

TOWNSHIP OF RUSH
Schuylkill County, Pennsylvania

RESOLUTION NO. 2002-3

A RESOLUTION AUTHORIZING THE CONDEMNATION OF PROPERTY AND APPLICATION FOR ORDER OF IMMEDIATE USE AND POSSESSION.

BE IT RESOLVED by the Board of Supervisors of Rush Township, Schuylkill County, that it finds and determines as follows:

The public interest, convenience, and necessity require the acquisition by the Township of a temporary construction and permanent maintenance easement for the purpose of constructing, repairing, and maintaining, as the Township and its professional designees may determine, a public improvement for flood control and related purposes in, through, along, and under certain real property located in Rush Township, Schuylkill County, and the Borough of Nesquehoning, Carbon County, more commonly referred to as the Lake Hauto Community, and more particularly described in Drawings and Specifications for Dam Improvements prepared by O'Brien & Gere Engineers, Inc. Said Improvements include, but are not limited to, the construction of overtopping protection/an armoring overlay; toe stabilization; abutment stabilization and protection; and other site improvements. Access to the construction site will be accomplished through use of Lake Drive, an existing gravel entrance to Lake Hauto Woods, and dirt and grass cartways to construct improvements to the breast of the Lake, the spillway, and Tippetts Pond.

The use to which the real property is to be applied is for the public improvement referred to above, such use is a public use authorized by law.

The interest subsequently set forth in the real property is necessary to and for the public use, and the taking of the interest in the real property is necessary to enforce such public use.

The public improvement is planned in a manner which will be most compatible with the greatest public good and the least private injury.

It is further resolved by this Board of Supervisors that the temporary construction and permanent maintenance easement to be acquired by condemnation shall be in accordance with the provisions of the Second Class Township Code, as well as the Pa. Eminent Domain Code, for the uses and purposes of the public improvement.

It is further resolved that the Solicitor for Rush Township is authorized and directed to commence and maintain an action or proceeding in eminent domain in the Courts of Common Pleas of Schuylkill and Carbon Counties against any and all necessary and proper parties for the purpose of condemning and acquiring the interest in real property described above, for the uses and purposes stated above, and to take all steps necessary for such condemnation in the name of Rush Township.

It is further resolved that in the action or proceeding, application may be made through such courts in the manner provided by law for an order authorizing and permitting the Township to take immediate possession of and to use the interest in real property for the public improvements, uses, and purposes outlined above. Furthermore, it shall be authorized that adequate security be posted for the benefit of the owners of such interest in real property and as otherwise provided by law and such actions and proceedings.

It is further resolved that the Township undertakes the construction of the public improvements and assumes all responsibility, liability, and maintenance of the improvements described herein; and the Township authorizes and directs its consulting engineer, Entech Engineering, Inc., and bond counsel, Rhoads & Sinon, LLP, to proceed accordingly to obtain the necessary permit approvals and to secure the necessary funds.

ADOPTED this 19th day of February, 2002, by the Rush Township Board of Supervisors.

RUSH TOWNSHIP BOARD OF SUPERVISORS

ATTEST:

Cecil Ann Opet
Secretary

(SEAL)

By: *John D. Schickram*
Chairman
Frank J. Beale
Supervisor
William J. Joyce
Supervisor