

Maidencreek Township Board of Supervisor Meeting  
April 13, 2006, 7:00 PM

Present: Roy Timpe, Robert Kopfer, Claude Beaver, Eugene Orlando, Jr. and Stephanie Dake – Roland & Schlegel, Tom Unger – Systems Design Engineering, Inc., Keith Shuman – Public Works Director, Diane Hollenbach – Recording Secretary

Guests: J. Schoellkopf, Fay Isamoyer, Cindy Stump, Paul Martin, Tina Poole, Scott Miller, Gloria Kline, Chris Bradley, Terry Esbenshade, Suzanne and Robert Bishop, Robert Hobough, Jr., Patrick Donovan, Eric Goodman, Michael DiPaulo, Barry Schmura, Jason Belovich, Michael Stauffer, Mark Harrigan, Martha Harrigan, Tina Stewart, Stanley Deeds, Randi Peters, Marjorie Smith, Jay and Peg Moyer, Rick Kline, Bob Ludgate, Jr., Merv Heller, Craig Stevens

Roy Timpe called the April 13, 2006 meeting of the Maidencreek Township Board of Supervisors to order at 7:00 PM in the Maidencreek Township Municipal Building and asked everyone to rise for the Pledge to the Flag.

#### POLICE REPORT

Officer Drazenovich read the police report. There were 912.06 patrol hours in Maidencreek for March covering 7,139.25 miles and 320 assignments which resulted in 112 citations and \$3,108.07 in fines. The officer reported that the individuals who committed the two daytime burglaries have been caught and asked residents to lock their doors and report all unusual activity. The police department is also running speed detail in the developments.

Stanley Deeds of West Walnut Tree Drive asked what the helicopters are doing hovering over the township and sometimes it appears that they are racing between Route 73 and the cement mill.

Tina Stewart of South View Road asked if skateboards are allowed in the Community Park.

The public was updated on the playground fire in the TreeTops Subdivision and assured that the equipment that was damaged will be replaced.

#### PUBLIC COMMENT

**Robert Hobough, Jr. solicitor for the Maidencreek Township Authority** asked the Board that the Authority be involved if the Supervisors change the mandatory connection ordinance. Roy Timpe stated that the matter was precipitated by Esbenshades Greenhouse and that it may be a better use of resources to use well water for plants. There may be certain industrial and agricultural uses where a well will work better than public water. Roy Timpe and Bob Kopfer felt that it might be good to modify the mandatory hook up ordinance for water. Claude Beaver asked to table the issue as he was not yet ready to make a decision. Terry Esbenshade commented that Pat Donovan suggested a well to him when he was going through land development because of the load to the system. The Board made no decision and the matter will be on the May agenda.

**Carl Weston, Maidencreek Voters Alliance** gave the Board the opportunity to pass a resolution to have a five member Board of Supervisors. Claude Beaver stated that he was willing to consider it but there was no other support from the Board. Mr. Weston thanked the the Board for allowing him the opportunity to take the next step.

#### **Tree Tops Phase III**

Various residents from the TreeTops Phase 3 development were present to discuss drainage and grading issues. Lisa Carson stated that her lot is continuously wet and the swale is 17 feet wide instead of the 10

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feet wide as shown on the plan. The elevations on her lot do not match the plan. She was told by the builder by letter that the Township had inspected and approved her lot. The builder is misrepresenting the Township to it's residents and leveraging the Township's authority against the homeowners. Ms. Carson also asked why have plans if the Township will not enforce them.

The owner of 418 Acre Drive stated that his lot also does not follow the plot plan and his neighbor's yard drains into his yard when the plan shows that his yard should be 3 feet higher than the neighbor's.

The Township does not escrow money for lot grading. Mr. Unger stated that Ms. Carson may use her yard up to the ten foot swale. Mr. Unger felt that part of the drainage problem on the Carson lot could be a result of the playground she had installed surrounded by 2 by 4's. Also, the grading differences at 418 Acer Drive occurred because the home had a walkout basement. Mr. Unger did not think that residents would want the Township to strictly enforce the plot plan grading and not allow them to build only certain types of homes and prohibit homes with features like walk out basements. This was an issue between the property owner and the builder.

