

## **SEPTEMBER 22, 2003 SUPERVISORS' MEETING:**

*(The regular meeting scheduled for September 18, 2003 was postponed to September 22, 2003 due to Hurricane Isabel)*

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, Will Rogers, and Harold Kirschner; Solicitor Walton V. Davis; News Reporter Staci George (*The Gettysburg Times*); and Secretary Brenda Constable. Mr. Sam Dayhoff, Building & Grounds Coordinator; and Mr. Jay Little, Zoning Officer, were also present.

Others in attendance were: Robert Teeter representing Keith & Petula Yingling; Keith & Petula Yingling; Dave Dietrich; Eileen Holmes; Jerry Althoff; Elsie Morey; Ed Reichart; Bill Scott; Rick Klein; Harold "Red" Yingling; Nancy & Whitney Coombs; Robert Ness; John McAlister; Bob Sharrah representing Barton Breighner and Dave Dietrich; Audrey & Gary Weiland; and Maria Medici.

Chairman Waybright led everyone with the Pledge to the Flag.

### **Minutes:**

Mr. Chantelau moved, seconded by Mr. Kirschner, to approve the minutes of August 21, 2003 as presented. Motion carried with Mr. Waybright abstaining.

### **Chairman's Statement:**

Chairman Waybright announced an addition to the agenda, under Subdivision and Land Development Plans: Mr. Thomas Greiber requesting an approval of a Memorandum of Approval for a lot addition to an adjoining property owner.

### **Public Comments:**

Mr. Ed Reichart: regarding his subdivision plan that was approved on August 16, 2001 with a condition that Note #7 be placed on his plan as follows:

"The Board of Supervisors of Mount Joy Township has granted modifications from several requirements applicable to this subdivision upon the representation of the applicants, on behalf of themselves, their heirs and assigns, that no residences or uses other than farming would occur on the lots depicted on this plan.

The foregoing notwithstanding, Lot 1 may be developed for uses permitted in the zoning district if it qualifies for on-site sewage disposal facilities. The foregoing notwithstanding, Lot 2 may be developed for uses permitted in the zoning district if it qualifies for on-site sewage disposal facilities, and if road frontage as required by the zoning ordinance is added to the lot."

Mr. Reichart questioned why he was required to have this note on his plan and why it was needed. He further asked if this condition for approval could be reconsidered. The Supervisors and Solicitor reviewed the plan. Mr. Davis explained that this issue has been going on for several years now and then gave an overview of the status. He stated that the applicant [Reichart] had requested a modification from the clearly stated language in the Subdivision and Land Development Ordinance (SALDO), and the Zoning Ordinance, with regard to proper road frontage and panhandle lots, in which he eventually received a variance for road frontage of 35'. The

applicant then decided not to follow the SALDO because he stated that he was only going to use the land for agricultural purposes. The Supervisors then asked for a modification to be put on the plan stating that the land would be used only for agricultural purposes. Mr. Davis stated that he explained this situation to two different attorneys that represented the applicant (at different times). Mr. Davis further explained that, at present, the land couldn't be used for building purposes until it meets the ordinance requirements. The applicant has land on both sides of the piece of land in question. The Supervisors stated that they are okay with this piece of land being for agricultural use only, but for future owners who may want to build, they must "meet the ordinance requirements". Mr. Reichart asked if the 35' could be nullified with the note. Mr. Davis responded that the note does nullify it. Mr. Davis then read the Note #7 for clarification. Mr. Reichart asked what he would have to do if his children wanted to develop Lot 1. Mr. Davis then read the note for Lot 1, pointing out that all it would need is septic approval to make it a buildable lot.

### **Treasurer's Report:**

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

Mr. Scott moved, seconded by Mr. Chantelau, to approve the bills to be paid for the months of August and part of September as presented. Motion carried unanimously.

