

**Hamiltonban Township Board of Supervisors**  
**Regular Meeting**  
**23 Carrolls Tract Road, Fairfield, PA 17320**  
**October 5, 2004**

**Supervisors Present:** Stephen W. Jacobs, Chairman, William E. Eckert, Sr., Vice-chairman, Jay Edward Deardorff, Road Master, James E. Benner, and Barbara A. Nicks

**Others Present:** County Commissioners-Lucy Lott and Glenn Snyder, Milton Nicks, Zoning Officer, Pamela Wiehagen, Planning Commission Secretary, and LuAnn M. Dille, Secretary/Treasurer

**Public Attendees:** Thomas Brown, Robert Gordon, Dr. James Hammett, Ray Fitz, Richard Fitz, Mr. and Mrs. Terry Kuykendall, Greg McCleaf, Barbara Sanders, Matt Sanders, Thomas Wajda, and Yvonne Wozzonsky

At 7:30 PM Chairman Jacobs called the meeting to order and those present recited the Pledge of Allegiance.

**Approval of the Minutes**

Mrs. Nicks made a motion to approve the September 7, 2004 Supervisor's Board meeting minutes, seconded by Mr. Benner. The Board unanimously approved this motion.

**Public Comment**

Road Master Deardorff made a motion to allow Mr. and Mrs. Kuykendall to use their camper at Weikert Livestock, 721 Carrolls Tract Road, Fairfield, and then to move it to 7 Zoo Road, Fairfield, PA until their house is built. Initial approval was granted before consulting with Middle Department Inspection Agency and Solicitor Heiser to establishment of Hamiltonban Township procedures regarding temporary housing.

Mr. Wajda of 145 Tract Road, Fairfield, PA asked the Supervisors if they are going to discuss the Empire Home development with 564 units and more than 1,200 residents tonight. Chairman Jacobs stated that two representatives from Empire Home did attend the Planning Commission meeting on October 4, 2004 and presented an artist's rendering of what they would like to plan. Formal Preliminary plans have not been submitted. There are many steps required in this size of a development. Mr. Wajda asked if there has been or in the future any county or local multi-municipalities planning for future growth impact. Chairman Jacobs stated he was sure there will be because these types of things are a tremendous burden to the local citizens, the roads, everything, the whole infrastructure. Hopefully, Hamiltonban Township is prepared with our zoning ordinances and the growth can be controlled. When you think about this, it will change and impact everything: the hospital, Emergency Management, schools, and traffic. No one wants to see Fairfield and the surrounding area change from a small town. Road Master Deardorff stated in Adams County there are approximately 1,200 working farms this year, next year there will be approximately 1,100. Farming is the biggest industry in Adams County but the biggest failing industry. You can not prohibit people who have

worked all their life for their land from a chance to sell their land for a profit. Farmers can not continue to loose money. You can not stop development but try to control it. Mr. Brown stated last week someone asked if his 12 chickens made noise. He said no but they crow in the morning. The person who asked him the question stated he move in next to the chicken farm and it is noisy and smells. The chicken farm has been there for a long time. Road Master Deardorff stated the approval of this proposed development is a long way off because the Township will not approve anything until the proper reviews have been completed. Vice-Chairman Eckert stated this development involves two municipalities: The Borough of Fairfield and Hamiltonban Township. Each municipality will need to approve this development. Vice-chairman Eckert believes the biggest issue is the increase in traffic volume.

Dr. Hammett introduced Yvonne Wozzensky, the new director of Strawberry Hill Nature Preserve on 1537 Mount Hope Road, Fairfield. Strawberry Hill Nature Preserve is now managed by one board with local members. In the future the parking area will need to be improved.

Greg McCleaf of 101 Taylor Lane, Fairfield, on September 29, 2004 presented the Supervisors with a written request with concerns about Act 45, The Uniform Construction Code (UCC). Mr. McCleaf has been in the process of building his own home since May 2001. He has been issued a building permit and four extensions. Mr. McCleaf was told he must have his house completed by October, 2004 or his construction project will fall under the UCC Code. Zoning Officer Nicks, Middle Department Inspection Agency representative William Naugle, Chairman Jacobs and Supervisor Nicks went to inspect his house for a partial Use and Occupancy Permit for the basement section to be used as a living quarters. At that time Zoning Officer Nicks did not issue him the partial Use and Occupancy Permit, there were several items Mr. McCleaf needed to complete. Zoning Officer Nicks stated that Mr. Naugle said the construction completed to date was well done. However there may be an issue with Mr. McCleaf's bedroom windows size. These windows are not installed at this time and will need to comply with the UCC regulations. Zoning Officer Nicks was not sure of the exact sizes but felt it might be 5.4 square feet for second story bedrooms and 5.0 square feet for ground floor bedrooms.

