

Maidencreek Township Board of Supervisor Meeting
August 13, 2009 7:00 pm

Present: Claude Beaver, Roy Timpe, Joseph E. Rudderow III, Eugene Orlando–Orlando Law Offices, Tom Unger– Systems Design Engineering, Inc., Diane Hollenbach – Manager.

Guests: Kevin Manmiller, Henry M. Koch, Jr., Robert Hanna, Terry Manmiller, Dan Becker, Tim Krall, Vicki Krall, Eduardo Dulanto, Mike Krimpland, George Poulos, Steve Bensinger, Derrick Hix, Mike Divers, Suzanne LaPearl

Claude Beaver called the August 13, 2009 meeting of the Maidencreek Township Board of Supervisors to order at 7:10 p.m. in the Maidencreek Township Municipal Building. Mr. Beaver announced that an executive session was held from 6:55 to 7:10 p.m. for litigation.

POLICE REPORT –

Officer Drazenovich of the Northern Berks Regional Police reported that for the month of July, N.B.R.P. responded to 321 assignments in Maidencreek Township. This resulted in 75 citations. The traffic fines for Maidencreek were \$1,677.43 and non-traffic fines were \$1,239.77, totaling \$2,917.20. The total number of patrol hours was 875.78 for the month.

Several members of the audience brought up speeding complaints. A request was made for the installation of speed bumps on Faith Drive and more speed enforcement on Blandon Avenue. Suzanne LaPearl stated that her husband saw four cars run the stop sign on Blandon Avenue at 8:30 this morning. Officer Drazenovich stated that speed bumps could not be placed on public roads. This had been attempted in Leesport Borough. He suggested to the Supervisors that part of the problem enforcing the speed on Faith Drive was the speed limit on Schaeffer Road and suggested that they may want to consider reducing the speed. The officer promised to inform the Chief of the residents' requests for more enforcement on Faith Drive and Blandon Avenue.

APPROVAL OF THE MINUTES

A motion was made by Joe Rudderow III, seconded by Roy Timpe, to approve the July 15, 2009 regular meeting minutes. Hearing no questions on the motion, all members voted "Aye". Motion carried.

ENGINEER'S REPORT

Subdivision Review Status Checklist

Tom Unger of Systems Design Engineering, Inc. reported that two new plans had been submitted for review to the Planning Commission: Excelsior Industrial Park Lots 42, 43 & 44 Annexation Plan and the Custom Milling Final Land Development Plan. The James Hardie Building Products Land Development Plan requires action as the plan review period expires this evening.

Subdivisions/Zoning

Excelsior Industrial Park Lots 42, 43 & 44 Annexation Plan. Tom Unger distributed the August 11, 2009 Systems Design Engineering review letter and the August 12, 2009 Planning Commission action letter. The Planning Commission recommends approval of the annexation plan conditional upon the SDE review letter and the property becoming a single tract of land with the deed being recorded at the time the plan is recorded.

A motion was made by Roy Timpe, seconded by Joe Rudderow III, to approve the Excelsior Industrial Park – Lots 42, 43 and 44 Annexation Plan conditional upon completion of the items outlined in the August 11, 2009 Systems Design Engineering Inc. review letter, which is incorporated by reference, and completion of the items outlined in the August 12, 2009 Maidencreek Township Planning Commission action letter, which is incorporated by reference. Hearing no questions on the motion, all members voted “Aye”. Motion carried.

Projects

Road Work. The bids have been signed and the work is scheduled to begin the week of August 17th.

309 Sycamore Lane Storm Water Issue. Mark Kitzmiller of SDE investigated a report made by Mr. Dulanto of 309 Sycamore Lane that the swale in his backyard was not working properly. Mr. Dulanto stated that his property is collecting water, he has replaced two sump pumps already and there is high humidity in his basement. He has had two contractors out to look at correcting the situation and they suggested 300 feet of perforated pipe where the swale should be to collect the water. Mr. Dulanto asked for the Township's support and help to resolve this issue. The Board asked Mr. Unger to look at the plan to determine if the Township owned the storm water easement and to report in September. Mr. Timpe stated that he as one of three Supervisors did not support the Township doing any type of work on private property. He would have no problem if the storm water easement belongs to the Township.

