

OCTOBER 21, 2004 SUPERVISORS' MEETING:

The Mount Joy Township Board of Supervisors met this date in regularly scheduled session at 7:00 p.m. in the Township Municipal Building, 902 Hoffman Home Road, Gettysburg, PA, with Chairman James Waybright presiding. Others in attendance were: Supervisors William Chantelau, George Scott, Harold Kirschner, and Samuel Dayhoff; Solicitor Walton V. Davis; News Reporters Jarrad Hedes (*The Gettysburg Times*); and Secretary Brenda Constable.

Others in attendance were: Jerry Maloney; Jerry Althoff representing the Planning Commission; Elsie Morey; John Madden representing John Pannick; John Pannick; John McAlister; Bob Sharrah representing The Links At Gettysburg and Colbier Farms; John R. White representing Colbier Farms, L.L.C.; and Rick Klein representing The Links At Gettysburg.

Chairman Waybright led everyone with the Pledge to the Flag.

Minutes:

Mr. Chantelau moved, seconded by Mr. Scott, to approve the minutes of the September 16, 2004 meeting as amended. Discussion: Resolution #10 of 2004 should be #11 of 2003, and Resolution #11 of 2003 should be #12 of 2003. Mr. Chantelau also noted that the workshop scheduled with White Run Regional Municipal Authority, et al, has been changed from 7:30 p.m. to 7:00 p.m. With no further discussion the motion carried unanimously.

Public Comment:

1. Jerry Maloney: regarding the Agricultural Land Preservation Board request for approval of appraisal of the fourth ranked farm. He noted that he has concerns relative to this farm being in the SFR1 zoning district (Single Family Residential). He commented that the Township just went through a Comprehensive Plan process and the SFR1 zoning district is an area where the Township would want to see development. This farm covers a significant piece of the SFR1 area. His concern is the Township paying to have it not developed through preservation when the Township just paid for a Comprehensive Plan that reflects this area as an area that should be developed. He does not think Township money should be spent until this issue is discussed and worked out.

Treasurer's Report:

Mr. Kirschner moved, seconded by Mr. Scott, to approve the Treasurer's Report for September and part of October as presented. Motion carried unanimously.

Mr. Scott moved, seconded by Mr. Kirschner, to approve the bills to be paid for the month of September and part of October as presented. Motion carried unanimously.

Subdivision/Land Development Plans:

1. The Links At Gettysburg: Board Chairman Waybright noted that this land development plan will be discussed later in the meeting.
2. Pannick, John: proposed two (2) lot subdivision at 2159 Baltimore Pike. Mr. Pannick and his engineer, John Madden, were present to discuss this plan. It was noted that the Planning Commission recommends approval of this plan as a Preliminary/Final with contingencies. Mr. Pannick noted that a

neighbor is interested in purchasing Lot #2 as a lot addition. He also noted that he had a Form B Waiver relative to no septic being on the lot. Mr. Pannick also requested a waiver to not show contours on the plan because there would be no new building. Mr. Dayhoff questioned if a note had been added to the plan with regard to this lot not being allowed as a stand alone lot. Mr. Madden stated that General Note No. 1 addressed the lot addition. Mr. Davis informed Mr. Madden that he would give him the standard language that is to be used for a lot addition. Mr. Althoff gave an overview of the Planning Commission's recommendation, noting that a Form B waiver is needed, HRG and County comments need to be satisfied, and noted that the County Conservation District had nothing to comment on. With no further discussion, Mr. Scott moved, seconded by Mr. Dayhoff, to approve a waiver for preliminary plan requirement and approve as a Preliminary/Final Plan, contingent on satisfying HRG and County comments, adding the standard language for a lot addition, submission of a Form B waiver, submission of waiver for lot consolidation deed , and grant a waiver to not show contour lines on the plan. Motion carried unanimously.

Road Report:

Mr. Chantelau moved, seconded by Mr. Scott, to approve the Road Report as presented. Motion carried unanimously.

Zoning Officer's Report:

Mr. Scott moved, seconded by Mr. Chantelau, to approve the Zoning Officer's Report as presented. Motion carried unanimously.

Swimming Pool Permit Policy:

On a recommendation from Jay Little, Zoning Officer, Mr. Dayhoff moved, seconded by Mr. Kirschner, to approve a policy for the issuance of a Land Use Permit for private swimming pools as follows:

On this 21st day of October, 2004, the Supervisors of Mount Joy township will adopt as policy the issuance of a Land Use Permit for private swimming pools, to be regulated as described under §110-109 Swimming pool, household or private.

With the advent of private swimming pools being inspected under the newly adopted Uniform Construction Code the Board feels the Township holds a responsibility to enforce the standing regulations.

