

**EAST HANOVER TOWNSHIP BOARD OF SUPERVISORS MEETING
8848 Jonestown Road, Grantville, PA 17028
March 17, 2009**

The meeting of the East Hanover Township Board of Supervisors was called to order with the pledge to the Flag by Chairman Keith Espenshade at 7:06 P.M. Present were Supervisors Marie Beaudet, Dave Marshall, John Nelligan and Tom Shutt.

Scott Wyland, Solicitor; Norman Ulrich, Engineer; Charles Longreen, Director of Public Works; Marty Sowers, Codes and Zoning; and Deborah Casey Secretary/Treasurer were also present.

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

There was an Executive Session held at 6:00 PM to discuss legal issues. The Executive Session will continue after the regular meeting.

APPROVAL OF THE MEETING MINUTES FROM MARCH 3, 2009

Ms. Beaudet made a motion to approve the minutes as written. Mr. Shutt seconded the motion. The motion was approved 5 in favor, 0 opposed.

TREASURER’S REPORT

Expenditures:

General Fund	\$121,988.65
Operations and Maintenance	\$ 4,353.05
State Fund	\$ 1,561.02
Park and Rec	<u>\$ 5,819.82</u>
Total	\$133,722.54

Additional bills from the General Fund; Comcast, \$46.13, Emergency Management internet bill; AT&T, \$46.64, Long Distance; and KTHL, \$1,222.33, with the removal of the SRBC meeting and mileage.

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

Receipts

General Fund	\$ 36,849.12
Operations & Maintenance	\$ 315.00
Street Light	\$ 195.85
Park and Rec	\$ 35.00

Available Funds

General Fund	\$ 404,478.75
Operations & Maintenance	\$ 157,774.60
Street Light	\$ 5,781.54

State Fund	\$ 296,867.34
Public Sewer Fund	\$ 3,978.39
Park and Rec Fund	\$ 81,131.59
TOTAL	\$ 950,012.21

CORRESPONDENCE

The correspondence is available for review during normal office hours.

REPORTS

PLANNING COMMISSION – DAVID CRAIG

No report.

PUBLIC WORKS DEPARTMENT – CHARLES LONGREEN

No report.

CODES AND ZONING – MARTY SOWERS

No report.

ENGINEERS REPORT – NORMAN ULRICH

- Mr. Ulrich requested Board approval to move forward with the digital mapping portion of the Component 3M project for Englewood and Partridge Hills. The estimated cost is around \$5,000.00.
- **Mr. Shutt made a motion to have LTL move forward with the digital mapping. Mr. Marshall seconded the motion. The motion was approved 5 in favor, 0 opposed.**
- Mr. Ulrich noted the plans are moving forward for the repairs to the bridge over the Manada Creek on Jonestown Rd. It is hoped approval will be given at the April 7th meeting to bid the project with the bid opening on May 5th. It is anticipated construction will begin one week after school closes in June and will be complete the week before school reopens.
- Chairman Espenshade noted he received correspondence from the Food Pantry contractor who would like to meet with Mr. Ulrich to go over stormwater issues. He requested permission for the meeting to occur and Mr. Ulrich's fee be paid by the Township.
- **Ms. Beudet made a motion to have the Township pick up the bill for the Food Pantry meeting with Mr. Ulrich on stormwater issues. Mr. Marshall seconded the motion. The motion was approved 4 in favor, Chairman Espenshade, Ms. Beudet, Mr. Marshall and Mr. Shutt; 1 opposed, Mr. Nelligan.**
- Mr. Marshall asked while the bridge is being repaired, will both lanes be closed to traffic. Mr. Ulrich noted both lanes will be closed, due to cost, schedule and safety issues. Mr. Marshall suggested the closing of the bridge be placed in the next news letter. Mr. Ulrich noted certified letters were sent to both school districts that will be affected, the PA State Police, PennDOT, West Hanover Township and all parties involved.

EFMR MONITORING GROUP – ERIC EPSTEIN

- There are options regarding energy spikes which will happen in 2010. They are get an audit, join an aggregate, or purchase long term with Met-Ed which would mean getting a steady price, but not have the ability to switch providers. One other option is switching providers.
- Regarding the idling issue, it appears the enforcement will be somewhat delayed since there will be some sort of education program before enforcement begins.
- There is no indication at this time that the 24/7 State Police coverage at the Casino will change.
- The H2O grants will be reported out the last week of April. The actual vote will be May 14th.
- Penn State's share of the stimulus package was just over 1 billion dollars. The first to be seen in the area will be for around 50 million. The only one to be of concern to the Township is the Rt. 39 widening and resurfacing. It was indicated in the past that there might not be any money available for road improvements. What Pennsylvania did was have PennDOT switch some of its issues. Some of the issues it was going to fund will now be funded by stimulus money. We may want to revisit and re-prioritize some of our transportation issues.
- Ms. Beaudet asked if residents can buy solar as a co-op. Also energy companies are not wanting to buy back the extra electricity generated. Mr. Epstein noted even though there is a law that indicates when you plug into solar and they have to buy back at a wholesale rate, the problem is getting hooked up to the grid. This is being worked on and will continue to be monitored. The Township may want to consider solar in the future.

