

**MINUTES OF THE
EAST COVENTRY TOWNSHIP BOARD OF SUPERVISORS
MEETING HELD OCTOBER 9, 2017
(Approved 11/13/17)**

The Board of Supervisors held its regular monthly meeting on Monday, October 9, 2017. Present for the meeting were supervisors Ray Kolb, W. Atlee Rinehart, Karen Nocella, Michael Albert Moyer, and Anthony Duffy. Also present were Bernard A. Rodgers, Township Manager, Mark A. Hosterman, Township Solicitor and Brady Flaharty, Township Engineer.

The Board of Supervisors Chairman, Ray Kolb, called the meeting to order at 7:00 p.m. and the pledge of allegiance was recited. Mr. Kolb turned the meeting over to Township Solicitor, Mark Hosterman. Mr. Hosterman reported the Board of Supervisors met in Executive Session at 6:00 p.m. to discuss renewal of the Police Department contract.

Mr. Kolb then introduced Ms. Alexandra Davis as the newest volunteer member of the Ridge Fire Police. She appeared before the Board accompanied by Ridge Fire Police Chief, Richard Hedrick. Ms. Davis was sworn in by Chairman Kolb as a Fire Police Officer.

Public Hearing - ORDINANCE NO. 217 "NOISE ORDINANCE"

Mr. Kolb yielded the floor to Township Solicitor, Mark Hosterman, for commencement of the Public Hearing on proposed Noise Ordinance No. 217.

Michael Moyer stated at the last meeting many of those in attendance who spoke regarding the proposed noise ordinance did not live, work, or pay taxes in the Township and the same comments were repeated over and over again. Therefore, in the interest of time and to limit redundancy, he motioned that each person who wished to speak tonight be offered one opportunity to do so and be limited to one minute. Township Engineer, Brady Flaharty offered his services as timekeeper. Anthony Duffy seconded the motion and the motion carried 5-0.

Mr. Hosterman opened the Public Hearing at 7:04 p.m. with an overview of the ordinance. He noted enforcement of the noise ordinance would now fall under the purview of the Police Department. Officers would be trained on new noise measuring equipment and non-compliance with a noise abatement request could result in a violation levied against the property owner. He presented information from the noise ordinance regarding the decibel levels and frequency which could result in a violation.

Chairman Kolb stated he had spoken with Vaughn Road property owner, Mr. Eckhart, since the last meeting and related that Mr. Eckhart had apologized to him and said he had not realized the motor bike noise was that bad and had been disturbing the neighbors. He said if the Township wanted the track shut down he would have done so; he also said he is planning on removing the track within three (3) to six (6) months in order to build a house on the property.

The floor was opened to public comments and the following comments and responses were generated:

Dane Rupert of East Cedarville Road asked if the noise ordinance impacts only the track or the entire Township. Mr. Hosterman responded the ordinance shall be enforced throughout the Township. Police will respond and investigate all complaints.

Kim Shaeffer, Sanatoga Road life-long resident, asked if hunting would be affected. Mr. Hosterman replied it would most likely be exempt due to the frequency of noise emitted.

Steve Volkner, 123 Country Lane, asked why the ordinance was moved from a zoning to general violation. Mr. Hosterman replied it was moved from zoning so that there would not be any exemptions and law

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enforcement personnel can respond to complaints around the clock rather than a zoning official who works a 40-hour weekday schedule.

Alison Kurtz, of Old Schuylkill Road, remarked that the ordinance does not take into consideration daylight savings. She said it does not allow residents to perform lawn and garden maintenance when they come home from work.

Ken Hall, of Old Schuylkill Road, agreed with Ms. Kurtz's statement. He said motorcycles make extremely loud noise going down the highway all the time, it is not fair to taxpayers to use all this money to go after noisemakers, the money could be better spent.

Renee, noted the motorbike track is directly behind her and she does not have any problem with the track. She said it is nice to see kids having fun and the track is not harming anyone.

Kevin Barry, 42 Savanna Drive, concurred with Renee's statement. He said we don't have to worry about the noise from lawn mowers and chain saws, so we should not be so concerned with motor bikes. He said the motorbikes keep kids out of trouble – he knows kids who have gone far in the sport and it provides a positive impact all around

Brian of Portsmouth Road stated he is against penalizing an entire town due to one cranky lady.

