

**EAST HANOVER TOWNSHIP BOARD OF SUPERVISORS MEETING
8848 Jonestown Road, Grantville, PA 17028
June 19, 2007**

The meeting of the East Hanover Township Board of Supervisors was called to order with the pledge to the Flag by Vice Chairman Keith Espenshade at 7:02 P.M. Present were Supervisors Dave Marshall, George Rish, and Tom Shutt. Chairman Marie Beaudet was absent.

Myles Kauffman, legal counsel; Roger Phillips, Engineer; David Smith, Codes and Zoning; Charles Longreen, Director of Public Works; and Deborah Casey, Secretary-Treasurer were also present.

This meeting was audio taped. The tapes are strictly for the use of the Secretary-Treasurer for clarification during preparation of the minutes.

A Public Hearing will be held at 7:30 PM for Ordinance 2007-02 which is a curative amendment for Ordinance 2005-10.

Road Material Bids will be opened after the public hearing.

APPROVAL OF THE MINUTES FROM JUNE 5, 2007

Mr. Shutt made a motion to approve the June 5, 2007 minutes as written. Mr. Marshall seconded the motion. Mr. Rish had one correction on page 5 under S. Meadow Ln. Bridge; the word "parafit" should be "parapet". The Vice Chairman asked for comments, there were none. The motion was approved 4 in favor, 0 opposed.

Expenditures:

General Fund	\$ 56,554.38
Operations and Maintenance	\$ 3,175.08
Park and Rec	<u>\$ 14,373.85</u>
Total	\$ 74,103.31

Mr. Rish questioned Marie Beaudet's mileage reimbursement. He questioned one of the trips and noted that the check was for \$1.00 more.

Mr. Rish made a motion to pay the bills with the exception of Marie's mileage reimbursement until he can ask her about it. Mr. Marshall seconded the motion. The Vice Chairman asked for comments; there were none. The motion was approved 4 in favor, 0 opposed.

Receipts

General Fund	\$ 178,553.28
Operations & Maintenance	\$ 55,500.00
Park & Recreation Fund	\$ 2,304.00

Available Funds

General Fund	\$ 738,916.83
Operations & Maintenance	\$ 428,770.54
Street Light	\$ 6,558.63
State Fund	\$ 459,467.68
Public Sewer Fund	\$1,525,160.95
Park and Rec Fund	<u>\$ 102,267.03</u>
TOTAL	\$3,261,141.66

SIGNIFICANT CORRESPONDENCE

The Correspondence is available for review during normal office hours.

REPORTS**SCOTT SHEARER – ORDINANCE FOR FULTON LINE OF CREDIT**

Mrs. Casey noted that Mr. Shearer was present to answer any questions the Board may have on the ordinance. Approval of the payment of the Fulton loan from available funds needs to be approved since the loan is due at the end of the month.

- Available funds in the Sewer Project are \$1,525,165.95. There is still \$265,000.00 due from PENNVEST. This will leave a balance of \$113,131.96. There is also money available from the Wastewater Treatment Fund (O&M Fund) in the amount of \$281,430.00 from reserve capacity fees and tapping fees to pay the remainder. The balance can be paid with the line of credit unless the decision is made to use funds from the O&M Fund.
- Mr. Marshall noted that he spoke with Mrs. Casey and after the \$265,000.00 is received from PENNVEST, there will be enough money available in the O&M Fund to pay off the loan. There will not be a lot of money available in the investment fund but he felt that the loan should be paid off and go forward with the line of credit. If something would happen at the sewer plant, the money would be available to draw down on. There will be around \$168,131.00 left in the account.
- Mr. Rish was fine with using the available funds to pay off the loan.
- **Mr. Marshall made a motion to use the available funds from the Sewer Project and O&M funds to pay off the Fulton loan. Mr. Rish seconded the motion. The Vice Chairman asked for comments; there were none. The motion was approved 4 in favor, 0 opposed.**
- Mrs. Casey noted that the public hearing is scheduled for July 3rd.
- Mr. Rish noted that the draft ordinance for the line of credit mentions a bond and not a line of credit. Mr. Shearer noted that according to the Local Government Debt Act, approval is needed from DCED. The law indicates that a Township can only borrow a bond or a note. Typically a bank loan is called a note, but in this case, it is called a bond since it was initially set up to repay a small portion of the existing line of credit. DCED regulations note that when you pay off a note, then it needs to be called a bond.
- Mr. Rish noted that it was his understanding that the Township would only pay interest on what was drawn on the line of credit. Mr. Shearer commented that he

was correct. Fulton Bank would only be reserving the money in the event that the Township needed it.

