

Board of Supervisors Regular Meeting Tuesday July 17, 2007

The Board of Supervisors conducted a regular meeting held on Tuesday July 17, 2007 commencing at 9:00 a.m. Chairman Hensel called the meeting to order. Present were Supervisors Ms. Silvernail, and Mr. Doratt, Mr. Pompo Township Solicitor, Mr. MacCombie Township Engineer/Zoning Officer, Mr. Hawkins Building Inspector and members of the community.

The moment of silence and pledge of allegiance were observed.

Mr. Hensel announced that the Board met in executive session on July 10, 2007 to discuss police personnel matters.

Township Police report. Chief Groce reported that the information records system software upgrade has been recently done; he stated that this information would link the Southeast region of the County network to obtain records. Chief Groce reported that the department received a \$1,000 grant donation from Wal-Mart as part of the good neighbor program. The Chief thanked the road crew for a good job on painting the parking spaces for the police vehicles on the west side of the municipal building. Officer Yanak had his day in court with a motorcycle operator that almost ran him down while he was on a traffic stop. The operator was sentenced to 2 ninety day to 1 year in jail sentences with 1-10 days in jail for reckless driving, 70 months suspension of his drivers license and court fees. Chief Groce stated that an upgrade kit for (1) AED units has been ordered, the upgrade will cost \$369.80. He added that (2) other units would need upgraded by end of 2007. Chief Groce reported that a traffic detail was completed for Old Mill Road from Route 20 into Friendship Way. The detail showed the average vehicle traveled 22 mph within the posted 35 mpg he stated that the detail was based on a 3 day period with 1000 cars traveling on the roadway, 85% of the vehicles traveled 28 mph.

Township Engineers report. Mr. MacCombie reported that his office made contact with Mr. Lutz of PenDot and reported that no traffic counts had been completed for Lincoln Highway, AIM Boulevard/Independence Way, the reason he was given is that they are waiting for schools to open. Mr. MacCombie requested that they please do the study now due to the schools being open has nothing to do with this study. A Ms. Kate Shonley was assigned to do the counts. Mr. MacCombie reported that the dirt in question at the new Township Municipal building belongs to their contractor and they will have to get rid of it. Mr. MacCombie stated that he is in receipt of the 18 month bonding information regarding the maintenance bond for the new Township Municipal building and understands that there will be a 5-year bond for the paving. Mr. MacCombie stated that the Old Mill Road paving project has been advertised for sealed bids that will be opened at the August 21, 2007 Board meeting. Mr. MacCombie has withheld the advertisement of the Bert Reel Park until further discussions of the location of the bathroom facilities. Mr. MacCombie reported that the letter received from the Natural Resources Conservation Service is a contract that Mr. Garris entered into with them in January 2005. The contract states that the Township agrees to plant native trees and shrubs along

the stream of Buck Run with costs to be reimbursed by grant back to the Township in the amount of \$1,675.00.

Township Solicitors report. Mr. Pompo stated that he has received comments regarding the draft copy of the installation and maintenance agreement for individual on lot disposal systems. Mr. Pompo discussed this agreement with the Board with questions from Ms. Silvernail and Mr. MacCombie being answered by Mr. Pompo. Mr. Franz representing D & S Developers had questions regarding the permit process and certification, which were answered by Mr. MacCombie and Mr. Pompo. The Board agreed to accept the Installation and Maintenance Agreement for Individual On Lot Disposal Systems per corrections to the draft. Mr. Pompo stated that he would forward clean copies to Cowan Estates, Gateway Church and D & S Developers.

Township Building Inspector report. Mr. Hawkins stated that the issuing of permits is quiet. Mr. Hawkins stated that he is straightening out contractors that are not calling for final inspections.

New Business:

Larry Maulo representing Maulo & Company who performed the 2006 Financial Statements year ending December 31, 2007. Mr. Maulo stated that they have prepared a clean opinion and that the Township stayed primarily within their budget for 2006. Mr. Maulo stated that the total revenue for the general fund account was \$113,757 and the total expenditures came in under budget of \$133,310. The sanitary sewer system total operating expenses were \$447,235, non operating revenue was \$78,917, total income before contributions was \$107,427, capital contributions from developers was \$256,130. Total net assets as of December 31, 2006 were 4,094,178 for the sewer system. Mr. Maulo stated that the financial statements were filed with DCED by March 30, 2007 and filed with Delaware Investments by June 20, 2007.

Mr. Dave Gibbons representing Cowan Estates requested the approval of the operations and on lot maintenance agreement. Mr. Pompo stated that he would make all the final changes on the draft, will get signatures and send a document to them.

Mr. William Colby and Larry Hendrickson representing Valley View to request for additional allocation of the available capacity under the new policy. Mr. Colby requested the Board to consider their request for an additional 20 EDU's, he stated that currently they have 7 EDU's that were transferred from Valley Township and have granted permission to reduce their EDU's from 40 to 27 leaving an amount of 20 needed.

