

**MINUTES**  
**SOUTH MIDDLETON TOWNSHIP BOARD OF SUPERVISORS**  
**520 PARK DRIVE**  
**BOILING SPRINGS, PA. 17007**

**JANUARY 27, 2005**

**PRESENT:** TOM FALEY, PHYLLIS GIVLER, JIM BAKER, BRYAN GEMBUSIA, RON REEDER (Absent); – SUPERVISORS; Rich Mislitsky – Solicitor; Barbara Wilson – Manager; Brian O’Neill – Engineer; Tim Duerr – Planning/Zoning/Codes Enforcement Officer; Sandy Quickel – Recording Secretary; Tom Benjey; Lou Marinacci; Collin & Laurie Schoeller; Tim Mellott; Jim & Connie McHugh; Eric Edstrom; Bill Zilch; Doug & Helen Gale; Francis McNaughton; Attorney James Strong; Dick Cummins; Martha Green; Howard Phillips; Bob Geist; Bob Beers; Rosie Redmond; George Stapleton; Ray Porter; Bill Brown; Mary Ingle; Bob & Carolyn Yankovitz; Paul Slifko; Sara Nicholas; Bruce & Connie Lowe; John Madden; Eric Harkreader – “The Sentinel”, Andrea Ciccocioppo – “The Patriot News”.

Chairman Tom Faley called the meeting to order at 6:03 pm.

**PLEDGE OF ALLEGIANCE:**

Chairman Tom Faley led the audience in the pledge of allegiance.

**MOMENT OF SILENCE:**

A moment of silence was observed.

**OPENING ANNOUNCEMENTS:**

The Board & staff members introduced themselves.

**MINUTES: 01/03/05 – REORGANIZATION MEETING:**

Bryan made a motion to approve the minutes, as written. Phyllis seconded, & the vote in favor was 4 to 0.

**EMERGENCY SERVICES REPORT:**

The report was accepted, as written.

**S.M.T.M.A. REPORT:**

No report was given.

**SOLICITOR REPORT:**

Mr. Mislitsky recapped the issue with the Capital Area Tax Collection Bureau (CATCB). The Board terminated the agreement with the CATCB last September. The Township then received notice from the CATCB that the Township was overpaid 16 months earlier in the amount of \$91,000+. The Township has requested that CATCB turn over all the records to the new tax collection agency (CENTAX). The Township has requested various records pertaining to names of employers & how much tax was paid. These records are necessary for the continuation of collecting the earned income tax, & for the Township to request an audit. An auditor has been

found to perform the audit, & the Solicitor has prepared a Complaint to be filed against the CATCB. Tom said that the Township is willing to give CATCB another chance to turn over the documents that belong to the Township. Tom proposed that if the documents are not returned to the Township at the close of business next Tuesday (2/1/05), the Solicitor is authorized to file a Complaint at the Dauphin County Courthouse on Wednesday (2/2/05). Bryan made a motion to authorize the Solicitor to file the Complaint against the CATCB in the Dauphin County Courthouse on Wednesday (2/2/05) if the Township's records are not turned over to the Township by the close of business on Tuesday (2/1/05). He also added that if an error of this size is made, & they don't turn over the documents to prove or disprove the error, that any school district or municipality should request the same information from the CATCB & review the records. Phyllis seconded, & the vote in favor was 4 to 0.

On the Keystone (Prologis) issue, the Court has scheduled argument in the intervention for February 2. Ray Porter, N. Pin Oak Drive, asked about the alternative plan for the proposed Keystone site. Tom, Bryan & staff have met with Ivo Otto (landowner) to discuss an alternative plan. Tom later spoke with Mr. Otto. He was told that the developer & Prologis continue to work the issue & are optimistic that something is going to be worked out, & expects to provide further information to the Board within the next few weeks. Tom explained that the northern sector of the site will have commercial entities, & the remaining portion will be an age-restricted residential community. If this occurs, it will lessen the impact on the school district. Mr. Porter stated that he hopes the Board pursues this option. He feels that commercial development is needed & the York Road area is a good place for it. Also, he stated that the Township does not need more development with one-third or one-quarter acre lots producing more students, & feels that empty-neighborhood communities are good to have in the Township. Doug Gale, Derbyshire Drive, cautioned the Board not to get their hopes up because Prologis has a long-term option on the property. Jim stated that this area was recently rezoned to Industrial, & he is concerned because the Township does not have a lot of Industrial zones left. Jim said that this was the first time he has heard about the empty-neighborhoods concept & feels this would be better than warehouses.