Mr. Orlando stated that the homeowner's recourse is a lawsuit against the builder and the residents were asking to use taxpayer money to correct an issue that was the home purchasers responsibility to take care of through their careful negotiations with the builder. Roy Timpe stated that since people do not buy too many homes in their life, they do not have brand (builder) loyalty and therefore buyers do not have free market protection. Mr. Timpe asked if the homeowners had escrowed any money at settlement to correct the grading of the lots. They had not as the builder would not allow it. Mr. Timpe asked why they purchased the home.

Tony DeAngelis of Maidencreek Ridge shouted that the Board had a responsibility to help these people and that if any of them step a foot outside to regrade their lots, the Township would be up there in a minute citing them. Roy Timpe responded that the Township does not actively look for violations and only responds to complaints. The Township's responsibility is to maximize the liberty of the people that live here and the Board must act responsibly in how it uses the taxpayers money.

The owner of Lot 41 stated that his house is 17 feet higher then it should be because the builder hit water and had to mound up the dirt. Now the home has less water pressure. The builder also took down trees on his lot and is asking that the builder be responsible for cleaning up the dead trees and mark the property as it should be. Mr. Timpe stated that if the builder took down trees that were not his, then the builder had trespassed and that was an issue for the police.

#### APPROVAL OF THE MINUTES

A motion was made by Claude Beaver, seconded by Robert Kopfer, to approve the March 9, 2006 meeting minutes of the Maidencreek Township Board of Supervisors. All members voted, "Aye." Motion carried.

#### ENGINEER'S REPORT

##### Subdivision Status Checklist

Mr. Unger informed the Board that the Village at Summit Crest Annexation Plan and the Village at Maidencreek Plan will both expire on May 12, 2006 and asked that the secretary contact the developers for time extensions. All letters of credit are current.

**Plan Review**

**Village at Summit Crest Annexation Final Plan** – tabled at developer's request

**Mid Atlantic Energy Concepts Subdivision and Land Development Plan**

A motion was made by Robert Kopfer, seconded by Claude Beaver, to grant final plan approval to the Mid Atlantic Energy Concepts Plan conditional upon compliance with the items in the April 7, 2006 Systems Design Engineering review letter: approval of the DEP Planning Module, placing the storm water certification on the plan, storm water operation and maintenance documents and easements for best management practices and easements, plan endorsements and certifications, improvements agreements and financial security in a form acceptable to the township. All members voted, "Aye." The motion carried.

Tom Unger and the developer's engineer will review the drainage easement area.

**Bishop Subdivision**

A motion was made by Claude Beaver, seconded by Robert Kopfer, to grant final plan approval to the Bishop Subdivision. All members voted, "Aye." Motion carried.

**Village at Summit Crest 3** – Scott Miller and Chris Bradley reviewed the changes that were made to the plan for an 83 modular home 55 and older community off of Lee Spring Road in Blandon. The revised plans contained the following changes: reduction in units from 87 to 83, a new entrance and turning the access street across from Claude Beaver's property into an entrance only for emergency purposes. Some units were turned and the garages pushed back in order to comply with the 7 percent driveway slope regulation. The community center was moved to the opposite side of the tract. Additional tests in the cut area showed that there is no seepage or rock issues and the slopes can be stabilized as they will all be 2 to 1 slopes. Basin #3 is now eight feet high instead of eleven feet high.