232 & 234 Longleaf Drive Sink Hole. Mr. Unger advised the Board that the sinkhole that has developed above the storm water pipe between the two properties is on a Township owned recreation easement.

A motion was made by Roy Timpe, seconded by Joe Rudderow III, authorizing the solicitor to prepare temporary construction easements. Hearing no questions on the motion, all members voted “Aye”. Motion carried.

Mr. Poulios informed the Board that it appears that the drains on either side of Longleaf Drive are developing sinkholes.

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James Hardie Building Products Land Development Plan. Tom Unger informed the Board that the Planning Commission recommended that the Supervisors grant the 120 extension to the plan review period as requested by James Hardie Building Products. Henry Koch, Jr., representing Can Corporation of America, objected to the length of the time extension requesting that the Board grant no more than a 30-day time extension and added that his client thinks that a resolution can be achieved in 10 days. Dan Becker, representing James Hardie Building Products, stated that James Hardie wanted to get plan approval at the August meeting but Can Corporation reviewing the plans prior to submission to the Township took more time than anticipated. Mr. Becker did not expect the time extension to be an issue and would consider a shorter time extension request. Joe Rudderow asked if James Hardie Building Products was still committed to the project. Mr. Becker stated that they are committed. Funds have been committed and they are ready to complete the project. Mr. Koch stated that Can Corporation wants the job completed this year. Tom Unger advised the Board that the engineering issues should be resolved within the next 30 days.

Mr. Becker stated that the ownership of the storm water pipes is the problem. James Hardie does not want to own the storm water pipes. The Supervisors called an executive session from 7:55 p.m. to 8:07 p.m. for ownership of acquisition of real estate. Upon reopening the meeting, Mr. Beaver stated that no action would be taken on the matter at this time. Dan Becker submitted a new letter requesting a 60-day time extension.

A motion was made by Roy Timpe, seconded by Joe Rudderow, to approve the developer's request for a 60-day extension of time to the review period for the James Hardie Building Products Land Development Plan. Hearing no questions on the motion, all members voted "Aye". Motion carried.

Act 537 Plan. Mr. Unger distributed the revised draft to the On Lot Sewage Management Ordinance and stated that the next step is to resubmit a draft of the ordinance to the PA DEP along with answers to their previous questions and comments. Mr. Orlando suggested that the Board could also send an adopted ordinance to the PA DEP.

A motion was made by Roy Timpe, seconded by Joe Rudderow III, to authorize the solicitor to advertise a public hearing for the consideration of the adoption of the On Lot Sewage Management Ordinance. Hearing no questions on the motion, all members voted "Aye". Motion carried.

A motion was made by Joe Rudderow III, seconded by Roy Timpe, to schedule the public hearing for 6:45 p.m. on Thursday, October 8, 2009. Hearing no questions on the motion, all members voted "Aye". Motion carried.

Community Park Utilities.

A motion was made by Joe Rudderow III, seconded by Roy Timpe, to authorize the chairman to sign the General Permit Application for the installation of utilities in the Community Park. Hearing no questions on the motion, all members voted "Aye". Motion carried.

Traffic Study. Mr. Unger recommended cutting the brush along Schaeffer Road to help with the sight distance at Faith Drive. SDE will follow up with a study of the intersection to determine if the intersection meets Penn DOT warrants for a four way stop.

PUBLIC WORKS

Truck #4. The truck is at Shuman's Garage for a diagnosis on the four-wheel drive.

SOLICITOR'S REPORT

Mutual Aid Agreement between Municipal Police Departments. The solicitor distributed a draft ordinance and Mutual Aid Agreement for the Board's review and comment. Mr. Timpe updated the Board on Northern Berks Regional Police charter revisions.

Traffic Ordinance.

A motion was made by Roy Timpe, seconded by Joe Rudderow III, to seek a mutual cooperation agreement with Ontelaunee Township and to authorize the Solicitor to draft such an agreement to include designating the southern section of Dries Road at Route 222 to be right turn only. Hearing no questions on the motion, all members voted "Aye". Motion carried. Diane Hollenbach will send the existing agreement to the Solicitor.

