

WEST MANHEIM TOWNSHIP BOARD OF SUPERVISORS MEETING

Regular Meeting

Thursday, October 6, 2011
7:00 p.m.

The Regular Meeting of the West Manheim Township Board of Supervisors was held on the above date and time at the Municipal Building at 2412 Baltimore Pike.

The Meeting was called to Order by Chairman Hartlaub followed by the Pledge to the Flag and the Invocation.

ROLL CALL: Present were Supervisors Hartlaub, Woerner, Williams, Parr. Supervisor Gobrecht was absent. Also present were Solicitor Linus Fenicle, Mike Knouse of C. S. Davidson, Inc. and Manager Kevin Null.

Supervisor Hartlaub mentioned that an executive session was held prior to the start of the Regular Meeting to discuss legal issues.

RECOGNITION OF VISITORS: Visitor's Register Attached.

APPROVAL OF AGENDA: The Agenda was approved, in a motion by Supervisor Parr, seconded by Supervisor Williams and carried.

APPROVAL OF MINUTES: The Minutes of the Regular Meeting of September 1, 2011 and the Work Session Meeting of September 20, 2011 were tabled, in a motion by Supervisor Williams, seconded by Supervisor Parr and carried.

APPROVAL OF DISBURSEMENTS: The Disbursements for the Month of September, 2011, from all Funds, were approved as listed in a motion by Supervisor Woerner, seconded by Supervisor Williams and carried.

CORRESPONDENCE:

A. West Manheim Township Ponies Youth Football Organization

Supervisor Hartlaub reported the correspondence received from the West Manheim Township Ponies Youth Football Organization thanking the Township for their support.

RECREATION BOARD REPORT: Kevin Null, Township Manager reviewed the Rec Board report as submitted. The Rec. Board report was approved in a motion by Supervisor Williams, seconded by Supervisor Gobrecht, and carried.

SOLICITOR'S REPORT Solicitor Fenicle indicated that he had nothing to report other than what was listed on the Agenda.

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ENGINEER'S REPORT: Mike Knouse presented a written report of C. S. Davidson, Inc. dated October 6, 2011. Written copies were distributed to Supervisors and Staff (copy in Township files).

Mike Knouse, C.S. Davidson reviewed Item (2) E - Public Improvement Construction of the report. Members 1st Federal Credit Union – He said the Township is working to resolve the drainage issue and correspondence have been ongoing. Item (2) I - Sheetz, Inc. – The Township had received a security reduction letter and an inspection was done. There were items of correction noted during the inspection. The letter requested full release of the security. A punch list was sent to the Owner for correction prior to release of the security but they could request a partial reduction. They have not heard back at this time.

Mike Knouse, C.S. Davidson reviewed Item (3). - Construction Projects – A. 2011 Street Improvements.

Project #2 for Stewart & Tate, Inc. Seal and Chip Contract Change Order Final #3 in the amount of \$1,300.00.

In a motion by Supervisor Parr, seconded by Supervisor Williams and carried, the Board approved Change Order Final #3 in the amount of \$1,300.00 for Project #2 for Stewart & Tate, Inc. Seal and Chip Contract.

Project #2 Application for Payment #3 Final in the amount of \$1932.24.

In a motion by Supervisor Parr, seconded by Supervisor Williams, and carried, the Board approved Project #2 Application for Payment #3 Final in the amount of \$1932.24.

Contract #3 for the micro surface Contract Change Order #2 in the amount of \$900.00.

In a motion by Supervisor Parr, seconded by Supervisor Williams, and carried, the Board approved Contract #3 for the micro surface Contract Change Order #2 in the amount of \$900.00.

Application for Payment #3 Final in the amount \$2,995.16.

In a motion by Supervisor Parr, seconded by Supervisor Williams, and carried, the Board approved Application for Payment #3 Final in the amount of \$2,995.16.

