

## MINUTES

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

JULY 26, 2012

**PRESENT:** TOM FALEY, RICK REIGHARD, BRYAN GEMBUSIA, RON HAMILTON, DUFF MANWEILER - SUPERVISORS; Richard Mislitsky – Solicitor, Barbara Wilson – Manager; Cory Adams – Assistant Manager, Brian O’Neill – Engineer, Tim Duerr – Zoning Officer, Sandy Quickel – Recording Secretary, Attorney Kurt Williams, Pam Fisher, Gary Heishman, Attorney Hubert Gilroy, Mr. & Mrs. Pete Casoni, Mike Berk, Eric Johnston, Bill Brown, William Sangrey, Gregory Kuhn, Debra Schell – “The Sentinel”, Josh Schmidt - “The Patriot News”.

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

#### **PLEDGE OF ALLEGIANCE:**

The pledge of allegiance was led by Chairman Faley.

#### **MOMENT OF SILENCE:**

A moment of silence was observed.

#### **OPENING ANNOUNCEMENTS:**

Chairman Faley announced that the meetings are recorded & to turn off cell phones. Tom announced that this is Barbara Wilson’s last meeting as Township Manager. She is retiring & she will be deeply missed. Tom thanked Barb for her years of service.

#### **MINUTES: 07/12/12 (Regular Meeting):**

Bryan made a motion to approve the minutes. Rick seconded, & the vote in favor was unanimous.

#### **PUBLIC INPUT:**

Mrs. Casoni, 1 Derbyshire Drive, discussed the problems of the Mayapple Golf Course/Restaurant employees parking along the tree line facing her yard. She stated the Mayapple HOA is supporting her on this issue. She said that car headlights shine in her house. Duff stated that the Mayapple PRD covenants are enforceable through the HOA. Bill Brown, HOA President, said that cars are parking along this area every day, & that the area is not paved, but they are using it as a parking lot. Bryan asked if they are parking on private property. He was told it is Mayapple’s property, but they are very close to the Casoni property. Mrs. Casoni said she would not be opposed to an occasional overflow of cars parking there for special events, but not everyday. Duff said they are violation of an ordinance which prohibits vehicles to drive in & out of a grass area without a driveway. Tim will review the driveway ordinance on this issue.

#### **#2012-0010 GET LEASING FACILITY – Conditional Use Public Hearing:**

Solicitor Mislitsky opened the hearing & stated the procedure. The applicant waived the requirement to have a stenographer present. Attorney Hubert Gilroy presented the plan. The property is at 1519 Commerce Avenue, is 2.06 acres, & is in the I-3 zone. The applicant is

proposing to construct a truck repair & service facility. The business will repair their own truck equipment. They will share an access with a neighboring property. There was no public comment.

Bryan made a motion to approve the modifications (Section 706d – Allow parking lot to be constructed within 10 feet of the building along the office; Section 706i(4) – Allow the access drive to be 40 feet, 5 feet in excess of the SALDO, Section 707 – Construction of sidewalks, Section 708 – Construction of concrete curbs & gutters, Section 711b2(g)(iii) – Sidewalk trees planted within 5 feet of the r-o-w. Due to existing overhead utility lines, they are requesting permission to plant these shade trees further from the r-o-w than 5 feet & within the landscaping area adjacent to Commerce Avenue. Duff seconded, & the vote in favor was unanimous.

Tom made a motion to approve #2012-0010, subject to staff's comments. Bryan seconded, & the vote in favor was unanimous. The hearing was closed.

**AGRICULTURAL SECURITY – 597 Petersburg Road – Public Hearing:**

Tim pointed out the area on the map. The total acreage that will be added is 127.39 acres. He said the soils are Class 1 & 2, & that the land has been farmed for years. There was no public comment. Tom made a motion to approve Resolution #15 accepting this application into the Agricultural Security Area. Rick seconded, & the vote in favor was unanimous. Rick suggested sending the property owners a thank-you letter for entering their land into the Ag Security.

