

Maidencreek Township Board of Supervisor Meeting
August 9, 2012 7:01 pm

Present: Claude Beaver, David Franke, Joseph Rudderow III, Eugene Orlando, Jr. – Orlando Law Office, Tom Unger– Systems Design Engineering, Inc., Diane Hollenbach – Township Manager, Johanna Mattera – Recording Secretary.

Guests: George Trudeau, Randi Peters, Chris Bradley, Patrick Donovan, Brain Frain, Marcia & Robert Delp, Robert Green, Janice Zirmick, Jay Buck.

Joseph Rudderow III called the August 9, 2012 regular meeting of the Maidencreek Township Board of Supervisors to order at 7:00 pm in the Maidencreek Township Municipal Building.

PUBLIC HEARING –

Joseph Rudderow III called the August 9, 2012 Public Hearing to order and turned the hearing over to Solicitor Orlando at 7:00 pm.

Mr. Orlando advised the Board that this was the time advertised for a Public Hearing to consider the adoption of the Intergovernmental Cooperation Ordinance. The title of the ordinance is: “An Ordinance of the Township of Maidencreek Berks County, PA, amending Part 1 Administrative Legislation, Chapter 16 Inter-Municipal Agreement of the Code Of Ordinances (Ordinance #223) authorizing the Municipality to enter into an Intergovernmental Cooperation Agreement with other Municipalities, to Participate in the Berks County MS4 Steering Committee for the purpose of meeting the educational requirements of the 2013-2018 MS4 NPDES Permit and other services as may from time to time be deemed necessary, in order to ensure that proper application/annual reports to the Pennsylvania Department of Environmental Protection are accomplished for renewal of MS4 Permit(s) required of the Municipality.” Mr. Orlando advised the Board of the following Board Exhibits:

1. Proof of Publication of Notice of this Public Hearing, which was advertised in the Reading Eagle on July 24, 2012.
2. Transmittal Letter from Mr. Orlando’s office to the Berks County Law Library evidencing the fact that an attested copy of this Ordinance was forwarded to the Berks County Law Library as required.
3. Transmittal Letter dated July 23, 2012 from Mr. Orlando’s office to the Berks County Planning Commission evidencing the fact that the full text of this Ordinance was forwarded to the Berks County Planning Commissions for their review.
4. Transmittal Letter dated July 23, 2012 from Mr. Orlando’s office evidencing the fact that the full text of this Ordinance was forwarded to the Reading Eagle Company.
5. Full Text of the Ordinance, which also contains the stamp of the Berks County Law Library dated July 24, 2012, evidencing the fact that an attested copy of this Ordinance was filed with the Berks County Law Library.

Mr. Orlando asked if anyone wished to offer testimony, make any comment or provide any input in connection to this Ordinance. Mr. Orlando asked if there were any questions regarding the ordinance. There were no questions. Mr. Orlando advised that the Board advertised that immediately following the Public Hearing, the Regular Monthly Meeting of the Board of Supervisors will convene, at which time, the Board intends to adopt this same Ordinance.

The Chairman closed the Public Hearing at 7:04 pm and opened the regular meeting at 7:04pm.

MINUTES & FINANCES

Approval of Regular Meeting Minutes

A motion was made by Claude Beaver, seconded by David Franke, to waive the reading of the minutes and approve minutes of the July 12, 2012 regular meeting as presented. Hearing no questions on the motion, all members voted, "Aye". Motion carried.

Treasurer's Report and Bill List

A motion was made by Claude Beaver, seconded by David Franke, to approve the July 2012 Treasurer's Report and Bill List. Hearing no questions on the motion, all members voted, "Aye". Motion carried.

REPORTS

ENGINEER'S REPORT

Subdivision Review Status Checklist – All plans are current.

Projects

MS4/NPDES Storm Water Permit due 9/14/12– Mr. Unger reviewed with the Board the areas of the Township that are affected by the MS4/NPDES Storm Water Permit. Mr. Unger also discussed with the Board the objective and goals of the permit application.

A motion was made by Claude Beaver, seconded by David Franke, authorizing the Chairman to sign the MS4/NPDES Storm Water Permit application. Hearing no questions on the motion, all members voted, "Aye". Motion carried.

2012 Paving Project – Mr. Unger said the paving is complete and he was pleased with the work.

Tree Tops Storm Water Basin – Mr. Unger advised the Board that SDE did inspect the water basin and still needs to inspect the basin during a heavy rain event.

