

**MEMBERS PRESENT**

EDWARD BARZESKI  
ROY SHAFFER (absent)  
ROBERT AMISTADI (absent)  
PAUL PIOLI  
SCOTT HUNT

**OTHERS PRESENT**

ROBERT SHAHADE - SOLICITOR  
KEN MESKO - ENGINEER  
GARY SERBALL - ROAD SUPERVISOR  
MARTIN DEAN – OFFICER IN CHARGE  
ALICE HUMMEL- RECORDING SECRETARY

**OTHERS:** Ali Alubaidi, P.J. Antonikas, Irene Audi, Joe Babik, Ronald Budash, Marlene Conner, Janet Conway, James Drapchak, Dave Fatula, Ron Good, Orlando Hanselman, Donald Hess, Karen Howell, Ray Kucera, Domenick Luberto, Joanne Luberto, Donald Merritts, Ed Ryan, Linda Ryan, James Sedlmeyer, Sylvia Sedlmeyer, Thomas R. Springer, Tom Yost, Linda Zarobsky, Russell Zimmerman

**CHAIRMAN CALLED THE MEETING TO ORDER AT 7:00 P.M. WITH THE PLEDGE OF ALLEGIANCE.**

**APPROVAL OF MINUTES – January 3, 2017**

Scott moved, Ed seconded, Paul abstained as he was not present at the last meeting.  
MOTION CARRIED 2/0/1

**PERSONS REQUESTING TO BE ON AGENDA:**

**ORLANDO B. HANSELMAN – 400 Berks Drive**

Mr. Hanselman stated that he had three questions in particular for the Board of Supervisors. (Refer to attachment provided by Mr. Hanselman)

Mr. Hanselman indicated taxpayers in Upper Yoder have suffered flood damage subsequent to the state mandate of sewer compliance. He stated they do understand that is not the Township's mandate, however, they do recognize the mandate did not properly manage groundwater.

Mr. Hanselman referred to and read Ordinance 270 adopted July 15, 2010, Section 102. Statement of Findings; that the governing body of the Municipality finds that; (B.) A comprehensive program of storm water management, including reasonable regulation of development and activities causing accelerated runoff, is fundamental to the public health, safety and welfare and the protection of people of the Commonwealth, their resources and the environment. Mr. Hanselman commended the Board for that.

Mr. Hanselman stated that he had attended the January 16, 2017 Upper Yoder Township Authority meeting and has also had discussions with Ebensburg Borough Manager, Dan Penatzer, regarding the situation. He stated that it is likely, if not probable, that the residents are going to have groundwater damages to their home. He questioned whether there was any forewarning to residents by the Township and/or Authority that preceded the Mandate, and if so, how did they communicate to the citizenship? He stated that many property owners have spent between \$10,000 to \$20,000 dollars for the mandate. He also stated that the groundwater damages that have incurred to these homes has placed both a financial and emotional burden on the property owners. Some damages have been estimated to be between 15% to 30% of the actual homes value.

Mr. Hanselman indicated no part of the State Mandate relieved anyone of responsibility for prudent storm water management. Further residential compliance may have more of the damages, where there is lack of drainage, or drainage at all. He questioned, what storm sewer and ground water management actions will be taken to prevent further flooding damage on our streets? Has an engineering needs analysis been performed? Has a plan and budget been created and approved? Is there a storm water management fee/fund, so that the Township can address this proactively? Mr. Hanselman gave an example of Ebensburg Borough who charges \$96 Storm Water Management Fee per year to all properties in the borough, to be proactive.

Mr. Hanselman thanked the Supervisors for their time and stated he looks forward to their response to his questions at next month's meeting.

**KEN MESKO, TOWNSHIP ENGINEER**

Ken offered some clarification and stated that they have been talking about the sewer project for quite a while. It has been acting as a French drain, running down along the houses and where the water runs. He stated Upper Yoder is located on top of the city and has no other municipality above us. We have six overflows and when it rains hard, with the terra cotta mains and laterals from the 50's-60's there could be a potential of storm water and ground water damages. He unfortunately has no way of knowing where it was or is going to cause damage. The actual ground water damages are an indication that the sewer lines were actually absorbing the groundwater, which is why the compliance is in effect. He also noted that a lot of properties have sump pumps and almost everyone has a footer drain, otherwise there could have been water damage all along.

Ken stated the six overflows must be blocked off as part of the 2021 Mandate Deadline. He stated there have been communities that have gotten their flows down, such as Dale, Forest Hills, etc. He stated that 10, 12, 15 times the capacity of the lines into the mains is mandated to be eliminated.

Mr. Hanselman interjected, stating the problem in general was foreseeable and he understands that what houses would be damaged was not. He questioned what type of management, budget and plan does the Township have to address this issue?

