Typed: December 11th, 2013

The regular monthly meeting of the Board of Supervisors of Cass Township was held **Thursday, November 26th, 2013** at 6:30 PM at the Township Municipal Building, Duncott, PA.

*Present at the meeting were the following:* Ann Marie Kellman DeFrank, Sharon Wentz, Tina Skibiel, Ashley Rogers, James Wentz, Bob Ryan, Bob Rizzardi, Rob Wentz Jr., Brian P. Canfield, and John Schumann.

Vice-Chairman C. Michael Kulpcavage called the meeting to order.

All recited the Pledge of Allegiance to the Flag.


Edward M. Brennan, Solicitor; present.

Evelyn J. Bergan – Administrative Assistant; present.

Cass Township Police Department – Officer Joseph Kavanaugh; present.

Mike states that the October 2013 meeting minutes are at your seats. Please review them and inform the Board by the end of this meeting if you feel there are changes necessary. Mike asked for a motion to accept the October 2013 minutes as typed. John make a motion. Mike seconds. Motion passed.

*Audience Discussion:* Please raise your hand; state your name & address for the record.

Tina Skibiel, Pine Knot – Asked for an update on the FEMA projects. John Walaitis states that all FEMA projects have been completed, and the four (4) Hazardous Mitigation Buy-Out Offer applications have been submitted and we are now awaiting a final answer. Tina then states that since Solicitor Brennan is in attendance, she is requesting a status update regarding the current lawsuit against the Township by Big Diamond Speedway, LLC due to the Amusement Tax issue.

Ed states that this is one of the items he intended to discuss this evening. He states that he has been conducting depositions - including Fritz Roehrig, Krista Roehrig, Jasmine Smulley, and Jake Smulley. He gives an overview of their business, stating that the Township has consistently monitored the attendance at the racetrack; and according to the receipts, Big Diamond Speedway, LLC has brought in over $700,000.00 gross profit this season alone – obviously they have expenses and deductions that will apply (i.e. concession stand sales are not subject to the tax). They admit they owe the Township tax payments from 2012, but they have not paid a penny in amusement tax payments for the year 2013.
The Roehrigs claim that they are required to pay the Township only 5% of attendance fees and they have an agreement with the Township Officials stating this fact. The Township's stance is that the Ordinance states 10% of attendance fees are to be collected, and they have verified that no documentation exists showing an agreement between the Board Members and the Roehrigs and their companies that would prove their claims to be true - so there is no question that the Racetrack owes the Township money. However, the issue will come into play as to whether or not the pits should be considered as attendance. The racetrack owners state that the pit attendance should not be considered - comparing baseball players versus racers in the pits. Ed states that scenario is inaccurate due to the fact that baseball players are being paid to come to a field and play in a game, as opposed to drivers and crews who pay to get into the pits to race their vehicles. This will be the argument in court. Ed goes on to state that the Township is permitted to have individuals present at the race events to count attendance. However, the counters have repeatedly indicated that they have been given a hard time by the owners of the racetrack while they were there doing their job.

Tina also states that they (the racetrack owners) have been paying this tax since the 1980's and now they are paying nothing. We have lost a lot of tax revenue over the past few years - we haven't had a tax increase in over 18 years, but because of this, our taxes may increase.

Ed then proceeds to provide an overview of how the business first started in 1976, and since then, has actually been run by three (3) different companies. First, upon starting the business known as Big Diamond Raceway, there were three (3) individuals who made up Cornwall Coal. Fritz Roehrig and two others leased the track (land) from Cornwall. Then, the land was sold to Fritz Roehrig, who ran it with his former wife Joanne, now divorced. Fritz and his current wife Krista then ran the racetrack, but ultimately leased it Buddy Biever, who, with two partners, formed a company and ran the racetrack for several years. The Roehrigs were paid $47,000 annually from Biever for rent, plus a percentage of the attendance. The Roehrigs then dropped the lease with Biever, and Fritz and Krista decided to run the track on their own again, creating Big Diamond Speedway, LLC. This would be the third company, and, to date, is still run as Big Diamond Speedway, LLC.