Bridjit Curb Ramps – Mr. Unger reviewed with the Board, his findings regarding the Bridjit Curb Ramps. The Engineer and Board were uncomfortable with the possibility that the ramp will impede the flow of storm water and cause icy conditions in the winter. The Board asked Mr. Unger to drive by Mr. Tobias's home to inspect the driveway to see if another method could be used instead of the Bridjit Curb Ramps.

Subdivision Improvement Agreement LOC/Escrow Release Letters

A motion was made by Claude Beaver, seconded by David Franke, authorizing the Chairman to sign the LOC/Escrow Release letter in the amount \$335.15. Hearing no questions on the motion, all members voted, "Aye". Motion carried.

Request from Mr. Anderson (resident) for additional stream bank improvement at the Willow Creek – Mr. Anderson thanked the Board for the work that they have done on the Willow Creek. Mr. Anderson expressed to the Board his concern regarding erosion on a certain

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part of the Willow Creek. The Board advised Mr. Unger to contact Fish and Boat Commission to investigate the area.

Meadowbrook Phase 1 &2 Letter of Credit Non-Renewal – Tabled.

MUNICIPAL SOLICITOR

Treetops Trust – Mr. Orlando advised the Board that the owners of the basin want to transfer the deed of the basin to the trust; however, there was no update on whether or not they filed the paperwork and paid the transfer tax.

Several property owners in the TreeTops Subdivision addressed the Board.

- Robert Delp – 128 Hill Road - Mr. & Mrs. Delp explained to the Board that they have been dealing with water in their basement and back yard since they purchased the home 19 years ago. Mr. Delp brought pictures in from the last rainfall. Mr. Delp explained that in the beginning, he was promised a dry basement. He paid the \$50 fee to the Trust at first, but after paying to fix the storm water issues in his yard and not having the dry basement he was promised, he stopped paying the Trust. Mr. Delp questioned if the basin worked properly and if his water flowed into it.
- Robert Green – 126 Hill Road – Mr. Green asked if this Trust is recorded at the Court House. The Board stated yes.
- Brian Frain – 447 Acer Drive – Mr. Frain expressed concern about the Trust, and would like to know why it can not be terminated since Mr. Sandritter has failed on his part. The Board explained that land was privately owned by Mr. Sandritter and is part of the Trust. In addition, the Trust is part of the Land Development Plan, which is registered at the Court House. Mr. Frain asked if a Home Owners Association (HOA) is established how it would work. The Board explained that the homeowners would be the ones creating the HOA. Mr. Frain asked if there was going to be a formal meeting with the Trustee.
- Janice Zirmick – Bellovich Home – Bought her home 8 years ago, was not told about a Trust, and is confused by this situation. Mrs. Zirmick feels the Developer who bought this piece of land should take care of it. Mrs. Zirmick is concerned about the additional cost, and feels that most of the other residents have the same concern. The Board tried to explain that 90% of the Home Owners have to vote to change the trust, otherwise the old Trust will continue. Only 28 of the homeowners have responded to the letter asking for signature to change the Trust.
- Jay Buck- Mr. Buck wanted clarification on the transfer of the Trustee. Mr. Orlando updated Mr. Buck on the steps that were taken on the transfer.

Mr. Orlando stated that every subdivision plan that created a lot, which the individual residents have purchased, refers to this Trust and refers to the detention pond. Mr. Orlando stated that it would be inappropriate to express legal options or provided legal advice to the residents with regard to specifics. However, as a general proposition, when a condition or a provision in a subdivision plan is part of the plan and it is recorded, it has the legal effect of a conveyance that runs with the land. Typically, all of the properties that are created from that plan are bound by it. Whether your Realtor told you or not, is irrelevant, whether it is on your deed or not is in the Solicitor's opinion irrelevant. When you bought a subdivided portion of the

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Treetops Property, you bought the problems too, whether you knew you had them or not. Mr. Orlando said he is not trying to be a smart aleck; but trying to be as clear as possible. Mr. Orlando said that as private property owner, they could go after Mr. Sandritter, as long as the statute of limitations has not run out. Mr. Orlando agreed that as stated in the letter, the Board would hold a meeting, but because of the low response, the Board changed their position. Mr. Orlando also advised that from the beginning of this situation, the Township was never going to take over the detention pond. Mr. Orlando also advised that he and the Trustee wrote the letters that went out to the homeowners.

Joseph Rudderow stated that the Township was trying to be helpful in providing assistance to resolve the situation and get the detention basin back in the Trust and have it maintained.

Village at Summit Crest – Chris Bradley reviewed the business items with the Board that will need to be discussed as part of their review of the Village at Summit Crest III Land Development Plan.