Scott stated that in regards to a Storm Water Management Plan, the Supervisors have budgeted \$110,000 for Storm Water Management, plus an additional \$390,000 has been earmarked for storm water management. Scott indicated the Township is currently doing a storm water project on Sell St. in which Ken is waiting on one easement and the contractor to begin the work. He stated this spring the Supervisor's will have a plan formulated to address those areas that have issues and confirmed once more that the Supervisor's do have money budgeted to do so.

Mr. Hanselman stated in talking with the Borough Manager at Ebensburg, his understanding that the needs assessment would cost between \$5,000 to \$10,000 based upon our surface areas. He stated that \$390,000 is a drop in the bucket as to what is needed to fund that type of project. He questioned how does the \$390,000 help those people that have already suffered damages? He stated that Ordinance 270 calls for more proactivity and protection of the residents.

Mr. Hanselman stated that if there were no more answers to be provided at the time, he requested that his comments and questions be incorporated into the minutes. Ed agreed and it was so noted. Ed also stated that he sympathizes with the people in this matter.

**IRENE AUDI – 102 NICE AVENUE & 909 GOUCHER STREET**

Ms. Audi stated she owns a home on 102 Nice Avenue and she actually lived there during the 1977 flood. She stated that now, every time it rains, the water comes down Goucher street, through her driveway, into the garage and floods the lower level of the home, as it has nowhere for it to go. The driveway has been redone by Laurel Asphalt who came back and built a diversion hump at end of driveway. She has a sump pump that puts the excess water out into the street and it comes back into the driveway. Pools of water are in her driveway year-round. She stated the sump pump is an eyesore and the water setting there is going to ruin the driveway, the furnace is new, and the basement that has three drains in it, is going to be ruined. Ed requested that Gary stop by and take a look at the situation.

Mrs. Audi herself lives at 909 Goucher Street and stated there is a storm sewer that goes through the middle of her yard and ends up in Keppler. She indicated she is getting water into her basement from the right side of the house and is concerned if the storm sewer line could possibly be broken. Solicitor stated it could be filled with roots and washed out. Solicitor and Ed, both agreed Gary should get the line camera'd to see if it can be determined what may be causing the problem.

**DAVE FATULA, BROWNSTOWN**

Mr. Fatula stated he is a friend to many of the people here and has a niece that lives on Ravine. He stated Brownstown was one of the biggest violators for Dornick Point, and that they took the brunt of it and are now 100% compliant. Mr. Fatula stated Brownstown went from being the worst offender and now their sewer is now one of the best. He stated they worked hard, and people cried.

His problem at his nieces on Ravine is that once they put the new pipe in the old pipe was dead ended. If because he has cut off the water flow, it is going to leech down, can he be held liable for that? Solicitor stated they have been looking at where is all of the source coming from, as there are no storm sewers in Ravine. He also stated he could have corrected that problem very easily, only with consent of that neighbor.

Ed stated the Township is going to pipe a storm system along Ravine, catching it from the highest source, to attempt to alleviate damages to the residents. He also stated no one is intending to lower the value of anyone's property.

**JOANNE LUBERTO - 429 BRADDOCK ST.**

Mrs. Luberto is 79 years old and has lived at 429 Braddock St for 28 years without any type of water damage until December 19, 2016, when she was flooded 2" – 3" in her basement. The Fire Company came and as soon as they sucked it out, it continued to run back in. She asked, where do you start when you have all this water to deal with? Today, they were ripping out her laminated wood floor, because it got ruined. Her sewing room was also damaged.

She stated the cart was put before the horse. The first thing, that needed to be taken care of was the groundwater and then take care of the sewers. If only 20% of the property owners have complied, that means there is 80% out there to yet become victims. Many property owners are retired, live on a limited income and have all this expense to deal with, because no one thought this through. She stated, nowhere in the letter was it addressed that it was a closed system and nowhere was it addressed that now the groundwater may be coming into our house. She stated she feels very victimized, being told to get it done and that no one told her that she would have to deal with groundwater and that she may have to get a sump pump.

Mrs. Luberto suggested everyone be taxed to replace Dornick Point. Solicitor stated 9,000 out of 25,000 customers are now in compliance. He stated the flow rate has been reduced to 75,000 from 150,000 and that the Township can't force anything. The Upper Yoder Sewer Authority was forced to take care of this or it would be turned over to the Redevelopment Authority. Right now, the Upper Yoder Township Authority is paying \$1,000 per month for overflow. In the future, the Authority will be paying \$10,000 per month per overflow. Solicitor stated, unfortunately when you fix it here it causes another problem down there.

