

MINUTES

SOUTH MIDDLETON TOWNSHIP 520 PARK DRIVE BOILING SPRINGS, PA. 17007

February 28, 2008

PRESENT: RICK REIGHARD, BRYAN GEMBUSIA, RON REEDER, JIM BAKER, TOM FALEY– SUPERVISORS; Richard Mislitsky – Solicitor; Barbara Wilson – Manager; Jarrett Sweeney – Assistant Manager, Brian O’Neill – Engineer; Tim Duerr – Zoning Officer, Randy Watts, Ron Hamilton, Jeff Ammerman, Mark Juliana, Randy Diehl, Doug & Helen Gale, Bob Geist, Joe Fay, John Anderson, Pam Fisher, Marti Green, Carla Arnold, Michael Arnold, Tim Shughart, Darlene Shughart, David & Wanda Feaser, Jason Best, Chuck Haley, Bob Grochalski, Marie Benedetto, Michele Butler, Mike Danko, Andrea Ciccocioppo - “The Sentinel”, Linda Franz – “The Patriot News”.

The meeting was called to order at 6:00 p.m. by Chairman Reighard.

PLEDGE OF ALLEGIANCE:

The pledge of allegiance was led by Chairman Reighard.

MOMENT OF SILENCE:

A moment of silence was observed.

OPENING ANNOUNCEMENTS:

Chairman Reighard noted that the meetings are recorded, and that all cell phones should be put on vibrate or tuned off. The Chairman also noted that an additional time for public input was added to the beginning of the agenda. He reminded the public that there is time limit for input, and we will attempt to hold to that.

MINUTES: 02/14/08 Regular Meeting:

Supervisor Faley made a motion to approve the minutes as presented. Before the motion could proceed, discussion occurred about what the minutes included.

Randy Diehl was present to represent his parents, Raymond and Genevieve Diehl, concerning the Diehl/ McAdoo plan that was approved at the last meeting. Mr. Diehl took issue with the minutes that he felt did not include their attorney’s (Robert Saidis’) comments during the discussion of the plan. He said they (applicant) did sign and return the plan approval form within the prescribed time period only noting their request to clarify the condition of stump removal. Mr. Diehl added that the minutes go into great detail of Ms. Wolf’s comments (attorney for Mr. McAdoo), but did not include Attorney Saidis’ comments. In addition, he understood that the original motion that was made was readdressed after he and his party left the meeting. He understands about the omission of approvals of the modifications, but felt the original motion should stand without the verbiage that was added with the second motion.

Attorney Mislitsky responded by saying that in the discussion, Attorney Saidis referred to a related case, and felt the Board could use that as a reason to make a determination favorable for his client. However, Attorney Mislitsky stated the case cited was not on point with this situation.

Because Attorney Saidis previously put the Board on notice that a lawsuit would be filed regarding the Board's conditional approval of this plan (2 signatures required on the plan), Attorney Mislitsky advised the Board that this point should be discussed.

Mr. Diehl asked the Board if they knew what they were approving when the motion was made. There was a short discussion about the approval motion, at which time, Supervisor Gembusia stated that he did understand that the second motion included the point of the legality of the agreement. Otherwise, the Board wouldn't have made the approval motion conditioned on two signatures being necessary for recording. Supervisor Reeder asked Mr. Diehl if he had a problem with the minutes as recorded. He stated he did not, but did take issue with Attorney Mislitsky's follow up letter of February 22, 2008. Mr. Diehl reiterated that Attorney Saidis' input was not included in the minutes, and it should have been.

At this point, Supervisor Reeder made a motion to not adopt the minutes of the last meeting. These will be addressed at the next meeting. Supervisor Faley seconded, & the vote in favor was unanimous.

The Board directed staff to record the discussion of the Diehl/McAdoo plan verbatim to be included in the minutes for approval at the next Board of Supervisors meeting.

PUBLIC INPUT

There was no public input at this time.