Corrado Bankruptcy – Mr. Orlando brought the Board up to speed on the Corrado Bankruptcy, especially regarding the Letter of Credit as it pertains to the Township and the development improvements.

A motion was made by Claude Beaver, seconded by David Franke, authorizing the Township Engineer to review the development and determine what would be necessary and feasible for stabilizing the storm water and erosion and settlement control facilities without disturbing the other phases. Hearing no questions on the motion, all members voted, “Aye”. Motion carried.

Esbenshade LDP - Mr. Orlando advised the Board that the Attorney General ruled in favor of Esbenshade Greenhouses and is prepared to bring legal action against the Township. Mr. Orlando advised the Board that they need to make a policy decision with regard to the land development plan, which has not been approved. There is no occupancy permit issued for the greenhouse addition. Mr. Orlando advised that further conversation needs to be done in executive session. The Board asked Mr. Donovan what the Township Authority’s feelings were regarding this matter. Mr. Donovan stated that Authority feels it is not worth the battle; however, they will have some requirements in regards to the well and the cross connection to the public water system. Mr. Orlando advised Mr. Donovan to have Authority Solicitor contact him before the Authority makes any decisions regarding this matter.

PUBLIC COMMENT

Randi Peters –Thanked the Board members who attended the of the Rodale Farm tour.

MANAGERS REPORT

Authority Manager and Township Managers Report – Ms. Hollenbach reviewed the Managers Report with the Board. Ms. Hollenbach advised the Board that at this time James Hardie has allowed their Delaware River Basin Commission Permit Application for expansion to lapse.

RESOLUTIONS & ORDINANCES

Ordinance # 231 Intergovernmental Cooperation Ordinance

A motion was made by Claude Beaver, seconded by David Franke, to adopt Ordinance #231 Intergovernmental Cooperation Ordinance. Hearing no questions on the motion, all members voted, "Aye". Motion carried.

A motion was made by Claude Beaver, seconded by David Franke, to have the Chairman sign the Intergovernmental Cooperation Agreement. Hearing no questions on the motion, all members voted, "Aye". Motion carried.

Resolution # 25-2012 – Berks County Conservation District Memorandum of Understanding

A motion was made by Claude Beaver, seconded by David Franke, to adopt Resolution #25-2012 and authorize the Chairman to sign the Berks County Conservation District Memorandum of Understanding. Hearing no question on the motion, all members voted, "Aye". Motion carried.

OLD BUSINESS

Recycling Contract and Bins – The Board agreed it would be more cost effective to opt to extend the current contract as allowed in the bid. The Board asked the Solicitor to draft an addendum to the contract and advised the Manager to get samples of the bins for the next meeting.

Municipal Pension – No action is required by the Board at this time. The Township Pension is no longer considered distressed.

NEW BUSINESS

Cell Phone Switch Nextel to Sprint – Ms. Hollenbach advised that the Township must switch carriers since the Nextel Network will be going down by June of 2013. The Board agreed to switch to Sprint and to purchase for ninety-nine cents each, the Kyocera Duramax Push to Talk Flip Phones without text capability. The Board reinforced that no personal cells phones shall be carried or used during working hours.

Accept Letter of Resignation Park & Recreation Member, Robert Ramsey

A motion was made by Claude Beaver, seconded by David Franke, to accept the letter of resignation from Robert Ramsey and to send a letter of appreciation to him for his many years of service. The Board asked to sign the letter. Hearing no questions on the motion, all members voted, "Aye". Motion carried.

Agricultural Security Area Open Enrollment and Request for Comments on Kosmerl Conservation Easement Purchase – The Manager announced that the Township Agricultural Security Area is open for enrollment in August and was advertised in the Reading Eagle. Notice has been received that a property in the Township was being considered for preservation by the County. The Board had no comments on the Kosmerl property being preserved farmland.

Executive Session to discuss possible litigation at 9:48pm.

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Since there was no further business, a motion was made by Claude Beaver, seconded by David Franke, to adjourn the August 9, 2012 meeting of the Maidencreek Township Board of Supervisors. Hearing no questions on the motion, all members voted "Aye". Motion carried. Meeting adjourned at 10:48 pm.

Recording Township Secretary, August 9, 2012

Township Secretary, August 9, 2012

Cc: Board of Supervisors
Eugene Orlando, Orlando Law Office, Solicitor
Thomas Unger, Systems Design Engineering, Inc., Township Engineer
Planning Commission
Park & Recreation Board
Zoning Hearing Board and Alternates
Joan London, 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