Zoning Officer Nicks explained Zoning Ordinance Article V, Section 501, building permit process. County permits are for tax purposes only, and not for construction of a building. Zoning Officer Nicks stated that Mr. McCleaf agreed to comply with the BOCA Code on his initial building permit. New construction must be in compliance with the UCC as the Commonwealth of Pennsylvania mandates. Zoning Officer Nicks could after October 10, 2004 place a stop work order on the house and have the McCleaf's vacate the premises unless a partial Use and Occupancy permit is issued by that date.

Road Master Deardorff made a motion to allow Zoning Officer Nicks to issue a new Hamiltonban Township zoning permit at no charge to Greg McCleaf. Mr. McCleaf is required to comply with the UCC for construction of the house and pay the resulting inspections fees. This was seconded by Mr. Benner. The Board unanimously approved this motion.

Solicitor Heiser stated Mr. McCleaf may appeal the window size regulation with the Adams County UCC Appeal Board. Solicitor Heiser stated that the official minutes is the formal response to Mr. McCleaf written concerns. If Mr. McCleaf disagrees with the permit process or anything that Zoning Officer Nicks does, that may be appealed to the Zoning Hearing Board. Zoning Officer Nicks will respond to Mr. McCleaf's written concerns point by point the next time he is at Mr. McCleaf's house to hopefully issue a partial Use and Occupancy Permit for the basement as living quarters.

Commissioners Glenn Snyder and Lucy Lott are visiting all the municipalities in Adams County asking if there where any questions or concerns for the Commissioners. Road Master Deardorff stated Adams County Soil Conservation District is out of control and is causing many problems for our citizens. There are requirements that must be complied with, but there seems to be many loops with fire in them. Mr. Snyder is a member of that Board.

Zoning Officer Nicks believes that Adams County should look into imposing Impact Fees and that zoning should be on a county level. Mr. Snyder stated the Commissioners have already been consulting with our Legislators on several land use issues.

Vice-chairman Eckert asked what is the status of upgrading the County's radio system. Mrs. Lott stated there is a committee looking into this. The problem is the 10 million dollar cost to do the upgrade. The State may force the issue.

Road Master Deardorff asked if there will be any County funding for the roads. Mr. Snyder stated no. Mrs. Lott stated there is a committee with Penn Dot to help decide projects priorities. The current priority is repairing and updating the bridges. Adams County is in the process of updating the County's Comprehensive Plan. Part of the comprehensive plan is a transportation study. Mr. Snyder stated when developers make their proposal let them know they are to upgrade the roads. Mrs. Lott stated some places have recreation impact fees for parks.

Mr. Brown stated that the Adams County Soil Conversation prevented him from cleaning up a dry stream bed a few years ago. Mr. Browns has 40 acres of cultivatable land, 40 acres of what Adams County Soil Conservation states is wetlands and an 11 acre wood lot.

Richard Fitz asked for approval of his family subdivision plan. Zoning Officer Nicks stated that the Woodland Conservation District require a lot of five (5) acres or more. The present plan denotes 4 lots: 7.1437 acres, 7.1288 acres, 3.4438 acres, and 3.5459 acres. Mr. Richard Fitz stated this is the best the family can divide the land into with the inheritance and that the Supervisors approved this plan. Mr. Richard Fitz stated that in the Supervisors Board meeting minutes for September 2, 2004 "Mr. Deardorff made a motion to approve this proposed subdivision plan with the following restrictions:

1. There will be one structure on this subdivision plan and there will be no other structures built on these lots in the future. This deed restriction would be placed on the four lots in this subdivision.

2. The Sewer Enforcement Officer approves the composting sewer system.

Mr. Eckert seconded this motion. The Board approved this motion.” The rest of the minutes states “The Fitz’s will need to survey the lots, have preliminary plans submitted to the Planning Commission 10 days prior to the meeting. The Planning Commission will probably disapprove the plans because they are nonconforming to the Hamiltonban Township Zoning Ordinances, the Supervisors will approve this plan with the noted comments and then the final plans should be approved.” Zoning Officer Nicks explained a subdivision is possible with a minimum of five acres per lot. Anything having to do with a zoning issue waiver must be done at a Zoning Hearing Board. Mrs. Nicks recalls a discussion concerning the private road issue. Mr. Richard Fitz stated a drawing was handed out at the September 2, 2003 meeting. Neither the Secretary Dille nor Mrs. Nick has a copy of that drawing. Mr. Richard Fitz passed out another drawing. Mrs. Nicks noted this drawing is dated September 18, 2003; the Supervisor’s meeting was September 2, 2003. There was a discussion concerning these issues. The Supervisors recall the discussion on the private road issue. The Supervisors can not grant waivers to zoning ordinances only the Zoning Hearing Board can waiver zoning issues. Because Solicitor Heiser has represented the Fitz’s in the past, he can not make any comments due to a conflict of interest. Solicitor Heiser suggested using another municipal law attorney. Road Master Deardorff made a motion to approve consulting with Attorney Clayton Wilcox concerning the problems with the Fitz’s Subdivision Plan, seconded by Mrs. Nicks. The Board unanimously approved this motion. The Fitz’s would like to be notified as soon as possible as to the result of the independent counsel.

