

SEPTEMBER 21, 2006 SUPERVISORS' MEETING:

The Mount Joy Township Board of Supervisors met this date in regularly scheduled session at 8:05 p.m. in the Mount Joy Township Municipal Building, 902 Hoffman Home Road, Gettysburg, Pennsylvania, with Board Chairman James Waybright presiding. Others in attendance were: Supervisors William Chantelau, George Scott, Samuel Dayhoff, and Harold Kirschner; Solicitor Walton V. Davis; Zoning Officer Dave Crouse; Eric Mains, Engineer of KPI; Robin Crushong, Treasurer; News Reporters Aaron Young (*The Gettysburg Times*); and Meg Bernhardt (*The Evening Sun*); and Brenda Constable, Secretary.

Citizens in attendance were: Jim Snyder and John Mahoney representing Keystone Custom Homes; Elsie D. Morey; Ronnie Reed; John Leino; Audrey Weiland; John Auchey; Emily Shoey; Sally Alexander; Pam & John Roman representing Watchdog Group; Lou Shuba; James Cullison representing Trans Associates; Linda Bloom; Audrey Sanders representing Watchdog Group; Ken Sanders; Paul Shriver representing Watchdog Group; Steve Riedel; Dave Updyke representing Watchdog Group; Sharon Payne; Mary Davis; Eileen Holmes; LynnAnne Sukeena; Barton Breighner; Carol E. Holtz; Dorcas Shelly; Harry Walker; Robert Jonas; Robert Rhodes; Linda Miller; Sam Haines; Joyce Roberts; Dean A. Shultz; Bob Sharrah representing Colbier Farms; Robert Neiswender; Jeff & Lori Swatsworth; Jerry Althoff representing Planning Commission; Edward Neuhaus; Tom Dunchack; Jack McLatchy; Steve Loss representing Fairview Farms, Cianci, and Twin Ponds; and Joseph Erb representing Fairview Farms.

Board Chairman Waybright led everyone with the Pledge to the Flag.

Mr. Waybright announced that the meeting was being recorded.

Minutes:

Mr. Chantelau moved, seconded by Mr. Kirschner, to approve the minutes of the August 17, 2006 meeting as presented. Motion carried unanimously.

Mr. Scott moved, seconded by Mr. Chantelau, to approve the minutes of the August 29, 2006 Special Meeting as presented. Motion carried unanimously.

Public Comment:

1. Dave Updyke, 361 Updyke Road: read a letter dated September 21, 2006 from the Watchdog Group and presented the letter to the Supervisors for the record.
2. Carol Holtz, White Church Road: asked what the status was with regard to filling the vacant position of Road Superintendent. She reported there is a dead tree at the corner of Route 97 and White Church Road and needs removed. Mr. Waybright noted that the Road Committee will address this with the new Road Superintendent. Mr. Dayhoff added that the owner of the property needs to be contacted for permission to access the property before the tree could be removed.
3. John Leino, Lake Heritage: asked that some trees at the northeast entrance to Lake Heritage be removed; they block the site distance from the south. In addition, relative to the comments made by the Watchdog Group in that they state they are for all the people; but for what he has read and seen, he feels they all have their own agenda. He favors keeping five supervisors; going to three is regressing and sees no benefit in reducing the number.
4. Carol Newhart, 720 Plunkert Road: presented additional names on a petition that was presented last month opposing the proposed waterpark by Cali Entertainment, and supporting a five member board of supervisors. Now have almost 300 names with more petitions coming. Thanked the Supervisors for the fine job they do for

this Township and supports a five member board. If reduces to three, the majority of the Township would lose their representation.

