

**Board of Supervisors Close-Out Meeting  
Wednesday, December 27, 2006 - 8:00 AM  
Lynnport, PA 18066**

**Call to Order**

The Close-Out Meeting of the Lynn Township Board of Supervisors was called to order at 8:00 a.m. in the Municipal Building by Thomas C. Creighton III. Present were Chairman Thomas C. Creighton III, Vice Chairman David C. Najarian, Esq., Member Charles E. Lenhart III, Zoning Officer Kevin Deppe, Interim Treasurer Rob Sadler, Solicitor Edmund Healy, Esq., Secretary/Assistant Treasurer Tracy Miklus, Elsa Kershner of the Northwestern Press and approximately seven citizens.

**Public Comment**

None.

**Approval of Minutes**

Vice Chairman Najarian motioned, seconded by Member Lenhart, to approve the minutes from the 12/04/2006 Workshop Meeting and the 12/07/2006 Board of Supervisors Meeting. Motion carried unanimously.

**Treasurer**

Benecon - Lehigh Valley Insurance Cooperative - Chairman Creighton said that the Township was changing insurance carriers and the Township was joining the cooperative. He said it will give the Township better insurance and a better price. Interim Treasurer said that the new benefits should take effect 02/01/2007.

**Ordinances**

- 2006-9-Lehigh Valley Insurance Cooperative Agreement - Vice Chairman Najarian motioned, seconded by Member Lenhart to adopt Ordinance 2006-9. Motion carried unanimously.

**Treasurer**

- Escrow Account - Interim Treasurer Sadler said he closed more escrow accounts:
  1. Barton W. Kester
  2. Thelma H. Bailey
  3. Kenneth Bittner
  4. Thelma Snyder
  5. Theron E. Jones
  6. Scot Erney
  7. Ernest F. Dietrich

Mr. Sadler said he heard from every account, except for two. He said he also sent out due letters to accounts that had fees to pay, but were never billed; Omega Homes agreed they do owe the Township \$38,000 for their fees. He said he shut down their escrow for \$6,000 and they will send us a check for the remaining \$32,000.

Vice Chairman Najarian motioned, seconded by Member Lenhart, to have Interim Treasurer Sadler close the above escrow accounts. Motion carried unanimously.

**Subdivisions**

- Follweiler/F&S - Member Lenhart motioned, seconded by Vice Chairman Najarian, to grant final approval. Motion carried unanimously.

- Follweiler/Dietrich - tabled until 02/08/2007 Board meeting. Language needs to be added to the plan; a standard DEP note.

### **Zoning Officer**

Inspector or Employee - Zoning Officer Deppe said that he would like to know if inspectors are covered under our insurance (errors and omissions). Secretary/Assistant Treasurer Miklus said she would like to remove vendors from payroll and pay them as independent contractor who receive a 1099 at the end of the year.

Vice Chairman Najarian motioned, seconded by Member Lenhart, to designate our service vendors as independent contractors and direct the Township Secretary to notify the same of that designation and further require our service vendors to provide proof of their own errors and omissions insurance consistent with the UCC guidelines. Motion carried unanimously.

### **Ordinances**

- 2006-10-Mixed Housing Ordinance.

Vice Chairman Najarian motioned, seconded by Chairman Creighton, to adopt Ordinance 2006-10. Motion carried.

Solicitor Healy said I should send him 4 copies of this ordinance.

### **Miscellaneous**

Chairman Creighton asked the Secretary if he could have a list of all applicants for appointments before the Re-Organization meeting.

- 10% Rule - John Pergosky - Solicitor Healy said he had a conflict with Mr. Pergosky and the Township; Vice Chairman Najarian stated as to why we were hearing about this conflict now. Solicitor Healy said anything that his office has done with the Pergosky's has been substantial, but that he has not done anything in years and that this was the first he heard it was on the agenda. Vice Chairman Najarian said that the Township has dealt with Mr. Pergosky on many occasions and then asked Solicitor Healy if his office conflicted themselves out in the past. Solicitor Healy said he could not recall anything in a couple years, but it's come up. Vice Chairman Najarian asked if the conflict was just dealing with this particular plan; Solicitor Healy said he didn't know the extent of the conflict because it related to work that others from his firm had done. Vice Chairman Najarian appreciated his telling us, but going forward the Board needs to know the nature of it so we know what the scope of it is because the Township deals with Mr. Pergosky frequently. Solicitor Healy said that in the past Marc Fisher was used when the subdivision was approved. Vice Chairman Najarian asked Zoning Officer Deppe if he consulted at any time with Attorney Marc Fisher, Mr. Deppe said no, that it had not gone that far.

