

**TOWNSHIP OF FALLS
ORGANIZATION OF THE BOARD OF SUPERVISORS MEETING**

ROLL CALL:

ROBERT HARVIE, JR., CHAIRMAN	PRESENT
JEFFRY DENCE, VICE-CHAIRMAN	PRESENT
JEFFREY ROCCO, SECRETARY-TREASURER	PRESENT
BRIAN GALLOWAY, SUPERVISOR	PRESENT
JEFF BORASKI, SUPERVISOR	PRESENT

The meeting commenced at 7:06 p.m. with roll call and pledge to the flag. All Board members were present. Also present were Township Manager Peter Gray, Township Solicitor Michael Clarke, and Township Engineer James Sullivan.

TEMPORARYCHAIRMAN PRESIDING

Member Dence appointed Member Harvie as Temporary Chairman; Member Boraski seconded the motion; all board members were in favor. (5-0)

ITEM # 1 CHAIRMAN APPOINTMENT

Member Dence moved to appoint Member Harvie as the Chairman; Member Rocco seconded the motion; all board members were in favor with the exception of Member Harvie who abstained from the vote. (4-0-1)

ITEM # 2 VICE-CHAIRMAN APPOINTMENT

Member Rocco moved to appoint Member Dence as Vice-Chairman; Chairman Harvie seconded the motion; all board members were in favor with the exception of Member Dence who abstained from the vote. (4-0-1)

ITEM # 3 SECRETARY/TREASURER APPOINTMENT

Member Dence moved to appoint Member Rocco as the Secretary/Treasurer; Member Galloway seconded the motion; all board members were in favor with the exception of Member Rocco who abstained from the vote. (4-0-1)

ITEM # 4 ASSISTANT SECRETARY/TREASURER APPOINTMENT

Member Galloway moved to appoint Manager Gray as the Assistant Secretary/Treasurer; Member Dence seconded the motion; all board members were in favor. (5-0)

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**ITEM # 5 PUBLIC COMMENT – FIVE MINUTE LIMIT PER PERSON
FORTY-FIVE MINUTE MAXIMUM**

Mrs. Amy Ransley (290 Yardley Avenue) said that she and her family are being harassed by the volunteers at the Falls Township Fire Co. There have been several incidents with the most recent one on December 27, 2016. This is the fourth time they have had to call the police about harassment. Mrs. Ransley said she tried multiple times to contact the fire chief with no success. Their voicemail box is full and she cannot leave a message. She left her name and number with a fire company member, but no one called her. Mrs. Ransley wants to know what she can do to stop this from happening. Chairman Harvie said they will get in touch with the fire department and the police department to look at the situation. This is the first time board members have heard about an issue. They will try to get the police department to mediate the issue and come to some kind of agreement.

**ITEM # 6 ESTABLISH MEETING DATES AND TIME FOR REGULAR
MEETINGS OF THE BOARD OF SUPERVISORS**

The board is going to try to limit Board of Supervisor meetings to once a month. Member Rocco moved to establish the 2017 Board of Supervisor meetings for the third Tuesday of each month at 7 p.m. with the first Tuesday of the month on an as-needed basis; Member Dence seconded the motion; all board members were in favor. (5-0)

**ITEM # 7 APPOINTMENT OF TOWNSHIP SOLICITOR AND SPECIAL
COUNSEL – SET COMPENSATION FEES**

Member Boraski moved to re-name Mr. Clarke from the firm of Rudolph and Clarke as Township Solicitor at the general rate of \$185/hr. and \$350/hr. for land development, effective January 1, 2017; Member Dence seconded the motion; all board members were in favor. (5-0) Member Dence moved to re-appoint Mr. Jordan Yeager from Curtin & Heefner as labor counsel at the rate of \$150/hr. for general matters and \$180/hr. for arbitration and litigation; Member Rocco seconded the motion; all board members were in favor. (5-0) Member Dence moved to re-appoint Mr. Cliff Bidlingmaier as conflict attorney at the rate of \$170/hr.; Member Galloway seconded the motion; all board members were in favor. (5-0) Member Rocco moved to appoint Mr. Dave Truelove for the Code Appeals Board attorney at the rate of \$175/hr.; Member Galloway seconded the motion; all board members were in favor. (5-0) Member Dence moved to re-appoint Mr. Randy Flager from the firm of Flager & Associates for land development solicitor at the rate of \$185/hr. and \$350/hr. for land development; Member Galloway seconded the motion; all board members were in favor. (5-0)

