

**EAST MANCHESTER TOWNSHIP
BOARD OF SUPERVISORS
MARCH 10, 2009**

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 the February meeting, the Supervisors have not met.

The minutes of 2/10/09 were accepted per motion from Barry E. Rudisill, seconded by David L. Naylor and carried unanimously.

Acknowledgement of service plaques:

Roy Garland II, Zoning Hearing Board member 1992 - 2008

Lloyd Gingerich, Sewer Authority representative 1961 - 2008

Public Comment

Ken Dunbar representing the recreation board introduced the two new members, Dottie Rohrbaugh and Sherry Dunbar

A review of the Dauberton Park proposal was given. They plan to build raised flowerbeds with help of Boy Scouts and Susquehanna Lions Club, install benches and birdhouse are also planned in future. The estimate is fairly accurate to cost of project.

PPL fields - suggested fees \$10.00/hr-youth and \$20.00/hr adult sized fields. Requesting approval. Note: The fees are not applicable for use by NEYSA.

NEYSA soccer is expecting 107 participants.

The walking path is on hold by PPL.

Dog curbing is NOT being respected. Signage may be the problem since it is on the building instead of posted by the parking lot or fields.

The proposed fencing along right side of drive should still be ok to install per Rob Foltz as reported by Terry R. Gingerich.

James Arex of Manchester expressed his displeasure of receiving 2 pieces of misinformation regarding public meetings, no thanks to Steven H. Gross, Jr. and David L. Naylor. He was told to attend the NERPD meeting Monday, but it was changed and the April Board of Supervisors meeting date of 4/14, which is being changed to 4/22.

David L. Naylor took the opportunity to announce that the Board of Supervisors will not be meeting Tuesday 4/14, they will meet Wednesday 4/22 at 7:00pm due to TMI drill.

Non-resident comments - none

Subdivision and land development – none

Northeastern Area Emergency information was received from Gary Cardasso for later review.

Special Request

Leg Up Farm update on final plan John Luciani and Lou Castriota Jr. presented a phased plan for the development of Leg Up Farm.

After a long period of time funding has been received, but not all. The economic crisis has affected this project and they cannot build 100% at this time. A meeting on 2/19/09 was held with township staff to discuss a downsize version of plan with the phasing of development.

They showed a colorized plan - Yellow is the overall site plan and is referred to as phase 1, all stormwater, road improvements, and utilities are planned in this phase.

The full build out of 84,176 sq ft with 145 parking spaces will be downsized to 20,000 sq ft. with 81 spaces in phase 1.

They are considering 3 phases through 2014 and will determine how to proceed as the project progresses. Orange colored is phase 2 and green is phase 3 with residual building.

Phase 1 anticipated start in March 2009, phase 2 –2012, and phase 3 in 2014.

Entire site will be graded in phase 1.

Lou commented that they desire to proceed with caution based on current economic conditions and they need cash flow to continue to get through for operations. If timeline could be accelerated

Attorney Andrew Miller suggests that since the original plan was not approved as phased and they are not changing the plan except for the phasing, it may be good to grant extensions for timeframe for approval and protection for the 5 years. A development agreement can address a time frame and a schedule for the public improvements and also grant the extension for purposes of zoning and SALDO ordinance changes to complete the rest of the improvements by 2014.

January 29, 2009 was the recording date of the plan.

David L. Naylor – with a project of this magnitude, he believes both parties should be protected by a developers agreement with timeframe stipulated.

All agreed and would allow this to proceed along with the process of creating developers agreement. Should be able to have worked out by April's meeting.

Byron Trout added that he suggest bank cut down as one of the first things to do there.

John commented that where they are short on fill in the back of property that will be used from there.

As a reminder, Barry E. Rudisill commented that Byron Trout has to be comfortable with the safety issue of the entrance and you have assured us that is not going to be an issue.

Rentzel Heights farmhouse demolition

Attorney Robert Katherman and Conor Gilligan and Bob Schultz of Craftsman Developers were present representing Saybrook Community Capital regarding the stone farmhouse at Rentzel Heights development.