UNFINISHED BUSINESS

CLEAN STREET ORDINANCE

LTL has finished up the draft and will be forwarding it to the Solicitor for review.

CHANGES TO SALDO

Solicitor Wyland noted comments have been completed and will be forwarded to LTL.

JUNK YARD ORDINANCE

Comments were received from LTL and will be incorporated into the draft.

ORDINANCE 2009-02 – RESERVATION OF SANITARY SEWER CAPACITY

This is being revised by the Solicitor

HILTON GARDEN INN – PRELIMINARY LAND DEVELOPMENT PLAN

Eric Brinser of Rettew Associates, Ron Lucas of Stevens and Lee, John Schick of Rettew Associates were present to represent the plan.

- Mr. Brinser noted since the last meeting, revised plans were submitted. The Township's engineer was worked with to try to resolve the issues. The biggest accomplishment was with one of the stormwater waivers. That was for the peak

rate reduction. Two trenches were put in at each basin which will lessen the necessary waiver to only the 2 year storm for the basin that fronts on Station Rd. The reduction has gone down to 58% of the pre-condition and the ordinance requires 40%. Mr. Brinser explained the trenches. There are a couple comments in the engineer's letter relating to the trenches which relate to minor technical items that have to be shown on the plan. All the reduction requirements were met on Basin A; Basin C at Station Rd. all requirements were met with the exception of the 2 year storm (58% as opposed to 40%), all the other storms were met. This issue is the poor infiltration testing results and the solution was to have a small drain put in it so it won't pond up and create a swampy area.

- Mr. Lucas thanked the Township's engineer for reviewing the changes expeditiously. Letters were sent to the Township yesterday summarizing what his client felt was left on the plan. What is left is 6 waivers total between the Subdivision/Land Development (SALDO) and Stormwater Ordinances, with the one being significantly reduced as discussed previously. There are also 7 conditions of approval. It is felt all other comments had been addressed.
- Solicitor Wyland noted there was a March 13th letter from LTL, which was the 6th review letter; a March 16th letter from Mr. Lucas which addressed the items in the March 13th letter one by one; a summary document was issued by the developer on March 16th which tried to summarize the conditions; and an internal review of that document. By Solicitor Wyland's count, there are 7 items that need to be addressed under conditions of approval; 4 dealing with the SALDO; 3 and perhaps a 4th on the Stormwater Ordinance. Also Attorney Karen Balaban has been involved on behalf of an interested person and Solicitor Wyland wanted to note the Township received her letter of March 3, 2009 which discussed the standards for waiver requests and the granting of the requests. Mr. Lucas provided a response to that letter dated March 16th. These letters have been distributed to the Board and it understands the legal positions on the waivers. Solicitor Wyland thanked Attorney Balaban for providing the discussion.
- Mr. Brinser reviewed the waivers.

From the SALDO

Section 402.5.4.2.15.2 which relates to traffic improvements to Fox Run Rd. and Bow Creek Rd., and Ridge Rd. and Bow Creek Rd. Mr. Lucas noted since those are 2 intersections he identifies those as 2 waivers. John Schick, Rettew's traffic engineer, provided a summary of the minor modifications. He noted there was a drop in the level of service, but when the intersections were looked at, they did not warrant traffic signalization. This has also been reviewed by McMahon Associates and they concurred with the analysis.

Section 621.1 which relates to groundwater recharge.

From the Stormwater Management Ordinance

Section 304J7 which is a requirement to allow a maximum of 50% of the infiltrated volume in one location. Based on the testing, we encountered one location that is suitable

Section 305A which is a reduction of the pre-development storm events to a specified amount which was reduced to 58% of the required 40% reduction. This is just for the 2 year storm on Basin C on Station Rd. All the other basins have been resolved.

Section 308A1, 2 and 4 which requires a 75 foot setback for stormwater basins from structures, property lines, and right-of-ways.