**ITEM # 8 APPOINTMENT OF TOWNSHIP ENGINEER AND TRAFFIC
ENGINEER – SET COMPENSATION FEES**

Member Boraski moved to appoint Mr. James Sullivan from T&M Associates as the Township Engineer at the rate set forth in the rate sheet provided to the board; Member

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Dence seconded the motion; all board members were in favor. (5-0) Member Dence moved to appoint Remington Vernick Beech as the Township Traffic Engineer at the rate set forth in the rate sheet provided to the board; Member Galloway seconded the motion; all board members were in favor. (5-0)

ITEM # 9 CONSIDER TOWNSHIP MANAGER’S AGREEMENT

Member Dence moved to approve the Township Manager’s agreement; Member Galloway seconded the motion; all board members were in favor. (5-0)

ITEM # 10 CONSIDER CHIEF OF POLICE AGREEMENT

Member Dence moved to approve the Chief of Police agreement; Member Galloway seconded the motion; all board members were in favor. (5-0)

Member Galloway moved to renew Mr. Jason Lawson’s agreement for the Director of Public Works; Member Rocco seconded the motion; all board members were in favor. (5-0)

ITEM # 11 APPOINTMENT OF VACANCY BOARD CHAIRMAN

Member Dence moved to re-appoint Mrs. Arlene Goulding as the Vacancy Board Chairman; Member Boraski seconded the motion; all board members were in favor. (5-0)

ITEM # 12 APPOINTMENTS TO VARIOUS BOARDS, COUNCILS, COMMITTEES AND COMMISSIONS

Member Dence moved to approve Resolution # 17-01, appointing Mr. Scott D’Oria to the Zoning Hearing Board; Member Boraski seconded the motion; all board members were in favor. (5-0) Member Galloway moved to approve Resolution # 17-02; appointing Mr. Bill Byer to the Township of Falls Authority; Member Boraski seconded the motion; all board members were in favor. (5-0) Member Dence moved to re-appoint Ms. Ariane Presser to the Neighborhood Traffic Advisory Committee; Member Boraski seconded the motion; all board members were in favor. (5-0) Member Dence moved to re-appoint Ms. Quinn Kelly to the Parks and Recreation Board; Member Rocco seconded the motion; all board members were in favor. (5-0) Member Dence moved to appoint Ms. Rachel Holl to the Parks and Recreation Board; Member Rocco seconded the motion; all board members were in favor. (5-0) Member Dence moved to appoint Ms. Jessica Hrouda to the Parks and Recreation Board; Member Rocco seconded the motion; all board members were in favor. (5-0) Member Rocco moved to appoint Mr. Brian Binney and Mr. Andrew Goulet to the Planning Commission for a 4-year term; Member Boraski seconded the motion; all board members were in favor. (5-0) Member Boraski moved to appoint Mr. Brian Binney to the Board of Appeals for a 3-year term; Member Dence seconded the motion; all board members were in favor. (5-0) Chairman Harvie moved to appoint Mr. Robert Leary and Dr. Motahar Qaadrito the Disabled Persons Advisory Board; Member Dence seconded the motion; all board members were in favor. (5-0) Chairman Harvie moved to re-appoint Mr. Phil

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McAloon to the Environmental Advisory Council; Member Rocco seconded the motion; all board members were in favor. (5-0) Member Galloway moved to re-appoint Mr. Henry Conroy to the Police Pension Committee; Member Rocco seconded the motion; all board members were in favor. (5-0) Chairman Harvie moved to re-appoint Member Galloway to the Police Pension Committee; Member Dence seconded the motion; all board members were in favor with the exception of Member Galloway who abstained from the vote. (4-0-1) Chairman Harvie moved to appoint Mr. Tim Strohl to the Environmental Advisory Council; Member Rocco seconded the motion; all board members were in favor. (5-0) Chairman Harvie moved to appoint Mr. Eric Person and Mr. Otis Roberts to positions on the Environmental Advisory Council; Member Dence seconded the motion; all board members were in favor. (5-0) Chairman Harvie moved to appoint Mrs. Nicole Newgass, Mr. Hugh Fegley, and Mr. Ian James to positions on the Cable Advisory Board; Member Rocco seconded the motion; all board members were in favor. (5-0)