**#09-08 JEFFERSON COURT II – Preliminary Subdivision**

Attorney Kurt Williams represented this plan. Engineer Eric Johnston assisted with the presentation. Mr. Williams stated that the stormwater/impervious coverage issues have been worked out. It was decided to limit the per lot impervious coverage to 3,100 s.f. If the square footage is more than 3,100 s.f, the owner must construct a seepage bed. The calculations for the seepage beds indicate it is necessary to construct 1 cubic foot of stone for every 1 square foot of additional impervious coverage above the 3,100 s.f. Mr. Williams said it was felt that 3,100 s.f. is reasonable & it was not necessary for seepage beds to be placed on every lot – not every owner will exceed the 3,100 s.f. The stormwater from the site flows westerly towards Union Quarries. A letter from Union Quarries stated they are okay with the stormwater flow. Mr. Mislitsky asked if Union Quarries submitted a letter after the conditional use process, or is it their support during the conditional use process. Mr. Williams said it was a letter after the conditional use process. Brian stated that DEP requires a letter from the downhill property owners accepting the changes for an NPDES permit. Tom noted that the plan is 3 years old, & the plans still do not comply with Township ordinances. Several modifications are necessary. Mr. Williams said that is correct & modifications were submitted today. Tom said that the lots are  $\frac{3}{4}$  acre lots which equals 32,670 ft, & that they are allowed 35% impervious coverage under the ordinance so these lots could get about 11,434 s.f. He said the applicant is proposing to cover 3,100 s.f with the detention pond, & leaving the rest up to the homeowner. Tom feels that these seepage beds (French drains) are a double-edged sword because of the limestone area. He noted a sinkhole that formed using this type solution & it was dangerous situation. He would like to see the developer handle more of the stormwater management.

Mr. Johnston explained the proposed stormwater management plan. Bryan questioned what will happen if someone builds over the original construction – if someone wants to add a shed or pool

years after the original construction. He said the impervious coverage is hard to enforce. Mr. Williams said there will be a note on the plan & deed restrictions. He also feels the Township will enforce the building permits & zoning permit restrictions. Bryan stated that he lives in a development with these restrictions, & it is a disaster to enforce. No one understands it, or how to take the measurements or hires an engineer, etc., & there are deed restrictions for this development. Mr. Johnston asked if the Township requires a grading plan or an as-built plan after a house is constructed. Brian replied no. The Building Inspectors measure the impervious square footage to determine if they are with the impervious coverage limitations. Bryan said this burdens the Township to keep the measurements because the homeowners do not know how to take the measurements. Tom also noted the homeowners have a maintenance problem with the impervious coverage. He asked Mr. Williams if the fate of Morgan's Crossing dies, does the Jefferson Court II plan also die because of access. Mr. Williams replied no. Brian said it will not meet the requirements of the ordinance. Mr. Williams said that Jefferson Court Phase I could be done. Brian disagreed & said that it is not designed that way. The cul de sac is 1,000 feet in length & services 17 units. A permanent cul de sac can only serve 15 units & be 750 feet in length. Phase I was designed with a temporary cul de sac. Mr. Johnston argued that this detail was never discussed or listed as a plan comment. Brian stated that this issue was discussed during the Conditional Use process. It was noted at the Conditional Use process that, Phase I would be designed with a permanent cul de sac, so if Morgan's Crossing does not occur, then Phase 2 of Jefferson Court II would not be approved & Phase I could proceed without violating permanent cul de sac requirements. Mr. Williams wrote the condition stating to the applicant to proceed with 2 phases meeting the requirements of the ordinance, but it didn't capture the discussions during the hearing. The Phase I break is at 17 units & a 1,000 foot length cul de sac; which does not meet the requirements of a permanent cul de sac. Mr. Johnston questioned Note 35 on the plan. Brian said that if Morgan's Crossing proceeds, it is not an issue. Mr. Williams said the cul de sac length can be changed. Rick said that there are other concerns with the Morgan's Crossing plan. Mr. Mislitsky asked Mr. Williams if he has a copy of the agreement with him. Mr. Williams replied no. There was no public input.