- Mr. Marshall asked what the expense would be for establishing the line of credit. Mr. Shearer noted that it would be around \$10,000.00 to cover the costs of PFM, legal fees and bank fees. That fee could be paid from the Township funds or a draw on the line of credit.
- Mr. Shearer noted that all of the details will be taken care before the adoption of the ordinance and he will have a pay back schedule available for the Board.
- **Mr. Marshall made a motion to hold a public hearing for Ordinance 2007-05 on July 3rd. Mr. Rish seconded the motion. The Vice Chairman asked for comments; there were none. The motion was approved 4 in favor, 0 opposed.**

PUBLIC WORKS – CHARLES LONGREEN

- Mr. Longreen noted that a gentleman who is purchasing a home at the Preserve at Bow Creek contacted him about changing his curb cut. Mr. Phillips noted that the road has not been dedicated to the Township and it is between the individual and the builder as long as it follows the ordinance.
- Mr. Longreen commented that some of the tables in the Large Meeting Room need replaced. The Senior Center did apply for a grant but did not receive it. Mr. Longreen provided information relating to tables to the Board. Several companies were investigated. Mr. Longreen noted that there are 24 tables for the room and he would like to order 12 new ones to see how they work. The cost would be \$2,686.56 through the State Contract.
- Vice Chairman Espenshade asked about the chairs for the room. Mr. Longreen noted that the chairs were starting to wear.
- Mr. Shutt asked if the company sold high chairs for tables. He noted that the Fire Company has dinners at the Township building and there are children present that need seating. Mr. Longreen noted that he would investigate high chairs.
- **Mr. Marshall made a motion to allow Mr. Longreen to purchase the 12 tables. Mr. Shutt seconded the motion.** Mr. Rish asked if there was a discount for larger volumes. Mr. Longreen noted that he would check into it. Mr. Shutt commented that if there is a discount, then perhaps we should check into new chairs. Mr. Marshall noted that if there is a discount, then the 12 tables should not be purchased and a new proposal presented to the Board. **The Vice Chairman asked for comments; there were none. The motion was approved 4 in favor, 0 opposed.**

CODES AND ZONING – DAVID SMITH ACT 537 TESTING

Mr. Smith noted that at the last meeting, the Board was provided with the Zoning, UCC and SEO reports.

- Mr. Marshall asked what the status was with the testing. Mr. Smith noted that the initial door-to-door surveys and water tests have been completed for Englewood and Partridge Hills. The individuals that were not home during the initial survey are being contacted and special trips will be made. The data collected so far will

be put into a spreadsheet format and copies of the door-to-door surveys and water tests will be provided to the Township. Copies of the water tests will be provided to the individual property owners.

- Mr. Smith noted that response to the survey has been excellent and the individuals have been very pleasant and kind to deal with.
- The walk-through and testing of the stream will take place this week.

ENGINEERS REPORT – ROGER PHILLIPS

- Mr. Phillips noted that a copy of a sample Noise Ordinance has been provided to the Board for review. He commented that perhaps parts of the ordinance can be integrated into the existing Zoning Ordinance vs. creating a separate ordinance.
- The Bow Creek Interceptor – Hamersley – Mr. Phillips, Mr. Longreen and a PCS inspector walked the line and a punch list has been created. Mr. Phillips has spoken with representatives at Hamersley's and it indicated that it was willing to complete the work.

S. MEADOW LANE BRIDGE – ROGER PHILLIPS

- The beams were set on Monday morning. The pans are being placed for the pouring of the deck. Within the next couple weeks, the concrete deck will be completed and the approaches to the ramps will be reconstructed.