ITEM # 13 APPOINTMENT OF DEPOSITORIES BY RESOLUTION

Member Dence moved to approve Resolution # 17-03 for the appointment of depositories; Member Rocco seconded the motion; all board members were in favor. (5-0)

ITEM # 14 RECOMMENDATION TO THE BOARD OF AUDITORS TO SET THE TREASURER'S BOND AT \$2,000,000

Member Galloway moved to approve to set the Treasurer's bond at \$2,000,000; Member Dence seconded the motion; all board members were in favor. (5-0)

ITEM # 15 NOMINATE, DELEGATE AND ALTERNATE TO THE STATE ASSOCIATION'S 95TH ANNUAL EDUCATIONAL CONFERENCE AND TRADE SHOW – APRIL 23 THROUGH APRIL 26, 2017

There was no action on this agenda item.

ITEM # 16 CONSIDER 2017 FEE SCHEDULE FOR CODE, FIRE AND PARKS & RECREATION

Manager Gray gave a brief update on the Fee Schedule changes. Member Dence moved to approve Resolution # 17-04 for the 2017 Fee Schedule for Code, Fire, and Parks and Recreation; Member Rocco seconded the motion; all board members were in favor. (5-0)

ITEM # 17 PUBLIC HEARING FOR EMILIE TOWING & RECOVERY, LLC FOR ALLEGED VIOLATION OF CHAPTER 206 OF THE FALLS TOWNSHIP CODE

Member Boraski moved to open the public hearing for Emilie Towing & Recovery, LLC; Member Rocco seconded the motion; all board members were in favor. This matter was tabled at the December 19, 2016 Board of Supervisors meeting. Mr. Clarke said a hearing

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was held in front of Manager Gray regarding the alleged failure of Emilie Towing to maintain appropriate insurance throughout 2016 while they were on the township tow list. At the hearing, several documents were marked. The township has now completed its investigation. Documents will be provided to the court reporter and to the representative from Emilie Towing. The documents are: T1 – December 16, 2016 notice of this hearing; T2 – Hand-delivery receipt dated 12/16/16; T3 - April 19, 2016 letter with enclosures for the February 2016 violation by Emilie Towing; T4 – December 6, 2016 letter with signed acknowledgment for the December 2016 violation by Emilie Towing; T5 – Chapter 206 of the Township Code; T6 – Certificate of Insurance from USA Unite Financial Casualty dated April 21, 2016; T7 – Affidavit from Sandra Garmin, assistant who attempted to verify the insurance information from Emilie Towing; T8 – Certificate of Insurance from Selective Insurance dated December 15, 2016; T9 – E-mail from Ann Tehansky dated December 19, 2016; T10 – Record of attorney fees relating to this violation; T11 – December 28, 2016 letter related to this hearing; and T12 – Hand-delivery receipt dated December 28, 2016 when the hearing notice was provided. There were four documents from Emilie Towing. They are: E1 – Progressive Insurance policy and preliminary information; E2 - Photograph of Emilie towing a police vehicle; E3 – Letter from Personal Service Insurance to Emilie Towing dated October 11, 2016; and E4 – Copy of Selective Insurance policy for Emilie Towing. At this time, the township will move all of these exhibits into evidence. Mr. Clarke said following the December 16, 2016 hearing, his office attempted to verify the insurance information provided relating to the Progressive insurance policy. They were unsuccessful in these attempts. It was at that time that they asked for the assistance of Sgt. Sven Beauchmin. Sgt. Sven Beauchmin was sworn in and answered questions from the Solicitor. Sgt. Beauchmin said his badge number is 95 and he is employed by the Falls Township Police Department. Mr. Clarke asked Sgt. Beauchmin if, at the request of his office, he attempted to contact Progressive Insurance to verify the policy related to Emilie Towing. Sgt. Beauchmin said yes, it was canceled on November 4, 2016. Mr. Clarke asked Sgt. Beauchmin if he were able to verify the insurance policy with Selective Insurance (E4). Sgt. Beauchmin said Selective is the new one from December 8, 2016. Mr. Clarke asked Sgt. Beauchmin if he had been given any other insurance policy for the period between November 4, 2016 and December 8, 2016. Sgt. Beauchmin said no. Mr. Clarke said that as the documents indicate, Emilie Towing has been found in violation of the code on two occasions during 2016. Pursuant to 203-13, C1C, any wrecker found to be in violation of the ordinance within 12 months of its conviction of more than one offense hereunder, shall be fined no less than \$500 plus attorney fees and other costs incurred by the township investigation and/or litigating the alleged offense including, but not limited to, preparation for and representation at a hearing in front of the township manager and/or shall have his or her license suspended for a period of up to 120 days. As indicated in T10, the township has incurred attorney fees in the amount of \$2,553 during investigation and litigation of this matter. Emilie Towing had a period of about 34 days where they were towing for the township but did not have valid insurance in place. At this time, a representative from Emilie towing has the opportunity to refute this evidence. Mr. Joseph Warner (owner) is present for Emilie Towing. Mr. Warner said on December 19, 2016 he came to this building to have a meeting with Manager Gray and a representative from the solicitor's office. The gentleman who handled the paperwork was Mr. Warner's uncle. He had a