Solicitor Healy left at 8:45 a.m.

- 10% Rule, continued. Zoning Officer Deppe explained the opinion again to Mr. Pergosky who felt the determination was incorrect; explanation of the 10% Rule is that he has, according to the last signed subdivision, 2.286 acres of developable land and one (1) free lot, not (2) free lots and these lots are not buildable lots until a plan is submitted, reviewed and finalized. It was again explained several times to Mr. Pergosky; the Board had the same opinion as Mr. Deppe. Vice Chairman Najarian said that the Zoning Hearing Board reviews his determination, not the Board of Supervisors. Mr. Pergosky was told that the letter he received was an opinion and that the Board of Supervisors could also just give him an opinion. If a plan is submitted and denied, then Mr. Pergosky can apply to the Zoning Hearing Board for an appeal. Mr. Pergosky said that the prospective buyer was not ready to build a home at this time.
- 537 Plan - Bassett Engineering, Inc., Britt Bassett - Chairman Creighton said we should have had his recommendations by now. Vice Chairman Najarian said to put it on for the 01/02/2007 meeting.

- Domestic Partner Coverage - Vice Chairman Najarian explained that an employee wished to cover his domestic partner/common law wife with benefits; which is already part of the coverage in the benefit plan offered by LVIC which we are starting 02/01/2007. Chairman Creighton said this was an option, Vice Chairman Najarian said it was a provision. Vice Chairman Najarian then read from the Township Employee Manual regarding benefits, it states, "In addition, regular full-time employees are generally eligible for participation in the benefit program offered by the Township subject to the terms, conditions, and limitations of each benefit program." He then asked where it stated that it was an option. Chairman Creighton said he would state all the facts. He said we received a letter from Solicitor Healy back in May, 2006, which he read; "To everyone, I had the full opportunity to review the plan and policy of the Township concerning potential provision of health insurance to domestic partners. This review was prompted by an employee who apparently has a significant relationship with another person, but is not married to that other person. Apparently these persons co-own their home. Here are my remarks: On page 5 of the Personnel Policy and Procedures Manual for Lynn Township the following language appears, 'In addition, regular full-time employees are generally eligible for participation in the benefit program offered by the Township subject to the terms, conditions, and limitations of each benefit program'. I believe the foregoing language along with the assurance that the Township will provide group health insurance for an employee during a family leave. Page 21 of the manual, means the Township will provide health coverage in accordance with the governing health insurance plan. First and foremost, the Township has to my knowledge consistently interpreted this language to extend benefits for the benefit of employees, their child dependents and spouses and never has extended this benefit to non-married persons or dependents on non-married persons. The growth of domestic partners is a relatively recent social phenomenon in the country and cannot be said to have been part of the intended scope when the policy was created long ago. The mere happenstance of a new social trend should not result in the casual unduly broad expansion in the Township's financial obligations beyond those initially contemplated when the policy was adopted. Taken at it's face, no one could seriously argue that under this language the Township would have to provide coverage to girlfriends or boyfriends of an employee. For the same reason, no-one can seriously argue that boyfriends or girlfriends have any different status from the newly coined term "domestic partner". Now entering the American lexicon consistent therewith and with the maintenance of the coverage assured for each employee during any family leave act. The FMLA does not contain any reference to the concept of caring for a domestic partner either. Second, Lynn Township in particular along with state and federal governments have not taken any measures to specifically recognize the validity of domestic partners. Therefore, the employee cannot establish that he or she meets the requirements for domestic partnerships. As such, the requested coverage is not available." He also recommends that the Township update their personnel procedures. Vice Chairman Najarian said Solicitor Healy flipped on this from the first time he asked him about this issue and that Solicitor Healy suggested changing the statement from our manual; 'In addition, regular full-time employees are generally eligible for participation in the benefit program offered by the Township subject to the terms, conditions, and limitations of each benefit program'. Chairman said clarify, not change. Vice Chairman said it was not a social trend that changed; he said Pennsylvania decided that it would no longer recognize Common Law Marriage. Resident Mel Charles said she thought Common Law Marriage was reinstated in 2003. She said that finding out if Common Law Marriage was recognized in Pennsylvania might solve the entire issue and eliminate the argument. She went on to say that if it is recognized, it was illegal for the Township to deny him the benefits. She said to check it out first so the Township does not get sued. Vice Chairman Najarian feels we, as our current manual reads, do not have the option to veto any benefit. Chairman Creighton said he also called PSATS; they said in so many words, if you do not specify offering benefits to domestic partners then they have no grounds of having the insurance. Vice Chairman said he felt we do specify it wherein the program we have provides these benefits, as our manual states the same. Chairman Creighton said he agrees with our lawyer and asked the Vice Chairman to read a section of a fax he sent to the Chairman; it said, "this is part of how they determine whether or not a person is a domestic partner under the plan and one of those says meets or agrees to meet the requirements of any applicable federal, state or local law". Vice Chairman stated that this was in the discretion of the plan, not the Township; this is how the plan administrator determines whether or not someone meets this particular requirement, not us. He also said if we do not have a State law, it could mean the applicant doesn't meet the requirement. Chairman Creighton said we do not specify that we offer coverage to domestic partners and he didn't think it was the intent of previous Supervisor's that came up with this policy to extend them to boyfriends and girlfriends. Vice Chairman Najarian agreed that back in an era when common law marriages were recognized, but this provision

