

Maidencreek Township Board of Supervisors
February 12, 2004, 7:00 P.M.

Attending: Roy Timpe, Robert Kopfer, Gloria Kemmerer, Eugene Orlando, Jr. - solicitor, Orlando & Strahn, Tom Unger – engineer, Systems Design Engineering, Inc., Diane Hollenbach – Recording Secretary

Guests: John Wetzel, Cindy Stump, J. Schoellkopf, Matt Midouhas, Joel Heffner, Harold Burgert, Jeff Biehn, Mario DiMartino, Hether Quillman, Mike Adams, Larry Kunkel, Dan Miller, May Roth, Ron Kemmerer

Roy Timpe called the February 12, 2004 regularly scheduled meeting of the Maidencreek Township Board of Supervisors to order at 7:03 PM in the Maidencreek Township Municipal Building and asked everyone to rise for the Pledge of Allegiance to the Flag.

Police Report

Officer Drazenovich presented the Northern Berks Regional Police report for Maidencreek Township in January 2004. There were 735 patrol hours covering 5745 miles, 253 assignments, 67 citations issued and a total of \$2,114.00 in fines from the District Justice. Officer Drazenovich asked if there were any questions. As there were none, Chairman Timpe thanked the officer for taking time to present the report and dismissed him from the meeting.

Announcements

Roy Timpe announced that a hearing will be held for the DiGiorgio Rezoning request on April 15, 2004 at 7 P.M. The Board of Supervisors will hold an Emergency Management Meeting on February 26, 2004 at 8:00 P.M.

Public Comment

Larry Kunkel, 5 Lake Shore Drive, Fleetwood questioned the Board how they intended to keep dumpsters closed if they were not going to implement a dumpster ordinance. Mr. Kunkel claimed that there are 12 rat holes across from his home in the field owned by Mr. Giorgi. Mr. Kunkel stated that the rat problem was linked to the open dumpsters. Gloria Kemmerer stated that she believed the Board stated previously that the dumpster was a property maintenance issue but would need to check on this with the Code Enforcement Officer for clarification. Mr. Kunkel also expressed displeasure over the tractor trailers parking in the vacant lot beside Tom's Mini Mart again. The fence is down. Roy Timpe suggested Mr. Kunkel call the police on this issue. Mr. Kunkel stated that he calls 911 so much that the dispatcher asked him if he was a member of the town's Authority. Gloria Kemmerer suggested that Mr. Kunkel attend a police meeting. Mr. Kunkel responded that he is in constant communication with the Chief of Police.

Approval of the Minutes

A motion was made by Gloria Kemmerer, seconded by Robert Kopfer, to approve the minutes from the January 5, 2004 Reorganization Meeting of the Maidencreek Township Board of Supervisors as presented. All members voted, "Aye." Motion carried.

A motion was made by Gloria Kemmerer, seconded by Robert Kopfer, to approve the minutes from the January 5, 2004 Regular Meeting of the Maidencreek Township Board of Supervisors as presented. All members voted, "Aye." Motion carried.

A motion was made by Gloria Kemmerer, seconded by Robert Kopfer, to approve the minutes from the January 15, 2004 Regular Meeting of the Maidencreek Township Board of Supervisors as presented. All members voted, "Aye." Motion carried.

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Engineer's Report

Subdivision Review Status Checklist

Tom Unger of Systems Design Engineering, Inc. reported the following:

Bedrock – no action

James Hardie/Cemplank – A letter was sent by Systems Design Engineering, Inc. (SDE) requesting as built drawings be submitted for final plan review.

Melrose Place – The 90-day review period for the Melrose Place Final Plan expired on February 8, 2004; however, a request for a time extension was received from the developer. The Maidencreek Township Planning Commission has recommended that the plan be rejected unless a request for a time extension was received from the developer. Tom Unger reported that there has been no action on this plan for quite some time with the exception of reviews from PennDOT.

A motion was made by Gloria Kemmerer, seconded by Robert Kopfer, to accept the letter of request for an extension of time for the review of the Melrose Place Final Subdivision and Land Development Plan until May 6, 2004. All members voted, "Aye." Motion carried.