Ed goes on to state that, during his deposition with Jake Smulley, he discussed a press release that took place which stated that the Racetrack had been sold to Jake and that he is the new owner. Jake admitted during the deposition that the information is incorrect - the racetrack was not sold, and he is not the owner. Jake pays Fritz and Krista an amount per race. Ed then explains that if the amusement taxes (owed) were real estate taxes, the Township could place a lien on the property through the courthouse - as has been done with several other liens put against the Roehrigs for non-payment - i.e. IRS, etc. Ed states that the Township is clearly owed tax money for 2013 (estimated at $60,000+), in addition to monies owed for prior years, but the Roehrig's are not paying anything and they are taking a position they do not need to pay the tax. Therefore; the lawsuit will move forward.

Hearing no further questions or comments, Mike concludes the audience discussion and moves on to the items on the agenda for this evening.

Advertise 2014 Proposed Budget: Mike states that it's time to advertise and adopt the proposed budget. He explains that it is a balanced budget of $701,880.00 - a 2% increase over last year's budget. Mike states that unlike many other municipalities, the taxes have not been raised in Cass Township for over 18 years! Mike asked for a motion to advertise and adopt the 2014 proposed budget. John made the motion. Mike seconds. Motion passed. The Proposed Budget is on display in the Municipal Office for any resident who wishes to review it.
Resolution 2013-14 -- Adopt 2013 Schuylkill County Hazardous Mitigation Plan: Mike states this resolution is necessary to be completed by the Board and submitted to the Schuylkill County Emergency Management Agency (EMA), which will help make the Township eligible for grant funding for future disasters- and specifically relating to the Hazardous Mitigation Buy-Out Program. Mike asks for a motion to adopt Resolution 2013-14. John makes the motion. Mike seconds. Motion passed.

Resolution 2013-15 – Schuylkill Tax Committee Voting Delegate Appointment (2014): Mike states it is necessary at this time to appoint the delegates for 2014 and submit the resolution to the STCC. The appointments will be as follows: James A. Wentz - Primary Voting Delegate; John M. Walaitis - Alternate Voting Delegate; C. Michael Kulpcavage - Alternate Voting Delegate. Mike makes the motion to approve the appointment as discussed. John seconds. Motion passed.

Proposals For 2013 Township Annual Audit ($3,800) and Tax Collector Audit ($2,500): Mike states that the Board would like to take formal action this evening to accept the two proposals of Patton & Lettich Auditing Firm. The first is for our annual audit of the Township's financials for the year 2013 with a fee not to exceed $3,800. The other occurs every 4 years (follows each election year) and is an audit of the Tax Collector's financials with a fee not exceed $2,500. Mike asks for a motion to accept both proposals as stated. John makes the motion. Mike seconds. Motion passed.

Auditor Appointment – Ashley Rogers – Term to Expire 2017: Mike explains that since Joyce Cutler resigned from the auditor’s seat, the Board needs appoint an individual to fill the vacancy. Ashley Rogers submitted a letter of interest to the Board to serve as auditor. The Board would like to take formal action to accept her letter of intent and appoint Ashley to the seat of auditor with her term to expire in 2017. He asks for a motion to appoint Ashley Rogers to auditor position as discussed. John made the motion. Mike seconds. Motion passed. Mike then introduces Ashley to the audience.

Application Request for Payment, Line Avenue Culvert Replacement - $51,255.52: Mike explains we have received a request for payment from the contractor, and it is our engineer’s recommendation to pay it. Mike asks for a motion to approve the request for payment application in the amount of $51,255.52 payable to Donahue Excavation & Paving for Line Avenue Culvert Replacement Project. Mike asks for a motion to approve and pay the payment as discussed. John makes the motion. Mike seconds. Motion passed.