#### **ENGINEER REPORT:**

Brian updated the Board on the Whitlinger Preserve Dam. In 1993, the dam was breached & caused the lake to drain. Art Bear put stones in at the outlet where it was draining to stop the drainage. DEP requires the Township to put up warning signs stating "Danger Ahead". The project to place the signs is estimated to cost less than \$10,000. The Township hired a consultant who met with DEP & the Army Corps of Engineers to seek options on what can be done with the dam. Brian summarized the consultants draft study on alternative options. Phyllis made a motion to authorize staff to prepare a bid package for placement of warning signs upstream & downstream of the Whitlinger Dam. Bryan seconded. Jim asked if the road crew could place the signs. Brian said that some of the signs have to be placed in the middle of the stream on buoys. Barb said that the Township does not have the equipment or the expertise to do this work. The vote in favor was 4 to 0. There was further discussion on the lake's outlet where it was draining. The outlet structure was never engineered & is not sound. Water flows over the stones, but sometimes the water backs up causing algae problems, debris backing up behind it, etc. Tom said that the Township does not have \$3.4 million to construct a new dam. Jim suggested

allowing Greg Line, who is a wetlands expert, assist with this issue. Tom stated Skelly & Loy's 4 alternative methods. **1)** Installation of a rock weir - \$134,900; **2)** Removal of the dam - \$1,230,000; **3)** Reconstruction of the dam - \$1,741,000; & **4)** Construction of a new dam - \$3,400,000.

Eric Edstrom, 400 Front Street, spoke on behalf of the Cumberland Valley Chapter of Trout Unlimited. Mr. Edstrom thanked the 2 newspapers for their articles in the paper on this issue. Tom thanked Mr. Edstrom for noting the press covering this issue in order to get any interested public to attend the meeting. Mr. Edstrom was disappointed that he did not have prior knowledge or another way to find out about the types of proposals given to the Board. Tom interjected by asking Mr. Edstrom what he would suggest to use for notification. He said that it is not an agenda item. Tom agreed & said that it is listed on the engineer's report, but was covered by the press. Mr. Edstrom stated that Trout Unlimited's position is to preserve natural environments; especially cold water heritage. In most cases, they prefer the removal of dams. He asked if Trout Unlimited could review the consultant's report. He was told yes. Mr. Edstrom spoke with Scott Carney of the Fish & Boat Commission about this issue. Mr. Carney indicated that there are funds available for removal of dams. He quoted a figure of \$120,000 to remove a dam & do rehabilitation on a larger-sized dam than the Whitlinger Dam. Mr. Mislitsky asked if Trout Unlimited's youth group could be involved in this type of project. Mr. Edstrom agreed to talk to Trout Unlimited's Board if the students could do this type of project.

Lou Marinacci, S. Pin Oak Drive, stated that 2 feet of the lake would have been lost if Art Bear had not plugged the drainage area. The plan was to build a controlled dam at the entrance to the raceway. At high water, the dam would be opened to flow down the raceway, & at low or normal water, the water would be stopped & then to feed the raceway with the cold water into the lake. Barb pointed out that each option has ramifications & a permitting process. All agencies would have to be involved. Brian feels a public meeting should be held & to have the consultants attend this meeting.

Sara Nicholas, Associate Director of Dam Programs for American Rivers, has worked with the Fish & Boat Commission & DEP on removal of dams & other alternatives. She stated that costs have come down over the years for the removal of dams & explained the different versions of removal. Ms. Nicolas said there are also grants available for assistance. Jim suggested contacting Greg Line when a meeting is to be held. No action was taken at this time.

Jim made a motion to release security for plan #00-26 (Deibler Insurance). Bryan seconded, & the vote in favor was 4 to 0.

Jim made a motion to approve a security reduction in the amount of \$15,700 for plan #03-39 (Deibler Insurance expansion). Phyllis seconded, & the vote in favor was 4 to 0.

Phyllis made a motion to grant a modification of Section 1303 for an as-built survey for plan #03-39 (Deibler Insurance expansion). Tom seconded, & the vote in favor was 4 to 0. The original plan was surveyed for the expansion, thus creating a de facto as-built survey.

