Typed: April 27th, 2015

The regular monthly meeting of the Board of Supervisors of Cass Township was held Thursday, March 26th, 2015 at 6:30PM at the Township Municipal Building, Duncott, PA.

Present at the meeting were the following: Barbara A. Reilly, Francis J. Reilly, Chris Ternowchek, Lynn Schies, Sharon Wentz, Beverly Hutzel, Diane Barton, Robert Wentz, Bob Ryan, Dee Kulpcavage, Marybeth (Doyle) Matz, John Kellman, Ann Marie Studlack, Andy Studlack Jr., Tina Skibiels, Mike Sorokach, John Borzok, Vince Purcell, Tom Graydus, Joe Smulley, Elvin Brennan, John Olenick, Eugene Cason, Anna Marie Cason, Jake Smulley, Mary Lou Bergan, Steve Smulley. There is one illegible name on the sheet.

Chairman John M. Walaitis called the meeting to order.

All recited the Pledge of Allegiance to the Flag.


Edward M. Brennan, Solicitor – present.

Evelyn J. Bergan, Manager – present.

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

David A. Cromyak, Patrolman – Cass Township Police Department – present.

John states that the minutes of the January and February 2015 Supervisor’s Meetings have been placed at each seat. Please review them and inform the Board if there are necessary changes. John asks for a motion to dispense the reading of the minutes as printed and to accept if there are no additions or omissions. Mike makes the motion. John seconds. Motion passed. John calls for public comment/discussion at this time.

Please raise your hand; state your name & address for the record.

Robert Wentz, Jonestown – States that he sees no money was taken out of the New Building Fund and asks if the architect and engineers were paid yet. Mike states that they will be paid next month.

Joe Smulley, Forestville – States that he’d like to approach the Board to hand a document to Chairman Walaitis who forwards it to Solicitor Brennan. Ed asks Joe if he wants the document to be read; Joe states he would like the Supervisors to answer the questions, not Ed. Solicitor Brennan states that Joe is asking for the status of the Big Diamond Speedway lawsuit involving his son and his ex-wife so he (Solicitor Brennan) would be the person to answer those questions and states that the case is scheduled to go to trial in May with Judge Dolbin. Mike Kulpcavage
then answers Joe’s question regarding the rates of the engineers and states that the fees depend on what class of engineer is working on the task – all their rates are different.

Jake Smulley, Forestville – States that at the reorganization meeting, the Board voted for a 10% amusement tax, but Solicitor Brennan sent a letter stating that the Township knows they can only collect 5% amusement tax for the top gate admissions; he asks Solicitor Brennan why he allowed the Board to vote that way. Solicitor Brennan responds by stating if Jake would like to discuss settlement negotiations, we will, but it’s going to litigation. Solicitor Brennan explains that he had made an offer months ago for a 5% amusement tax, but it would include the pit admissions. Big Diamond is refusing that offer and that’s why we are going to trial. Jake states that’s not what Ed’s letter to their attorney says. Solicitor Brennan asks to see the letter that Jake is referring to. Jake hands the letter to Ed and he begins to read it aloud to the audience - he goes on to state that it is dated December 2014 – he adds that we already had a court date set, but their lawyer asked for it to be delayed – which it was. Ed continues to read the letter he wrote to Attorney’s Paul Ober and Terry Parish (lawyers for Big Diamond Speedway). Solicitor Brennan states that this is an offer that was made to them months ago in which they would pay 5% - but the issue they won’t budge on is admission into the pit. Solicitor Brennan states that the racetrack’s gross annual sales approach a million dollars. Everyone else pays their taxes; we’re just asking them to pay their fair share as well. Ed states he answered Jake’s question and his lawyer is not in attendance so we are not going to debate the merits of the lawsuit; it’s been set for trial. We had a previous trial date, but Big Diamond delayed it, so it will proceed in May. Jake states Ed did not answer his question. Solicitor Brennan states he did.

Tom Graydus, Primrose – Asks if anyone is keeping track of what the Township spent on this lawsuit so far. John Walaitis states it’s being recorded. Solicitor Brennan agrees and states that we need to remember that the lawsuit was filed against the Township so we have a duty to defend against it. Tom states he understands that, but he is asking what it’s costing the Township so far. Solicitor Brennan replies he doesn’t have a number; we would have to calculate the total and that it will take time.