### **Subdivision/Land Development Plans:**

1. Scott, William H.: requesting a modification of a land development plan for a roof addition of 3,710 sq. ft. to an existing storage building. Mr. George Scott asked Mr. Little if Mr. Scott had met all of the points listed on the Help List for modified land development plans. Mr. Little responded yes. Mr. Rogers moved, seconded by Mr. Chantelau, to approve a modification for a full land development plan. Motion carried unanimously.
2. Dietrich, David: presented a proposed subdivision of three (3) lots along Plunkert Road (previously Basehoar subdivision – Lot 3). It was noted that the Planning Commission recommends approval of a waiver for Preliminary procedures and accept as a Preliminary/Final Plan with contingencies. Mr. Scott gave an overview of the plan, noting that the Planning Commission listed contingencies of: compliance with the Act 537 Plan and major concerns of high nitrates, failed probes, and consideration of road widening. Mr. Scott added that Mr. Dietrich is planning on registering the plan but not filing separate deeds in order to prevent the Clean and Green rollback taxes. Mr. Little stated that he spoke with the SEO and clarified the issue of failed probes versus failed perks. What matters is the issue of failed perks. If this is the case, then two (2) perks per lot is required. Mr. Bob Sharrah, representing Mr. Dietrich, stated that he understands the issue of failed perks and will address this. The issue of road widening would need to be worked out with Mr. Dietrich. The remaining issue is with regard to the high nitrates in the area and the fact that DEP is aware of this. Mr. Little stated that he spoke with the DEP representative, Mr. Bob Feister, and Mr. Feister stated that it is up to the Supervisors to either accept or not accept the Sewage Facilities Module. On the Module form, there is a section that the municipality must complete and this is where they would indicate the concern of high nitrates, if they choose to not to accept it. However, the Sewage Module is currently on the table with the Planning Commission so the Supervisors cannot address this issue at this time. Mr. Waybright questioned the Supervisors if they would prefer to wait until DEP reviews the Sewage Module before they take any action on the subdivision plan. Mr. Little added that DEP should review the Sewage Module first in case the subdivision plan would need to be modified, i.e. enlarge the lot size, etc. Mr. Scott commented that they would need to watch their time line for action, especially if DEP takes a while to review the Module. The Supervisors stated that the applicant could ask for an extension if needed.

Mr. Scott moved, seconded by Mr. Chantelau, to table action on this subdivision plan until DEP can review the Sewage Facilities Module.

Mr. Whitney Coombs asked to comment. He stated that he is a neighbor of this proposed subdivision and is upset with the way this plan is moving through the system. He stated that he called Mr. Feister at DEP and was told that DEP does not have the Township's Act 537 Plan yet. Mr. Davis explained that the Act 537 Plan was just adopted by the Supervisors in July and DEP in Harrisburg has the Plan. DEP must review the Plan and tell the Township if they accept it or not, and if not, what needs to be addressed in order to be approved. DEP has a time period of 120 days for their review.

Mr. Sharrah asked, if Act 537 is not yet approved by DEP, what does that mean to the applicant? Does the applicant fall under the old ordinance or not? Mr. Davis explained that DEP was aware of the nitrate issue before the Supervisors adopted Act 537; this was a concern when the Basehoars subdivided.

3. Breighner, Barton: Mr. Bob Sharrah was present to represent Mr. Breighner for a proposed subdivision of three (3) lots along Straleys Road. It was noted that an extension was granted to 12/11/03. It was also noted that the Planning Commission recommends approval of a waiver for Preliminary procedure and approve as a Preliminary/Final Plan with the following contingencies:
  - a) provide documentation/agreement for a new right-of-way easement on Lot 3 for Lot 2 detailing the protection of the easement, and to be recorded concurrently with the subdivision plan;
  - b) satisfy HRG final review comments dated September 12, 2003;
  - c) monetary commitment for construction of septic system to be held by the Township if the septic is not completed in a period of time to be set by the Supervisors.

