

**EAST MANCHESTER TOWNSHIP
BOARD OF SUPERVISORS
JUNE 10, 2008**

Present: Chairman Steven H. Gross, Jr., Vice-Chair David L. Naylor, Supervisor Barry E. Rudisill, Township Secretary/Treasurer/Manager Terry R. Gingerich, Engineer Byron Trout, Attorney Andrew Miller, 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.

Supervisors' showed 2 plaques that were presented to the township, which will be displayed: Northeastern Regional Police Department for 25 years along with the printed program from the event, and Union Fire Company for 150 years along with the CD of the event.

Minutes from the 4/18/08 public road inspection were accepted as presented by motion from David L. Naylor, seconded by Barry E. Rudisill and carried unanimously.

Minutes from 5/13/08 were approved per motion from David L. Naylor, seconded by Barry E. Rudisill and carried unanimously.

Minutes from the 5/28/08 meeting with fire companies and ambulance are pending. Steven H. Gross, Jr. mentioned that all 3 entities admitted they have some fragmentation and some problems working together and the township requested them to come up with a plan of how they are going to work together in the future.

Public Comment

Jim Spangler 41 Acorn Dr explained that he has not been able to get his situation with the water run-off resolved since last month. He still has no idea what will be done. He spoke with Dave Gentzler 2 Fridays ago and has been expecting Dave to get back to him. Dave told him he will contact the sewer authority or may have to contact the contractor who did the work. Terry R. Gingerich stated that the contractor worked for the sewer authority and that is their place to contact. Mr. Spangler mentioned that last time he was here the guy from the sewer authority was here and he is aware of this so Mr. Spangler didn't have to attend their meeting. Terry R. Gingerich will take care of this tomorrow morning. Steven H. Gross, Jr. mentioned that this issue is not in Dave's report but is in the minutes. Barry E. Rudisill commented that the minutes do reflect that Dave Gentzler was to contact the sewer authority. Jim Coble requests info on problem from Dave. Steven H. Gross, Jr. instructed Mr. Spangler to come back if not resolved.

Todd Strickhouser 305 Creek Bottom Rd is still experiencing problems from the pond at Rentzel Heights, he thought they had it resolved but now all previous people that were working on it are gone or fired. It is now coming down over his sand mound. Dave Gentzler, Terry R. Gingerich, and Byron Trout looked at pond. At that time, Terry commented that he wouldn't like that; Dave said it was a joke, and Byron was up in the air about it. It overflows; the grass was matted and rolled - what is being perceived as a stream, isn't. It is my land and it shouldn't go there in the first place. This engineer (Dave Kegerize) and everyone else assured me it would not happen, but now every 3rd rain it overflows onto my land and I would like something resolved. The whole pond is only 9" deep on my end and it's a 16" pipe and you run 2 3' pipes in and raised

the field 30' and run that water in. That originally was only intended for this one pipe plus you run 4 more 16" pipes in on a big wash, I am not sure how that could ever hold, but what I am asking, I'm getting no results, my lawyers send letters, I think they (developer) declared bankruptcy or something.

Byron Trout will contact Lenny Dunn of Saybrook.

Todd had a 2:00 appointment with Rob Fetter of York County Conservation District who came early, so he missed him. He hasn't been able to get a hold of him since. Byron had told him the township couldn't do anything until Rob Fetter is involved.

Todd stated the bottom line is he is going to lose the sand mound from the pond out back. You put like a 30' wall up there where the water comes down and cuts 3' deep and right across my sand mound, plus the one that is overflowing has yet to do damage. It is 2 acres of my land that I'd just as soon not lose nor allow them to use.

Steven H. Gross, Jr. asked about their surety.

Byron Trout confirmed there has not been a surety reduction. He will look at this tomorrow, get a call and letter to Mr. Dunn and see what can be done.

David L. Naylor suggested Mr. Dunn walk along.

Byron Trout explained that could be difficult since he is in CA.

Terry R. Gingerich has an additional contact for Saybrook.

Byron Trout will copy Todd.

Matt Cademartori 165 Devonshire Court had applied for a fence permit and because he has a corner lot he was informed that he had 2 front yards of which a fence cannot be placed in a front yard and could not get a permit for the area he wanted to fence.

He looked up ordinance and could not find mention of 2 front yards or corner lot. He found definition of yards.

Steven H. Gross, Jr. asked Katrina Rife if she made this determination.

Katrina Rife - yes based on all history that we have here; when you have a corner lot you have 2 front yards. Front yard being defined as the area from the dwelling to the street.

Matt presented pictures from his development of other properties that have fences. These properties will be reviewed.

Matt was also informed by Katrina Rife that a 20' stormsewer easement exists on his lot between the house and property line. He believes his porch is in the easement.

David L. Naylor looked at the site just prior to this meeting.

Matt explained that with the easement and the 2 front yards rulings that leaves a 5' triangle in the back center behind his house for a fence.

