

**Maidencreek Township Board of Supervisors Meeting Minutes
September 8, 2005, 7:00 P.M.**

Attending: Roy Timpe, Robert Kopfer, Claude Beaver, Tom Unger of Systems Design Engineering, Inc., Gene Orlando of Roland & Schlegel, Keith Shuman – Public Works Foreman, Diane Hollenbach – Recording Secretary

Guests: Scott Miller, Brian Focht, Ron Kemmerer, Gloria Kemmerer, Rick Kline, Steve Buck, Larry Gardner, David Carroll, Cindy Stump, Chris Bradley, Paul Martin, Jeff Biehn, Gloria Kline, Tina Poole, Marty Buck, Fay Isamoyer, Kyle Kemp, J. Schoellkopf, David Small

Roy Timpe called the September 8, 2005 meeting of the Maidencreek Township Board of Supervisors to order at 7:00 p.m. at the Maidencreek Township Municipal Building and asked everyone to rise for the Pledge of Allegiance to the Flag.

Police Report

Officer Hobart of the Northern Berks Regional Police read the August Police Report. In August of 2005, the police department had 889.6 patrol hours in Maidencreek Township covering 6717.68 miles resulting in 315 assignments and generating \$3,364.06 in citations. Fay Isamoyer of Evansville Road, Fleetwood inquired if there was any information regarding the semiautomatic gunshots she heard on her property. Officer Hobart stated that the officers on duty could not determine where the shots had come from or where they had hit. It is not uncommon for Lehigh Cement to shoot at cement to break it up and this is one theory. Bob Kopfer confirmed that the Cement Mill sometimes shoots at cement clinkers.

Public Comment

Gloria Kemmerer, East Wesner Road, Blandon read the following statement for the record.

My name is Gloria Kemmerer, 323 East Wesner Road, Blandon, former Maidencreek Township Supervisor. I would like to address the content of the most recent Maidencreek Township Community Newsletter, specifically the front page article written by Roy Timpe, entitled "A Word from the Chairman".

Back in April when I was still a Supervisor, the Township Secretary, who is the editor of the Newsletter, notified ALL, and I do emphasize ALL the candidates who were running for Township offices in the Spring Primary, asking them to prepare a short bio for the Newsletter, writing 2 to 3 paragraphs about themselves, their interests, their accomplishments and their goals if elected. Roy Timpe, candidate for re-election for Township Supervisors, felt that this was campaigning and that the Township Newsletter was not an appropriate place for it, which he has said both publicly and on his website.

The Township Secretary, because of Roy's opposition, responded that she would not follow through with her idea, but would put news from other Township Boards into the Newsletter instead. That caused Roy to again contact the Township Secretary, warning her that, and I quote, "The other departments had better not include an article by a candidate discussing planning commission i.e. no thinly veiled campaigning." End quote. What Roy was telling the secretary was that his opponent, Joe Rudderow, who served on the Planning Commission at that time, had

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better not write any kind of article for the Newsletter, even if it was about the work of the Planning Commission.

Well apparently Mr. Timpe's viewpoint has changed radically since the Spring Primary because in the August 2005 Fall Issue #41 of the Township Newsletter, Roy Timpe wrote a six paragraph article in spite of the fact that he is still a candidate for the Supervisor's position in the upcoming General Election. While part of Mr. Timpe's article informed the residents of my resignation and Claude Beaver's appointment, and gave a lesson on Second Class Township government, it was also an article in which Mr. Timpe clearly put forth his own personal political viewpoints.

Even though Mr. Timpe's name will appear on both the Republican and Democrat ballots in the November General Election, it doesn't mean that the election has been decided, since anyone, Republican, Democrat, or Independent, can run a write-in campaign against him. Therefore, I find it extremely offensive and hypocritical for Roy Timpe to have taken what I perceive to be unfair advantage to put forth his theory of government in the Township Newsletter just two months before the election, especially because he did not allow the same privilege to be afforded to anyone else who might have wished to voice their political viewpoints in the past. I consider this to be a very serious breach of public trust and misuse of public funds, therefore I would like my entire statement to appear as part of the public record. Thank you.

Gloria Kemmerer asked Roy Timpe if he had a response. Mr. Timpe stated that he did not feel that he was campaigning and the article is what it is.