TreeTops Phase III – The 90-day review period for the TreeTops Phase III Preliminary Subdivision Plan expires on February 17, 2004. The Maidencreek Township Planning Commission recommended that the Board of Supervisors grant a time extension as requested by the developer until May 17, 2004.

A motion was made by Gloria Kemmerer, seconded by Robert Kopfer, to grant a time extension for the 90-day review period for the TreeTops Phase III Preliminary Plan. All members voted, "Aye." Motion carried.

Your Children First Daycare – Final Plans will be presented for approval later in the evening.

Rich Maiden Subdivision – The 90-day review period for the Rich Maiden Subdivision expires on March 11, 2004. A letter of time extension has been received from the developer requesting a 90 day extension of the review period until May 17, 2004.

A motion was made by Gloria Kemmerer, seconded by Robert Kopfer, to grant a 90-day time extension to the review period for the Rich Maiden Subdivision. All members voted, "Aye." Motion carried.

Dunkin Donuts Land Development – Final Plans will be presented for approval later in the evening.

All Letters of Credit are Current.

Subdivisions

TreeTops Phase III Preliminary Plan – Tom Unger reported that the Planning Commission recommended Preliminary Plan approval with contingencies of the TreeTops Phase III Preliminary Plan. SDE is waiting for the developer to submit plans that address those contingencies.

Dunkin Donuts – Tom Unger distributed SDE's action letter dated February 6, 2004 on the Erica Land Inc. (Dunkin Donuts) Final Plan. The Maidencreek Township Planning Commission has recommended final plan approval to the Dunkin Donuts Final Plan contingent upon the satisfactory review and approval of the parking agreement between Dunkin Donuts and the owner of Super Duper. John Wetzel of McCarthy Engineering stated that the parking agreement was recorded today. Eugene Orlando, Jr. of Orlando & Strahn, Township Solicitor, reviewed the parking agreement, and found it satisfactory.

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A motion was made by Gloria Kemmerer, seconded by Robert Kopfer, to approve the Erica Land, Inc. (Dunkin Donuts) Final Plan. All members voted, "Aye." Motion carried.

Your Children First Daycare Final Plan - Tom Unger distributed SDE's action letter dated February 6, 2004 on the Your Children First Daycare Final Plan. The Maidencreek Township Planning Commission has recommended final plan approval to the Your Children First Daycare Final Plan contingent upon entering into improvements agreement with the Township and posting of financial security in a form acceptable to the Township. Mr. Unger stated that the cost estimates for the improvements were received today and will be forwarded to the Solicitor. Jeff Biehn of Watkins Architects, engineer for the developer suggested that the improvements for the expansion be combined with the existing improvements agreements. Gene Orlando stated that it might be easier to create a new improvements agreement. Gloria Kemmerer stated that she hoped the developer would be more prompt in completing his landscaping then he had been previously. Mr. Midouhas stated that the plan requires the landscaping in by June 1, 2004.

A motion was made by Gloria Kemmerer, seconded by Robert Kopfer, to approve the Your Children First Daycare Final Land Development Plan contingent upon the developer entering into improvements agreements with the Township and posting financial security in a form acceptable to the Township with the plans not being released until all conditions are satisfied. All members voted, "Aye." Motion carried.

Lakeside Manor – Tom Unger reported that the PA DEP has notified the Township that their review of the Lakeside Manor Planning Modules are not complete and the review will be extended until March 2, 2004.

Projects

TreeTops TotLot - Mr. Unger reported that a few administrative items remain outstanding and SDE has contacted the contractor by phone. The Township is still holding five percent retainage.

Hoch Road and East Wesner Culverts – No action

Community Park Pedestrian Bridge – Tom Unger indicated that he would follow up on this with Terry Manmiller.

Community Park Trails – The project is partially complete. SDE is recommending payment of Application #1 in the amount of \$9,002.20.

A motion was made by Robert Kopfer, seconded by Gloria Kemmerer, upon the recommendation of the engineer to approve application #1 for payment for the Community Park Walking Trails of EJB Paving and Materials, withholding ten percent retainage, with total payment in the amount of \$9,002.20. All members voted, "Aye." Motion carried.