Steven H. Gross, Jr. asked how the porch got into the easement.

David L. Naylor was not sure if the corner was in the easement but it is close.

Katrina Rife mentioned that the land development plan could be look at.

David L. Naylor mentioned that one address that is very similar is 105 Devonshire.

Steven H. Gross, Jr. commented that one looks like it has been there awhile.

Katrina Rife added that there are at least 3 properties that have fences in their front yards within that development prior to her employment.

Matt - All I am asking for is that I can put up a fence in my backyard, get a little privacy, I have 2 puppies and I do not want dogs and children in my yard when I am not home.

Matt asked if there was any way to work something out to straddle easement, temporary poles or something. He was not aware of the easement when he purchased the property.

Terry R. Gingerich commented that if you do it one time 50 other people will ask.

Discussion continued on the subject.

The plot from the recorded plan was reviewed. The property is more triangular in nature and is bordered by Devonshire and Abbey with a 20' storm drainage easement along the side that borders the adjacent lot.

Terry R. Gingerich reminded the Board that the township never had the opportunity to review this plan. The township opposed this plan when it came in and it ended up going to the state courts and the state courts approved it; therefore, we didn't have an opportunity to comment on anything. Barry E. Rudisill recalled that is the way it was.

More discussion on the easement.

Steven H. Gross, Jr. asked what are the Board's wishes.

Barry E. Rudisill – I agree with Terry that if we allow encroachment on the easement we will have people lined up at the front door wanting to do that. In some cases and if we take a case by case situation we may be able to agree in some cases it makes sense, as in this case, I think we could agree that it could make sense but I don't know that we want to open that can of worms where we have to pick and choose what easements we can allow encroachments on and which ones we can't. If you can manage a fence on this property and stay out of the easement that would be one way to look at but if you can't do that.

David L. Naylor – This is a question for you and I guess Katrina. Is there enough space for you to come down this way, which I consider your back yard and come up around to our side yard? Is there enough?

Matt – It would come at an angle and if you look back at that print it would come at the same angle as the property because I need to be off the property line 20'. So if you look at it, you'll see, it leaves, I mean, I'll do it if that's the only fence I can put up but if you look at the property line to put that in, the angle that you can see here, this is from down at the bottom looking up, and I have to be 20' off this side, it is going to literally go right to here and I am going to have all this open.

More review and discussion. There is an underground concrete pipe within this easement.

Matt stated that the township could tear the fence down if there was ever a problem in getting to the easement.

Steven H. Gross, Jr. – I understand what you are saying and I agree with what you are saying; however, you and the township make an agreement, you sell the property and years from now we have somebody new in that doesn't, that's what, I agree with the fence issue, I have a problem with the easement. Barry?

Barry E. Rudisill – I was going to say and Andy brought this to my attention that this might be a situation where an easement would be required, I mean, where a variance would be required to move into the easement. If you look at it that way, it's not really our decision.

Attorney Andrew Miller explained that setback and yard issues really are variances issues and it sounds like this may be a classic hardship that justifies that variance by the Zoning Hearing Board. In terms of modifying the stormwater easement that is there for the benefit of the township as part of the storm management and waivers of the SWO are to be brought before the Supervisors. You do have authority to make a modification to it.

Byron Trout – I am not familiar with the property, so I guess you are saying there is a pipe, is there also a swale that runs? Where we haven't allowed them before is where you build a fence across a swale, which will impede the water. This is a pipe and the only one that I can think of is at Dauberton where the pipe came in between one lot years ago the gentleman had to put a gate in that 20' strip. It wasn't a swale, it was a pipe, and he put a gate at each end in the event that the township had to get in there they could just swing the gate open.

David L. Naylor asked hypothetically, 15 years from now if fence is allowed within the easement, what happens if need to get to pipe whether other owner's, township will get in there because have easement. Looking at this property it makes sense to allow and for the aesthetics, it should be allowed.

Steven H. Gross, Jr. asked Katrina Rife if she wanted to say something.

Katrina Rife commented that Matt is here tonight as a result of the discussion they previously had when he planned on completing a fence permit application.

I can sit here right now and have feelings and sympathy, but when I am doing my job, sympathy is not in my job description. I am charged with interpreting the black words from the white pages of the SALDO ordinance and a lot of the SALDO ordinances are rolled over into zoning ordinances and in trying to interpret there are no gray areas in doing my job. Here we have a recorded right-of-way, and it's not just in Matt's issue, it's every property owner who have recorded easements and right-of-ways, created through SALDO because we have a subdivision and land development plan that was recorded. Then in the zoning ordinance it specifically says that structures, and a fence is a structure, may not be placed within easements and right-of-ways. So now I have 2 sets of ordinances, that in doing the job that I am supposed to be doing with their black words on white pages, I could not help him other than to direct to the Zoning Hearing Board for a variance and the Supervisors for waivers – that's why he is here tonight.