**THOMAS SPRINGER - 443 S. CLEARFIELD ST.**

Mr. Springer was questioning the sewerage upgrade. He stated he bought his house 2 ½ years ago, and his realtor contacted the Authority, who stated it was upgraded. Apparently, it was not and was never tested. The Sewer Authority enacted this in May 1, 2015, prior to that was only new construction. When he bought the house, it was a stipulation. Now if it wasn't done correctly when he bought the house, and the work was done and inspected why does he have to do it again?

Solicitor stated pressure testing was not required prior to May 1, 2015. Ken questioned if there was a building permit? Solicitor stated those homes are older homes in that area. Solicitor also stated that every home that has been sold since May 1, 2015, has been compliant prior to the sale. Ken stated he could possibly have a video test or pressure test, to have it certified. Mr. Springer stated, it is still going to have to cost him \$50 for permit, \$90 for contractor and who knows how much more.

**RYAN GOOD - 438 S. CLEARFIELD ST.**

Mr. Good stated his house was built in 1953 and ever since he moved into that house, every time it rained he got a little water. Everyone kept saying there were springs under his property and the area. He had fixed his basement up and during the Flood of 1977, he got 4" of water in the basement and that was the worst it ever was. He stated he knew there were water problems there. Finally, after his kids grew up and left, they were going to fix up the basement again and his contractor said he should have Dura-Dry come in to prevent water coming in from the Braddock side. He stated that worked perfect and he doesn't get water any more, however, it cost \$4,000.00. Mr. Good stated he had only one drain in the house, so he had 4 new drains and all new pipe put in.

When they came to his place in November, he stated he has a 12" CMP pipe when he had his driveway put in. At the end of the driveway he has blacktop and they had to go through the blacktop to dig. They cut that out to get to the sewer line, the drain pipe top wasn't moved and at the bottom there was no pipe. The pipe was there and buried down under the pipe and blacktop, so all the water that came down under the driveway and the top of the pipe is above ground. Everything that he put in was PVC and he is scared because of the type of glue.

**J. J. SEDLMAYER - 425 BRADDOCK ST.**

Mr. Sedlmeyer stated that in December they had to have the water pumped from their basement and they actually extracted two truckloads of 500 gallons each from their home.

**ORLANDO B. HANSELMAN - 400 Berks Drive**

Mr. Hanselman stated when one party takes care of their compliance, it causes problems further on down the stream. Daisytown has put in sump pumps and now the streets are all coming up and need to be repaired. He questioned, do we pay piece by piece or what?

Mr. Hanselman stated we need to work with Ordinance 270 and need to quit pointing fingers at each other. Scott stated he is not pointing the finger at any one and the Township is looking for a solution for this problem. Solicitor stated that in some areas they are dealing with groundwater and subsurface water penetrating into the ground. The storm water management is in reference to surface water and its disposal. Solicitor stated (a) the contractors still are not done with their work; (b) 1,100 properties still have not met compliance within the township and (c) there is not enough money to do an entire storm water management system at this time and they need to look for further monies. It should be noted that surface water management and groundwater are two separate problems. Groundwater is a private problem and needs to be sorted out.

Solicitor stated that it was a good point to bring up that sump pumps going out onto the street causes a problem for the streets and Mr. Good had a good point regarding an area that he is very familiar with. Solicitor stated the Supervisors have every intent to deal with this problem and try to solve these problems regarding the surface waters. The subsurface waters are not going to be easily controlled, because we have no way of knowing what is going on beneath the surface.

Mr. Hanselman questioned, if they come back to future meetings, can they Supervisors address his questions as outlined on the printout provided at the beginning of the meeting next month. Ed stated they would.

**APPROVAL OF REPORTS-SECRETARY'S, INCOME, PAYROLL, FINANCIAL STATEMENT**

Scott moved, Paul seconded to approve the reports as submitted with discussion to follow on the Secretary's Report. MOTION CARRIED 3/0

**APPROVAL OF GENERAL FUND BILLS - \$50,117.62**

Paul moved, Scott seconded to approve the general fund bills in the amount of \$50,117.62.  
MOTION CARRIED 3/0

**APPROVAL OF OTHER FUND EXPENDITURES - \$80,796.91**

Paul moved, Scott seconded to approve the Other Fund Expenditures in the amount of \$67,129.03. MOTION CARRIED 3/0

**UNFINISHED BUSINESS**

**SELL STREET STORM SEWER PROJECT**

Ken stated he has talked with the contractor who is finishing up another project and will start on the Sell Street storm sewer project in approximately 2-3 weeks.

**ELIM STREET DEMOLITION UPDATE**

Solicitor indicated that a proposal has been received for the demolition of the Elim Street building from Roaring Fork Excavating with the provision that the Township will provide an Asbestos Release. Solicitor stated the Township is also in receipt of a proposal from C. Ken Towel, 30 North River Lane, Everett, PA 15537 for a complete asbestos building inspection at a cost of \$790.00 plus \$14.00 per sample, with the expected number of samples to be taken is 15.

