

MINUTES NOVEMBER 3, 2021
UPPER NAZARETH TOWNSHIP BOARD OF SUPERVISORS

Meeting called to order at 7:00 p.m. by Chairman Mike Rinker. The meeting was live streamed for anyone wishing to hear.

Pledge of Allegiance

Board members present were: Mike Rinker, Robert Disbrow, Scott Sylvainus, and Kristin Mullen. Donna Hirst participated virtually.

Also present were Township Solicitor, Gary Asteak, Manager, Lisa Klem, and Treasurer, Betty Parrish. Township Engineer, Sean Dooley, participated virtually.

Attorney Asteak stated the Township learned a few days ago that a lawsuit had been filed by Faust Family Limited Partnership II with action to quiet title that was filed in connection with various properties and over 300 residents named as defendants. No one, including the Township, had been served with the pleading and in doing research, it was learned that the Court had granted the plaintiff the right to serve the pleading by publication. This means that everyone would have only learned about it by reading it in the classified section of the Express Times. With that in mind, and after receiving a copy of the complaint from one of our residents who had a problem with a refinance because of the pending lawsuit, Attorney Pierce, who is the attorney that filed the lawsuit, was requested to appear this evening, and explain to the Board exactly what this lawsuit is about. A similar action was filed about 3 years ago, whereby the Township only found out about the lawsuit from a resident. In that case the Court denied the motion to only publish notification in the newspaper, which meant all residents named in the lawsuit would have to be served individually, and the action was terminated. Attorney Asteak asked Attorney Pierce to please explain this action.

Attorney Al Pierce stated in 1905 a person named Rabenold filed the East End Improvement Plan of Lots. That plan covers every property between West Street and what would have been East Street which is basically the boundary of the school property. There were 700 some lots in Mr. Rabenold's plan. In 1905 a lot was 30' x 125' and fronted on what would have been the main streets and backed on an alley. The plan didn't get built, but West Street, Mt. Vernon, Friedenstahl, Center Streets are all on the plan and are where they were meant to be. Looking at the plan, you will see the streets were to run north to south, east to west, the full boundary of the property. The Faust Property is 4th Street and West Street. The purpose of the quiet title action is to quiet the title in West Street, which is a 30' paper street, to quiet the title in half of 2nd Street, which is a paper street and the southern boundary of the apartment, and Wood Street, which is the alley between West Street and Mt. Vernon. The order says advertise for the people distant from the property, serve for the properties within 200 feet. This has absolutely no practical meaning to anyone other than the residents in the one block of Mt. Vernon that share Wood Street with the apartments. What is does legally is deny everyone the right to drive on West Street that doesn't exist, but in theory, every property owner in those original lots has the right to drive on the streets. The only way to eliminate that is to a quiet title. In 1987 a quiet title action was filed for the lots across from the Faust Property.

Township resident Candace Keller stated the residents were told there were liens placed on their properties. Attorney Pierce stated this is only a notice to the residents in the Rabenold plan that you are losing your right to drive on that portion of West Street that is near 4th Street by the school

and half of 2nd Street. Attorney Asteak stated Attorney Pierce is correct, it is not a lien against your property. When you see it in a title search, it does raise a question. This suit just extinguishes your right to use the streets that Attorney Pierce wants to acquire for his client as they lie adjacent to land his client owns.

Township resident Stephanie Dezzi stated she is the person that found out about this lawsuit, as during a refinance she was informed by Title 365, via email, that this is a quiet title action and is a serious matter. You will need a copy of the complaint filed on 9/14 and it is necessary to find out what the action is about. If anyone is going to sell or buy, it will be delayed.

Township resident Becky Bartlett stated there have now been 2 of these lawsuits and when applying for a loan it is perceived as being a lien as far as the bank is concerned. From our perspective, this is a lien. Attorney Pierce clarified if a judgement is filed against you, that is a lien, this is not. Ms. Bartlett stated permission was granted on September 17, 2021, to run an ad notifying everyone that this action was put in place. It's been more than 6 weeks and the action filed in 2018 was left open for over 250 days. That is way too long of time. If the complaint is read correctly, once the notice is published, those named in the lawsuit would have 20 days to respond at which time you would pull the quiet title. Attorney Pierce responded after 20 days a notice is sent for another 10 days, at which point the court issues an order. The order concludes the matter.

When the Township found out about this complaint, Attorney Asteak made his appearance on behalf of the Township as the Township was named, so judgement is not going to be entered quickly as the Township wants to know what the impact of this complaint is upon our public roads. The Township is not able to protect all of your individual personal rights and those who own property adjacent should consult their own attorney to get personal advice as to what the impact this had on you.