David L. Naylor – I agree, I realize you were doing your job. You make a call based on the black and white and he then has recourse to come to the Supervisors or the Zoning Hearing Board.

Like I said before and in other cases, I don't believe in precedent setting. Just because if, say, we would grant this tonight for this gentleman, next month they are lined up at the door to come in here, it would have to make sense to me, first of all, to say yes, but I don't have a problem saying no. But this makes sense for this gentlemen's property, so I'll make a motion that we grant a waiver for him to go into the right-of-way to put in a fence because if we need to get in there, we got to get in there.

Attorney Andrew Miller suggested adding to the motion an encroachment agreement that could be recorded for this property.

David L. Naylor – I will add that to my motion.

Barry E. Rudisill – how do you sidestep the zoning issue?

Attorney Andrew Miller – the stormwater easement is a waiver the fence in front yard is a pure Zoning issue

David L. Naylor – my motion does not give the right to put a fence in front yard

Attorney Andrew Miller – with a waiver from the Board from the stormwater easement it should make getting a variance much easier and from what was described you should have a case for a hardship. It is a variance from the zoning ordinance and the Supervisors don't have power to grant those.

Steven H. Gross, Jr. – you have unsolicited advice from our attorney, his opinion. We have a motion is there a second?

Barry E. Rudisill – Is your motion Dave that we allow the fence in easement?

David L. Naylor – yes, with the agreement drawn up that Attorney Andrew Miller suggested that encroachment agreement which will be recorded that goes from property owner to property owner.

Barry E. Rudisill – with the understanding that you have to go to the Zoning Hearing Board for the variance

Byron Trout -for consideration as part of your motion - do you want gate at those locations?

David L. Naylor – I don't really think that is necessary, we will take the fence down if we need it down

Terry R. Gingerich mentioned that for inspection purposes, only access would have to go through house

Barry E. Rudisill asked how much of the easement width he was planning to fence

Matt – from middle of house out to property line

Barry E. Rudisill believes that if have to get there to work, have to take fence down.

David L. Naylor – My motion does not stipulate any gates

Barry E. Rudisill seconded motion to waive the SWO easement and allow encroachment into the stormwater easement with a fence providing an encroachment easement is recorded and the Zoning Hearing Board approves a structure in the right-of-way.

Steven H. Gross, Jr. – I hate to send to Zoning Hearing Board, but I don't know what the answer is.

David L. Naylor - out of our hands

Barry E. Rudisill – even if we do feel that he should be able to do that, we are going against the ordinance, and certainly that can be challenged, if someone chose and in their case if they have the individual situation. I understand the Zoning Hearing Board their decision does not set a precedent, but I don't think we have that right, if we make decisions someone could come back to us and say you did this for this property owner and we have the exact situation here.

Attorney Andrew Miller – truthfully they could enforce that against you because technically be in violation.

Matt asked where in the ordinance does it refer to two front yards. Discussion continued and it was explained that the definition of front yard is the area between the dwelling and street.

Attorney Andrew Miller suggested that he be allowed to take time to review issue, contact Katrina Rife and establish past history of interpretation of this issue with other properties and come to a determination.

Steven H. Gross, Jr. asks if Board agreed on Attorney Andrew Miller's additional research.

They agreed.

Barry E. Rudisill commented that if there is a way to clear up by modifying the ordinance that should be done so the issue on corner lot is clear going forward.

Steven H. Gross, Jr. added that it would be his goal to avoid Zoning Hearing Board.

David L. Naylor agreed.

Motion carried unanimously

Ken Dunbar gave an update from the recreation board.

PPL complex request from adult men's soccer league team for use and practice – granted, NEYSA expressed same concern over adult use of turf

David L. Naylor asked of fees - Ken checked around \$5.00-\$10.00 per field

Steven H. Gross, Jr. mentioned that the request was directed to rec board by Supervisors but they also have same concerns as NEYSA on turf, but fields should be used.

Ken expressed that the fields will be monitored for use, garbage and such

There is a budget of \$20,000 to maintain including mowing

David L. Naylor will forward information to Chief Albright

David L. Naylor asked of the 2 fields at middle school.

Terry R. Gingerich reported on discussion of opening these fields but Quandel mentioned that there is currently no access due to building of middle school.

Terry R. Gingerich asked if Saginaw Park is being used? Have not put facilities there. Ken has not been contacted. There are plans to pave a parking area and place fence.

William Jones 135 Ryan Lane questioned the easements and swale in Northern Heights.

Terry R. Gingerich and Byron Trout had a meeting with C&F regarding the swale that had been seeded. They wanted to see how it would hold up after the first rainstorm. There was damage and some failure and this will have to be addressed.

Byron Trout is aware that there is a problem and will get it taken care of.

William also asked about the need to keep a gully behind house that had been put in to keep the water off the neighboring property.