Bob – The following is what I said about the house we are going to talk about tonight, "I also want to tell you that part of our vision for this site is this building was the Rentzel family

farmhouse and it is our intent and Sam's area of expertise (Sam being the expert here that evening) for the rehabilitization of this site to be spending perhaps 10's of thousands perhaps 100's of thousands of dollars to bring this up". I went on to say that it was going to be part of a neighborhood center and that has been brought up repeatedly as why now are you asking for what you want to do, so I want to lay that out.

Steven H. Gross, Jr. – for the benefit of everybody in the audience, you read that from ?

Bob explained that he read from the Zoning Hearing Board transcripts from 2006 for a community center application that was to be a playground area, swimming pool, parking lot, and the Rentzel farmhouse that was to be rehabilitated. He wanted to lay that out to say that when told that 3 years ago he said something different, he did. He further explained that the same economic situation as why Leg Up Farm is scaling back is the same economic situation that brings them here this evening.

Conor in replying to Bob's questions stated that 241 homes were approved in that development and 3 have been built. The people that made the previous statements no longer own the property. There is a new owner because the old company went bankrupt.

Bob – I know you would like done to this farmhouse what we said would be done to this farmhouse. And had the client I represented that night been able to build and sell houses, I am sure they would have done that. But they went bankrupt; there's a new owner and they built 3 houses. And everybody can say that we are not going to cry and weep for them but it is a fact that they haven't made any money, it is a fact that the people that own it now are losing money on the proposition; they were not quick to abandon their work completely because they did build the swimming pool and pool house and parking lot, but they have not renovated this building. What they have asked is for this township is to issue a demolition permit to bring that building down.

I was told by staff that it was the wish of this Board that before that decision was made that we should go back to the Zoning Hearing Board. I came and told you that I would do that, I then went and did that and it was a little choppy there because neither I nor the Zoning Hearing Board really knew what exactly we were there for other than just to tell them that is what we were going to be doing.

I believe, and you sent Mr. Miller to be there as well, I believe Attorney Solymos' (attorney for the Zoning Hearing Board) position was there really wasn't anything for the Zoning Hearing Board to say or do as far as a motion because I wasn't asking for a special exception, variance or an interpretation. I was just there to give notice and I think we spent about 2 hours going over it and over it, so if it was the desire and intent of the Board of Supervisors that the Zoning Hearing Board be given the full opportunity to voice whatever they had to say about this, they had that opportunity.

I told you I would do it, we went back, we did it, we had that rather long meeting.

They were no happier when we brought this to them because I think they would like to see the farmhouse rehabilitated and made part of the community center. I don't think there's anybody that didn't want that to happen, but things changed.

He summarized that many good people who had good intentions of paying are defaulting on loans today – that does not make them bad people – changes.

Circumstances have changed since 2006.

He mentioned that there has been some complaints about the vacant building and contact to the owner by the township regarding this concern.

It is up to the township to either allow the Zoning & Codes Enforcement Officer to issue the demolition permit or to say they will not allow that and everyone will act accordingly from that point.

In an action in mandamus, Bob does not know what the township reason to not issue demo permit would be. Because they could not do what they wanted to do in 2006 does not seem to be a cause to deny the permit. They are hoping for understanding. No one is pleased but it is the situation. He is respectfully asking the Supervisors to allow Katrina Rife to issue demo permit for this property.

Conor had no additional comments.

Barry E. Rudisill asked how benefit demolition vs keeping for residence.

Conor explained that the Zoning Hearing Board granted special exception for community center, which negates residential use.

Barry commented that he would like to see residence instead of demo due to the history of this building.

Bob added that at the Zoning Hearing Board there was much discussion on options to solve dilemma. It became like a domino theory in whatever was proposed something else had to become involved creating non-conforming issues with zoning or required subdivision that would also create non-conformance.

The developer has insurance liability concerns and vandalism concerns – attractive nuisance

Steven H. Gross, Jr. mentioned there is one home also vacant – question should that be demo'd

Bob indicated the Rentzel house is not in a condition that somebody would want it, that other home is ready for sale and occupancy.

They have no plan or intention to improve it and are hoping the demolition permit will be allowed to be issued.