Minutes

A motion was made by Claude Beaver, seconded by Robert Kopfer, to approve the August 11, 2005 minutes of the Maidencreek Township Board of Supervisor's meeting as presented. All members voted, "Aye." Motion carried.

Engineer's Report

Tom Unger of Systems Design Engineering reviewed the subdivisions' status with the Board. The Esbenshade Land Development Plan and Maidencreek Shopping Center Land Development Plan will expire on September 20, 2005. If no action is taken, the plans will have to be rejected unless a time extension is received.

All Letters of Credit are current.

David Small Self Storage Land Development Plan

Mr. Unger stated that the plan is before the Board for approval of two waivers and preliminary plan approval.

A motion was made by Robert Kopfer, seconded by Claude Beaver, to grant a waiver to the following sections of the Maidencreek Township Subdivision and Land Development Ordinance for the David Small Self Storage Facility Land Development Plan: section 301 plan scale and section 513.D.3 stormwater pipe diameter where it doesn't affect the township right of way. All members voted, "Aye." Motion carried.

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A motion was made by Robert Kopfer, seconded by Claude Beaver, to grant conditional preliminary plan approval to the David Small Self Storage Facility Land Development Plan conditional upon the items in the September 2, 2005 Systems Design Engineering review letter which include: approval of a lighting plan by the Township's lighting consultant, E & S plan approval, submittal of all pertinent BMP design documentation for Township review, anti seep collar locations shown on the plan and swale construction details shown on the plan. All members voted, "Aye." Motion carried.

Esbenshades Land Development Plan – tabled

Village at Summit Crest Subdivision and Land Development Plan

Scott Miller and Chris Bradley asked for action on the 11 waiver requests for the Village at Summit Crest Phase 3. Tom Unger advised the Board against granting the waivers, since the plan still needed to go to the Zoning Hearing Board for a special exception and there is still a lot of engineering to do on the plan. Mr. Unger questioned if the Zoning Hearing Board might get the wrong message if the waivers were approved before the Zoning Hearing Board decided if the use was allowed for the site. Scott Miller, consultant for Village at Summit Crest 3, stated that the developer needs to know if this is a viable project. Tom Unger suggested that the Board could tell the Developer how they felt but not vote on the waivers. Mr. Unger added that this was the cost of doing business for a developer and the Board will lose their power to negotiate to get the best plan if they approve the waivers now. The Board of Supervisors decided to entertain the only the 6 design waivers for the project. Claude Beaver stated that he felt this plan was a conflict of interest for him, since he lived across the street from it and abstained from all votes on the Village at Summit Crest 3. Gene Orlando stated that if the Board is inclined to grant waivers, they should make them conditional upon the plan receiving preliminary plan approval, final and unappealable approval from the Zoning Hearing Board and without prejudice for the right to fully review the plan. Tina Poole asked the Board if they would ask for Tom Unger's comments on the waivers.

Waiver for Road Right of Way

A motion was made by Robert Kopfer, seconded by Roy Timpe, to waive section 503.B.2.b of the Maidencreek Township Subdivision and Land Development Ordinance for the Village at Summit Crest Phase 3 Subdivision and Land Development Plan to allow the right of way width to be less than 53 feet conditional upon the plan receiving preliminary plan approval, final and unappealable approval from the Zoning Hearing Board and without prejudice for the right to fully review the plan.

Roy Timpe asked Tom Unger for his recommendation and Mr. Unger stated that the Township can work with the narrower road. Roy Timpe and Bob Kopfer voted, "Aye." Claude Beaver abstained. Motion carried.

Waiver for 12 Percent Street Grade, Cul de Sac Longer than 500 feet and Single Access Street as a Dead End Street

Tom Unger stated that these waivers will all have implications to the health, safety and welfare of the citizens if emergency vehicles can not access them. Scott Miller responded that

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this waiver has been granted in the past and Chris Bradley added that the 12 percent grade is needed in order not to have to chop off the top of the hill. Roy Timpe asked the plan be sent to the fire chief. Chris Bradley stated that wherever there is a health and safety issue, he will make it work.