Byron Trout will have to look at. He would not take something out that would adversely affect neighboring property owner.

Ed Beck of 510 Park Street - about 4 years ago the township put in a new drainpipe at his property Park Street that has an open water drain on his side. A 2' corrugated pipe runs about 75' to culvert w/grating, and then goes under road to other side. About 3 years ago, he told them the corrugated pipe had hole in it and water was running under pipe instead of into it. The township dug it up, removed old pipe, and put another in place. Mr. Beck could mow out to street when old pipe was there, to keep it neat. Maybe never finished this project because, there is rough stone and weeds to culvert. If the township would give topsoil and seed he will do the work.

He also mentioned the property at the corner of Park Street and Conewago Creek Road is dirty and a mess.

The corrugated pipe and concrete from the old culvert was thrown down over the guide rail. He told the road crew about the pipe and they did take it out. The concrete slab is still lying down over the railing.

Terry R. Gingerich –gutter line washes out, the concrete may have been placed there to help with wash.

Ed asked about the right-of-way for Park Street.

Terry R. Gingerich – 33' guess

He measured at bridge 23.4' feet between, tree stump near Danner's that was cut recently is 22.4' blacktop, tree where guide rail is attached 21', how much right-of-way is in existence

Terry R. Gingerich – it depends on where on Park Street, the right-of-ways vary. The right-of-way at bridge is 50'.

The tree that was cut is probably within the township right-of-way.

Ed asked who owns the tree.

Terry R. Gingerich - anything over 6" in diameter - township is to contact the property owner Attorney Andrew Miller confirmed that usually tree belongs to owner, they are in right-of-way and maintenance of tree is property owners.

Ed expressed that the tree that was cut down had an orange barrel placed in front of it making the road narrower, which caused drivers to go around into the other lane, which was a traffic hazard. The barrel was moved back alongside the tree and that has helped. He has lived there since 1962 and no car has ever hit that tree. He understands that Park Street will be widened

Terry R. Gingerich commented that we are looking at it.

Terry R. Gingerich – The center of road determines right-of-way if it is centered where it is supposed to be. The road is where the trolley ran. Previously the road was widened on the Right side going toward Manchester. Will check on tree stump.

Land Development & Subdivision plans – none

Special Request

Northern Heights - Bradley Leber and Fabio Pini to discuss public improvements in phase I-2. The punch list items by Byron Trout are about 85% completed.

Bradley spoke on Byron Trout's 5/9/08 letter indicating 18 items Brendan Mews and 19 items on Bryn Way. There are comments after letter on whether or not the developer will be allowed to add the wearing course to phase 1, replace curb that were cosmetically repaired, stormwater improvement along Long Road. Their position is that they would like to complete punch list, get concurrence with Byron Trout that items completed. Would like to go ahead and add wearing course on Brendan Mews from Bryn Way to cul-de-sac. Continued construction in phase 2 & 3 hinders the completion of wearing course on Brendan Mews from N. Sherman to Bryn Way. The increasing cost of oil increases the blacktop.

When 70% of phase 2 & 3 would be completed, then offer those streets for dedication. And as part of that process, complete the Long Road stormwater remedy that has been discussed. I say this only as an issue that possibly can be raised. If you review plan and the files, you won't really see anything that memorializes what is to be done at Long Road. The only thing found is page 5 of 11/9/05 minutes where it references the motion by David L. Naylor to approve the phase 1 plan and it mentioned a stormwater remedy for Long Road without any specifics. It doesn't tell what to do or what needs to be done. I don't believe a note ever made it to the plan to that effect and from what Mr. Miller advises me, the township did not issue a developmental approval letter. That being said, Mr. Pini recognizes there were discussions about it, and he is willing to do it, but he is asking your cooperation and your consent to proceed with the phase 1 paving, and the phase 2 & phase 1 punch list items, so we can get those streets dedicated as quickly as possible. I think if we can all come to an agreement on those points, then we would only be about 15% away from being completed with the punch list items.

Per Fab 3 weeks estimate to completion. A lot of that depends on what is decided tonight.

Steven H. Gross, Jr. – since the gentleman is here, let's discuss that issue and we will come back to this one. What are your plans to remedy their concerns?

Fab – We looked at this with Byron and Terry and have looked at it several times. The only thing I noticed is there is a little erosion behind lots 1, 2, & 3. The general purpose is for the water to run through his yard to the inlet that was installed. I glanced at your yard, I thought it looked good; I will go out and look at it this week.

William explained the location where he sees the problem and that he feels it is a big puddle where the water just sits there.

Terry R. Gingerich -some bricks in the access drive are low again; have to watch that water is not pushed over into existing property. As you raise that area, you push water over toward existing house.

