

**EAST HANOVER TOWNSHIP BOARD OF SUPERVISORS MEETING  
8848 Jonestown Road, Grantville, PA 17028  
June 3, 2008**

The meeting of the East Hanover Township Board of Supervisors was called to order with the pledge to the Flag by Chairman Marie Beudet at 7:10 P.M. Present were Supervisors Keith Espenshade, Dave Marshall, Tom Shutt, and Larry Spitler.

Scott Wyland, Solicitor; Norman Ulrich, Engineer; Chris Hannum, LTL; Curtis Cassel, Wastewater Treatment Plant Operator; 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.

**AN EXECUTIVE SESSION WAS HELD AT 6:30 PM TO DISCUSS LEGAL ISSUES**

**APPROVAL OF THE MEETING MINUTES FROM MAY 15<sup>TH</sup> – MOU AND MAY 20<sup>TH</sup>**

**Mr. Spitler made a motion to approve the May 15, 2008 Meeting minutes as stated. Mr. Espenshade seconded the motion. The motion was approved 5 in favor, 0 opposed.**

**Mr. Marshall made a motion to approve the May 20, 2008 minutes as submitted. Mr. Spitler seconded the motion. The motion was approved 5 in favor, 0 opposed.**

Expenditures:

General Fund	\$118,810.98
Operations and Maintenance	\$ 35,993.79
Street Light	\$ 201.98
Park and Rec	<u>\$ 1,856.81</u>
Total	\$156,863.56

**Mr. Shutt made a motion to pay the bills. Mr. Marshall seconded the motion. The motion was approved 5 in favor, 0 opposed.**

Receipts

General Fund	\$ 5,303.53
Operations & Maintenance	\$ 2,174.80
Street Light	\$ 48.64
Park and Rec	\$ 580.00

Available Funds

General Fund	\$ 627,384.23
Operations & Maintenance	\$ 169,047.28
Street Light	\$ 6,508.93

State Fund	\$ 467,727.99
Public Sewer Fund	\$ 3,946.40
Park and Rec Fund	<u>\$ 173,549.28</u>
TOTAL	\$1,448,164.11

### **SIGNIFICANT CORRESPONDENCE**

The Correspondence is listed as a handout and is available for review during normal office hours.

### **VERIZON – CHRIS BRENNAN, DOUG SMITH AND KEN WOLF**

Eric Epstein commented there was a commitment from Verizon to answer any questions the residents may have concerning construction issues.

- Doug Smith, Vice President of External Affairs for Verizon was present. Chris Brennan, Director of External Affairs and Ken Wolf, Specialist, Customer Services were also present. Mr. Brennan and Mr. Wolf are the individuals the residents would deal with for any concerns.
- Mr. Smith discussed the extra activity residents are seeing with Verizon. Verizon is installing Fiber Optic Service (FIOS) in the area. The existing copper plant is being replaced with FIOS plant in the right-of-way. As the service is turned on, the connection would be made from the street to individual homes once the service is ordered.
- The copper plant is being replaced by the FIOS because of its aging. A significant investment has been made replacing the copper plant, not only in Pennsylvania, but across the country. With the replacement of the copper plant, it was realized that the voice market, the old land line service, was starting to have competitive pressure, and the market share was getting smaller with all the other telephone services that are available.
- In 2004 it was decided to replace the copper with fiber. By putting fiber in the ground, it provided Verizon the opportunity to provide strong voice communications for those who choose to keep their voice lines with Verizon, as well as a broadband internet service that will provide speeds you cannot get anywhere else. If you were located in Southeast Pennsylvania, Western Pennsylvania or portions of Central Pennsylvania, you can expect broad band speeds from Verizon over FIOS of up to 30 megabits and at times 50 megabits. This is why it was decided to go with Fiber Optics and investing in the plant. This will enable Verizon to provide video service, and cable TV service in competition with the local provider.
- Mr. Smith noted Verizon will be coming back to the Board in early 2009 to request a video franchise so it can provide services to the residents. A video hub office is currently being built in Harrisburg. This construction won't be completed until late summer. Once the franchise agreement is obtained with the Township, service can be turned on.
- Mr. Smith commented Verizon is committed to make sure the workers used are either union workers, or where the contract allows, sub-contractors are used. The sub-contractors must follow Verizon's standards and the workers must be legal. If there is any property damage, Verizon will make it good. There were a

couple properties in the Township that had damage and Verizon is working to resolve those issues. Ken Wolfe and Chris Brennan will be the Township's contacts. If anything happens with Verizon that needs addressed, Mr. Wolfe and Mr. Brennan are the first point of contact.

