

BOARD OF SUPERVISORS

BUSINESS MEETING

March 27 , 2008

PRESENT ATTENDEES:

[x] Charles Loughery,
Chairman

[x] Lawrence C.
Anderson
Vice-Chairman

[x] Barbara Lynch,
Supervisor

PRESENT ATTENDEES:

[] Lillian
Township Secretary

[x] Wayne Mensinger
Zoning Officer

[x] Others (See attached
list)

Chairman Charles Loughery called the meeting to order at 7:30 p. m.

Minutes of March 13, were approved and accepted as presented via *Motion 08-50*. Motion by Loughery, second by Anderson. Vote 3-0.

Road Report approved as submitted via Motion 08-51. Motion by Loughery, second by Anderson. Vote 3-0.

Issues surrounding Supervisor Barbara Lynch's involvement with the Salford Onsite Sewer System Solutions (SOSSS), a group that is appealing DEP's approval of Salford Township's Act 537 Plan, led Chairman Charles Loughery to ask for Lynch to recuse herself from the Board's work on the sewer and water project. Charles Loughery read the following:

"On March 17, 2008 Salford Township received a Notice of Appeal to the Townships new Act 537 Plan w/ Tylersport Special Study area. The Appeal was filed with DEP by the Salford On Site Sewer Solutions (SOSSS) an unincorporated association and separately by Mr. George Di Domizio.

The Supervisors attended an Executive session on Monday March 24th at the Offices of Township Solicitor Robert Bricker. Supervisors Anderson, Lynch and Loughery attended the meeting as did Solicitor Bricker and Al Peterson of BCM. Various options were discussed regarding how the township might deal with this matter. No decisions were made at the meeting.

It is my desire that the Township defend the new Act 537 plan in connection with this appeal.

This Appeal by SOSSS raises concerns with me due to Supervisor Lynch's previous and long time involvement with SOSSS. Mrs. Lynch has

copied me on a letter dated March 3, 2008 that she sent to Mr. Di Domizio wherein she submitted her written confirmation of her resignation from the co-chairmanship of SOSSS. There is no indication in the letter that she has resigned from the organization itself. Although I believe this is only an oversight on her part.

I want to clarify for the record that SOSSS and Mr. Di Domizio are well within their rights to file this appeal and I take no objection to them doing so; however, it must be noted that the residents served by the Tylersport sewer system and ultimately all township tax payers will bear the significant financial burden of defending the townships position in this matter.

Similarly, Mrs. Lynch's long standing involvement with SOSSS prior to March 3 is not an issue that I take any exception to.

My concern is that there is, at the very least, the appearance of a conflict of interest given Mrs. Lynch's recent involvement with SOSSS and the fact that she is now a Supervisor faced with deciding how and whether to defend the Townships new ACT 537. Let me say that Mrs. Lynch has done nothing wrong by being a chairman of SOSSS. The issue at hand for me is her participation in the litigation strategy and the ongoing Survey, Design and related work by BCM for the sewer project. I believe her connection to SOSSS is too recent and that a reasonable person might consider her involvement in upcoming litigation strategy by the Township against SOSSS's appeal to be an improper conflict of interest. Moreover, I am faced with the personal dilemma as to whether I would be acting properly by not raising this concern or by not attempting to limit Mrs. Lynch's involvement in this case.

I firmly believe that certain steps should be taken in order to protect the Township and the process from any real or appearance of conflicts of interest. I propose to take the absolute minimum steps necessary to accomplish this.

These are the six steps I propose as motions with 4 through 6 to expire when the conflict of interest issues are satisfied or when the appeal is resolved, withdrawn and no longer a pending matter in any fashion :

1. That the Board of Supervisors hereby directs Solicitor Bricker to file the proper notice of appearance with DEP and also to move forward in defense of Salford's position regarding this Appeal. Motion 08-52. Motion by Loughery, second by Anderson. Vote 3-0
2. That the Board of Supervisors may hire special Environmental Counsel to assist or lead in this case. Motion 08-53. Motion by Loughery, second by Anderson. Vote 3-0.