Fab – the grading is tough there, we have 4 different properties we are trying to blend into one area without hurting any one person. What is happening right now is I think you have a low spot to the left behind the corner of your house about 10-12' out, I will take a look at and we'll fix it. I'll set you up behind lot 1 and 2 when we get that swale fixed and get that bank. Your yard was seeded about month ago, and we've had a lot of water in a month and half, we're talking really new yards here right now. So we will work through it and definitely not going to allow any kind of settling of water in your yard.

William – up where the easement is, on the neighbor's property getting a sinkhole there right where you dug up a trench

Fab – we saw that and I think what Terry was saying about the older house behind his house, we ought to leave that there for a while

Byron Trout – I don't like taking out established gutters if we don't have to

William – I've cleaned it all out, you can get a nice look at it and you can see.

Steven H. Gross, Jr. – we have it in the minutes that he said he was going to correct your problem

Fab - If everything goes right and no more rain expected in next two weeks

Byron Trout -will be up there tomorrow again from the other public comments, I have 3 things to look at and yours is number 4, I prefer to come in the morning.

William and Byron agreed to meet around 8:00am.

Steven H. Gross, Jr. - back to punch list, Byron you said he completed about 85% of his punch list

Byron Trout – I've met him out there and looked at a couple of items, he has been cleaning out inlets, removing curb and sidewalk that we've asked him to remove, and things like that. I can't say what percentage it is. Till we get things done I'm not going to, you know, I've been stopping in checking to make sure they are doing it the way we want. Other than that once everything is done I'll go down that checklist and check everything off. I can't comment on what percentage is done, and just to let you know there is actually a letter dated 5/20/08 that amended my letter of 5/9/08 incorporating the 3 handwritten comments.

Bradley - We treated the draft as though it incorporated those 3 comments anyway. Nothing has changed from our perspective, we understand that is what is your position; again, if we can come to an agreement on getting that wearing course down on phase 1, I think the rest of it can take care of itself, including Long Road so long as the township will execute the permit which I believe had been an issue in the past, I'm not entirely sure why, but we are going to need to township to do that so that we can do the road.

Steven H. Gross, Jr. – you are going to need us to get the highway permit?

Byron Trout – that is the problem, it is a state road. They asked the property owner to sign the permit, he will not sign the permit and doesn't want to take any responsibility in installing the pipe. From what you said tonight, you are agreeing that you are willing to do the improvements to Long Road, which is just an additional, if you go back to the first part of the minutes it says to install an additional pipe.

Bradley – there are no specs or anything, no one has ever really given us direction on what to do

Terry R. Gingerich – actually we don't have an idea on what you will have to do until you get your HOP and Penn DOT puts the requirements on.

Steven H. Gross, Jr. – so the township agreed to put our name on HOP, and we agreed to a wearing course out from where we are discussing. Barry, do you have any comments on that?

Barry E. Rudisill – was going to ask Bryon if he has any reservations about doing that pipe or wearing course on phase 1

Byron Trout – again the only reservation I had, the road has been holding up very well, there's nothing on this punch list that has any problems with the road itself. The only reservation I had is that you are going to have an extra seam in there, but we have seams in other development, we will get them to do a pavement notch there and blend it in. It is good that it is at an intersection. And do it at the end of a return.

David L. Naylor asked if ok with the repairs to the curbs and sidewalks

Byron Trout – as long as they meet my requirements as far as what we've documented on the punch list. So far I have not had a problem.

Barry E. Rudisill asked if township has input that PennDOT would recognize if there were something the township wants done where that is concerned. In past there were suggestions where state goes along with. The only reason I say that is because I think is because of the proposed improvements to Long Road and that area right there that's taken into consideration when the HOP is issued, and I'm assuming Penn DOT would do that.

Terry R. Gingerich – don't assume anything with PennDOT, the only thing we are requiring him to do is put a second pipe in. Now whether PennDOT makes him change the other pipe, he may have to put two new pipes in rather than one – that we have no control over

Byron Trout -we will review. I looked at the HOP plans 18 months ago and haven't seen them since. Until someone is willing to sign the application as permittee that's where it stopped.

Bradley - Mr. Pini is indicated that he is aware of the possible variations in what might be required to accommodate the stormwater flow

Byron Trout - The main question is whether or not the Board feels comfortable with considering the adoption of the street and the punch lists items and not having Long Road as one of the, cause there's no way, this is all due by August, by August meeting all the repairs done and everything done. By the time they get the permit and everything there's no way they will have that installed by August.

Steven H. Gross, Jr. – I agree and understand what you are saying, but I believe they are here making a very good faith gesture. And it's probably better to work together at this point to move the project along.

Bradley – If Attorney Andrew Miller wanted to prepare something to memorialize that, written in good faith to cement in what we've discussed and what we've made the adoption to agree to, I don't think we would have a problem. Some sort of assurance.

