

Maidencreek Township Board of Supervisor Meeting
December 11, 2008 7:00 pm

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

Guests: Dan Beck Esq., Gary Rollman, Bob Hanna, Jim Hollenbach, Josh Mix, Henry Koch Esq., Dave Kessner, Tim Krall, Vicki Krall, Mike Cochrane, Dave Tranquillo.

Claude Beaver called the December 11, 2008 meeting of the Maidencreek Township Board of Supervisors to order at 7:00 pm in the Maidencreek Township Municipal Building.

POLICE REPORT –

Officer Dillman reported that Northern Berks Regional Police responded to 269 assignments in Maidencreek Township in the month of November. This resulted in 53 citations. The traffic fines for Maidencreek for the month of November were \$1,418.68, and non-traffic fines were \$576.16, for a total of \$1,994.84 in fines. The total number of patrol hours was 778.56 for the month.

APPROVAL OF THE MINUTES

A motion was made by Roy Timpe, seconded by Joe Rudderow, to approve the November 13, 2008 Regular Meeting Minutes. Hearing no questions on the motion, all members voted “Aye”. Motion carried.

ENGINEER’S REPORT

Subdivision Review Status Checklist

Village @ Summit Crest Preliminary Plan expires 12/13/08, Time Extension requested to 3/13/09 –

A motion was made by Roy Timpe, seconded by Joe Rudderow, upon the developer’s written request, to grant a review period time extension for the Village @ Summit Crest Preliminary Plan until March 13, 2009. Hearing no questions on the motion, all members voted “Aye”. Motion carried.

Village @ Summit Crest Final Plan expires 12/11/08, Time Extension requested to 3/13/09 –

A motion was made by Roy Timpe, seconded by Joe Rudderow, upon the developer’s written request, to grant a review period time extension for the Village @ Summit Crest Final Plan until March 13, 2009. Hearing no questions on the motion, all members voted “Aye”. Motion carried.

James Hardie LDP Final Plan expires 12/11/08, Time Extension requested to 4/10/09 –

Mr. Unger advised the Board that the Planning Commission recommended accepting the time extension requested by James Hardie in a letter dated December 4, 2008. The Board asked for an update on the project.

Mr. Dan Becker of Kozloff Stoudt, attorney for James Hardie Building Products, Inc. advised the Board that his client filed litigation in the Court of Common Pleas of Berks County requesting the Court to determine the rights and responsibilities of the property owners

Maidencreek Township Board of Supervisor Meeting
December 11, 2008 7:00 pm

regarding resolution of the storm water issues. The Board asked if James Hardie is committed to completing this project. Mr. Becker advised that his client is financially committed to completing this project and that his client is willing to pay for the easement. Mr. Becker stated that the reason for the 120 days extension is due to the litigation process. Mr. Becker would like it reflected in the minutes that James Hardie is willing to come before this Board on a monthly basis to keep the Board updated on the situation.

Mr. Henry Koch of Koch & Koch Attorneys at Law, attorney for Can Corp. advised the Board that Can Corporation is requesting the Board reject the James Hardie Building Products Plan for failure to submit a storm water management system in accordance with the Township's regulations. Mr. Koch sent a letter to the Board dated December 11, 2008 regarding Can Corp's stance on this issue.

The Board asked all legal counsel involved how long this issue will take in the Court of Common Pleas. It was agreed that the issue would take more than six months. Mr. Hanna stated that Can Corp. would go to the State Supreme Court regarding this issue if necessary.

Mr. Orlando stated that the storm water issue between James Hardie and Can Corp. does not involve the Township. Mr. Orlando stated that he would not be inclined to recommend to the Board a waiver of Section 406 of the Subdivision and Land Development Ordinance, but did recommend that if the Board is going to grant a time extension to the plan review period, they should determine a time frame.

A motion was made by Roy Timpe, seconded by Joe Rudderow, to grant a review period time extension as requested by the developer and recommended by the Planning Commission for the James Hardie Land Development Plan Final Plan until April 10, 2009 (120 days).