Tom made a motion to deny 2 of the 3 modification request (Section 710 c (4) (a) (iii) – Use of infiltration trenches in limestone areas & Section 710 c (4) (c) (x) – Subsurface infiltration facilities used for peak attenuation). Bryan seconded. Mr. Johnston commented on staff's memo stating the plan should be approved. Brian clarified that it states "Based upon the Policy & Procedure for Plan Reviews, the plan should be approved subject to above conditions, subject to approval of all the modification requests". Mr. Johnston said he is referring to Brian's emails everything was fine. Brian said that from a technical perspective, the infiltration seepage bed calculations were fine, but he would have to get the modifications approved. Mr. Johnston feels that Brian has not offered that information to the Board. Bryan told Mr. Johnson that he was here last month & heard the concerns. Mr. Williams asked what is a reasonable impervious coverage amount if 3,100 s.f. is too small. Mr. Mislitsky cautioned the Board on answering that. Mr. Williams said that if they could get a number, they can design it to that amount. Mr. Mislitsky said that it is not the Board's job to design the plan. Bryan asked if the stormwater management in other developments are designed to the maximum 35% coverage. Brian said most do design to the maximum. Mr. Johnston feels most developers do not want to over design the stormwater management. The Board & staff cited a few developments with stormwater problems in response to the characterization of conversations between Brian & Mr. Johnston as Brian approving the design. Brian stated that Mr. Johnston has argued with him about the

viability of Township's enforcement of impervious coverage & said it is not reasonable to design up to 11,000 s.f. & that it is over-design. Brian said he cited several examples to Mr. Johnston of problems with the Township enforcement of a limitation restriction, & that he was told that he would have to find a solution to address the Board's concerns. Mr. Johnston proposed the seepage beds which are not permitted. Bryan noted that the problems do not occur at the start of a project – it happens later on. Tom asked why they are fighting the larger detention ponds. Mr. Johnston said it is an economic issue & the designs are already done. Duff feels that the problems at Westgate could have been avoided if the ponds were made bigger. There was no public input.

Tom rescinded his motion & Bryan rescinded his second. Rick made a motion to deny all 3 modification request. Tom seconded. Mr. Williams said he would like to submit a 30 day time extension in order to work on the cul de sac & stormwater issues. Rick said he is not in favor of granting any more time extension. Mr. Williams said he can submit an extension in writing until August 31. Duff suggested submitting a 60 day time extension since 30 days may not be enough time to work on the issue, but cautioned Mr. Williams that it still may not get approved. He also commented about his concern with the friction between Brian & Mr. Johnston. He did not appreciate accusations made toward staff. No vote was taken on the modifications. Action on approving a 60 day time extension was taken.

Duff made a motion to accept a 60 day time extension. Bryan seconded. Roll call vote was taken. Ron – no, Duff – yes, Tom – no, Bryan – yes, Rick – no. The vote to deny the 60 day time extension was 3 nays to 2 ayes. Mr. Mislitsky asked how many days they offered for a time extension. He was told it was a 30 day time extension.

Duff made a motion to accept a 30 day time extension. Rick seconded. Roll call vote was taken. Ron – no, Duff – yes, Tom – no, Bryan – yes, Rick – no. The vote to deny the 30 day time extension was 3 nays to 2 ayes.

Rick made a motion to deny the 3 modification requests. Ron seconded, & the vote in favor was unanimous.

Rick made a motion to deny plan #09-08, subject to the denial of the 3 modifications, & subject to violating the Conditional Use Decisions on the Jefferson Court, Phase I cul de sac & the number of homes on a cul de sac, & subject to having a dead-end street. Tom seconded, & the vote in favor was unanimous.

