Typed: May 30th, 2014

The regular monthly meeting of the Board of Supervisors of Cass Township was held **Thursday, May 29th, 2014** at 6:30 PM at the Township Municipal Building, Duncott, PA.

**Present at the meeting were the following:** Ed Bosack, Tina Skibiel, Lynn Schies, Chris Ternowchek, John Kalovcak, Donna Kalovcak, Daniel Sborz, Mike Ceganick, Joseph Smulley, Steve Smulley, John Olenick, Diane Kanezo, Ann Marie Studlack, Andy Studlack Jr., Lori McCarthy, Sharon Wentz, Robert Wentz, Bob Ryan, Elvin Brennan Jr., and Karen Smulley.

Chairman John M. Walaitis called the meeting to order.

All recited the Pledge of Allegiance to the Flag.


Edward M. Brennan, Solicitor – present.

Edward J. Bosack, Engineer – present.

Evelyn J. Bergan, Administrative Assistant – present.

Richard C. Clink, Chief – Cass Township Police Department – present.

John states that the April 2014 meeting minutes have been placed at your seats. Please review them and inform the Board by the end of this meeting if you feel there are changes necessary. John asked for a motion to accept the minutes as typed. Mike made the motion. James seconds. Motion passed. All answered aye in favor.

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

Mike Ceganick, Forestville – States that he can see a pattern here with the certain Board members being in control – John and Mike have full control of the decisions and poor James has no say in them. James states that’s not true all of the time. Mike (Ceganick) goes on to say that he could see the same thing when Canfield and Thomas were in office - they had full control...and the same thing happened when Minder was in office. He states that he can see where this is going – it’s only a (2) way street. He asked if there was a way to change things so that all (3) Board Members would vote unanimously for the sake of better politics; or let the people vote on matters. Solicitor Brennan stated that that is how it is at all levels of government – there is no rule that states there has to be a unanimous vote throughout a Board, and many times there isn’t – that’s just the way it is. The people/residents cannot vote on matters – the Board has to be the ones casting the votes. Here in the Township, there is a Board of (3), but the same issue exists on larger Boards of (7) or (8) for example. Mike (Ceganick) states that would be different (if there were more
members on the Board). Mike (Kulpavage) asks why it would be different – regardless of the number of Board members, majority rules. Solicitor Brennan agrees. Mike (Ceganick) references the most recent publication from an anonymous resident in “Thunder Enlightening” (in the newspaper) and says if the Board would have a unanimous vote, it would keep these other (2) guys (referring to John Walaitis and Mike Kulpcavage) in office and keep them from being voted out. Solicitor Brennan states that people shouldn't go by what is put in Thunder Enlightening or on social media sites because a lot of nasty and untrue things can be said about people just to hurt them - especially when the people publishing these things don't sign their name to it. Mike (Ceganick) also states that he checked the minutes on the website before he came out to the meeting and they are not up to date. Mike (Kulpavage) and John (Walaitis) both responded that they are up to date. Evelyn explains to Mike (Ceganick) that the minutes will never be updated to the current meeting – the previous month’s minutes need to be approved at the current month’s meeting before they can be posted - so the website will always be one month behind.

John Olenick, Amanda Lane – Asked James about repairing the pot holes on Blue Lane as he mentioned at last month’s meeting. James states that Blue Lane will be fixed. John then refers to the parcels being sold in Forestville and is concerned about the sale of an alley near his residence. John and Mike both state that the alley his referring to is not involved in the parcel sales.

Diane Kaneko, 105 Thomaston Road – States that she recently sent a letter to the BOS where she explained that she wants her neighbors to cut down trees on their property and she wants to BOS to assist her in getting it done. Solicitor Brennan states that unless there is a violation of Township Code, we will not get involved in neighbor disputes. She asked where she should go for assistance. Solicitor Brennan tells her to see her attorney about contacting her neighbor. Diane then provides James with photos of the entrance to the baseball field located on Thomaston Road. She states years ago, the weeds along the road were always cut, but they aren't being done any longer. She is requesting that the weeds shown on the photos be cut down and back to improve visibility.

Joe Smulley, Forestville – Asks if Supervisors need to obtain permits for doing work on structures that they own – stating that Supervisor Wentz is doing work at one of his buildings located on Low Road and asked if he had permits. James states he didn't know he needed them for what he is doing. Ed Bosack, Township Engineer, explains that certain items need permits and others don’t, so it would depend on what was being done to the structure – if improvements were structural alterations, or just minor or cosmetic.