Robert Wentz, Jonestown – Asks if we have been fighting them for 10% when there was a law on the books that said we could only charge 5%. Solicitor Brennan replies that the law doesn’t state that we can only charge 5% -- the law states that it depends on what we actually charged, but it wasn’t clear what we actually charged – the ordinance was always 10%. It’s alleged that the Supervisors years ago had an oral agreement, but that doesn’t matter now because what the law was changed and says whatever you actually collected or 5% - whichever is higher - is what you can collect. Ed goes on to state that there are some Townships that didn’t have any tax on the books so they couldn’t collect anything. Robert asks if we had 5% in the beginning. Solicitor Brennan states we had 10%. Robert states we had 10% but now we are not trying to get 10%. Solicitor Brennan states he is trying to settle the case, but quite frankly, they don’t want to and they keep putting it off. Ed states he assumes their lawyer isn’t getting paid because he is entering judgments against them for his fees - so at this point, we just need to bring it to a conclusion. We have said from the beginning, it wasn’t just about the amount of the tax, we want
a fair way of how the tax is being calculated – we want a procedure to prove how the tax is being figured, but that is another thing they are opposed to. Solicitor Brennan states that he feels he answered the questions and again, it is going to litigation; the Judge will decide the case.

Elvin Brennan, Forestville – Questions Mike about the figures for amusement tax payments that Mike had discussed at a previous meeting and states that he said Big Diamond Speedway owes $27,000 (for 2014) in addition to what they already paid. Mike agrees and states that for 2014, they paid a little over $5,000 but over $2,000 of it was penalties - another $27,000 (roughly) in tax is still owed. Elvin states that he has heard that when Buddy Biever ran the track, he only paid around $20,000 and asked if that was true. Mike states that his payments varied, but were always up around the $20,000 mark. Elvin asked if it was ever over $20,000. John states it was. Mike replies that it may have been; he cannot respond off the top of his head. Elvin states that something doesn’t seem right because he sits in the infield and looks up at the people and states Jake never has the crowds that Buddy Biever had – and if Biever only paid $20,000, how do you expect him (Jake) to pay over $30,000. Mike states that the number of people that attended is debatable – we have the numbers for this year and last year. Elvin asks if the Township goes by the counters. Mike says yes. Elvin states he believes they are way off. Mike states Elvin is entitled to his opinion.

Lynn Schies, Forestville – Asked if we are paying for counters up there this year. Mike replies yes. Lynn states that there was no motion made by the Board at any meeting saying that we are paying for them like there was last year. Mike states the contract as written is automatically renewable. Lynn asks if it’s at the same price. Mike replies yes, at the same rate. Lynn asks if the contract is here. Mike states there is a copy in the office.

Tom Graydus, Primrose – Asked who negotiated that contract. Mike asks what’s the difference; and why is he asking. Tom asks who would negotiate a contract like that. Mike states it’s the contract we have had since the beginning. Tom asks since the beginning of the lawsuit. Mike replies yes. Tom states that it seems to him like this lawsuit is going to cost the Township more than we will get in return.

Mrs. Tina (Skibiel), Pine Knot – Comments that there is more to this Township than just Big Diamond Raceway; you come to all of these meetings and all of your complaints are nothing but Big Diamond Raceway. What about our roads; what about things for the kids; the few people that do come to these meetings, that’s all you worry about and that’s all your priority is - that racetrack. This Township is more than a racetrack. Tina states that she has hobbies; does she ask everyone in this Township to pay for her hobbies.