PUBLIC HEARING FOR ORDINANCE 2007-02 – CURATIVE AMENDMENT TO ORDINANCE 2005-10

The Public Hearing began at 7:33 PM

- Solicitor Kauffman noted that it was the time and place for the advertised hearing on Ordinance 2007-02 which is a Municipal Curative Amendment to rectify a procedural error occurring in the original adoption of the zoning Ordinance 2005-10. The public hearing has been properly advertised.
- Vice Chairman Espenshade asked for comments from the Board.
- Mr. Marshall noted that he was not thrilled with the zoning of the ordinance but commented that the hearing was to correct the procedural way the original ordinance was adopted.
- Solicitor Kauffman commented that nothing has changed with the language of the original ordinance; however, the ordinance needs to be adopted properly.
- Vice Chairman Espenshade noted that the ordinance deals with the procedure of the adoption of Ordinance 2005-10 which rezoned RA zone to Interchange Commercial property. It was felt that the procedure in which the original ordinance was adopted needed to be cleaned up.
- David Craig of 1429 Ridge Rd. noted it was indicated that the language did not change. He commented that when he reviewed the new ordinance, he was confused about the boundaries.
- Solicitor Kauffman noted that the public hearing for the new ordinance was being held to rectify the way the original ordinance was adopted and not to change any of the language.
- Discussion was held between Mr. Craig, Solicitor Kauffman and the Board on the wording of the ordinance. An explanation was given on why the ordinance was

being changed, and it was noted that sections of the original ordinance were crossed off and only one section was approved, which is the section that is in Ordinance 2007-02.

- Mr. Craig asked if the ordinance was passed improperly, does that mean that the ordinance is invalid.
- Solicitor Kauffman noted that the whole issue is if the ordinance could be challenged on the procedural issue of the passage of the ordinance. In order to rectify the procedural issue, Ordinance 2007-02 is being proposed. The zoning in the ordinance is not an issue with this public hearing. It is the way that it was implemented.
- Mr. Craig asked if the Board would have to pass the ordinance whether or not they agreed with the zoning in the original ordinance. Solicitor Kauffman noted that the ordinance was to correct a procedural error, not the zoning in the ordinance. The zoning in the ordinance can be reviewed and changed as in any ordinance.
- Vice Chairman Espenshade noted that the Board can vote any way it chooses on the ordinance.
- Mr. Craig noted that he was an adjacent property owner to the parcel where the zoning was changed and he was objected to it. He had expressed his concerns and provided a petition from residents who were objected to the change to the previous Board that enacted the ordinance. He also had provided information that his home was just listed as being eligible for the National Registry of Historical Places. He hoped that this information would play in the role of the decision of the Board to pass or reject the current ordinance which would have a commercial property in the vicinity. He felt that having the property rezoned would affect the value of his property and did not understand the logic of why the previous Board approved the rezoning. He had researched the zoning in the area of his property before he purchased it and had he known that there was a possibility that the area could be rezoned, he would not have purchased it. He further discussed the issue of having the area rezoned and felt that the applicant has done it in piece meal with the various ordinances that have been passed.
- Mr. Marshall noted that it was his understanding that the ordinance was to correct the procedural error and that the Township would have the opportunity to go back and readdress the zoning in the future.
- Vice Chairman Espenshade noted that there is an interpretation to the law. The validity of the ordinance has been challenged through the Zoning hearing Board. Solicitor Kauffman commented that the validity of the ordinance was not addressed at the Zoning hearing Board. Vice Chairman Espenshade noted that in his opinion it was addressed. A party challenged the ordinance and the ZHB ruled that there was no standing. Solicitor Kauffman noted that there was no standing to challenge the ordinance so the individual was not allowed to make the challenge. Vice Chairman Espenshade felt that no one has standing to challenge the ordinance. Solicitor Kauffman commented that the individual that challenged the ordinance had no standing but that does not mean that no one has a standing to challenge.