A motion was made by Joe Rudderow III, seconded by Roy Timpe, to authorize the Engineer to create a construction drawing to be attached to the agreement. Hearing no questions on the motion, all members voted "Aye". Motion carried.

COMMUNICATIONS & QUESTIONS

From the Board. Joe Rudderow III stated that painting the curb at the CVS on Tamarack Boulevard seems to be working. The cars that were parking close to the entrance are parking behind the yellow.

From the Manager.

Ms. Hollenbach informed the Board that Coca Cola has invited them to a tour of the facility on Snyder Road on September 30th.

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The Cooperative Purchasing electricity bid opening date has been moved to September 1st and there are now 1500 accounts joined to bid electricity.

Mrs. Hollenbach asked the Board if they would like to take any action regarding the TreeTops detention basin being listed for tax-upset sale. Mr. Orlando suggested that SDE review the plans and determine if the existing plan encumbers the detention basin. If it does, no further action needs to be taken.

A motion was made by Joe Rudderow III, seconded by Roy Timpe, to authorize the Township Engineer to check the legal status and encumbrance of the Tree Tops detention basin. Hearing no questions on the motion, all members voted "Aye". Motion carried.

Public Comment . None

TREASURER'S REPORT/MANAGER'S REPORT

Treasurer's Report and Bill List.

A motion was made by Joe Rudderow III, seconded by Roy Timpe, to approve the July 2009 Treasurer's Report and Bill List. Hearing no questions on the motion, all members voted "Aye". Motion carried.

PARK AND RECREATION

Cornerstone Drive Tot Lot. The Park and Recreation Board plan for the Cornerstone Drive Tot Lot was presented to the Board. Mrs. Hollenbach stated that the equipment could be purchased on State Contract. If the Board purchased the equipment this year to take advantage of the 2009 prices, the installation could be done either by the Township road crew or by a contractor under State Contract. Joe Rudderow asked the manager to find out what type and how long of warranty comes with the equipment and if the warranty starts at time of purchase or time of installation.

Park and Recreation Finances. The Park and Recreation Board would like to move \$100,000 to an interest bearing account ear marked for the Cornerstone Drive Tot Lot and Community Park Restrooms.

A motion was made by Joe Rudderow III, seconded by Roy Timpe, to authorize the transfer of \$85,000 from the Park and Recreation Money Market to an interest bearing account designated for the Cornerstone Tot Lot Improvements and Community Park Restrooms. Hearing no questions on the motion, all members voted "Aye". Motion carried.

RESOLUTIONS –

Resolution #15-2009 Allowing dot Grants On-Line Reporting System for Annual State Liquid Fuel Reporting.

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A motion was made by Roy Timpe, seconded by Joe Rudderow III, to adopt Resolution #15-2009 to allow the use of the dot Grants On-Line Reporting System for the annual State Liquid Fuel Reporting. Hearing no questions on the motion, all members voted "Aye". Motion carried.

OLD BUSINESS – None

NEW BUSINESS

Request to have a Bon Fire in Maidencreek Park.

A request was made by a Birdsboro resident to have a bon fire in a Maidencreek Park. Proceeds from the event, each log will cost \$10, will benefit lymphoma research. Chris Kline, Emergency Management Coordinator, speaking for the Fire Chief, questioned why someone from outside the Township wanted to use our parks. The Chief was also concerned about liability and by allowing one person to hold a bon fire in a park, the Board would have to grant everyone permission. The Board denied the request to hold a bon fire in a Township park.

2010 Budget. The Board will meet in October and November to discuss the budget after the police budget has been presented.

