

New Garden Township
Land Development/ Sub Division Meeting
January 11, 2009

Supervisors Present

Bob Norris, Chairman
Bob Perrotti, Vice Chair
Barclay Hoopes
Betty Gordon
Warren Reynolds

Others Present

Ed Hill, Interim Manager David Carlin
Nathan Cline, P.E. Bob Bowe
Bernie McKay
Mark Padula
Jim DiLuzio

I. CALL TO ORDER

Chairman Norris called the meeting to order at 7:30pm with a pledge to the flag.

II. NEW GARDEN NEWS

Chairman Norris announced that the Board met in an executive session on January 4th to discuss personnel matters.

Chairman Norris read a letter of Mark Hoopes' resignation from the Zoning Hearing Board and thanked him for his service.

Chairman Norris stated that PennDot awarded a grant for bike and walking trails along both sides of Old Baltimore Pike from Kennett to West Grove. Walking trails are also included on Route 52 and Route 1. Construction is anticipated to begin between February and June which will include some widening and re-striping.

III. OPPORTUNITY FOR RESIDENTS TO ADDRESS THE BOARD

With none the Board moved to discuss New Business.

IV. NEW BUSINESS

A. Consideration of Conservation Services to be provided by Natural Land Trust in the amount of \$3,000 to attend Open Space meetings- Bernie McKay of the Open Space Review Board stated that the proposed is their annual contract to attend Open Space meetings for guidance purposes. The \$3,000 is a retainer to cover consulting for 36 hours for monthly meetings which is based on 3 hours per month. Chairman Norris stated that the fee will be paid out of the General Fund. *Vice Chairman Perrotti motioned to move forward and approve the contract of Natural Lands Trust as submitted. Supervisor Reynolds seconded to a unanimous vote.*

B. Consideration of Commonwealth Real Estate Land Development final plan approval- Mr. Padula was present on behalf of the developer. Chairman

Norris stated that the proposed is part commercial and part retail development. The applicant has worked well with the Township and they have all sewer issues resolved and PennDot approvals.

Mr. Padula stated that they received New Garden Planning Commission approval on November 18th and were present to request final land development approval. He stated that they are requesting three waivers, the first being from jurisdictional determination which is to flag wetlands and the Army Corps will make a determination. He stated that they do have a 50 ft buffer that would account for wetlands.

Mr. Padula stated that the second waiver is for relief from the requirement of a prepared Erosion and Sediment Control Plan, as the users are not yet identified, therefore would be difficult to prepare prior to the identification of users.

Mr. Padula stated that the third waiver is from the requirement of copies of permits of PennDot and DEP, which includes the NPDES permit and is part of the Erosion and Sediment Control Plan. Mr. Cline stated that Mr. Padula is correct and that he has reviewed the matter several time. There are issues outstanding administratively with permits, but the design issues are resolved. Construction cannot begin until all permits are in place. The HOP plans are for improvement of two signalized intersections. Chairman Norris requested Mr. Cline's recommendation of the waiver of Erosion and Sediment Control. Mr. Cline stated this plan is unique and it would be difficult to present an Erosion and Sediment Control Plan as it will be changed when the uses are identified. He recommended accepting the waivers as he will see that all is in compliance prior to construction.

Bob Bowe of the Planning Commission stated that the New Garden Planning Commission recommended final approval with conditions. Chairman Norris questioned the tapping fees and Mr. Padula stated that they received DEP approval last week and a payment of \$126,000.50 is due by January 28th.

Supervisor Reynolds questioned the comments of the CCPC and the status of a traffic study. Mr. Padula stated that there was a study done and improvements required include turning lanes, which is before PennDot for approval. West Baltimore Pike and Cypress Street will be signalized and Cedar Spring will be widened as a result of the traffic study. Supervisor Reynolds questioned CCPC comments of the driveway slopes. Mr. Padula stated that the Township Engineer had reviewed the comments and all CCPC issues have been addressed. There is no issue with the driveway slope. Supervisor Reynolds stated his concern of so much building being done on slopes and that the County recommends it being controlled. He questioned if the engineer is prepared to

monitor and Mr. Cline stated that it will be monitored by him and the Chester County Conservation District. Supervisor Reynolds questioned if there is a retaining wall design and Mr. Cline stated that there is not yet a design as the use is not yet identified but when there is it will be monitored. Mr. Cline stated that they are following the ordinance. Supervisor Reynolds stated that he would like to see more vegetative screening on the property around the residential areas, as waivers were given from screening.

