

## MINUTES

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

SEPTEMBER 14, 2006

**PRESENT:** BRYAN GEMBUSIA, TOM FALEY, JIM BAKER, RON REEDER, RICK REIGHARD – Supervisors, Barbara Wilson – Manager, Richard Mislitsky – Solicitor, Brian O’Neill – Engineer, Tim Duerr – Zoning Officer, Sandy Quickel – Secretary, Dan Flohr, David Martineau, Donald Baker, Thomas Herrington, Pam Fisher, Bob Winters, Doug & Helen Gale, Dick Cummins, Howard Phillips, Bob Geist, Frank Burrows, Kris Chronister, Mary Zeigler, Phil Avitto, Paul Slifko, Claire Brehm, Peter Charuhas, Martha Green, Mark Mullen, John Hilton – “The Sentinel”, Andrea Ciccocioppo – “The Patriot News”.

Chairman Gembusia called the meeting to order at 6:00 p.m.

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

Chairman Gembusia led the audience in the pledge of allegiance.

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

A moment of silence was observed.

#### **OPENING ANNOUNCEMENTS:**

Chairman Gembusia noted that the meeting is recorded.

#### **MINUTES: 08/31/06**

Rick mentioned a change under Public Input. It should read “turn left out of their driveway” instead of “out of development”. Tom made a motion to approve the minutes as amended. Rick seconded, & the vote in favor was unanimous.

#### **#06-14C DOUGLAS C. & JANE A. KIEHL – Conditional Use Public Hearing:**

Mr. Mislitsky opened the hearing & stated procedure. Tim stated that the applicant had previously received conditional use approval for a wellness center. The practitioner business will be moved into the Holly Pike location (from York Road) & will eliminate 1 phase of the plan. There will not be retail sales at the site. Ron asked if there will be any additional buildings. Tim said that only the use is changing. There was no public input.

Tom made a motion to approve #06-14C, subject to the applicant’s acceptance of staff comments. Ron seconded, & the vote in favor was unanimous. The hearing was closed.

Jim Baker introduced Phil Avillo. Mr. Avillo is seeking a congressional seat, & spoke a few words on several issues. The Board thanked Mr. Avillo for speaking.

**#06-15C CARLISLE SPORTS COMPLEX – Conditional Use Public Hearing:**

Mr. Mislitsky opened the hearing & stated procedure. Attorney David Marineau, Engineer Eric Johnson, Vince Weichert & John Davis were present to discuss this plan. The applicant proposes to establish an indoor storage facility which would be available to building contractors to store building materials/equipment. The property is located at 103 Midway Drive. The Planning Commission recommended approval with conditions. The applicant is agreeable to the conditions. The site will not be a warehouse. There was a lengthy discussion regarding tractor trailers. It was suggested to provide a turn-around area close to the access doors on the lower level. The developer agreed to look into this. Rick asked if the building is 1 large space. He was told that the lower level (24,000 s.f.) could be quartered off. The applicant agreed to no more than 10 tractor trailer deliveries per day. Rick asked how this would be monitored. There was discussion on how the trucks will load/unload at the lower level in the new proposed driveway. Rick asked how to control what the tenants have delivered. It was mentioned that certain restrictions could be placed in the lease agreement. Ron asked if the areas will have chain link fence. He was told that the areas will be separated & secured. Public comment was taken.

Donald Baker asked if there would be restrictions on storing hazardous items. This would be made a condition of plan approval.

Mary Zeigler asked what the applicant will do for the community. She pointed out money is needed for emergency services & recreation.

Jim made a motion to approve #06-15C, subject to the applicant's acceptance of the Planning Department's memo dated 9/11/06, & subject to the conditions on a letter from Salzman Hughes dated 9/14/06 (Condition #5 was revised). The conditions are: 1) A land development plan be submitted & approved by the Board of Supervisors; 2) The existing on-lot septic system be shown to be adequate to support the proposed use or repaired/replaced such that an adequate system is present; 3) The land owner comply with all buffering & screening requirements of the SMT Ordinances; 4) No hazardous materials be stored in the building; 5) No tractor trailers be parked on public right-of-way; 6) No more than ten (10) tractor trailers could load or unload any goods at the property per day (number of trucks was recommended by the Township Engineer & agreed to by the property owner subsequent to the Planning Commission meeting); 7) No outside storage would be permitted at the property; & 8) Lighting should be in compliance with the SMT Ordinances. Tom seconded, & the vote in favor was unanimous. The hearing was closed.