The Chairman asked for questions on the motion. Mr. Rudderow expressed concerns with the 120-day extension. He would like to see a 90-day extension. Mr. Timpe stated that he does not see the issue being resolved in court in 120 days. Mr. Hanna asked how long the Board would continue granting extensions, when the applicant is in violation of the ordinances. Hearing no further questions on the motion, all members voted as follows Mr. Timpe "Aye", Mr. Beaver "Aye", and Mr. Rudderow "Nay". Motion carried.

Mr. Hanna stated for the record that Can Corporation reserves the right to appeal any decision made by the Board of Supervisors and reserves the right to bring a Mandamus action.

James Hardie also requested a waiver of Section 406 of the Maidencreek Township Subdivision and Land Development Ordinance or a one-year extension to the final plan submission requirement found in this section. The waiver request dies due to a lack of a motion.

Esbenshades Land Development Plan expires 12/11/08 –

A motion was made by Joe Rudderow, seconded by Roy Timpe, to reject the Esbenshades Land Development Plan which expires 12/11/08 for failure to comply with the items

Maidencreek Township Board of Supervisor Meeting
December 11, 2008 7:00 pm

in the November 5, 2008 Systems Design Engineering review letter. Hearing no questions on the motion, all members voted "Aye". Motion carried.

PP&L Biomass Land Development Plan expires 12/30/08, Time Extension requested to 4/1/09 –

A motion was made by Joe Rudderow, seconded by Roy Timpe, upon the request of the developer, to grant the review period time extension for the PP&L Biomass Land Development Plan until April 1, 2009. The Chairman asked if there were any questions on the motion. Mr. Orlando reminded the Board that PP&L did have a meeting scheduled to discuss conditional use, however the meeting was canceled and has not been rescheduled.

The above motion was amended by Joe Rudderow, seconded by Roy Timpe, that the time extension request for the review of the preliminary plan would be granted conditioned upon receiving a written waiver of all time frames under the Municipalities Planning Code with regard to the commencement and completion of the conditional use hearings pending before the Township. Hearing no further questions on the motion, all members voted "Aye". Motion carried.

Projects

Wyatt Drive Tot Lot - John J. Iannozzi, attorney for Mr. Misus, advised the Board as of October 20, 2008 all items have been substantially completed and the punch list items have been completed. The item left is the lights and they are on order. His client is sorry for the delay and would like to offer a ten-foot diameter circle gazebo and \$5,000 to provide for the Township's professional staff fees, which includes the \$3,200 already levied against his client. In addition, he wants to thank the Township for allowing him to work in the Township and hopefully put this project to bed. Mr. Iannozzi asked for a substantial completion certificate and all the money from the contract returned to his client.

Gene Orlando asked if Mr. Misus was still going to install the lights. Mr. Unger stated that Mr. Misus was going to install the lights. They are on order and that is still part of the package. There is also a payment request. Claude Beaver asked if Park and Recreation had heard anything on the gazebo idea. Tom Unger responded that the gazebo was on the master plan but there was not time to talk with them about it. Claude Beaver remembered and Diane Hollenbach confirmed that the Recreation Board wanted a non-wood structure. John Iannozzi stated that his client was contemplating a wood gazebo and would have to speak with him. The Board went into executive session while Mr. Iannozzi talked with his client.

Executive session was held from 7:58 pm to 8:12 pm to discuss possible litigation.

Gene Orlando stated that he spoke with Attorney Iannozzi and the terms that have been generally discussed tonight with the additional understanding that there will be a time frame within which the offer for the additional consideration will be paid and delivered. He believed that the Board was discussing the March Supervisors meeting, which is the second Thursday in March, as the deadline for the gazebo to be installed, the lights to be installed, for there to be an agreement that reflects that time frame. There would be an understanding that portions of the first draw that were requested and were held would be released. Tom Unger stated that

Maidencreek Township Board of Supervisor Meeting
December 11, 2008 7:00 pm

the first payment request withheld \$31,772.46 and there is a second payment request submitted for tonight for \$3,552.84, which totals \$35,325.30. Mr. Orlando stated the Board could release that this evening based on the representations made and all of this subject to being memorialized in a separate agreement consistent with what was just said and reasonably satisfactory in language to both parties. Mr. Iannozzi stated that was his understanding also. Mr. Misus preferred the Township Solicitor to draft the agreement.

