

**EAST MANCHESTER TOWNSHIP
BOARD OF SUPERVISORS
MARCH 8, 2011**

Present: Chairman Steven H. Gross, Jr., Vice-Chairman David L. Naylor, Supervisor Barry E. Rudisill, Attorney Andrew Miller, Engineer Byron Trout, Secretary/Treasurer/Public Works Director Dave Gentzler, and Zoning & Codes Enforcement Officer Katrina Rife

At a regular meeting held at the township building, Steven H. Gross, Jr. called the meeting to order at 7:00pm.

The Pledge of Allegiance was given to the Flag of the United States of America.

Steven H. Gross, Jr. disclosed that since the 2/8/11 meeting, the Board has not met.

The minutes of 2/8/11 were accepted as presented per motion from David L. Naylor, seconded by Barry E. Rudisill and carried unanimously.

Public Comment

Joel Klinedinst appreciated the use of larger print for the agenda.

No Subdivision/Land development plans

Discussion on the Developer's Agreement and the Stormwater Agreement for the proposed CVS land development plan. Attorney Andrew Miller explained that the agreements are ready for Board's signature, which can be now or when plan is ready to be signed. Steven H. Gross, Jr. motioned to sign with final plan. Motion seconded by Barry E. Rudisill and carried unanimously.

Steven H. Gross, Jr. asked about the CVS demo. Katrina Rife has been contacted for a pre-construction site meeting on 3/14.

Special Request – Chestnut Valley lot 71

Eric Johnson, an engineer and his client Chad Ettline were present to inquire of potential subdivision of lot 71.

Eric – Chad was before the Planning Commission several months ago as well as this Board in briefing you on what he would like to do on the piece of property known as lot 71 in Chestnut Valley. We have authored a letter dated 2/3/11 regarding our proposal. In that letter we outline what we have on about the 13-acre tract of land adjacent to Wago Road and also has internal frontage on Cog Hill Way in the cul-de-sac. The way that is laid out with a large stormwater pond to the rear as well as the adjoining properties, and in the way the land lays, Mr. Ettline desires to situate his house and driveway over on another part of lot 71. I met with him in the Fall to go over that proposal and we did find one spot on Wago Road with enough sight distance to allow a driveway permit to be obtained from PennDOT. We thought that was crucial to make sure there was access off Wago Road because the way the large tract sits and its wooded nature, we agreed on the way he wanted to use that, I think that was panning out for people interested in this lot. He did not want to have a house here and have the remaining acreage. So what we wanted to look into as we started to meet with staff and go over some of the issues since our office wasn't the original engineer for the plan, we were told that there were some conditions stipulated to in the review of the final plan for Chestnut Valley that lot 71 would not be further subdivided. We did put in a request to see if someone signed for on behalf of the

developer for the project and we really didn't see a signed version of the conditions statement that went along with the final plan. From our standpoint, it's either here nor there, what Chad (he is not a developer) would like to do is live where I have outlined. But living there and having to do maintenance and mowing on this little area of lot 71, it just to me from a planning perspective, didn't make a whole lot of sense. We would like to discuss why that stipulation was even put down as a condition on the final plan. So our proposal is to subdivide this portion up here (*at cul-de-sac*) with the lot and stormpond area to today's standards, with the increased acreage and leave the residual piece as a lot that Mr. Ettline could build on down in the corner. We have talked with the Northeastern York County Sewer Authority.

Steven H. Gross, Jr. – now wait, I want to make sure I heard you correctly – you want to subdivide it, repeat what you just said. You want to subdivide and let the stormwater on that lot, is that what you just said.

Eric – Yes, we want to subdivide that off – we want to subdivide that frontage along Cog Hill Way, draw a line shown on the sketches, drawing a line from cul-de-sac down to Wago Road making sure the proper acreage is obtained. The services are there; the sewer and water a public internal street it is a natural that someone living over here would not want to come over and with the maintenance and snow removal on sidewalks, putting the sidewalks in, and knowing this little area here, to me just does not make good planning sense. So we would like to subdivide this off and leave the rest as one big contiguous piece. I don't think it could be further subdivided along Wago Road because of the limiting sight distance. We did find one spot that could issue a limited use permit on. And we think that from a sewer and water standpoint, we've got that covered. We would propose a grinder pump to come up through and access onto Riviera Street where the gravity sewer exists with a water line as well. In your sketch is a depiction of where he would like to put his driveway and house and we are here tonight to discuss that stipulation, that Chestnut Valley approval letter and see from a planning perspective what the concerns are and basically get your verbal blessing and from your staff if he should go forward or not. He is considering purchasing the property and want to do his due diligence and wants to know what his options would be.