_____/s/
Brenda J. Constable, Secretary

_____/s/
James W. Waybright, Chairman

_____/s/
William J. Chantelau, Vice-Chairman

_____/s/
George L. Scott

_____/s/
Harold J. Kirschner

_____/s/
Samuel L. Dayhoff

Motion carried unanimously.

Building & Grounds Report:

Mr. Chantelau moved, seconded by Mr. Kirschner, to approve the Building & Grounds Report as presented. Motion carried unanimously.

Correspondence:

Mrs. Constable noted the following correspondence received:

- White Run Regional Municipal Authority minutes for August

Committee Reports:

Personnel: Mr. Chantelau noted that the Personnel Committee will be reviewing new regulations for compliance of employees.

Finance: Mr. Chantelau noted that the Finance Committee will take action to acquire an application for a Township credit card with a \$1,000 limit for several members of the staff to use when attending training seminars, purchasing supplies, etc. He noted that there have been times when personnel have had to use their personal credit cards, which is not fair to the employee so there is a need for a township card. The card would require two signatories and three users. Mr. Chantelau moved, seconded by Mr. Scott, to procure a credit card with a limit of \$1,000 for the Township. Motion carried unanimously.

Planning, Land Use & Zoning: Nothing to report.

Building & Grounds: Mr. Scott noted that the roofing on the salt shed is to be replaced in December. Mr. Dayhoff noted that a vehicle accident occurred at the Mud College Schoolhouse over the weekend. The split rail fence was damaged, State Police were called and a report was filed.

Roads: Nothing to report.

Public Safety: Mr. Waybright noted that in conjunction with the budget, the Public Safety Committee is looking at how fire departments are reimbursed. They are looking a fair way to do this, noting that one issue is with the Relief Fund from the State and how it is determined.

Agricultural Land Preservation: Supervisors noted receiving the monthly Report.

Request for Appraisal on Fourth Ranked Farm:

A recommendation by the Ag Land Preservation Board to proceed with a Request for Appraisal on the fourth ranked farm was discussed. Mr. Scott suggested that the Supervisors consider the comments given by Mr. Maloney at the beginning of the meeting. He commented that the Township Comprehensive Planning Committee worked hard to establish a plan and if the Supervisors approve a farm in a development area, they would then be setting a precedence by approving a farm preservation in any zone. Discussion was held with regard to the Single Family Residential (SFR) zoning uses and areas; whether or not such an action could be considered rezoning; how much SFR2 area would be left if this farm were preserved; and the land preservation ranking system and purchase decision factors. Mr. Dayhoff pointed out that the preservation program is a volunteer program and to enter into the program is what the landowner is asking for.

Mr. Dayhoff suggested that the ranking system could be looked at for the next round to see if any changes or improvements could be made but advised to follow the same criteria for this request as with the past farms that were preserved from this same round of applications. Mr. Davis pointed out that the concern is with the Township using money to purchase an easement in an area that was established as a growth area in the Comp Plan. Mr. Scott moved, seconded by Mr. Chantelau, to table action until the November meeting, giving the Planning Commission an opportunity to review what is in the current area (SFR2) and what percentage of area would be left; preserved land versus growth area, and what the cost to the Township would be. This review should also include the Ag Land Preservation Board and Solicitor. Discussion: Mr. Kirschner stated that his concern is that this is a farm and the farmer may have his rights taken away. Mr. Waybright added that the farmer has a right to sell to a developer or an easement. Mr. Dayhoff stated that he is concerned with the appearance of changing the rules at this stage. He added that zoning is considered in the ranking system and that is why this particular farm was ranked fourth and not first. Mr. Davis pointed out that the Ag Board's recommendation at this time is only to consider an appraisal, not a purchase. Mr. Chantelau suggested that the appraisal could be acted on and still have the review process done in the meantime. It was noted that the total acreage was 172.777 and the cost of the appraisal would be \$1,100 or \$1,200, with the landowner paying \$500 toward the appraisal, and that this would not happen this year. Mr. Scott stated that he is concerned with the amount of SFR2 and by taking this portion out, how it would affect the quantity of land that would be left. Mr. Chantelau suggested that when reviewing the amount of SFR area that both SFR districts be included, showing the total land available for development. With no further discussion, the question was called on the motion to table. Mr. Scott voted yes and the remaining Board members voted no. The motion to table was denied.

Mr. Waybright moved, seconded by Mr. Chantelau, to approve the appraisal for the fourth ranked farm; and have the Ag Land Preservation Board and Preservation Solicitor gather all calculations and percentages as noted in the discussions relative to the area of both SFR districts, how much would be used and how much would be left for growth, what the cost would be to the Township, etc.; review this information in conjunction with the Planning Commission and consolidate all information from both Boards and Solicitor in order to give a recommendation to the Supervisors by the end of 2004 or prior to consideration of the purchase of easement. Motion carried unanimously.

