

Maidencreek Township Board of Supervisors
May 13, 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: J. Schoellkopf, Harold S. Burgert, Cindy Stump, Ron Kemmerer, Sr., Donna Weaver, Jeff Biehn, J.D. Krafczek, Tina Poole, Gloria Kline, Barry & Linda Bentz, Larry Kunkel, Rea Gehret, Janet Schaeffer, Donna Schellenberger, Joseph Rudderow III

Roy Timpe called the May 13, 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.

Police Report

Officer Drazenovich presented the Northern Berks Regional Police report for Maidencreek Township for April 2004. There were 797 patrol hours covering 6505 miles, 254 assignments, 110 citations issued and a total of \$3743.00 in fines from the District Justice. Officer Drazenovich reminded residents that children are prohibited from playing on the streets with hockey nets and basketball nets. Officer Drazenovich added to please use these items in the parks and in driveways for safety reasons as the traffic volume increases as summer approaches. Copies of the Recreation Ordinance 194 are available to residents.

Officer Drazenovich stated that several vehicles were broken into on Wesner Road, Route 73 and at the Fire Company. Miscellaneous items were taken. The individuals have been apprehended.

Officer Drazenovich informed the audience that Standard Field Sobriety Testing would be conducted at the Cumru Township Police Department June 8th to the 11th from 8:30 A.M. to 7:00 P.M. Participants must have a ride to and from the testing and will drink either vodka, rum or gin and drive on a closed course at various levels of intoxication. Participants will not be released to go home until their blood alcohol level reaches .05. Anyone interested in participating should call Lt. David Brickel at 610-478-3477.

Gloria Kline of Lee Spring Road in Blandon made the officer aware that she had seen 3 boys playing in the sample homes at the Villages at Summit Crest around 8:00 P.M. one evening. Chairman Timpe thanked the officer for taking time to present the report and dismissed him from the meeting.

Announcements

Roy Timpe announced that an executive session was held on May 5, 2004 to discuss personnel issues.

Public Comment

Donna Schellenberger, 36 Marden Drive, Blandon phoned in a complaint regarding her neighbor parking a boat and trailer on an unimproved and undedicated portion of Lindbergh Avenue. Eugene Orlando, the Township Solicitor advised, assuming that it has been at least 21 years since the subdivision was recorded that since the portion of Lindbergh Avenue was not constructed and accepted by the Township for dedication, ownership of the proposed roadway would, under normal facts, revert to the adjoining property owners to the centerline of the proposed street. The Township does not intend to become involved in private disputes between neighbors. The Board asked the Secretary to write a letter to both Ms. Schellenberger and her neighbor informing them of the Board's response.

Steve Richart, 432 East Wesner Road, Blandon requested the Board's permission to burn a pile of brush. Mr. Richart's farm is in the Agricultural Security Area but adjoins the Walnut Manor Subdivision. Gloria Kemmerer pointed out that the recycling ordinance prohibits burning anything that can be recycled. Roy Timpe stated that until the Township resolves the ambiguity between the burning ordinance and the recycling ordinance, Mr. Richart should be allowed to burn but should notify the Fire Company before he begins to

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burn. Robert Kopfer agreed with Mr. Timpe. The Board asked the Secretary to write a letter informing Mr. Richart that he may burn but to notify the Fire Company beforehand.

Leonard Eller, 8033 Allentown Pike, Reading called the Township building to ask if land development was required to put a building for his business, Len's Electronics, beside Esbshade Garden Center. Roy Timpe stated that land development would be required. The Board asked the Secretary to write a letter explaining this to Mr. Eller.

Linda Bentz, 161 Buena Vista Road, Fleetwood explained to the Board that she was at the meeting under the advisement of her lawyer. Mrs. Bentz stated that her neighbor is using the Bentz's driveway to access property that can be accessed from the road. The neighbor and the Bentz's have a history and the police have been involved. Mrs. Bentz asked what her rights were in keeping the neighbor away from the Bentz's property. Eugene Orlando stated that Mrs. Bentz should not rely on his opinion but stated that Mrs. Bentz is in a position to take action through her lawyer. Mr. Orlando recommended to the Board of Supervisors that Mrs. Bentz's issue was not a matter of public interest and the Board should not take a position on it.

Doug Williams emailed a request to the Township asking that the timing on the light at Route 222 and Route 73 be checked because recently there appears to be a delay in traffic that was not evident before. The Board authorized the Secretary to call Telco and check if the traffic light timing resets when the power fails and to have the timing checked if needed.