- Ms. Beaudet asked what the most common recurring storm is. Mr. Ulrich noted 90% of the storms are the 2 year.
- Solicitor Wyland commented the Section 308A waiver request has to do with the 75 foot setback. There was a concern raised and some discussions with the engineer that there was an improvement that could have been made on the front side toward the roadway of what has been referred to as a key trench to intercept any water that was basically escaping the basin and heading toward the road. Solicitor Wyland noted he understands the plans now show there is now the key trench in place and shows an elevation at the bottom of the trench 2 feet below the existing grade. The concern is whether that should be deeper. He asked if the developer would be agreeable to a condition that would lower the bottom of the key trench, perhaps up to 3 feet deeper, or to the satisfaction of the engineer. This relates to Basin C. Mr. Brinser did not see any problem with that.
- Mr. Lucas thought there were comments from the Township engineer that the last condition of approval were some minor changes LTL had suggested to the drawing showing the detail of the trenching.
- Mr. Longreen had concerns about the traffic study. The speed in the study is 45 MPH. Bow Creek is not posted so the speed limit is 55 MPH. He asked if the difference in the speed would affect the study. Jodie Evans of McMahon Associates reviewed the traffic study for the Township. Mr. Schick noted the speed limit itself really has a function on sight distance measurements. With the improvements that are proposed with the signal, it does not impact the capacity analysis, or change the level of service, or any of the delays. It is more of a function of what the design is going to be for tapering of the transitions and the length of the lanes. It is more of a physical layout. Going from 45 to 55 MPH may increase the transition areas another 10 to 20 feet. There is enough area to do that. It will impact the physical designs of the improvements and the timing of the lights. Ms. Evans concurred with Mr. Schick's explanation.
- Ms. Beaudet asked how it would be noted so no one would forget that the speed limit is actually 55 MPH. Mr. Brinser noted there are 4 items in McMahon's recent letter and the actual speed limit could be added to the letter. Ms. Evans noted she would revise her letter to reflect the speed limit.
- Ruth Funck of Funck's EXXON noted she met with Mr. Brinser regarding the turning lanes. One thing they asked the applicant to address was the traffic signals and where they would be placed since one of them is at their canopy. If that were to be hit, it could hit the canopy and possibly hurt someone at a gas pump. They asked for the light to be placed across the road with a long arm. Also the revised plan has narrowed their one driveway. She spoke with the

engineer and he indicated they would put the driveway back to the way it was. She would like to see that on the plan.

- Mr. Schick commented on the driveways going into Funck's. There is a 45 degree angle coming in on one side and 45 degree on the other side. Since they are creating a 4 way intersection they opened the intersection up to be more of a 90 degree. This is only a conceptual design and when the final design is done, it will need to be shown that trucks can turn into the EXXON. The Township will have to review the design. He felt the curb could be pulled back to where it is now. The other side is planned to be opened up.
- Mr. Brinser noted there were 2 separate turn lanes at Bow Creek Rd. Because of the Pizza Shop and the EXXON, this was changed to one long center lane. This has helped out with the Pizza Shop owner. They may have to lengthen the turn lane with the final design.
- Karen Balaban represented Comfort Suites and Gary Sheth. She previously sent a letter to the Township, but wanted to point out 2 things. She felt Mr. Lucas and she are fundamentally in agreement with what the law says, but just how it should be applied is the distinction. She wanted to correct the record for a fictional, non-fact that was put into a letter accusing her client under sworn testimony of expressing that this was a challenge to him as a competitor. She indicated you could look at all the record, and she was present at all the hearings, and never once did her client ever express that concern. Their focus has been on the concern of the water supply in the community. She hoped Mr. Lucas would offer her client an apology. Attorney Balaban asked Dr. Seton, who is a hydro geologist, to speak about their concerns about the water.
- Dr. Seton noted there 2 big issues with the water supply well. One, it was only tested for a 12 hour period and during that 12 hour period, it failed the 75 gallon per minute test. It did not show equilibrium conditions and showed significant decline. The 12 hour data was extrapolated for 90 days. Basically the project is being built on the assumption of a 12 hour test that failed. He asked that the well be retested at the rate it is intended to be used, and during a time when there is the least amount of recharge which is during the summer. The rainfall coming into subsurface that recharges the wells is less than half in the summer than in December, when the well was tested. Not only did the well fail its test, it failed during a time of high recharge. What will happen to the well during drought conditions when the hotel is full. Secondly, the well clearly showed its cone of depression, or its area of influence where it draws water into the well is large. During the 12 hour test the cone of depression went well outside the property boundary and Mr. Seton felt was influencing water in Bow Creek and beyond that to the east. All he is asking is to have the well retested to ensure the water supply can sustain the project. Mr. Sheth commented to Dr. Seton that the hotel near him has come to him 3 years in a row asking for water during drought times when its well went dry. There is a problem here that needs to be addressed.
- Ms. Beaudet asked if the discussion was related to 621.1. It was noted it was.
- Mr. Lucas noted he would not offer an apology to Mr. Sheth since he was at the Zoning Hearing Board and Ms. Balaban was not there. The decision from the

Zoning Hearing Board dated March 16, 2006, indicated that Mr. Sheth testified that his objection was to the competition and they found that was not a basis for him to be an aggrieved party, and threw out his challenge partially on that basis.