**ORDINANCE #06-05 LOCAL TAXPAYERS BILL OF RIGHTS – PUBLIC HEARING:**

Mr. Mislitsky opened the hearing & stated procedure. Barb stated that this ordinance was originally adopted in 1999 by law. Only language will be changed (from Captax to Centax) in the ordinance. There was no public input.

Rick made a motion to approve Ordinance #06-05, as presented. Tom seconded, & the vote in favor was unanimous. The hearing was closed.

**ORDINANCE #06-04 INTERGOVERNMENTAL COOPERATION AGREEMENT (CUMBERLAND COUNTY LAND PARTNERSHIP GRANT) – PUBLIC HEARING:**

Mr. Mislitsky opened the hearing & stated procedure. Barb stated that this ordinance will allow the Township to accept the \$50,000 grant for the purchase of the Leaman Farm. An agreement will also need approved. There was no public input.

Tom made a motion to approve Ordinance #06-04, as presented. Ron seconded, & the vote in favor was unanimous.

Tom made a motion to approve the Intergovernmental Cooperation Agreement for the Cumberland County Land Partnership Grant. Rick seconded, & the vote in favor was unanimous. The hearing was closed.

**ORDINANCE #06-06 INTERGOVERNMENTAL AGREEMENT (REGIONAL EMERGENCY SERVICES FEASIBILITY STUDY) – PUBLIC HEARING:**

Mr. Mislitsky opened the hearing & stated procedure. Barb stated that this ordinance will allow the Township to accept state funds for an emergency services feasibility study with other municipalities. An agreement will also need approved. There was no public input.

Ron made a motion to approve Ordinance #06-06, as presented. Rick seconded, & the vote in favor was unanimous.

Rick made a motion to approve the Intergovernmental Agreement to participate in an emergency services feasibility study. Tom seconded, & the vote in favor was unanimous. The hearing was closed.

**DISCUSSION – EQUITERRA PROJECT (Sewer & Water Extension):**

Pam Fisher stated that the area is off of I81 at Exit 44. The parcel consists of 60 acres & is situated in South Middleton & Dickinson Townships & Carlisle Borough. The proposal is to connect sewer & water services from Carlisle Borough to service the portion of the project that is in South Middleton. Tom said that this proposal is suitable for what is proposed for that area. Tom made a motion to approve servicing the Equiterra project with water & sewer services from Carlisle Borough, subject to the approval of the SMT Municipal Authority, & as per the intermunicipal agreement. Rick seconded, & the vote in favor was unanimous.

**#06-04 CARLISLE FORGE – Final Minor Subdivision:**

The developer proposes to subdivide the commercial portion (53.682 acres) of Carlisle Forge off & combine several of the lots into 1 lot. The developer was not present for this plan. Bryan made a motion to deny the plan. Jim seconded. The Solicitor told the Board that they would have to approve or disapprove the modifications before action on the plan. Bryan & Jim withdrew their motion & second.

Bryan made a motion to deny the modifications for plan #06-04. Jim seconded, & the vote in favor was unanimous.

Bryan made a motion to deny plan #06-04, subject to the plan not complying with the following modifications: Preliminary Plan, Show building setback lines, Stormwater Management Plan, Grading Plan, Landscape Plan, EIA Report, Traffic Impact Study, Erosion Control Plan, Plans to Conservation District (erosion control), Plans to PennDOT & Plan distribution to Public Utility Company. Jim seconded, & the vote in favor was unanimous.