Vice Chairman Perrotti questioned the status of the fee in lieu of recreation and Mr. Padula stated that Peter Temple, Esq. and Solicitor Land will be working the figure.

Vice Chairman Perrotti motioned to grant a waiver of Section 170-20.B.5 requiring an erosion and sediment control plan be submitted as it is proposed at the time of building permit plans an erosion and sediment control plan be completed. Supervisor Gordon seconded to a unanimous vote.

Vice Chairman Perrotti motioned to grant a waiver of Section 165-9.G requiring a jurisdictional determination made by the United States Army Corps of Engineers. Supervisor Gordon seconded to a unanimous vote.

Vice Chairman Perrotti motioned to grant a waiver of Section 170-2.E.3 requiring copies of relevant permits or certificates as may be required by PennDot and DEP and any other agency having jurisdiction. Supervisor Gordon seconded to a unanimous vote.

Vice Chairman Perrotti motioned to final approval of Commonwealth Real Estate Land Development with waivers, contingent upon sewer tapping fees of \$126,556.41 being paid in 45 days, the McMahon letter dated December 16, 2009, the Pennoni review letter dated November 13, 2009, them obtaining DEP approval and obtaining PennDot approvals. Supervisor Hoopes seconded to a unanimous vote.

Mr. Padula stated that they are requesting any recommendations of names for the center and that the start date will be based on the tenants. Chairman Norris welcomed them to display the approved plans in the lobby.

C. Consideration of Final approval of Basciani/ St. Gabriel's Lot line change- Chairman Norris stated that the plan is to reshape the lot lines that co-exist with St. Gabriel's so that the Basciani building is not in the building envelope. Mike Shiring, Esq. stated that the property is approximately 36 acres and a condition of the preliminary land development approval of the Basciani project was to apply for a lot line change. Mr. Shiring gave an overview of the plan and stated that currently the building encroaches 12-14 ft onto the St

Gabriel's property which was pointed out by the Zoning Officer. The Arch Diocese is selling 1.75 acres to the Bascianis to allow the lot line change. The Planning Commission recommended approval and Pennoni provided a very clean letter. The plan will be back in front of the Board for final land development approval. *Supervisor Hoopes motion to approval of the Basciani/ St. Gabriel's final subdivision lot line change subject to the Pennoni letter of January 8, 2010. Chairman Norris seconded and the motion was carried by all excluding Vice Chairman Perrotti as he recused.*

D. Consideration of approval for the Solicitor to negotiate an easement with Mr. Studzinski- Solicitor Land stated that there is a property in the Bancroft Woods development where a portion of the pump station is built on the property. He recommended an easement agreement that would allow the pump station to remain where it is and requested authorization to finalize the easement agreement. Vice Chairman Perrotti questioned if there is a number to be negotiated. Solicitor Land stated that the appraisal will be the highest number to negotiate. *Vice Chairman Perrotti motioned to approve the Solicitor finalize the easement up to the highest amount of the appraisal. Supervisor Hoopes seconded to a unanimous vote.*

V. OLD BUSINESS

A. Consideration of lease agreement with KAU Little League- Vice Chairman Perrotti stated that KAU and the Solicitor came to an agreement on a longterm lease for the use and maintenance of the ball field in New Garden Park. Solicitor Land stated that he reviewed the agreement and recommends a few minor clarifications but otherwise agrees with the lease and recommends approval with changes. Chairman Norris stated that this is a great cooperative inter-municipality agreement and that there are a good percentage of youngsters playing baseball from New Garden. *Supervisor Perrotti motioned to approve the lease agreement with KAU contingent upon the Solicitor's approval and sign off. Supervisor Hoopes seconded to a unanimous vote.* Mike Robinson of KAU thanked the Board for what has been done and promised to make New Garden proud.

