

**EAST MANCHESTER TOWNSHIP  
BOARD OF SUPERVISORS  
AUGUST 12, 2008**

Present: Chairman Steven H. Gross, Jr., Vice-Chair David L. Naylor, 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.

Steven H. Gross, Jr. announced that the Board has not met since last month.

Minutes of 7/8/08 were approved per motion from David L. Naylor, seconded by Steven H. Gross, Jr. and carried unanimously.

**Public Comment**

Scott Wagner, President of Penn Waste addressed the Board regarding the recycling facility and adjacent property owner, Mr. Damm and the issues they are having.

Scott commented that Mr. Damm has written to him, contacted the police, DEP, and the township office with concerns and complaints on the operation of Penn Waste.

Scott has been able to address some of the issues. He has 3 full time people cleaning up stray trash and recyclables. The signs asking drivers to blow horn before approaching an area have been removed.

Scott wants to make the Board aware that he is aware of the problems.

2002 Penn Waste was established at site. Mr. Damm has been there 3 years with a residential use in commercial district.

They have stopped container check, which occurred prior to 5:30am.

5:30am the trucks leave the facility.

They are doing everything they can to eliminate as much noise as possible.

Scott spoke with Mr. Damm regarding purchase of his property. His selling price is higher than offer.

There is also a parking issue. They have outgrown the present office facility and are moving on approvals for building a new office, which would move an estimate of 25 employees. They are keeping all vehicles from parking along Brickyard Road.

Joel Klinedinst commended the work on Saginaw Park parking area and the paving of the streets.

He has a concern regarding mailbox structures in right-of-way – it is an accident waiting to happen. The one on Chestnut Street is a monument for mailbox built with mortar and stone.

The township has been sued for things beyond their control and does not prevent people from suing. Case in point the PPL railroad crossing.

NHSA has guidelines for highway safety and in guideline 21 ensure safety highlighted few sections under section 3 “every state in cooperation with county and local government should have a highway design, construction and maintenance program to improve highway safety a model program should have the following characteristics”, the whole list, but under one of them,

“where if possible crash prevention and crash survivability efforts should include at least the following highway design and construction features” First on that list are “roadways that are clear of obstacles and clear distance determined on a basis of traffic volume and prevailing speed and the nature of development along the highway.”

Joel - I think if you allow these mailboxes to go up you are opening yourselves up for a lawsuit on this. There were 2 others that were made to be taken down and then another one, then you rescind that and allow them. They look nice, but I think there's a responsibility to the motoring public.

I understand with the weekend we had with the mailbox vandalism, people want to protect their mailboxes. But they could do like Dan Gross did – encase a smaller box inside a large box mounted on a wooden post.

No **subdivision/land development** plans.

### **Special Request**

- Pete Snyder of MidLantic Pallet showed the new sketch for the 8' high fence, which has been moved back behind the dock door and will be parallel with N. George Street. He and Bob Glass have met with Katrina Rife onsite as instructed by Board of Supervisors last month. Steven H. Gross, Jr. asked Katrina Rife if she thinks this proposed fence location would allow the stored items to be visible from N. George. Katrina Rife answered that excluding any traffic stopped on N. George for the traffic signal looking through the access openings of the fence and with the natural vegetation along the side between this property and the lot next to it, visibility of items in the storage area would have to be from within those tracts of land – otherwise may be considered trespassing. Pete stated the height of the stacks of pallets would be 7'9". David L. Naylor commented that he is ok with this as presented. Steven H. Gross, Jr. agreed adequate natural buffer along side. Steven H. Gross, Jr. motioned to accept proposal for fence with the condition the in future may need side fence if natural vegetation is no longer adequate. David L. Naylor seconded and motion carried unanimously
- Musser Manor – Attorney Robert Katherman and Engineer Dave Kegerize of Lake Roeder Hillard representing Snyder Developer. Bob wanted to bring everyone up to speed as they see the issues and what is or isn't an issue. He noted that Paul and Helen Musser are in attendance.

