

**Maidencreek Township Board of Supervisors
July 15, 2004, 7:00 P.M.**

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

Guests: Ron Kemmerer, Sr., Jim Schoellkopf, J.D. Krafczek, Peter Giorgi, Bob Hanna, Greg Bogia

Roy Timpe called the July 15, 2004 regularly scheduled 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 of Allegiance to the Flag.

Public Comment

Freight Terminal – Greg Bogia of Stackhouse Bensinger stated that a meeting was held with the Township's lighting consultant and that the Authority had acted favorably on their request for a waiver from Maidencreek Township Ordinances 79 and 99 that require buildings within 150 feet of the public water and sewer line to connect to the Authority system. Diane Hollenbach read the motion from the previous night's Maidencreek Township Authority meeting. *The Authority recommended that the Board of Supervisors grant waivers to Ordinance 79 and 99 conditional upon all water and sewer lines in the Industrial Park that connect to the Maidencreek Township Authority system be dedicated to the MTA with easements and if the Freight Terminal property is ever sold without the Giorgio sewage treatment plant and well, the Freight Terminal will have to be connected to the Maidencreek Township Authority water and sewer system.*

Bob Hanna asked if the Authority will make the commitment to provide the EDUs to the freight terminal. Mr. Hanna stated that only in the event that the future expansion violates the ordinance will the company agree to the condition. Tom Unger, Township engineer pointed out to the Board that the only portion of the freight terminal building that is within 150 feet of the Authority lines is the second proposed expansion. Roy Timpe suggested the developer move the wall of the building to stay outside of the 150 foot area. Tom Unger distributed Systems Design Engineering, Inc's review letter of the Freight Terminal Plan. The Planning Commission recommended preliminary plan approval with five conditions.

Condition 1 – Receipt of a letter withdrawing the first Freight Terminal Plan. Gene Orlando, Township solicitor, asked that another letter be sent withdrawing the first Freight Terminal Plan. The letter that the Township received does not say that the plan is withdrawn but states that the plan will not be pursued. Mr. Orlando stated that this language allows both plans to be active, and the Township needs a letter that specifically states the first plan is withdrawn.

Condition 2 – Maidencreek Township Authority review.

Condition 3 – Resolution of lighting issues. Tom Unger reported that a meeting occurred between Todd Rutledge, developer's lighting consultant, Stan Stubbe, the Township's lighting consultant and himself. The developer provided a detail of the vector analysis. The fixture will be a full cut off fixture, and the light fixtures closest to the residents will be lowered to 30 feet. The fixtures will be mounted with a house shield. No light will leave the property.

Condition 4 – Recording of an indemnification agreement holding the Township harmless if flood damage occurs to the owner's property. J.D. Krafchek will draft the agreement.

Condition 5 – The retaining wall detail shall be placed on the plan. Bob Hanna stated that this detail will be on the final plan.

**Maidencreek Township Board of Supervisors
July 15, 2004, 7:00 P.M.**

Roy Timpe asked if the stream was a studied stream that runs along the rear of the freight terminal. Tom Unger stated that it was not a studied stream, but the developer did the calculations per the Township's ordinance. Mr. Timpe asked if the new version of the plan went through Berks County. Bob Hanna stated that the new plan went through Berks County Conservation District. Tom Unger stated that the new plan did not go to the Berks County Planning Commission and they would not comment on the closeness of the wall to the stream.

Bob Hanna stated that he was concerned about the Authority's conditions to the waiver and asked who would pay for the survey and the legal fees. Gloria Kemmerer advised Mr. Hanna that the Board of Supervisors do not make the Authority's decisions, and he must talk to the Authority about the conditions of their motion. Mr. Hanna stated that he agreed to dedicate the lines and have everything paid by the Authority. They can't control the legal fees and that bothered Mr. Hanna. Gloria Kemmerer repeated that the MTA was a separate entity and these issues should be addressed to them. Gene Orlando stated that he supports 100 percent that the MTA and developer should discuss the issue directly. Mr. Orlando stated that he was very concerned about granting waivers to ordinances that have applications to every resident and property owner in the Township and has grave reservations about waiving existing enacted ordinances. Roy Timpe suggested that the developer put a jog in the building, so that the building is not within 150 feet of the lines and the ordinance does not have to be waived. Gloria Kemmerer stated that it would have been helpful if the developer had a representative at the Authority's meeting and pointed out that this was not the first project that Mr. Hanna and Mr. Giorgi have done in the Township. Mr. Hanna stated that they have given easement through Lot 37 in Meadowbrook to the Authority. Gloria Kemmerer stated that is irrelevant. If the Authority makes deals, it is not the Township's business but any condition of approval on the Freight Terminal Plan will include the approval of the Maidencreek Township Authority. Mr. Hanna stated that is not part of the ordinances and can not make the conditions part of the approval. Mr. Hanna stated that he agreed to give the easement and would pay the engineering fees but not the legal fees. Roy Timpe stated that this be discussed with the MTA. Gene Orlando recommended that the developer take time to put an agreement together with the Authority before the Township approves the plan. Mr. Hanna stated that they would be willing to accept the waiver as recommended. Gloria Kemmerer stated that she was taking the solicitor's advise on not waiving Township ordinances. Roy Timpe stated that granting the waiver would be like "if you have something we want, then we will waive the ordinance." Public policy is treating everyone equally and waiving the ordinances would imply that the Supervisors are not evenhanded. J.D. Krafczek stated that if waiving the ordinance will benefit the citizens then the Board would be doing it on behalf of the Township residents.