A motion was made by Robert Kopfer, seconded by Roy Timpe, to waive the following sections of the Maidencreek Township Subdivision and Land Development Ordinance for the Village at Summit Crest Phase 3 Subdivision and Land Development Plan: section 503D.2.a to allow a 12 % street grade, section 503.J.1 to allow a single access street longer than 500 feet and more then 20 residential units and section 503.J.5 to allow a dead end street conditional upon the plan receiving preliminary plan approval, final and unappealable approval from the Zoning Hearing Board and without prejudice for the right to fully review the plan. Roy Timpe and Bob Kopfer voted, "Aye." Claude Beaver abstained. Motion carried.

Private Driveways Not to Exceed 7 % Slope

Tom Unger stated that he did not think that this waiver should be open ended and that the maximum grade and the units it will apply to should be included in whatever motion the Board will make. Mr. Unger expressed his concern that the stormwater will sheet onto the road with the steeper grade causing icy conditions in cold weather.

A motion was made by Robert Kopfer, seconded by Roy Timpe, to waive section 504.B of the Maidencreek Township Subdivision and Land Development Ordinance for the Village at Summit Crest Phase 3 Subdivision and Land Development Plan to allow the driveways of units 5 through 22 not to exceed 10 percent grade provided that there won't be a health, safety and welfare issue with icing conditions on the roadways and conditional upon the plan receiving preliminary plan approval, final and unappealable approval from the Zoning Hearing Board and without prejudice for the right to fully review the plan. Roy Timpe and Bob Kopfer voted, "Aye." Claude Beaver abstained. Motion carried.

Side Yard Setbacks

A motion was made by Robert Kopfer, seconded by Roy Timpe, to waive section 601.B of the Maidencreek Township Subdivision and Land Development Ordinance for the Village at Summit Crest Phase 3 Subdivision and Land Development Plan to allow 10 foot side yard setbacks with a maximum of 87 units, 1 community center and 1 existing dwelling in the Village at Summit Crest Phase 3 conditional upon the plan receiving preliminary plan approval, final and unappealable approval from the Zoning Hearing Board and without prejudice for the right to fully review the plan. Roy Timpe and Bob Kopfer voted, "Aye." Claude Beaver abstained. Motion carried.

Maidencreek Shopping Center

A motion was made by Claude Beaver, seconded by Robert Kopfer, upon the Township engineer's review and approval of the submitted plans, authorized the Chairman to sign a resolution to be sent to PennDOT to review plans for the addition of a left turn lane on Park Road at Golden Drive for the Maidencreek Shopping Center. All members voted, "Aye." Motion carried.

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A motion was made by Claude Beaver, seconded by Robert Kopfer, to grant preliminary plan approval to the Maidencreek Shopping Center Land Development Plan conditional upon the September 2, 2005 Systems Design Engineering review letter which includes: approval of a Lighting Plan by the Township's lighting consultant, Maidencreek Township Authority review and approval, DEP planning module approval, Berks County Conservation District approval of the E & S plan and NPDES updates, resolution of drainage infiltration issues, satisfaction of water quality requirements, appropriate drainage easements and maintenance agreements and retaining wall detail. All members voted, "Aye." Motion carried.

Mid Atlantic Energy Concepts - tabled

Esbenshades Land Development Plan

A motion was made by Claude Beaver, seconded by Robert Kopfer, to reject the Esbenshades Land Development plan based upon the items outlined in the September 2, 2005 Systems Design Engineering review letter unless a letter granting a time extension is received by September 20, 2005. All members voted, "Aye." Motion carried.

PROJECTS

Zoning Ordinance Revision – Tom Unger stated that the revisions to the Zoning Ordinance was in process again.

Act 537 Plan, Phase 2 – SDE is preparing a response to the DEP letter.

Road Projects

A motion was made by Claude Beaver, seconded by Robert Kopfer, upon the recommendation of the engineer, to approve the payment of \$226,138.45 for Invoice 011095 from EJB Paving for the 2005 road work. All members voted, "Aye." Motion carried.

Stream Erosion in the Meadow – A meeting has been set up with Fish and Boat Commission for September 28th at 10 a.m.

Ontelaunee Heights Open Space – Mr. Unger stated that there are no resident's structures in the township owned land. Some landscaping is on the Township's land. Keith Shuman stated that the mowing concerns have been taken care of and the Township is now mowing all of its property. Mr. Shuman suggested installing a split rail fence at the corner to show where the neighbor's property is in the hope that people visiting the park will stay on Township land. The Board decided not to do anything.

Master Plan – Roy Timpe believed that Watkins Architects had all the information that they needed and will call them.