The following security reductions were reported for the Westgate development:

<u>Plan Name</u>	<u>Amount of Reduction</u>
Westgate, Phase 1 (#93-28)	\$14,591.50
Westgate, Phase 2 (#98-07)	\$12,521.67
Westgate, Phases 3 & 4 (#99-29)	\$22,689.95

Jim made a motion to approve the security reductions as noted. Bryan seconded, & the vote in favor was 4 to 0.

Thomas Myers, 399 Oxford Road, has requested to put in a second driveway on his property. The driveway does not meet access spacing, but since this road is not highly traveled, this may not be a problem. Bryan made a motion to grant a modification of Section 716, as requested. Tom seconded. Phyllis asked if this would create a problem if the situation changes within the next 10 years. Brian said that the driveways will be at each end of the owner's lot, & does not foresee a problem. The vote in favor was 4 to 0.

Dean Otto has requested an 18-month extension for pumping & inspection requirements for the on-lot system at 724 W. Pine Street since the property was vacant for 18 months. The property has a brand new system (sand mound). Phyllis made a motion to grant an 18-month extension for pumping & inspection requirements for on-lot septic systems. Bryan seconded, & the vote in favor was 4 to 0.

An island was never built in the parking lot of Dr. Yorkgitis (#00-19) on State Avenue. This is in the back of the building & is used for employee parking. Brian feels this shouldn't create a problem. Bryan made a motion to grant a modification of Section 706(f) for plan #00-19. Tom seconded. Phyllis asked is there would be a problem if there is a change in ownership. Tim said that it depends on the use of the property, & would require a zoning permit if the use changes. The vote in favor was 4 to 0.

The applicant for the Sable Chase plan #04-30 proposes to construct 64 townhouses behind Rillo's, just north of I-81. Proposed access is from Petersburg Road & a new road that accesses Pine Street. The access from Petersburg Road does not meet the access spacing requirements. The applicant has designed the plan to meet PennDOT's sight distance requirements. The Township's requirements are more stringent than PennDOT's. Jim stated that this property is located in a fast-growing area, & the traffic is bad in this area. Bryan agreed & feels that public safety cannot be jeopardized. Phyllis also agreed, & stated that his site is too close to I-81 & that this would be a terrible spot for an entrance. Tom made a motion to deny a modification of Section 716 in regards to access spacing for the Sable Chase plan #04-30. Phyllis seconded. Jim asked if sound barriers would be placed to help control the noise. Mr. Madden said that the sight is highly elevated which lessens the need for sound barriers. The vote in favor was 4 to 0.

Bryan made a motion to release the security for the Prologis plan #01-16. Phyllis seconded, & the vote in favor was 4 to 0.

**(BREAK)**

**PUBLIC INPUT:**

Tom Benjey, E. Springville Road, asked if the Township has a noise ordinance. He was told no. He feels that the Township should look into having a noise ordinance. He stated that the gas company did something to the gas main across from his house & now there is a loud hissing noise. Brian will contact the gas company & see what is causing this problem.

Dick Cummins, Greenfield development, asked if the Township has an ordinance for snow removal on sidewalks. He was told no. He stated that it is hard to walk on the sidewalks then onto the road where a sidewalk has not been cleaned off. He asked if the Township could research adopting an ordinance. Mr. Cummins also commented on the sewer line project being installed along the Holly Pike & Marsh Drive. He asked why notification was given that the road would be closed. Barb stated that the Township also did not receive notification from the Municipal Authority as to when the road would be closed.

Marti Green, Mayapple development, commented on the discussion about removing the Whitlinger dam. She feels the Township & the community should be involved with what the final project should look like. Tom suggested waiting for any action until the staff researches other options mentioned earlier.

James McHugh, Annendale Drive, commented on an adjacent property removing trees & causing water drainage & mud on the roads. Brian told him that the Cumberland County Conservation District handles problems of this nature. Tim said that erosion & sedimentation restrictions must be met when clearing land. Tim will notify the Conservation District to look at this problem.

George Stapleton, Lindsey Road, noted that the gas line in that area was installed too close to the road & is concerned about safety issues. He said that there is a wooden fence around the unit & someone could hit it if a car runs off the road. Brian will look into this issue. Mr. Stapleton noted that the property near Annendale Drive will have a controlled burn this Saturday, & that the fire company will be on hand in case there are any problems.