- Mr. Spitler asked about the incidents in the Township that are being addressed, and questioned as to whether or not they have been resolved. Mr. Smith noted the one he is aware of is still being resolved. He is committed to make sure it is resolved.
- David Boyd of Pineview Drive commented the ARM Group was at his property to analyze the field. There is a problem with the field being terra cotta pipe to determine where the pipe lays. The distribution box was determined, certain piping was determined. The information is being provided to ARM for review. A mapping will be provided to Mr. Boyd of his yard. There has not yet been any penetration of the ground. No digging has been done. Nothing has been done towards pursuing a resolution until a determination is received of the damage and what has to be done regarding it.
- Chairman Beaudet asked if Mr. Boyd was ok with the process. Mr. Boyd noted it was slow. The group he lined up in May was able to get in touch with Don Speck of the Quantra Group. That did not come to fruition until May 16<sup>th</sup>. That was a delay and impeded the decision that was to be given to PUC on May 19<sup>th</sup>. That has been extended to June 12<sup>th</sup>. He noted Verizon representatives have informed him they are committed to taking care of the problem.
- Mr. Shutt noted he had a problem with what happen and felt there were unqualified people in charge or this would not have happened. It was his understanding everything was property staked out.
- Mr. Smith commented Verizon does thousands of installations every day. Unfortunately, sometimes the corporation does stub its toe. If a sub-contractor is found to not be qualified, meeting Verizon's standards, or is an illegal worker, they are trained immediately or dismissed if they are illegal.
- Mr. Espenshade asked how much more needed to be completed in the Township. Mr. Smith commented they were pretty far along. He did not expect any more problems.
- Mr. Spitler commented about the process. Verizon comes in, lays out the lines and then comes to the Township for a permit. The job site is then laid out, the construction begins and is completed. He asked if there is a follow up after the construction is completed. Mr. Smith noted this process is similar to replacement of copper plant. The same permit procedures are followed with the same personnel. A permit is issued to get into the right-of-way to lay the fiber. It is the same process that has been used in the past.
- Sante DeMicheil asked if there would be an impact on Verizon DSL users once the FIOS is activated. Mr. Smith noted the DSL service will continue to be offered.
- Mr. Ulrich commented regarding the concerns of the residents since some were negatively impacted. Because of this, the Township has undertaken upgrading its Street Opening Ordinance. When future permits are requested, there will be additional measures in place to try to protect the residents. Mr. Smith noted

Verizon embraces Township ordinances to the extent that it works to the advantage of the customer base.

- David Craig asked if the wiring in a household would be affected. Mr. Smith noted if a resident is currently being served by a coax service, a technician will replace the network interface. Cable TV will be unplugged from the existing provider and plugged into Verizon. The existing in-house coaxial cable will work if it is a recent generation. If it is older than 20 years it will have to be tested by the technician on-site to see if it is capable of handling the signal. 98% of the time, there is no inside wiring required unless a jack needs to be relocated.
- Eric Epstein noted Mr. Wolfe and Mr. Longreen are working to resolve some issues that were brought to light when Verizon came to the Township for a meeting. Standard Operating Procedures will be developed for utilities when they come into the Township.
- Chairman Beaudet thanked the Verizon representatives for attending the meeting.

## **REPORTS**

### **PARK AND RECREATION – JANET ESPENSHADE**

No report.

### **GRANTVILLE VOLUNTEER FIRE COMPANY – WAYNE ISETT**

- A Pork Rib and Chicken BBQ was held and was successful.
- A joint Chicken BBQ will be held with Paxtonia Fire Company, and another will be held at the Township Building on July 7<sup>th</sup>.
- The Fire Co. Book is going well. It is the Fire Cos. 60<sup>th</sup> Anniversary.
- Preparation is being done for the Carnival.

### **PUBLIC SAFETY ADVISORY COUNCIL – JOHN NELLIGAN**

- The intersection of Earlys Mill Rd. and Rt. 743 has been discussed. Solicitor Wyland has made contact with the realtor on the property the Township is considering purchasing. Solicitor Wyland has also contacted an appraiser for the property. The Township Engineer will perform an environmental assessment.
- Mr. Nelligan provided statistics from the Pennsylvania State Police regarding incidents at the intersection. In the past 3 years, there have been 25 reportable accidents at the intersection. In 2008, through the end of May, there have been 8 reportable accidents. There has been an increase in traffic due to the Casino.
- Mr. Marshall asked if any statistics have been received for the intersection of S. Meadow Ln. and Rt. 743. Mr. Nelligan noted he has requested the information but it has not been received.
- A resident from 121 Pineview Drive commented the back of his property has around 80 feet along the road and he has witnessed just about every accident that has happened at the intersection of S. Meadow and Rt. 743. There are just about as many as the Early Mill Rd. intersection. Speed is a problem.

### **EMERGENCY MANAGEMENT – JOHN NELLIGAN**

- Most of May was spent working on the Emergency Operation Plan for the Lower Dauphin School District and more specifically on the East Hanover Township Elementary School Plan.

### **WASTEWATER TREATMENT PLANT – CURTIS CASSEL**

Mr. Cassel presented his report for the month of May. It is available at the Municipal Building for review.

### **ENGINEERS REPORT – NORMAN ULRICH**

- The May report has been provided to the Board. It is available for review at the Municipal Building.
- The Royer Minor Subdivision Plan – it is anticipated that a 3<sup>rd</sup> review letter will be available for discussion at the June Planning Commission meeting.
- The Preserve at Bow Creek - A meeting is scheduled for June 9<sup>th</sup> at the site to discuss layout, grading issues, and concerns that must be resolved by the contractor.
- Mr. Spitler asked if there were a lot of issues with the Preserve. Mr. Ulrich noted several were discovered. The plan will be reviewed further before the meeting so all the deficiencies can be outlined. He will provide a list of the issues for the Board.