Bob K - A preliminary plan was submitted for phase 1 and 2 and approved 5/24/05 Board of Supervisors approval, a final phase 1 was approved on 5/8/06 by Planning Commission. The housing demand went down and things changed. What changed was the time schedule and timeline that Snyder's development thought they would follow to build out not only Anna Mussers' tract (what I call the front tract along the road and what the township is calling Musser Manor) but also the land to the rear as it was contemplated before the market went down, that there would be phase 1, phase 2, then ultimately the building in the back. When Dave's firm drew up the plans and when they were reviewed by Gordon L. Brown & Associates' office, it was contemplated and I know

there were some notations put on some of those plans that certain stormwater issues would be addressed when back part (not Musser Manor) was built out when the roads were put in and such. And that's what everyone in good faith thought was going to happen, it's what Snyder in good faith thought was going to happen, it's what the Musser's in good faith thought was going to happen, and it's what Dave Kegerize drew his plans for. Everyone thought that was going to happen, but the circumstances changed, no one planned it, and its unfortunate for everyone that those things did not move forward.

We are here tonight because I think there are 2 issues before the Board of Supervisors and the plan is not formally in front of you this evening. The Planning Commission has heard this and seen this and has deferred any action pending coming to you seeking your guidance on how the Planning Commission should address the final plan which is for phase 1 and phase 2 as originally called back in '05 not phased but in one fell swoop.

So we had a preliminary plan in '05 of phase 1 and 2. We had a final plan on phase 1 in '06. Now what is changed, what is different is that there is now what is in front of Planning Commission a final plan for phase 1 and phase 2 all of what I call the front parcel that was purchased from Anna Musser.

Let me tell you what is not an issue; the sanitary sewer, there's been a Sewer Authority conditional approval of final plan no phasing on 7/28/08, water service and capacity letter issued by York Water Co., E&S plan approved by YCCD – that's particularly noteworthy because one of the 2 issues that we need to talk about tonight is how stormwater is going to be handled in the Musser Manor project. I say that they are causally related because my experience is that YCCD addresses some of the same issues in fact, my experience is that they are more stringent than townships are in regard to the stormwater. There is no wetland crossing issue. There are HOA documents required for this that my understanding is that those HOA documents have been drafted and submitted.

Attorney Andrew Miller confirmed receipt and review and most issues have been addressed.

There are 2 issues:

1. HOP The widening of Board Road and installation of curbs and sidewalks was desired. Bob and Mark Bare went to property owners (Bixler) on other side of development at both ends to acquire some frontage to complete work - rebuffed by both Will get road widening, curbs, sidewalks from Bixler to Bixler, but need relief from full requirement to included their properties - can't do what not allowed to do.

David L. Naylor asked about how much frontage does this affect? It is approximately 200' out of total 1000'

2. Originally contemplated to complete in phases with two tracts of land. Now Snyder developers is not doing that, yet. There is still a phase 1 plan pending and now a plan incorporating phase 1 & 2. Now simply want to do all at one time rather than phases. The original plan for phase 1 showed stormwater basins on same tract. The reason now asking for one fell swoop, and what is now in front of the Planning Commission which they are asking for guidance, now show full build out on Anna Musser tract with stormwater on adjacent tract. There is a recorded easement and right-of-way to allow this to be done. There is also a turnaround easement to allow cul-de-sacs.

The Planning Commission is seeking guidance on any problems, objections, comments on these issues.

Planning Commission concerns were discussed: future development with pond – the plan would need alterations to accommodate additional use, HOA defunct – if HOA documents are written correctly township has ability to lien, and developer doesn't own property – if recorded easement and right-of-way gives rights.

E&S approval has been obtained since Planning Commission meeting.

Discussion on alternate location for stormwater.

David L. Naylor asked about maintenance, which Bob answered would be the developer until HOA takes over.

Questions on rights and ownership with future development – a note could be placed on plan to allow additional stormwater accommodation as condition.

Dave Kegerize commented that it is possible to alter to take stormwater.

Bob added that they have tried to comply without destroying this plan.