Mike Knouse, C.S. Davidson reviewed Item (3). B - Area 2 & 3 Sanitary Sewer project the contractor Doli Construction has completed the remaining restoration of the final

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two damage claims, final payment may be made. Item (3).C - Community Park – Phase 2 & 3 Construction has halted due to the weather and the site is drying out and the contractor anticipates starting again next week. Tentatively the footers are scheduled to be poured at the end of next week. Contract Change Order #1 resulting from the direction of the York County Conservation District (YCCD), they required modification during the pre-construction meeting which provided additional silt fence.

Change Order #1 is submitted in the amount in the amount of \$4,962.50.

In a motion by Supervisor Gobrecht, seconded by Supervisor Williams, and carried, the Board approved Contract Change Order #1 in the amount of \$4,962.50. The project also includes Application for Payment #2 in the amount of \$39,650.49.

Application for Payment #2 for approval in the amount of \$39,650.49.

In a motion by Supervisor Gobrecht, seconded by Supervisor Williams, and carried, the Board approved Application for Payment #2 in the amount of \$39,650.49.

REPORTS: The Chief of Police Report for August, 2011 was approved in a motion by Supervisor Woerner, seconded by Supervisor Parr and carried.

The Treasurer's Report for August, 2011 was approved, as distributed, in a motion by Supervisor Gobrecht, seconded by Supervisor Woerner and carried.

The Code Enforcement Officer's Report for August, 2011, was accepted, as distributed, in a motion by Supervisor Gobrecht, seconded by Supervisor Woerner and carried.

The Public Works Report for August, 2011 was accepted in a motion by Supervisor Gobrecht, seconded by Supervisor Woerner and carried.

The Pleasant Hill Fire Company and Ambulance Reports for August, 2011 were accepted in a motion by Supervisor Gobrecht and seconded by Supervisor Woerner and carried.

The SEO Report for August, 2011 was approved and accepted in a motion by Supervisor Gobrecht, seconded by Supervisor Woerner and carried.

The Utilities Supervisor's Report for August, 2011 was accepted, as distributed, in a motion by Supervisor Gobrecht, seconded by Supervisor Woerner and carried.

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The EMA Activity Report for August, 2011 was approved and accepted in a motion by Supervisor Gobrecht and seconded by Supervisor Woerner and carried.

MANAGER'S REPORT: Kevin Null, Township Manager said Roadmaster Alan Ault has decided to retire and has submitted his notice. He will be retiring after 27 years as a Township employee effective October 21, 2011. He would like authorization from the Board to advertise for an Equipment Operator. In the interim Foreman Jeff Rummel will be handling the duties of the Roadmaster.

In a motion by Supervisor Williams, seconded by Supervisor Parr and carried the Board approved the request to advertise for an Equipment Operator.

Kevin Null, Township Manager reviewed the Manager's report as submitted to the Board.

Supervisor Woerner asked Manager Null if the State Aid-Pension Plan includes uniform and non-uniform.

Kevin Null, Township Manager said yes that is total.

Supervisor Woerner said his concern is whether they reduce their amount contributed. He wants to give this a second look. He said not only state and federal government but municipalities as well are reducing their contribution amounts that in several years could put the township in a bind.

Kevin Null, Township Manager said he is meeting with an investment advisor this month for updates.

In a motion by Supervisor Parr, seconded by Supervisor Williams and carried the Managers Report for August, 2011 was accepted, as distributed.

OLD BUSINESS: There was no Old Business to discuss.

NEW BUSINESS:

(A). Hemler Animal Control 2012 Contract Renewal

In a motion by Supervisor Gobrecht, seconded by Supervisor Parr and carried, the Board approved the Hemler Animal Control 2012 Contract renewal.

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- (B) Request from Hanover Fire Department for assistance with traffic control during the annual Halloween parade on Thursday October 27, 2011 (rain date Monday, October 31, 2011)

In a motion by Supervisor Williams, seconded by Supervisor Gobrecht and carried, the Board approved the request from Hanover Fire Department for assistance during the Halloween Parade.

- (C) Request to attend the York County Association of Townships of the Second Class – Invitation to attend the 95th Annual York County Convention on Thursday, November 10, 2011.