Steven H. Gross, Jr. asked about Meeting House Road improvements.

Conor answered when permits are finalized. He added that PennDOT has included a crosswalk with light and they are working on it.

Byron Trout concurred on this issue and stated there was a meeting with Dave Kegerize and TRG on it.

Steven H. Gross, Jr. – From our side, we have Meeting House Road that is not finished and I hear comments from residents all the time that your client could make these nice road in their new development and all the curbs and everything ready to go and the public is left with the mess on Meeting House Road. Secondly, there is another issue and this ties into why we are dragging our feet on your issue now and to clarify something, we told the Zoning Officer not to give you the permit, that we wanted to discuss it with you, we didn't say we weren't going to give it.

Bob – I know that

Steven H. Gross, Jr. - We need to discuss it. Whether your past client or this client, there is a history of tearing down the other house that was there, the Waltersdorff house, and permit gotten after the fact. Your past client wanted to have a sales trailer, we bent over backwards and worked with, now we are left with a public road that isn't improved and every time we ask about when it is going to be improved we get the story about permit process, this change, that changes, but meanwhile, we want to build our swimming pool, we want to do this and do that and the township keeps saying yes, yes, yes, yes, yes and we are done saying yes, yes, yes, yes, yes. You guys need to get Meeting House Road done. There is no reason that isn't done.

The second thing I want you to hear loud and clear is we might not be able to stop you from tearing this house down but how many lots did you say you have in this development, 241, well think about how long that is going to take. I don't know what the make up of this Board will be in 5-6 years, but you may have Mr. Katherman here for more issues, you are going to be here for a long time and you ought to think about extending an olive branch to the community and working with the community and getting these public improvements done. I haven't heard anybody in the community say tear that house down it's an eyesore, in fact, I've hear more about the other vacant house. I think you ought to reconsider your position a little bit and look at the big picture, because since this development has started and Mr. Katherman represented it from the start, the township has given and given and given and given and gotten everything you want and now we are up against it too. And quite frankly I don't buy the excuse about the economic condition because the first thing you learn when you sit on the Zoning Hearing Board, which I did before I became a Supervisor, is an economic reason is not a reason to grant anything from the Zoning Hearing Board or anything else when it comes to here.

Bob asked Conor if there was anything they could do now to correct the situation at Meeting House Road

Conor - no

Bob again ask him, what do you need?

Conor indicated they need the PennDOT permit and HOP permit

Byron Trout agreed they are waiting for PennDOT approval for the intersection improvements. The drainage improvements along Meeting House Road have been done, and work could be started along Meeting House to get the curb and widening work done, just not do the final overlay. He feels there is work that can be started.

Bob questioned if that is practical. Isn't it normal to go on site and do all the work at one time?

Byron Trout stated he is trying to look out for the best interest of the municipality and that is his recommendation. He does not know when PennDOT permit will be issued.

Steven H. Gross, Jr. – your predecessors have been here telling us they have been working on it for 3-4 years and sooner or later that excuse runs out, and I think you are at that point where it ran out.

Bob asked if Byron Trout could find out from PennDOT if everything has been submitted as required. He asked this to be done so all know where the responsibility for the frustration with not being done lies.

Byron Trout also mentioned the improvements on Meeting House Road that the township and other developer are working on. He would like to see the improvements from Auction Drive E toward Board Road started to blend with other improvements that are currently in process. There are grade issues, improvements, widening to be completed and he believes now is the time to move in and get started.

Bob asked if this has been said to Dave Kegerize.

Byron Trout stated he said this to Dave many times and has been expecting those improvements to be already done. He understands the issue of not having PennDOT permit for work within the right-of-way but in the meantime you have months of work along Meeting House (township road). Suggest get that done.

Bob asked for some sympathy for the current owner due to the fact that they are making nothing – no homes have been sold. They are here on the issue of the demolition permit and would like and answer.

Steven H. Gross, Jr. mentioned the weed problems and keeping that mowed.

Conor mentioned that last year the owner and Katrina Rife walked site and was ok last year. Katrina Rife confirmed that is correct. She also added that a phone call was received yesterday about concerns with potential weeds growing on the dirt stockpile. She did not pass this to owner yet. Conor and Katrina Rife will work on this.