B. Lyceum House- Vice Chairman Perrotti stated that the owner of the Lyceum House in the Township is interested in having the house removed from their property and the Township is interested in securing funds to build a foundation and move the house to the Township Park. A photo session will be held on Sunday the 17th at 3:00pm for the newspaper in an effort to get local support to move the building.

VI. OTHER BUSINESS

A. Consideration of appointing a member to the Zoning Hearing Board vacancy- Chairman Norris stated that Mark Hoopes resigned from the ZHB and has been advised to replace him and appoint two or three alternates. Solicitor Land stated that Mr. Hoopes is available for the remainder of the hearings he is involved in. *Chairman Norris motioned to regretfully accept Mr. Hoopes' resignation but that he will continue to be involved in hearings. Supervisor Hoopes seconded to a unanimous vote.*

Mr. Carlin and Mr. DiLuzio were present to fill the vacancy. Mr. Carlin stated that he has been on the ZHB for 10 years and his term is up this year. He stated that he enjoys being involved. Chairman Norris questioned Mr. Carlin's application to the ZHB. Mr. Carlin stated that he built a parking lot and did not realize that they were two separate lots. He stated that he is in the process of working through the required changes. Mr. Carlin indicated that he has not followed through due to fact that his attorney has been on a boat and therefore Mr. Carlin has been unable to get in touch with him.

Mr. DiLuzio stated that he was appointed to the ZHB in 1996. He stated that he has attended training for zoning officials and it has been a great honor to serve the ZHB. He stated his concern of Commonwealth Real Estate Investors having been in front of the ZHB and receiving variances. He stated his concern of waivers contradicting the zoning variance granted and suggested that someone review the conditions and stipulations to make sure the waivers don't violate the zoning decision. Mr. DiLuzio stated that he would be happy to continue as an alternate or be on the ZHB and continue working with Mr. Carlin.

Mr. DiLuzio questioned if the alternate has to submit an ethics form. Solicitor Land stated that he will research and get back to him.

Vice Chairman Perrotti motioned that David Carlin fill the one year vacancy of Mark Hoopes. Chairman Norris seconded and the motion was carried by Supervisor Hoopes. Supervisor Reynolds opposed and Supervisor Gordon abstained.

B. Consideration of appointing an alternate member to the Zoning Hearing Board- *Vice Chairman Perrotti motioned to reappoint Mr. DiLuzio as alternate to the ZHB. Supervisor Reynolds seconded to a unanimous vote. Supervisor Perrotti motioned that Pownall Jones be an additional alternate to the ZHB. Supervisor Hoopes seconded to a unanimous vote.*

C. Consideration of appointing the Office of the Township Manager to be the Right-to-know Officer- *Vice Chairman Perrotti motioned to make the Office*

of the Manager the Right-to- know Officer. Supervisor Hoopes seconded to a unanimous vote.

D. Consideration of reappointing McMahon Associates as Township Traffic Engineer- Vice Chairman Perrotti motioned to reappoint McMahon Associates as Township Traffic Engineer. Supervisor Hoopes seconded to a unanimous vote.

E. Consideration of appointing a Voting Delegate to the Annual State Convention in April- Supervisor Gordon nominated Supervisor Reynolds to be the voting delegate to the Annual State Convention. Supervisor Hoopes seconded to a unanimous vote.

F. Consideration of time extension for CRC Health Care Preliminary Plan for Land Development until February 15, 2010- Vice Chairman Perrotti motioned to approve a time extension of CRC Health Care (Bowling Green) until February 15, 2010. Supervisor Hoopes seconded to a unanimous vote.