### **Planning Commission**

Road Master Deardorff made a motion to grant a waiver from a stormwater plan requirement for the one lot of Allen and Faith Shultz Preliminary/Final Subdivision Plan as per the Planning Commission recommendation, seconded by Mr. Benner. The Board unanimously approved this motion.

Mrs. Nicks made a motion to approve the Eileen B. Nilsson Preliminary Plan with the nine conditions as per the Planning Commission recommendations, seconded by Mr. Benner. The Board unanimously approved this motion.

Mr. Benner made a motion to approve the Harold and L. A. Deardorff Subdivision Plan with two conditions as per the Planning Commission recommendations, seconded by Mrs. Nicks. The Board approved this motion with Road Master Deardorff abstaining.

### **Treasurer’s Report**

Road Master Deardorff made a motion to approve the Treasure’s Report, seconded by Mr. Benner. The Board unanimously approved this motion.

### **Approval of Expenditures**

Road Master Deardorff made a motion to approve the expenses for September 2004, seconded by Vice-chairman Eckert. The Board unanimously approved this motion.

October	Revenues	Expenses	Transfers	Balance
<b>General Account</b>				
ACNB Checking	\$ 51,536.65	\$ 95,295.82	\$47,000	\$ 5,639.08
ACNB Saving	11.34			21,185.27
PLIGT	163.01			84,747.98
ACNB CD				<u>100,000.00</u>
Total Current Assets				\$211,572.33
<b>Sewer Account</b>				
ACNB Checking	10,190.63	3,176.44		8,679.73
ACNB Savings		4.83		9,024.40
ACNB CDBG				139.44
PLGIT		50.32		\$43,998.64
Total Current Assets				
<b>State Liquid Fuels</b>				
PLGIT	65.02	142.92		4,604.65
PLGIT Emergency Fund	5.11			<u>4,088.30</u>
Total Current Assets				\$8,692.95

### **Solicitor's Report**

At 9:06 PM Chairman Jacobs called for an Executive Session for a personnel matter. Chairman Jacobs requested Solicitor Heiser and Mrs. Sanders join the Executive Session. At 9:16 PM the Board members returned to the meeting.

Officer Larmer is going to hand serve Mr. and Mrs. Francis Moore a Notice of Intention to present a motion for a Summary Judgment. Solicitor Heiser is doing this extra step because the Moore's are unrepresented by counsel and the nature of the problem to give them advance notice that as of October 22, 2004 the next scheduled business court he is going to present a motion for judgment on the pleading to Judge Kuhn. The purpose of the motion is to allow the Court to rule based on the pleading of the injunction relief and the injunction issued to the Moore's. Officer Larmer has the original of this notice and will also do a Certificate of Service which Solicitor Heiser will file with the Adams County Prothonotary.

Solicitor Heiser has a complaint to be filed on October 6, 2004 against George and Mary Nicholas relating to the Indian Trail Inn. The Nicholas' are in violation of the Hamiltonban Township Ordinances 464.87(B) and 646.87(5), vehicle and non-vehicle nuisances ordinances, and since January 1, 2003 maintaining a junk yard, trash or garage dump. They are maintaining a dangerous structure on the property. Hamiltonban

Township is asking for an injunction against the Nicholas' like the Moore's. Chairman Jacobs signed the injunction.

Officer Larmer stated that she has noticed dumping at his son's house. Vice-chairman Eckert stated it is a pile of metal which belongs to his son. This may become a separate issue.

Solicitor Heiser received information from Tim Cormany, Hamiltonban Township's engineer, concerning some zoning district changes. He would like to meet with Zoning Officer Nicks. At this meeting he needs to know each and every parcel that will be re-zoned before he can advertise the Zoning Hearing Board meeting. He will need each of the property owner's names, addresses and tax parcel numbers.