Roy Timpe stated that he is concerned about Park Road and the railroad track at Seidels Crossing. The vehicles, turning from Park Road onto Hill Road are stacking up into the travel lanes, especially when there is a train on the tracks. 83 more units will exacerbate the problem. Chris Bradley stated that he is willing to pay \$7,500 toward a township engineering study for the potential widening of the shoulders and installation of a turning lane on Park Road. Roy Timpe stated that it is not desirable to subsidize private development with township tax payers dollars. Chris Bradley proposed paying the entire \$750.00 fee in lieu of open space and having the township split that between recreation and road improvements. Gene Orlando stated that fee in lieu of open space is not tied to road improvements and the money can not be used that way. Mr. Orlando stated that the Township does not have an impact fee and can not require site improvements but the Township is not required to grant waivers either. Roy Timpe asked Tom Unger to gather a cost estimate to improve the intersection at Park Road and Hill Road. Tom Unger stated that he would like to sit down with the developer's engineer to discuss the geotechnical study and infiltration.

Gloria Kline asked if the developer would be blasting when he levels the lots. Mr. Bradley stated that there is no indication that there will be a need to blast.

The Supervisors scheduled a special meeting be advertised to consider and possibly act upon the Village at Summit Crest 3 Subdivision and Land Development Plan on Wednesday, May 17, 2006 beginning at 8:00 P.M.

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A motion was made by Claude Beaver, seconded by Robert Kopfer, granting a 60 day time extension to the Village at Summit Crest Annexation Plan upon the request of the developer. All members voted, "Aye." Motion carried.

**Young Properties Bingo Hall** – Tom Unger stated that this property along Park Road, in the former union hall, received a Special Exception to allow the property to be used as a bingo hall and meeting hall. The property is zoned industrial. There were three conditions to the special exception: all activity ceases at 11:59 P.M., a land development plan must be submitted as the Township may require and the property must comply with lighting, noise and parking ordinances. The Planning Commission did not feel that a land development plan was needed. Mr. Young provided a drawing showing 80 parking spaces and an additional light on the property, and an agreement allowing overflow parking in his other adjacent property parking lots. The building will not be changed on the outside.

A motion was made by Robert Kopfer, seconded by Roy Timpe, to waive the land development process for the proposed use of a Bingo Hall/meeting hall at 1060 Park Road, Blandon because there are no external changes to the building and the use is similar to the previous use as a union meeting hall, conditional upon: the 80 parking spaces being marked with bumper blocks, a lease agreement for overflow parking on the Buy Rite Liquidators parking lot, installation of one additional light in the parking lot, and that the waiver of the land development plan and substitution of plan A053 is conditional upon the property being developed with what is shown on plan A053 and the attached document in regards to the easement and overflow parking. All members voted, "Aye." Motion carried.

Tom Unger informed Mr. Young that a zoning permit will be required and part of the approval for occupancy will be Labor and Industry approval of the building.

**Projects**

**Community Park Tot Lot Bids** – Bids were reviewed for the installation of the Community Park Tot Lot and the low bidder is an experienced and responsible contractor. SDE recommended awarding the bid to Buzz Burger, Inc.

A motion was made by Robert Kopfer, seconded by Claude Beaver, to give the Notice of Intent to Award, Notice to Award and the Notice to Proceed to Buzz Burger for the installation of the Community Park Tot Lot with a concrete base for \$34,900.00. All members voted, "Aye." Motion carried.

**Schmura Book Store Plan** – Barry Schmura, owner of the property at 8509 Allentown Pike, Blandon, PA, a commercially zoned property, stated that he is selling the property and has not started any of the work on the recorded plans or as outlined in the improvements agreement. There is \$10,000 in escrow with the Township for the improvements. The buyer, Jay Moyer, would like to do the improvements but run a financial planning office instead of a bookstore.

A motion was made by Claude Beaver, seconded by Robert Kopfer, to enter into an agreement with the new buyer and the existing land owner of 8509 Allentown Pike, Blandon to assign existing property owners' rights to the development plan and under the improvement agreement and to modify the improvements agreement to allow for an additional 12 month construction period and 18 month improvement bond effective on the day of the assignment allowing the new buyer to step into the shoes of the existing development. All members voted, "Aye." Motion carried. Gene Orlando asked Mr. Schmura for the names, addresses and phone numbers of all parties.