Application Request for Payment #1 - Forestville Playground Improvements - $23,522.81: Mike explains we have received a request for payment from the contractor, and it is our engineer’s recommendation to pay it. Mike asks for a motion to approve the request for payment application in the amount of $23,522.81 payable to E.A. Johnson Group Inc. for the Forestville Playground Improvements. Mike asks for a motion to approve payment as discussed. John makes the motion. Mike seconds. Motion passed.

Planning Commission – There was no November meeting.
There is one (1) submission – there will be a December PC Meeting on December 12th at 6:30 p.m.

Treasurer’s Report – Mike read the Treasurer’s Report. Mike asked for a motion to approve the report as read and to pay all outstanding bills. John made the motion. Mike seconds. Motion passed. *Reports are on file in the Municipal Office for review.
Police Report – Officer Joseph Kavanaugh read the November 2013 report. Mike makes a motion to accept the November report as read. John seconds. Motion passed. 
*Reports are on file in the Police Department for review.

Correspondence – None.

Road Foreman Report – John read the report. He also makes note that we are continuing to have street signs stolen and it is costing taxpayers and the Township a lot of money since the signs are not cheap! Anyone that sees vandalism, theft, or knows anything about it is asked to call the police and report it. Mike makes a motion to accept the report. John seconds. Motion passed.
*Reports are on file in the Municipal Office for review.

OLD / NEW Business – Mike states that we received a Notice to Proceed for the Forestville Playground Lighting Project which has been awarded to J.B. Electric Corporation – final completion date for this project is March 31st, 2014. Mike gives an overview of the engineer’s report – stating all projects are moving forward. Mike states that Kyle Kehoe continues to work on permitting and code enforcement issues, as well as, property maintenance. Chris Madera is handling registration and inspections for rental properties.

SOLICITOR’S UPDATES:

Solicitor Brennan takes a moment to give an update on a few, additional ongoing issues.

Donahue Paving & Excavation / Line Avenue Culvert Project: Ed explains that Martin Donahue was the sole proprietor of the business that was performing the FEMA related work for this project. He recently passed away unexpectedly and did not have a will in place. Martin’s family is now setting up an estate as necessary since it is their wishes to finish the project. Ed states that he is working with our engineer, as well as, the attorney representing the family to resolve any issues that arise regarding this matter.

Floodplain Ordinance: Ed explains that he created a draft ordinance for the Supervisors’ review. This is an updated ordinance, and, if adopted, will replace the existing Township Floodplain Ordinance.

Lenick Appeal: Ed states that John & Diane Lenick have an assessment appeal filed. He states that he will monitor the case and respond if necessary. However, he will allow the Minersville Area School District and the Schuylkill County Assessment Bureau to work it out.

Brooks Rentals: Ed addresses the Board members by stating that as they are already aware, Brooks Rentals would like to purchase land adjacent to the former Peg Delaney’s bar in Black Heath with the intent to haul the silt out of their property. A discussion regarding ingress & egress (of the trucks) needs to be scheduled, and Ed states that it may be okay to arrange that to occur on Reading Anthracite property leading onto Schaeffer’s Hill Road and out onto Valley Road. John Walaitis adds that area is the old railroad bed. Ed states that the County Commissioners are awaiting a response on this matter, so he would like to meet with Brooks Rental’s attorney as soon as possible to get this moving. Mike then makes a motion to authorize Solicitor Brennan to schedule and meet with Brooks Rental’s attorney. John seconds. Motion passed.

With no further business at hand, Mike makes a motion to adjourn. John seconds. Motion passed; meeting adjourned.
Time Meeting Adjourned: 6:59 PM

ATTEST: C. Michael Kulpcavage, Vice-Chairman
Time of Adjournment: 6:59 PM

ATTEST: John M. Walaitis, Assistant Secretary
Time of Adjournment: 6:59 PM

The next monthly Supervisor’s Meeting of the Township of Cass will be held on Thursday, December 19th, 2013 @ 6:30 PM at the Cass Township Municipal Building.

The Re-organization Meeting will be held on January 6th, 2013 @ 6:30 PM at the Cass Township Municipal Building.