Mr. Hensel made a motion, seconded by Ms. Silvernail, to accept the request from Valley View for an additional 20 EDU's. With there being no questions from the public, the Board voting "aye", the motion passed unanimously.

Mr. John Jaros representing Lafayette Square to request an extension of time for their conditional use. Mr. Jaros stated he is seeking a 12-month extension. Ms. Silvernail

stated that they should consider complying with the Act 209 Traffic Impact Fees. Mr. Jaros stated that the Act 209 was not in place at the time of application and he himself or the developer is not the reason for the delay. The reason is sewer allocation. Ms. Silvernail stated that the conditional use stated that you must start this project within a certain time and she says its fair for them to comply with the Act 209 Ordinance. Mr. Doratt stated that the delay was caused by DEP. Ms. Silvernail replied that the developer could have done things differently if they knew they would not have enough sewer allocation, they could have started their project with less sewer allocation. Mr. Jaros asked what the Act 209 entails, Mr. MacCombie stated \$1,000 peak trip generated by each vehicle until the study is completed. Mr. Lymberis stated that the preliminary approved plan is good for 5 years. The Board tabled any decision.

John Jaros representing Lafayette Square to request sewer capacity reservation under the new allocation policy. Mr. Jaros also requested a letter be sent to Pennsylvania American Water Company to change the CMP. Mr. MacCombie stated that he would direct PAWC to make the change.

After discussion, Ms. Silvernail made a motion, seconded by Mr. Doratt, to accept the request made by Lafayette Square to purchase an additional 55 EDU's contingent upon all part 2 approvals is met and satisfaction of all parties. With there being no questions from the public, Mr. Doratt voting "aye", Ms. Silvernail voting "aye", Mr. Hensel abstained, the motion passed.

The Board discussed a proposal received from GK Productions, Inc regarding the Township's web page. The Board is unfamiliar with web development pricing and requested additional proposals. No decision was made, this item was tabled.

Alan Eagles asked if the Board could place the Ordinances on the web page? The Board stated that at this time the Township does not have a scanner.

Tom Greenfield asked if the sponsors that have been placed on the web page could be removed?

Mr. Doug Doratt made an official request to be placed on the Township's insurance coverage? The Board decided to get quotes on the cost of adding him.

Chris Franz and Mike Sodl representing D & S Developers requested final land development approval of their project. Mr. Franz stated that the Township Planning Commission has made a recommendation on their behalf. Mr. Franz agreed to resolve all issues contained in Mr. MacCombie's review letter dated July 6, 2007 and that they are seeking a waiver from the SALDO Section 1305.C.6.b to construct handicapped designated parking spaces less than 20 feet in length is recommended for approval conditioned that the applicant escrow from planting of 12 shade trees in addition to the submitted proposed landscape plan, size and location of trees to be determined by the Township engineers, all outside agency approval is necessary.

Mr. Hensel made a motion seconded by Ms. Silvernail, to approve the final land development plan phases I & II of D & S Developers contingent upon all items be satisfied: Mr. MacCombies review letter dated July 6, 2007, 12 shade trees, phasing agreement, sewage planning module approval, on lot maintenance agreement, developers agreement, posting of financial security, payment of all outstanding invoices. With there being no questions from the public, the Board voting “aye”, the motion passed unanimously.

Mr. MacCombie stated that Pennsylvania American Water Company is seeking a response letter from the Township regarding the Act 537 Plan on whether they agree with Chester County Health Department and Chester County Planning Commissions review and response to the plan. The Board directed Mr. MacCombie to send a letter stating that they approve the comments of both agencies.

Mr. MacCombie stated that Pennsylvania American Water Company would repair the traffic signal lines that were broken during excavation during a water connection job along Lincoln Highway.

Mr. Pompo stated that EB Games has requested that the Township release all their security. Township will not consider releasing any escrow until all outstanding invoices are paid and the new landowner to accept all past agreements.

Mr. Pompo stated that he has been in contact with the attorney for the Chester County Airport Authority regarding setting up a public, meeting between their board and ours. Mr. Pompo stated that there is conflict because their regular meetings are the same day as the Sadsbury Board evening meeting. Mr. Doratt announced that Chester County Airport is conducting an open house to be September 15, 2007 10-4.

Mr. MacCombie shared with the Board samples of colors and patterns for the Sadsbury Village Enhancement Project. Mr. MacCombie provided the Board with colors and patterns for the stamped paving for the sidewalks, dry stack stone sample for the stone walls that will be placed, samples were also given of bus shelters.

Meeting with DEP and Delaware Valley Concrete

The Board met with Mario DiLiberto owner of Delaware Valley Concrete along with Michael McCarthy Operations Manager of Delaware Valley Concrete and Gary Brown environmentalist for Delaware Valley Concrete, Mr. Kevin McLemore of PADEP, Ms. Kristin Hamilton of PADEP and residents of Pomeroy met to discuss the Township’s concerns regarding the operation of the concrete plant, particularly the measures used to control dust.