Zach Klaptoski, 866 Vaughn Road, told the Supervisors that they don't realize the ordinance's proposed decibel readings are too low. Citing his mobile phone app, he noted the volume of his present speaking voice is 70 decibels and he would be subject to \$1,000 fine. He said we have the lowest decibel readings compared to other townships. He said the ordinance is created to target just one property due to one complainant.

Barbara Cowles, 120 Country Lane, noted she has a petition signed by nineteen (19) "cranky" neighbors and has also obtained complaints from residents of North Coventry.

Sandy Leptowski, 419 Bethel Church Road, asked if she could complain about a lawn mower running while she is trying to sleep. Mr. Hosterman responded the Police Department will investigate each noise complaint. Ms. Leptowski raised concerns over an increased call load due to noise issues and the fact that enforcement would be left up to the officer's discretion.

Sue Leptowski, 667 East Cedarville Road, echoed Sandy's concern. She stated an increased call load is now likely for minor incidents.

Steven Strutynski, of East Cedarville Road, asked if farmers would be exempt, particularly if they are operating a four-wheeler checking their fence line for problems. Mr. Hosterman replied there are exemptions in the ordinance for farm equipment.

David of Schoolhouse Road, said he came tonight because he lives across from a horse farm and lots of open land and he did not hear any bike riding today, he questioned if it is really a daily nuisance. He felt taxpayer money could better utilized elsewhere.

A Coventry Glen resident asked if a cost benefit analysis has been performed for equipment purchase and officer training. Mr. Rodgers stated the price of the equipment is approximately \$4,500. The resident also noted there are 30 plus federal appeals of cases where conduct has been consistently interpreted under

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zoning rights. Mr. Hosterman replied the property is not zoned for motor cross so there would be no vested property interest.

Howard Sacks, 805 Bethel Church Road, stated that in the future he hoped the Board would consider mediation instead of passing laws resulting in unintended consequences.

John Jenkins, 324 Spiece Road, stated the kids riding dirt bikes are staying out of trouble and having good clean fun. He said many residents from Country Lane are concerned with property values, but he noted a couple just purchased a home in June and there was no problem.

Missy King, 10 Eleanor Drive, said she does not live near the track but in the 32 years she has lived here in the Township she noted people have always had noise issues and residents are now fed up.

Mike Kranich, 620 Bethel Church Road, said he would love to add more, but everything has been said already and it should be clear to the Supervisors where most residents stand.

Mr. Hosterman thanked all for their comments and closed the Public Hearing at 7:24 p.m.

- 1. Consideration of Adoption - ORDINANCE NO. 217 "NOISE ORDINANCE"** AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE TOWNSHIP OF EAST COVENTRY, CHESTER COUNTY, PENNSYLVANIA, TO AMEND CHAPTER 27 (ZONING), PART 13 (GENERAL AND SUPPLEMENTAL REGULATIONS AND DESIGN STANDARDS), SECTION 1330 (PHYSICAL PERFORMANCE REQUIREMENTS), TO DELETE SUBSECTION G (NOISE) IN ITS ENTIRETY; AND TO AMEND CHAPTER 6 (CONDUCT), TO ADD A NEW PART 3 ENTITLED "NOISE" AND CONTAINING THE FOLLOWING SECTIONS: SHORT TITLE; DEFINITIONS; NOISE; AND REMEDIES.

Chairman Kolb reiterated the ordinance is not being considered to solely target motor bikes and called for a vote to consider adoption of Noise Ordinance No. 217. Michael Moyer made a motion to adopt Ordinance No. 217 and the motion was seconded by Karen Nocella. Chairman Kolb called for the vote and the motion carried 5-0.

Ann Sage thanked all for attending the meeting and thanked Ray Kolb for talking with Mr. Eckhart. She noted the track will be gone in three (3) to six (6) months and asked – where can you go? She urged folks to partner and find other acreage because the noise is certainly a problem.

Zach Klaptoski stated any and all outdoor noise in the Township will now exceed the decibel levels in the ordinance.

Kelsey, of Schoolhouse Road, introduced herself as an ICU nurse who sees young kids coming in daily from drug overdoses. She said she is concerned if you take away kids' rights to have fun they could turn to drugs.