### **ERIC EPSTEIN**

- Mr. Epstein commented on the proposed rule change for East Hanover, Lebanon County. His staff and the Township's Solicitor prepared comments. He thought EHT Lebanon has filed its comments. He has a pending meeting with Representative Swanger since apparently the Lebanon County Commissioners and EHT Lebanon Board of Supervisors have indicated that if the decision goes against Lebanon County, they may pursue litigation.
- Gypsy Moth Spraying – Mrs. Casey was provided contact numbers.
- Mr. Stein attended the Transportation Improvement Program. EFMR is looking into the request made regarding the intersection at Rt. 743 and Earlys Mill for intersection improvement funding.
- The Verizon issue with Mr. Boyd is still outstanding.
- Mr. Stein will be at the next meeting representing EFMR.
- A second payment should be received from the Department of Revenue for gaming. At that time, it would be appropriate for the Township, in concert with the County to request that the Township is paid on the 2004 Budget.
- There is not much progress being made on the No Idling and No Parking signs at the Rest Stop on I81. PennDOT needs to sign off on it before the State Police can enforce it.
- Mr. Stein is working on the needs assessment.
- The settlements that occurred with Exelon will be discussed at a future meeting. This involves the Lower Dauphin School District and will bring the school district more tax money. He did not continue with his settlement negotiations until Exelon committed to meet with Lower Dauphin. The other settlement may pay

dividends to the Fire Co and Emergency Management because there will be additional funding for radiation monitoring equipment.

## **UNFINISHED BUSINESS**

### **COMPONENT 3M – CHRIS BRENNAN**

Chairman Beaudet noted a public meeting was held on the Component 3M. A letter was received from DEP indicating the plan submitted on July 27, 2007 indicates that sewage disposal needs exist in Englewood and Partridge Hills. The only long term method of sewage disposal to address the needs is a public sewage system. Sewage management is not a suitable possibility in areas where the systems are already malfunctioning, the lots are of such small size, soils are so shallow and poor, replacement areas are so few, and where residents admit to using unauthorized methods of fracturing the disposal bed and underlying bedrock using the terra lift process. The Township's obligation to the Consent Order remains in effect and DEP expects the plan to be submitted by June 4, 2008. The letter was provided as a handout at the meeting and is available at the Municipal Building for review.

- Chairman Beaudet commented the information and questions provided by the residents were very well put together and addressed the costs. When the Township is compared to Lower Paxton or Swatara Townships that has hundreds of users, those Townships's monthly bill will be lower. However, Lower Paxton Township did not put money aside for infrastructure and it had to float a \$67,000,000.00 bond for infrastructure improvements. Those sewer rates will not stay low for very long.
- Chairman Beaudet asked about responses to residents comments. Mr. Hannum noted the responses will go out to the residents after the Component 3M is adopted.
- Chairman Beaudet noted one of the questions asked was could costs be lowered if combined with more households and why didn't the Township pursue this since the Act 537 Plan needs to be updated. She commented the Township suggested to DEP that Partridge Hills and Englewood be rolled over into the 537 Plan update instead of the Component 3M. DEP would not allow the developments to wait for the update to be completed.
- Chairman Beaudet noted the Board had asked the Engineer to come up with 2 options; 1 is complying with DEP and the Consent Order and the other is an alternative method of a municipal on-lot management program with increased pumping and inspections for Partridge Hills and Englewood. The key implementation dates include revisions to Ordinance 98-6 (requirements for pumping) and implementation of the revised ordinance in 2009.
- The Chairman asked for public comment.
- Robert Kotenko of 899 S. Meadow Ln. asked for a clarification of the second option. He felt the assumption was to continue as is now but have increased pumping and inspections of the septic systems. Chairman Beaudet noted his assumption was correct, but the developments would automatically be rolled into the revision of the Act 537 Plan. The revision of the plan would indicate areas that have needs and would all be brought together and be put into one

local area which would reduce costs. Mr. Kotenko asked why the Township would not go with this option vs. paying the high costs of the other plan. Chairman Beaudet commented it was because there was a Consent Order from DEP. Two solutions were developed; one was the solution DEP mandated and the other one was the aggressive pumping schedule and the rollover of the developments into the revision of the Act 537 Plan. It is felt the only option DEP will accept is the sewerage of the developments. If the Township chooses the other option, it does not know what will happen.

- Solicitor Wyland noted if the option of doing the opposite of what DEP wants is chosen, it is possible that the Township will get a direct order from DEP telling the Township it must publicly sewer those areas now in advance of the completion of the Act 537 Plan. In addition, DEP may impose civil penalties on the Township for not submitting a plan tomorrow that calls for the public sewerage of the areas immediately.
- Mr. Kotenko noted he did not have anyone surveying his home and felt there was falsifications in the letter regarding the surveys.
- Mr. Hannum commented as part of the last round on the 537 Plan, the survey may have been given to the individual or may have been completed by the SEO via an inspection. Mrs. Kotenko commented every time his property has been checked, he has never had a problem. Most of the people in his neighborhood of Partridge Hills have not had problems. He did not understand the rush to sewer the area and felt that adding the areas to the total plan was more reasonable than trying to force the sewerage of the areas. He asked why the Township should not fight this.
- Chairman Beaudet noted the reason the study had to be done for Englewood and Partridge Hills is the Township signed an agreement with DEP in order to settle a lawsuit. Chairman Beaudet and Mr. Espenshade are the only existing Board members that were involved with the Consent Order; however, at the time, Mr. Espenshade asked if the Township had to sewer the areas or if it just had to see if there were needs. They were informed by the Township Solicitor at that time, Richard Wix that this just meant the Township had to see if there were needs. Chairman Beaudet felt there is an interpretation issue with the Consent Order between DEP and the Township.
- Mr. Kotenko asked how DEP knew there were needs for the development. Chairman Beaudet noted in 1989 a needs study was done by HRG. The study indicated that sewers were needed in Partridge Hills and Englewood was a point of interest. DEP embraced that report. Three other studies were done after the 1989 study that indicated the area didn't need sewer and DEP also accepted those studies. It was brought to DEP's attention that it accepted the other studies, but it indicated that it liked the 1989 study better. Mr. Kotenko felt that a lawyer could prove that the 1989 study was outdated, and if there was litigation, then the Township has a solid case.
- Chairman Beaudet commented on the letter from DEP and asked how many residents from the development told DEP they used terra lift. No residents present from the developments said they used terra lift. Mr. Kotenko felt the