Steven H. Gross, Jr. requested the Board see the larger drawing. The Board and Eric looked at the drawing and discussion was held.

Steven H. Gross, Jr. – I am more worried about what you said with your subdividing and letting the stormwater pond on lot 71, which was what my concern was, because one of the reasons this lot is so large is because of them putting the pond on and the other reason is when the original developer did this development he didn't want access on Wago Road because he didn't want to improve it. Now you want access from Wago Road and we have no improvements and I'll be honest, that really concerns me.

Eric – Again, what we are proposing is one driveway from Wago Road.

Steven H. Gross, Jr. – Yeah, but 5 years from now Mr. Ettline might want another lot there or something. This concerns me.

Eric – If he would purchase the property and stipulate no further subdivision.

Steven H. Gross, Jr. – That's what we thought was stipulated here. And I believe the Planning Commission didn't approve this when he was here before. I haven't heard anyone other than you and Mr. Ettline say this is a wonderful idea, please let us do it. That really concerns me.

Eric – I wasn't the past engineer on the project to have been here through the meetings and consultant on it.

Steven H. Gross, Jr. – We don't want to go back 5 years of history but the developer of this lot had a lot of issues with this development and the final thing here was a give and take on both sides. I did some research – he got some additional lots up in the development where he originally was to let a road access into the golf course and some other things, but this was a give and take. And I am also very concerned that this is part of phase 4 where it's also expected that people already who live in phase 4 when they bought their lots that they were told that this was a big open lot and it was going to stay that way. That has already been part of the marketing; there are already residents who live in that community who understand that it is going to be something different than what you are proposing now, so I am very concerned about this.

Eric – Again, Mr. Ettline who is an outdoorsman, hunter-type; he's not going to develop anything has no desire to that and would most likely stipulate that to the Township if that were the concern of further development. This was not, to my knowledge any recreation or open space to the development. This was going to be property owned by lot 71, so what we are asking to do is not. Maybe down the road somewhere there will be a house right where you approved it but we are saying for the remaining 13 acres we want to put one house over here on the driveway so he can purchase and not be burdened with this smaller area here it is just not from a planning perspective make good sense. As long as he would be willing to say I'll stipulate and agree to a note, otherwise and tag it to doing road improvements to Wago Road if he ever was to further subdivide or just say one driveway here and be done with it. Then put a planning note on there for no further subdivision unless Wago Road is brought up to Township standards. For my knowledge and working extensively with this road there is no other place to get an access out safely and meet PennDOT sight distance.

Steven H. Gross, Jr. – Bryon, your engineering firm overlooked all this from the beginning, what are your thoughts if they subdivide this now?

Byron Trout – I did look at where the sight distance brought out for their driveway. I have to concur with what you said earlier with the recollection of with Mr. Bashore picking up additional lots when they did revision to phase 4 and with the note not to be further developed. I see where they have their line and one of my comments just looking at this is that whole discharge area must be on one lot. This would be cutting off part of the stormwater on 2 lots, which we don't allow. I agree also with you Steve as to what you said about the improvements to Wago Road. We waived the improvements to Wago Road for this lot.

Eric – We certainly can make that amendment to the lot line and make sure it's all on there. From my little bit of research, the HOA would still do the maintenance on that pond on the very same easement they had before. It just a matter or we would certainly stipulate no further subdivision without Wago Road being brought up to standards.

Barry E. Rudisill – I am not sure I am understanding or hearing what you are saying. This lot exists as it exists due to bartering between the Township and the developer to give him additional lots in phase 4

Eric – what do you mean by additional lots?