Steven H. Gross, Jr. made clear that it is not just the 3 Supervisors but also the community that is not happy.

Barry E. Rudisill asked what plans are for that lot once the building is not there.

Conor answered that it would just be open space – green area where the house now sits.

David L. Naylor asked if the unused pool is a liability.

Bob – yes

David L. Naylor – should that be tore up and filled in

Bob – we put a fence around it.

David L. Naylor – well put a fence around the house, I mean what you previously said about the economy I full understand where you are coming from; however, when you are in position where his ownership is buying and selling developments like this it is a risk or reward thing. He knew what he was getting into and took that chance, so you are not going to get any crocodile tears from me because they haven't sold more than 3 houses. Our township is getting hosed because of the lack of road improvements to Meeting House Road. We've been saying this for how many? 3 years?

Steven H. Gross, Jr. adjourned to Executive session to discuss with attorney at 7:52pm.

8:05 reconvene

Attorney Andrew Miller announced that in Executive session, the Supervisors discussed the comments that have been eluded to mandamus action for issuance of a demolition permit. The possibility and the ramifications of that were discussed.

Steven H. Gross, Jr. asked if there was a motion on this.

Steven H. Gross, Jr. – seeing that there is no motion, I will make a motion to TABLE at this time this issue of whether or not to issue the demo permit. David L. Naylor seconded for discussion.

David L. Naylor - So then basically, tabling the demolition permit is virtually giving Katrina notice that she is not supposed to issue a demolition permit, am I right?

Steven H. Gross, Jr. – In my opinion, the Board hasn't reached a decision.

David L. Naylor – ok, so I'll agree with that motion.

Barry E. Rudisill – no further comments

Bob – may I make point of order? I believe it was four or five months ago that the request for the demolition permit was first extended to your zoning officer. May I respectfully ask tabled for how long for what purpose?

Steven H. Gross, Jr. – scratch my head on that one

Attorney Andrew Miller – I don't think you are under any obligation to answer that although it is a fair question to be asked at this point or give a specific time when action would be taken. I think as the discussion has gone on tonight and has been discussed tonight, there is some other things that need to be completed in the development and I think it is fair for you to table it until a future time when you feel as though it is appropriate to make a decision on that and we can evaluate the status of the development at that time.

Bob – for the record are you adopting that as the position, so when we go to court that is the position?

Steven H. Gross, Jr. – that's is what we are paying the big bucks for.

Bob – ok, that's fine I don't mind fighting that position

Steven H. Gross, Jr. – you have anything else you would like to add?

Bob – no I was hoping we would be given an idea of is it a week, month, are we talking a year? As much as you gentlemen may not appreciate what has happened up there, I'm not sure of your response, we came here respectfully and laid our cards on the table and if you are not going to do it, I would rather just hear you say you are not going to do it unless if it is a legal ploy to table it, that's fine I can accept that. We were trying to be here with nothing up our sleeves and just talking about the situation.

Steven H. Gross, Jr. – I think we pointed out some situations and some problems up there that you should have heard loud and clear.

Bob – ok, so what I'm taking is that you've tied those together

Steven H. Gross, Jr. – I didn't say that, I'm trying to be like you - mix words. We've had a frank discussion here you stated your point, we've stated our point, and no one came to a conclusion. We've tabled it for another month, I think we are going to move on.

David L. Naylor called for vote. Motion to TABLE was carried unanimously.