Community Park Ball Field – No action

Revision to Street Lighting Ordinance – Mr. Unger stated that he is working on a revision to the entire ordinance, which covers streetlights, sidewalks, driveways and curbing.

Comprehensive Plan – Mr. Unger reported that the Comprehensive Plan is waiting for the Board of Supervisors to schedule a hearing. Roy Timpe suggested creating a new residential zone, which restricts residential construction to larger lot sizes than in the current R2 zone and allows on site septic only. Mr. Timpe felt that this would discourage development. Gloria Kemmerer asked what area Mr. Timpe proposed changing to this new zone and that large lot sizes already existed in the agricultural zoned areas. Cindy

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Stump of 140 Evansville Road, Fleetwood agreed with Mrs. Kemmerer and asked which area Mr. Timpe was pinpointing. Mr. Timpe suggested rezoning land in Agricultural Security, so that it would be a mute point. Mrs. Kemmerer disagreed with this idea. Harold Burgert of 331 East Wesner Road, Blandon stated that a lot of land in Pennsylvania has been wasted through zoning and if land is rezoned for houses, a developer will buy it and build houses. Bob Kopfer and Gloria Kemmerer favored increasing the minimum lot size in the current R2 district instead of creating a new zoning district. The engineer and solicitor agreed to communicate the Board's ideas to the Planning Commission. Mr. Timpe expressed concern over discussing changes to the zoning because this may cause developers to submit plans now before the zoning can be changed. Gloria Kemmerer stated that if the Board never acted and made changes to the zoning then the zoning would never change and the Township still wouldn't be better off.

Act 537 Plan – Mr. Unger stated that Maidencreek Township's Act 537 Plan has been submitted to the Berks County Planning Commission and the surrounding municipalities.

NPDES II – Mr. Unger presented the Board with maps of the inlets and outfalls of the urbanized areas of the Township. This map has been forwarded to the Berks County Planning Commission for use in the Schuylkill River Watershed study. The Township must complete two items by March 10, 2004 – public education and pollution prevention of municipal operations. The pamphlet, "When It Rains, It Drains" is being published in the Township newsletter and there will be a link to the DEP website on the Township site. Mr. Unger will get with Mr. Manmiller regarding the municipal housekeeping like how vehicles are washed and fueled.

Statewide Building Code – The Statewide Building Code (UCC) was advertised in the PA Bulletin on January 10, 2004. It will take affect April 9, 2004 and the Township must decide to opt in or out by July 8, 2004. Labor and Industry must be notified of the Township's intentions by August 7, 2004. Mr. Unger suggested that the Township might want to make changes or revisions to the code before adopting it. Diane Hollenbach, Township Secretary cautioned that if opting in, the Township must adopt an ordinance and send a copy to Labor and Industry by the August deadline. Roy Timpe questioned what happened if the Board didn't make a decision. Tom Unger answered that the Township automatically opts out. If the Township opts out, third party agencies will handle all building permits in the Township. Mrs. Hollenbach stated that this would be a nightmare for the Township staff to find out who is moving in and out of the Township for 911 purposes, tax purposes and recycling. Gene Orlando suggested that the Appeal Board portion of the Code would be something the Township could form with other local municipalities. Mrs. Hollenbach stated that the Board should not waste time and money on researching intermunicipal agreements if they had not yet decided whether they are going to opt in or out of enforcing and administrating the UCC.

A motion was made by Gloria Kemmerer, seconded by Robert Kopfer, to authorize the solicitor to check with local municipalities on intermunicipal cooperation in regards to the Statewide Building Code. All members voted, "Aye." Motion carried.

Subdivision Improvement Agreement and Letter of Credit/Escrow Release Letters

A motion was made by Robert Kopfer, seconded by Gloria Kemmerer, upon the recommendation of the engineer, to authorize the Chairman to sign the Letter of Credit and Escrow Release Letters in the amount of \$380,180.46. All members voted, "Aye." Motion carried.

SEO Report

Mr. Unger reported that there has been no new action on the Martin citation that is with District Justice Gauby for scheduling of a hearing.