Bob Nace added that this plan was at 2 Planning Commission meetings and tabled. He also asked to clarify that it was tabled for 2 open plans (phase 1 and 2) -what are we looking at? And then the stormwater phases placed on other lands to handle all property being developed and future development was not clear.

Bob K – For this site, for this footprint there's a phase I plan that's in and there is this combined phase 1&2 plan that is in, they are both still alive, still pending.

Byron Trout – What Laymon & I, what we had looked at was, we saw a plan for the development of adjoining property, the stormwater basin was kind of in the middle, slightly off from this location, I think that is what he (Bob Nace) is referring to, is this location going to be adequate for future development or are they going to go back to the other stormwater basin location which was kind of like in the middle towards the rear of that additional property.

Bob K – I think the township is getting everything that was initially contemplated, all the safeguards that were initially contemplated, all the controls on the stormwater that were initially contemplated just not in the same sequence as initially contemplated.

The Board asked to see original plan.

Steven H. Gross, Jr. – This is the articulation I'm getting from it, basically if they move the basins down there they get 9 more units than what they have now. And there is no reason this basin can't stay here in this corner and they lose 4 units and get 5 here. I really have a problem putting stormwater offsite like you are proposing. This here original plan still shows for this right-of-way to dome down here and empty at the same place it is and keeps your basin on your property.

Bob K – Are you contemplating that if we build here we would pipe it down here?

Steven H. Gross, Jr. – That's what this plan shows you are going to do that ultimately anyway. Ultimately you are trying to gain units (no disrespect intended).

Byron Trout explained that on plan phase 1 the other basin on the NW corner is necessary due to the rate of runoff for one basin would exceed what is allowable.

Bob K – If we have a reasonable expectation that this land is going to be developed, and I think that is a reasonable expectation, it is zoned residential with water and sewer. A pond, this is going to be built on this tract somewhere. And when this development goes in we would then be back to have our phase 2 approval, so we would end up with the

same townhouses here and this pond. What we are offering is let's just do that now. Let's put in what will handle all of this, and what the engineers agree when this is developed with modification this site will handle this and this. I believe that's where we will ultimately end up anyway.

David L. Naylor – you might be right, that might be sold, but I can't base my decision on speculation.

Steven H. Gross, Jr. – It still comes back to me why you can't keep your pond on your property. That really concerns me, going forward that sets a bad precedent for development in the township. This isn't an area like in an Industrial park where we have all the users contributing to the one pond – this is all speculation, so it does concern me very much and I feel very uncomfortable with this plan you have in front of me and I think that your client and yourself would do much better to revisit this, that's my opinion.

Bob K – If we have to keep the pond here and here, then we can only go with phase 1, not with phase 2, which is what we were seeking to do.

Steven H. Gross, Jr. asked Attorney Andrew Miller for input.

Attorney Andrew Miller - they agreed originally on preliminary plan to do this and move the stormwater offsite with phase 2 when they develop the adjoining properties so that phase 2 of your plan and the adjoining property would all be done at the same time. Subsequently they are now moving away from developing that adjoining property at the same time, I think that's a material change in their plan and brings into effect the new stormwater ordinance, which I think leaves this decision somewhat at your discretion on what you want to do and what makes the most planning sense. From a legal perspective, from what I see doing it this way, piece meal versus all at one time is obviously when that adjoining landowner comes in and talks about doing a more regional pond which is what we anticipated all along here, you've got more parties involved in that negotiation potential and breaking up those maintenance costs, getting permission to go into the pond. That right-of-way is there and those things can be dealt with in the agreement as best as we can now, but we are all sitting here trying to speculate about what the future holds rather than actually seeing the plans in front of you and knowing what is going to happen there.

Steven H. Gross, Jr. – Based on what Andy just said and what Mr. Katherman said, speculation, the township always seems to get the short end of the stick when we do speculation and we end up saying why did we do that, why did you guys do that, and it always comes back

Bob – there would only be 2 parties, make HOA documents contractually state that whoever developed this had the right to come into this pond so long as they picked up the tab. I think the question is not if this is going to be developed that it is when is it going to be developed.