Byron Trout – It is bonded. That is fine if Andy wants to do something like that enter in to some type of developer's agreement. It is bonded as part of phase 2 and 3

Bradley - we are just hoping to move along and try to get ahead of oil issue and give the township what the township wants as well

Barry E. Rudisill made motion to have Attorney Andrew Miller prepare document to eliminate the question of who said what and know exactly what is expected of the developer and what township agreed to. David L. Naylor seconded

Bradley – Would it be acceptable if you make the motion that we enter into the understanding and that Attorney Andrew Miller prepare the document to memorialize it.

Barry E. Rudisill – yes, that's is what I am motioning

Steven H. Gross, Jr. – all those in favor of having Attorney Andrew Miller memorialize this say aye - carried unanimously

Byron Trout – now will we allow to install the wearing course on Brendan Mews from intersection of Bryn Way to cul-de-sac East and complete punch list and will have to opportunity to review in August for adoption?

Also need punch list, bonding, centerline descriptions and drawings, which will all have to be reviewed and approved by Byron Trout (at latest 10 days before August meeting - Friday 8/1)

Barry E. Rudisill motioned that the punch list be complete, wearing course installed, bonding posted, centerline descriptions by 8/1 for adoption on 8/12 and include township signature on HOP application, Steven H. Gross, Jr. seconded and it carried unanimously.

William – question on sewer manhole that is sticking out of ground.

Byron Trout spoke with John Leen, there is a conflict over who owns manhole. Sewer Authority does not own. Which developer owns?

Byron Trout - John Leen is holding bonding and they are still working on this

Musser Manor

Dave Kegerize of Lake Roeder Hilliard update on townhomes for Musser Manor final plan, which is on hold – pending HOP approval

Show portion of HOP plan improving frontage along Board Road

Steven H. Gross, Jr. – maybe I could speed this up, you are looking for us to help with improvements on the Bixler's properties, is that correct?

Dave – yes, we have across the street from us the client has been unable to get them to agree to improve the front of their properties

Steven H. Gross, Jr. – ok, I'm speaking strictly from memory here about this project, but I understood that this 8 acres here, and if memory serves me correctly the stormwater was going to be handled on the next property down which is the Musser's property, and my question for you to speed this along is why should we get excited about getting this done if you guys don't have your stormwater and all your land development done properly? That's the Board's question - that's what we brought up last month. Because, and I don't mean to cut you off, but a lot of times people come in here and say that the township has to do this and help us do this because we got to get it done and yada yada, like if we didn't approve the new Giant store people were going to starve in Manchester. That didn't happen yet, but that is an example. But my concern is and before we address this, do you have everything else for this development done? I's dotted T's crossed, everything answered as far as your stormwater and all those issues.

Dave – We have the easements, and you are exactly right, the stormwater when my client –the developers dropped the project with Paul & Helen Musser, they still have the stormwater going out Paul & Helen Musser's side. So there was an easement obtained, the question, to have this easement down to the Musser property to the existing swale.

Steven H. Gross, Jr. - do you have that documentation, do you have all that

Dave – I haven't seen it personally but I've been told they have that agreement

Steven H. Gross, Jr. – I don't mean any disrespect to you, but I believe last month that the Board's position was when you show us that everything else is done and you are all ready and this is the only issue you have outstanding, then we will look at it and take a position. Am I correct, gentlemen?

Agreed

Steven H. Gross, Jr. – that is our concern, when everything and I mean everything down to the very last detail, then we will discuss this problem. Ok?

Dave - ok, just to give you a quick update. The E&S is not approved again everything just sort of stopped with this. But the next cycle will.

That's fine, you get everything else done because I'm tired, like with this gentlemen's issue here; there is no reason why we still have this. The developer should have all that taken care of. And the Board is going to take the position that when you have everything else done then we will help you with this issue.

Dave – that's fair, so if it is ok with the Board, Terry, Byron, & Kitty we could regroup at next month's staff meeting and kind of get things punched out.

Barry E. Rudisill – I don't want to commit to something that we may not be able to do, but we will offer our help and will look at, but not going to make promises that we can do anything

Steven H. Gross, Jr. – But we are not going to do it till they have everything else done because all we have to go on is history where they come in and if you don't do this, this and this for us and then we find out later that you don't have everything else ready. And we are just going to change our policy on that. That's going to be the new policy.

Terry R. Gingerich asked if they have everything in line for July staff meeting?

Steven H. Gross, Jr. – I don't know what documentation you have on stormwater, but I see or hear things different from what you are telling us. And given your client, I have to go on past history and hearing things that are different; usually they are different so say that as politely as I can. You get all your other issues taken care of and we will look at this then. And Barry's right we will see what can be done then.

Barry E. Rudisill – will not make any promises other than will do what we can do

Byron Trout commented on letter from PennDOT where ready to approve traffic light at Meeting House and N. George

Dave explained that PennDOT wants larger tract for turning templates for radius

Byron Trout added that to submit revised HOP plan - get plan to him and he can get updated letter of awareness

Patti Fisher of James Holley and Associates presented an update to the previously conditionally approved plan from November 2007 for Barnhart Drive 3955 N. George Street Extd. The building footprint has changed from a one-story building 160' x 50' to a 140' x 50' 2-story building. The building height, lot coverage, parking requirements - changes have been noted. All those still fall within the restrictions of the ordinance.