- Rich Gold noted he has been involved with the Holiday Inn since 1977 and has managed the property and been closely involved with it since 1989. He commented there has been no time during his history with the hotel that they have gone to the Comfort Suites and asked for any water assistance.
- Ms. Beaudet asked if they have asked for any assistance from anyone for water. Mr. Gold noted there were mechanical problems with their pumps a number of years ago and they had to go to the Fire Department. Mr. Nelligan commented that he could not speak as to what caused the failure, but he knew from past experience that not once, but many times over the years, the Fire Company delivered water to the Holiday Inn as it removed it from the Penn National water supply. Mr. Gold noted that was correct and it had to do with mechanical problems with the floats and the electronic controls for the wells.
- Paul Necklas of Herbert, Rowland, and Grubnic noted he is a hydrogeologist. His firm designed and conducted the pumping test for the Hilton Garden Inn using the specifications of the Township's SALDO. The test was run at 75 gallons per minute which may be an ambitious test, but he is not sure he would characterize it as having a failed result. The supply demand for the proposed development would be 32 gallons per minute. We subsequently had conversations with the Township's hydrogeologist and we came to an agreement as to what would be an appropriate analysis using the existing pumping test data. The analysis was completed and demonstrated to the Township's hydrogeologist, to his satisfaction, that the well was suitable for meeting the water supply needs for the Hilton Garden Inn.
- Gary Sheth, owner of the Comfort Suites commented in 2006 when he was under oath, he objected to the relocation of Station Road and never objected the development of the hotel. The staff at the Holiday Inn requested to use his laundry and kitchen facilities while Mr. Gold was at another facility during 2007 and 2008.
- Mr. Gold noted Mr. Sheth's statements about using his facility were correct and he spoke with Randy Stewart, who was the general manager during that time, and George Morningwake who was the chief engineer, and there was no time during that period that they requested assistance for water from the Comfort Suites.
- Mr. Sheth commented when the Holiday Inn kitchen was closed by DEP back in 2007, the Holiday Inn asked the Comfort Suites if they could use their facilities to do their kitchen and laundry work.
- Mr. Gold noted it had nothing to do with the water supply but with other issues. They did ask for water.
- Keith Oellig commented he read an article where it indicates the Hollywood Casino uses an average of 134,000 GPD of water. Throughout this discussion, he felt no one was considering what the Holiday Inn is using. He recollected when the Holiday Inn was expanded, at that time they used around 100,000 GPD. At that time, Township's were trying to restrict agriculture operations over

water usage. What the Holiday Inn was using in water equals a 1,000 cow dairy operation which encompasses many acres. There are rumors around the Township is going to run public water, but he would hate to put the Township in the position where it has to run public water. What stops the developer, after this is approved, from putting in a restaurant or another hotel on the property. He is not against the project but concerned about the size of the area of the property that is drawing water. There is a lot of water usage in that specific area.

- Stephan Helbeig is the Township's hydrogeologist. Mr. Helbeig noted he looked at the testing results from the well and was comfortable with the analysis and results for the existing conditions. He felt there were enough safety factors built into the analysis that it would not negatively impact existing wells in the area. Their tests in projecting the 90 day draw out with recharge (i.e. during a drought) show that some offsite wells could have about 10 or 15 feet of additional drop in water level due to Hilton Garden's well operating during a drought. Dr. Seton showed during a drought year a decline of about 10 feet so you are looking at a drop of 10 to 30 feet possible drop in nearby wells. The study showed they did not exceed 10% of the well depth in existing wells in additional drawdown, and use that as an ad hoc standard to say that there probably won't be a negative impact on an existing well.
- Mr. Helbeig noted the other part which was not addressed by his analysis was the request for the waiver on recharge for the particular site. Mr. Helbeig discussed potential future conditions. If another hotel with the approximate amount of withdrawal is built nearby, we have now added another 10 to 15 feet of additional drop in water levels in nearby wells. If additional hotels are built, he would not feel comfortable that you will be ok with the existing wells. He noted that was his concern for the future with additional development and additional wells. This is somewhat of a unique situation because we have possible development in a small area with limited recharge, and the water that is being used is basically being lost from the system. It will eventually be wastewater discharged to a stream. Ground water moves feet per year, where water discharged into a stream moves quickly and in a few hours is out of the basin, it does not go back into the system. In hydrogeology, there is a certain thickness of the aquifer where they are and their well can only draw so deep. Based on the aquifer characteristics, it can only draw water from so far. In some situations, they don't require the recharge because there is often undeveloped land around the area, protected land, a park, etc. In a rural area, you often have well water and sewers and septic so the water is basically a small consumptive use. Here there is large consumptive use. If you put a lot of large consumptive uses in one area, they have to draw from a much larger area and he did not feel the aquifer was thick enough or high enough permeability to pull water far enough. He felt there would be a situation with additional development of conflicts and some wells would go dry in a drought and some wells would not have enough water.
- Ms. Beaudet commented SRBC is the ruling body of draw down. Mr. Helbeig noted they manage the draw down as does the Delaware River Basin Commission (DRBC). DRBC also has a first come first serve, but has a

maximum withdrawal limit for a basin defined by the recharge. When they hit a certain amount where the basin becomes distressed, new development has to show they can obtain water and previous applicants are asked to do a water conservation plan to reduce their consumptive use. The SRBC does have jurisdiction on this but that does not mean there might not be a problem in the future. Mr. Helbeig noted the Hilton Garden Inn would also need approval from DEP.