Barry E. Rudisill – Well, there was some and I can't give you the details right now because it is history and the developer has done some bartering with the Township to get a it was so he got some benefit in phase. So I'm certain that neither the Township nor the developer would be interested in backing up and revisiting the approval for phase 4. So I'm saying that I don't think that what you are proposing is going to fly. I think it is pretty simple, we are not interested and I am speaking for myself, I can't speak for the other 2 Supervisors, but I do not believe we are interested in backing up here. It was approved as you see it and I suspect that's where it's going to be.

Eric – I did have one conversation briefly with the developer to get a little more history and he indicated and to reiterate to you and Chad can swear he is not selling for any more; he is not going to make money off this. In the back of my mind you may be thinking you are not getting your fair shake on it, so he just reiterated.

Steven H. Gross, Jr. – no, that has nothing to do with it, we don't care what your selling it for, you shouldn't bring that up. I'd be insulted if I were you, Barry. Let me finish, since you brought up money, this is about money, but it is on your end. You guys want to subdivide and sell that lot because he just stated that you are going to buy this lot whether you can subdivide it or not. And now, its has been stated by your client at a previous meeting that he wanted to sell that lot off to recoup some of his costs. So yes, it does come down to money on your end. We were happy with the thing the way it was it what I think you hear him saying and I'm going to be honest I am not in favor of you doing this, it really concerns me. You want to put your house there keep that lot with the original plan.

Eric – From a planning perspective, I don't know what all was discussed, what was bartered, where that all comes into play, but if Mr. Ettline would agree that he will bring Wago Road up to complete standards if he would ever knock on the door to subdivide that lot, would that not be an assurance?

Steven H. Gross, Jr. – I'll tell you for me right now there isn't one thing you are going to tell me that is going to make me change my mind. There is the lot, if you want to put your house there, great, you know the conditions going in. Welcome to the community, I hope you have a nice house. I own ground right across from you there. So welcome, this request was decided before

Eric – So if it snows or the grass grows here

Steven H. Gross, Jr. – We all have responsibilities with the things we own.

Eric – So we would drive around and mow and clear sidewalk

Steven H. Gross, Jr. – You know that going in.

Eric – I'm sensing there's some bad blood or something

Steven H. Gross, Jr. – no I don't have any bad blood, welcome to the community. I want to add one thing you've been to planning and I have the minutes somewhere from planning, I believe even Mr. Rentzel suggested that you may want to look at doing something else. The Planning Commission didn't recommend it. Is that correct?

Bob – One thing we added it goes back pretty far and we are relying on our memory but Chestnut Valley phase 4 is the only phase that has a HOA, correct? And the HOA has part of that responsibility of that lot, so from the Planning Commission, we can't answer on that, it is between attorneys. Can that be broken as far as the Home Owner's Association regarding that lot?

Eric – I did contact the developer in that regard and they still have voting control on the HOA. So they would amend the documents and your solicitor would review them even if this lot was struck down and put it on a separate document, it would still do the same.

Bob – There are people already lining in phase 4. They bought including that whole lot realizing a certain responsibility with that whole acreage.

Eric – Actually not, lot 71 would still be fee simple ownership, the house was going to be situated up on Cog Hill Way.

Bob – But there is some kind of easement on there. I don't remember all the details, but I do know it is part of the HOA and I do know there are stormwater easements on there, so it is something the Planning Commission couldn't actually unravel and we don't have the authority to do that.

Attorney Andrew Miller – I think, Bob, what you are talking about is the stormwater improvements are designated as common elements under the homeowner's documents which means the association has an easement over them and has an obligation to maintain them and everyone pays for that maintenance. The concern in HOA documents is that there would have been a declaration and there would have also been potentially a public offering statement to purchasers identifying various parts of the HOA. I am not exactly, this goes back quite awhile, so I'm not sure exactly how this was set up. If either of those documents set out a maximum number of units; that may be a problem if you exceed that. I don't know if they did. Many times they leave a little bit of cushion in those numbers, there is no requirement what they set. I think it would take amending the documents and would take consent of the HOA whether or not they could get that while in the declarant's and control, I have no way to know that.