The Supervisors noted that Mr. Sharrah had responded (letter dated September 18, 200) to HRG comments (letter dated September 12, 2003). Mr. Sharrah also noted that a sand mound was to be constructed last Thursday but was not done due to wet conditions, however, this will definitely be done as soon as possible. Mr. Robert Teeter, Attorney for Breighner, commented that the new owners already occupy the existing house but they are not following through with purchasing the property until the sand mound is completed. Mr. Waybright questioned Mr. Teeter if they would prefer the plan to be held up or hold the \$10,000 in escrow until the sand mound is completed? Mr. Teeter responded that they would prefer to hold the \$10,000 in escrow and move forward with the plan. Mr. Davis asked how the money would come to the Township. Mr. Teeter stated that Mr. Breighner would send a check. Mr. Jerry Althoff, Chairman of the Planning Commission, stated that the Commission felt that the easement agreement, regarding the right-of-way issue, should be between three (3) parties; each owner on both sides of this proposed lot, and from Circle Oak Farm (adjoining property owner). Mr. Sharrah noted that the revised plan will add Note 10 stating that the existing driveway that serves the Circle Oak Farm Property, Lot 2 and Lot 3 shall serve as the only driveway permitted for the properties unless and until a Township Driveway permit is obtained for any proposed driveways. Mr. Davis stated that Lot 3 owner would need to know that the sand mound (a burden) is there and exists; they would be "buying with a burden".

Mr. Scott moved, seconded by Mr. Kirschner, to approve as a Preliminary/Final Plan contingent on the Planning Commission's comments as listed above, and acceptance of the applicant's monetary guarantee of \$10,000. Mr. Davis stated that in accordance with the MPC (Municipalities Planning Code), the financial security would be released after the septic system is approved by the SEO. Mr. Davis added that the plans must also be verified to see that everything is met. With no further discussion, the motion carried unanimously

4. Greiber, Thomas: Mr. Davis gave an overview of this three (3) lot subdivision along Roberts Road. He stated that originally, Lot 3 was approved as an adjoiner to Lot 1 in 1994. In 1997, Mr. Greiber sold Lot 1 and did not

include Lot 3 with this conveyance. As a result, Lot 3 is now just the remaining acreage of an approved subdivision that allows only the owner of Lot 1 to obtain. This issue was brought before the Supervisors at their June 20, 2002 meeting, with a request to make Lot 3 a stand-alone lot. The Supervisors denied the request. However, the Supervisors noted that they would entertain a new subdivision request to allow the joinder with any of the surrounding landowners, not just the owner of Lot 1. Now an adjoining landowner, Kostas H. & Antonia K. Kranias, would like to purchase the lot. A request has been made to the Supervisors to approve a Memorandum of approval whereby Note 6 on the plan would be revised to reflect the language that Lot 3 will be a lot addition to any contiguous tract not otherwise in violation of Township ordinances or Pennsylvania statutes.

Mr. Scott moved, seconded by Mr. Rogers, to approve and authorize the Chairman and Secretary to sign the Memorandum of Approval for the sale of Lot 3 to a contiguous landowner. Motion carried unanimously.

### **Road Report:**

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

Mr. Scott noted that the Township received a check in the amount of \$7,921.43 from the Commonwealth of Pennsylvania for assistance under the Public Assistance Program for the President's Day Snowstorm of 2003.

Mr. Chantelau read a Storm Report prepared by Anthony Graham, Road Superintendent, outlining the conditions of the Township after Hurricane Isabel passed through our area on Thursday evening, September 18 and Friday, September 19, and how the road crew addressed these conditions.

### **Building Permit/Zoning Officer's Report:**

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

### **Building & Grounds Report:**

#### **Parking Lot Paving:**

Mr. Sam Dayhoff, Building & Grounds Coordinator, presented three (3) quotes relative to paving the front parking lot at the Township Municipal Building. With recommendation from Mr. Dayhoff, Mr. Rogers moved, seconded by Mr. Kirschner, to accept a quote from C. E. Williams for placement of material in the amount of \$8,200, and a quote from Valley Quarries in the amount of \$23.10 per ton for BCBC and \$27.10 for ID-2 (costs awarded in March with aggregate bid). Mr. Chantelau asked when this work would be completed. Mr. Dayhoff responded that this should be done by late October, weather permitting. Mr. Rogers suggested running conduit for additional lighting so it is in place if and when needed. With no further discussion, the motion carried unanimously.