- Mr. Shutt commented they are drawing water lower than his wells are. Mr. Helbeig noted he would have to look at the specifics. Their elevation might be lower where the water comes in but it's a cone of depression and as you get further away, the amount of draw down is very small. Mr. Shutt asked how far from where they are drawing could other residents be affected. Mr. Helbeig noted their analysis showed based on the actual pumping test that was done, a 90 year drought would affect nearby wells but not to the point where they would go dry with just this one well. Mr. Shutt noted Penn National is nearby and draws a lot of water. He asked how much more water that area can supply than what the homeowners are using now. Mr. Helbeig noted he could not answer that question unless a study was done. Each crown of depression is very steep near the well and then gets shallower as it goes out. Penn National's well and this well are probably in different units of the geology and probably don't have an impact on each other. Mr. Shutt asked if Mr. Helbeig felt safe with the project. Mr. Helbeig noted with the project as is, he feels 90% confident that you would not have someone's well go dry because of the additional withdrawal. He is not comfortable with a bunch of new wells. Mr. Shutt noted if something would happen, each homeowner would have to foot their own bill to get water themselves and it could be it's not their fault their well went dry. Mr. Helbeig noted with the existing wells and this additional new well, he felt confident there would not be a problem even with drought conditions.
- Discussion was held on groundwater recharge. Mr. Helbeig noted typically the deficit annual rainfall does not really correlate with the groundwater since infiltration occurs at specific times of the year and under specific conditions. Actually a warm winter with rain might have a better recharge. Most of the recharge occurs when the weather gets warmer and the ground is thawed.
- Mr. Shutt noted what we do today, is going to bear on the future.
- Solicitor Wyland noted the Township applied for and got funding for a fairly comprehensive groundwater resources study which will be undertaken during this calendar year.
- Mr. Marshall noted he understood what Mr. Helbeig was saying and agrees that as more development occurs, there is going to be less water. He encouraged the Hilton Garden Inn to look at recycling some of the water since it will benefit the Hilton Garden Inn as well as everyone else in the Township.
- Mr. Lucas noted his client understands that this is the only development proposed at this time for the property. Before other development occurs, he felt there is a longer term solution that needs to be looked at for this area, and his client is willing to work with the Township to solve a longer term solution for the entire interchange area. His client realizes he will not be able to develop more

on the property until there is a longer term solution. There would not be anymore proposed water withdrawal on the 69 acre property.

- Solicitor Wyland noted the waiver requests are pending with the Township in writing. He presented the waivers.

Section 308A1, 2, and 4

Section 305A

Section 304J7

Section 621.1

Section 402.5.4.2.15.2 – this pertains to the intersections and there are 2 intersections, so this is considered to be 2 waivers.

Mr. Nelligan made a motion that we adopt the requests for waivers as defined by the Solicitor. (Section 308A1, 2, and 4; Section 305A; Section 304J7; Section 621.1; Section 402.5.4.2.15.2 – this obtains to the intersections and there are 2 Intersections, so this is considered to be 2 waivers.) **Mr. Shutt seconded the motion. The Chairman asked for public comment, there was none. The motion was approved 5 in favor, 0 opposed.**

- Solicitor Wyland noted that are conditions for approval of the plan which comes from LTL's March 13th, and the March 16th letter from Mr. Lucas. Solicitor Wyland presented the conditions.

Subdivision and Land Development ordinance:

Section 303.6 – all approvals of outside agencies are a condition of Recording of the Final Land Development Plan.

Sections 402.4.4 and 402.4.9 – final detailed cross sections and road designs shall be approved by the Township Engineer prior to Final Land Development Plan approval.

Sections 402.5.4 and 602.3.2 – final detailed cross sections and road designs shall be approved by the Township Engineer and Township Traffic Engineer prior to Final Land Development Plan approval. Issuance of the traffic signal permit from PennDOT and installation of the traffic signal shall be accomplished 30 days prior to occupancy of the hotel and the developer will install traffic light pre-emption devices and LED lights with 12 hour battery backup.

Section 613.3 – all easement agreements dedicating public sanitary sewer facilities, as well as any other necessary easement agreements, shall be delivered to the Township prior to final plan approval.

Stormwater Management and Flood Reduction Ordinance:

Section 310.B – approval from the Dauphin County Conservation District of the design of the earth moving activities shown on the approved Preliminary Land Development Plan are a condition of recording of the Final Land Development Plan. Further, no earth moving activities identified on the Preliminary Land Development Plan shall commence until approval and recording of the Final Land Development Plan.

A fully revised stormwater report shall be submitted with the Final Land Development Plan submission.