Solicitor's Report – Attorney Andrew Miller

- § Penn Waste recycling tipping fees - no provision to pay
- § Open Records regarding emails staff should take appropriate action
- § Open Records office meeting tapes resolution advisory that those tapes could be public records if no policy to destroy after draft of minutes has been approved. David L. Naylor motioned to authorize Attorney Andrew Miller to draft resolution to this effect. Steven H. Gross, Jr. seconded and motion carried unanimously.
- § enforcement actions on 3 properties are filed as civil complaints for 3/24/09
- § development agreement draft review section 2 - public improvements 3 - underground utilities before paving, 3 - pull financial security 8 - recreation fees
- § David L. Naylor motioned to authorize Attorney Andrew Miller to prepare a resolution for the allocation of the recreation fees from Rentzel Heights prior to May meeting. Motion seconded by Barry E. Rudisill and carried unanimously.
- § draft of floodplain ordinance
- § draft Subdivision and Land Development ordinance, Byron Trout gave changes, review for next month

Engineer's Report – Byron Trout

- § Surety reductions:
 - Green Ridge surety reduction – recommend Beshore School Road public improvements completed before reductions, would like tied together with the other Beshore School Road improvements
 - Northern Heights - no reduction recommended
- § maintenance bond Asbury Point – no reduction recommended, need to make 2 repairs
- § DCNR grant \$63,000.00 - 2009 application due by 4/22, update phase 2 and submit for Dauberton
- § met with General Contractor for school regarding Board road improvements
- § MS 4 mapping - road crew to assist with location, DEP web link given for township website
- § CVS plan primary concern of traffic - limit egress from Brickyard and alignment of road at traffic light getting access to RCA property
- § Dauberton Park stormwater pond - adding to project list

Correspondence

- § NE Boys Volleyball request to advertise in the program book – agreed it is not prudent to start this type of support - if do for one group then will expect to do for all.
- § Newberry Township letter for cooperative services - agreed

Manager's Report – Terry R. Gingerich

- § Northeastern York County Sewer Authority – nothing received
- § Recreation Board – no questions
- § Zoning Officer – no questions
- § Public Works Director – request to purchase plow \$4,197.00 from Lancaster Truck Body
David L. Naylor motioned to accept quote and purchase plow for F550. Barry E. Rudisill seconded motion and carried unanimously. This truck needs heavier springs for front end to accommodate plow.
- § resolution for Electronic Access Licensing Agreement for PennDOT
Steven H. Gross, Jr. motioned to adopt resolution 2009-7 Barry E. Rudisill seconded and carried unanimously
- § Mt. Wolf street sweeping proposal as presented was accepted

Supervisors' comments

David L. Naylor

- Emergency Services Training seminar was very helpful in learning how to work together with EMS
- Would be very beneficial to have tack strips on meeting room wall for TMI drill
- developers agreement is a must to protect township – every development should have this agreement
- Peters property? Barry E. Rudisill noticed pole is still in place for electric service, Dave Bloss mentioned he saw them taking stuff out of building
- Senate bill 557 sponsored by Waugh where school districts can impose impact fees on new development

Barry E. Rudisill

- quarry reroute, water-trench overflowed, encourage project to get completed
- RCA fence installed with large gap underneath – Katrina Rife will research to discuss
- sidewalk between Greenwood and Green Ridge development, Byron Trout commented that Green Ridge will do – it is part of their surety
- Long Road drainage pipe – Northern Heights not get a reduction in surety
- Hartman property on Chestnut Street, Katrina Rife posted property and sent letter, letters from Police Chief Albright and Fire Chief Stevens were received requesting action. Attorney Andrew Miller suggests preparing to file with District Magistrate.
Barry E. Rudisill motioned to file a complaint Steven H. Gross, Jr. seconded and motion carried unanimously.

Steven H. Gross, Jr.

- outside storage at Devco Drive property now worse, send violation notice
- PPL maintenance building for golf course setback, seems close to road. Katrina Rife explained it is PPL property on both sides of a 12' private lane with easement granted and the building is within the setbacks for the property.

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

Public Comments

Bob Nace mentioned the Hartman porch is not safe to enter, use caution when posting or doing anything.

James Arex - Thanked the Board for attention to his concerns. He continues to be interested and learning. He mentioned his letter regarding the new FBI director # 6 police oversight needed higher priority than 6 and this area being the # 1 pedophile area in US.

Joyce Daniels mentioned a correction is needed to the spelling of Ben Ruby's name on the website.

Steven H. Gross, Jr. motioned to recess to Executive session at 9:24pm.

Reconvened to adjourn at 9:40pm.

Respectfully submitted,

Terry R. Gingerich
Township Manager/Secretary/Treasurer