LHPOA Letter:

With recommendation from the Ag Land Preservation Board, Mr. Chantelau moved, seconded by Mr. Dayhoff, to authorize the Ag Board to send a letter to Lake Heritage Property Owners' Association thanking them for allowing the Ag Board members to be present at their recent Association meeting to inquire if they would be interested in helping with funding for the fourth preservation easement. Motion carried unanimously.

Announcements:

Mr. Chantelau asked the Supervisors if they would be interested in doing the "Meet The Supervisors" on November 2, 2004 during Election Day, noting that the last discussion on this was that the Supervisors would try this one more time and if there was no participation by the public, then they would not do it anymore. It was the consensus of the Board to do this again.

Workshop – Fill Sites:

The Supervisors announced that they will be holding a workshop, as publicly advertised, on October 28, 2004 at 7:00 p.m. with Gil Picarelli, Sewage Enforcement Officer, to discuss possible standards for fill sites.

Traffic Impact Study:

Mr. Waybright noted that Cumberland Township will be holding an information meeting on Friday Morning, October 22, relative to traffic impact studies. He noted that he and Mr. Dayhoff would be attending and invited other supervisors, if interested.

Other Business:

Resolution Number Amendments:

As noted in the approval of the September minutes, Mr. Dayhoff moved, seconded by Mr. Scott, to amend Resolution Numbers, as adopted on September 16, 2004, as follows:

Resolution No. 10 of 2204 should be No. 11 of 2004
Resolution No. 11 of 2004 should be No. 12 of 2004

Motion carried unanimously.

Community Manual for Mount Joy Township:

Tabled from last month's meeting, Mr. Chantelau moved, seconded by Mr. Kirschner, to accept the revised "Community Reflection" to be made available to the public, and to include it in the next Township's Newsletter. Discussion: Mr. Chantelau commented that this was an outstanding effort on the part of the Planning Commission by making this handout available. With no further discussion, the motion carried unanimously.

SALDO Notification Letter and Policy:

A recommendation by the Planning Commission, to send a notification letter to abutting property owners of proposed subdivision or land development activities was discussed. Mr. Scott questioned what would happen if a property owner was missed in the notification process. Mr. Davis stated that it could be an issue that would be raised, if needed in court, because this is not a requirement by the MPC (Municipalities Planning Code). Mr. Althoff, Chairman of the Planning Commission, noted that this was developed as a policy and not an ordinance, and clarified that the letter and policy states that the notification is being done as a courtesy, not a requirement. Mr. Waybright pointed out that every major subdivision has been dealt with emotion by the public, but rules must be followed. Mr. Chantelau commented that he likes the idea but wondered if the Planning Commission could do this as their own policy, which would minimize any liability by the Township. Mr. Dayhoff stated that he is afraid that the letter would confuse the public as to what their part in the process would be. He noted that the Township currently sends out notices for zoning hearings, as required by Ordinance, and that residents would be confused thinking that they could have a say, the same as with zoning hearings. He further noted that a recent subdivision that was just acted on in this meeting, worked out fine with the abutting property owner being informed of the activity, and without a letter being sent to them. He also commented that the Planning Commission and Supervisors would most likely see longer meetings and have more

administrative work with this policy. Mr. Chantelau disagreed, noting that he did not feel that the public would be confused. He pointed out that the letter is clear that this is for subdivisions and land development, not zoning. He feels that it is good for the citizens to know what is going on around them. He suggested that this be a Planning Commission policy only, to avoid any litigation. With no further discussion, Mr. Waybright asked for a roll call vote as follows: Mr. Dayhoff – no; Mr. Scott – not opposed to doing this; Mr. Kirschner – yes; Mr. Chantelau – yes. Mr. Waybright declared an approval for the Planning Commission to carry out this policy.

UCC Opt-Out vs. Opt-In Six Month Review:

The Supervisors reviewed comments received from the Zoning Officer with regard to the process of opting out of the Uniform Construction Code since April 9, 2004 and noted the following: the State (Labor & Industry) did not consider any safe guards within their system for municipalities who opted out and therefore, projects that the Township does not issue permits for, is not being tracked by the State to see if any of the work is being inspected. Mr. Dayhoff moved, seconded by Mr. Chantelau, to instruct the Zoning Officer to notify Labor & Industry of their shortcomings and to review the program again in another six months. Motion carried unanimously.