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serious illness and is unable to take care of these issues. He was the one who handled all of the office work. Mr. Warner brought in all of the paperwork he had and was unaware of anything that might have lapsed. Mr. Warner said his first letter states the insurance company and the amount of coverage they have and this is what he turned in to the township on April 21, 2016 (stamped on the back by Falls Township). The second document he has is a summary page from USAA. He went to USAA who said they don't cover this type of vehicle, but they can sub them to Progressive/Experian. Some of the paperwork states USAA and some state Experian. USAA subbed them to Progressive for the period of April 6, 2016 through April 5, 2017. He also has a summary page from USAA which also has the Progressive name on it with the policy. He spoke with Progressive who said that as of November 9, 2016, they were no longer going to cover them, but in the interim, USAA was still covering them. There was a valid policy with USAA until they got another insurance company which happens to be Selective Insurance Co. Mr. Clarke said so the record is clear, we will make a copy and admit this into record as E5 – it is a Certificate of Liability Insurance with an effective date of December 8, 2016 through December 8, 2017 from Selective Insurance of Southeast. Mr. Warner said he also has coverage from Liberty Mutual which covers inspections and repairs; basically everything. Mr. Warner said there was a lapse with Progressive, but not with USAA. Progressive never notified Emilie Towing of them ever being without insurance and PENNDOT stated there was no lapse with his insurance whatsoever. Progressive let them go, but USAA still had them covered until they located other business insurance. USAA subbed to Progressive because they no longer do business insurance for tow trucks. Mr. Warner said he makes his payments to USAA, not Progressive. Mr. Clarke said the document they have in their records that Mr. Warner is referencing, is marked as T6 - certificate of insurance from USAA Unite Financial Casualty Co. dated April 21, 2016 and at a subsequent date, they were given the information regarding the Progressive policy which Sgt. Beauchmin testified to and which was not in effect after November 4, 2016. And then the information they have, which was provided by Mr. Warner, is that the Selective policy went into effect on December 8, 2016. Member Boraski asked if USAA was going to pay for damage in the interim. Mr. Warner said yes. Mr. Clarke said they were told that when additional information was submitted, it was the Selective policy that was now in effect and the Progressive policy was no longer in effect after November 4, 2016. It appears there was a 30+ day gap in insurance. Mr. Warner said no, USAA was still insuring them in that interim, then he switched over to Selective. Mr. Clarke said the information we have in the township, the information that the manager had, and the information reviewed by the police department states the USAA policy was no longer in effect after November 4, 2016. They have nothing to indicate that it reverted back to USAA. Mr. Warner said October 17, 2016 is when they added two more tow trucks to the policy, but it doesn't give an end date. Sgt. Beauchmin was immediately forwarded to Progressive, the underwriter for USAA, but he cannot confirm or deny that USAA would not cover them with liability between November 4, 2016 through December 8, 2016. Selective became in effect from December 6, 2016 through December 6, 2017. Mr. Clarke said the document that Mr. Warner just produced this evening says that it was in effective from December 8th. Sgt. Beauchmin believes there is a gap from November 4, 2016 to December 8, 2016. Mr. Clarke said the document is something that is printed off the USAA website for the period April 5, 2016 through April 5, 2017, but it is not a certificate of