Eric – Chad provided this letter to formalize it is just written documentation from the HOA saying that they have no problem.

Steven H. Gross, Jr. – That's from the property management company, I read that letter, it doesn't say they represent the HOA, does it Andy?

Attorney Andrew Miller – no it doesn't

Steven H. Gross, Jr. – I think you might have been lead to believe and that you are misrepresenting that document. I'll reiterate, again, there are already people lining in phase 4 who are concerned about this and what they have bought into.

Eric – They have no rights to go onto lot 71.

Steven H. Gross, Jr. – And you have 1 house right on lot 71 and I am not hearing anyone say you cannot utilize your house right. So what you want to do is take lot 71 and make 2 lots out of it and I am hearing there is a lot of concern about that. And you brought up the financial; the only person that financial comes to then is Mr. Ettline who you are representing. So that sums it up in a nutshell pretty quick. Does anyone want to make a motion to vote?

Eric – If I could interrupt real quick, from a legal and engineering standpoint and with your hired help here, do you see any concerns if it wasn't for this condition statement and as I'd open up my remarks we never found where the applicant signed that and the previous engineer represented. We made a request for the record, but we just never found a signed statement saying we agree with what we are talking about tonight.

Attorney Andrew Miller – For one thing that conditional approval letter clearly states and the Township ordinance clearly states that a letter not signed is a rejection of the plan. I don't think that is a practical outcome here.

Eric – But they have recorded the plan and sold numerous lots

Attorney Andrew Miller – I don't know the effect of that and I can't tell this Board that is a waiver of any condition, I mean, that indicates as much an acceptance of the condition as any kind of waiver of it.

Eric – Am I hearing that no road improvements were done to Wago Road, is that what you are having a hard time with? If we were to propose to subdivide that off and have one big lot with just one driveway on that lot as far as improving all along that frontage down there. If I was bringing this plan to you today with just one lot there and the stipulation that we will bring the road up to speed if ever take another lot off in the future.

Barry E. Rudisill – My comment is: It is what it is, it was approved as you see it, and I believe we stand by it

Steven H. Gross, Jr. – I think you have your answer

Chad – What is the difference if I put house up here or put a house over here? If I put the house up here there's ground on the opposite side of my land that cant' be utilized but you are saying that I can put the house all the way over here. I can build 2 houses on the same lot, which I don't need, which makes no sense, why wouldn't you sell the other half. You guys put yourself in my shoes and look at that plan and you would do the exact same thing that I want to do, which makes complete sense. And the Planning Commission, Bob, you were there, the gentlemen at the Planning Commission came out and said in front of us you have a great idea. I guess that is all I wanted to hear, that should be in the minutes.

Steven H. Gross, Jr. – Seeing that no one is making any motions, we will move on with agenda. Thank you gentlemen.

Solicitor's Report – Attorney Andrew Miller

- Rentzel Heights intersection improvement agreement was changed to reflect the engineer's estimate for the costs for making the changes to plan as requested. It may not be ideal but not objectionable to get HOP and signal plan moving along. The main thing is Township still has to review and authorize for all work. What they were objecting to was Township right to split out the work separate from intersection – it is problematic for coordination of their crew and such. Asked for that to be removed. Parties can agree on best way to minimize costs prior to construction. Dave Gentzler and Byron Trout looked at changes. A motion to approve, if all are acceptable, by David L. Naylor, seconded by Barry E. Rudisill and carried unanimously.
- NEYCSA intermunicipal agreement – understand Stacey MacNeil is waiting on Boroughs to final
- Code amending – amend to provide for changes to the enforcement authority proposed ordinance 2011-1. Most of the changes are relatively minor. This came up largely because of a question about who has enforcement authority under one of two of the ordinances that tries to correct it to make sure the Public Works Director has the authority under most of these provisions, also the Sewer Authority under one or two of them, and police under a few provisions. No need to act at this point; will wait till other amendments are incurred.
- Sign illumination – it is the age for electronic reader boards, distributed a handout on other municipal regulations
- Executive session requested for discussion on GEA and Motor Technology tax appeals, and personnel issues.