- 2. Minutes. Consideration of approval of the minutes of the September 11, 2017 meeting.** Karen Nocella made a motion to accept the minutes as written. Mr. Rinehart asked for the inclusion of the name of the Parks and Recreation volunteer being honored, Eric Hughes. Ms. Nocella concurred and the motion was seconded by Anthony Duffy. The motion carried 5-0.

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3. Public Comment. Chairman Kolb opened the floor to Public Comment.

Zach Klaptoski asked if we could get some land for a motor bike park; he asked what activities can you do in a park under 67 decibels. Mr. Kolb responded the noise issue was already discussed.

Bob Bowers, of 69 Sawmill Road, asked if the Board could offer an overview regarding the proposed equipment sales project related to ZHB 267. Mr. Kolb stated the project was on the agenda and would be under discussion later in the meeting.

Zach Klaptoski noted any auction activity onsite would have to be under 67 decibels.

Walt Woessner inquired about the plans for a pile of dirt in the ROW between Ellis Woods Road and Old Schuylkill Road. Ray Kolb stated he would check into it.

4. Reports. Consideration of Township Manager Report.

- Bernard Rodgers, Township Manager presented applications for Ridge Fire Police Requests:
 - Request for Fire Police traffic control services at OJR HS Cavalcade of Bands, Saturday, October 7, 2017 from 4:00 - 6:00 p.m.
 - Request for Fire Police traffic crossing services at Seven Stars & Route 23, Main Line Animal Rescue Run from 7:00 a.m. - 3:00 p.m.
 - Request for Fire Police services at Coventry Mall Truck Display event, October 12, 2017, 5:00 - 9:30 p.m. ○ Request for Fire Police traffic control services at Twin Valley Fire Department event, October 21, 2017 from 7:00 a.m. - 12:00 p.m.
 - Request for Fire Police traffic control services for Best Buddies event at OJR HS main campus, November 4, 2017, 9:00 – 11:00 a.m.

Chairman Kolb called for a vote on the Ridge Fire Police requests and Michael Moyer made a motion to approve the requests. The motion was seconded by W. Atlee Rinehart. Mr. Kolb called for the vote and the motion carried 5-0.

- **Discussion and Consideration of Status of Notice of Violation issued for unpermitted driveway access at 205 Bishop Road, Pottstown, Pa. 19465 (parcel 18-3-04.1).** Mr. Rodgers yielded the floor to Township Solicitor, Mark Hosterman. Mr. Hosterman offered a timeline of the Notice of Violation proceedings from September 2016 to present, he noted the Board's last action was to lift the stay of enforcement on the unpermitted driveway at their August meeting. He stated he notified the property owner of the Township's request to submit engineered driveway plans by October 6, 2017 or the Township would authorize its Transportation Engineer to begin study of the driveway and its impact on the roadway. Mr. Hosterman informed the Board he received a letter from the property owner dated September 27, 2017 requesting withdrawal of their driveway permit application and restoration of the land to its previous state. Mr. Hosterman noted the property owner would still need access to their land. He also noted a complaint involving the location of a pillar in the ROW was unfounded since the land in question was determined not to be in Township ROW.

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Property owner, Riannon Walsh, 247 Bishop Road was present to address the Board. She requested Supervisors Karen Nocella and Michael Moyer recuse themselves. Ms. Nocella agreed and Mr. Moyer declined because he refuted Ms. Walsh's claim that he wished to outright deny her withdrawal request. Ms. Walsh rescinded her request for Mr. Moyer's recusal. Ms. Walsh stated she never intended to build a driveway but felt pressured to make application in order to move her farm equipment and horses from place to place. She said as an owner of agricultural property, she went to the Attorney General to seek legal remedy since Ms. Nocella installed a fence that usurped her property and impeded her movements back and forth to her acreage. Mr. Hosterman stated if it were Township ROW the Township would have looked into it. Ms. Walsh questioned if anyone could construct anything there in "no man's land" and if so, then who is the rightful owner. Mr. Hosterman replied anything built could not impede access and would be considered personal property of the builder.

Ms. Walsh shared photos of the area in question. She noted the dirt that was moved there was from excavation for her horse arena and the gigantic oak tree has been there a lot longer than the berm. She noted it is not high and it will allow her a low, leveled-off spot so she can take her mowers through. Her excavator stabilized the area and she is afraid if it is moved it will result in erosion of the area.