John Sharman, developer of Blandon Meadows V submitted a letter with questions concerning the requirement to insulate the basement walls under the Uniform Construction Code. The Board authorized Tom Unger to respond to Mr. Sharman's questions.

Richard Hernandez, 102 Cassidy Court, Blandon requested that a Watch Children sign be installed on his property line due to the fact that many children walk and skate down Blandon Meadows Parkway to the hockey court and playground on Cornerstone Drive. Roy Timpe stated that it was difficult to see at the intersection of Cornerstone and Blandon Meadows Parkway and the intersection might qualify as a three way stop.

A motion was made by Gloria Kemmerer, seconded by Robert Kopfer, to install a Watch Children sign between 102 Cassidy Court and 207 Blandon Meadows Parkway. All members voted, "Aye." Motion carried.

A motion was made by Roy Timpe, seconded by Robert Kopfer, to authorize the engineer to do a traffic study on the intersection of Blandon Meadows Parkway and Cornerstone Drive to determine if it qualifies as a three way stop. Robert Kopfer and Roy Timpe voted, "Aye." Gloria Kemmerer abstained.

Brian Kobularchik of

Park Place Apartments submitted a letter requesting that the Board allow temporary parking along Golden Drive so that the residents of the apartments have a place to park their cars away from the construction machinery. Harold Burgert stated that the road was made no parking on one side so the tractor could go down it because the Supervisors took East Wesner Road away from them. Mr. Burgert added that it did not matter if only one tractor used that road, it still belonged to the farmers to use. Gene Orlando stated that the ordinance would need to be amended to make the change requested. The Board agreed that the developer should install some of the parking for the apartments being built even if he just throws down gravel in those areas. This should solve his parking problems.

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Lot 55 and 56 Walnut Manor – An unidentified member of the audience stated that Berks Construction is dumping dirt in lot 55 and lot 56 to build a home. This area floods and the new home will cause more flooding. Gene Orlando stated that this issue was resolved through fee in lieu of litigation. Tom Unger stated that the Berks County Conservation District must approved the plan to bring fill onto the lots and the neighbors can call them and ask the Conservation District to check that Berks is following the approved plan. Tom Unger will follow up on the matter with the Conservation District.

Jeff Biehn of Watkins Architects, Fleetwood stated that he was present to answer any questions that might arise on Watkins Architect's proposal to administer and enforce the UCC for Maidencreek Township.

Approval of the Minutes

A motion was made by Gloria Kemmerer, seconded by Robert Kopfer, to approve the minutes from the April 8, 2004 regularly scheduled Board of Supervisor meeting 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 May 5, 2004 joint Board of Supervisor and Planning Commission meeting 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 May 6, 2004 Board of Supervisor workshop on the Uniform Construction Code as presented. All members voted, "Aye." Motion carried.

Treasurer's Report

A motion was made by Roy Timpe, seconded by Robert Kopfer, to authorize Gloria Kemmerer to attend the Pennsylvania State Association of Township Officials 2004 annual convention. Robert Kopfer and Roy Timpe voted, "Aye." Gloria Kemmerer abstained. Motion carried.

A motion was made by Roy Timpe, seconded by Robert Kopfer, to pay the recording secretary extra meeting pay for the April 8, 2004 meeting, since it lasted longer than 11 P.M. Robert Kopfer and Roy Timpe voted, "Aye." Gloria Kemmerer abstained. Motion carried.

Engineer's Report
Subdivision

Tom Unger of Systems Design Engineering, Inc. reported that a time extension was received for the Henry's Lots Subdivision and Annexation Plan.

A motion was made by Gloria Kemmerer, seconded by Robert Kopfer, to grant a 90 day time extension for the review of the Henry's Lots Subdivision and Annexation Plan. All members voted, "Aye." Motion carried.

All improvements agreements and letters of credit are current.

J.O.D.L. – Tom Unger stated that the Maidencreek Township Planning Commission recommended Final Plan approval with conditions to the J.O.D.L. Subdivision and Land Development Plan. This plan is for the construction of a 2880 square foot doctor office on Ingot Drive.

A motion was made by Gloria Kemmerer, seconded by Robert Kopfer, to grant waivers to Section 301 of the Maidencreek Township Subdivision and Land Development Ordinance to waive the plan scale to 1 inch equals 30 feet, Section 303.F of the Maidencreek Township Subdivision and Land Development

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Ordinance to waive the site analysis, and Section 302 of the Maidencreek Township Subdivision and Land Development Ordinance to waive the preliminary plan stage. All members voted, "Aye." Motion carried.

The Board clarified that the preliminary plan stage was being waived only because all of the storm water design issues were addressed on the Golden Manor III Subdivision and Land Development Plan.