Gene Orlando recommended that the developer and the Authority work out a written signed agreement. It would be improper to condition the approval on the Authority's conditions when the water and sewer lines to be dedicated are not on the plan. Mr. Timpe asked if there was any motion from the Board. Mr. Hanna stated that he would prefer a motion to proceed to final plan.

A motion was made by Gloria Kemmerer, to table the Freight Terminal Preliminary Plan.

Bob Hanna asked what is the reason for this and stated that they object to the motion. Mrs. Kemmerer responded that the Board has been discussing this issue for forty minutes and the Solicitor gave good advise regarding the developer discussing the issues at hand with the Authority.

Roy Timpe seconded the motion to table the plan.

The Board asked how much time was left in the 90 day review period for the first Freight Terminal Plan. After reviewing the file, Tom Unger stated that the 90 day review for the first Freight Terminal Plan

**Maidencreek Township Board of Supervisors
July 15, 2004, 7:00 P.M.**

expires August 24, 2004. Mr. Unger reminded everyone that if the building was more than 150 feet away from the water and sewer lines, there would not be a review needed from the Authority.

Mr. Timpe asked, "All in favor of the motion, say aye." Hearing none, Mr. Timpe asked, "Those against the motion say nay." All members voted, "Nay," to table the Freight Terminal Preliminary Plan. Motion defeated.

A motion was made by Gloria Kemmerer, seconded by Roy Timpe, to grant a waiver to Section 6.3.B.3.a of the Maidencreek Township Ordinance 159 Street Paving, Lighting, Sidewalks, Curbs and Driveways for the Freight Terminal Plan conditional upon the lights that are closest to the houses are 30 feet high, the use of halophane full cut off fixtures and the installation of house shields. All members voted, "Aye." Motion carried.

A motion was made by Gloria Kemmerer, seconded by Roy Timpe, to grant preliminary plan approval to the Freight Terminal Plan conditional upon receipt of a letter by the Township withdrawing the first Freight Terminal Plan on or before July 25, 2004, modification of the future freight terminal building so that it complies with Township ordinances 79 and 99, Maidencreek Township Authority review and approval, receipt by the Township of an indemnification agreement holding the Township harmless if flood damage occurs to the owner's property, which satisfies the Township and the developer by July 25, 2004, and the engineering detail of the retaining wall shall be shown on the final Freight Terminal Plan. All members voted, "Aye." Motion carried.

Bob Hanna asked that in the event the developer and the Authority could reach an agreement on the waiver of ordinances 79 and 99, would granting such a waiver be acceptable to the Township Board of Supervisors. Roy Timpe stated that he would have to be convinced that waiving the two Township ordinances was in the best interest of the residents. Gloria Kemmerer agreed with Mr. Timpe.

Bid Opening

Tom Unger opened the 2004 Road Bids. The bids were as follows to pave FarView Circle, Tamarack Boulevard, Longleaf Drive, Ponderosa Drive, and Schaeffer Road: EJB Paving \$61,944.85 and Windsor Service \$72,063.70.

A motion was made by Gloria Kemmerer, seconded by Roy Timpe, conditional upon the engineer's review of the bid, bond and insurance, to give the Notice of Intent to Award, Notice to Award and Notice to Proceed to EJB Paving for the 2004 Maidencreek Township road work in the amount of \$61,944.85. All members voted, "Aye." Motion carried.

Village at Summit Crest Special Exception

The Zoning Hearing Board will meet on July 27, 2004 at 7:00 PM for a hearing on a special exception request from the Village of Summit Crest, formerly Martin Retirement Village.

A motion was made by Roy Timpe, seconded by Gloria Kemmerer, to communicate to the Maidencreek Township Zoning Hearing Board that the Board of Supervisors would recommend approval of the special exception for the Village at Summit Crest provided that there is satisfactory rehabilitation of the seepage bed(s) and adequate engineering is done to assure that correct foundations are installed for those units to be located on the seepage bed(s). All members voted, "Aye." Motion carried.

**Maidencreek Township Board of Supervisors
July 15, 2004, 7:00 P.M.**

Resolution 18-2004 Service Electric Franchise

A motion was made by Gloria Kemmerer, seconded by Roy Timpe, to adopt Resolution 18-2004, which continues the Service Electric franchise for five more years with the addition of a three percent royalty on advertising revenue going to the Township. All members voted, "Aye." Motion carried.

Relocation of Willow Trees

A motion was made by Gloria Kemmerer, seconded by Roy Timpe, to authorize the relocation of the three willow trees that are in the middle of the soccer field in the Community Park at a cost not to exceed \$1800.00. All members voted, "Aye." Motion carried.

A motion was made by Gloria Kemmerer to adjourn the July 15, 2004 meeting of the Maidencreek Township Board of Supervisors. Meeting adjourned at 8:09 PM.

An Executive Session was held after the meeting to discuss labor issues.

Diane Hollenbach, Recording Secretary – July 16 2004

Cc: Board of Supervisors
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