#### **Mud College Schoolhouse:**

Mr. Dayhoff pointed out some artifacts that he had on display that were found in the ground while the road crew were placing grassy pavers in the parking area at the Mud College Schoolhouse. Some items found were porcelain buttons and door knobs, pieces of an old crock, glass ink wells, and other small items. Mr. Dayhoff noted that the ground that was dug up has been hauled to the Township's salt shed. He contacted some school

teachers to see if any classes would like to do a project by sifting through the dirt to find more artifacts. He noted that he has at least one teacher who is interested in doing this.

### Monthly Report:

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

### Correspondence:

Mrs. Constable noted receiving the following correspondence:

- WRRMA minutes for July and August
- Littlestown Chamber Newsletter

### Committee Reports:

Personnel: Nothing to report.

Finance: Mr. Chantelau noted that the Township received a \$2,500 donation from Gary Pulcini towards the Agricultural Land Preservation Program. He noted that Mr. Pulcini had assisted the Township as Financial Consultant relative to the funding process for the program. Mr. Chantelau noted that this donation has been put into a separate fund.

Mr. Chantelau also noted that the Finance Committee would be meeting with the Treasurer on October 1, 2003 to work on preliminary issues for the 2004 budget. The Supervisors and staff will be holding a workshop on October 9, 2004 to start the entire 2004 budget process.

Planning, Land Use & Zoning: Nothing to report.

Building & Grounds: Nothing to report.

Roads: Mr. Waybright thanked the road crew for their response and clean up after the recent hurricane. He also noted that he, Mr. Kirschner and Mr. Graham, Road Superintendent, would be going throughout the Township to examine all roads and determine what work will be needed in the future.

Mr. Rogers commended the road crew the nice job they did with Heritage Drive. He also commended the Yinglings (who were present) for the work they did around their property.

Public Safety: Nothing to report.

### Agricultural Land Preservation:

#### Purchase of Easement:

With recommendation from the Ag Land Preservation Board, Mr. Chantelau moved, seconded by Mr. Rogers, to approve the purchase of agricultural land preservation easement in the amount of One Thousand Three Hundred Sixty Eight Dollars (\$1,368.00) per acre to purchase the improved real property located at and known as 680 King Road, Gettysburg, Mount Joy Township, Adams County, Pennsylvania 17325, and as described in Deed Book 367 at Page 773, and Record Book 1749 at Page 263, totaling 267.66 deeded acres, all of which acreage has been appraised for this price, owned by Raiana M. Mearns.

Mr. Dayhoff noted that Ms. Mearns accepted the Board's offer of 80% of the appraised value. With no further discussion, the motion carried unanimously.

Mr. Dayhoff also noted that the costs associated with settlement is estimated at Three Thousand Five Hundred Dollars (\$3,500.00). He asked the Supervisors if they wanted to use the General Fund monies (Preservation line item) for these costs, rather than the Ag Land Preservation Account (Special Account for easement purchases).

Mr. Scott moved, seconded by Mr. Chantelau, to use the \$2,500 donation received from Gary Pulcini and the balance from the Township General Fund (Preservation line item) to pay for settlement costs. Motion carried unanimously.

Mr. Dayhoff noted that it is the Ag Board's intent to settle on the Mearns purchase of easement before December 31, 2003 that would enable the Township to utilize the County's Ag Land Preservation cost share assistance of \$50,000.

#### Second Appraisal:

With recommendation from the Ag Land Preservation Board, Mr. Rogers moved, seconded by Mr. Chantelau, to proceed with a Request for Appraisal on the second ranked farm.

Mr. Kirschner asked if the first farm, now approved for purchase, and the second ranked farm, were entirely in Mount Joy Township. Mr. Dayhoff responded yes. With no further discussion, the motion carried unanimously.