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**Community Park Pavilion Concrete** – Tom Unger opened the bids for the pavilion concrete slab.

Bertolet Construction Corp.	\$81,950.00
Perrotto Builders, LTD.	\$52,898.00
Bill Anskis Co. Inc.	\$54,790.00
Diversified Construction	\$42,350.00
Bognet, Inc.	\$57,254.00

A motion was made by Robert Kopfer, seconded by Claude Beaver, upon the recommendation of the engineer to accept the bids for the installation of concrete under the pavilion in the Community Park and give the Notice of Intent to Award, Notice to Award and the Notice to Proceed to Diversified Construction for their bid of \$42,350.00 conditional upon the engineer's review of the contractor and bid document. All members voted, "Aye." Motion carried.

**A & D Marine Change of Use** – A request from Giles and Ransome to run their heavy equipment sales, rental and repair business on the former A & D Marine property at 8832 Allentown Pike, Fleetwood has been received. The property is zoned for agricultural use and A & D Marine received a variance to allow them to sell and service boats and trailers. Mr. Unger asked the Board how they wanted to proceed in this instance – allow the change of use or require the new owner to apply for a variance. The Board felt that the use was the same and only the type of product was changing. Mr. Unger stated that he felt this type of use would use the property harder and Bob Kopfer disagreed.

A motion was made by Robert Kopfer, seconded by Claude Beaver, to allow Giles and Ransome to use the property at 8832 Allentown Pike, Fleetwood for heavy equipment sales, service and rental without a variance since it is a similar use to the previous A & D Marine's business. All members voted, "Aye." Motion carried. All other required permits for the operation of a business in Maidencreek Township will be required.

**Subdivision Improvements Agreements and Letter of Credit Reductions**

A motion was made by Claude Beaver, seconded by Robert Kopfer, to authorize the Chairman to sign the Subdivision Improvements Agreements and Letter of Credit reduction letters in the amount of \$2368.42. All members voted, "Aye." Motion carried.

**SOLICITOR'S REPORT**

**Resolution 12-2006 Fee In Lieu Of Open Space**

A motion was made by Claude Beaver, seconded by Robert Kopfer, adopting Resolution 12-2006 setting the fee in lieu of open space per lot for new residential development at \$750.00. All members voted, "Aye." Motion carried.

**Resolution 13-2006 Operating Reserve Fund**

A motion was made by Claude Beaver, seconded by Robert Kopfer, adopting Resolution 13-2006 establishing an operating reserve fund in the amount of \$80,000.00. All members voted, "Aye." Motion carried.

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**Resolution 14-2006 Rajah Shrine Liquor License**

A motion was made by Claude Beaver, seconded by Robert Kopfer, adopting Resolution 14-2006 allowing the transfer of a club liquor license to the Rajah Shrine Property on Orchard Road. All members voted, "Aye." Motion carried.

**Draft Ordinances** – Draft ordinances for repealing the Per Capita Tax, changing the Occupational Privilege Tax to the Emergency Services Tax, regulating accessory structures larger than 600 square feet through the Uniform Construction Code and regulating the land application of sewage sludge were distributed to the Board. Rick Kline commended Stephanie Dake on her work on the sludge ordinance.

A motion was made by Claude Beaver, seconded by Robert Kopfer to authorize the solicitor and the secretary to set up a public hearing for May 11, 2006 beginning at 6:30 P.M. for the proposed ordinances on repealing the Per Capita Tax, changing the Occupational Privilege Tax to the Emergency Services Tax, and regulating accessory structures larger than 600 square feet through the Uniform Construction Code. All members voted, "Aye." Motion carried.

A motion was made by Claude Beaver, seconded by Robert Kopfer to authorize the solicitor and the secretary to set up a public hearing for June 8, 2006 beginning at 6:30 P.M. for the proposed ordinance on regulating the land application of sewage sludge. All members voted, "Aye." Motion carried.