- Township should hire a lawyer since none of the comments provided by DEP are known to the residents or the Township and the Township should fight this.
- Solicitor Wyland noted the Township could use the arguments that have been brought up and appeal DEP's requirements to do it now; however, if the Township goes to the Environmental Hearing Board, it looks at DEP's decision and to some extent, feels DEP has the regulatory expertise. DEP's mission is to prevent problems and not wait until the problems arise. DEP will argue there are small lots, and poor soils and it will not wait until there are failures and wells are affected. DEP will be proactive and require it to be done before those issues arise. The Township will take its and the residents arguments to appeal, but at the end of the day, it comes to whether or not you can convince the 5 judges on the Environmental Hearing Board that DEP is completely in error and the Township should wait and either not publicly sewer the 2 areas or at least look at the Township as a whole to see if it can address the issues in a more economically manner. If the Township elects to not submit the Component 3M with public sewer now, and to fight DEP, the Township has some things to work with. He does not want the residents to have the view it is a winner for the Township. In his view, and he has litigated before the Environmental Hearing Board against DEP regularly for years, it is not easy since DEP gets preferential views of its opinions.
  - John Jacobs of 121 Pine View Drive noted no one came onto his property to do a survey with the sewage. He has not heard any complaints. His property is 2 acres and he has not had any problems. He pumps about every 2 years and has not had problems. He did not understand why DEP is pushing people who had their homes built in the 70's and 80's in an area where there are no problems to hook up to sewer. There are people who live on Rt. 743 whose homes are 40 to 50 years old that have sewage running opening on the properties and they are not required to hook up. He did not feel it is fair since those people are not being required to hookup. He felt the Township should appeal the DEP decision and continue with the Act 537 Plan to include the whole Township. This would reduce the cost to the residents.
  - Chuck Mundy of 211 Tannenbaum Way commented the Consent Order only requires the Township to address the sewage needs of Englewood and Partridge Hills with the Component 3M. There is no requirement in the Consent Order to hookup the developments. Mr. Mundy noted he received a copy of the recent DEP letter and it makes some un-substantive claims where it says a sewage disposal need exists in Englewood and Partridge Hills. Four engineer reports were submitted to DEP and none of them concluded there was a sewer need in Englewood. He did not understand why the Board would recommend public sewer for Englewood if the reports did not indicate it was needed. Mr. Mundy continued to discuss the DEP letter regarding sewage management. He did not feel there were any systems failing in Englewood. All systems that have been replaced have been approved. DEP will have to substantiate its claims. There is no reason why the Board should agree to extend the public sewer system to Englewood. If there are ground water problems, they are probably

coming from the homes on the other side of Rt. 743 that are much older. The Component 3M does not address those homes. The study is bogus.

- Mr. Hannum commented the 1988 HRG report does say that Partridge Hills did need sewage facilities immediately. The scope of the Component 3M was dictated by the Consent Order and Agreement. The Consent Order dictated that Englewood and Partridge Hills would be reviewed. The homes on Rt. 743 were not included in the Consent Order and were not evaluated. Mr. Mundy noted the study indicated the Englewood homes were marginal and public sewer was not needed. Mr. Hannum noted the initial report indicated the needs were marginal. Mr. Mundy felt future reports concluded sewer was not needed.
- Jim Smartschan 219 Tannenbaum Way, Englewood, commented that 1 out of 51 homes is less than 2% of affected homes that would be in failure. That does not constitute sewage treatment.
- Dave Wiltraut of 235 Tannunbaum Way noted he has a family of 4 living in the home. He commented he has never had a problem with his system. He agreed with Mr. Jacobs and Mr. Mundy that the 2 developments are being targeted and no one wants to have dirty water. If there is a documented need he would have no problem, but it appears if you have a home that is in the boundaries of the developments and you are being told you have to spend thousands of dollars to hookup, plus a \$71.00 per month user fee and there is a home that is across the street that is not in the development and they are excluded, that is unfair. If the whole point of doing this together is to gain economies of scale in the construction process, why target just 2 developments. The plan had to be developed so there is enough people hooked up to get the user fee down to a reasonable level. Something has to be done to reduce the fees.
- Dave Sincavage of 109 Highland Circle in Partridge Hills, asked how long it would take to finish the Act 537 Plan. Mr. Hannum noted it would take approximately one year from now to complete and would cover everyone. Mr. Sincavage commented that DEP's letter indicates the only long term method for sewage disposal is public sewer. He proposed the Township go with the revision of the Act 537 Plan as the long term solution and then submit the alternative plan until the long term plan can be completed. He has problems with the wording of the Consent Order since Section 3, Letter E says that East Hanover shall submit to the Department the official plan update revision to address the sewage needs of Englewood and Partridge Hills. To him, that is not agreeing to anything. In the letter from DEP, it indicates the obligations under the COA remain in effect so DEP is expecting a plan. DEP has given the Township a verbal plan. He felt the residents would like the Township to submit the alternative plan. He asked about any health issues regarding septic systems and questioned the costs of the sewer rates. He commented on Townships that had lower rates and hoped that the Board would honor what the residents would like it to do.
- Chairman Beaudet commented the Township went to DEP in February with a long term plan and it was shot down.
- Roger Hoffman of 914 S. Meadow Ln., Partridge Hills commented he has not had a problem with his septic system, nor is not aware of any of his neighbors