**#2009-0024 MORGAN'S CROSSING – Preliminary Subdivision**

Eric Johnston represented this plan. Tom asked if the sewage problem with Carlisle Borough has been worked out. Mr. Johnston replied no. He has not submitted a sewage planning module. Half of the homes in this development are to be served by Carlisle Borough. Tom said that the Township still does not have an agreement with Carlisle Borough & that the plan is 3 years old. Brian stated that the southern half of Morgan's Crossing drains into SMT. The northern half drains toward the airport near Meals Drive. There is a pumping station on Meals Drive that goes to the Carlisle Borough plant. The Township has an Intermunicipal Agreement with the Borough for the amount of sewer that can be discharged into their system from that pumping station. The flows from Morgan's Crossing exceed that agreed upon flow. The Borough has

said they are not going to sign off on a planning module until an Intermunicipal Agreement is revised for the increased flow. These agreements have not been completed. Bryan asked which parties are involved in the agreement. Brian said that it is a 4-way agreement between SMT, SMTMA, Carlisle Borough & Carlisle Borough Authority. Tom questioned the hold up of the agreement. Mr. Johnston said he attended the Borough's meetings, & it was indicated to him that the agreement has been in the works for a couple of years. There will be two sewage planning modules (1- SMT & 2- Carlisle Borough), so without the Intermunicipal Agreement he can't forward the modules to DEP. Mr. Johnston said he would need another time extension. Tom stated the same waivers requested by Jefferson Court II, for upgrading Petersburg Road and using infiltration in karst areas, are being requested & he has the same concerns. Mr. Johnston said he would like to withdraw the waivers based on the discussion of the Jefferson Court II plan & requested a time extension. He said he would withdraw two of the four modification requests that deal with infiltration (Section 710 c (4) (a) (iii) & Section 710 c (4) (c) (x)). Bryan said that if the modifications are withdrawn, the plan will not meet the requirements of the ordinance. Mr. Johnston asked a 90 day time extension. He stated that Mr. Faley told him he could have as many time extensions that he needed to work on these issues. Rick pointed out that Mr. Faley was speaking only for himself and Tom agreed.

Rick made a motion to approve a 90-day time extension. Tom seconded. A roll call vote was taken. Ron – no, Duff – yes, Tom – yes, Bryan – no, Rick – no. The vote was 3 nays & 2 ayes. The time extension was denied.

**Modifications:** Sidewalks along Petersburg Road, Upgrade Petersburg Road, Use of infiltration trenches in limestone areas, & subsurface infiltration facilities used for peak attenuation. Bryan made a motion to deny the four modifications requested. Tom seconded, & the vote in favor was unanimous.

Bryan made a motion to deny plan #2009-0024, subject to the facts found in the July 23, 2012 Planning Department memo, subject to the plan not meeting the requirements of the ordinance based on the denial of the modifications, & subject to not submitting a sewage planning module. Tom seconded. Roll call vote in favor was unanimous.

**EMERGENCY SERVICES REPORT:**

The report was accepted, as submitted.

**RECREATION/PARKS REPORT:**

Tom noted that Super Saturday will be held at the park this Saturday & welcomed all to attend.

**ROAD SUPERINTENDENT REPORT:**

Barb stated that Rockledge Drive will be paved next week.

Rick asked if an insurance claim will be submitted to the damages/labor involved with the accident at the Petersburg Road underpass. Ron explained the incident, & agreed that a claim will be submitted.

**SOLICITOR REPORT:**

Mr. Mislitsky requested an Executive Session regarding litigation & Duff wants to discuss a personnel issue.

**ENGINEER REPORT:**

The applicant for the Hooke & Suter plan (#08-21) has requested a release of security. There are 2 items still remaining to be completed. Bryan recommended releasing \$5,000 for paving of the trench on Fairfield Street. Tom made a motion to approve the security release in the amount of \$5,000. Bryan seconded, & the vote in favor was unanimous.

Regarding the stormwater drainage problem at the Summerfield Development, Mr. Marbain would like to wait until September to regrade the swale to solve the problem. This would be a good time to plant grass so it grows. Consensus was given to allow Marbain Associates to wait until September to complete drainage improvements. It was suggested to notify the group of people that met on this issue. Also, a deadline date is to be given to Mr. Marbain to complete the work.

