

**EAST MANCHESTER TOWNSHIP
BOARD OF SUPERVISORS
JANUARY 12, 2010**

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.

Steven H. Gross, Jr. disclosed that since 1/4/10 reorganization meeting, the Board has not met.

The minutes of 12/8/09 were accepted per motion from Barry E. Rudisill, seconded by David L. Naylor and carried unanimously.

The minutes of 1/4/10 were accepted per motion from David L. Naylor, seconded by Barry E. Rudisill and carried unanimously.

Public Comment

Resident – Joel Klinedinst reminded the Board that in June he reported on the vehicle accident on the Rail Trail and the danger posed to Trail users from traffic along Mundis Race Road. There has been another accident; and this time the vehicle completely jumped the curb and went into the trees on the other side of the Trail. He believes there is a need to do something more to protect the people. Two accidents within 6 months is a concern. A barrier of some sort is needed; the 8" curb is not enough to deter access. Barry E. Rudisill stated that the Township based upon Byron Trout's input when the Trail was first discussed with York County tried to reroute a portion away from the roadway. They also fought to not have slant curbing and instead have vertical curbing installed, which has been constructed. After discussion, the Board agreed it is a concern for those using the Trail and Terry R. Gingerich was instructed to contact Rail Trail and County Park authorities via letter.

Ryan Brenneman, Chief of Eagle Fire Co. reported that there were 219 calls for 2009 year and 157 were in township for a loss of \$267,500.00. He also thanked the Township for the IFC 2009 handbook he received. They are working with recruitment and retention. The QRS utility vehicle is in service.

Trevor Rentzel, Asst. Chief of Union Fire Co. reported that they responded to 465 calls for 2009. There were 34 calls in December of which 14 were in township. A full report is forthcoming from Chief Stevens.

Non-resident - none

Subdivision/Land Development

Steven H. Gross, Jr. recused himself on this request due to he and his family owning and having interest in adjacent property.

Joel Snyder of RGS and Hugh Simpson representing owner Robert Field were present to request waivers only for this pending preliminary land development plan. They gave a brief background along with update on the intentions for development of this site. Onsite meetings with Terry R. Gingerich and Byron Trout resulted in determining these requests, which have been through staff and Planning Commission with recommendation to grant. The following requests were made:

- 8.7.2.A sidewalk along E side of Park Street
- 8.6.2.A street widening, 8.7.1.A curb, and 8.7.2.A sidewalk along S side of Manchester Street
- 8.6.5.D street cuts and fills and 8.7.2.A sidewalk along E side of proposed street H
- 8.7.2.A sidewalk along S side of Canal Road at proposed street I intersection
- 8.6.2.A street widening, 8.7.1.A curb, and 8.7.2.A sidewalk along S side of Canal at proposed street K intersection

In consideration of the waivers for the offsite improvements, public improvements of rolled bituminous will be extended past the guiderail along Park Street and slant curb will be installed from that point to the intersection of Old School Lane, which will make a continuous curb along Park Street to the offsite properties.

Discussion and explanation of requests and reasons for requests was held.

It was determined that slant curb will be used along Park Street to ensure access to Lions Club and Alwine properties and the work will be coordinated with notice to those property owners.

Access to the driveway and its continued location for the Doll and Hoke properties was discussed. A potential address change should be considered if the access point will be off the new street.

Barry E. Rudisill motioned to grant waivers as requested and discussed which included the rolled bituminous and slant curbing along Park Street and contact and resolution with Doll and Hoke as discussed. David L. Naylor seconded motion.

Attorney Andrew Miller pointed out that in the past, with waivers requests up front prior to action on a plan, recommendations were given or the developer was given what your opinion was so they could go forward with their plan. Traditionally, action on waiver requests did not result at that time. Action was withheld until the plan had been submitted; in concert, so you see the plan and how the waiver requests are going to impact the entire plan. You can act and that is your decision. Procedurally, they are in front of you and you can act on them if you want; however, there is nothing that compels you to act on waivers prior to the plan being in front of you.

Barry E. Rudisill – So you are saying the down side of approving them now or approving the waivers now is that we don't see the picture as it would effect the overall plan.

Attorney Andrew Miller – Right. Once you have approved the waiver, you are going to see a subsequent plan. You've already granted the waivers, you may not have seen all the impacts on the subsequent plan. I think in the future, in fairness to the developer, you have given recommendation so they have an idea going forward so they are not expending resources to find out later that the waiver requests were a non starter with you, but at the same time at this point you are looking at those waivers in somewhat of a vacuum because you don't see the plan laid out in front of you. It hasn't been reviewed.

Barry E. Rudisill asked if they can make the granting of the waivers contingent on the land development plan approved as well?

Attorney Andrew Miller – You could do that if you feel as though you have to take action tonight. You could put that contingency on it; the waivers are not effective until there is a plan in front of you that you've had a chance to review and act on.

Barry E. Rudisill – Of course that also means that we may or may not be able to ...

Attorney Andrew Miller – Right, that means you may or may not be able to alter these as part of or use these for a failure to meet any of these requirements as a basis to deny that plan.

Barry E. Rudisill – If you are aware that we are in favor of the waivers?

Hugh – I'd respectfully request if possible to act on, we would appreciate that. We have worked pretty closely with staff on about 3 occasions to develop these. It is a pretty straight forward plan with the exception of the waivers, and we'd like to have the clarity tht when we return and when we send the initial resources to complete the plan that theses are not issues that would come up at a later date with potentially different staff or different Supervisors. It would be in harm's way if someone else is of a different mind.