Barry E. Rudisill – apparently we've resolved the issue with the wetlands. Initially we were told that the lot was no longer able to be developed. Matter of fact, I spoke to the owner personally, and he said he was taking it off the market.

Patti – There is a joint permit approved by DCED and under review by Army Corps of Engineers. Still waiting on.

Steven H. Gross, Jr. asked if the proposed sidewalk is to connect to the Penn Waste facility?

Terry R. Gingerich – yes, back there

Byron Trout – it does connect with a walkway, it is not public

Katrina Rife explained why she asked them to appear. It is a courtesy to be here and update on change for future signatures for recording. The plan essentially does not change, but neither the Planning Commission or Board of Supervisors were going to be asked to sign a plan that is slightly changed due to the building configuration.

David L. Naylor – Patti did say that the parking was adequate, so basically we say thank you.

Steven H. Gross, Jr. motioned to acknowledge that a review of the plan showing the 2-story building instead of proposed one-story and the plan was already previously approved 11/13/07 by Board of Supervisors and carries all previous conditions, David L. Naylor seconded and motion carried unanimously.

Engineer's Report – Byron Trout

Surety reductions

§ Penn Waste \$26,453.94 to zero with the stipulation that PennDOT closes out improvements along state road as confirmed in writing from John Glatfelter. Motion by Steven H. Gross, Jr. per Byron Trout recommendation to reduce was seconded by Barry E. Rudisill and carried unanimously.

§ Mar Ben \$48,196.50 reduction with \$41,228.55 remaining. Motion by David L. Naylor per Byron Trout's recommendation to reduce. Steven H. Gross, Jr. seconded and motion carried unanimously

- § SADG stormwater agreement – per Attorney Andrew Miller is to be recorded with plan, Terry R. Gingerich has most updated copy
- § Road reimbursement from Northeastern York County Sewer Authority in the amount of \$48,491.52 is satisfactory. Terry R. Gingerich, Byron Trout, and Terry R. Gingerich reviewed the numbers.

Barry E. Rudisill asked if the manhole risers' issue is resolved. Terry R. Gingerich reported that Tom agreed to pay the additional cost of setting them.

Steven H. Gross, Jr. motioned to accept the reimbursement amount based on Byron Trout's review. Barry E. Rudisill seconded and motion carried unanimously.

- § 2009-2011 block grant applications completed and submitted to York County Planning Commission for review. There are 4 projects: Wago, Saginaw fencing, Saginaw drainage improvements, and MS4 mapping. Terry R. Gingerich has copy
- § The traffic signal specifications that should be added to Construction and Material Specifications. Need to review with Terry R. Gingerich. A lot of the specs are right out of Penn DOT publication 408. A question on notating "latest revision". Will get to Attorney Andrew Miller for review for further discussion at next month's meeting.

Solicitor's Report - Attorney Andrew Miller

- § Stormwater agreement – need a motion to approve latest revision and keep SADG agreement for recording prior to plan recording

Barry E. Rudisill asked why approving stormwater agreement, why not in conjunction with plan? Attorney Andrew Miller –it will be, the plan was conditionally approved and this was one of the conditions on their final approval, this won't get recorded until the plan gets recorded. The reason this is being recorded, typically we wouldn't record these but if you remember there is an easement between 2 of the lots for the stormwater management so rather than do a separate agreement, I had Rob Perry put the easement in this agreement and then we will record just this one agreement.

David L. Naylor motioned to authorize chairman to sign the agreement, Steven H. Gross, Jr. seconded and motion carried unanimously.

- § Animal Control Officer fees – spoke with new officer who says that the Department of Agriculture regulates this. The state dog control officer is the one who told them they can not collect these fees prior to releasing the dog back due to their kennel license and not the dog law. Carroll Township and Dillsburg Borough have cases pending before the magistrate for this same method of having owner's pay the fees. They do have ordinances on animals running at large. Not sure if trying to fall under dog law or their ordinance. They are collecting the expenses of the dogcatcher, I think, under the dog law. If that is the case, you can try to enforce this one time, I mean, give it a shot in front of the magistrate and see where this goes, see if, because there is no clear cause of action under the dog law, see if they will recognize one for those expenses. It is clear you can collect those expenses, but there is no clear provision that you can go to the magistrate or where you can go to force collection.

Be aware that without an ordinance: 1. you are not going to be able to collect attorney's fees. 2. a collection case, even once you get the judgment, that's no guarantee of payment, you are going to have to find some way to get the money out of these people, you are not going to have a lien or anything like that.

