

## Minutes of the June 24, 2008 Meeting

The regular meeting was called to order at 7:30 p.m. by Chairman Gregor. Present were all Supervisors; Flo Ford, Carol Merryman, Chief Boehs, Tim Knoebel, Donald and Linda Yingling, Eric Vranich, Rick Klein, Randy Wright, Mike Galassi, Elizabeth Magner, Bernie Yannetti, Cheryl Hankey, several representatives from the Builder's Association of Adams County and Scot Pitzer from the Gettysburg Times. The meeting was tape-recorded.

Chairman Gregor reported that there were three Ordinances advertised to be adopted at 7:00 p.m.

### ORDINANCE 08-121

#### **AN ORDINANCE OF CUMBERLAND TOWNSHIP, ADAMS COUNTY, COMMONWEALTH OF PENNSYLVANIA, ESTABLISHING A TOWNSHIP POLICY PROHIBITING EXCESSIVE AND UNNECESSARY NOISE, PROVIDING EXCEPTIONS FOR EMERGENCIES AND SPECIAL EVENTS, AND PROVIDING FOR ENFORCEMENT AND PENALTIES FOR VIOLATIONS.**

Mr. Jim Williams, representing the Builder's Association of Adams County, stated that they felt that the Ordinance was too restrictive on construction activity by limiting them to the hours of 7:00 a.m. to 9:00 p.m. and asked that the Ordinance be changed to allow work to begin at 5:00 a.m. He stated that it is quite normal for contractors to start work at daylight due to numerous reasons including heat and job scheduling. He added that they did notice that certain activities are exempt including agriculture. Mr. Bob Crouthamel, contractor and resident, echoed Mr. Williams' comments and stated that this appears to be a nuisance Ordinance that will be difficult to enforce. He added that he feels that the Ordinance has a lot of gray areas and will place an unfair burden on their industry.

Ms. Elizabeth Magner asked if the Ordinance pertains to screaming children that she currently deals with every evening. Chief Boehs offered the department's assistance with her situation.

Mr. Mike Galassi stated that he does not feel that construction and agriculture equate and he does not feel that it is appropriate to inconvenience a group of residents by waking them at 5:00 a.m. because the contractor chooses to start at that time of the morning and there are very few other businesses that start at that time.

Mr. David Spaulding of SARAA, representing the Gettysburg Airport, reported that they had submitted a letter to the Township and stated he wanted to make sure that it was understood that the Ordinance does not apply to aircraft and airport noise because they are regulated by the FAA and EPA.

**Mr. Waybright made a motion to table the Noise Ordinance 08-121 and work on it a little more since some legitimate concerns were expressed this evening seconded by Mr. Shealer.**

Mr. Bernie Yannetti asked why the ordinance should be tabled after it has been written, reviewed and scrutinized when the concerns expressed by the contractors (which he understands because that is how they make a living) deals with enforcement and the purpose of having this ordinance is to have some discretion within the enforcement of the ordinance. He added that the Police Department is perfectly capable of determining what a nuisance is and what is just a random act and does not constitute a violation of the ordinance. He encouraged the Board to take action on the ordinance rather than tabling it.

A roll call vote was taken as follows: Mrs. Underwood – opposed, Mrs. Golden – opposed, Mr. Waybright – in favor, Mr. Shealer – in favor and Mr. Gregor – opposed. The motion did not carry.

**Mrs. Golden made a motion to adopt the Noise Ordinance 08-121, as written, seconded by Mrs. Underwood.**

Mrs. Golden stated that, being a businessperson herself, she understands the concerns, but everyone must understand that this ordinance is complaint driven. She added that if you are doing construction out in an open field and there is no one to complain then it will not be a problem, but if you are in an established neighborhood then there is a concern and it is the responsibility of this Board to look out for the neighbor as well as the contractor and the ordinance doesn't say that you can't do it, you just must do it within reasonable hours.

Mrs. Underwood stated that this ordinance is as a result of residents coming to the Board and requesting it. Some of these residents have lived beside campgrounds and some have been disturbed by construction noise early in the morning. She added that she feels that this can be worked around and that the township is changing and now has developments and the concerns of the residents have to be acknowledged.

Mr. Shealer stated that he is not opposed to a noise ordinance, but he does feel that there are areas in what is proposed that need a little more work.

A roll call vote was taken as follows: Mrs. Underwood – in favor of, Mrs. Golden – in favor of, Mr. Waybright – opposed, Mr. Shealer – opposed and Mr. Gregor – in favor of. The motion carried.

Chairman Gregor reported that the next two ordinances deal with the Police and Non-Uniformed Pension Plans and are necessary due to changes in the Internal Revenue Code.