New Business:

Zoning Ordinance Amendment – Conservation By Design:

Mr. Bob Sharrah and Attorney John White, on behalf of their clients Charles Cole and Fred Bierer, presented a proposed text amendment to the Conservation Design District section of the Zoning ordinance. Mr. Sharrah gave an overview of a sketch plan for Colbier Farms, L.L.C., reflecting the Conservation By Design concept. He noted that this plan was recently presented to the Planning Commission. Community water and sewer services would be provided and would be regulated by DEP. Mr. Sharrah noted that the original sketch plan reflected a total of 27 lots using all of the land. With the new sketch, a total of 56 lots are being proposed, preserving 70% of land. The average lot size is approximately 1/3 acre, or 15,000 square feet. Discussion was held relative to the yield plan currently in the ordinance, asking for 75% of preserved land. Mr. Dayhoff noted that the yield plan was to control the maximum build out of the township; the lot size is still restricted by 15,000 square feet. Mr. White commented that if the yield plan remains as is, then the density bonus needs to be changed. Mr. Chantelau noted his concerns of density and traffic, cul-de-sacs relative to emergency access and exit; and infrastructure of the county relative to medical impact.

Mr. White requested that the Supervisors consider referring the proposed amendment to the Township Planning Commission and County Planning Commission for their review, and authorize a Public Hearing for next month. Mr. Davis stated that the proposed ordinance amendment is not ready to go yet; it needs to be reworked for many reasons. Mr. Dayhoff suggested that a workshop be held to discuss the amendment, and then forward it to both Commissions for review prior to a public hearing. Mr. Waybright moved, seconded by Mr. Dayhoff, to hold a workshop with the Supervisors, Mr. Sharrah and Mr. White, on October 29, 2004 at 9:00 a.m., then forward the proposed ordinance to the Township and County Planning Commissions, and then hold a public hearing. Motion carried unanimously.

Agriculture Nuisance Disclaimer Amendment:

With recommendation from the Planning Commission, Mr. Dayhoff moved, seconded by Mr. Scott, to amend the Agriculture Nuisance Disclaimer as follows: **(PC changes, ~~Supervisor changes~~)**

This Disclaimer pertains to ~~All lands within the agricultural zone~~ **Mount Joy Township properties that** are located within an area where land is used for commercial agricultural production. Owners, residents and other users of this property may be subjected to inconvenience, discomfort, and the possibility of injury to property and health arising from normal and accepted agricultural practices and operations, including but not limited to noise, odors, dust, the operation of machinery of any kind including aircraft, the storage and disposal of manure, the application of fertilizers, soil amendments, herbicides and pesticides. Owners, occupants and users of this property should be prepared to accept such inconveniences, discomfort and possibility of injury from normal agricultural operations, and hereby put on official notice that Section 4 of the Pennsylvania Act 133 of 1982, "The Right to Farm Law" may bar them from obtaining a legal judgment against such normal agricultural operations.

Motion carried unanimously.

Advisory Recreation Board Sample Ordinance:

Mr. Scott moved, seconded by Mr. Dayhoff, to table this issue until the November meeting. Motion carried unanimously.

2005 Budget:

Mr. Dayhoff moved, seconded by Mr. Kirschner, to tentatively adopt the 2005 Budget as presented and to authorize the Secretary to advertise said budget for public inspection, with final adoption to be during the regular meeting of the Supervisors on November 18, 2004. Motion carried unanimously.

Subdivision/Land Development Plans:

The Links At Gettysburg – Recreation Building & Pool: proposed land development plan with Planning Commission recommendation for approval as a Preliminary/Final. Mr. Rick Klein and Bob Sharrah were present to discuss this plan. Mr. Althoff, Planning Commission Chairman, gave an overview noting that the Planning Commission recommends receipt of comments from the County Conservation District prior to signing the plan. He also noted that Mr. Klein had indicated that he would do whatever the Conservation District requested in order to be compliant.

Mr. Dayhoff moved, seconded by Mr. Chantelau, to approve the plan as a Preliminary/Final, contingent on meeting HRG comments, and receipt of County Conservation District comments and approval. Motion carried unanimously.

Executive Session:

Mr. Waybright called for an Executive Session at 9:30 p.m. this date.

Meeting Reconvened:

Mr. Waybright reconvened the Supervisors meeting at 9:35 p.m. this date with the following others in attendance: Supervisors Chantelau, Scott, Kirschner, and Dayhoff; Solicitor Davis; and Secretary Constable. Citizens: Jerry Althoff; Jerry Maloney; and Steve Kelly.

Mr. Davis stated that a potential possible litigation from a citizen with regard to road work was discussed during Executive Session.

Announcement:

Mr. Dayhoff directed everyone's attention to a banner that was displayed in the Meeting Room, noting that Irvin Conover gave the Township archives from the Mount Joy Township Fire Association of Two Taverns.

Adjournment:

With no further business to come before the Board, Mr. Scott moved, seconded by Mr. Dayhoff, to adjourn the Supervisors' meeting at 9:40 p.m. this date. Motion carried unanimously.

Respectfully submitted,

Brenda J. Constable
Secretary