In a motion by Supervisor Gobrecht, seconded by Supervisor Woerner and carried, the Board approved the attendance at the York County Association of the Second Class 95th Annual Convention.

A. SUBDIVISION PLANS:

Benrus L. Stambaugh II, et al – 1 Lot Land Development Plan – Brunswick Dr. & Oak Hills Dr.

Harry McKean, New Age Associates was present to represent the Benrus Stambaugh plan. He said he received a letter from the Township that requested his presence to explain the circumstances on the current situation with the plan. Mr. McKean presented the background information on the project. They are making some new marketing attempts which is challenging given the current market. He said all they are asking the Board for is to salvage the engineering at this time. It does not make sense for them to move forward with final plans not knowing who the precise user may be. They would like to hold onto and keep active the engineering and other expenses they have invested into the project. He said the lack of moving forward was of no fault of theirs. The sewer issues are out of their control as well as the economy halting the project. He said they are currently actively promoting.

Supervisor Woerner asked if they had the sewer issues addressed.

Harry McKean, New Age Associates said they have had 50 plus EDU's. He said they were moving forward until the sewer issue with Penn Township.

Mike Knouse, C.S. Davidson said he would like to clarify that the owner had sewer capacity prior to filing the plan. As they were proceeding and went to file the Planning Module with DEP Penn Township went into moratorium and, therefore; they could not proceed through DEP's process which delayed the project.

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Supervisor Woerner asked what he thinks is keeping people from coming here.

Harry McKean said North Hanover. The North Hanover area is unique.

Supervisor Woerner asked if they found Wal-Mart somewhat of an appeal when approaching commercial businesses and properties.

Harry McKean, New Age Associates said sometimes it helps and sometimes it is a hindrance. They have other vendors that are looking at the area but in typical cases they compete with Wal-Mart. They have to find that unique blend that will take the step.

Supervisor Woerner asked if they had any plans for a restaurant.

Harry McKean, New Age Associates said not at this time.

The Board decided to grant a 90-day review time extension until January 6, 2012 pending receipt of an extension request letter to the Township on October 7, 2011. In a motion by Supervisor Woerner, seconded by Supervisor Gobrecht, and carried, the Board granted the 90 day extension.

Orchard Estates – Gobrecht – Shorbs Hill Rd. – 56 Lot Preliminary Plan

Carl Gobrecht said he has the same issue as the other developers. His family got involved with planning a land development plan and has spent a lot of money. He said as the economy hit and not having sewer it was not feasible for them to continue towards a final plan. He said they need to try to salvage at some point what has been invested. He does not understand why they are being forced to lose the money they have invested in the plan because the Township wants to clean up the paperwork. He still does not think there is sewer available.

Kevin Null, Township Manager said Penn Townships' sewer plan will be upgraded and coming on line soon. He said at that point they will have the opportunity to go back to Penn Township to see what is available. He said in the past there was no opportunity for EDU's but now there is an opportunity.

Carl Gobrecht said at this point he is requesting another 90 days.

In a motion by Supervisor Woerner, seconded by Supervisor Williams, and carried, the Board granted the 90 day extension until January 6, 2012.

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Homestead Acres, J.A. Myers, 134-lot Preliminary, Homestead Acres, 366-lot Preliminary

Linus Fenicle, Solicitor said the Zoning Hearing Board Attorney has 45 days to issue a written decision and at that point the Township will have to make a decision as to how they proceed on the larger development plan.

In a motion by Supervisor Woerner, seconded by Supervisor Williams, and carried, the Board granted a 90 day extension for the Homestead Acres, J.A. Myers, 134-lot

Preliminary Plan and the Homestead Acres, 366-lot Preliminary Plan until January 6, 2012.

Mike Knouse said the developer is moving forward and they have submitted revised plans on the 134 lot subdivision plan.