Barry E. Rudisill – If we make approval contingent on the land development plan being approved you know those waivers are going to be approved, but the down side is, that, for some reason, if the waivers don't work with the land development plan we are stuck with the waivers if we approve them now.

David L. Naylor – So what we've done in the past, which worked out pretty effectively, is that the developer would come in ask for our wishes and how we feel about this. We've let them know that we have no opposition to any of these waivers and that seemed to suffice.

Barry E. Rudisill confirmed that was done with the Fink/Weire tract. They came in and opinion was given.

In most cases where the have been waivers that were potentially controversial, that were not simple waiver requests, that is the way you have handled them. They've come in, asked for your opinion or any recommendation to get a feel for where the Board may be and then proceeded with their plan and then the waiver requests were granted with the plan approval.

David L. Naylor – So that is the way we should proceed tonight. I really have no qualms over these waivers.

Barry E. Rudisill agreed and commented that neither one of us do and we are both going to be the ones who are reviewing the plan when it comes in because Steve will recuse himself and it is the two of us for 6 years.

He added On advice of the solicitor it is a good idea and to note that we are in favor of waivers and I don't really see any impact and I'd rather be safe than sorry. Sees no reason why not able to grant future approval along with the land development plan.

Barry E. Rudisill withdraws motion.

David L. Naylor returned Chairing of meeting to Steven H. Gross, Jr.

Special Request

Penn Waste collection of past due accounts – no representation

Terry R. Gingerich spoke with them previously and thought they would be here tonight.

Attorney Andrew Miller did receive letter and copies of other ordinances from Penn Waste. Up to you whether to proceed with the request or wait to hear from them.

Solicitor's Report – Attorney Andrew Miller

- Northern Heights HOP application from JPM Northern, should be reviewed by Byron Trout for costs.
- other items on report are self explanatory
- Intermunicipal agreement – Attorney MacNeal working with Boroughs. Steven H. Gross, Jr. commented on the discussion that was held at reorganization. Jim Coble is working with Boroughs to come to an agreement on the phasing of rate equalization.
- 220 Olde Hickory lien stays in place with property if funds from Sheriff's sale are not enough to cover.
- Terry R. Gingerich mentioned that 2 property owners from past not paying their fines – Kinert & Harrell-Carr. After discussion, it was suggested that a letter starting execution of proceedings be sent per motion by David L. Naylor, seconded by Barry E. Rudisill and carried unanimously.
- Executive session request for discussion of Rentzel Heights/SCC-Canyon litigation.

Engineer's Report – Byron Trout

- § Fink/Weire excavation has started.
- § PPL golf revision - golf cart crossing modified to include a 90-degree turn and railroad ties to prevent straight across movement
- § A previous conversation with Jeff Shue for Rail Trail indicated he believes the situation is no different than having sidewalk along any other development.
- § Wago Club sewer work - Conservation District and DEP are coordinating.
A motion to approve work was made by Barry E. Rudisill, seconded by Steven H. Gross, Jr. and carried unanimously.

Correspondence - none

Manager's Report – Terry R. Gingerich, Manager

- § Northeastern Sewer Authority – no minutes
- § Zoning Officer – no questions, Steven H. Gross, Jr. asked about the upcoming zoning hearings which are 2 applications for home occupations
- Public Works Director – deck planks along the side for guide rail were replaced on the Gut Road bridge
- § Recreation Board – PP L pet waste stations although not on field paths around fields
- § Annual junkyard license renewals - based upon recommendation by Katrina Rife, Steven H. Gross, Jr. motioned to renew the applications from Cassell, Keister, and Klinefelter. Motion seconded by Barry E. Rudisill and carried unanimously.

Supervisors' comments

David L. Naylor - no further comments

Barry E. Rudisill

- line painting, contractor to return in Spring to repaint Terry R. Gingerich confirmed they are not paid
- Traffic study training for roadcrew? Terry R. Gingerich understands it is still planned by Dave Gentzler
- relocation of stop bar on Board Road? - not yet per Byron Trout
- Act 537 overdue on update. After discussion, it was determined to wait for DEP
- road improvement list? Terry R. Gingerich has not received from Dave Gentzler

Steven H. Gross, Jr. – no further comments

Public Comment

Joel asked about the sediment accumulating in the stream in front of Wago Club. Terry R. Gingerich added that PennDOT is planning to do some work and has submitted to DEP. They plan on clearing debris and lining Wago Club side of bank with rock.

Dave Bloss asked if any news on the PPL request for Wago Road closing. There is nothing official at this time. Barry E. Rudisill commented that he was told by Keith Gillespie that Jim Nulton of PPL informed him that they will not be pursuing closing at this time.

Scott Elfner asked to clarify the dog situation at PPL fields – are they allowed on fields or not on fields? The signs are up and dogs are not to be on the fields, they are allowed to be walked around the perimeter of the fields and therefore the need for waste stations.

Anne Marks asked if 2 stop signs on Mundis Race at the Dellinger Road intersection would help with traffic concerns for Rail Trail? Joel commented that he believes that would not help, the problem seems to be the curve of the road where they lose control.

A motion from Steven H. Gross, Jr. to pay bills was seconded by Barry E. Rudisill and carried unanimously.

David L. Naylor motioned to recess for executive session at 8:24pm to discuss the SCC-Canyon II, LLC litigation matters, Cases No. 2009-SU-3029 and 2009-SU-3253. Steven H. Gross, Jr. seconded motion, which carried unanimously.

Chairman Gross reconvened the regular meeting at 8:45pm.

A motion to adjourn by Steven H. Gross, Jr. at 8:45pm was seconded by David L. Naylor and carried unanimously.

Respectfully submitted,

Terry R. Gingerich
Township Manager/Secretary/Treasurer