Mrs. Hirst stated this is the second time this has occurred, and this is Farmview specific. Mrs. Hirst is frustrated and upset about this as the only way anyone found out about the complaint was when someone was going through refinancing. That is not appropriate from a legal standpoint. How do we prevent this from happening again in the future? Attorney Asteak stated he would be speaking with the Board about the possibility of getting authorization for everyone to be served personally or some alternative means that a court would be satisfied with to make sure everyone gets a copy of the complaint. The Township cannot prevent people from filing lawsuits.

Township resident Lisa Lyon asked how we can prevent this from happening again in this shady manner, not from filing a lawsuit, as this was very shady, very underhanded. Ms. Lyon wanted to know why Attorney Pierce's client wants this property. Attorney Pierce responded that is the presumption. Mr. Sylvainus asked what was filed in the courthouse? Attorney Pierce responded the complaint. Mr. Sylvainus asked if this was the whole action? Attorney Pierce replied yes, it's the complaint of what they are trying to acquire quiet title to.

Township resident Bill Bartlett the issue most of us have is one of timing. Information allows us to protect our interests. You filed the action and to this point other than the electronic version several of us have seen, you did not notify us. Why was there the timing offset from when the action was filed and the information necessary to understand and protect our interests was or will be in a functional hard copy be provided. Attorney Pierce responded the action was supposed to be advertised but was not done quick enough. Mr. Rinker asked why it wasn't timely. Attorney Pierce responded it was just internal.

Attorney Asteak stated before the meeting is over, he will ask the Board to file a petition with the Court to strike the order that allows for publication.

Motion was made by Mr. Rinker and seconded by Mr. Disbrow to authorize Attorney Asteak to file a Petition to Vacate Order Authorizing Service by Publication. Motion carried by all voting aye. (5-0)

Ms. Lyon asked Attorney Asteak as to why he stated they should contact their individual attorneys regarding this issue. Attorney Asteak responded he could not give them legal advice. Mrs. Hirst asked who ultimately will decide if this paper alley goes away or not. Attorney Asteak responded the judge. If you wish to participate in these proceedings in Court, after you have been served the complaint, you can enter your appearance and be notified of future proceedings. Mrs. Hirst stated those residents that have property contiguous should get a lawyer to make sure their rights are protected. Attorney Asteak responded he would suggest they consult with a lawyer to see what their rights are.

COURTESEY OF THE FLOOR

Township resident Thomas Horan questioned why a variance was issued to the house on the corner of Friedenstahl Ave. and 3rd St. to move their mailbox and change their address from 3rd St. to Friedenstahl. The Board directed Mr. Horan to discuss the matter with the Township Zoning Officer.

Mr. James Cunningham, Upper Nazareth Township Library Rep. expressed is disappointment with the Township's lack of participation in the Library Touch-a-Truck. It was explained there was a lack of communication as the invitation to participate was not received prior to the deadline for responding. Mr. Sylvainus asked if the issue had been resolved. Mrs. Klem stated she has a good working relationship with the library and spoke with both Holly Bennett and the secretary to insure the miscommunication would not happen in the future.

APPROVALS

Motion was made by Robert Disbrow and seconded by Ms. Mullen to approve the agenda. Motion carried by all voting aye. (5-0)

Motion was made by Mr. Sylvainus and seconded by Mr. Rinker to approve the minutes of the October 6, 2021, meeting. Motion carried by all voting aye. (5-0)

Motion was made by Ms. Mullen and seconded by Mr. Sylvainus to approve payment of the bills. Motion carried by all voting aye. (5-0)

Motion was made by Mr. Rinker and seconded by Ms. Mullen to approve the September, 2021, Financial and Treasurer's Report. Motion carried by all voting aye. (5-0)

SUPERVISORS' COMMENTS

Mr. Rinker announced an Executive Session was held on October 25, 2021, and prior to the meeting for personnel and litigation purposes.

Motion was made by Mr. Disbrow and seconded by Mr. Sylvainus to approve Resolution No. 21-15 adopting the 2022 General Fund Budget. Motion carried by all voting aye. (5-0)

Motion was made by Mr. Disbrow and seconded by Ms. Mullen to approve Resolution No. 21-16 setting the 2022 Real Estate Tax Rate at 7.59 mills and the Special Library Tax at .60 mills. Motion carried by all voting aye. (5-0)

Motion was made by Mr. Disbrow and seconded by Mrs. Hirst to approve Resolution No. 21-17 setting the Act 511 Tax Rates for 2022. Motion carried by all voting aye. (5-0)

Motion was made by Mr. Disbrow and seconded by Mr. Rinker to approve the 2022 Liquid Fuels Budget. Motion carried by all voting aye. (5-0)

Motion was made by Mr. Disbrow and seconded by Mr. Sylvainus to approve the 2022 Recreation Budget. Motion carried by all voting aye. (5-0)

Motion was made by Mr. Sylvainus and seconded by Mr. Disbrow to approve the 2022 Library Tax Budget. Motion carried by all voting aye. (5-0)

Motion was made by Mr. Disbrow and seconded by Ms. Mullen to approve the Supplemental Appropriations for the 2021 Budget to include the ARP funding. Motion carried by all voting aye. (5-0)

TOWNSHIP ENGINEER

Nothing at this time.