Barbara Reilly, S. Maple Ave – States that she had questions for James Wentz because he is an elected Supervisor by the people to work for his contingents which he does not, but since he isn’t here, she won’t address those questions until he is present. Barbara states she also has questions for Attorney Brennan who is the Township Solicitor because she spoke to him approximately 2 weeks ago regarding a road and hasn’t heard back. Ed states that they discussed that the road
may have been abandoned and the deeds needed to be researched. Barbara states that it should be in the minutes from years ago who owned the road – she believes it was a fictitious coal mining company. Solicitor Brennan apologizes for not getting back to her, but he was misunderstood and thought that Barbara would provide him with a copy of the deed, but he’ll get the information from the Courthouse. Ed explains that this is the same situation as the road out in Pine Knot – typically when a road is abandoned because it’s been moved, the homeowner takes the road. The road in Heckscherville (Pine Knot) was a State highway and was abandoned by the State, but in reference to the one Barbara is inquiring about, he is not sure where the original road was located and went on to discuss the deed and the placement of the pins that determine property lines. Barbara states that they have taken care of it for 51 years; the Township has done nothing. Solicitor Brennan states that as per their discussion, if the Township had been plowing and maintaining the road, she could argue that it is a Township road. Barbara states that the Township passes the buck by stating they don’t own it. Ed states he will ask the Board members for permission to look at all the deeds along that roadway and if they all say the same thing, it may be necessary to get a surveyor as well. Barbara states that all the properties have been surveyed. Solicitor Brennan states that the Board would also need to authorize the engineers to go out and locate pins, but to answer Barbara’s question, if the Township has not been plowing or maintaining the road for all these years, the odds are it’s not a Township road. Barbara states that in 51 years, she has never had water in her basement until this year. If she has to maintain and macadam any area of the road, she will fence it off and everyone else will have to fend for themselves how they get in and out, so she has to have an answer. Solicitor Brennan responds that the answer may be that the original coal company that laid out the roads might own it. Barbara states that the coal company doesn’t exist; the person that checked into it found there was no mention of that coal company, but it should be in the records. Solicitor Brennan states that it may not be in the Township records – this building had flooding issues in the past and records were destroyed so he would have to look through County records. Barbara states that one of the previous Township Supervisors looked into it for them and gave them the name of the coal company; he has to know where he got the name he gave them. Solicitor Brennan states that in his experience of doing title searches in that part of Cass, it all goes back to a really old coal company but the one that owned it last may have been Cornwall or Castle Coal – both Charlie Martin companies. The discussion continues on between Solicitor Brennan and Barbara; Ed states it may take some digging to find out if it’s a Township road or not because he’s not sure if it was the old Township road. Barbara states the older people told her it was.

Chairman Walaitis closes the audience discussion.

Schuylkill Tax Claim Bureau – Parcel(s): 05-09-0020.000 & 05-09-0021.000 – John states that STCB has notified the Board that these (2) properties have been placed in the repository for unsold properties. The Board has been asked to approve or disapprove the sale of each. After a brief discussion of the location of the parcels (both on Valley Road), Solicitor Brennan states that the Board can approve the sales, but he would like the engineers (code enforcement) to be put on notice to check the properties for code issues and/or dilapidated structures. John makes a
motion to approve and sign the document to approve the sale of each parcel. Mike seconds. Motion passed.

**DCNR Playground Grant – Condors Complex** — John asks for a motion to approve submission of the grant application for a play structure at the location of the Condors Complex. Mike makes the motion. John seconds. Motion passed.

**2015 Road Program** — John states that James is not here to ask the status, but he had a request in to advertise upon completion of bid documents which John states he hopes are done soon. John asks for motion to advertise the 2015 road program after the bid documents are completed. Mike seconds. Motion passed.

**Planning Commission** - John states no meeting was held.

**Treasurer’s Report** — Mike reads the report. John made a motion to approve the report as read. Mike seconds. Motion passed. John makes a motion to pay all outstanding bills as can be paid at this time. Mike seconds. Motion passed.

**Municipal Authority** — John states no meeting was held.

**Police Report** — Chief Clink reads the report. John makes a motion to approve the report. Mike seconds. Motion passed.

**Correspondence** – None.

**Road Foreman Report** — John states we don’t have it.

**Old / New Business** – None.

**Taxpayer Bill of Rights / Public Hearing / Big Diamond Speedway** — Solicitor Brennan states he would like to set a date for the Taxpayer Bill of Rights hearing that Big Diamond has asked the Township to hold; he states that they have also delayed this hearing several times. He asks for the permission of the Board to obtain a date in April, advertise it, and hold their hearing. John makes the motion to authorize Solicitor Brennan to move forward with the scheduling and advertising of the public hearing as discussed. Mike seconds. Motion passed.

With no further business at hand, John makes the motion to adjourn. Mike seconds. Motion passed; meeting adjourned.

Time meeting adjourned: 6:58PM

ATTEST: John M. Walaitis, Chairman
Time of adjournment: 6:58PM

ATTEST: C. Michael Kulpcavage, Vice-Chairman
Time of adjournment: 6:58PM
The next monthly *Supervisor's Meeting* of the Township of Cass will be held on *Thursday, April 30th, 2015 at 6:30 PM* at the Cass Township Municipal Building.