Lynn Schies, Forestville – expressed concerns about run-off onto her property created by the Line Avenue Project and asked what the Township is going to do about it and when will it happen. Ed Bosack explains that if we apply to DEP for pipe installation on the upstream side, it will take 60-90 days to obtain a permit before being able to move forward, but he'd
like to wait until the contractor finishes what he needs to do first. James states that he agrees that it's necessary to allow the contractor finish and return to address final items; however, he would like to install piping to tie into what already exists; crossing the road will also eliminate the need for the DEP permit. Lynn states there is a lot of run-off and erosion on her property. Ed explains that right now the area has not established so it will continue to erode, but once the area is planted and re-growth is at 70-80%, it should hold. Ed adds that we are holding a substantial amount of money from the contractor until the project is completed – so he won’t get paid until it meets satisfaction – we just need to let him complete the project first.

Steve Smulley, Forest Lane – had questions about the parcels that the Township will be selling close to his residence – he asked about the purchasing fees as well. John states that nothing has been finalized. If you received a letter, you will have first opportunity to purchase the parcel(s). The fees will be set by the Municipal Authority and you will be contacted with that information.

Mike Ceganick, Forestville – Asked about the total legal fees paid since this lawsuit with Big Diamond. Solicitor Brennan once again states that the Township did not file a lawsuit against Big Diamond Speedway – they filed several lawsuits against the Township. One of them (defamation) was just thrown out of court and they filed to appeal it in the Superior Court - they are the ones keeping this going. The Township, however, has a duty to defend themselves against lawsuits even though they did not start them. Ed goes on to state that the Township has no way of checking attendance into the racetrack because Big Diamond Speedway has refused to provide them with numbers to compare. The Township made an offer to settle and we are waiting to hear from them. They are still paying nothing/zero and are appealing what Berkheimer has billed them stating that the counts are inaccurate. There will be an appeal hearing on June 16th – they have the right to choose to have it behind closed doors or in public. Mike (Ceganick) states let it be public – let the people come. Ed says that is fine with us ...we’ll gladly have it in public, but that will be Big Diamond’s choice, not ours – so you can tell them to decide to have it held in public. Mike (Ceganick) asks how long will you keep dragging this out. Solicitor Brennan states as he just said, they just appealed the defamation lawsuit that was thrown out by Schuylkill County to the Superior Court – they had one shot to file it in Harrisburg and they took it – so again, the Township is not keeping this going, they are. Ed states that if the municipality does nothing, what is to stop other businesses and property owners from not paying their taxes (real estate, etc.). Mike (Ceganick) asks when was the amusement tax raised to 10%. Solicitor Brennan states that the amusement tax was never raised to 10% - it was always 10%. The Ordinance was not changed, it always stated 10%. Big Diamond claims it was 5% because of an agreement they had with a former Board of Supervisors. Solicitor Brennan then goes on to explain how he bills the Township; that there’s not specifically billing for just Big Diamond related issues. He also adds that the Township’s insurance company paid legal costs for the defamation lawsuit(s) because that’s how their insurance
is set up. Mike (Ceganick) states that we are spending so much Township money on this issue and asks what will the Township actually recover – will it be more than what was spent or will we just break even. Solicitor Brennan states that the Township will recover much more than what was spent.

Lori McCarthy, Forestville – States that Big Diamond didn’t pay last year’s amusement taxes, but did they pay anything this year. Solicitor Brennan answers no, nothing this year either. Lori then asks if the Duncott (Fire Company) building was ever considered as a municipal building. Solicitor Brennan explains that the building belongs to Duncott Hose. They no longer provide fire services to the Community even though they are still fundraising by having breakfasts, but we don’t know what they plan on doing with the building – sell it or keep it – we don’t know.

Joe Smulley, Forestville – Asked how many years of amusement tax weren’t paid – directing his question to Mike Kulpavage stating that Mike voted for the 10% so he should know how many years weren’t paid. Mike states that he didn’t vote for the 10% -- the tax was always 10% -- but there were years where only some of the tax was delinquent (2011 & 2012), and others where all of the tax is delinquent (2013 & this year). Joe said that Berkheimer billed Jake for $67,000. He stated that Solicitor Brennan said there was a settlement offer. He then polled the Board members and asked each one if they are aware there was an offer to settle on the table. Each one replied yes. Joe instructed the Supervisors that when they are picking the appeals board members for the hearing on June 16th, to pick the members from the people here in the audience tonight and have these people make the decisions. Solicitor Brennan states that that filling positions and keeping them filled for any of the boards within the Township is a difficult task. Big Diamond are the ones that requested this appeal - the appeal board members have already been appointed and are in place, and that is the board that will be used at the hearing. Joe states that a few months ago, Ed compared the drivers in the pits to players on a baseball team...he asked if we were all aware that every one of the drivers gets paid stating this is their livelihood, and he boasts that Big Diamond is ranked 4th in dirt track racing. Mike (Kulpavage) stated that if they are doing so well, then they should be paying their taxes. Solicitor Brennan agrees, and then states that Joe can argue about this all he wants, but it doesn’t change that fact that Big Diamond is paying nothing in amusement tax that they should be paying. Joe goes on to state that Jake has paid (2) of the Berkheimer bills. Mike and Ed both ask for what year. Joe said for the years that aren’t in litigation. This discussion got loud and began to turn into an argument. Solicitor Brennan states this is a time for public comment – not public debate. John Walaitis struck the gavel and ended the audience discussion and moved on to the items on tonight’s agenda:

**Resolution # 2014-08 – Automated Red Light Enforcement Grant:** John explains that we don’t have a place for a traffic light; however, criteria of this grant allows funds for other traffic control items; therefore, the Board would like to apply. To meet requirements, the
Board needs to adopt a resolution. John makes the motion to adopt Resolution # 2014-08. James seconds. Motion passed. All answered aye in favor.

**Municibid** – John explains that the Township sold (3) items on Municibid. He asks James to explain further. James states that we sold (1) Chevy Police Cruiser for $1,125; (1) HARDER salt spreader for $525; and (1) JD 310 backhoe for $6,300. John made a motion to accept the sales of these items. James seconds. Motion passed. All answer aye in favor.

**Summer Help** – John explains the Greg Haney will be leaving in June; the Board will need to hire a part-time worker as his replacement. John makes a motion to hire David Murphy – no benefits. Mike seconds. Motion passed. All answer aye in favor. John adds that the Board would like to hire another part-time worker this season and will continue to accept applications.

**Authorize Payment of HOP Fee for Cherry Valley Waterline** – John asks Ed Bosack to explain this item. Ed states that we will need to apply for a Highway Occupancy Permit from the State; the cost will be approximately $250 and the Township will receive reimbursement of the full amount from the grant funding. This could be applied for by the County; however, the Township will get it done more quickly and keep things moving at a faster pace so it’s more efficient to have the Township apply instead. John made a motion to apply and pay the fee for the HOP for Cherry Valley Waterline Project. Mike seconds. Motion passed. All answered aye in favor.

**Planning Commission:** There was no May meeting; and there will be no June meeting due to the fact that there was (1) submission from Larson Design Group; however, it was incomplete and cannot be accepted by the Commission. Chairman Bob Ryan will contact Larson and make them aware that the submission is incomplete.

**Treasurer’s Report:** Mike read the Treasurer’s report. John made the motion to accept the report as read. James seconds. Motion passed. All answered aye in favor. Chris Ternowchek asks what happened to the detailed report that the audience asked for in a past meeting. Mike responded that the detailed reports were a practice of (20) years ago. The Board has decided along the way that the summary of accounts was sufficient for meetings and has been using it for many years without issues. The detailed reports are not necessary and therefore, we are not going back in time and repeating practices of (20) years ago. The present Board has decided that we are going to continue to use the summary statements. However, any resident wishing to review the detailed reports may do so during normal business hours as they are on file in the Municipal Office.

**Municipal Authority Report:** John states that James Garraway informed him that he needs to resign from the Authority due to his work schedule. John made a motion to accept his resignation. Mike seconds. Motion passed. All answer aye in favor. John states that we will be looking for a candidate to fill the vacancy. Any resident interested in the position
can let a Supervisor know. Also, the Board will be sending out letters/maps to the residents adjacent to the properties being sold.

**Zoning Authority:** John states there will be a Zoning Hearing Board Meeting on June 12th at 6:30 p.m. for the KEMEK storage facility.

**Police Department Report:** Chief Clink reads the report. John makes a motion to accept the report as read. James seconds. Motion passed. All answered aye in favor. Report is on file in the Police Department for review.

**Correspondence:** John states that we had a few calls from residents in the Heckscherville area about blasting/mining. If anyone has complaints or damage to report due to mining operations, please call the DEP Department of Mining at 570-621-3118.

**Road Foreman’s Report:** James reads his report. He makes note that we are not a lawn service – the Township does not cut private property so if you are a resident that owns property along the roadway, please be sure to maintain it because the Township will not be cutting it for you. John made a motion to accept the report as read. Mike seconded. Motion passed. All answered aye in favor.

**Old/New Business:**

**Code Enforcement/Engineer’s Report:** John states that we don’t have a whole lot going on this month so there’s really nothing to report tonight.

After no further business at hand, John asks for a motion to adjourn. Mike makes the motion. James seconds. Motion passed; meeting adjourned. All answered aye in favor.

Time meeting adjourned: 7:15 PM.

ATTEST: James A. Wentz, Vice-Chairman
Time of Adjournment: 7:15 PM

ATTEST: James A. Wentz, Assistant Secretary
Time of Adjournment: 7:15 PM

The next monthly **Supervisor’s Meeting** of the Township of Cass will be held on **Thursday, June 26th, 2014 at 6:30 PM** at the Cass Township Municipal Building.