having problems. His water is fine. He is not aware of any tests that were made in the area. He does not have a small lot and a lot of his neighbors have nice size lots. He asked what DEP considers a small lot. Mr. Brennan noted it is any lot that does not have a replacement area. Typically somewhere around a half acre or less. Mr. Hoffman felt the majority of lots in his area are more than that. If there any issues out there he would like to see the reports that were made with any issues. He did not feel that there were any surveys done that were shared with the residents of the area and it has been targeted. The residents do not want bad water or sewage being pumped onto the ground, but the previous study done by HRG 20 years ago indicated problems, but the residents are still in good shape. If there are hot spots, maybe they should be looked at. This needs a lot more effort and planning and a 3<sup>rd</sup> option should be offered to DEP that none of the options are good and it needs to be looked at again and done properly.

- Chairman Beaudet asked Andy Stein of EFMR if the Board would look to go ahead with sewer extension, or if it doesn't and DEP comes back and the Township gets another Consent Order, what are the options.
- Mr. Stein commented that to some extent, it is out of the Boards hands. Whatever the Board decides, DEP will make a ruling on it. The Board has asked EFMR to start working on contingency planning should the Township be under an immediate mandate by DEP. If the Township is not under a mandate, the reasonable expectation is eventually the 2 neighborhoods will be sewerred. It is just a question of postponing it to be more cost effective. Grant sources have been looked into from the State. The grant sources would be for relief from the sewer hook up fees and the actual installation. There is not much that can be done to reduce the monthly rates. Those rates could possibly come down in the future. There is also private funding that can be explored. The monthly fees are needed to pay off any loans that may be required and at some point, those hookup fees may be able to be reduced and the cash flow from the monthly fees pays off the loans. People on fixed incomes could go through a needs test that may enable them to receive state aid. A municipal grant expert is being considered to help with research on grants. There is some time to research the issue and this may help to drive down the cost. There are also additional EDU's available and with developers coming into the Township, that could help to reduce the costs.
- Mr. Epstein commented the arguments made were all credible, correct and based on fact. DEP has mandated a Consent Order. This is what it wants. He felt the Township would loose if they try to fight it. If the Township is fined, there is no money available outside the Township funds to pay the fines. There are no grant or loan programs for fines or litigation. This issue will be difficult to fight. DEP has already made its decision as to what it wants.
- Glenn Moyer of 9223 Jonestown Rd. noted when the treatment plant was first built, there were about 4 or 5 homes in Grantville that had a problem. The other residents in the area had to hookup. He felt if Englewood and Partridge Hills want to fight this, they should front the money. The sewage is coming and there is nothing they can do about it.

- Mr. Marshall agreed with the interpretation of the Consent Order that the Township was to look at the needs. Somewhere along the line DEP has decided the area needs sewered regardless of what the Township thinks. It would be fine to fight it since this is what public is mandating; but in all fairness, before the decision is made; the Township should have an idea of what it is going cost. Also with the alternate, it is indicating that a 537 Plan will be done for the entire Township. In the past when a 537 Plan has been done for part of the Township, it becomes a mandate that it gets sewered. He is concerned that if the entire Township is done we will be sewerage areas that are not close to the existing plant or have to build bigger plants and the costs will be higher.
- Solicitor Wyland felt the litigation budget would be at least \$50,000.00 with all the different levels involved, depositions, trials, etc. If expert witnesses are needed, there would be an additional cost of around \$10,000.00 to \$15,000.00. He noted he enjoys litigating this type of case; however his job is to provide objective guidance to the Board. He felt the chances of winning this battle are less than 50%. DEP doesn't have to be right; it just has to have some facts to back up its decision. DEP can impose penalties and issue a unilateral order which would force the Township to do what it says. Penalties could be levied on a daily basis and could possibly get to \$1,000.00 per day if the order is not followed.
- Mr. Epstein noted budget hearings have just begun and DEP's budget is revenue neutral. It is the first time in this administration that they have not had an increase. It is his opinion they are finding other ways to fund its program and are doing it through fines.
- Mr. Stein asked if the Township chooses to fight this and fines are imposed do the fines have to be paid pending the hearing or after. Solicitor Wyland noted they are due and payable immediately. DEP issues an order and the Township has to follow it. Just because you appeal, doesn't mean you don't have to obey the order. You have to win the preliminary injunction to not have to obey the order until the litigation is complete. The Environmental Hearing Board is made up of 5 lawyers who are appointed by the Governor, who also rules the Executive Agency of DEP. It is supposed to be an independent review process.
- Mr. Hannum commented what Mr. Marshall had asked about the Township wide 537 Plan is the question the plan asks. The Plan seeks to answer those questions and it is premature for Mr. Hannum to try to answers those questions now. Mr. Marshall commented if the Township wide 537 Plan postpones Partridge Hills and Englewood, would we not be better off as a Township taking our time and doing a patchwork 537 Plan and looking at the growth areas we know are going grow so we don't have to potentially sewer places that are way out of where it would be feasible to run a sewer line to the plant. Mr. Hannum noted this was the argument used at DEP in February. There are 2 remote areas and a Township wide 537 Plan is in the works. Permission was asked of DEP to allow the Township to integrate the 2 areas into the Township wide plan so the whole plan is integrated. DEP's response was no, that Partridge Hills and Englewood need to be sewered. This has been argued with DEP several times. This is a paper work exercise. If the Township says it is going to sewer

Partridge Hills and Englewood, there is probably a 3 year window before you really start moving with construction. In the meantime if the 537 Plan is completed in the middle of that 3 year time period and something better is found for Englewood and Partridge Hills, or more integrated, then the Township will change what it is telling DEP. DEP did not care about that.