She also noted she asked Ms. Nocella to meet and discuss this driveway issue with her and the neighbors in an effort to diffuse the situation. She stated at the meeting Ms. Nocella remarked she built the blockage intentionally just to annoy her (Ms. Walsh). Ms. Nocella stated she did not make that comment; she stated under advice of her friends she contacted an attorney and had the land surveyed and pinned and made application with the Township. She stated she had to fence off her driveway due to concern that if a usage is allowed to go on for many years, the user is legally afforded those privileges.

Neighbors Chris Frye and Lisa Dunn of 342 Bishop Road questioned why Ms. Walsh cannot just be granted a spot for her mowers to get through. Ms. Dunn disputed Ms. Nocella's claim that she did not say she intentionally blocked access to Ms. Walsh's fields.

Ray Kolb asked Ms. Walsh how she previously accessed her property and if she had to access Bishop Road. Referencing her photos Ms. Walsh pointed out how access was made - she stated she is not creating a traffic hazard. A discussion ensued between Ms. Walsh, four Supervisors and Mr. Hosterman as they reviewed photos of the property.

Chris Frye remarked if she is allowed to use the dirt proposed as "no man's land" then she would not even have to use Ms. Nocella's driveway.

Mr. Hosterman noted there is really no change in circumstances, he said he would like it duly noted the Board could decide to accept the driveway application with a waiver in recognition of its historic farm usage and provided the applicant stay off Bishop Road ROW.

Ms. Ann Sage asked what the costs are that the Township has expended on this issue. Mr. Rodgers stated approximately \$7,500.00.

Mr. Kapp of 22 Bishop Rd questioned why an ordinance that is violated is not then enforced. Mr. Hosterman replied the Township did try to enforce the ordinance. Mr. Rodgers stated this whole

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process has been an attempt to enforce the ordinance – and the longer and more protracted the matter becomes, the more money it costs. The Township does try to avoid additional costs, but cannot always do so. He noted all parties involved have expended monies.

Ray Kolb made a motion to accept withdrawal of the driveway application (contingent upon the property owner restoring the dirt berm back to the way it was) in recognition of its historic farm usage and provided the applicant stay off Bishop Road ROW.

Mr. W. Atlee Rinehart seconded the motion. Chairman Kolb called for the vote and the motion carried 4-0. Mrs. Nocella did not vote as she had recused herself.

- **Discussion and Consideration of amending and updating Chapter 5 CODE ENFORCEMENT, PART 1 BUILDING CODES, Section 5-103. Adoption of Property Maintenance Code of the East Coventry Township Code of Ordinances – particularly as it pertains to exterior property areas and weeds.**

A brief discussion ensued about amending the section regarding grass and weeds height restrictions. It was noted the restrictions do not exempt farm properties. Mr. Hosterman suggested more research be done on ordinances concerning cutting heights and some suggestions be made available at the next meeting.

Ray Kolb expressed hesitation with the Township getting into farm acreage enforcement. He stated high grass and weeds are usually a problem with foreclosed properties.

Sally Kolb noted many farm fields are left to grow to comply with USDA best practices.

Karen Nocella asked if the best practices are applicable when a farmer leaves a two (2) foot swath of high weeds next to a residential lot.

Missy King stated she no longer mows their bank in order to discourage soil erosion.

An audience member, former resident of Pottstown, suggested the Township consider mowing foreclosed properties when the property owner does not comply with a Notice of Violation. She said that is how it is handled in Pottstown and the fee is levied against the foreclosure entity.

- **Engineer's Report.** Township Engineer, Brady Flaharty stated he had nothing further to report. Mr. Rinehart inquired if Act 537 is still in progress. Mr. Flaharty responded work continues on contacting the sixty-seven (67) survey respondents. Chairman Kolb called for a motion to approve the Engineer's report. Mr. Rinehart motioned to approve the Engineer's Report and the motion was seconded by Mr. Moyer. Chairman Kolb called for the vote and the motion carried 5-0.
- **Consideration to Accept Various Reports from Departments and Committees.** Ray Kolb made a motion to accept the various reports from Township departments and committees and the motion was seconded by Anthony Duffy. Chairman Kolb called for the vote and the motion carried 5-0.