#07-12C MORGAN'S CROSSING – Conditional Use Public Hearing:

Attorney Mislitsky opened the hearing and stated that the last hearing was opened and closed on January 24, 2008. At this time, the applicant was requested to complete a traffic study, and that information has not yet been submitted. The applicant was not present, & there will be no presentation. Brian O'Neill stated he expects the applicant's traffic study to be presented by March 7, 2008, but does not know if that will provide sufficient time for review. The Board previously approved an independent review by a traffic engineer, but because the study has not yet been submitted, that has not occurred. There was a short discussion about the time constraints for this plan which will be clarified by the next meeting.

At this point, Michael and Carla Arnold requested to be granted party status by the Board. Supervisor Faley made a motion to approve this request. Supervisor Baker seconded, and the vote in favor was unanimous.

Supervisor Gembusia stated for the record that he and Supervisor Reeder were requested to meet with the residents of this area, but because of the formal proceedings of this project, are now legally not able to meet that commitment. Solicitor Mislitsky explained that if the Board members met with the residents to hear their concerns, their vote could be challenged. Supervisor Reighard added that if the concerns are of a general nature, they should be addressed in a forum such as the comprehensive plan and zoning ordinance meetings that were recently concluded after a period of about two years.

Supervisor Reeder made a motion to close the hearing and continue it on March 27, 2008. Supervisor Gembusia seconded, and the vote in favor was unanimous. The hearing was closed.

EMERGENCY SERVICES REPORT:

The report was accepted as presented. Supervisor Reighard commented that he liked the new format of this report, and the Board agreed.

RECREATION REPORT:

The report was accepted as presented.

ROADMASTER REPORT:

The report was accepted as presented. Supervisor Reighard questioned the signage along Sprint Drive. The signs were installed to designate a snow emergency route to enable the Township to adequately plow the street.

SOLICITOR REPORT:

Solicitor Mislitsky reported that the Diehl's filed an action against the Township and the McAdoo's. Supervisor Gembusia added that the Solicitor's comments in his letter of February 22nd were implicit in the Board's action.

The Solicitor also mentioned the Planning Commission report, and the need for the Board to review the information on the Wheatstone plan.

ENGINEER REPORT:

The applicant for 44 Carlisle SM Forge Associates, LLP Plan #07-10 is requesting re-approval of the plan to provide additional time to meet conditions of plan approval. Supervisor Reeder made a motion to re-approve the plan subject to the original conditions. Supervisor Gembusia seconded, and the vote in favor was unanimous.

The applicant for Carlisle Crossings Lots 1 & 5, Plan #05-38 & #06-02 requested release of security because all conditions have been met. Supervisor Faley made a motion to release security as recommended by the Engineer. Supervisor Gembusia seconded, and the vote in favor was unanimous.

The South Middleton School District and consultants were present to request a waiver of land development submission for the stadium renovations project at the high school campus. The original plan was submitted in 2002, but has been changed since that time. Supervisor Baker questioned the applicant's consultant, Chuck Haley of ELA Sport about possible stormwater problems associated with the turf field installation. Supervisor Faley added that in 2002, the Township received complaints about stormwater. Brian O'Neill explained the capacity of the pond that is installed beneath the field to hold water until it percolates into the ground. Supervisor Faley questioned whether this project was located in the wellhead area, and if so, would disinfectants be used that might contaminate the well. This project is in the wellhead area. It will require approval by DEP through an NPDES permit. Supervisor Reeder stated that if another developer approached the Board with a 5-year-old plan, the Board would not allow them to proceed without submitting a new land development plan.

SMSD Business Manager Jeff Ammerman clarified the project by stating the school board has not made the decision to proceed with the turf installation. They need to review the economics of the project once the scope is decided. Mr. Haley explained that the impervious coverage of

this plan is the same as the 2002 plan. Brian O'Neill added that this project is only for bleachers, the long jump pit and lights. The plan for the turf installation will be addressed at a later date. Supervisor Reighard questioned the school about the adequacy of parking. With additional bleacher seating, the existing problem will be exacerbated. Mr. Haley responded that he was not a party to any of the projects where parking was discussed, and had no input on that. It was noted that the capacity in the stadium will be increased from the mid-900's to about 1,800. Mr. Ammerman stated that during the high school renovation project, parking was added to the student lot and a lot was added next to the cemetery.