Steven H. Gross, Jr. asked if any other question or concerns from staff

Byron Trout – mainly, if allow stormwater offsite location making sure the HOA documents or developer's agreement is airtight for defining responsibilities, maintenance, alteration, but it really was directed back here for discussion on if Supervisors are comfortable with offsite.

Steven H. Gross, Jr. commented in interest of time probably would not be in favor, very uncomfortable with stormwater offsite and would vote against. Keep stormwater on site.

Discussion on alternative stormwater and right-of-way

David L. Naylor – I agree wholeheartedly with Mr. Gross on this issue, sometimes we don't agree, but running the stormwater offsite to another person's property, no I don't want to set that precedence.

Helen asked to see plan and she explained how pond got pushed back to proposed location.

When Snyder was going to buy, the pond was moved so they could farm that area till developed.

Steven H. Gross, Jr. explained that the township tries to make the best recommendations based on what information they are given. They are not against development or anyone proposing development. The Planning Commission has already made it known that they are very uncomfortable with this or they would not have kicked it up to the Supervisors and they will have to make a tough decision here. They are saying that we would like them to keep the pond on their property and realize the need to pipe the drainage to the gutter.

Discussion on plans continued.

- Chestnut Valley - Bill Bashore of Vasland

They have had a boundary dispute with PPL. To resolve, PPL has agreed to lot add-on of additional footage to lot 38 through a quitclaim deed.

Lots 45 to 51 will need to submit revised final subdivision showing proper lines.

Bill mentioned that the roadway between 46 and 47 that had been eliminated was not put into another lot but 2 larger lots. He would like to have an additional lot placed there while making this correction.

There was discussion on the additional lot and the Zoning Hearing Board's decision to deny a variance application on it due to zoning changes in lot sizes and dimensions.

At 8:34pm, Steven H. Gross, Jr. motioned to break for Executive session.

Reconvene at 8:47pm.

Attorney Andrew Miller disclosed that the Supervisors asked about VasLand's pending appeal of Zoning Hearing Board decision - how does this factor in, any chance of possibly resolving these issues at one time? The Board would like to TABLE this and explore any option or opportunity to resolve in comprehensive way that makes sense rather than piece meal.

Attorney Andrew Miller will contact VasLand's attorney, David Getz tomorrow. Hopefully, do it in time to get occupancy for settlement.

It was noted that 9/22/08 is the scheduled settlement date on lot 38.

Bill agreed and gave Getz's number to Attorney Andrew Miller.

**Solicitor** – Attorney Andrew Miller

- § LERTA expires October, suggest a resolution be drafted to authorize for 1-year extension. Steven H. Gross, Jr. gave directive to prepare resolution and vote in September, David L. Naylor agreed

Code revisions – review suggestions, get comments together and do in work session, would get adopted in a public meeting

- § KWZ tax assessment appeal settled - haven't seen results
- § Motor Tech – haven't heard anything from Greg Gettle
- § Animal Control-Terry R. Gingerich heard rumor that an assessment may be placed by County on all properties for this. Attorney Andrew Miller will check into.
- § Open Records Officer needs appointed – forms not available yet