Can Corporation of America. Henry Koch, Jr. and Dr. Robert Hanna approached the Board for an interpretation of the Township Subdivision and Land Development Ordinance. Can Corporation, in order to be responsive to the needs of its customers, immediately needs more warehouse space. Mr. Koch stated that the principle use of the Can Corporation facility was the manufacturing of cans and any warehouse space, though connected, was an accessory use. The definition of "Land Development" in the Maidencreek Township Subdivision Ordinance, excludes the addition of accessory building on a lot subordinate to an existing principle building. The warehouse Can Corporation needs to build would be on existing impervious surface, would not increase storm water and would comply with all zoning ordinance requirements and building permit ordinances. No zoning relief would be needed. There would be no additional traffic or employees. Can Corporation would be willing to attach the condition that no manufacturing would take place in the addition and would agree to come in for land development when they are ready to add the lithography line to the building. Dr. Hanna stated that they would like to build the warehouse by the end of November.

Mr. Rudderow asked the professional staff opinion of the request. Mr. Unger stated that the wording of the ordinance fits what they are doing and the overall size of the warehouse addition (47,000 square feet) is about 10 percent of the overall size of the Can Corporation building. Mr. Unger felt as built final plans should be submitted after completion of the project. Mr. Orlando did not

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interpret the Subdivision Ordinance in the same way as Can Corporation's counsel. Mr. Orlando felt that the Zoning Officer has the authority to make the initial determination if land development is needed. The Board of Supervisors has the power to waive the land development requirement in whole or in part and impose conditions upon the waiver.

Mr. Rudderow asked what the concerns are with the storm water easement running through the Can Corporation property and the maintenance of the storm water pipes. Mr. Hanna stated that the concerns were if the storm water design worked and who would own it. Can Corporation has asked James Hardie for a description of the meets and bounds of the temporary construction easement, the terms and conditions of the equipment and access, the consideration they will give for the easement, the construction schedule and that the contractors be bonded. Can Corporation is worried that the installation of the James Hardie storm water improvements will interrupt their business.

A motion was made by Roy Timpe, to grant a waiver of the requirement to obtain Preliminary Land Development Plan approval prior to the construction for a 47,090 square foot warehouse subject to all of the following conditions:

- Can Corporation of America shall fully comply with all ordinances including but not limited to: Zoning, Subdivision and Land Development, Storm Water, as well as the Uniform Construction Code and all applicable requirements.
- Promptly, upon completion, Can Corporation of America shall submit for review and approval, Final As Built Plans that demonstrate full compliance with all statutes and ordinances.
- The expansion will be built at Can Corporation of America's own risk.

Claude Beaver seconded the motion. The Chairman asked for questions on the motion. Mr. Rudderow felt that the request to build the warehouse should be tabled until September to give the Board members more time to review it and think about it. Claude Beaver wanted Can Corporation's word that they were going to put forth an honest effort to resolve the James Hardie storm water issues. Gene Orlando asked if Can Corporation would make a commitment in the form of a written agreement to resolve all the issues with James Hardie except for the pipe ownership issues. Mr. Hanna stated that he could not tie two different property issues together and could only speak for himself and not James Hardie. Mr. Hanna stated that Can Corporation will work in good faith and invited the Township to be present and if not, they would come and report to the Supervisors.

Hearing no further questions on the motion, Roy Timpe and Claude Beaver voted, "Aye." Joe Rudderow voted, "Nay." Motion carried.

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Since there was no further business, a motion was made by Joe Rudderow III, seconded by Roy Timpe, to adjourn the August 13, 2009 meeting of the Maidencreek Township Board of Supervisors. Hearing no questions on the motion, all members voted "Aye". Motion carried. Meeting adjourned at 10:43 P.M.

Township Secretary, August 18, 2009

Cc: Board of Supervisors
Eugene Orlando, Orlando Law Offices, Solicitor
Thomas Unger, Systems Design Engineering, Inc., Township Engineer
Planning Commission
Park & Recreation Board
Zoning Hearing Board and Alternates
Paul Herbein, Zoning Hearing Board Solicitor
Maidencreek Township Authority
Patrick Donovan, Maidencreek Township Authority General Manager
JoAnn Schaeffer, Maidencreek Township Authority Secretary
Robert Hobaugh, Jr. Esq., Stevens & Lee, Authority Solicitor
Greg Unger, Systems Design Engineering, Inc., Authority Engineer
Barbara Hassler, Tax Collector
Daniel Miller, Blandon Fire Company Chief
Chief Scott W. Eaken, Northern Berks Regional Police