**(BREAK)**

**DISCUSSION – MISTY MEADOWS HOMEOWNERS ASSOCIATION:**

Kris Chronister, 105 Lori Lane, & Tom Herrington, 114 Creamery Road, were present to discuss an issue with the Misty Meadows Development. Mr. Chronister stated several problems: drainage issues, waste & rubble needs removed & topsoil is needed, portions of the roads need paved, & a street light is needed at the entrance to name a few of the problems. Brian noted that it would be a pole light, not a street light. Ron added that the pole lights are the Homeowners Association's responsibility, & that the developer should install. Tom asked if the drainage issue could be tied into the road dedication process. He was told yes. Bryan asked if bonding is still in place. Brian replied yes, none has been released for Phase 2. It was noted that Lot #51 is unsold & is a drainage easement. The Homeowners Association does not own this lot, but have to maintain it. It was noted that since the lot is unsold, the developer owns it. The residents were asked to document all the issues in writing to the developer & copy the Township. The Solicitor requested a copy of the Homeowner's Association document be provided to the Township. Bryan suggested withholding all future building permits until this issue is resolved. The residents agreed to supply the documentations requested.

**SOLICITOR REPORT:**

Mr. Mislitsky commented on the Captax issue. The Judge has sent out a third letter to Captax regarding the audit. Captax has threatened defiance in the order. The auditors will not perform the audit if they are not permitted to review some of the records. Bryan asked if another letter from the Township should be sent to the Judge & every Captax board member. Jim feels this is not necessary. Bryan mentioned that he recently spoke at a meeting of the Western COG, & that not everyone knows about this issue with Captax. Consensus was given to proceed with this issue. Mary Zeigler, Allen Street, questioned an article in the paper about this issue. She asked about the \$90,000 figure that was quoted in the paper. Mr. Mislitsky stated that that figure was paid out over 3 years to him & the auditors on this case. Plus, over \$16,000 was written off Mr. Mislitsky's bill on the Captax issue. She also asked if Rich gets paid over & above for other duties. Mr. Mislitsky replied yes, when he performs other work, he gets paid for that work. Barb pointed out that the Township receives an itemized bill from the solicitor that has the project/name & the hours billed for that work. All work for the month is on the same bill.

The remainder of the report was accepted, as presented.

**ENGINEER REPORT:**

The Evangelical Lutheran Church has requested that the recreation fees be waived for 2 residential lots that will be subdivided. The church will be selling the lots to gain some funds.

Bryan questioned granting them a 50% reduction in fees. This was normally done for churches, which allow the public to use any newly constructed recreational facilities, but the church will be selling these lots & will not retain ownership of the lots. Jim made a motion to defer the recreation fees until the building permit stage. Ron seconded, & the vote in favor was unanimous.

Brian mentioned that staff may want to move the Planning Commission meeting night from the third Tuesday to the third Thursday of the month for 2007 due to conflicts with plan reviews.

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

Tim reported that the updates to the Comprehensive Plan & Zoning Ordinance should be in final draft form this month. Tom made a motion to advertise the public hearings for the Comprehensive Plan & Zoning Ordinance. Ron seconded, & the vote in favor was unanimous. It was also decided that 9/25/06 will be the deadline date for grandfathering any plans in process (except sketch plans). This will also include conditional use plans & Zoning Hearing Board cases. Bryan made a motion to not accept any new plans for grandfathering after 9/25/06, but excludes sketch plans from the grandfathering provisions. Tom seconded, & the vote in favor was unanimous. Tom noted that the first hearing will be on 11/9/06. He would like 2 hours for the hearings & wants the hearings completed by Christmas. After a short discussion, it was decided to advertise the hearings for 1 hour from 7:00 p.m. to 8:00 p.m.

The applicants for the Hollinger Group Conditional Use plan are requesting a 1 year time extension on their conditional use approval in order to file a land development plan. Pam Fisher commented that the applicant is not ready to file the land development plan, but thought they were only asking for a 6-month time extension. Jim made a motion to approve a 6-month time extension effective from 9/14/06. Tom seconded, & the vote in favor was unanimous.