A motion was made by Roy Timpe, seconded by Joe Rudderow, to release \$35,325.30 to Progressive Products conditional upon a Settlement Agreement, that would incorporate the terms of the representations made by Mr. Iannozzi as amplified and clarified by Attorney Orlando's comments and that the moneys are released in a reasonable amount of time. Hearing no questions on the motion all members voted "Aye". Motion carried.

Traffic Issues – Mr. Beaver stated that Chief Eaken recommended that the speed limit be reduced to 25 miles per hour by the Kopfer paper drop off trailer versus 30 mile per hour. Mr. Unger will check the traffic study. Chief Eaken also recommends Dries Road, on the Park Road, should be changed to allow a right turn only onto Route 222. Mr. Rudderow also brought up reducing the speed from Pleasant Hill Road to Tamarack Road to 45 miles per hour. The Board advised the Township Manager to send a letter to Penn DOT regarding the above issues and to get a letter of recommendation from Chief Eaken regarding the same issues to attach.

Mr. Cochran asked for assistance from the Township regarding the intersection of Pleasant Hill Road and Maidencreek Road. There have been several accidents involving cement trucks overturning in Mr. Cochran's yard. Mr. Cochran stated that he contacted Rep. Argall's office. The Board advised the Township manager to add this issue to the letter being sent to Penn DOT.

Subdivision Improvement Agreement LOC

A motion was made by Roy Timpe, seconded by Joe Rudderow, to authorize the Chairman to sign the Subdivision Improvements Agreements LOC/Escrow release letters in the amount of \$277.71. Hearing no questions on the motion, all members voted "Aye." Motion carried.

Subdivision/Zoning

Request by Hollenbach Construction - Attorney Jeff Karver, representing Hollenbach Construction, stated that Mr. Hollenbach went before the Planning Commission with a sketch plan for a congregate care and assisted living facility. Mr. Karver asked for guidance on the next step. The Board suggested that Mr. Karver draft an amendment to C-1 & C-R zoning regulations allowing the use under the Conditional Use section. The Board asked the developer to post \$1,500.00 in escrow for potential costs incurred by the Township in the review and public hearing for the consideration of adoption of the ordinance amendment.

OPERATIONS REPORTS – Ms. Hollenbach reviewed the Public Works Department Operations Report and the Monthly Equipment report with the Board.

Maidencreek Township Board of Supervisor Meeting
December 11, 2008 7:00 pm

2009 Snow Plow Relief Drive List–

A motion was made by Roy Timpe, seconded by Joe Rudderow, approving the snowplow driver list as follows: Lenny Christ, Jonathon Gracely, Robert Shuman, Tim Mills and Patrick Donovan. Hearing no questions on the motion, all members voted “Aye”. Motion carried.

SOLICITOR’S REPORT

Noise Ordinance- Mr. Orlando gave the Board a Draft of the Noise Ordinance for their review. If the Board and Township Manager have changes, they should email them to Mr. Orlando.

PUBLIC COMMENT

Gary Rollman, Berks County Bicycle Club – Mr. Rollman informed the Supervisors that the Berks County Bicycle Club would like to hold time tests on March 14 and April 4, 2009. Mr. Rollman said that flyers would be posted showing the route and asking the residence to watch their children and pets during the test.

A motion was made by Roy Timpe, seconded by Joe Rudderow, authorizing the Bike Time Trials on March 14, 2009 and April 4, 2009 contingent upon the Township receiving a certificate of liability insurance. Hearing no questions on the motion, all members voted “Aye”. Motion carried.

The Berks County Bicycle Club made a donation to the Parks and Recreation Fund.

A motion was made by Joe Rudderow, seconded by Roy Timpe, to send a letter of appreciation of the donation to the Berks County Bicycle Club. Hearing no questions on the motion, all members voted “Aye”. Motion carried.

A copy of the letter being sent to Penn DOT is to be sent to Mr. Tranquillo and Mr. Cochran.

TREASURER’S REPORT/MANAGER’S REPORT

Treasurer’s Report and Bill List –

A motion was made by Joe Rudderow, seconded by Roy Timpe, to approve the December 2008 Treasurer’s Report and Bill List. Hearing no questions on the motion, all members voted “Aye”. Motion carried.