Revisions to Sheet 27 per the Township Engineer's comments shall be included in the Final Land Development Plan submission.

- Mr. Lucas concurred with the conditions.
- Mr. Marshall noted the Township would be in acceptance if there was an 18 hour battery backup to the lights.
- **Mr. Marshall made a motion to approve the Preliminary Land Development Plan with the conditions stated. Mr. Nelligan seconded the motion. The motion was approved 5 in favor, 0 opposed.**
- Mr. Lucas asked if the Planning Module is ready for approval by the Board. Mr. Ulrich noted LTL has looked at the module and felt there were a couple comments and LTL will be in touch with Mr. Lucas. Mr. Lucas noted once the Planning Module is finalized, it will need approval by the Board and his client will then begin the process of working with the Township Engineer to design the pump station.

DEP COMPONENT 3M

This was discussed under the Engineers Report

NEW BUSINESS

ACT 209 – ROADWAY SUFFICIENCY ANALYSIS – RESOLUTION 2009-09 SCHEDULE PUBLIC HEARING FOR CAPITAL IMPROVEMENT PLAN COURT REPORTER

Mike Yingling was present to represent the Township's Act 209 Committee, which was formed in January of 2008. It has been a long process and he thanked all the members who participated in the committee: Dan Casey, Peter Foschetti, Krupal Desai, Glenn Moyer, John Geesaman, Paul Longreen, John Nelligan and Joseph Gambino.

Throughout the study there was a lot of help from consultants; one was Jodie Evans of McMahon Associates, Transportation Engineers. Without her help, the study would not have been possible. The Act 209 Committee is submitting the report to the Board. The Act 209 allows the Township to do a road sufficiency analysis transportation and capital improvement plan. Through the overview of the committee, it looked at all the intersections within the Township and picked 12 areas of concern if future development occurred. Those areas were: N. Mill and Jonestown Rds.; Sand Beach and Jonestown Rds.; N. Hill Dr. and Jonestown Rd.; Mill Rd. and Allentown Blvd.; Crawford Rd. and Allentown Blvd.; Sand Beach Rd. and Allentown Blvd.; Laudermilch Rd. and Allentown Blvd.; Laudermilch Rd. and Bow Creek and Jonestown Rd.; Fire House and Jonestown Rds.; Bow Creek and Fox Run Rds.; Bow Creek and Mountain Rds.; and Fire House and Mountain Rds. From the study, the initial 209 Committee only asked for a 5 year study basis. It was decided early on the basis will be designed on a 10 year period within the growth and based on a lot of substantial data that had been collected through PennDOT and other companies, and it was computed on what the costs would be to bring each one of those intersections up to where they needed to be based on the trip times. The trip time comes down to peak hours in the afternoon. When the total cost was calculated to do the upgrades of the intersections, the future impact fee for any

developer developing in those areas was determined to be \$1,961.00 per trip. The Act 209 Committee has reviewed the report and is asking the Board to approve the study.

- Ms. Beaudet thanked all the volunteers for their efforts with the Act 209 Committee.
- **Ms. Beaudet made a motion to adopt Resolution 2009-09 for the Roadway Sufficiency Analysis. Mr. Nelligan seconded the motion since he had the opportunity to work on the Act 209 Committee.** Mr. Oellig asked if the cost was determined on the peak hour or the whole day. Jodie Evans of McMahon Associates noted it was for the peak hour. **The motion was approved 5 in favor, 0 opposed.**
- **Ms. Beaudet made a motion to advertise for a public hearing for the Capital Improvement Plan on April 7th at 7:30 PM. Mr. Nelligan seconded the motion. The motion was approved 5 in favor, 0 opposed.**
- **Mr. Marshall made a motion to have a court reporter for the public hearing. Ms. Beaudet seconded the motion. The motion was approved 5 in favor, 0 opposed.**

RANDAZZO PROPERTY

- Rachel and Frank Randazzo were present. They are asking for a waiver of a land development plan for construction of a barn.
- Mr. Ulrich noted he had not seen the request. Ms. Beaudet apologized for the request not being forwarded to the engineer. Discussion was held. Mr. Randazzo noted their engineer talked with Dave Smith, Codes and Zoning and they would need a land development plan if the waiver was not approved. Discussion continued. The Randazzo's noted they would wait until the next meeting for a decision.