3. That the Board of Supervisors will cooperate as needed with WB Homes, Franconia Sewer Authority and any other affected party and may elicit assistance from the same with regard to this case. Motion 08-54. Motion by Loughery, second by Anderson. Vote 3-0.
4. That the Chairman of the Board of Supervisors be designated the single point of contact for all litigation strategy with Solicitor Bricker and any other outside counsel the Township may hire in connection with this case. Motion by Loughery, second by Anderson. Vote 3-0. Motion 08-55.
5. That the Chairman of the Board of Supervisors be designated the single point of contact for all sewer activity with BCM as relates to the current survey and design work for the Tylersport sewer system until such time as the SOSSS appeal is resolved. Motion by Loughery, second by Anderson. Vote 2-1. Motion 08-56.
6. That the committee appointed to review the Tylersport Area Sewer implementation be held in abeyance until it can be determined that no member or contributor to SOSSS is included on the committee or until the appeal is resolved and there is a reason for that committee to act. Motion by Loughery, second by Anderson. Vote 3-0. Motion 08-57.
7. BCM be authorized to file for reimbursement on Salford's behalf from DEP for 50% of the cost of The Tylersport Special Study area of Salford's Act 537 Plan. Motion by Lynch, second by Loughery. Vote 3-0. Motion 08-58.
8. Motion to seek balance of promised Act 537 Study funds from W. B. Homes. Motion by Lynch, second by Loughery. Vote 3-0. Motion 08-59. "

Larry Anderson presented the following :

"Salford Township has received a notice of an appeal to DEP by the group known as Salford On Site Sewer Solutions and George DiDomizio.

Mrs. Lynch sent a letter of resignation as the co-chairman of the SOSSS group on March 3rd; she is still listed on the DEP document as the Co-Chair of SOSSS. It is difficult to ascertain whether she resigned prior to the appeal.

Anderson believes there is another group known as the Salford citizens group which also claims to represent the voice of the residents on many issues. I also believe that some members of this group are also members of SOSSS. I believe Mrs. Lynch is a member of this group also and that she enjoyed their support in her recent election victory. I also believe George DiDomizio is a member of the group. This group has held events which I have been told were to raise funds for the group. It is unclear what the funds were used for.

In addition after most recent Township meetings, Mrs. Lynch, Mr. DiDomizio and members of the citizens' group can be seen conversing in the parking lot. It is difficult to believe that no information about the appeal has been passed on during these lengthy discussions.

Mrs. Lynch has spoken often on behalf of this citizens' group, opposing the W. B. Subdivision, and the sewer project. Many residents attended the sewage hearings. The Supervisors explained that the W. B. subdivision was a legal right on the applicant's part and we did our best to reduce the impact but could not change the law. I also recall Mrs. Lynch saying she would sue the township if we proceeded. Mr. DiDomizio was also present and an active opponent of the W. B. Subdivision and Tylersport sewer project.

What does this appeal mean to the Township citizens? Money, money, money. You need expert witnesses and attorneys to defend the original Plan submitted by the Township. How much? Perhaps as much as \$100,000 to \$200,000. It could cost each Township family \$200 to \$4,300.

While Mrs. Lynch may believe she can be impartial as a Supervisor in dealing with the legal defense, in practice it is very difficult. Even if she can successfully separate her Township duties and her personal feelings, it will be nearly impossible for citizens not to see a conflict of interest. The logical solution is for Mrs., Lynch to recluse herself from the legal discussions. If she is not willing to do so, it is critical, in order to maintain the credibility of this Board of Supervisors that this Board removes these responsibilities from her."

Lynch had been a member of the SOSSS for some time, but expressed interest in leaving the group in late 2007, following her election to the Board of Supervisors. She formally resigned on March 3; four days after Supervisor Larry Anderson referenced the possible future filing of the DEP appeal by the SOSSS. The appeal was officially filed on March 14, 11 days after Lynch had resigned. Both Anderson and Loughery believe that her presence on both sides of the dispute could lead to a conflict of interest. Former Supervisor Don Lodge agreed that some members of the community might see a conflict of interest. Lynch did not agree with Lodge, and stated that the majority of residents would not see a conflict

of interest. Lynch did not excuse herself from activity regarding the sewer and water project during the meeting. The SOSSS appeal was filed because its members were unsatisfied with gaps in the plan. The 537 Plan as approved by DEP has glaring flaws in it said President George DiDomizio. The first problem DiDomizio referred to is there are two houses that were presumed to be included in the Tylersport sewer and water project that were left out of the Plan. The second problem with the plan is the fact that there is no written contract with BCM, the engineering firm handling the sewer system design. The third issue is a 15 minute public conflict which was left out of the plan. Although these are issues that DiDomizio and the SOSSS want to iron out, he said he does not want them to impede the progress of the project.

Because of the appeal sent by the SOSSS, the Board agreed that members of the newly formed Sewer and Water Advisory Board should not be members of the SOSSS and required that all members sign a document swearing they have no affiliation with the SOSSS.

George DiDomizio, who is the president of the SOSSS, resigned from the Sewer and Water Advisory Board on Wednesday, March 26, one day before the township meeting. DiDomizio went on to say that although he would not be a member of the board he would attend the public meetings.

Bills were approved for payment via Motion 08-60. Motion by Anderson, second by Loughery. Vote 3-0.

There being no further business, the meeting was adjourned at 9:30 p.m. Motion by Anderson, second by Loughery. Motion 08-61.