- Vice Chairman Espenshade felt that the question is whether or not the ordinance can be challenged. The idea of the new ordinance is to correct whether or not someone can challenge the ordinance because of the procedural error. He did not feel that the original ordinance was adopted incorrectly. The current Board has decided to alleviate any challenges that would be made in the future. The content of the zoning change is not being voted on. He wanted the public to understand what the Township is trying to do.
- Mr. Marshall asked what the parcel is currently legally zoned. Solicitor Kauffman noted that problem is that there is no statute of limitations on the time of a challenge. The ordinance is invalid from the start. The new ordinance eliminates that challenge.
- Mr. Phillips noted that someone has 30 days to challenge an ordinance. After that time period, it officially becomes an ordinance. The Supreme Court ruled that if an ordinance is adopted improperly, the 30 days to challenge does not exist and the ordinance can be challenged forever. The area is still zoned as to what it is changed to; however, if the Township would face a challenge, and the ordinance was not readopted, then the zoning could be overturned and then there could be a non-conforming use that was put on the property which could be a liability to the Township.
- Mr. Marshall noted that if the content of the ordinance is not liked by Board members, then it should be addressed at a different time.
- Discussion was held on continuing the hearing until the next meeting.
- **Mr. Shutt made a motion to continue the hearing until the next meeting. Mr. Marshall seconded the motion. The motion was approved 4 in favor, 0 opposed.**

UNFINISHED BUSINESS

STORMWATER MANAGEMENT - THOMPSON

No report.

DEFINITION OF FRONT YARD IN ZONING ORDINANCE 2007-04

The Public Hearing will be held on July 3rd.

NOISE ORDINANCE

Discussed previously in the Engineer's report.

VILLA ROSA

No report.

ACT 209

The Township is still looking for individuals to fill the committee.

OPENING OF THE ROAD MATERIAL BIDS

Vice Chairman Espenshade opened the road material bids.

Hempt Brothers		
#8 Washed Limestone	2,000 Tons	\$ 9.95 per ton
#57 Washed Limestone	2,000 Tons	\$ 9.95 per ton
#3A Clean Limestone	1,500 Tons	\$ 9.95 per ton
#2A Aggregate	1,000 Tons	\$ 8.50 per ton
Superpave Wearing	300 Tons	\$45.95 per ton
Hammakers East		
CR2 Emulsion	75,000 Gal	\$1.787 per gallon
Pennsy Supply		
#8 Washed Limestone	2,000 Tons	\$10.78 per ton
#57 Washed Limestone	2,000 Tons	\$ 9.68 per ton
#3A Clean Limestone	1,500 Tons	\$ 9.53 per ton
#2A Aggregate	1,000 Tons	\$ 7.94 per ton
Superpave Wearing	300 Tons	\$46.50 per ton
Leffler Energy		
87 Octane Unleaded gasoline	4,000 gal	\$2.345 per gallon
Ultra Low Sulfur diesel	8,000 gal	\$2.2563 per gallon
		\$.05 per gallon for winter blend
Kerosene	500 gal	\$2.4301

Mr. Longreen will review the bids for possible award at the next meeting.

PENN NATIONAL LAND DEVELOPMENT PLAN – ACCEPT FOR REVIEW

A Preliminary/Final Land Development plan to relocate the existing maintenance facilities and construct a manure storage building. Ten waivers were requested.

- Jim McCarthy of McCarthy Engineering and Charlie Courtney of McNeese, Wallace and Nurick were present to represent the plan.
- The plan was accepted for review at the June 4th meeting.
- Mr. McCarthy presented an overview of the plan to the Board and the public. The plans and documentation are available at the Municipal for review.
- Waivers
 - Section 304.1 – Preliminary Plan
 - Section 402.1.2 – Site Survey
 - Section 402.3 – Existing Features
 - Section 602.3.1.2 – Minimum Right-of-way dedication
 - Section 607.14 – Interior Landscaping
 - Section 607.3 – Vehicular Parking Surfacing
 - Section 608.5 – Surfacing
 - Section 614 – Survey Monument and Marker
 - Section 618.3 – Street Trees
 - Section 205.13 – Stormwater Management section - Dewatering

Mr. McCarthy noted that the stormwater waiver relates to de-watering. The ordinance requires that the pond be de-watered in a certain amount of hours through an orifice. What will happen with the plan is that the stormwater will be infiltrated back into the ground.