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Miscellaneous Engineering

Mr. Unger added that the Development Construction Report is attached to the Engineer's Report for the Board's review. Mr. Unger distributed 4 copies of the revised Agricultural Security Map for the Board's signature. Gloria Kemmerer questioned if any additional information was obtained regarding the Lehigh Cement DEP permit application. Mr. Unger stated that he did not have any new information.

Operations Report

Crack Sealer

A motion was made by Robert Kopfer, seconded by Gloria Kemmerer, to authorize the purchase of crack sealer not to exceed \$1,000.00. All members voted, "Aye." Motion carried.

Unit #4

A motion was made by Robert Kopfer, seconded by Gloria Kemmerer, to authorize repairs to Unit 4. All members voted, "Aye." Motion carried.

David Saint Probationary Period

A motion was made by Gloria Kemmerer, seconded by Robert Kopfer, to extend David Saint's probationary period for an additional five weeks. All members voted, "Aye." Motion carried.

Summer Help - Mrs. Hollenbach stated that Mike Kelly, summer help from 2003, has asked to come back to work for the Township in the summer of 2004. The Board stated that the Operations Director should look at how much help he feels he needs this summer.

Heating Oil Leak

A motion was made by Robert Kopfer, seconded by Gloria Kemmerer, to authorize the Operation's Director to investigate the possibility of a heating oil leak. All members voted, "Aye." Motion carried.

Municipal Building Septic System - Diane Hollenbach stated that the municipal septic system needed to be pumped more frequently due to the increased use of the building. The Board authorized the engineer to work on the cost with the Authority to hook the Municipal Building into public sewer. The Board felt that it would probably be more cost effective to continue to pump the system.

Coffee Shop - Diane Hollenbach stated that Mike Adams has applied for a Peddler's Permit. Mrs. Hollenbach asked the Board for direction in the matter. Mr. Adams stated that he would like to put a shed-like structure along Park Road at Heeby's Surplus and sell coffee. It will be like a drive up photomat and people will be able to drive up to both sides. He will plug it into a 220 outlet. There will be no water or sewer hook up. Mr. Adams stated that he would like to open in September 2004.

A motion was made by Gloria Kemmerer, seconded by Robert Kopfer, to authorize the engineer and the solicitor to review the drive up coffee shop concept. All members voted, "Aye." Motion carried.

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Winter Maintenance Agreement - Perry Township and Maidencreek Township are proposing to enter into a winter maintenance agreement that allows each municipality to enter into the other and maintain a road as they turn around on their plow route. Diane Hollenbach stated that Terry Manmiller has reviewed the agreement and made some changes, but that this is the basic agreement that Perry Township has with Ontelaunee Township. The Solicitor stated that the indemnity language in the agreement was weak and nonexistent.

A motion was made by Robert Kopfer, seconded by Gloria Kemmerer, to authorize the Solicitor to tweak the indemnity language in the proposed Winter Maintenance Agreement between Perry Township and Maidencreek Township. All members voted, "Aye." Motion carried.

Solicitor's Report

PACC Program - Gene Orlando stated that he had prepared a resolution, which allows the Township to participate in the PACC program. It does not authorize the purchase of a truck.

A motion was made by Robert Kopfer, seconded by Gloria Kemmerer, to adopt Resolution 10-2004 authorizing Maidencreek Township to participate in the PACC Program. All members voted, "Aye." Motion carried.

TreeTops Phase III – Mr. Orlando stated that after reviewing the Homeowner's Association Documents for TreeTops Phases I and II, he feels that Phase III must become a part of the existing Homeowner's Trust unless the Trust consents through a private agreement for Phase III to create their own Association.

Parking Ordinance – Mr. Orlando asked if the Board had reviewed the Chief of Police's letter regarding proposed changes to Maidencreek Township's Parking Ordinance (Ordinance 161). Mr. Timpe stated that nothing he had read in the letter changed his mind about revising the ordinance.

Executive Session Issues – Mr. Orlando stated that the Board of Supervisors would discuss the following items in executive session: Martin Retirement litigation, Tighe Holdings litigation, Solomon/Willow Creek Manor potential litigation and employee pension issues.

Solicitor's Report Format – Mr. Orlando stated that he had given the Board his first written report and if he has missed any issues, to please let him know so that he can add them.