Marti Green stated that as a taxpayer, she is concerned with approval of a waiver of land development submission. She feels that is a bad precedence to set. Supervisor Baker added that this project is important to the school and the community, therefore, no steps should be skipped.

Supervisor Reeder made a motion deny the waiver request as presented. Supervisor Reighard seconded, and the vote in favor was 4-1 with Supervisor Gembusia casting the dissenting vote.

(Break 7:10 PM)

PLANNING/ZONING/CODES ENFORCEMENT REPORT:

Tim Duerr explained that the developer of Limestone Creek Phase 1 is granting a time extension until June 15, 2008, for the Board of Supervisors to take action on this plan. They have not yet received their NPDES permit from DEP. Supervisor Reeder made a motion to approve the extension as offered. Supervisor Gembusia seconded, and the vote in favor was unanimous.

The developer for Walnut Bottom Grove Conditional Use plan is granting a time extension until April 20, 2008, to hold a public meeting on this plan. Supervisor Baker made a motion to approve this extension as offered. Supervisor Reeder seconded, and the vote in favor was unanimous.

The applicant for the Georgetown Conditional Use plan is granting a 6 month time extension until September 28, 2008, to reconvene a public hearing for this plan. The developer has decided not to continue this project, and the owner (Dixon Trust) is deciding how to proceed. Supervisor Gembusia made a motion to deny the time extension, and schedule a public hearing. There was a short discussion about this project. A conditional use is required due to the fact that it is located in the wellhead protection area. If the plan is denied, a denial letter must be sent to detail the deficiencies of the plan. A hearing must be scheduled by March 27th, and a decision must be made at that time. Supervisor Reeder seconded the motion, and the vote in favor was unanimous.

The decision for the Nesbit Conditional Use is ready for signing if the Board has no further comments.

The Board gave its consensus to advertise the Jefferson Court II Conditional Use hearing for March 13, 2008, at 6 PM. The developer must submit a traffic study for review.

Tim Duerr noted the new roadside signs that will be installed for the Civil War Trail program.

MANAGER REPORT:

Regarding the agreement to join the Capital Region COG lawsuit against DEP on the Chesapeake Bay initiative, Supervisor Faley noted he is withdrawing his support. He has spoken with Carlisle Borough about their non-participation. Because they are not participating, because he feels the per hour rate of the attorney handling the suit is too high, and due to the confidentiality notice on the lawsuit when it was distributed, he now feels we should not participate in this. Supervisor Reighard stated he has attended the SMTMA meetings when this was discussed, and noted that our own municipal authority agrees with our Board's participation in this lawsuit. They have not joined in the suit because they feel the policy decisions such as this should be made by the Board of Supervisors. He added that he feels the state legislature is moving to find funds to help with these implementation costs because of the opposition that has been voiced through the lawsuit. Supervisor Gembusia agreed. He stated that if opposition fades, the pressure to find a solution will go away. We have already committed \$2,000. This agreement that was presented for signatures only commits the Township to \$2,000. If we are asked for more funds, we can reconsider our participation. Supervisor Baker noted that Mechanicsburg voted against participation, he too wants to change his mind about participation. Supervisor Reeder added that we must continue the pressure on the state to find funding or the state will continue to demand full compliance with this unfunded mandate.

Randy Watts, a member of the SMTMA Board, stated that the return on the \$2,000 investment might equate to millions of dollars. He stated further that SMTMA favors the Township's actions and is comfortable with the expense. Supervisor Reighard added that without any funding help, our ratepayers face a doubling, tripling, or even higher increase in sewer bills.

Supervisor Gembusia made a motion to sign the agreement as presented for participation in the COG lawsuit. Supervisor Reeder seconded, and the vote in favor was unanimous.

Due to cash flow considerations, tax collector Bob Cairns requested consideration for approval of a check for expenses related to the real estate tax bills before the next Board meeting. Manager Wilson stated that Mr. Cairns typically charges this expense on his personal credit card, and must wait weeks for the reimbursement check to be processed due to the meeting schedules. Supervisor Baker approved the staff preparing a reimbursement check up to \$1,700 for the tax collector on this bill list when sufficient documentation is supplied by Mr. Cairns. Supervisor Reeder seconded, and the vote in favor was unanimous.