Paul moved, Scott seconded to approve C. Kennel Towel's Asbestos Assessment Proposal in the amount of \$790.00 plus \$14.00 per sample. MOTION CARRIED 3/0

Ed moved, Paul seconded the demolition contract to be awarded to Roaring Fork Excavating in the amount of \$17,360.00, contingent upon proper asbestos assessment and mitigation, if necessary. MOTION CARRIED 3/0

**CORRESPONDENCE**

**GARBAGE EXONERATION REQUEST**

Two separate letter of requests were received requesting exoneration of garbage fees for the year 2017. The first was from Dan Mulkey for two separate properties, 289 and 291 Sell Street and the second was from Deborah A. Lichtenfels on behalf of her father Charles E. Riddle for 593 Harshberger Road.

Ed moved, Scott seconded to approve the exoneration request for 289 Sell Street, 291 Sell Street and 593 Hershberger Road for the year 2017. MOTION CARRIED 3/0

**NEW BUSINESS**

**POLICE CHIEF INTERVIEWS**

Paul moved, Ed seconded to hold Upper Yoder Township Chief of Police interviews in the form of an Executive Session, Wednesday, January 25<sup>th</sup> 2017, beginning at 6PM.

**NARCAN MEMORANDUM**

Scott moved, Paul seconded, to agree the Township understands the District Attorney's office position for the use of NARCAN in reference to the Memorandum from the office of the Cambria County District Attorney. MOTION CARRIED 3/0

**20 SAFEST CITIES IN PENNSYLVANIA**

Scott stated he had been informed that [safewise.com](http://safewise.com) has ranked Upper Yoder Township 13<sup>th</sup> of the 20 Safest cities in Pennsylvania. The report is narrowed down by the number of reported violent crimes and

property crimes in each city. Scott stated this says a lot for the Upper Yoder Township Police Department and they should be commended for their fine work.

**TAX COLLECTOR EXONERATION**

Scott moved, Paul seconded to exonerate the Tax Collector for delinquent real estate taxes and per capita taxes for the year 2016. MOTION CARRIED 3/0

**PUBLIC PARTICIPATION**

**JIM SEDELMAYER, 425 BRADDOCK STREET**

Mr. Sedelmeyer indicated a few years ago, a contractor was doing work in the area and the road is deteriorating and needs to be resurfaced where the contractor had made damages in the roadway. Ed indicated that would inspect it during the Supervisor's Spring road inspection.

**RUSSELL WM. ZIMMERMAN, 122 NICE AVENUE**

Mr. Zimmerman questioned the status of the timbering off Berkley Road, as he stated there is a lot of brush down there yet. Ed requested that Gary discuss the situation with Mulch King as they are doing other work in the area.

**MEETING ADJOURNED** – Paul moved, Scott seconded to adjourn the meeting. MOTION CARRIED 3/0

**ADJOURNED: 8:08pm**

Respectfully submitted,



Alice Hummel

Recording Secretary

**THE NEXT SUPERVISORS MEETING**  
**WILL BE HELD AT THE TOWNSHIP MUNICIPAL BUILDING,**  
**FEBRUARY 16, 2017 AT 7:00 P.M.**

**Upper Yoder Township Supervisor Meeting: Jan. 19, 2017**  
**Questions posed by Orlando B. Hanselman, Upper Yoder Township**  
**taxpayer**  
**(OBH requested time to address group by call to Mary Kay on Jan. 17**  
**at 2:54 PM)**

1. Ken Mesko, professional engineer, stated at this week's Sewer Authority meeting that he forewarned appropriate parties of the likelihood of storm and ground water problems within the township as residents complied with the State forced sanitary sewer mandate. How did this authority proactively address Mesko's professional concerns?
2. Many residents here tonight have spent between \$10,000 and \$20,000 to both comply with the sanitary sewer mandate and then subsequently to address groundwater flood damage to their homes this past December as a result of following these orders. These expenses often equal 15% to 30% of their homes' value. How do you propose that these victimized township tax payers obtain financial redress?
3. No part of the State mandate relieved anyone of responsibility for prudent storm and groundwater management. To-date only approximately 1 in 5 township residences have complied. Further residential compliance, as noted by Mr. Mesko, is likely to further exacerbate the storm and ground water flooding situations.
  - a. What storm sewer and ground water management actions will be taken now to prevent further flooding damage on our Upper Yoder Township streets?
  - b. Has an engineering needs analysis been performed?
  - c. Based upon a professional needs analysis, has a plan and budget been created and approved?
  - d. Is there consideration of enacting a storm water management fee such as has been done in Ebensburg?
    - i. \$96 per year paid by all properties in borough including residences, businesses, non-profits and governments

**The State did not mandate failure to properly manage storm water!**