Treasurer's Report

A motion was made by Robert Kopfer, seconded by Gloria Kemmerer, to approve the Treasurer's Report as presented. All members voted, "Aye." Motion carried.

A motion was made by Robert Kopfer, seconded by Gloria Kemmerer, to approve payment of the budgeted \$250.00 donation to the Blandon Fish Rodeo. All members voted, "Aye." Motion carried.

Park and Recreation

Community Park Pavilion

A motion was made to authorize Systems Design Engineering, Inc. to obtain pricing for an 80 foot by 60-foot pavilion with the Maidencreek Township Road Crew doing the installation. All members voted, "Aye." Motion carried.

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Blandon Fire Company Carnival

A motion was made by Gloria Kemmerer, seconded by Robert Kopfer, to approve the proposal from Fireworks Production, Inc. in the amount of \$4,000.00 to provide fireworks on the closing night of the Blandon Fire Company Carnival. All members voted, "Aye." Motion carried.

Community Park Basketball Court

A motion was made by Gloria Kemmerer, seconded by Robert Kopfer, to authorize Systems Design Engineering, Inc. to obtain three quotes for macadamizing the proposed basketball court in the Community Park with the Maidencreek Township Road Crew doing the excavating and stonework. All members voted, "Aye." Motion carried.

PTC Carnival

A motion was made by Gloria Kemmerer, seconded by Robert Kopfer, to allow the Andrew Maier Parent Teacher Club to use the Community Park for their annual carnival. All members voted, "Aye." Motion carried.

Car Show

A motion was made by Gloria Kemmerer, seconded by Robert Kopfer, to approve the use of the Community Park for a Park and Recreation sponsored car show on August 21, 2004. All members voted, "Aye." Motion carried.

Community Park Restroom Facilities

A motion was made by Robert Kopfer, seconded by Gloria Kemmerer, to approve the placement of two porta potties in the Community Park. All members voted, "Aye." Motion carried.

FABA Donation

A motion was made by Gloria Kemmerer, seconded by Robert Kopfer, to accept Fleetwood Area Baseball Association's donation for the materials and construction of two dugouts as diagramed for the Community Park Ball Field. All members voted, "Aye." Motion carried.

Public Comment

Joel Heffner, Evansville Road and Mario DiMartino asked the Board what was needed to start a business that served breakfast and lunch in the former J & L Sandwich Shop. Mr. DiMartino stated that Terry Manmiller had instructed him to come before the Board of Supervisors for permission. Mr. DiMartino stated that he has 22 parking spaces and Mr. Manmiller stated that he will need 15. The Department of Agriculture will oversee health inspections. The Board agreed that since this was not a change of use and there would be no physical changes to the building that all that would be required was a building permit for interior renovations.

Executive Session 9:30 pm to 10:15pm

Roy Timpe stated that along with the previous issues indicated for discussion is executive session, he also updated the Board on the Northern Berks Regional Police negotiations.

A motion was made by Gloria Kemmerer, seconded by Robert Kopfer, to authorize the termination of proceeding of contempt against Ray Martin. All members voted, "Aye." Motion carried.

A motion was made by Gloria Kemmerer, seconded by Robert Kopfer, to authorize the Township Solicitor, to take part in the Tighe Holdings proceedings. All members voted, "Aye." Motion carried.

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A motion was made by Gloria Kemmerer, seconded by Robert Kopfer, to authorize the Township Solicitor to contact the Solomons and their solicitor with a settlement, as discussed in executive session, to the potential litigation over Willowcreek Manor. All members voted, "Aye." Motion carried.

A motion was made by Gloria Kemmerer, to adjourn the February 12, 2004 regularly scheduled meeting of the Maidencreek Township Board of Supervisors. Robert Kopfer objected and stated that he wished to continue the meeting and complete all the items on the agenda. Roy Timpe adjourned the meeting at 10:17 P.M.

Diane Hollenbach, Recording Secretary – February 16,2004

Cc: Board of Supervisors
Terry Manmiller, Operations Director
Eugene Orlando, Orlando & Strahn, 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 Township Authority Engineer
Barbara Hassler, Tax Collector
Daniel Miller, Blandon Fire Company Chief
Chief Scott W. Eaken, Northern Berks Regional Police