**Mr. Shealer made a motion to adopt Ordinance 08-122 seconded by Mrs. Underwood and carried.**

#### **ORDINANCE 08-122**

**AN ORDINANCE OF CUMBERLAND TOWNSHIP RELATIVE TO THE ESTABLISHMENT AND MAINTENANCE OF THE POLICE EMPLOYEES PENSION, ANNUITY, INSURANCE AND BENEFIT FUND OR FUNDS, TO AMEND CERTAIN PROVISIONS OF THE PENSION PLAN OR PROGRAM APPLICABLE TO THE POLICE OF SAID TOWNSHIP.**

**Mrs. Underwood made a motion to adopt Ordinance 08-123 seconded by Mrs. Golden and carried.**

#### **ORDINANCE 08-123**

**AN ORDINANCE OF CUMBERLAND TOWNSHIP RELATIVE TO THE ESTABLISHMENT AND MAINTENANCE OF THE NON-UNIFORMED EMPLOYEES PENSION, ANNUITY, INSURANCE AND BENEFIT FUND OR FUNDS, TO AMEND CERTAIN PROVISIONS OF THE PENSION PLAN OR PROGRAM APPLICABLE TO THE NON-UNIFORMED EMPLOYEES OF SAID TOWNSHIP.**

**Mr. Shealer made a motion to approve the Minutes of the May 27, 2008 meeting, as written, seconded by Mrs. Underwood and carried.**

**Mr. Waybright made a motion to approve the bills list in the amount of \$79,811.88 from the General Fund seconded by Mr. Shealer and carried.**

Mr. Matt Sentz from Barlow VFD reported on the department's fund raising for the first half of the year which included 14 events. These 14 events were conducted by an average of 15 members who spent 1005 personnel hours working on them. He also reported that they have run 51 calls so far this year and 22 of them were run in Cumberland Township and 14 were run in Mt. Joy Township. Their overall average response time is 4:42 minutes and they are very proud of that and they average eleven people per call. The Board asked Mr. Sentz to express their thanks to the people at Barlow VFD.

Chief Boehs presented a written and oral report of police activities for the month of May including: 404 complaints, 147 traffic stops, 108 combined arrests and 11,235 patrol miles. He added that they assisted other departments 20 times and were assisted 2 times.

There was no Old Business on the agenda.

Chairman Gregor reported that the first item under new Business is a Resolution and a Petition to enforce the Noise Ordinance that was adopted at the beginning of the meeting. Mrs. Ford reported that the Resolution states that the township will be enforcing the Noise Ordinance for the Liquor Control Board. Mrs. Ford added that the Resolution has been reviewed by the Township's Solicitor and Chief of Police. **Mrs. Underwood made a motion to adopt Resolution 08-11 requesting an exemption from the Board that the Liquor Control Board's regulations regarding amplified music being heard off the premises for all licenses within an identified area in the municipality seconded by Mr. Waybright and carried. Mrs. Golden made a motion to approve a Petition for exemption from Liquor Control Board regulations regarding amplified music being heard off licensed premises seconded by Mrs. Underwood and carried.**

Mr. Knoebel reported that the township has received a third request from Cambridge Crossing to reduce their bond amount. He added that the township was awaiting confirmation from the developer that improvements within the PennDOT right-of-way have been bonded and they have. Mr. Knoebel has prepared a report dated June 24, 2008 which recommends the release of \$71,296.01, leaving a balance of \$274,803.08. He added that there are also two items that he is asking the developer for in this letter including a better spreadsheet and verification from the lending institution that the reductions are being made. **Mr. Waybright made a motion to approve the bond reduction, in the amount of \$71,296.01, leaving a balance of \$274,803.08 seconded by Mrs. Golden and carried.**

The next item on the agenda was the D & L Enterprises Preliminary Plan. Mr. Knoebel reported that this project is located at the intersection of Route 15 and Taneytown Road in the VMX district. The plan proposes to subdivide a 10.85 acre tract into 3 lots; two residential and one commercial. One residential lot is currently improved with a single-family dwelling and the other is improved with seven rental units. The remaining lot is proposed to be developed with three mini-storage units and associated outdoor parking and aisle drive areas. He also noted that the plan is pending under the prior SALDO. He added that there is one waiver requests and the additional comments should be conditions of the approval. **Mr. Waybright made a motion to grant a waiver to Section 504.3.C.13; Detention Basin bottom slope seconded by Mrs. Underwood and carried. Mr. Waybright also made a motion to approve the D & L Enterprises Preliminary Plan subject to the conditions stated in the June 18, 2008 letter from KPI being addressed seconded by Mr. Shealer and carried.**