B. Appeal of Denial of Project - James Horak & Donald Yorlets, 6-lot Preliminary

Doug Barmoy, Hanover Land Services was present to represent the owner. He said they are present tonight to discuss the extension request submitted to the Township which was denied. He said according to a letter received from the Township they were requested to attend the Board of Supervisors meeting. He said they receive extension letters everyday but they did not look at the letter that way. The employee that entered the information into the computer did not see that it said to appear last month for the project. He is present tonight to have the Board of Supervisors rescind the denial of the plan. He went through everything in the letter and he met with the Township Engineer and the Township Manager to review the outstanding items. He also has developed a project schedule to submit to the Supervisors to show where the project stands and how they are going to proceed with the project. He said the major issue with the project is the sewer. The existing sewer is way off site from the project. The sewer planning module was also not allowed to go forward due to the sewer issues with Penn Township. He said the comments that are remaining are relatively minor in nature. The sediment control was done in the past but was never submitted due to the sewer issue. He said the sewer is the biggest issue at this time and has been from day one. He said Mr. Horak and Mr. Yorlets are willing to purchase the EDU's for the project, and they understand from talking to Penn Township that they will sign the sewer module, as long as EDU's are available through the Township. He said the project engineering is 95 percent complete and it would be a shame to throw out the project due to a technicality. He is asking the township to allow the project to continue as is and he is asking for their help. He said he takes responsibility because he is the owner of the company. He said the extension letter was overlooked from their office that was sent by the Township.

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Jim Horak, applicant said that he talks to Marty Hill on almost a weekly basis. The large 540 acre farm joins the northern boundary of the property. He said that he has a working agreement with Mr. Hill that he will give him an easement between two lots to hook up when he builds the streets. The delay at this time is the economy. He said when Joe Myers builds the houses on the northern side of Grandview Road, which Mr. Hill owns, and when those lots are used up he is then going to develop the area that joins his property. He said this is the best time frame he can provide. He said if the economy hadn't bombed the development would have happened two years ago.

Glenn Vaughn, Attorney, said he is representing the owners. He said what they are trying to do is to take a preliminary plan and bring it to preliminary plan approval stage. His clients the owner did not receive the letter and since the Township is dealing directly with the engineer the letter went to the engineer's office. He does not think that Mr. Horak and Mr. Yorlets want to suffer because of a clerical error. He said they have a schedule that has been drafted to take the plan to the preliminary approval stage. He said the items that need to be addressed are noted in the project schedule along with a time line the items will be completed. They have drafted a project schedule that includes that the EDU fees would be paid by October 14, 2011. The owners are intent on getting this done. Each of the objection items that have been addressed on the project schedule is in response to the rejection letter that was dated September 7, 2011. Essentially the plan is a good plan and there is no reason it should not be approved in a short amount of time. They are asking that the Supervisors grant them a 90 day extension like the other developments and address the other outstanding items.

Linus Fenicle, Solicitor said he would like to address what is happening. Mr. Vaughn did indicate he has filed a land use appeal to protect the owners' rights. He would suggest that this Board take this matter under advisement, review the letter and discuss it at the next worksession meeting especially since there has been a land use appeal filed. He would suggest it be reviewed and discuss during an Executive Session as a legal matter and go from there.

Glenn Vaughn, Attorney said he respects the alternative and he respects Attorney Fenicle. They would like to get started, buy the EDU's and get things moving according to the letter. He filed the appeal to protect the owner. It is a simple land use appeal and they don't need the courts to approve the appeal if the Supervisors grant the 90 day extension until January 6, 2012 they will withdraw the land use appeal right away. If the Supervisors would grant the 90 day extension the owner has nothing to appeal.

Linus Fenicle, Solicitor said the problem with that is the extension expired on September 1, 2011. The Supervisors can't grant an extension if it expired. The extension expired and the Board had to act.

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Doug Barmoy, Hanover Land Services said they submitted an extension for the project.

Linus Fenicle, Solicitor said the letter asked for an extension until October 6, 2011 but the Board granted the extension through September 1, 2011. He said to extend until now it leaves a 30 day gap.

