

**MINUTES  
BOARD OF COMMISSIONERS' PUBLIC MEETING  
SEPTEMBER 17, 2012**

**CALL TO ORDER - ROLL CALL - DECLARATION OF QUORUM:**

The Penn Township Board of Commissioners met in a regular session on Monday, September 17, 2012 at the Penn Township Municipal Building. President Felix called the meeting to order at 7:00 P.M. with a roll call of members. Present were Commissioners Felix, Prieber, Goldsmith, Heilman, and Klunk. Also present were Solicitor Tilley, Township Manager Garvick, Police Chief Laughlin, Zoning Officer Menges, Township Engineer Bortner and Assistant to the Engineer Matt Swanner.

**PLEDGE OF ALLEGIANCE TO THE FLAG FOLLOWED BY A PERIOD OF SILENT MEDITATION:**

All in attendance stood for the Pledge of Allegiance to the flag, which was followed by a period of silent meditation.

**ANNOUNCEMENTS:**

Commissioner Felix announced that an executive session was held on September 4, 2012 to discuss personnel issues. He also announced that an executive session was held prior to this meeting to discuss the York Street interceptor and the acquisition of land. Commissioner Felix announced that following the public meeting this evening, the Board of Commissioners would convene in an executive session with the Solicitor for the purpose of discussing legal, personnel, and other issues involving attorney/client privilege.

**APPROVAL OF THE MINUTES FROM THE PREVIOUS MEETING:**

The minutes of the August 20, 2012 meeting of the Board of Commissioners were approved as submitted.

**PERSONS TO BE HEARD CITIZENS COMMENTS:** None

**TOWNSHIP REPORTS - STANDING COMMITTEES:**

Public Safety Committee - Commissioner Prieber had nothing to report

Personnel Committee - Commissioner Heilman had nothing to report.

Finance Committee – Commissioner Heilman:

Commissioners Heilman/Goldsmith moved to approve Township warrants in the amount of \$996,489.95. Motion carried unanimously with Commissioner Klunk abstaining from warrants for vendor #60.

Commissioners Heilman/Goldsmith moved to approve a request dated August 16, 2012 from Golden Visions Senior Center for a waiver of the yard sale permit fee. Motion carried unanimously.

Commissioners Heilman/Goldsmith moved to approve a request dated August 10, 2012 from the Penn Township Lions Club for a waiver of the sign permit fee to advertise a chicken barbeque. Motion carried unanimously.

Commissioners Heilman/Goldsmith moved to approve the 2013 minimum municipal obligations for the Fire Fighter's, Uniformed and Non-Uniformed Pension plans. Motion carried unanimously.

Public Works Committee – Commissioner Goldsmith:

There were no additions or changes to the Engineer's Report.

Commissioners Goldsmith/Prieber moved to approve a request received August 22, 2012 from Johnston and Associates for a modification of the placement of sidewalk construction for the Breezewood Drive Project by providing a 4' pedestrian easement along front property lines on lots 1 through 12 only. Motion carried unanimously.

Planning & Recreation Committee – Commissioner Klunk:

There were no additions or changes to the Zoning Officers Report.

The following subdivision and land development plans were formally filed:

P12-12 Breezewood Drive

Commissioners Klunk/Goldsmith moved to approve the following subdivision and land development plans:

P12-11 Harold G. & Anna M. Shaffer Subdivision  
Motion carried.

Commissioners Klunk/Goldsmith moved to accept a request dated September 17, 2012 from GHI Inc. to withdraw plan P12-05 Hanover Bible Baptist. Motion carried unanimously.

Commissioners Klunk/Goldsmith moved to approve the following extension requests that will expire on December 17, 2012:

P09 -10 - American Home Contractors LLC  
P12 -10 - The Marital Trust for the Benefit of Rita M. Neiderer  
Motion carried unanimously.

Commissioners Klunk/ Goldsmith moved to accept the withdraw of a sign waiver request originally submitted July 30, 2011 by Nikolause & Hohenadel, LLP on behalf of MedExpress. Motion carried unanimously.

Health & Sanitation - Commissioner Klunk

Commissioners Klunk/Prieber moved to approve a change order request dated June 19, 2012 from Rogele Inc. to decrease the contract amount by \$39,667.55 for the Timber Lane Sewer Interceptor Project. Motion carried unanimously.

Commissioners Klunk/Prieber moved to adopt Resolution No. 792, revising the official sewage facilities plan by including the Matthew S. Dietrich Land Development plan. Motion carried unanimously.

Commissioners Klunk/Prieber moved to adopt Resolution No. 793, revising the official sewage facilities plan by including the Rita M. Neiderer Subdivision Plan. Motion carried unanimously.

Commissioners Klunk/Prieber moved that Penn Township settle its dispute with Marks Contracting on the Main Interceptor Replacement Project under the following terms:

1. The contract between Penn Township and Marks Contracting, Inc. for the Main Interceptor Replacement Project shall be terminated for convenience.
2. The Township will pay Marks the sum of \$296,853.67, consisting of the amounts in Applications for Payments 6 and 7, the retainage, and the amount of fabricated manholes, pipe and other materials for the project supplied by Marks Contracting. This payment will be accepted by Marks as full payment for all amounts due. The payment may be disbursed upon execution of the Settlement Agreement and Release.
3. Marks will permit all uninstalled materials to remain at the site. Marks will deliver any materials purchased in the foregoing payment to the site if they have not yet been delivered. The Township project engineer or his designee will inventory the materials to assure receipt by the Township of all materials.
4. Penn Township and Marks Contracting, Inc. will execute a Settlement Agreement and General Mutual Release of the other and of Liberty Mutual, which shall include general releases of the other parties from all further liability except for liability to perform under the Settlement Agreement. The president and secretary of the Board of Commissioners are authorized to sign the Settlement Agreement and General Mutual Release on behalf of the Township. Marks Contracting, Inc. shall supply to the Township a certified copy of the corporate authorization of the settlement and the authorization of the parties signing the Settlement Agreement and Release on behalf of the company.
5. The president of the Board of Commissioners and the secretary are hereby authorized to sign on behalf of the Township such other documents as are necessary and appropriate for this settlement.
6. The Township Manager and the Township Solicitor are authorized to negotiate on behalf of the Township and to develop the terms of the Settlement Agreement and Release, such terms to be consistent with the terms set forth in this Motion.
7. The Township Manager, other members of the Township staff, and the project engineer are authorized to prepare the bid documents necessary for the completion of the construction and installation of the Main Interceptor replacement in accordance with the design and construction standards set forth in the prior bid documents for this project, with such amendments as are necessary to reflect changes in the scope, design and nature of the work resulting from the construction performed to date and materials already supplied for the project.

**MANAGERS REPORT:** There were no additions/corrections to this report.

**OLD BUSINESS:** None.

**NEW BUSINESS:** None.

**CITIZEN'S QUESTIONS TO THE BOARD REGARDING DISCUSSION ITEMS:** None.

**QUESTIONS FROM PRESS:** None.

**ADJOURNMENT:**

There being no further business to come before the Board, Commissioners Prieber/Klunk moved for adjournment at approximately 7:14 P.M. Motion carried unanimously.

Respectively submitted,

Kristina J. Rodgers  
Township Secretary