G. Consideration of participation in the Chester County Municipal Energy Audit- Chairman Norris stated that through a federal spending program, there is a plan to audit municipalities to ensure that municipal buildings and services are green and renewable. There is no cost to the Township for the audit and no commitment to improvements. Mr. Hill stated that the county will hire the firm and they will come do an audit of buildings and provide a report on what needs improvement and there is no requirement to comply with their recommendations. *Supervisor Reynolds motioned to authorize the Township Manager to sign the acceptance of participation in the Chester County Municipal Energy Audit. Supervisor Gordon seconded to a unanimous vote.*

H. Consideration of Agreement with Avondale Fire Company No.1- Mr. Hill stated that there is a budgeted amount of \$129,170 with an additional \$50,000 donation for capital improvements. The proposed agreement is for the \$129,170 only which is a \$5,200 increase from last year. *Vice Chairman Perrotti motioned to approve the Agreement with Avondale Fire Company for the amount of \$129,170. Supervisor Reynolds seconded to a unanimous vote.*

I. Consideration of Agreement with Avondale Fire Company EMS Division- Mr. Hill stated that the budget approved \$97,525.00 contribution. The budgeted is an increase of \$5,700 which is to be split between Avondale EMS and SCCEMS. *Vice Chairman Perrotti motioned to authorize the Agreement with Avondale Fire Company EMS for the amount of \$97,525. Supervisor Reynolds seconded to a unanimous vote.*

J. Consideration of release No. 23 for Harrogate North in the amount of \$55,429.14- Chairman Norris stated that per the Pennoni letter dated January 4, 2010, Mr. Cline authorized the release of funds. *Vice Chairman Perrotti motioned to approve release No. 23 for Harrogate South in the amount of \$55,429.14. Supervisor Hoopes seconded to a unanimous vote.*

K. Consideration of revision/ reduction of construction escrow for OPPY property- The matter was tabled until tomorrow evening's meeting.

L. Approval of Consulting Services Agreement with Local Government Management Services- Chairman Norris stated that Local Government Management Services is the company the Board selected to find full-time long-term replacement for the manager. Solicitor Land, Supervisor Perrotti and himself have been working on an agreement and received a signed copy from Mr. Olpere yesterday. *Chairman Norris motioned to authorize the Township to sign the Agreement with Local Government Management Services. Vice Chairman Perrotti seconded to a unanimous vote.*

M. Emergency Management Coordinator- Mr. Steve Allaband questioned if the Emergency Management Coordinator needs to be reappointed and if the Board should consider a committee of individuals. Mr. Hill stated that the coordinator should be appointed by the Governor's offices and is appointed until he resigns but is to confirm. Mr. Hill is also to speak with the Chief and Gerry Lindenlauf on their thoughts to broaden to a committee.

N. Volunteers- Mr. McKay stated that there is a volunteer form which needs to be updated and requested to speak with the Board about interests of volunteer. Chairman Norris requested the discussion be included on the Agenda of next month's work session.

O. Escrow Questions- Ms. Paul requested an explanation of the procedures of release of escrow funds and Mr. Hill advised that the developer requests a release of funds and the Township then forwards the request to the Township Engineer for inspection of work. He then advised the Township if the work is complete and to release the funds. Solicitor Land stated that there is a process where an escrow is established to an account for monies that would be needed to complete all of a project and money is released based on request of the developer and work completed. Ms. Paul questioned if it is based solely on the recommendation of the Township Engineer. Solicitor Land stated that the Township relies on the recommendation of the Township consultants which consist of the Township Engineer, traffic engineer, building department, sewer, and Solicitor. Ms. Paul questioned if the consultants make a recommendation of the work complete and then the Board moves. The Solicitor stated that they do.

Chairman Norris welcomed Ms. Paul to address the Board with any specific concern.

P. Snow Removal- Mr. Hill requested to put on the website a request of Public Works that would request people not to park on the street when snowing and advertise to line up relief plow drivers.

VII. ADJOURNMENT to Executive Session for property acquisition.

Respectfully Submitted,

Kathryn Parlier,
Township Secretary