

Minutes of the September 28, 2004 Meeting

The meeting was called to order at 7:30 p.m. by Chairman Waybright. Present were all Supervisors Weikert and Gregor, Flo McLeish, Henry Heiser, Tim Knoebel, Mike Galassi, Mr. and Mrs. Edward Diephaus and Carol Detweiler from Windbriar Lane, Bob Sharrah, Jim Piet, Jim Paddock, Kim Patrono, John Murphy, Carl Bankert and a reporter from the EVENING SUN. Mr. Shealer, Mr. Bowling and Mrs. Merryman were absent. The meeting was tape recorded.

Mr. Gregor made a motion, seconded by Mr. Weikert and carried to approve the Minutes of the September 14 meeting.

Mr. Ed Diephaus, 160 Windbriar Lane, asked the Board why they would take action on the zoning map amendment while negotiations are still being made between their attorney and Mr. Sites' attorney. Mr. Gregor asked why the Supervisors would be privy to the information between the two parties' attorneys. Mr. Diephaus asked why the Supervisors are authorizing the intent to adopt knowing that there are residents who are very upset about the Windbriar Lane change. Chairman Waybright explained that the Supervisors held the public hearing, have received the transcript from the hearing and intend to make a decision by advertising the intent to adopt. Mr. Diephaus asked if the Supervisors would take action without knowing the use of the land. Chairman Waybright stated that a sketch plan did come in, but they will not know exactly what the use will be until a plan is formally submitted and approved. Mr. Heiser stated that what is on the agenda is the authorization for him to advertise and there are six parts, all of which, may or may not be advertised. Mr. Diephaus stated that he feels that, due to the controversy, the Supervisors are "ill-advised" to move ahead with the amendment until the sketch plan is in writing.

Mr. Kim Patrono stated that he is present to update the Supervisors on the water and sewer for the projects on Herr's Ridge Road. He reported that the Cumberland Township Authority has approved a Master Plan and the Gettysburg Municipal Authority is very close to approving their Master Plan. S & A Homes has agreed to the plans with the stipulation of a developer's agreement and a phasing plan. He added that all attorneys involved have developed a master developer's agreement for both Authorities. He stated that the design for the booster station has been completed and approved by S & A Homes and is being reviewed by GMA's engineer. He added that the 12" water line that will help everything up there, is very close to the cartway and they do not feel that the township wants the road torn up. He stated that he understands that there may be right-of-ways greater than the 33 ft. on Herr's Ridge Road. Mr. Sharrah asked if the proposed 50 ft. right-of-way is shown on the subdivision plan, does this mean that the township really has it. Mr. Heiser stated that he feels that if it has been recorded, the township does have it. Mr. Patrono stated that they need to know the width of the right-of-way. Mr. Knoebel stated that the information should come from the recorded plans, not the plans from the township office. Mr. Patrono will have someone research this further.

At 8:00 p.m., Chairman Waybright adjourned the meeting for an Executive Session to discuss a legal issue with the solicitor. Mr. Heiser stated that he can not be involved in regards to the map change for Windbriar Lane. The Supervisors asked Mr. Heiser for clarification on how they would be voting on the amendments, as a whole, or on each of the six amendments individually. Mr. Heiser stated that to do it separately, he would have to prepare six different ordinances. He stated that his advertisement will state that the Supervisors may adopt, not will adopt, and he feels that they can vote to approve all or any combination of the six amendments. Mr. Heiser also suggested that any information from the attorneys needs to get to the Supervisors. Chairman Waybright asked Mr. Heiser to join the Executive Session for an issue that does not involve Windbriar Lane.

At 8:15 p.m., Chairman Waybright reconvened the meeting.

Mr. Gregor made a motion to authorize the solicitor to advertise the Intent to Adopt the amendments to

the Zoning Ordinance as listed on the agenda on October 26, 2004, seconded by Mr. Weikert and carried.

Chairman Waybright reported that the township has received a letter from William F. Hill and Associates, on behalf of the **Greenmount Creamery**, requesting an extension for approval of their land development plan until December 1, 2004. **Mr. Gregor made a motion to approve the request for extension for the Greenmount Creamery until December 1, 2004, seconded by Mr. Weikert and carried.**

Ms. McLeish reported that she has met with the Eisenhower's insurance adjuster and he picked up the survey packet received from the ISO. She added that she does not believe that they understood how much work is involved in doing an ISO Survey when they asked the township to make the request. She added that if they are going to move forward with the survey, they will be hiring someone to do it.

Mr. Jim Paddock presented a sketch plan for a subdivision of his property on Fairfield Road. He added that he has presented his plan to the Planning Commission a couple of times. He stated that the property had been divided into two parcels while his father was still living. The proposal is to create four lots and he explained that he has to do a lot addition from the parcel on the north side of Fairfield Road to the parcel on the south side of Fairfield Road to have ten acre lots and avoid rollback taxes from Clean and Green. Chairman Waybright stated that the purpose of a sketch plan is to get a basic overview of what is proposed and not to get into the fine details because it costs money to have the engineer and attorney look at the plan. He added that everyone's tax money can't be spent on one individual's plan. Mr. Paddock asked if he can do the lot addition and the creation of the four lots in one submission. Mr. Knoebel stated that it can all be done on one plan since they own all of the property.