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5. **Consideration to approve final escrow and financial security release as requested by Dennis Reider, President, Razor Sharp Grinding, 1702 New Schuylkill Road, Pottstown, Pa. and MacKissick, Inc., 1189 Old Schuylkill Road, Parkerford, Pa. 19457**

Mr. Rodgers reported the two land development projects for the above two mentioned companies have been completed and the property owners have submitted requests for the release of their remaining financial security and escrows. He recommended the release of the \$75,368.15 per the Land Development and Financial Security Agreement for Razor Sharp, Inc. and also approximately \$60,243.87 per the Land Development and Financial Security Agreement with MacKissick, Inc.

Chairman Kolb called for a motion to approve the release of funds per Mr. Rodgers recommendation. Mr. Rinehart made a motion to approve the release of funds as recommended and the motion was seconded by Anthony Duffy. Chairman Kolb called for the vote and the motion carried 5-0.

6. **Zoning Hearing Board Applications.**

Zoning Hearing Board Application No. 266 – 1595 Old Schuylkill Rd Application for a variance from the terms of the Zoning Ordinance. (Section 909.1 (a) (5) of the MPC; Sections 1506, 1506.B, and 1506 A of the Zoning Ordinance received by Edward and Michelle Covey of 1595 Old Schuylkill Road on August 30, 2017. Applicants request to extend six-month start date for reconstruction of a non-conforming garage structure destroyed by fire on November 11, 2016.

Mr. Rodgers reported the Zoning Hearing board met on October 5, 2017 and approved the Covey's variance request for an extension of the start date to permit rebuilding of their fire-damaged barn.

Zoning Hearing Board Application No. 267 – 200 Fricks Lock Rd.

Application for a variance from the terms of the Zoning Ordinance § 1002.1 to permit an auction sale use; and a variance or interpretation of § 1306.1.A(a) to permit the required parking on one lot when the principal use is on a second lot. Alternatively, applicant seeks a variance from § 1002.1 to permit parking as a primary use on Lot 1.

Mr. Rodgers informed the Board they did not see this petition prior to the ZHB meeting on October 5th, due to the timing of the submittal. He reported he has not yet received official notification on the Zoning Hearing Board's findings.

Mr. Rodgers offered a brief history of the property located at the corner of Fricks Lock Road and Highway 724. He stated Mr. Colonna had received approval of a preliminary plan to develop an office business park at the site but the project never moved forward and five years has lapsed since its approval. JJ Kane Auctioneers now wish to purchase the land (including a parcel across Fricks Lock Rd., adjacent to California Closets) to conduct heavy vehicle and equipment auctions about five (5) times per year. They plan to construct a 10,000-square foot building for their sales personnel and would like to use the parcel adjacent to California Closets for the additional parking of auction equipment. He stated one variance request is to expand the type of vehicles sales permitted to include heavy equipment and not just trucks and autos which is currently permitted. And the other variance request is to allow parking as a principal use on the lot next to California Closets. Mr. Rodgers further related if the applicant chooses to proceed, the next step would be to go through the subdivision and land development plan process.

A brief discussion ensued and the following comments were generated:

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Ray Kolb stated the commercial usage as proposed seems compatible with Township's C-1 zoning district. He stated the applicant must go through a land development review and approval with the Planning Commission and Board of Supervisors. He noted traffic may be problematic at the sight and a traffic light may be required.

Ms. Nocella stated she would like to learn how much tax revenue would be projected from the business and expressed concern about the aesthetics of the site because of its proximity to residential neighborhoods.

Mr. Rinehart noted the auctioneers do have other locations in PA that the Township should be able to research those sites. Planning Commission Chairman, Walt Woessner stated impact studies regarding these issues would be addressed during the land development planning stage.

Mr. Brown, a nearby resident on Sanatoga Road, said he attended the last Zoning Hearing Board meeting and he did not feel the Board knew what they were voting on. He also noted the auctioneers have a facility in Plymouth Meeting with large open gravel lots and lots of boom trucks, front end loaders, and backhoes. He said he knew of the commercial zoning when they moved into the area but they did not necessarily expect this type of unattractive development. Mr. Brown also mentioned his concern with safety at the intersection of the site. He also felt the development would not generate much tax revenue.