**Engineer's Report – Byron Trout**

- § Surety reductions per recommendation of Gordon L. Brown & Associates
  - Kinsley-Dauberton Park \$348.00 – Steven H. Gross, Jr. motion to pay was seconded by David L. Naylor and carried unanimously
  - Penn Waste \$26,453.94 – received letter from PennDOT closing out. Steven H. Gross, Jr. motioned to reduce David L. Naylor seconded and motion carried unanimously
  - Chestnut Valley phase 3A \$12,936.00 – motion to reduce from David L. Naylor, seconded by Steven H. Gross, Jr. and carried unanimously
  - Chestnut Valley phase 3B \$100,677.50 – motion to reduce from David L. Naylor, seconded by Steven H. Gross, Jr. and carried unanimously
  - Chestnut Valley phase 4 \$90,112.82 – motion to reduce from Steven H. Gross, Jr., seconded by David L. Naylor seconded and carried unanimously
- § Garrod Hydraulic bid opening – 6 bidders, \$63,600.00 low bid from Kinsley Construction. The bond will cover cost, was \$70,000.00 estimate. David L. Naylor motioned to accept the bid for Locust Point Road drainage project. Steven H. Gross, Jr. seconded motion, which carried unanimously.
- § street adoptions:
  - Northern Heights Terry R. Gingerich mentioned outstanding bills of \$3,889.33, street signs that need posted and need paid – motion could be made that would adopt and include as conditional approvalByron Trout inspected punch list corrected items to Public Works Director's satisfaction, everything asked for has been done.  
Attorney Andrew Miller – At last meeting where we discussed this, they offered to do developer agreement that included the issue of dedicating streets but also included storm water improvements for Long Road. He explained that are a few minor changes to be typed up which address PennDOT requirements to install the pipe and that the work is done in a timely manner. Submit application within 2 months of date of agreement and complete in 2 months of date of HOP. will need resolution number  
David L. Naylor stated that he could not vote to adopt the street with the outstanding issues. Steven H. Gross, Jr. agreed  
Bradley Leber, attorney for JPM Northern just learned of the outstanding bills and issues, he has had no discussion with client or anyone who mentioned this within last 45 days.  
Terry R. Gingerich explained what took place today and how this happened.  
Bradley commented that if mentioned earlier today, he could have brought a check along, but can't do anything right now. May be able to walk in with a check tomorrow. He asked for consideration for an opportunity to correct deficiencies with 5-10 days.  
Attorney Andrew Miller added that an agreement was prepared that anticipated adoption of streets at August 12<sup>th</sup> meeting contingent upon agreeing to improve Long Road and meeting all conditions of Byron Trout's 5/30 letter.

Steven H. Gross, Jr. motion to adopt streets per agreement is satisfactory, outstanding invoices paid by developer by 9/27, signs to be posted and billed, bond maintenance in place as defined per resolution 2008-7. David L. Naylor seconded motion, which carried unanimously. Steven H. Gross, Jr. also motioned to enter into a developer's agreement and sign for improvements on Long Road. David L. Naylor seconded motion, which and carried unanimously.

- Asbury Pines North Burberry Lane, no representation

Terry R. Gingerich reported that street speed limit signs need posted and billed, outstanding bills of \$1,451.41, and a section of sidewalk, which the homeowner has posted a check to complete project.

Steven H. Gross, Jr. resolution 2008-8 adopt with conditions that the \$1,451.41 bill be paid and speed limit signs addressed. David L. Naylor seconded motion, which carried unanimously

§ block grant meeting – received funding for the Wago Road drainage curb and sidewalk project, short listed as 2<sup>nd</sup> and 4<sup>th</sup> Saginaw drainage project and Saginaw Park fencing

§ Northeastern York County Sewer Authority cost estimate for sidewalk and curbing on west side of Chestnut Street \$118,429.00 for concrete wall not including additional right-of-way which may be necessary; for a keystone wall \$162,000.00. There is wetlands issue-joint permit application and fees included in estimates.

Steven H. Gross, Jr. mentioned that he understood the Safe Routes to School grant is 500 pages for application per school Superintendent. Byron mentioned that the wall estimate has been provided to John Leen for this grant.

§ Leg Up Farm-Penn DOT application request to be signed. A time frame per email from them is expected to be 6 months to get started. Would like an update from them.

### **Correspondence**

A letter from York County Rail Trail requesting a \$500.00 contribution for 2009 has been received.

### **Manager's Report – Terry R. Gingerich**

§ Northeastern York County Sewer Authority – no minutes received

§ Zoning Officer – no questions

§ Public Works Director

- when will logo be placed on new dump truck

§ Recreation Board – Ken Dunbar

- Proposed fees for non-resident teams of \$10.00/hr for youth and \$20.00/hr for full size field and is similar to other parks fees per Ken's research.

- The request from York co-ed soccer league cannot be granted because NEYSA is using the fields for practice

- An additional sign at PPL on no golfing and dog curbing is needed.