Chairman Gregor asked Mr. Knoebel to address the Cumberland Crossings at the Links of Gettysburg Preliminary Plan. Mr. Knoebel reported that the plan proposes the creation of 43 condominium building lots on approximately 40.67 acres located on Swetland Road in the AR district. He added that the development will be served by public water and sewer from The Links development and the roads will be privately owned and maintained. Mr. Knoebel also reported that the plan was discussed at the workshop on Friday with the developer present and as a result, an amended letter dated June 24, 2008 has been prepared. He added that the amendment to the original letter was specifically that comment 6.b. has been expanded to indicate specific recommendations for improvements to Swetland Road including: photo-documenting the current condition of the road, maintaining the condition of the road, widening the road once 80% of the construction is complete, improving the sight distance at the intersection with Mason Dixon Road, assessment and replacement of culverts and bonding of the improvements. He also reported that there are three waiver requests which are largely the result of the developer's request to provide streets that are more similar to the streets in The Links development. The three waivers that are being requested are: the requirement to install concrete curbs (505), sidewalks (506) and 32 ft. wide streets (402.2). Mr. Knoebel reported that he and the Planning Commission support the granting of these waivers particularly because the roads are private. He added that if the township was ever asked to take dedication of the roads they could require that curbs and sidewalks be installed. Mr. Knoebel also reported that there are also some outside agency approvals required, revisions to the stormwater management and approval of a "Construction Drawing Set" prior to authorization for installation of improvements or site work. Mr. Waybright asked Matt Sentz how he felt about 28 ft. wide streets and Mr. Sentz said that it makes it difficult, but they will go on the grass and in the yards if needed. Mr. Randy Wright, applicant's engineer, reported that the sight distance at the intersection can be improved by clearing away of vegetation and there really isn't a bank there to be graded and Mr. Waybright agreed. Mr. Knoebel stated that comment 6.b.4 can be changed to read grading and/or removal of vegetation. Mr. Wright stated that he feels that the placing of the fire hydrants does comply with the township's requirements and offered to submit the plan to the Fire Department for their review. **Mrs. Golden made a motion to grant the waivers as stated in Mr. Knoebel's June 24, 2008 letter, items 2.a, 2.b and 2.c, seconded by Mr. Shealer and carried. Mr. Shealer made a motion to grant approval of the Cumberland Crossings at the Links Preliminary Plan subject to the conditions stated in KPI's memorandum dated June 24, 2008 seconded by Mrs. Underwood and carried.**

**Mr. Waybright made a motion seconded by Mrs. Underwood and carried to approve a Special Event permit for the Barlow VFD Carnival being held July 17, 2008 through July 19, 2008.**

The Board approved a fireworks display to be held at Allstar in conjunction with Bike Week on July 12, 2008.

**Mr. Shealer made a motion to approve a Certificate of Appropriateness for Rodney A. Corey, 40 Pin Oak Lane, for a single car garage. The motion was seconded by Mrs. Golden and carried.** HARB had also approved the application.

**Mr. Shealer made a motion seconded by Mr. Waybright and carried to approve a request for extension from Sharrah Design Group, Inc., on behalf of Wayne and Susan Hill, for approval of the Preserve at Plum Run plan until September 1, 2008.** Mr. Knoebel offered to contact the developer's representative for an update on what they are doing to address the outstanding comments.

**Mr. Shealer made a motion seconded by Mrs. Underwood and carried to approve a 90-day request for extension from St. Francis Xavier.** Approval of this plan will now be needed by October 4, 2008.

Mrs. Ford reported that PennDOT has placed another unfunded mandate on the township by requiring the completion of a new form TE-699 for the township's traffic signals. Mrs. Ford has a proposal from McMahon, the township's traffic engineers, to complete the forms for \$1,500.00. She added that the township has six months to get this done. **Mrs. Underwood made a motion to accept the proposal from McMahon for the TE-699 completion, in the amount of \$1,500.00, seconded by Mrs. Golden and carried.**

Mrs. Ford also reported that the County will be spraying for mosquitoes late Wednesday evening into Thursday.

The Zoning Officer and Assistant Secretary's reports were reviewed.

At 8:30 p.m., Chairman Gregor adjourned the meeting for an Executive Session to discuss a personnel issue.

At 8:49 p.m., Chairman Gregor reconvened the meeting.

**Being no further business, the meeting was adjourned at 8:50 p.m. by motion of Mr. Shealer, seconded by Mr. Waybright and carried.**

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Carol A. Merryman, Asst. Secretary

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