Engineer's Report – Byron Trout

- Surety reductions:
 - Orchard Business Park lot 10 in the amount of \$95,809.30 with \$21,901.90 remaining. Motion by Barry E. Rudisill to approve, seconded by Steven H. Gross, Jr. and carried unanimously.
- Rentzel Heights sign - spoke with stone mason who would like to start. Located approximately 15' from pavilion. Barry E. Rudisill asked of location in relation to original location of house. It is close to original location. David L. Naylor was expecting the whole end of pavilion be created with stone - discussion continued
- MOU County Commissioners ACT 167 stormwater ordinance as model stormwater ordinance for PA. Sent to DEP for approval and expect to adopt in 6 months. Will be mandatory adoption. Each municipality can make more stringent. Attorney Andrew Miller commented that not be in compliance with MS4.

Correspondence

- York County Planning Commission review of maps and boundary update (BAS) for census. Byron Trout explained that it is his understanding that they are looking to receive a BAS from each municipality to do a county-wide update to simplify paperwork. A motion by David L. Naylor to authorize signing of the agreement was seconded by Steven H. Gross, Jr. and carried unanimously.
- York Area United Fire and Rescue Commission – received a memo offering regional services for a fee.
- NEYCSA letter to Industrial/Commercial users in district 3 regarding rates. Steven H. Gross, Jr. asked if it is in order with the proposed Intermunicipal agreement.
- York County Planning Commission Ag Land Preservation request for Snyder property. They are already in Ag Security.

Secretary/Treasurer's Report – Dave Gentzler

- Northeastern Sewer Authority – 2/28/11 draft, no questions
- Zoning Officer – February report, no questions
- Planning Commission minutes – comment on the WellSpan access. Bob Nace answered that there will be 2 accesses from Rosedale and the access from Sunset will not be opened. There was discussion between the attorneys at the Planning Commission meeting on commercial use of the Sunset portion of the property. Smith Gardens will still have the traffic just not the entrance.
- Public Works Director – no questions
- Recreation – no report
- Solicitor's annual letter to auditor – Attorney Andrew Miller explained that it is standard and has much to do with notice of any pending litigation, which may have a financial impact.
- Disabled veteran's tax exemption for 251 Greenfield Street – Attorney Andrew Miller will further check into this.

Supervisors' comments

Barry E. Rudisill

- Wago Road sidewalk – Katrina Rife sent letters. Have not heard from either property owner. They have till May.
- Township sign illumination – Dave Gentzler reports that the fabrication started today on the brackets.

David L. Naylor

- Not satisfied with the Ettline situation. He feels as though it wasn't handled at best.
- Attended the last recreation meeting. They were discussing enhancement of facilities and programs.
- YAUFR – It may behoove us to meet with them to investigate services.
- Moving of house? Has been scheduled twice and still waiting. Dave Gentzler will contact Crouse.

Steven H. Gross, Jr.

- Census results were mailed to his home. Est. population 7,500. Will bring to office.

Motion to approve bills as presented by Steven H. Gross, Jr., seconded by Barry E. Rudisill and carried unanimously.

Public Comment

Mr. Rumsey noted the use of microphones assist in hearing what is said.

Dave Bloss

1. Steel plates on N. Sherman St. do not have any signs notifying they are ahead. Dave Gentzler will contact Columbia Gas.

2. Willow Springs Lane snow removal. Storm before this last one seemed to be a problem for TT getting up hill from Bartlett. Can this area receive quicker service – only adding more TT with Ollies' now open.

3. Recent article regarding funding from PA. It suggested talking with your local municipality to see how much of the budget is from state funding. East Manchester Township receives liquid fuels and pension assistance. Most of the cuts are in funding of grants and such.

4. Gut Road – anything planned to stop going onto private part of road?

Joel Klinedinst asked about barriers for Saginaw Park. Someone drove through it again.

Steven H. Gross, Jr. recessed to Executive session at 8:12pm.

Meeting reconvened at 9:35pm

Executive session discussion: Assessment appeals from Motor Technology and GEA and personnel matters.

Motion to adjourn by Steven H. Gross, Jr. at 9:36pm.

Respectfully submitted,

Dave Gentzler
Secretary/Treasurer