DC&R Grant – Ms. Hollenbach advised that the grant application for the Community Park Restrooms was denied at this time. Ms. Hollenbach will reapply.

Reading Area Water Authority – The Reading Area Water Authority is in the process of marking the water shed limits to comply with DEP. The Reading Authority needs to post one sign in Maidencreek Township. They will supply the sign but are asking if the Township would post it. Ms. Hollenbach advised the Board that the Reading Authority is responsible for any maintenance/replacement of the sign.

Audit Engagement Letter –

Maidencreek Township Board of Supervisor Meeting
December 11, 2008 7:00 pm

A motion was made by Roy Timpe, seconded by Joe Rudderow, authorizing the Chairman to sign the contract with Kosmerl & Company for the 2008 audit in the amount of \$4,000.00. Hearing no questions on the motion, all members voted "Aye". Motion carried.

RESOLUTIONS

Resolution 19-2008 Pension Plan Amendment – The Plan administrator recommends the Board to adopt the amendment to comply with new IRS regulations regarding pension eligibility and military service.

A motion was made by Roy Timpe, seconded by Joe Rudderow, to adopt Resolution 19-2008 Pension Plan Amendment. Hearing no questions on the motion, all members voted "Aye". Motion carried.

Resolution 20-2008 Act 3 Open Records Legislation – This resolution sets forth policy on requesting Township records and how the Township responds to those requests. Mr. Orlando would like the Township Manager to explore a records destruction policy for 2009.

A motion was made by Joe Rudderow, seconded by Roy Timpe, to adopt Resolution 20-2008 Act 3 Open Records Legislation. Hearing no questions on the motion, all members voted "Aye". Motion carried.

Resolution 21-2008 2009 Budget –

A motion was made by Joe Rudderow, seconded by Roy Timpe, to adopt Resolution 21-2008, the 2009 Maidencreek Township Budget. Hearing no questions on the motion, all members voted "Aye". Motion carried.

Resolution 22-2008 Real Estate Tax Millage –

A motion was made by Joe Rudderow, seconded by Roy Timpe, to adopt Resolution 22-2008 Real Estate Tax Millage for 2009. Hearing no questions on the motion, all members voted "Aye". Motion carried.

OLD BUSINESS –

2009 Budget – The Board would like the Township Manager to keep a close eye on the EIT dollars, as this will affect the Township's Budget. The Board asked if any one came to look at the 2009 Budget. Ms. Hollenbach advised that no one came into look over the 2009 Budget.

Mr. Rudderow wanted to thank the professional staff for taking into consideration their rates and keeping in mind our budget.

Authorize Chairman to Sign Recycling Contract Extension

A motion was made by Roy Timpe, seconded Joe Rudderow, authorizing the Chairman to sign the Recycling Contract Extension. Hearing no further questions on the motion, all members voted "Aye". Motion carried.

NEW BUSINESS

Animal Rescue League Agreement

Maidencreek Township Board of Supervisor Meeting
December 11, 2008 7:00 pm

A motion was made by Roy Timpe, seconded by Joe Rudderow, to authorize the Chairman to sign the Animal Rescue League contract of service for 2009 and to give a \$900 donation for the service. Hearing no questions on the motion, all members voted "Aye". Motion carried.

Reorganization Meeting January 5, 2009 – The Reorganization Meeting will be held on January 5, 2009 at 7:30 pm. The professionals do not have to attend.

Executive session was held from 10:10 pm to 11:15 pm to discuss personnel and real estate.

Since there was no further business, a motion was made by Joe Rudderow, seconded by Roy Timpe, to adjourn the December 11, 2008 meeting of the Maidencreek Township Board of Supervisors. Hearing no questions on the motion, all members voted "Aye". Motion carried. Meeting adjourned at 11:15 pm.

Recording Township Secretary, December 11, 2008

Township Secretary, December 11, 2008

Cc: Board of Supervisors
Eugene Orlando, Roland & Schlegel, 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 Hobough, 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

Maidencreek Township Board of Supervisor Meeting
December 11, 2008 7:00 pm