Glenn Vaughn, Attorney said the extension could be granted retroactively. He does not know why it couldn't be granted because there is nothing in the code that states the Board couldn't if there is a mistake made. He is willing to accept Attorney Fenicle's solution. This could be negotiated which could be a settlement of the case. He said he is trying to get this done now.

Supervisor Woerner said originally the extension request was through October 5, 2011. The Supervisor extended the plan for 60 days, took action on the plan and denied the plan. He said there is no extension request now.

Glenn Vaughn, Attorney said the schedule is a 90 day extension request.

Supervisor Woerner said what is listed on the agenda is; Appeal of Denial of Project.

Glenn Vaughn, Attorney said he understands what is on the agenda, but he did not write the agenda. He said they wrote the schedule and it contemplates a 90 day extension from today.

Supervisor Woerner said worse case is they would have to resubmit the plan and go through the plan process.

Doug Barmoy, Hanover Land Services said it would have to go through the new Ordinance. He said it's a shame because the project is so far along.

Supervisor Woerner said everyone understands the economy is slow. The Board is trying to keep things moving along and receive an update. He said the Township sent a letter for someone to represent the plan, right or wrong he understands accidents happen but the Board took action on the information they had available at the meeting. He appreciates what they are trying to accomplish but they have to understand the Township is in a position that they took action and denied the plan, and they can't back off.

Doug Barmoy, Hanover Land Services said they can.

Supervisor Woerner said they are not going to set that precedence as a Board.

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Glenn Vaughn said the difference between this plan and other plans is the Engineer's clerk made a mistake.

Linus Fenicle, Solicitor said he is becoming concerned from a legal standpoint because there has been an appeal filed. The best way to handle this at this point and time is that they make sure things are done in accordance with the Ordinance, and the Municipal Planning Code, and with the land use appeal being filed he would suggest that this matter be discussed in Executive Session. He said he is concerned about further communications until the appeal and proposal is reviewed.

Supervisor Hartlaub said they would take it under advisement from the Solicitor.

C. ALL TO BE TABLED:

In a motion by Supervisor Williams and seconded by Supervisor Gobrecht, the Board tabled all the following plans: Joshua Hill Farm, 124-lot Preliminary, The Warner Farm, 15-lot Preliminary, Orchard Estates-Gobrecht, 58-lot Preliminary, Preserve at Codorus Creek IV (Marlee Hill), 79-lot Preliminary, Wyndsong Pointe-Phase II, 15-lot Final, Fuhrman Mill Heights, 1-lot, 34-units-Final Plan, Fox Run Village, 25-lot Final, Steeple Chase, 12-lot Final, Community Banks, Land Development Plan, 1-lot, Homestead Acres, J.A. Myers, 134-lot Preliminary, Benrus Stambaugh et al, Land Development Plan, Homestead Acres, 366-lot Preliminary. Motion carried.

SUPERVISORS AND/OR PUBLIC COMMENTS: Supervisor Woerner said PennDot has been out to trim the trees along Brunswick Drive

Harold Coldren said he wanted the Board to know he has helped organize an organization called the West Manheim Township Heritage Committee who is working on the history of the Township. They have held two meetings and have about twenty people interested. He said the next meeting will be held at the Hoffman House in West Manheim Township on November 1, 2011 at 4:00 p.m.

Chief Hippensteel announced that he would like to recognize and honor Officer Edwin J. Schneider who has been with the West Manheim Township police department for 25 years. Chief Hippensteel provided a slide presentation for the audience. Chief Hippensteel and the Supervisors presented Schneider with a commemorative 25-year plaque.

NEXT SCHEDULED MEETINGS: Next Scheduled Meetings: Supervisors Work Session – Tuesday, September 20, 2011 at 7:00 p.m. with Supervisors Caucus at 6:00

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p.m. Supervisors Regular Meeting - Thursday, October 6, 2011 at 7:00 p.m. with Supervisors Caucus at 6:00 p.m.

ADJOURNMENT: The Meeting was adjourned at 8:35 p.m. in a motion by Supervisor Woerner, seconded by Supervisor Gobrecht and carried.

Respectfully submitted,

Laura Gately
Acting Secretary