- **Mr. Rish made a motion to grant the waivers as presented. Mr. Marshall seconded the motion. The Vice Chairman asked for comments; there were none. The motion was approved 4 in favor, 0 opposed.**
- Outstanding items.
 - The engineer and zoning comments have been addressed
 - The Nutrient Management plan has been submitted
 - The E&S plan has been sent to DCCD – no response has been received
 - There is a NPDES permit that covers the entire site.
 - Stormwater Management permit – submitted to the Township
 - Payment of reviewing engineering fees
 - Signatures and notarization – completed
- **Mr. Marshall made a motion to approve the plan contingent on the E&S plan, DCCD approval and payment of the reviewing engineering fees. Mr. Shutt seconded the motion. The Vice Chairman asked for comments; there were none. The motion was approved 4 in favor, 0 opposed.**

ERWIN SUBDIVISION PLAN – ACCEPT FOR REVIEW

The purpose of the plan is to subdivide Lot #2 around the existing dwelling from the parent 11.980 acre tract to obtain a mortgage. No building or construction is being proposed with the plan. There are 4 waivers requested.

- A variance has been granted by the Zoning Hearing Board for the residual lot.
- Waivers
 - Section 402.1.1 & 403.1 – Plan Scale
 - Section 402.3.1 & 403.3 – Existing contour interval
 - Section 402.5.3 – Stormwater Management Plan
 - Section 602.3 – Minimum Right-of-way dedication
- **Mr. Marshall made a motion to approve the waivers as presented. Mr. Rish seconded the motion. The Vice Chairman asked for comments; there were none. The motion was approved 4 in favor, 0 opposed.**
- Outstanding items
 - Correction of setbacks – completed
 - Payment of Reviewing Engineering fees
 - Signatures and Notarization – complete
 - Payment of Recreation Fee
- It was noted that the Zoning Hearing Board requested that a note be put on the plan. Mr. Smith reviewed the plan and noted that it was complete.
- **Mr. Rish made a motion to approve the plan contingent upon payment of reviewing engineering fees and the payment of the recreation fee. Mr. Marshall seconded the motion. The Vice Chairman asked for comments; there were none. The motion was approved 4 in favor, 0 opposed.**

NEW BUSINESS

PRESERVE AT BOW CREEK – RECREATION FEE

Judy Kennerdell of H. Edward Black was present to represent the Preserve at Bow Creek.

- Ms. Kennerdell noted that the Board has a letter from Greg Hill of Keystone Custom Homes suggesting that a letter of credit be provided in lieu of the payment of the recreation fee for Phases II & III. Keystone would like to sit down with the Park and Rec Board to discuss what it would like to see in the Township. Informal discussions have been held regarding the fee and it being used in the Preserve at Bow Creek with the Homeowners Association maintaining the park area. The Letter of Credit would assure the money is available and allow time to discuss what type of facilities would be built.
- Discussion was held on the subject.
- Mr. Rish commented that if the letter of credit was provided and discussions with the Park and Rec Board indicated that it was not willing to use the money for what was proposed, would the money then be paid to the Township. Ms. Kennerdell noted he was correct. Mr. Rish asked if the facilities would be available for all residents or just those at the Preserve. Ms. Kennerdell felt that it would be for the entire Township.
- Mr. Marshall felt that if the letter of credit was accepted, there should be a time limit so that it doesn't drag on for years. He would like to see a 6 month or so time limit to allow for discussion with the Park and Rec Board and then if a suitable plan is not developed, then the money would be paid to the Township. Discussion was held on the time limit.
- Mr. Phillips noted that an agreement would need to be in place between the Township and the Homeowners Association since the area won't be the property of the Township. He suggested that Keystone review the situation with the Homeowners Association since it might not want to have public access to the property.
- Vice Chairman Espenshade asked if a Homeowners Association has been established and is active. It was not felt that the Association was fully established and active.
- Mr. Shutt asked how it would work with the Township not owning the park and all residents being permitted to use it. Mr. Phillips noted that an access agreement would have to be entered into. If it is not agreed to open the area to the general public, then the fee would have to be paid.
- **Mr. Marshall made a motion to accept a letter of credit in lieu of the Park and Recreation Fee from Keystone Custom Homes for a term of one year for the letter of credit with terms that there has to be a preliminary agreement drawn up within a six month period.** Solicitor Kauffman asked if he could review the issue before the Board agrees on the letter of credit. **Mr. Marshall withdrew his motion.**
- **Mr. Marshall made a motion to table action until the next meeting so the Solicitor can review the issue.**
- Vice Chairman Espenshade asked how soon Keystone needs an answer since this is holding up construction. Ms. Kennerdell noted that as long as construction can move forward, there was no concern. It was noted that the plan has not been recorded because the fee has not been paid. Mr. Phillips commented that the site is under construction. Discussion was held on the subject, accepting the letter of credit in lieu of the fee and the legality of what is being proposed.