Subdivision Improvements Agreements and Letter of Credit Reductions

A motion was made by Robert Kopfer, seconded by Claude Beaver, to authorize the Chairman to sign the Subdivision Improvements Agreements and Letter of Credit reduction

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letters in the amount of \$2,759.66. All members voted, "Aye." Motion carried.

UCC Fee Structure – Mr. Unger stated that the plan review portion of the Township's Permit Fee Resolution is high and the Township is collecting more money than needed.

A motion was made by Claude Beaver, seconded by Robert Kopfer, to authorize the solicitor to create a resolution reducing the Nonresidential Plan Review Fee to 200.00 plus .05 per sq. ft. for every sq. foot over 2000 sq. feet and the Demolition, Renovation, Alteration Plan Review Fee to \$50.00 plus \$5.00 per \$1,000.00 of estimated cost. All members voted, "Aye." Motion carried.

Operation's Report

Line Painting – Keith Shuman stated that the line painting of Township Roads was moved to next week.

Guard Rail – A quote was obtained from Morgan Rail to move 200 feet of guard rail back a few feet from Ridge Road around the curve. The estimate was \$3,987.50 and most of the rail and posts would be reused. Bob Kopfer stated that the guard rail has been there a long while (15 years at least) and there hasn't been any problems. The buses go through there at least four times a day.

A motion was made by Claude Beaver, seconded by Robert Kopfer, to authorize Keith Shuman to talk to the bus drivers that use this road and see if there are any problems with the guard rail. All members voted, "Aye." Motion carried.

Fall Clean Up

A motion was made by Claude Beaver, seconded by Robert Kopfer, to authorize three road crew members to work on Saturday, September 10, 2005 during the Fall Clean Up. All members voted, "Aye." Motion carried.

Metal Supplies

A motion was made by Robert Kopfer, seconded by Claude Beaver, to authorize Keith Shuman to purchase \$250.00 of metal supplies for repair work. All members voted, "Aye." Motion carried.

Colonial Court Request for Yellow Line

A motion was made by Claude Beaver, seconded by Robert Kopfer, to authorize the engineer to look at the curve at 100 Colonial Court to see if a "No Parking" regulation in the Township traffic ordinance is needed. All members voted, "Aye." Motion carried.

David Saint – Keith Shuman let the Board know that David Saint was out of work due to a knee injury.

Treasurer's Report

A motion was made by Robert Kopfer, seconded by Claude Beaver, to approve the

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August 2005 Treasurer's Report and the August 2005 Prepaid Bill List. All members voted, "Aye." Motion carried.

Solicitor's Report

Acquisition of Railroad Property – Mr. Orlando stated that he worked on this and will discuss it further with the Board in executive session.

BioSolids

Mr. Orlando reported that he has reviewed the Exeter Township Ordinance regulating land application of sewage sludge and the Hydropress Decision of the Supreme Court and also the Second Class Township Code. In the Supreme Court's decision in the Hydropress case, the Justices were split in their decision: three felt that the Township had exceeded the balance of their authority, three Justices felt the ordinance was unconstitutional and was preempted by the DEP and one justice felt that the biosolid applicant had no case. The Second Class Township Code does allow the Township the ability to prohibit the accumulation of solid waste and other refuse. Mr. Orlando felt that the Township can permit and regulate the land application of sewage sludge and charge a reasonable fee to cover the amount it takes to administer the regulations. Mr. Orlando stated that this issue is not going away and there is a great deal at stake. The land application of sewage sludge is a permitted use of sludge by the Commonwealth of Pennsylvania. Township regulations should mirror DEP regulations and can not venture beyond them in any regard. The ability to regulate will be limited by human resources. Mr. Orlando could not promise that the Township won't be subject to litigation if the Board passes regulations. Being a major portion of the watershed for Lake Ontelaunee, the Township may want to consider an ordinance and also inquire if the City of Reading is interested in approaching the PA DEP for additional regulatory oversight in our area.

A motion was made by Claude Beaver, seconded by Robert Kopfer, to authorize the solicitor to contact the City of Reading and ask if they wish to jointly contact the PA DEP and request additional regulatory oversight in the Lake Ontelaunee watershed. All members voted, "Aye." Motion carried.

A motion was made by Robert Kopfer, seconded by Claude Beaver, authorizing the solicitor to complete his research into the land application of sewage sludge with the view towards drafting an ordinance. All members voted, "Aye" Motion carried.