**Developer's Improvements Agreements**

Improvements agreements were given to the secretary for David Small and Esbenshade's Greenhouse. The solicitor needs to review the letter of credit for David Small and needs to see signed copies of the partnership agreement for Esbenshades.

**Riedel Rezoning**

The Riedel rezoning has been postponed at the property owner's request until October 12, 2006 at 6:30 P.M.

A motion was made by Claude Beaver, seconded by Robert Kopfer, in light of the impact the rezoning of the Riedel property may have on a large number of residents, to authorize the readvertising and reposting of the property for the continued hearing. All members voted, "Aye." Motion carried.

**EXECUTIVE SESSION 9:55 to 10:15 P.M.**

A motion was made by Claude Beaver, seconded by Robert Kopfer, to place the money from the demutualization into the general fund and make the payments as required by Act 64. All members voted, "Aye." Motion carried.

**Sewage Sludge** – Rick Kline related an event that occurred the previous week where sewage sludge was tracked all over West Shore Drive. The inspector from DEP told him that there is no regulation against sewage sludge on roadways. Mr. Kline asked if smell is covered under the proposed sludge ordinance. Ms. Dake stated that the ordinance does not address smell but mirrors the DEP ordinance and she does not know if the ordinance is followed if the smell will be less. The Board stated that the cost of testing will need to be discussed.

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ENGINEERS REPORT (continued)

**West Walnut Tree Condemnation** – The engineer and solicitor are working on the condemnation process for the damaged home on West Walnut Tree Drive.

**Topsoil** – The Board agreed that the topsoil may leave the Maidencreek Shopping Center site but should stay in the Township.

**Penn DOT Construction – Park Road and Rt 73** – SDE attended a preconstruction meeting for the improvements that will be done to the intersection at Park Road and Rt 73. The work will begin April 24<sup>th</sup> and end by May 12, 2006.

**Variances – Barlet and Village at Maidencreek** – The Board commented in favor of both variance requests.

OPERATIONS REPORT

**Sweeper Rental**

A motion was made by Claude Beaver, seconded by Robert Kopfer, to authorize renting a sweeper for three days at a cost not to exceed \$525.00. All members voted, "Aye." Motion carried.

TREASURER'S REPORT

A motion was made by Robert Kopfer, seconded by Claude Beaver, to approve the March 2006 Treasurer's Report and approve the March 2006 Prepaid Bill List. All members voted, "Aye." Motion carried.

PARK & RECREATION

**Flag Burning** – The Board gave approval for Mike Tempesco to hold a Flag Burning ceremony in the Community Park on Wednesday, June 14<sup>th</sup> from 6:30 to 7:00 P.M. as part of his Eagle Scout project.

**Mulch**

A motion was made by Claude Beaver, seconded by Robert Kopfer, to authorize the purchase of 70 to 100 yards of playground mulch from W.D. Zwicky. All members voted, "Aye." Motion carried.

**Tree Tops Slide**

A motion was made by Claude Beaver, seconded by Robert Kopfer, to authorize the purchase of a Flippoppottomus Slide from Miracle Recreation in the amount of \$3,236.00 to replace the vandalized slide in the Tree Tops Tot Lot. All members voted, "Aye." Motion carried.

**Picnic Tables** – The Supervisors requested that the Park and Rec Board get more quotes for picnic tables for the pavilion in the Community Park.

**Lawn and Outfield Treatment** – tabled

**Tball**

A motion was made by Claude Beaver, seconded by Robert Kopfer, to authorize the purchase of Tball equipment on the amount of \$1,002.00. All members voted, "Aye." Motion carried.

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The Board requested that the program be discussed as Mr. Timpe thought they would be an organization separate from the Township. It was brought up that it would be safer if the Township held the program's funds and the woman in Amity Township that stole from the baseball association accounts was used as an example of the problems such associations encounter.

RECYCLING

**Waste Management Request for a Monthly Increase of Fees**

The Township is in receipt of a letter from Waste Management requesting an increase of \$386.08 per month in charges for picking up recycling. The Board decided to do nothing and see what happens and tabled the matter.