**MANAGER REPORT:**

Vickie Carey requested a waiver of the Zoning Hearing Board application fee in order for her mother to construct a garage on her property on Oxford Road. According to the tax maps, there should be enough acreage to construct a garage. Ron made a motion to deny the request to waive the ZHB application fees. Rick seconded, & the vote in favor was unanimous.

A resolution needs to be passed in order to participate in purchasing vehicles in the Central Westmoreland COG. Ron made a motion to approve Resolution #06-15 to participate in the Central Westmoreland COG purchasing program. Rick seconded, & the vote in favor was unanimous.

The Township has received the Waste Watcher Award for the compost facility.

Barb mentioned that there has been a problem with the Planning Commission having a quorum on meeting nights. Jim made a motion to appoint Bryan Gembusia to the Planning Commission with a term to expire 12/31/09. Ron seconded, & the vote in favor was unanimous.

Clarification needs made to the minutes previously approved. The change that was suggested was actually for the August 10<sup>th</sup> minutes, not the August 31<sup>st</sup> minutes.

Bryan made a motion to rescind approval of the 8/31/06 minutes (approved earlier in the meeting with the wrong amendment). Ron seconded, & the vote in favor was unanimous.

Bryan made a motion to approve the 8/31/06 minutes, as written. Ron seconded, & the vote in favor was unanimous.

Rick made a motion to rescind the approval of the 8/10/06 minutes. Tom seconded, & the vote in favor was unanimous.

Rick made a motion to approve the 8/10/06 minutes with the language change “out of their driveway”. Tom seconded, & the vote in favor was unanimous.

#### **SUPERVISORS’ DISCUSSION:**

Jim mentioned that the fireworks event was short of funding this year, not for next year as mentioned in the paper. He also said that there are 6 poles where a street light could be placed on Wood Lane. Brian said that the pump station has a light on it. The Engineer was authorized to research this issue. He mentioned the resignation of John Tanger (SMFC President who has served 40 years for the South Middleton Fire Company). Jim asked if anyone else has resigned. He was told that Fire Chief George Stapleton also resigned.

Rick stated that he has not received his NIMS certificate. He will be attending a wind energy seminar on September 19<sup>th</sup>. Also he & Brian will be meeting with S&A Homes & residents of Forge Road that will be affected by the proposed turning lane for the next phase of Forgedale Crossing.

#### **PUBLIC INPUT:**

Frank Burrows, Clifton Terrace, congratulated the Board & staff on the excellent work they have done.

Mark Mullen, 497 Petersburg Road, had previously submitted proposed zoning recommendations for his property at 319 York Road. He said the current recommendations are different than what he requested. He was told that others in the area requested no zoning changes. The Planning Commission felt the Village zone would allow the most flexibility for the residents.

Doug Gale, Derbyshire Drive, said he supports the Board against the Captax issue.

Marti Green, Derbyshire Drive, asked if the dates for the comprehensive meetings are on the website. She was told yes. She asked if the Shah Mathais property would be grandfathered for any zoning changes. She was told yes. Ms. Green was told to contact staff regarding a complaint about tall grass at the golf course.

Mary Zeigler, Allen Street, thanked everyone who attended the event at the Carlisle Airport. She presented plaques to anyone who had cars at the event. The plaques were made by special needs children. She commented that a state trooper caught a truck that traveled on Valley Street & cited the driver. She also offered appreciation to Matt for supplying the fire safety trailer, to Kurt (Union 41) for supplying an old fire truck & to Bryan Gembusia for the fire company's support & attendance. She also said that the airport was very accommodating to them for the event.

Paul Slifko, School Board President, noted that student enrollment is down by 10 students this year except for the kindergarten class.

**BILLS FOR PAYMENT:**

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

**ADJOURNMENT:**

Tom made a motion to adjourn at 8:35 p.m. Ron seconded, & the vote in favor was unanimous.

**ATTEST:**

**SOUTH MIDDLETON TOWNSHIP  
BOARD OF SUPERVISORS:**

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Sandra A. Quickel, Secretary

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Bryan A. Gembusia, Chairman

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Thomas E. Faley, Vice Chairman

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Ronald L. Reeder, Member

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James N. Baker, Member

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Walter G. Reighard, Member