SPORTS FIELDS – AGREEMENT FOR USE

- Ms. Beaudet noted the 3 agreements are for baseball and soccer. She commented there was no agreement for football. Mrs. Casey noted an agreement had not been received for football.
- Mr. Marshall noted 2 of the agreements had the insurance papers. Mrs. Casey noted she would make sure the 3rd insurance policy is received.
- It was asked if Solicitor Wyland had reviewed the agreement. He commented he had not. It was noted the Solicitor should review the agreement for next year.
- **Ms. Beaudet made a motion to accept the field agreements as submitted to the Township. Mr. Nelligan seconded the motion. The motion was approved 5 in favor, 0 opposed.**

HARRISON BINK

Mr. Bink noted a letter was sent to the Board regarding his request. He thanked the Board for taking the time at a previous meeting to talk with his client and himself and help them with the process they need to go through for the Dinner Theatre they are proposing on Fire House Rd. They had a meeting with Dave Smith, Codes and Zoning and Norm Ulrich, the Engineer which helped them better understand the land development process and the time frame. He is still very optimistic about getting the

dinner theatre opened, but they understand there are normal steps they will have to go through with the project. The big hurdle was thought to be resolved by the recommendations, but a further look of the ordinance requirements of the use they are proposing found it does not fit well into the ordinance. They are asking for clarification of their interpretation. The solicitor had asked them, at that time, about filing for a Conditional Use application. It is not, in their opinion, a Conditional Use. The restaurant is specifically allowed in the Industrial Zone. The use they are proposing is normal to restaurants and there are many of examples now in the Township of this type of use. We thought we could get a level of clarification from the Board. A restaurant can normally have entertainment. A restaurant, a permitted use, would allow his client to continue to invest his monies for the site.

- Ms. Beaudet asked why Solicitor Wyland suggested a Conditional Use. Solicitor Wyland did not know that he advised Mr. Bink to follow that particular procedural avenue. He might have suggested that was one that was potentially available. He discussed this briefly with Mr. Smith. The Land Development process can be complex. One thing he agrees with Mr. Smith's conclusion is the request being made through the letter to have the Board of Supervisors clarify a definition is not a typical or appropriate request. What would better serve the project would be if Mr. Bink engaged his own land development consultant to help him and his client to identify which of the alternatives Mr. Smith pointed out are possible ones that would best suit Mr. Bink's needs. The idea is Mr. Smith is trying to point you in a couple different directions, but ultimately, it is Mr. Bink and his client's decision. The one currently selected is not a function the Township can appropriately undertake, which is to clarify a definition that is in the Zoning Ordinance.
- Mr. Bink noted there is no other avenue available to him and his client. You can't submit for a Conditional Use when the use is already permitted. As they interpret the restaurant use, it covers their use. They have engaged an engineer and someone to do the land development plan and they are intending to go in front of the Zoning Hearing Board for those issues that come up. We may be in front of the Planning Commission and they are going to be doing stormwater, soil erosion, etc. and will be doing the necessary investigation. We do not have a venue that explains your definition other than what is in the Zoning Ordinance. We would be just be forced to use that and continue.
- Ms. Beaudet noted Supervisors do not get involved in Zoning. We are your answer for SALDO but not Zoning. She will not make a determination on the definition.
- Chairman Espenshade noted since there seems to be nowhere in the ordinance that a dinner theatre is addressed, would there have to be an amendment to the Zoning Ordinance. He is having a difficult time lumping a dinner theatre with a restaurant. Solicitor Wyland noted he did not want to advise a potential applicant as to what they should or should not do, but one possible avenue is that if you have an ordinance that doesn't address the situation as a permitted or conditional use, you propose a change to the ordinance. He suggested the applicant engage his own counsel who is familiar with the land development process to identify the alternatives and select the one that is best for their situation.

- Ms. Beaudet noted she would be open to any legal text amendment to the Ordinance but would not be open to clarifying definitions.
- Chairman Espenshade asked if Mr. Bink was looking for whether or not the Board considers his project to be a restaurant. Mr. Bink noted Chairman Espenshade was correct.
- Solicitor Wyland noted the determination is the initial call of the Zoning Officer. If there is a disagreement, then it gets appealed to the Zoning Hearing Board. Chairman Espenshade noted he was not sure what the initial decision was.
- Mr. Bink noted an application was not made for the Zoning Officer to make a call, but there was a long discussion.
- Ms. Beaudet noted Mr. Bink's first call would to get an official decision from the Zoning Officer.
- Mr. Bink would like to get some level of confidence for his client so he can continue to invest in the land development submission process. He believes it is a restaurant.
- Ms. Beaudet noted whatever Mr. Bink believes, he still has to go through the Zoning Officer for an initial clarification of what needs to be done.
- It was noted Mr. Bink, Mr. Smith and Mr. Ulrich have already met so there should not be a problem with getting a recommendation. Mr. Ulrich felt the applicant should formally request an opinion from the Township's Zoning Officer.
- Mr. Bink noted the letter he submitted to the Board was his formal request. It was noted the letter was submitted to the Zoning Officer. Solicitor Wyland noted the Municipal Planning Code Section 916.2 has a procedure described on how to get a preliminary opinion from the Zoning Officer. He again suggested Mr. Bink get a land use lawyer so he can get a description of each of the options and find out which one is best for his client.
- Mr. Shutt felt Mr. Bink could better himself and his client by following the Township's codes. The Board will not overstep the Zoning Officer. Mr. Bink needs to go to the Zoning Officer. Mr. Sowers noted he will speak with Mr. Smith and get an official ruling from him.
- Mr. Bink noted he spoke with Mr. Smith at great length and what came out of the discussion was a clear understanding of the process for land development, stormwater, etc. However, before he can advise his client to proceed, there needs to be an understanding that this is a permitted use.
- Chairman Espenshade noted if Mr. Bink could put Mr. Smith's name in place of the Board of Supervisors and forward the letter to him, it would be an official request. If the Zoning Officer gives you an interpretation, that is the interpretation. Solicitor Wyland noted there are some procedural things that if Mr. Bink asks for an official preliminary opinion and if the Zoning Officer agrees with them, there is a way you publish to make that finding safe. It is set out in the Municipal Planning Code.