TOWNSHIP SOLICITOR

Attorney Asteak requested approval to advertise a resolution appointing a CPA firm to conduct the 2021 audit.

Motion was made by Ms. Mullen and seconded by Mr. Disbrow to approve advertising a resolution appointing a CPA firm to conduct the 2021 audit. Motion carried by all voting aye. (5-0)

TOWNSHIP MANAGER/ADMINISTRATION

Mrs. Klem announced the 2021 3rd Quarter Police Pension Report was available for review.

Mrs. Klem requested approval to advertise the 2022 Re-Organization, BOS, PC, ZHB, REC and EAC Meeting dates. Mr. Sylvainus stated the Recreation Committee would like to change the time of their meeting to 7:00 pm.

Motion was made by Mr. Rinker and seconded by Mr. Disbrow to approve advertising the 2022 Re-Organization, BOS, PC, ZHB, REC, and EAC Meeting dates with a change in the time of the REC meetings to 7:00 pm. Motion carried by all voting aye. (5-0)

Mrs. Klem requested approval of the 2022 Holiday Schedule.

Motion was made by Mrs. Hirst and seconded by Mr. Sylvainus to approve the 2022 Holiday Schedule. Motion carried by all voting aye. (5-0)

Mrs. Klem spoke about the postage meter contract up for renewal and requested to try using stamps.com for the Township postage.

Motion was made by Ms. Mullen and seconded by Mr. Disbrow to not approve the postage meter contract with Quadient and using stamps.com. Motion carried by all voting aye. (5-0)

Mrs. Klem expressed the Township's thanks to Northampton County as the Township received 2 grants through NORCO one for 2 vehicles for a grant of \$50,000 and the second the Hotel Tax Grant in the amount of \$7,799 to be used for Community Days.

APPROVAL OF DEPARTMENT REPORTS

Motion was made by Mr. Sylvainus and seconded by Mr. Disbrow to approve the September, 2021 Fire, Police, Public Works, and Zoning reports. Motion carried by all voting aye. (5-0)

PLANNING & ZONING

Nothing currently.

PUBLIC WORKS

Nothing currently.

MS4

Nothing currently.

RECREATION

Motion was made by Mr. Disbrow and seconded by Ms. Mullen to approve Thursday, August 25, Friday, August 26, and Saturday, August 27, 2022, for Community Days. Motion carried by all voting aye. (5-0)

Mr. George Hasker of the Recreation Board stated an email was circulated pertaining to a Pickleball League. Mr. Hasker said it was agreed during the Rec Board Meeting the Recreation Committee would look at this further and come to the Board of Supervisors with more information.

Mr. Hasker said the Recreation Committee discussed having a place to get out announcements and get feedback from the community, so a Facebook page was set up. Mr. Rinker stated the problem is when using the Upper Nazareth Township name, it must be authorized by the Board. Mr. Rinker asked Attorney Asteak if there were any legal issues with having this Facebook page. Attorney Asteak stated there is no problem with having Facebook page if there are parameters with who is monitoring the activity of the Facebook page and what can be posted on the page. The Board of Supervisors should adopt some basic parameters on how it is being managed. Mr. Hasker stated when setting up a group there are certain rules in general, no profanity, no advertising, and only one person tried selling something which was blocked. Mr. Hasker encouraged the Board to join the

group so they could see what was being posted. Mrs. Klem stated the Facebook page is great for announcements. Attorney Asteak stated it should be limited to announcement and similar things and asked Mr. Hasker to bring a policy to the Board just listing the parameters. Mr. Rinker requested the Rec. Board prepare the policy to bring to the Board. Attorney Asteak suggested also including a minimum timeframe for someone on the Rec Board checking the page monitoring the appropriateness of the postings.

POLICE DEPARTMENT

Police Chief Cope stated he has resignation letters from 3 part-time officers.

Motion was made by Mr. Disbrow and seconded by Mr. Rinker to accept the resignation of part-time officers Sean Stark, Jaron Steinmetz, and Jeff Fritz. Motion carried by all voting aye. (5-0)

EMERGENCY MANAGEMENT

Nothing currently.

SAFETY COMMITTEE

Nothing currently.

FIRE DEPARTMENT

Fire Chief Jeff Fassel as if the Township has an ordinance in place dealing with nuisance alarms. Attorney Asteak and Mr. Sylvainus replied they thought there was, but the Township would investigate this further. If none exists, one could be written.

OLD BUSINESS

Nothing currently.

NEW BUSINESS

Nothing currently.

ADJOURNMENT

Motion was made by Mr. Disbrow and seconded by Mr. Sylvainus to adjourn at 8:24 p.m. Motion carried by all voting aye. (5-0)

Respectfully submitted,

*Betty Parrish
Recording Secretary*