- Mr. Marshall asked if we take the legal appeal and this gets postponed 2 or 3 years, the construction costs will increase. If the Township loses, what type of rates might the residents be looking at. Mr. Stein could not project that. Mr. Stein also asked if it makes sense since there is a 3 year time frame, to tell DEP the areas will be sewered, do the 537 Plan and then submit the Township plan. Solicitor Wyland commented if the Township agrees to sewer the areas and at the same time proceed with the overall plan and discover a year from now there is maybe a more beneficial way to run the sewage, etc., the problem will be that the flows will be designed to go to the existing plant. A lot of design engineering money and time will be spent on the first plan and then if it changes in the middle, that money is wasted.
- Mr. Stein asked if a Township wide 537 Plan is presented to DEP in say a year and half from now and our design changes, how would DEP react to that.
- Mr. Jacobs felt DEP should be protecting the residents and not forcing them to hook up. None of the residents can afford to do what DEP is trying to do to them. He felt the Township needs to talk with DEP and try to reason with them.
- Chairman Beaudet noted the Township, engineer and legal counsel did try to sit down with DEP several times and reason with them and their answer was Partridge Hills and Englewood needs to be sewered.
- Mr. Jacobs requested an immediate inspection of the properties with the property owners standing on the sewage bed and tell each one that our system is failing and prove it, then he would agreed to sewage. Until then, he will not comply.
- Solicitor Wyland commented that whatever the Township and DEP decides, individual homeowners have the independent right to appeal DEP's actions.
- Chairman Beaudet noted the resolution for municipal sewer extension is the **proposed** that DEP wants and the one that is for municipal on-lot management will be **alternative**.
- Dave Sincavage of Partridge Hills noted the fines are stipulated in the Consent Order. Any violations will be \$100.00 per day for the first 30 days and then \$200.00 per day exceeding the 30 days. He reiterated that the wording in Section E is a plan revision to address the sewage needs. He did not understand why the Township was not meeting the Consent Order by addressing it with the alternate plan.
- **Mr. Espenshade made a motion that the Township send DEP the alternative resolution. Chairman Beaudet seconded the motion.** Mr. Espenshade noted his head tells him we should do what DEP says, but his heart is with the residents. Chairman Beaudet agreed and noted there is a better way to do this. **Mr. Espenshade, aye; Mr. Spitler, nay; Chairman Beaudet, aye; Mr. Marshall, nay; Mr. Shutt, aye. The motion was approved 3 in favor, 2 opposed.** The Resolution number is 2008-10.

- Dave Wiltraut felt it was imperative that the Township initiate the 537 Plan. Even if DEP comes back and says you are going to sewer Englewood and Partridge Hills and the 537 Plan is initiated, a year or two down the road, even if design costs are incurred, pipes need to be run to the developments. In the meantime a better plan is developed and the Township goes back to DEP and explains this is a better way. How could DEP deny a better plan.
- Chairman Beaudet commented the Township went in with a better plan and it was rejected. Work has already begun on the 537 Plan. Mr. Wiltraut commented if the 537 Plan is completed and a better way is found to sewer the developments and more of the Township, he did not understand how DEP could come back and tell the Township it has to do it in a mish mash way. If it can, then we live in a much more tyrannical country than he ever thought.

### **STORMWATER MANAGEMENT - THOMPSON**

No report.

### **VILLA ROSA/ NO LEFT TURN**

No report.

### **GRANTVILLE VOLUNTEER FIRE COMPANY LAND DEVELOPMENT PLAN**

Mr. Isett noted Mr. Grove from Grove Associates is representing the plan.

- Mr. Grove noted the Preliminary Final Plan was recommended for approval by the Planning Commission at the December 2007 meeting. Since that time, a Highway Occupancy Permit has been obtained for access onto Allentown Blvd. and a DEP NPDES permit has been obtained for the E&S control during construction and the post development stormwater management. Another department of DEP has now required the Fire Company to apply for a GP7 permit. DEP has determined the drainage ditch along the highway is a water of the Commonwealth and therefore they are requiring the culvert size used be oversized. This increases the pipe size dramatically. They also pointed out another alternative which would be to provide information on a 100 year design storm. There is a clause in Chapter 105 that allows DEP to pull that information in certain situations; however normally, a crossing of this nature in a rural area requires only a 25 year storm event to be designed, which the existing design pipe carries. Mr. Grove discussed the issue with the Township's engineer and the Fire Company, and it has been decided to increase the pipe size as large as it can be using a reinforced concrete pipe with minimal impact to the site design.
- Mr. Grove commented he was not going to ask for a conditional approval of the plan. There is a provision in the ordinance that indicates construction cannot start until the final plan is approved by the Board of Supervisors. The Fire Company is asking the provision be waived because there is a NPDES permit and a permit to move earth. The National Guard is going to start on the project before the Board's next meeting. The proviso is that nothing will be done in, around or near the drainage ditch or the culvert. The Fire Company just wants to get started.