The applicant for the Burgoon subdivision plan (#2011-0023) has requested an additional 90 days to meet conditions of plan approval. The new deadline will be November 6<sup>th</sup>. Rick made a motion to approve a 90-day time extension. Tom seconded, & the vote in favor was unanimous.

Brian presented a detour route to be used when work has begun at the Parkview at Boiling Springs development. It was suggested to work with the State Police (Lt. Scott Miller) on this issue regarding trucks on Rt. 174, which are prohibited. School Board member, Mike Berk, asked if the Township can give notice to the school district on this issue. Brian stated that the work is to be completed before the start of school. It was decided to detour the traffic down Fairview Street off of Forge Road/Petersburg Road.

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

Carlisle School District has requested a waiver from land development submission for the construction of a 26,638 s.f. addition onto the Lamberton Middle School. A sliver of the property is in South Middleton. The project will be entirely in Carlisle Borough & amounts to a 2.4% increase of impervious. Tom made a motion to approve the waiver request. Bryan seconded, & the vote in favor was unanimous.

The fireworks ordinance is ready for advertisement. This ordinance is a basic ordinance in order to hold the Labor Day fireworks & bring the Township into compliance with State law. In the future, this ordinance may be revised to include more appropriate requirements for protection of the Township & nearby residents. Mr. Sangrey, asked if there will be a time period for public review of the ordinance. He was told yes.

**MANAGER REPORT:**

The following job descriptions are ready for approval: Receptionist, P&R Receptionist, Cleaning/Maintenance worker, P&R Program Coordinator, Treasurer, & Manager. Rick made a motion to approve the job descriptions as presented. Tom seconded, & the vote in favor was unanimous.

The Personnel Manual has been revised. Rick made a motion to approve Resolution #14 approve the changes to the Personnel Manual. Duff seconded, & the vote in favor was unanimous.

Due to Barb's departure, some positions need to be filled. They are Treasurer, Assistant Treasurer, Assistant Secretary, & Assistant Right-to-Know Officer. The bonds will need to be revised accordingly. Tom made a motion to appoint Jarrett as Treasurer, & Cory as Assistant Treasurer, Assistant Secretary & Assistant Right-to-Know Officer. Ron seconded, & the vote in favor was unanimous.

**PUBLIC INPUT:**

There was no public input.

**SUPERVISORS' DISCUSSION:**

Rick asked if there have been any changes with the trash haulers issue the other week (early pickup time). Barb stated that this issue was discussed with the Citizen's Advisory Task members, & they were very complimentary of Interstate Waste. They suggested that the Township extend the two one-year options on the contract. The contract states a 5:00 am start time.

Duff said that he has information regarding the Craighead house restoration project.

Ron said that Bonnybrook Road will be closed Friday to fix a sinkhole.

**BILLS FOR PAYMENT:**

Tom made a motion to pay the bills, as presented. Bryan seconded, & the vote in favor was unanimous.

The meeting was adjourned into Executive Session at 7:50 pm.

**EXECUTIVE SESSION:**

Executive Session was adjourned at 9:10 PM & the regular session was reconvened. Duff made a motion to authorize retiring Manager Barb Wilson to continue working through the management transition on a part-time employee basis. Barb will work at the request of Acting Manager Cory Adams & Finance Director Jarrett Sweeney on projects in which they need Barb's assistance. As compensation, Barb will receive \$2,500 for the first month of consultation, \$2,000 for the second month, & \$1,500 for the third month after her retirement. No time sheets will be required. If any further consultation is needed, the agreement will be revisited. Tom seconded, & the vote in favor was unanimous.

It was also decided that if Cory and Jarrett are not available, Sandy Quickel will be appointed as the person in charge. After a probationary period of 30 days, this arrangement will be assessed and Sandy will be considered for a raise.

**ADJOURNMENT:**

Duff made a motion to adjourn the meeting at 9:16 p.m. Rick seconded, & the vote in favor was unanimous.

**WITNESS:**

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Sandra A. Quickel, Secretary

**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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Walter G. Reighard, Member

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R. Duff Manweiler, Member

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Ronald P. Hamilton, Member