The dog control officer said if the state would allow to collect these expenses before returning dog-he would gladly do that. If you take this to the Magistrate, he has to show up to testify in that case, so it is additional time out of his schedule and he would much rather collect the fees up front as well.

Barry E. Rudisill –it goes to the principle here. I never feel right that the residents of the township be burdened with the expense of these fees, but I'm not sure that we want to spend the time and effort to go after something that we may not be able to enforce anyhow.

David L. Naylor agreed.

Attorney Andrew Miller – if you adopt one of these animal control ordinances – it gives you a way to fine and collect attorney's fees. May not get all expenses back, but may have a case to at least get something back. In the process, you can send collection letters and treat it like a collection. You don't have to start with Magistrate, you can send out collection letters.

David L. Naylor – with attorney's fee and dog law officer's fees

Attorney Andrew Miller will try to contact state dog law officer again to ask about fee collection and state regulations.

Will not solve stray dog problem, no owner known.

- § Michael Peters property is an enforcement action – Executive session
- § Chestnut Valley issue – Executive session
- § developer's agreement notes on plan regarding rights-of-way to somehow protect the township in situation where PennDOT is requiring fee simple dedications of rights-of-way. A draft note has been distributed to Laymon Mortorff, Byron Trout, and Katrina Rife for review.
- § A Development Agreement form has been drafted to address some timing issues and is for review.
- § RCA enforcement letter regarding outside storage was sent to owner and both tenants
- § Chestnut Valley HOA document needs recorded, plat changes and clarification on maintenance issues for common area lots was requested.
- § NEYCSA has requested a discussion on upcoming sewer treatment plant update. A first meeting should be held at staff level prior to July 23rd.

Correspondence - Strinestown Fire Company – Fireworks at Zions View for July 4th holiday

David L. Naylor's motion to authorize donation of \$500.00 was seconded by Steven H. Gross, Jr. with the comment that residents will be able to view was carried unanimously.

Manager - Terry R. Gingerich

- § Northeastern York County Sewer Authority – Barry E. Rudisill asked if work on driveway was paid for-yes last year
- § Zoning Officer - continuance of wireless telecommunication tower hearing
- § Public Works Director – nothing about 41 Acorn Drive, remember this
- § tax exonerations
A motion by David L. Naylor to approved Kinsley Equities \$98.24, Lindburg \$5.78, and SADG \$14.61 per Kathy Emswiler's recommendation was seconded by Steven H. Gross, Jr. and carried unanimously.
Haugh total \$11.07 due to county error 2003-2007 per motion from David L. Naylor, seconded by Steven H. Gross, Jr. and carried unanimously.
- § Emergency Services donations
Steven H. Gross, Jr. asked if anyone contacted about funds; Terry R. Gingerich - yes

- § Steven H. Gross, Jr. motioned to forward donation to Senior Center, seconded by David L. Naylor and carried unanimously.

Supervisor's Comments

Barry E. Rudisill

- Dan Lightner issue – road crew is working on per Terry R. Gingerich
- Garrod project – per Byron Trout need surety bond - get permit - will put out for bid
- Steamboat stormwater issue – erosion gave to Attorney Andrew Miller for letter
- Harley access road – Terry R. Gingerich contacted also discussed moving of shelves from access, will be taken care of – Terry R. Gingerich will check
- Board Road wearing course – Terry R. Gingerich spoke with Bill Bashore, not feasible to pave within development at this time. He will pave Board Road, but cuts due to gas connections. Residents have been inconvenienced long enough, make concession to have wearing course

David L. Naylor

- appreciates Katrina Rife have to do job, would be disappointed if show feeling,
- Penn Waste did do modification, very minimal noise, have a vinyl shoot to get trash into
- mowing – Terry R. Gingerich seems to be doing good
- sidewalks Orchard Business Park – Terry R. Gingerich reported Espresso started

Steven H. Gross, Jr.

- sidewalks for the rest of Orchard Business Park – Motor Tech, York Tape

Public Comment

Jim Coble asked about alignment of Meeting House with N. George St. Ext. Byron Trout explained that it will become more of a 90-degree intersection.

Terry R. Gingerich reported on a walk through with school district Monday. They discussed: sidewalks, resolved existing inlet issue at intersection of Chestnut and Board - how it will be handled, let pour curb behind existing inlet - new too high.

Other issue fire hydrant at Becky and Board sets back too far move forward - pay cost from fire hydrant fund

Craft embankment - set up meeting with Jim

Improvements to Board Road solved

Byron Trout will have minutes from meeting typed and distributed.

Terry R. Gingerich – curbing township requires slant curb - shows vertical. At Borough line and Meeting House Road will transition to slant on Board and Meeting House and transition at township line to slant.

Adjourn to Executive session at 9:55pm.

Barry E. Rudisill seconded David L. Naylor motion to pay bills, which carried unanimously.

Respectfully submitted,

Terry R. Gingerich
Township Secretary/Treasurer/ Manager