- Solicitor Wyland did not evaluate the waiver since it should have been brought up at the time it was submitted to the Planning Commission. Mr. Grove commented it was not known it would be a problem. Solicitor Wyland asked if the Fire Company could accept with a conditional approval that the plan is approved conditioned upon the use and construction of the access in compliance with DEP's ultimate requirements. Mr. Grove noted it would. Mr. Ulrich commented the conditional approval would be fine. He spoke with Mr. Grove and it was noted the plan was not reviewed by LTL since it was approved by the prior engineer. What Mr. Grove has proposed regarding the culvert and the concerns he has and the concerns that DEP has outlined, what the Fire Company has proposed would be an improvement and he would be in favor of it.
- Mr. Grove noted the Fire Company would have to provide an escrow for improvement bonding and the conditions and would be happy to report back to the Township how those are progressing.
- Mr. Marshall asked how the Fire Company would handle the property if approval cannot be received from DEP.
- Mr. Grove commented there is an entrance off of S. Hill Drive. Mr. Marshall would hate go forward just relying on one issue. Mr. Grove indicated the S. Hill Drive access is perceived as the main access to the site. The rest of the site has frontage on Allentown Blvd., but the Fire Company would have to live with one access. It was noted the Fire Company could live with one access.
- Mr. Epstein commented that the Township just went into war with DEP and there will be an impact to the Township. Mr. Grove felt there was no problem with DEP relating to the Township.
- Discussion was held on the waivers.
- **Mr. Espenshade made a motion to grant the Waiver requests for Section 303.1 Preliminary/Final Plan; Section 502.414, Dedication Lands; Section 605.1, Vertical Alignment; and Section 609.1.3, Sidewalks in Commercial Zone. Mr. Shutt seconded the motion. The Chairman asked for public comment, there was none. The motion was approved 5 in favor, 0 opposed.**
- **Mr. Marshall made a motion to approve the plan condition upon the satisfaction of the outstanding items listed in 1 through 7; payment of reviewing engineering fees; signatures, seals, and notarization; SALDO Section 618.2 requires all wooded areas to be protected to prevent destruction. The trees located along the western edge of the property closest to Rt. 22 do not meet this specification. Silt fence is located outside the LOD along the western portion of the plan. The fence shall be relocated within the LOD. Page 1 of the plan has a typographical error in the waiver section. The 4<sup>th</sup> waiver is to be amended to read 609.1.3. Approval of the PennDOT permit and the issuance of GP7 by DEP. Mr. Espenshade seconded the motion. Mr. Ulrich commented the only thing he did not see on the outstanding items was the need for a developer's agreement. If the Township does not want the agreement because it is the Fire Company, that is fine. Mr. Marshall amended the motion to include all bonding for**

**improvements. Mr. Espenshade seconded the amendment. The motion was approved 5 in favor, 0 opposed.**

#### **VERIZON – CONSTRUCTION ISSUES**

This was discussed previously.

#### **E. CAREN DRIVE - PAVING**

This will be done when the weather permits.

#### **CLEAN STREET ORDINANCE**

Mr. Ulrich noted a meeting was held on May 28<sup>th</sup> with Mr. Longreen, Mr. Shutt, Mr. Spitler and himself to discuss the direction of the ordinance. A follow up meeting will be held to discuss what LTL has prepared in draft form.

#### **WINFINDALE PROPERTY**

This is with the Solicitor.

- A property down from Samantha Court on N. Meadow Lane has ruts on the driveway from stormwater. Chairman Beaudet noted she visited the property twice in two rain events. She would like another Supervisor to go with her at another rain event.
- Mr. Ulrich noted the area was looked at in the past and even the adjacent existing culvert is showing signs of excess water where the channel cannot be stabilized as it is currently designed. It appears there is water that will continue to erode the resident's property and the channel. Chairman Beaudet noted the resident has brought in stone and someone has flattened it out.
- Mr. Shutt noted he went with Mr. Longreen to look at the Winfindale property after a call was received from the property owner. There is a problem and he felt the Township has somewhat of an obligation to help fix the problem. Mr. Shutt and Mr. Longreen have discussed a way to fix the problem. He also felt if it is fixed, the property owners have an obligation to straighten out the issues on their properties since that is what is causing the problem. Mr. Marshall asked if the ideas talked about would deal with the mud. Mr. Shutt hoped that would take of the problem, but the property owners will have to deal with the runoff on their properties. Mr. Longreen will be providing the cost to repair the issue on the Township's side.
- Mr. Spitler asked if the Millers and Winfindale's have been spoken to. Mr. Shutt noted he spoke with Mr. Miller at the site visit but Mrs. Winfindale walked into the area but did not stop and speak to him or Mr. Longreen. Discussion continued.

#### **BUILDING RENTAL RATES**

This will be discussed at the Board of Supervisors workshop on June 30<sup>th</sup>.

#### **TOWNSHIP GIS INITIATIVE**

A presentation will be made at the June 17<sup>th</sup> meeting.

### **WAIVERS FOR DEANN MOBILE HOME PARK**

A letter was received from Stevens & Lee requesting action be tabled until the July 1<sup>st</sup> meeting.

### **STREET OPENING ORDINANCE**

The public hearing will be held on June 17<sup>th</sup>.

### **CHANGES TO SALDO – LTL CONSULTANTS**

Mr. Ulrich noted the changes have been started. A draft form will be provided to the Board for review.

### **NEW BUSINESS**

#### **RVG – ZONING CHANGE REQUEST – ADVERTISE FOR PUBLIC HEARING**

Ron Lucas of Stevens & Lee represented RVG. Robert Gothier and Dennis Schmidt of RVG and Bob Fisher, project engineer were also present.