PENNWASTE INCREASE

Chairman Espenshade noted in December the Harrisburg Authority requested an increase in the per ton tipping fee in the amount of \$100.00 per ton. This took the fee from \$65.00 to \$165.00. Dauphin County filed a complaint in the Court of Common

Pleas. After the hearing, the arbitrator reviewed the issued. On February 18th, the arbitrator's decision was released and the Harrisburg Authority was only allowed to increase its tipping fee by \$1.58 per ton. As a result of the increase, Pennwaste has increased its charge to customers by 55 cents per quarter, taking the quarterly bill from \$54.17 to \$54.72 per quarter. This permitted under the Township's contract.

CLOSING THE OFFICES FOR GOOD FRIDAY, APRIL

Mrs. Casey noted everyone would be using a vacation day for the closing.

- **Mr. Nelligan made a motion to close the offices on Good Friday. Mr. Shutt seconded the motion. The motion was approved 5 in favor, 0 opposed.**

OTHER BUSINESS FROM THE BOARD

Ms. Beaudet noted she would like to have Mr. Nelligan and Andy Stein work with the Fire Company for the grants for next year.

- **Ms. Beaudet made a motion to appoint Mr. Nelligan and Andy Stein to work with Wayne Isett and Saul Schmolitz from the Grantville Volunteer Fire Company for the grants for next year. Mr. Shutt seconded the motion. The motion was approved 5 in favor, 0 opposed.**

BUSINESS FROM THE PUBLIC

Richard Schock noted at the last meeting, he questioned the use of a pumping station for the Township's sewer system to serve the Hilton Garden Inn and the watershed in the area. He was wondering if anything has been done regarding that.

- Mr. Ulrich noted the planning module for the Hilton Garden Inn will be part of the comments that will be generated when the planning module is reviewed. The fact that a pump station is being proposed, there will be an issued raised is this the best way to do this if this is the applicant's intention for the Township to take over the pump station. If the pump station was to be kept onsite and it only services the Hilton Garden Inn, then it is not the Township's concern. If it is to be turned back to the Township, then we will want to see any type of investigation to see if any type of gravity isn't a better way to go.
- Mr. Schock asked if the Hilton Garden Inn might need a pumping station due to where they are locating the hotel. Mr. Ulrich noted if the Hilton Garden Inn intends to use a pump station for it's own use and not to be the Township's responsibility for it's use, then it is the applicant's choice since it will not be a Township burden. However if it is the desire of the applicant to have the Township take over the pump station, then the Township has some involvement as to how the determination is made.
- Mr. Schock noted there are 2 other properties involved which are the Pizza Shop and Funck's EXXON. Mr. Ulrich noted the Township will have to weigh the issue. If it were to go with a gravity feed, then you might not be able to hookup those 2 properties. There is not enough data at time to comment at this time. Mr. Schock felt a gravity system could be put in.

George Rish asked if the act 209 Sufficiency Analysis would be posted on the website. It was noted the Analysis could be posted. Mr. Rish asked how much money has been

spent on the Act 537 plan since its initial update. It was noted that information could be provided along with the Component 3M costs. It was also noted there would be reimbursements and grants are available to cover those costs.

Ed Winfindale asked if there is an update on the mud going onto the roadway on South Crawford Road. Mr. Ulrich noted he did a field walk with Mark Stewart, an attorney representing the Township. At this point, he felt Mr. Stewart is looking into the rights or obligations of the neighboring property owner to form an opinion and put that neighbor property owner on notice. He noted he spoke with Mr. Winfindale's wife regarding the issue and a letter should be issued over the next several weeks.

Wayne Isett asked who would be paying the grant writer for assisting the Fire Company. It was noted the Township would be paying the cost.

Chairman Espenshade noted he appreciated the efforts of Mr. Epstein, Mr. Helbeig, Solicitor Wyland, Mr. Ulrich, Ms. Foster, and Mr. Smith on the Hilton Garden Inn Plan.

Ms. Beaudet made a motion to adjourn the meeting. The meeting was adjourned at 9:05 PM.

Respectfully submitted,

Deborah A. Casey

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