- A wooden monster truck play structure will be installed at Saginaw Park in memory of Erin Carpenter by Chad Haas and others.

- Joel K. mentioned property owners hedge removal adjacent to park

§ Tax exonerations:

- Steven H. Gross, Jr. motioned to approve R. Gruver \$148.72 and \$21.45 disabled veteran per Kathy Emswiler's report – David L. Naylor seconded and motion carried unanimously.

- Asbury Point LTD voided? Do not understand. Does not indicate what property. TABLE per motion from David L. Naylor, seconded by Steven H. Gross, Jr. and carried unanimously.

§ Emergency Services Donation – Table till 9/27/08 meeting per motion from Steven H. Gross, Jr., seconded by David L. Naylor and carried unanimously.

§ Deny request from York co-ed soccer due to NEYSA use of fields per motion from David L. Naylor seconded by Steven H. Gross, Jr. and carried unanimously

§ Orchard View - no representation

A complaint was received regarding the land development at 105 Willow Springs Lane. David L. Naylor commented that he agrees that the hill created along the property line between the site and the Orchard View development is not for public use, maybe NO Trespassing signs be placed on property - suggest notify property owner

### **Supervisor's comments**

David L. Naylor

- signage changes - what are exceptions? consider a need for provisions for civic events, public service announcements. Attorney Andrew Miller explained that T-7 type are allowed for civic events.

Dave - This poses a problem with the new electronic sign that the police department has right now, they park that along side of the roadway, that is in the right-of-way, and that's flashing for public service announcement. Attorney Andrew Miller asked what kind of public service announcement. Joel Klinedinst explained it could be a multitude of things – seatbelt use, a civic event planned in the area – it is a variable message board where just about any public service announcement can be placed on the board and it operates basically the same as signs along the highway. Public service and safety signs are pretty much covered. The sign cost \$24,000.00. David L. Naylor commented that this sign is derived out of an official capacity for public service announcements this way. There has to be a line drawn. Attorney Andrew Miller suggests to track complaints, if given permission to put those signs in public right-of-way you have to give everybody permission to do that.

Joel added that it is a traffic control device. The proper term for this device is a visual message system and it is a licensed trailer.

- York Counts Metro York study for emergency services study for consolidated police force - David L. Naylor motioned for East Manchester Township to be involved Steven H. Gross, Jr. seconded with comment that the police board agreed. Motion carried unanimously.

- mailbox structures in right-of-way – the new one on Chestnut Street was discussed, there is safety concern for motorists, the location is a real concern. Attorney Andrew Miller explained that the ordinance is worded to not take away power to remove for public safety hazard or nuisance. A breakaway option for construction was discussed. Attorney Andrew Miller mentioned that an express limitation on size could be put into the ordinance but location is still the safety issue.

- question on Dave Gentzler's progress with Mike's Service Center

Steven H. Gross, Jr.

- Beshore School Road sidewalks – Terry R. Gingerich reported he knows of 1 permit that has been issued, 2 calls, and 1 call complaining about installing.
- Board Road/Willow Springs improvements – Terry R. Gingerich reported they are waiting on PennDOT permits, have for light but not improvements
- Board Road school district improvements – Byron Trout mentioned that the contractor is on another job due to waiting

**Bill Approval**

Motion from Steven H. Gross, Jr. to pay bills was seconded by David L. Naylor and carried unanimously.

**Public Comment**

Joel Klinedinst asked about the progress of the battery back-up for traffic lights and mentioned that according to the highway regulations when a light is out of service a 4-way stop sign is to be used. Terry R. Gingerich responded that the Beshore School Road and Glen Drive and will be in when Giant is developed. There will be no changes to the one at the intersection of Sunset and N. George and the new light at Meeting House and N. George will have back-up. Willow Springs and Board will have battery back-up.

At 10:21pm, Steven H. Gross, Jr. motioned to adjourn.

Respectively submitted,

Terry R. Gingerich  
Township Manager/ Secretary/Treasurer