A motion was made by Gloria Kemmerer, seconded by Robert Kopfer, to grant Final Plan approval to the J.O.D.L. Final Land Development Plan conditional upon Systems Design Engineering, Inc's May 7, 2004 letter, the Developer entering into Improvements Agreement with the Township and posting financial security in a form acceptable to the Township, final plan endorsements, and Erosion and Sedimentation Plan approval with the final plan not to be released until a letter is received from the Berks County Conservation District and the Erosion and Sedimentation plan is deemed consistent with the J.O.D.L/ Final Plan as proposed to the Maidencreek Township Board of Supervisors. All members voted, "Aye." Motion carried.

Willow Gardens Lot 133 Preliminary Plan - Tom Unger stated that the Maidencreek Township Planning Commission recommended granting waivers and preliminary plan approval to the Willow Gardens Lot 133 Preliminary Plan. The plan is for a two lot subdivision, annexation and donation of open space with a right of way to the Township. Gloria Kemmerer questioned if the Township should accept the open space based on the Park and Recreation Board's recommendation to take fee in lieu of open space. Roy Timpe felt that the access to the open space was needed especially when flooding occurred, since the access off of Route 73 might be the only way into that open space area.

A motion was made by Gloria Kemmerer, seconded by Robert Kopfer, to grant a waiver to Section 503.M3 and 505.A of the Maidencreek Township Subdivision and Land Development Ordinance for installation of sidewalks but agreed that a note should be placed on the plan that in the future, if the Board of Supervisors decides that sidewalks need to be installed along Spirit Court and/or Main Street, the lot owner, their heirs and assigns shall be responsible for the construction of the sidewalk in accordance with Township specifications. All members voted, "Aye." Motion carried.

A motion was made by Gloria Kemmerer, seconded by Robert Kopfer, to grant preliminary plan approval to the Willow Gardens Lot 133 Preliminary Plan conditional upon Systems Design Engineering, Inc's May 7, 2004 letter, changing the title of the plan from sketch to preliminary, Maidencreek Township Park and Recreation review, the addition of the standard annexation note on the plan indicating that all annexation recipients shall record their new deeds within 30 days of the plan recording or the annexation of their particular parcel is null and void and their deed must encompass one single tract, consent of the landowner(s) that they accept the annexation and a signature block on the plan for the annexation recipients.

Mr. Timpe asked for questions on the motion and Gloria Kemmerer suggested adding a condition that the right of way to be dedicated to the Township should be cleared before the Township accepts it.

A motion was made by Roy Timpe, seconded by Gloria Kemmerer, to amend the motion to add the condition that the developer shall clear the proposed Township right of way of trees and brush to make it navigable for tractors before the Township accepts the right of way. All members voted, "Aye," on the amendment to the motion. Motion carried. All members voted, "Aye," on the motion granting conditional preliminary plan approval. Motion carried.

A motion was made by Gloria Kemmerer, seconded by Robert Kopfer, to authorize the Chairman to sign the Planning Module Exemption for the Willow Gardens Lot 133 Subdivision Plan. All members voted, "Aye." Motion carried.

Mushroom Freight Terminal Preliminary Plan - Tom Unger stated that the Maidencreek Township Planning Commission recommended granting waivers and preliminary plan approval to the Mushroom Freight Terminal Preliminary Plan with four conditions outlined in Systems Design Engineering, Inc.'s May 10,

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2004 letter. The plan is for a 78,120 square foot freight terminal with two 39,600 square foot future expansions. Gene Orlando stated that June Avenue will be cul de saced and Adele Avenue will not be completed as shown on the original Excelsior Industrial Park Plans. The developer will provide an indemnity agreement similar to the one that James Hardie provided for Emil Street. Roy Timpe questioned the wall that is proposed to be built in the floodplain and if it would reduce the area that currently stores water. Tom Unger stated that the developer must follow the Township's floodplain ordinance and demonstrate that they will not raise the level of water more than one foot. Gloria Kemmerer asked since the Erosion and Sedimentation Plan was not approved if it was possible that changes that the Conservation District requested could change the layout of the plan submitted to the Township for approval this evening. Tom Unger stated that usually the Conservation District requires additional controls but do not adversely affect what is planned. Tom Unger added that the details of the retaining wall would be required for final plan approval and the Township would not wait for the details until the building permit was pulled.

Gene Orlando stated that note 2 on the plan should be removed and notes 22, 23 and 24 should be modified as proposed in a letter dated May 6, 2004 received by Mr. Orlando from J.D. Krafczek.