Ms. Gail Brown, a nearby resident on Sanatoga Road, stated C-1 zoning does allow businesses such as auto dealerships but excludes the outdoor storage of farm equipment. She did not feel the ZHB had a sound basis for their ruling. She also expressed her concern with the aesthetics (or lack thereof) at the proposed auction site.

Sandy Bowers, 169 Sanatoga Road, voiced her concerns with the development and its impact on stormwater runoff and light pollution.

Zach Klapotski commented he has driven by their auction sites and from the turnpike it is really lit up.

Ms. Brown also noted the proposed retention basins are located close to residences and she is concerned about the impact on mosquito breeding.

Mr. Rodgers stated the ZHB has 45 days to submit their written findings and the project must go through the subdivision and land development review process.

7. Other Business.

Consideration of Appointment of Proxy Voting Designee – Chester County Tax Collection Committee. Chairman Kolb called for a motion and W. Atlee Rinehart made a motion to appoint Township Manager, Bernard Rodgers as the Township's Proxy Voting Designee. The motion was seconded by Michael Moyer and the motion passed 5-0.

Discussion of Act 172 of 2016 which provides municipalities with the option to offer a real estate or earned income tax credit to active members of volunteer fire companies and non-profit emergency medical service agencies through a volunteer service credit program.

Ray Kolb reported North Coventry was advertising for adoption of such an ordinance; he noted volunteers must meet certain criteria for eligibility; however, he was unsure of the details. Mark Hosterman noted there was talk of collaboration or establishing consistency with nearby Townships.

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Mr. Rodgers suggested the ordinance should be enacted this year. Chairman Kolb called for a motion. W. Atlee Rinehart made a motion to have the solicitor research the issue with neighboring communities and then prepare a draft ordinance approving up to a 20% real estate tax rebate for eligible members of the fire company; the motion was seconded by Michael Moyer. The motion carried 5-0.

8. Exonerations. Chairman Kolb made a motion to approve the list of exonerations as presented. Karen Nocella seconded the motion and the motion carried 5-0.

9. Payment of Bills. Chairman Kolb called for a motion to approve the payment of bills as presented. Karen Nocella made a motion to pay the bills as presented. Anthony Duffy seconded the motion and the motion carried 5-0.

10. Other Business.

Parker Ford Woman's Club Thank You and Funding Request.

Mr. Kolb made a motion to allocate \$1,800.00 toward the Woman's Club funding request of \$1,300 for the annual Easter Egg Hunt and \$500 for a summer youth program. Karen Nocella seconded the request and the motion carried 5-0.

Mr. Rinehart noted the correct address for Manatawny Manor is 30 Old Schuylkill Road. This was not reflected on Barry Issett and Associates monthly invoice.

Anthony Duffy asked what resources are available to the Township to fight the Spotted Lanternfly invasion. The Township Manager responded he would look into the issue.

Karen Nocella reported on Saturday, October 28 at 9:30 a.m. the Parks, Recreation, and Conservation Committee will hold a tree planting dedication to honor volunteer, Eric Hughes followed by a nature hike.

Ms. Nocella asked for an update on the Ussler easement. Mr. Rodgers said documents are in preparation for the Township and Mr. Ussler to sign and return to Natural Lands.

Mr. Rodgers asked for authorization from the Board to purchase sound monitoring equipment in order to enforce the new noise ordinance. Mr. Kolb stated he would prefer to see a trial first. Michael Moyer made a motion to authorize purchase of sound monitoring equipment and the motion was seconded by Karen Nocella. Chairman Kolb called for the vote and the motion carried 4-1. Mr. Kolb dissented.

Tim Kohnken, a new resident on Sanatoga Road asked about the alignment of the Schuylkill River Trail and he was referred to the plans on the back wall of the meeting room.

Tax Collector, Missy King, informed the Board that late notices were mailed out.

11. Adjournment. There was no other business to come before the Board and Chairman Kolb called for a vote to adjourn the meeting. Karen Nocella made a motion to adjourn and Anthony Duffy seconded the motion. The motion carried 5-0 and the meeting was adjourned at 9:15 p.m.

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Respectfully Submitted,


Bernard A. Rodgers
Township Secretary