#### Application Documentation Confidentiality Policy:

With recommendation from the Agricultural Land Preservation Board Mr. Scott moved, seconded by Mr. Chantelau, to approve the Mount Joy Township Agricultural Land Preservation Board Application Documentation Confidentiality Policy (adopted by the ALPB September 8, 2003). Motion carried unanimously.

#### Monthly Report:

Mr. Rogers moved, seconded by Mr. Scott, to approve the Ag Land Preservation monthly Report as presented. Motion carried unanimously.

#### **New Business:**

##### Sale of Snow Plow:

Mr. Waybright noted that Mr. Graham, Road Superintendent, has a snow plow that he would like to sell, and has someone interested in it. Mr. Rogers moved, seconded by Mr. Scott, to authorize Mr. Graham to determine a fair price for the snow plow and sell it. Motion carried unanimously.

##### Adoption of Ordinance No. 2003-06 – Holding Tank Amendment:

Mr. Rogers moved, seconded by Mr. Kirschner, to adopt Ordinance No. 2003-06, amending the form of Holding Tank Agreement set forth in Chapter 67 of the Township Code, as publicly advertised. Motion carried unanimously.

### Zoning District Change:

Mr. Scott noted that during the September 15, 2003 Public Hearing on the proposed Zoning Ordinance amendments, there was a specific discussion with regard to the zoning map, in the area of Route 97 and Low Dutch Road. It was previously proposed to extend the Village district along Route 97 and during the Hearing, a compromise was made to make a portion around Low Dutch Road Village Historic. Mr. Davis added that during a discussion between the Supervisors and planning consultant regarding the change from Village to Village Historic, there were only minor changes and the proposal to change to Village Historic would now recognize a few historic properties in that area.

Mr. Scott moved, seconded by Mr. Chantelau, to propose Village Historic District along Route 97, including two properties north of the Low Dutch Road intersection. Motion carried unanimously.

### Comprehensive Plan:

Mr. Scott moved, seconded by Mr. Chantelau, to adopt a Comprehensive Plan for Mount Joy Township, as presented. Discussion: Mr. Chantelau noted that the Township and citizen committee under the direction of the Planning Commission did a splendid job over the last 2 – 3 years in making this a final product. He added that this is an excellent Comprehensive Plan, SALDO, and Zoning Ordinance and will set the Township on the right course for the next 10 – 15 years. All Supervisors echoed his comments. Marie Medici congratulated and applauded everyone's efforts on setting the Township on a good path for the future.

### Adoption of Ordinance No. 2003-07 – Zoning Ordinance Amendments and New Map:

Mr. Rogers moved, seconded by Mr. Kirschner, to adopt Ordinance No. 2003-07, making comprehensive amendments to the Zoning Ordinance and to adopt a new zoning map, as publicly advertised. Mr. Waybright noted that this has been a long process and thanked everyone involved for his or her efforts. With no further discussion, the motion carried unanimously.

### The Links At Gettysburg – Financial Security Reduction Requests:

With recommendation from Richard Klein, owner of The Links At Gettysburg, and approval by Mark Lewis, Township Engineer, Mr. Scott moved, seconded by Mr. Rogers, to authorize Draw #1 reduction of security for Phase IA at The Courtyards At The Links in the amount of \$126,150. Mr. Klein explained that this is relative to a bond that he had posted and an Irrevocable Letter of Credit whereas each month he would be asking for a reduction as improvements are being made. With no further discussion, the motion carried unanimously.

With recommendation from Richard Klein, owner of The Links At Gettysburg, and approval by Mark Lewis, Township Engineer, Mr. Scott moved, seconded by Mr. Chantelau, to authorize Draw #2 reduction of security for Phase IA at The Courtyards At The Links in the amount of \$61,085. Motion carried unanimously.

### Adjournment:

With no further business to come before the Board, Mr. Scott moved, seconded by Mr. Chantelau, to adjourn the Supervisors Meeting at 8:40 p.m. this date. Motion carried unanimously.

Respectfully submitted,

Brenda J. Constable  
Secretary