A motion was made by Gloria Kemmerer, seconded by Robert Kopfer, to grant waivers from Section 513.F.1.e of the Maidencreek Township Subdivision and Land Development Ordinance (SALDO) which requires a geologic evaluation if a detention basin is underlain by limestone and from Section 513.F.2.b of the Maidencreek Township Subdivision and Land Development Ordinance(SALDO), which requires a low, flow channel in the bottom of the detention basin for the F & P Holding Company Mushroom Freight Terminal Preliminary Plan. All members voted, "Aye." Motion carried.

A motion was made by Gloria Kemmerer, seconded by Robert Kopfer, to agree that note 2 should be removed from the plan and notes 22, 23 and 24 should be modified as indicated in the May 6, 2004 letter from J.D. Krafczek. All members voted, "Aye." Motion carried.

A motion was made by Gloria Kemmerer, seconded by Robert Kopfer, to grant preliminary plan approval to the F & P Holding Company Mushroom Freight Terminal Preliminary Plan contingent upon Systems Design Engineering, Inc.'s May 10, 2004 letter, Maidencreek Township Authority review and approval, the placement of the Maidencreek Township Authority signature block on the final plans, review and approval of the Erosion and Sediment Control Plan, modification of Notes 22, 23, and 24 on the plan as modified in the May 6, 2004 letter from J.D. Krafczek to Eugene Orlando, removal of note 2, and the execution and delivery to the Township of the indemnity agreement by the developer in regards to Adele Avenue.

Roy Timpe asked for comment on the motion and Larry Kunkel of 5 Lake Shore Drive, Fleetwood asked if there would be noise from the refrigeration units and the trucks and suggested that the Board place a note on the plan stating that if there are any problems with the neighbors, the owner of the freight terminal would take care of the problem right away. Mr. Kunkel stated that the lights and noise from the freight terminal could bother the residents and it shouldn't be put right beside of homes. Gene Orlando answered that the Township could not enforce the type of note that Mr. Kunkel was suggesting and the plan complies with existing ordinances. The zoning in this area to put residential beside an industrial park was decided 30 years ago.

Hearing no more questions on the motion, all members voted, "Aye." Motion carried.

Farm 4 Preliminary Plan - Tom Unger stated that the Maidencreek Township Planning Commission recommended granting preliminary plan approval to the Farm 4 Preliminary Plan with conditions. Greg Bogia of Stackhouse Bensinger stated that the mushroom houses abut a residential use, and the developer has buffered the property line with two rows of evergreens. Mr. Bogia presented renderings of what the

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buildings would look like. Dave Carroll of DiGiorgio Mushroom explained the mushroom growing process and the fact that there will not be any pasteurization in the beginning of the process. The pasteurization process is what causes the odor associated with mushroom farming.

A motion was made by Gloria Kemmerer, seconded by Robert Kopfer, to grant preliminary plan approval to the DiGiorgio Mushroom Farm 4 Preliminary Land Development Plan conditional upon Systems Design Engineering, Inc.'s May 7, 2004 review letter, that the existing parcels be combined on one deed to provide access through other lands belonging to the owner and a note placed on the plan reflecting this, elimination of Note 2 on the plan, correction of discrepancy between the storm water report and the Erosion and Sedimentation Plan and a note added to the plan that is satisfactory to the Township and developer stating that the development of the property is consistent with the testimony and findings of the special exception hearing held on December 22, 2003. All members voted, "Aye." Motion carried.

Projects

TreeTops Tot Lot - Mr. Unger reported that the contractor of the TreeTops Tot Lot is working on the outstanding items.

Act 537 Plan – Mr. Unger stated that a review was received from the Berks County Planning Commission of Maidencreek Township's Act 537 Plan. The Berks County Planning Commission is not recommending approval unless the Township adds a section requiring mandatory pumping of on-lot septic systems. Previous Township Board of Supervisors did not want to put this in the ordinance. The Board received copies of the Pennsylvania Department of Environmental Protection model ordinance for on-lot sewage management, which requires pumping every three years and turning in the pumping receipts to the Township. The Board will review the model ordinance.

Lehigh Cement – Tom Unger stated that he had discussed the Lehigh Cement DEP permit application with Roger Kittering from the PA DEP. Mr. Kittering informed Mr. Unger that Lehigh Cement was currently involved in a trial to burn shredded wood, plastic and carpeting in their kilns. The permit modification would also allow them to burn paper waste, plastic derived material, wood, lumber, spent corn, dry sewage sludge and dry paper. PA DEP stated that emissions will not increase but in fact have less of an impact. The quality and amount of the emissions are regulated.