Connie McHugh, Annendale Drive, stated that a storm drain under Baker Drive is clogged & needs cleaned out.

**PLANNING/ZONING/CODES ENFORCEMENT REPORT:**

Bryan made a motion to approve a 90-day time extension for New Beginnings Loft Final Minor Land Development plan in order to satisfy conditions of plan approval. Tom seconded, & the vote in favor was 4 to 0.

Phyllis made a motion to approve a 60-day time extension for Lawrence E. Smarr Final Minor Subdivision plan. Tom seconded, & the vote in favor was 4 to 0.

**MANAGER REPORT:**

Action on the issue of Special Fire Police will be placed on hold until the school district takes action in February.

A Memorandum of Understanding (MOU) is ready for signing. The MOU is between the Church of God Homes, Carlisle YMCA & the Township in reference to the use of soccer fields when the Church of God conditional use project was approved. Tom made a motion to approve the MOU as presented. Phyllis seconded, & the vote in favor was 4 to 0.

The Goals & Accomplishments memo will be distributed soon.

**#03-09 McCOY INTERSTATE PARK WEST (LOT 3A) – Final Subdivision/Land Development)**

This plan was tabled at the developer's request.

**#04-34 WHEATSTONE – Preliminary Subdivision:**

Attorney James Strong, Francis McNaughton & Tim Mellott were present for this plan. The applicant proposes a 180-lot single family residential development along Springville Road between Misty Meadows & Lindsey Road. The project will consist of 8 phases. There are 4 modification requests. One issue is the location for street lighting. The applicant is willing to provide an alternate paving schedule for Lindsey Road, other than what is required by ordinance. Brian stated that the developer only wants to improve the side of the road that abuts his property. The ordinance requires that Lindsey Road be widened to current standards. Their plan would leave half of the road unpaved. An alternate paving scenario would be to pave the entire roadway, but not to the required width. The staff recommended that a 4 ft. wide shoulder machine be used to widen the roadway, & then overlayed to an acceptable width. Mr. Strong proposed widening from the centerline to the property. He also suggested approving the plan subject to seeing what Mr. Diehl will do with the property across the road. It was pointed out that residents will have to cross both lanes of traffic & the road should not be uneven. After more discussion, the plan was tabled.

**#92-10 BRUCE L. BARNER – Final Subdivision:**

Mr. Barner has purchased land formally owned by Grace Donnelly. This parcel was subdivided in 1992 into 3 lot additions off of her property to be added to her surrounding neighbors. Two lot additions were to go to Robert Shriver & the third addition to Charles Hockley. The plan was recorded, but the deed transfer never took place. Mr. Hockley does not want his addition. Mr. Shriver said he would buy it. The language on the plan needs changed to show the proposed ownership. Bryan made a motion to approve the revised plan #92-10. Phyllis seconded, & the vote in favor was 4 to 0.

**SUPERVISORS' DISCUSSION:**

Jim commented about the geese problem in Shippensburg. He said that the area around the lake is a mess due to too many ducks/geese & that something needs to be done about it. Tim was asked to check into this problem. Jim asked if a cell tower could be placed on property on

Bucher Hill Road. He was told that his area is in the Historic District. Jim commented about a resident's well going dry near the Carlisle Crossing Development. He feels the developer is not being a good neighbor & should slow down & take care of these problems.

Bryan asked for the status of this person's well going dry. Brian stated that only trees are being cut with other minimum work. There has been no blasting at this time. The resident would have to prove that the well went dry due to the circumstances.

**BILLS FOR PAYMENT:**

Phyllis made a motion to pay the bills, as submitted. Bryan seconded, & the vote in favor was 4 to 0.

**ADJOURNMENT:**

Phyllis made a motion to adjourn the meeting at 8:10 PM. Tom seconded, & the vote in favor was 4 to 0.

**WITNESS:**

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**SOUTH MIDDLETON TOWNSHIP  
BOARD OF SUPERVISORS:**

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Thomas E. Faley, Chairman

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Bryan A. Gembusia, Vice Chairman

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James N. Baker

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Phyllis W. Givler

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Ronald L. Reeder