- Mr. Marshall noted that the money can be paid now and Keystone could come to the Park and Rec Board and request what they would want done and it could be approved and constructed.
- **A motion is on the table. Vice Chairman Espenshade seconded the motion.** Mr. Rish noted that it has been indicated that construction is taking place and the plan has not been recorded. He has an issue with the situation and felt that the money needs to be paid, or a letter of credit be established before construction continues. Mr. Phillips noted that a letter of credit has been established for the public improvements. The plan does not have to be recorded before construction starts. He commented that the MPC requires that all public improvements need to be complete before final approval of the plan unless a letter of credit is provided to ensure the completion of the public improvements. None of the lots can be purchased and transferred before the plan is recorded. **The Vice Chairman asked for comments; there were none. The motion was approved 4 in favor, 0 opposed.**

OTHER BUSINESS FROM THE BOARD

Mr. Marshall noted that a parcel of land in the Township was put out to bid for timber. The cost of a permit to timber the land would be \$59.00. The tract consists of 25 acres. The Zoning Ordinance requires that the Zoning Officer walk the entire tract upon completion of the timbering to make sure that the ordinance was followed. This will cost the Township much more than the cost of the permit. He felt that the ordinance needs to be revised.

- Discussion was held on the subject.
- Mr. Smith noted that there may be overlap within the ordinance since other agencies may be required to do the same thing that is required in the Township's ordinance. It may be that the ordinance just needs be revised.
- Mr. Marshall felt that the Township should not be sending out the Zoning Officer to ensure that the tree tops are the right size. He felt that the text of the ordinance should be changed.
- It was noted that Mr. Marshall will review the current ordinance and suggest changes to the Board.

Mr. Rish noted that he requested a breakdown for the improvements for the Triple Diamond land development plan. A financial security agreement was signed in April and he did not feel that the amount was adequate, nor has he seen a breakdown for the costs. He noted that he had spoken to Solicitor Kauffman regarding the agreement and he felt that it was regarding the sewer. Mr. Phillips noted that he had not seen any breakdowns or the agreement after the numbers were provided.

- Discussion was held on the subject and the improvement guarantee.
- Mr. Rish was concerned about the amount on the agreement since there was no breakdown provided.
- Research will be done on the agreement.

BUSINESS FROM THE PUBLIC

Wayne Isett noted that the Township should have received a letter from Dauphin County Heroes Grove regarding the upcoming patriotic event. He has tickets for the event at a cost of \$15.00 per person. He also noted that the Fire Company book will be going to print by the end of June.

David Craig noted that several months ago, the Township opted out of LDARPG. There was talk that the Township would look into developing an intermunicipal relationship with the Hanovers. He asked if that was still being considered. It was noted that Chairman Beaudet is exploring the issue.

Mr. Shutt made a motion to adjourn the meeting. The meeting was adjourned at 8:38 P.M.

Respectfully submitted,

Deborah A. Casey

cc: Marie Beaudet
David Marshall
Keith Espenshade
George Rish
Thomas Shutt
Myles Kauffman
Curt Cassel

Charles Longreen
Planning Commission
Light-Heigel & Associates
Posted
Zoning Hearing Board
Pickering, Corts & Summerson