Attorney Robert Saidis requested to listen to tapes of January 29 and February 14, 2008, meetings. The Board did not approve the minutes of the last meeting, therefore, gave their approval for Attorney Saidis to make arrangements to listen to the tapes of the February 14th meeting. The tapes of the January 29th meeting are no longer available. It is the Board's policy that when minutes of a meeting have been finally approved to get rid of the tapes since the written minutes are the official record of all meetings. Tapes cannot be duplicated.

PUBLIC INPUT

Mr. Bob Grochalski of Petersburg Road asked why the workshop he and some neighbors requested could not be held. He wanted to know how he could review plans that are submitted. Tim Duerr stated that any plan that is submitted is public information. He is welcome to come into the office and review the plan files. He asked about a 5-year plan. It was suggested that he

review the comprehensive plan, zoning ordinance and zoning map. When Mr. Grochalski requested a master plan for the roads, he was told that nothing exists for the roads other than what is included in the comprehensive plan. Brian O'Neill explained to Mr. Grochalski how the HATS process works which could address some of his concerns. In addition, the Township met with PennDOT to talk about future planning and we were told no mechanism currently existed for PennDOT to proactively plan for roadway needs. Supervisor Gembusia reported that he and Supervisor Reeder were to meet with Mr. Grochalski and some neighbors about some of their concerns related to two new plans that have been submitted to the Township, but because of the conditional use process that has begun, they are not able to do so. Solicitor Mislitsky explained that the Board takes a quasi-judicial role in these proceedings, and if they meet with any party outside the hearing process, their vote could be challenged as prejudicial. It was suggested that Mr. Grochalski meet with Township staff and discuss issues in that forum.

Ms. Marti Green from Derbyshire Drive asked for a clarification on the classification of Mayapple Drive. Brian O'Neill stated that it is an urban collector on the road hierarchy designation, which typically has a speed of between 35 and 45 mph. A rural collector has a speed of between 25 and 35 mph. Ms. Green asked why Mayapple isn't a local road since their posted speed is 25 mph. Mr. O'Neill stated a collector connects two state roads and allows no access points other than roads. When Ms. Green asked why Fairview Street is classified as a local road, it was explained that houses were built on Fairview Street before the roadway hierarchy plan was adopted. The Township couldn't go back now and not allow driveways on that road. Mr. John Anderson stated that when Mayapple Drive was first approved, it was designed to be a part of a Carlisle by-pass which would extend from Trindle Road to the western side of the Township.

SUPERVISORS' DISCUSSION:

Supervisor Baker asked why Waste Management raised their prices. He was told that this increase began in this contract year and was included in the contract that was bid 5 years ago.

Supervisor Reeder noted two letters that were received from Mr. Jim Bradley regarding parking problems on their small street (original Mill Street before it was relocated). He thought that the owners of the church/house that sits beside Mr. Bradley were restricted to one off-street parking space. Tim Duerr explained that the decision of the Zoning Hearing Board for that property did not include that provision. Manager Wilson stated this letter was precipitated by a combination of problems in which most of those neighbors participate. Supervisor Gembusia noted the neighborhood meeting took place a few years ago in which their problems were discussed. Condemnation of all the properties was discussed. He asked if the road could be abandoned by the Township and the property given to the residents. The Board asked Solicitor Mislitsky to investigate the procedure for road abandonment and Manager Wilson was directed to send a letter to the residents offering abandonment as a solution to their issues.

BILLS FOR PAYMENT:

Supervisor Gembusia made a motion to pay the bills including a check up to \$1,700 to Tax Collector Bob Cairns upon submission of documentation of expenses. Supervisor Baker seconded, and the vote in favor was unanimous.

ADJOURNMENT:

Supervisor Gembusia made a motion to adjourn the meeting at 8:11 PM. Supervisor Faley seconded, and the vote in favor was unanimous.

WITNESS:

Barbara A. Wilson, Assistant Secretary

**SOUTH MIDDLETON TOWNSHIP
BOARD OF SUPERVISORS:**

Walter G. Reighard, Chairman

Bryan A. Gembusia, Vice Chairman

Ronald L. Reeder, Member

James N. Baker, Member

Thomas E. Faley, Member