Cindy Stump, Evansville Road, Fleetwood stated that she had seen trucks driving back to the Cement Mill with municipal waste on the side and called the Township Building. Diane Hollenbach told her per Terry Manmiller that there was nothing to worry about. The trucks were carrying tires.

Larry Kunkel stated that he has inside information that the tires sit for months at Allentown Cement and suggested that the Board go in with the State Police.

The Board asked if the Secretary could contact representatives from Allentown Cement to attend the next meeting and answer questions. Questions proposed from the Board and audience were: how often and who would monitor the air quality, how long is the trial and when did it start, what will be done with the ash, how well do they know what they are burning, how can they tell what type of shredded plastic is being burned, and what is spent corn.

Subdivision Improvement Agreement and Letter of Credit/Escrow Release Letters

A motion was made by Gloria Kemmerer, seconded by Robert Kopfer, upon the recommendation of the engineer, to authorize the Chairman to sign the Letter of Credit and Escrow Release Letters in the amount of \$219,620.18. All members voted, "Aye." Motion carried.

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Operations Report

Gloria Kemmerer made a motion to accept the Operation Director's resignation effective immediately. The Solicitor asked that the Board hold off making any decisions until after executive session. The motion died for lack of a second.

Solicitor's Report

Zoning and Code Enforcement Officer - Gene Orlando reported that he had prepared resolutions for the Board's consideration to appoint Systems Design Engineering as the code enforcement and zoning officer or as the assistant code enforcement and zoning officer. Cindy Stump asked if Terry Manmiller's resignation was public knowledge, since Watkins Architects was in the audience. Roy Timpe stated that they were here to discuss the Uniform Construction Code.

Treetops Improvements Agreements

A motion was made by Robert Kopfer, seconded by Gloria Kemmerer, to authorize the Board to sign the improvements agreement for TreeTops Phase III Subdivision and Land Development Plan. All members voted, "Aye." Motion carried. The plans can be released for recording once the letter of credit has been delivered and all parties have signed the plan.

Village at Summit Crest – Mr. Orlando reported that the exhibits have been received for the agreement.

Recycling Contract

A motion was made by Robert Kopfer, seconded by Gloria Kemmerer, to authorize the Chairman to sign the recycling contract for service for 2003 and 2004 once it has been signed by Waste Management. All members voted, "Aye." Motion carried.

Executive Session 10:00 pm to 10:40 pm to discuss personnel

A motion was made by Gloria Kemmerer, seconded by Robert Kopfer, to approve Resolution 13-2004 appointing Systems Design Engineering, Inc. as the assistant zoning officer and code enforcement officer for 2004. All members voted, "Aye." Motion carried.

A motion was made by Gloria Kemmerer, seconded by Roy Timpe, to accept Terry Manmiller's resignation from Township service effective May 26, 2004. All members voted, "Aye." Motion carried.

A motion was made by Roy Timpe, seconded by Robert Kopfer, to authorize the secretary to pay Terry Manmiller for Comp Time accumulated in 2003. All members voted, "Aye." Motion carried.

A motion was made by Robert Kopfer, seconded by Gloria Kemmerer, to authorize the purchase of mower blades and a 5 gallon bucket of diesel oil. All members voted, "Aye." Motion carried.

A motion was made by Gloria Kemmerer, seconded by Robert Kopfer, to authorize Keith Shuman and Diane Hollenbach to purchase items up to \$100.00 per day provided that they agree the item needs to be purchased, items between \$100 and \$1000 can be purchased with the approval of one Board member and items over \$1,000 can be purchased only by calling a special meeting. All members voted, "Aye." Motion carried.

A motion was made by Gloria Kemmerer, seconded by Robert Kopfer, to offer summer employment to Michael Kelly at a rate of \$8.00 per hour. All members voted, "Aye." Motion carried.

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A motion was made by Robert Kopfer, seconded by Gloria Kemmerer, to authorize Keith Shuman to purchase 21 tools as listed not to exceed \$4,000.00. All members voted, "Aye." Motion carried. Roy Timpe recommended that a bottle of Argon for the welder be purchased and not rented as it cost about the same.

Larry Kunkel stated that someone should consider having the street light at Tom's Mini Market turned back on because the corner was dark since Tom's closes at midnight.

A motion was made by Gloria Kemmerer, to adjourn the May 13, 2004 regularly scheduled meeting of the Maidencreek Township Board of Supervisors. Roy Timpe adjourned the meeting at 10:55 P.M.

Diane Hollenbach, Recording Secretary – March 19, 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