Park and Recreation

Railroad Property Acquisition

Kyle Kemp of the Reading Bicycle Club urged the Board to acquire the abandoned railroad property and not let this opportunity pass by. Mr. Kemp stated that he had given Mr. Orlando's secretary contact names and phone numbers if the solicitor had questions on Muhlenberg's and Ontelaunee's offers.

Ontelaunee Heights Play Lot

A motion was made by Claude Beaver, seconded by Robert Kopfer, to authorize the

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engineer to work with Park and Recreation to create a plan for the Ontelaunee Heights Recreation Area. All members voted, "Aye." Motion carried.

Bus Trip To Peddlers Village

The Board of Supervisors asked what the purpose of a bus trip was to Peddler's Village. Diane Hollenbach stated that it was to supply a different type of recreation. Roy Timpe stated that he liked the idea that the trip paid for itself and no Township funds would be used. Gene Orlando stated that the Township will have liability up to the statutory amounts and was concerned about activities that go outside the Township's boundary lines. Mr. Timpe suggested that the Park and Rec Board see if the Lions Club or another organization wanted to sponsor the trip

A motion was made by Robert Kopfer, seconded by Claude Beaver, to take no action on approving the Peddler's Village bus trip. All members voted, "Aye." Motion carried.

Emergency Management

Claude Beaver stated that he would take the National Incident Management Systems Introductory Course at the Fire Training Center. The Board asked if Todd Bubbenmoyer was attending. The secretary did not know but had forwarded the information to him.

Motions

Paula Taylor's Proposal

A motion was made by Claude Beaver, seconded by Robert Kopfer, to authorize the secretary to send Ms. Taylor a thank you letter but reject her proposal to do a study of the small businesses and the land development process due to the fact that the benefits of the study do not warrant the cost at this time. All members voted, "Aye." Motion carried.

Substitute Crossing Guard – to be discussed in executive session

Sidewalk Installation

Mr. Unger stated that the Maidencreek Township Planning Commission recommended that sidewalks be installed throughout the Golden Manor III Commercial Area. There is now commercial activity and safety concerns as foot traffic increases now and in the future. Sidewalks are a requirement of the Subdivision Ordinance, but have been waived until the Board deems it necessary to put them in. With the addition of Lords and Ladies, Dollar General, the Maidencreek Shopping Center and the David Small Self Storage Facility in the very near future, the Planning Commission thinks that sidewalks should be installed.

Claude Beaver made a motion to have sidewalks installed in the Golden Manor III Commercial Subdivision per the Planning Commission letter. Robert Kopfer stated that he would not second that motion. Roy Timpe seconded the motion. Roy Timpe and Claude Beaver voted, "Aye." Robert Kopfer voted, "Nay." Motion carried.

A motion was made by Claude Beaver, seconded by Roy Timpe, to authorize the solicitor to prepare a resolution to notify the property owners in the Golden Manor III Commercial

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Subdivision that they have until August 31, 2006 to install sidewalks along their properties, in accordance with Township specifications. Claude Beaver and Roy Timpe voted, "Aye." Robert Kopfer Voted, "Nay." Motion carried.

Executive Session 9:48 p.m. to 11:10 p.m.

Railroad Property

A motion was made by Robert Kopfer, seconded by Claude Beaver, to authorize the solicitor to make a bid on the railroad property as discussed in executive session. All members voted, "Aye." Motion carried.

Substitute Crossing Guard

A motion was made by Robert Kopfer, seconded by Claude Beaver, to offer John Painter Sr. the position of substitute crossing guard. All members voted, "Aye." Motion carried.

Planning Commission Vacancy

A motion was made by Claude Beaver, seconded by Robert Kopfer, to authorize the secretary to advertise a special meeting of the Board of Supervisors on Thursday, September 22, 2005 at 8:00 p.m. the purpose of which is to fill Mr. Rudderow's position on the Planning Commission. All members voted, "Aye." Motion carried.

Since there was no further business, a motion was made by Robert Kopfer, seconded by Claude Beaver to adjourn the September 8, 2005 meeting of the Maidencreek Township Board of Supervisors. All members voted, "Aye." Motion carried. Meeting adjourned at 11:18 PM.

Transcribing Secretary

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 Hobough, 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