- Mr. Lucas commented the request is for land on Rt. 22 at the border of West and East Hanover Townships. The land was known as the Essies Farm and there are 41 Acres in East Hanover Township that is zoned RA that is being asked to be rezoned to Highway Commercial. There is a companion zoning request in West Hanover Township. Mr. Lucas provided the zoning map as it is today and the proposed change. Discussion was held on the request and the changes proposed in West Hanover Township. The request for East Hanover is to change the properties from Rural Agriculture to Highway Commercial. RVG has an agreement to purchase land off of Rt. 39 and are proposing an access on Rt. 39 opposite of the Capitol Baptist Church. Access is also proposed in West Hanover Township off of Bretz Drive. A traffic signal is proposed for that intersection. A full access opposite Ollie's driveway is being proposed with a signal. RVG owns the land in West Hanover and is proposing improvements to the intersection at Rt. 22 and Rt. 39. The plan would have access from Rt. 22 and also Rt. 39. Sewer has been discussed with West Hanover Township and there is available capacity. There would have to be an inter-municipal agreement between the Townships. Public water would also be provided. Mr. Lucas presented a preliminary sketch plan of the proposed use.
- Mr. Lucas noted the West Hanover Planning Commission recommended approval of the zoning change in its Township and the Board of Supervisors scheduled a public hearing for Monday, August 4<sup>th</sup>.
- East Hanover's Planning Commission recommended against the rezoning until it had time to do a comprehensive review of the zoning this fall.
- An ordinance will be prepared and forwarded to DCPC for its review. Mr. Lucas noted he told East Hanover's Planning Commission that RVG would not ask the Township to vote on the zoning change until after West Hanover voted on its change.
- **Mr. Marshall made a motion to advertise for a public hearing on August 5, 2008 at 7:30 PM for the zoning change request from RVG. Mr. Espenshade seconded the motion. The motion was approved 5 in favor, 0 opposed.**

### **USE OF BUILDING FOR AARP SENIORS DRIVING CLASS**

This is a 2 day class that will be held in the Municipal Building July 1<sup>st</sup> and 2<sup>nd</sup>.

- By consensus of the Board, permission has been granted for the use of the building.

### **SLUDGE DISPOSAL – EAST BRUNSWICK TOWNSHIP**

Tabled until the next meeting.

### **USE OF PODIUM AND MICROPHONE**

This request is being made for the Old School House Reunion on June 8<sup>th</sup>.

- By consensus of the Board, the podium and microphone may be used for the reunion.

### **ROBERT JONES – EXTENSION OF TIME UNTIL 9-19-2008**

Robert Jones submitted a new plan.

- **Mr. Marshall made a motion to accept the grant of an extension of time until 9/19/2008. Mr. Espenshade seconded the motion. The Chairman asked for public comment, there was none. The motion was approved 5 in favor, 0 opposed.**

### **ACT 209 PROPOSAL**

A new proposal was received from McMahon for the transportations studies in the amount of \$37,900.00.

- **Mr. Espenshade made a motion to accept the proposal. Mr. Shutt seconded the motion. The motion was approved 5 in favor, 0 opposed.**

### **EDU REQUEST LETTER**

Solicitor Wyland recommended approval of the letter.

- This is a response letter for people that request EDU's.
- **Mr. Espenshade made a motion to use the letter in response to EDU requests. Mr. Spitler seconded the motion.** Solicitor Wyland noted the letter is just temporary to let individuals know the Township is looking at the capacity and the request will be processed at a later date. Chris Hannum commented the letter was created to take some of the burden off Township staff since they are the ones fielding the requests. **The motion was approved 5 in favor, 0 opposed.**

### **RECYCLE AMERICA SERVICE AGREEMENT**

Solicitor Wyland noted paragraph 10 was a right of first refusal clause. The Township has the right under the law to deal with whoever it wants to. He suggested crossing off paragraph 10, initialing it and request that Recycle America do the same.

- **Mr. Marshall made a motion to adopt the Recycle America Service Agreement with paragraph No. 10 being stricken. Mr. Espenshade seconded the motion. The Chairman asked for public comment, there was none. The motion was approved 5 in favor, 0 opposed.**

**OTHER BUSINESS FROM THE BOARD**

Mr. Espenshade noted Mr. Longreen was requesting permission to pursue the purchase of a roller. He would like to draw up the specs and advertise.

- **Mr. Espenshade made a motion to give Mr. Longreen permission to draw up specs and advertise for the purchase. Mr. Marshall seconded the motion. The Chairman asked for public comment, there was none. The motion was approved 5 in favor, 0 opposed.**

Mr. Marshall informed Mr. Cassel his e-mail was received and that Mr. Longreen and Mr. Hannum will meet with him to try to answer his questions.

**BUSINESS FROM THE PUBLIC**

Richard Schock noted at the last meeting he spoke regarding his feeling that not all correspondence is available to the public. He did not remember seeing the letter he received from Solicitor Wyland in the correspondence. He did not consider it a legal issue and it should have been in the correspondence. He provided a copy of his response to Solicitor Wyland's letter to the Solicitor and the Board.

**Mr. Espenshade made a motion to adjourn the meeting. The meeting was adjourned at 10:02 PM.**

Respectfully submitted,

Deborah A. Casey

cc:	Marie Beaudet	Charles Longreen
	David Marshall	Planning Commission
	Keith Espenshade	Light-Heigel & Associates
	Larry Spittler	Posted
	Thomas Shutt	Zoning Hearing Board
	Hawke, McKeon & Sniscak	LTL Consultants
	Curt Cassel	