came into existence when states including Pennsylvania decided to not recognize common law marriages, leaving a number of people previously covered, uncovered. He said Lowhill Township allows the coverage. He said he thought the policy was fine they way it is and offer the coverage like we do now. Chairman Creighton disagreed and said we do not offer it. Interim Treasurer Sadler said his interpretation of our manual was that if our insurance offers an option, program or has the coverage available, because of that inclusion and it's in the insurance that it is available. He said if not, we should tell the insurance company to remove the coverage. Secretary/Treasurer Miklus said they cannot remove the provision, Benecon stated it was at our discretion whether to cover domestic partners and both agreed the policy in the manual, as written, offers that coverage. Chairman Creighton said he did not want to offer the coverage and that other companies such as Air Products do not offer it. Vice Chairman Najarian and Secretary/Treasurer Miklus said that was not true, that Air Products did offer it. Chairman Creighton said other companies don't offer it. Member Lenhart said he did not think we should start this kind of coverage. Vice Chairman Najarian felt the employee asking for the benefit was a key employee and felt that coverage should be given. Chairman Creighton said any employee was replaceable, including himself and everyone. Resident Mel Charles said we should clarify whether Pennsylvania recognizes Common Law Marriage, and then make a decision. Chairman Creighton said we would check it out. Chairman Creighton asked Member Lenhart if they should contact our Solicitor to modify the manual. Member Lenhart agreed we should check out Common Law Marriage. Chairman Creighton said the Township could do whatever it wants, although several people told him Common Law Marriage may be a State Law. Chairman Creighton asked Member Lenhart if he thought the Township should cover domestic partners, Member Lenhart said no. Chairman Creighton made a motion, seconded by Member Lenhart, to get Solicitor Healy to write language for the Township Employee Manual that does not extend health coverage to a Domestic Partner. Vice Chairman Najarian voted no. Motion carried.

### **Miscellaneous**

- Meeting times for 2007 are set as follows: 01/29, 02/08, 02/26, 03/08, 04/02, 04/12, 04/30, 5/10, 06/04, 06/14, 07/02, 07/12, 07/30, 08/09, 09/04, 09/13, 10/01, 10/11, 10/29, 11/08, 12/03, 12/13, 12/27 (Close-Out Meeting), all will be held at 5:30 p.m.
- Chairman Creighton asked Zoning Officer Deppe to find out how many gas lines exist in the Township; he said PPL Utilities requested the information.
- Chairman Creighton also complimented Secretary Miklus and Zoning Officer Deppe for the new timesheet that was created.

### **Public Comment**

None.

### **Adjournment**

Member Lenhart made a motion, seconded by Vice Chairman Najarian, to adjourn the meeting at 9:55 a.m. Motion carried unanimously.

Respectfully submitted,

Tracy Miklus  
Secretary/Assistant Treasurer

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