Mr. Kevin McLemore assigned the area representative for PADEP read from the Pennsylvania Code Title 25 Environmental Protection section 123.1 Prohibition of

certain fugitive emissions. No person may permit the emission into the outdoor atmosphere of a fugitive air contaminant from a source other than the following:

1. Construction or demolition of buildings or structures.
2. Grading, paving and maintenance of roads and streets.
3. Use of roads and streets, emissions from material in or on trucks, railroad cars and other vehicular equipment are not considered as emission from use of roads or streets.
4. Clearing of land.
5. Stockpiling of materials,
6. Open burning operations.
7. Blasting in open pit mines
8. Coke oven batteries.

Mr. McLemore also read section 123.2 Fugitive particulate matters. A person may not permit fugitive particulate matter to be emitted into the outdoor atmosphere from a source specified. Mr. McLemore stated that any type of emission into the air is a violation and a business owner must maintain and control dust within a reasonable means such as water or chemicals to reduce the dust. Mr. McLemore stated that Delaware Valley Concrete has been fined in the past with dust violations, no violation has been found this year.

Ann Garrett asked Mr. McLemore how soon does DEP respond once they get a complaint? Mr. McLemore stated they have a 10-day window.

Bill Washington stated that (2) DEP representatives were on his property this year and saw the dust and truck dragging the dust off the property of Delaware Valley Concrete.

Nancy Jones asked why DEP couldn't come out everyday? Mr. McLemore stated that they have other places to be and only so much manpower.

Margaret Marsh stated that she has been a resident of Pomeroy for 7 years and has since been placed on oxygen and been in the hospital for 17 days with breathing problems.

Daniel Tracey made a comment on the street sweeper that Delaware Valley Concrete is using, the hose is off and hanging and putting more dust in the air than it collects. Mr. McLemore stated if the street sweeper does not have water in it then don't run the sweeper. Mr. Tracey stated that he has seen the hose taped up with duck tape.

Bill Washington stated that all the vehicles that enter and leave the plant drag the dirt and dust out of the plant.

Nancy Jones asked if the residents take pictures will that work as a complaint? Mr. McLemore stated yes.

Mr. McLemore stated that Delaware Valley Concrete has not had a violation since 2004.

Bill Washington stated that today is the same dust problems that were in violation in 2004, kids are sick, cannot open windows or sit outdoors on the porch. Mr. Washington added that he had Art Hershey out to view the dust and Mr. Washington asked Art Hershey if he would move in and raise his family there and Art Hershey stated that he would not raise his family there.

Mr. McLemore stated that the PADEP complaint line is 484-250-5991.

Gary Brown environmentalist for Delaware Valley Concrete stated that an abatement plan has been put in place and is kept up with everyday. Mr. Brown stated that the entrance and exit roadway does need improvements. He added that his client Mr. DiLiberto is not the owner of the property he is the business owner only. Mr. Brown added that the residents should report the material trucks that come and go with out a cover on them.

Mr. DiLiberto stated that exiting the driveway of his business is a major dust problem. He added that he is a second-generation business owner of the concrete plant and he does care about the residents. Mr. DiLiberto stated that he is a tenant on the property and wants to pave the exit driveway but the owner must agree. Mr. DiLiberto stated that whenever he gets a report that the street sweeper is not working properly he responds and added a vacuum in addition to the sprayer to the sweeper. He stated that he wants to be a good neighbor and listens and handles all the complaints he gets. He employees 120 employees. Mr. MacCombie stated that Mr. DiLiberto was cooperative when he was advised of the public meeting and that he has been in contact with Joe Discuillo and the entrance could not be paved because of the sanitary sewer, since than the sewer lines have been connected and that area can be paved.

Margaret Marsh asked if the traffic could be slowed down.

Nancy Jones stated that the wheels used to get wet coming out of the plant and it used to help.

Mr. McLemore asked Mr. DiLiberto if he was purchasing the property. Mr. DiLiberto stated that he couldn't comment at this time.

Jim Haldeman stated that he and his wife are unable to sit outdoors or open windows and he lives on Old Wilmington Road. Mr. Haldeman stated that the dust comes off the trucks leaving the plant.

Terry Francuscus stated that the dust is on the truck tires.

Mr. DiLiberto stated that he would look into the dust on the truck tires.

Jim Haldeman stated that the Peterson truck needs to slow down and stop at the stop signs.

Terry Franciscus stated that Rhoades Energy is also a renter of the property and dust is all over their trucks. Mr. Franciscus stated that the operator of the street sweeper does not put the brushes down he rides around like that all day. And there is not enough water.

Brandon Franciscus stated that when the white DEP truck sets down in Pomeroy all trucks stop running in or out.

Sana Dero asked if the police department or Board of Supervisors could be called to investigate a complaint? Mr. McLemore stated yes but they have to be positive because they will have to testify in court.

Ms. Silvernail stated that she would do a property check at DVC once a week.

With there being no further business the meeting was adjourned.

Respectfully Submitted,

Lisa Myers
Secretary/Treasurer