022 restating the allocation of funds in the 2022 State Liquid Fuel Budget. All were in favor. Motion passed.

Camp Serranova Campground License

Mr. Membrino made a motion and Mr. Masemore seconded authorizing the Board of Supervisors to sign the Camp Serranova Campground License. Caryl Pettijohn of Hollyberry Road asked who may camp there and wanted to know how to protect his property that borders the camp. Jennifer VanDyke stated that it is a private campground, and they manage their own reservations. Hearing no further questions, all were in favor. Motion passed.

Add Employees to Insurance

Mr. Membrino made a motion and Mr. Masemore seconded to add Diane Hollenbach to the Life, Dental, Vision, Disability and Medical Insurance upon completion of sixty days of employment on April 7, 2022. All were in favor. Motion passed.

Mr. Membrino made a motion and Mr. Masemore seconded to add Richard Kohl to the Life, Dental, Vision, Disability and Medical Insurance upon completion of sixty days of employment on April 16, 2022. All were in favor. Motion passed.

PSATS Voting Delegate

Mr. Membrino made a motion and Mr. Masemore seconded to appoint Diane Hollenbach as the PSATS voting delegate. All were in favor. Motion passed.

MISCELLANEOUS CORRESPONDENCE- None

ADDITIONAL PUBLIC COMMENT

John Yanan clarified that the township would be asking for the removal of trees in the right of way only. Mr. Membrino state the Board has asked the arborist to stop marking trees outside the right of way and the trees leaning twenty degrees. Mr. Yanan asked the Board to remove those trees from the inventory. He did not want more liability than the other quadrants. Mr. Yanan asked if the residents could have a year to budget for the expense of the tree removal since the township took a year to budget for this. He also asked if the Board would do an addendum to the ordinance so the residents could dispute trees. Mr. Membrino stated that you can dispute the marked trees. The arborist will meet and have an individual conversation with the property owner.

The question was asked if the other types of trees could be removed from the ordinance and only deal with the ash trees. Mr. Membrino will consult with the arborist.

Who is determining who owns a tree and what will be done about a property line dispute? Mr. Membrino stated that the arborist is using GPS and GIS. Ms. Van Dyke will have the data overlaid on the Berks County Assessment Map.

Bill Weaver asked why state roads are exempt and pointed out two poplars on St. Peters Road that are dangerous because people have hit them, and there was a fatality. Mr. Membrino stated the township is not doing the state roads at this time. It is the state's responsibility to do something about

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their right of way. The question was asked if that wouldn't make the township right of way the township's responsibility.

Cliff Kerchner asked if the definition of the word dangerous is in the ordinance. Mr. Membrino stated that a dead tree is considered dangerous, and an ash tree is considered dangerous because of the ash borer. The twenty-degree leaning tree has been eliminated unless it is dead.

A question was asked if anyone had thought to apply for a federal grant.

Matt Moyer of Township Road asked how the property owners protect themselves from the liability because prior to the ordinance and marking, if a tree fell and caused a fatality, it was an act of God. He felt that the cost of removing the trees was an unfair burden. He asked if it was possible to get rid of the ordinance. Mr. Membrino stated it was possible, but he was not in favor of it. Mr. Moyer asked what the steps were to get rid of the ordinance.

Kevin Schultz asked that the Board get done what needed to be done without having it in writing.

Thomas Spaar asked what happens if he cuts a tree down and it lands on Mr. Membrino's property. Or what about a property owner involved in a feud and a tree is cut down and falls on their neighbor's property.

David Dunne stated that the Board's action has put the township in a higher liability bracket that will cause more problems down the road and cost more money.

There being no further business, Mr. Membrino made a motion and Mr. Masemore seconded to adjourn at 8:55 PM. All were in favor. Motion passed. Steph Marks asked to make additional public comment not about the tree issue.

Mr. Membrino made a motion and Mr. Masemore seconded to rescind the motion adjourning the meeting. All were in favor. Motion passed.

PUBLIC COMMENT

Steph Marks of Spring Hill Road asked about the changes coming to Orthaus Road. She stated storm water comes out of the field and dumps into the back of their property. Storm water has flooded their shed and the back of the house. Ms. Marks is hearing that the property will be developed on Orthaus Road and is willing to allow drainage or pipes to come through their property at 79 Spring Hill Road. Mr. Masemore stated that storm water is reviewed by the Township Engineer before a plan was approved.

There being no further business, Mr. Membrino made a motion and Mr. Masemore seconded to adjourn at 8:57 PM. All were in favor. Motion passed.

Respectfully Submitted,

Diane Hollenbach, Secretary/Treasurer