**Residential Curbside Recycling Bid**

A motion was made by Claude Beaver, seconded by Robert Kopfer, to authorize the solicitor to prepare the bid for residential curbside pickup for 2007 to 2010. All members voted, "Aye." Motion carried.

EMERGENCY MANAGEMENT

**NIMS** – The required training is online. The secretary will send the supervisors to web address.

NEW AND OLD BUSINESS

**Codification** – Tabled

**Request to Include Resident Thank You in Newsletter** – The Board asked the secretary to send a letter regretfully denying the request for a resident to place a thank you notice for neighbors' kindness on the passing of her husband.

**Environmental Advisory Council (EAC)** – Roy Timpe stated that it was hard enough for small businesses to get through the planning process and the Township did not need another board. The Supervisors declined the Berks County Environmental Advisory Council's request to give a short presentation at a public meeting on creating an EAC in Maidencreek Township.

**County Wide Appeals Board** – Tabled

**Security System** – A salesman and township resident has requested to submit a proposal for a security system for the municipal building. The Supervisors had no interest at this time.

**West Walnut Tree Drive Farm Easement** – There was some discussion on who was allowed to use the farm easement from the Ray Burgert Farm to East Wesner Road. Mr. Deeds stated that strange vehicles are using it late into the night.

**Open Space**

A motion was made by Claude Beaver, seconded by Robert Kopfer, to authorize the solicitor to apply for tax exempt status for the open space from Lot 133A & B Willow Gardens. All members voted, "Aye." Motion carried.

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**Mileage**

A motion was made by Claude Beaver, seconded by Robert Kopfer, to authorize the payment of \$92.11 to Rita Agnetti and \$25.91 to Diane Hollenbach for work related mileage. All members voted, "Aye." Motion carried.

**Property and Vehicle Insurance Coverage** – A proposal from Thomas Insurance Group was received for the property and vehicle coverage. The Board asked that the secretary check if removing two policies from the current insurance agent would cause the third policy for liability to increase.

**Snow Angel Program** – The Board authorized the secretary to advertise a program to match volunteers with the elderly and infirmed in need of winter snow removal. Mr. Timpe stated that he would like to submit an article for the newsletter.

**Concert in Park Benefiting American Cancer Society** – The Board did not have a problem with the Leesport Bank using the park for a benefit concert but required a certificate of liability insurance.

**Route 222**

A motion was made by Claude Beaver, seconded by Robert Kopfer, to send a letter to Berks County Chamber of Commerce in support of their efforts to address the Route 222 North Corridor. Roy Timpe and Claude Beaver voted, "Aye." Bob Kopfer abstained. Motion carried.

Diane Hollenbach asked the Board if someone would like to be the Township representative to the Berks Economic Partnership for the Rt 222 Taskforce. Meetings are held the second Thursday of each month from 12 to 1:30 P.M. There were no Board members able to commit to this meeting. Roy Timpe asked that it be put on the next month's agenda.

**Penn State Groundwater Survey** – Roy Timpe stated that he received a survey from Penn State and it made him think that it may lead to an unfunded state mandate. The other Board members agreed that the Township should not to participate in the survey.

Since there was no further business, a motion was made by Robert Kopfer, to adjourn the April 13 2006 meeting of the Maidencreek Township Board of Supervisors. All members voted, "Aye." Motion carried. Meeting adjourned at 11:25 P.M.

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Transcribing Secretary

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Cc: Board of Supervisors  
Eugene Orlando, Roland & Schlegel, Solicitor  
Thomas Unger, Systems Design Engineering, Inc., Township Engineer  
Ed Kopicki, Systems Design Engineering, Inc., Planning Commission 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, Maidencreek Township Authority Solicitor  
Greg Unger, Systems Design Engineering, Inc., Maidencreek Twp Authority Engineer    Barbara Hassler, Tax Collector  
Daniel Miller, Blandon Fire Company Chief  
Chief Scott W. Eaken, Northern Berks Regional Police