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insurance. It is an account summary. This will be marked as E6. Mr. Warner was working with Selective in November trying to resolve this and they were having the same problem everyone in this room is having. No one knew anything. It was a big mix up with USAA and Progressive. Mr. Clarke said they became aware of most of this when Emilie Towing submitted their application to be on the 2017 towing list. The application was submitted at the end of November. It was then when we began to look at insurance and some questions were raised. We originally thought they submitted incorrect information with their application, preventing them from getting on the tow list. They were able to submit an updated insurance certificate which made them eligible to be on the 2017 tow list, but we have nothing to indicate that they had valid insurance in place for that 30+ day period of time. In addition, the USAA policy was superseded at some point during the year because that was not going to be the policy moving forward and that is why we went to the Progressive policy and then the Selective policy. Mr. Warner asked Mr. Clarke if he had anything in writing to indicate that they did not have coverage? Mr. Clarke said we don't have the burden of proof for this information. Mr. Clarke suggested to Mr. Warner that he produce the requested document now. Mr. Warner asked when they became aware that there might be a problem with his insurance. Mr. Clarke said when they began to review the application on November 1, 2016. Mr. Warner said he checked with PENNDOT and the insurance commissioner and there was no lapse in coverage. If there were a lapse, they would have had to immediately pull their plates. Member Dence asked if USAA bought the Progressive policy. Mr. Warner said yes. Member Boraski told Mr. Warner it would be great if he had a letter from USAA stating he had insurance during the lapsed period in question. Mr. Warner said no one can prove that they didn't have insurance. Member Dence said when you submitted the application, it didn't look like you had insurance. We are probably around \$3,000 in legal fees at this point. There was a break in the meeting at 8:13 p.m. and the meeting reconvened at 8:28 p.m. Chairman Harvie said they took a look at the documents and received information from Sgt. Beauchmin. Mr. Clarke said they heard from Mr. Warner who has provided two documents which will be made part of the record. The township manager has considered all of the evidence and it would be appropriate for him to make a recommendation to the Board of Supervisors at this time. Since a violation could possibly result in Emilie Towing standard duty wreckers license being suspended, if that is the recommendation of the manager and decision of the board, that suspension, if there is one, would not be effective until the findings are provided to Mr. Warner either by certified mail or by hand delivery. Manager Gray said based on the evidence presented, it is recommended that the Board of Supervisors find that Emilie Towing did violate Chapter 206 of the code. It is recommended that a fine of \$500 plus township solicitor fees in the amount of \$2,553 be imposed for the violation. Also, it is recommended that Emilie Towing be advised that any further violations of the ordinance would result in revocation of the 2017 standard duty wreckers license. They do not recommend any suspension. Member Dence said this is a mess that we believe wasn't created by you as you are in a bad position, however, it does appear that you can't prove that you had proof of insurance for that period of time. You were facing a 120-day suspension and we are not giving you a suspension. With this towing issue, it is a headache for all of them to deal with these issues. He feels bad for his situation with your uncle. Mr. Warner said he has a business in Falls Township and wants to buy property on the main road. He

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understands the matter and he is thankful they are able to stay on and wants to move forward. Member Boraski said you were honest with them and he thinks that helped. These are minimum fines. Member Galloway moved to approve the Manager's recommendations for Emilie Towing & Recovery, LLC; Member Boraski seconded the motion; all board members were in favor. (5-0) Member Dence moved to close the hearing for Emilie Towing & Recovery, LLC; Member Galloway seconded the motion; all board members were in favor. (5-0)

ITEM # 18 MINUTES – DECEMBER 19, 2016

Member Rocco moved to approve the minutes for December 19, 2016; Member Galloway seconded the motion; all board members were in favor. (5-0)

ITEM # 19 EXECUTIVE SESSION

There was no Executive Session held this evening.

ITEM # 20 MANAGER COMMENT

There was no Manager Comment this evening.

ITEM # 21 BOARD COMMENT

Member Rocco is looking forward to 2017.

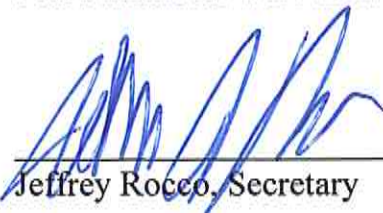
Member Dence is also looking forward to the New Year.

Member Boraski – no comment.

Member Galloway – no comment.

Chairman Harvie wished Happy New Year and thanked everyone for the work they put in. We hope to have a successful year in the township.

Member Dence moved to adjourn the meeting; Member Rocco seconded the motion; all board members were in favor. (5-0) The meeting was adjourned at 8:33 p.m.



Jeffrey Rocco, Secretary