### **Police Report**

Officer Larmer gave the Supervisors her September 2004 Police Report and her October 2004 schedule. She handled 39 complaints, had 28 speeding and non-traffic citations. She traveled 798 miles and used 101 gallons of fuel, approximately eight miles per gallon. In July Officer Larmer had 7 speeding and non-traffic citations. This is an improvement over the last few months. Road Master Deardorff asked how many of the citations were good convictions. Officer Larmer did not know because not all of the citations have been processed by District Magistrate Beauchat's office. Vice-chairman Eckert asked if Officer Larmer had processed the request for re-imburement to the South Mountain Fire Company for the Baker's fire. Officer Larmer responded that District Magistrate Beauchat's office telephoned her this morning requesting the proper address for the South Mountain Fire Company. Officer Larmer has been at 35 Sour Marsh Trail, Fairfield, a couple of times trying to get the Jeep removed from the driveway. Vice-chairman Eckert and the Board would like more details in the monthly police report. Carroll Valley Police Department is obtaining free pedestrian cross walk channels. Officer Larmer asked if the Township wished to participate in the pedestrian cross walk channel program, the Board responded negatively.

Chairman Jacobs proposed that the Township hire a person 10 hours for clerical work for the Township's Police Department. Amy Harbaugh was suggested. This would allow Officer Larmer more time on the highway. Vice-chairman Eckert stated the Board already allows three hours a day for clerical work. The Board did not believe there is a need to hire an additional person at this time. The Police Department has spent 80% of its budget allowance so far this year. It was also noted that the Township has spent 86 % of this year's budget.

**EMA Report** None at this time.

### **Road Report**

Road Master Deardorff gave the following Road Report:

1. The mowing along the roads is being done.
2. Potholes have been repaired as needed.
3. The trucks are being repaired and maintained as needed.
4. The old police car has been repaired.

5. The Road Crew has built a cheap/economical salt containment storage facility to be able to improve control of salt inventory.
6. The Township received 70 tons of salt for the 2004-2005 Winter Season.

#### The 2004 Mount Hope Road Project

1. The berms will be built this week.
2. The proper signage and delineation will be completed soon.
3. The first sealant coat will be completed within the next two weeks.
4. The final step will be the yellow line on the road.

The approximate cost to finish the project will be \$18,000.

Road Master Deardorff made a motion to purchase a 2005 Peterbilt Model 355 single axle chassis, 39,000 GVW with a three year warranty for approximate cost \$95,000, seconded by Mr. Benner. The Board unanimously approved this motion.

Vice-chairman Eckert stated that Robbie Kaufman and Jack Ringler are maintaining the equipment well.

Officer Larmer stated that there was an automobile accident this week on Mount Hope Road that destroyed one side of a new culvert. The person's insurance will reimburse the Township for cost of materials and labor.

#### **Sewer Report**

Road Master Deardorff gave the following sewer report:

1. A new modulator has been ordered, costing about \$1,000.
2. Currently the pumping station and the front lagoon are being pumped and cleaned. Hopefully, the lagoon lining will not be damaged as it is being pumped out and cleaned. This is the newest lagoon liner.
3. Routine maintenance is being done.
4. When Knouse Food, Inc. moves some bins, the final manhole saucers will be installed.

#### **Zoning Officer's Report**

Zoning Officer Nicks issued 7 permits in the month of September 2004. One for each of the following: commercial building-Towne Center Phase III, an agriculture building, an addition to storage shed, new home and a Use and Occupancy permit. He issued two permits for storage sheds. He attended five meetings: Supervisor's Meeting public, meeting with Mr. Tony Fredericks-zoning signs, MDIA-state zoning regulations, Bigam and Edwards possible subdivision plans. He completed three inspections-Bakers, Davies, and McCleaf. He had 76 telephone calls. In the Township the new MCI lines will be following Route 16, in York the new line will follow the railroad right-a-way. Road Master Deardorff made a motion to approve the Zoning Officer's Report for

September 2004, seconded by Mr. Benner. The Board unanimously approved this motion. The Baker right-a-way situation is a civil issue. Towne Center Management Attorney Yannetti is requesting a Zoning Hearing Board for a waiver to install a larger than permitted sign. Zoning Officer Nicks and Zoning Hearing Board Attorney Davis will continue with the proper procedures.

**New Business**

Mr. Benner made a motion to set Trick or Treat for October 31, 2004 from 6:00 PM to 8:00 PM, seconded by Mrs. Nicks. The Board unanimously approved this motion.

**Old Business** None at time.

**Next Regular Meeting**

The next regular meeting will be Wednesday, November 3, 2004 at 7:30 PM at 23 Carrolls Tract Road, Fairfield, PA. Tuesday, November 2, 2004 is the National Election. The next budget meeting will be Tuesday October 19, 2004 at 7:30 PM at 23 Carrolls Tract Road, Fairfield, PA 17320.

**Adjournment**

At 10:01 PM Chairman Jacobs made a motion to adjourn the meeting, seconded by Road Master Deardorff. The Board unanimously approved this motion.

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LuAnn M. Dille  
Secretary/Treasurer

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Stephen W. Jacobs  
Chairman