Chairman Waybright reported that Craig Tuckey wishes to replace a single-family dwelling in an MX District and the Zoning requires Conditional Use approval to do that. Ms. McLeish stated that the township needs three weeks to do the advertising and posting. **Mr. Gregor made a motion to schedule the Conditional Use hearing for Craig Tuckey on October 26, 2004 at 7:00 p.m., seconded by Weikert and carried.**

Chairman Waybright reported that a public hearing has to be scheduled for the cable tv franchise renewal. Ms. McLeish explained that the franchise agreement expires on December 31, 2004 and the township is going to have to file for an extension because it is going to take eight months to negotiate the new agreement. **Mr. Weikert made a motion to advertise for a public hearing on October 12, 2004 at 6:45 p.m. to take public comment on the cable tv franchise agreement, seconded by Mr. Gregor and carried.**

Mr. Sharrah reported that he has made a written request, on behalf of Martin Farm, LLC, for two waivers from requirements in the SALDO. The first being to Section 401.4.D which states that "no development may be located within fifty (50) feet of any identified wetland or water body". Mr. Sharrah stated that this requirement would preclude the use of any wetland encroachment permits routinely issued by PADEP and is vague because there is no definition of development or water body in the ordinance. The second waiver is to the requirement for cartway width of 32' in Section 402.2.A of the SALDO. The developer is requesting that a cartway width of 28' be permitted in the interest of preserving green space and minimizing impervious coverage and long term maintenance costs. Mr. Knoebel stated that he has no objection to the 28' cartway width provided that parking is limited to one side of the street. Mr. Weikert suggested that they look at the setback from the wetlands on a case by case basis. Mr. Sharrah stated that they will have a sewer line crossing a wetland and according to the ordinance, they are not able to do that. Mr. Knoebel agreed and suggested that they may want to interpret that to mean buildings, not utilities. Mr. Knoebel also stated that when the SALDO was written, the Army Corp of Engineers did not do what they do now, so it gave the township some leeway. He added that he does not feel that the Board can grant the waivers without the plan. Mr. Weikert noted that the Board has approved both requests for other developers in the past, so he does not see they would not do it again. Mr. Heiser stated that he feels that Mr. Sharrah has the guidance that he needs to prepare the plan based on what he has heard tonight.

Chairman Waybright reported that there is a “dangerous building” on Willoughby Run Road that the roof has caved in on. Ms. McLeish stated that Section 5 of the Dangerous Building Ordinance requires the Board to designate someone to determine if the building is indeed dangerous and report back to the Board. **Mr. Gregor made a motion to designate Tim Knoebel, township engineer, to make the determination regarding the dangerous building, seconded by Mr. Weikert and carried.**

Mr. Gregor made a motion, seconded by Mr. Weikert and carried to schedule Trick or Treat for the same night as Gettysburg Borough.

Ms. McLeish reported that when the Board approved to contract with Dan Cohen to negotiate the Cable TV franchise agreement, the rate was set at \$6,981.00 plus his expenses, based on five townships contracting together. She added that Hamiltonban was not in a position to renegotiate their agreement, so the fee now has to be based on four townships. The fee is based on the number of cable tv subscribers, and Cumberland Township has 52% of the total subscribers in the four townships. The new fee without Hamiltonban Township was \$7,699.50. She added that she was not happy with the additional charge, and she got Mr. Cohen to go back to the original amount that was agreed upon, plus \$250.00 for his expenses. She added that half of that fee is payable now, and the other half is payable when the franchise agreement is signed. This will include Ms. McLeish doing a little of the work, but not too much and she has negotiated three franchise agreements in the past.

Ms. McLeish also reported that the township has received a complaint from Elizabeth Manger at 470 Belmont Road concerning her driveway. Ms. McLeish explained that prior to the new overlay being placed on Belmont, the water would run around her driveway and now the water runs over her driveway. Ms. Manger is asking the township to install a pipe to carry this water because her car now scrapes and she is concerned about ice. Ms. McLeish reported that she explained to Ms. Manger that the township’s policy is the same as PennDOT’s and driveway pipes are the property owner’s responsibility. She added that she told Ms. Manger that the township would purchase the pipe at their cost and she could reimburse the township to save her some money. Ms. McLeish reported that Ms. Manger asked her to bring this before the Board for their decision. Chairman Waybright stated that he does not feel that the Board wants to change this policy.

The bills were paid. Expenditures for this meeting totaled \$41,672.42 from the General Fund.

There being no further business, the meeting was adjourned at 9:35 p.m. by motion of Mr. Gregor, seconded by Mr. Weikert and carried.