5. Lou Shuba, White Church Road: surrounded by the Ramsburg property proposed to be developed. He read a statement regarding controlling land use and how the Supervisors must do this by law; options are zoning, land preservation, and impact fees. Our Supervisors are being proactive in what they are doing and ahead of the curve. Asked what the Watchdog Group is trying to accomplish by going to a three member board. What happens if three supervisors from new development sit on the board and decide that the township should take on more roads, or change zoning for smaller lots, etc.? Thanked the Supervisors for their vision and staying ahead of the curve. Also pointed out that during the traffic impact fee process, which was an 18 month process, he could count on one hand how many members of the public attended the meetings.
6. Jack McLatchy, Mud College Road: pointed out that there are three types of zoning within 100 yards of his property; RR, AC, and V. He is frustrated with this and would like to see some uniformity.
7. Eileen Holmes, White Church Road: developers are coming in not to keep our community rural, but to just make money.
8. Jerry Maloney, Harney Road: developers are not the only ones who are out to make money, people who sell their land to the developers want to make money also.

Persons Requesting Time:

1. Jeff & Lori Swatsworth, 55 Two Taverns Road: Read and submitted a statement as to how a plan concept relative to the Act 209 Traffic Impact Fee Study, specifically the Transportation Capital Improvements Plan, is affecting their property. Requested that the Supervisors meet and discuss this issue with them.
2. Thomas Dunchack, 450 Mud College Road: representing himself and other concerned citizens regarding the proposed waterpark. He read and submitted a written statement, requesting that the Supervisors consider a text amendment to the zoning ordinance, amending the table of permitted uses by removing amusement park, paint ball games and closely similar uses as permitted by special exception in the Village District. He also requested that the Supervisors set a date for a public hearing to consider this text amendment.
3. Dean Shultz, 1610 Baltimore Pike: supports the proposed text amendment changing the table of permitted uses in the Village District. During Comp Plan Committee period, over a three-year period, one of the biggest issues was how to keep the rural character of the Township, and how to keep the Baltimore Pike corridor in its historic and rural character. He read sections from the Comp Plan and from the Zoning Ordinance referencing the intent for Village District. He urged the Supervisors to look at the intent of these two documents or plans, and strongly consider this proposed text amendment so as to not allow heavy commercial uses that would conflict with the historic character or destroy historical buildings, and to do so in due haste before it is too late.

Treasurer's Report:

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

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

Subdivision/Land Development Plans:

1. Fairview Farms-Barton Breighner, Owner: proposed 14-lot subdivision on Hickory Road. Mr. Barton Breighner and Steve Loss, Engineer, were present to review this plan. Mr. Loss stated that they had investigated the possibility of cluster development with conservation by design and in doing so, had asked for a 90-day extension that was granted last month. A sketch plan was prepared and reviewed with the

Township Engineer. However, after meeting with a soil scientist and letter issued September 11, 2006, no area could be found to support a community spray irrigation system so the cluster development would not be feasible for the developer. Mr. Breighner would like to move forward with the plan that is currently on the table. Mr. Loss noted that they currently have a request for modification with regard to constructing streets without curbing, and a waiver request regarding channel slopes. He added that in previous discussions that the Supervisors suggested the investigation of including a walking trail to aid in pedestrian safety in this development. The applicant issued a letter dated August 10, 2006 stating that they did not feel that this was needed for a low density development and no need to increase the impervious area. Alternative options were discussed with Mr. Eric Mains, Township Engineer, noting that the cartway would be 22' wide with 4' shoulders; however, cutting one side to 2' and using the remaining 2' on the other side creating a 6' shoulder for pedestrian use. Mr. Mains also noted the following is still needed: a sewage planning module; NPDES permit with the Conservation District; and approval from the Army Corp. of Engineers for crossing. Mr. Althoff also noted that there is one proposed lot without septic. Mr. Loss noted that this lot (Lot 4) would be proposed to remain as open space and maintained by the homeowners' association.

The Supervisors addressed each issue:

Waiver request for channel slopes: Mr. Mains noted that additional probe tests were done and are now satisfactory. Mr. Dayhoff moved, seconded by Mr. Scott, to grant the waiver contingent on the slopes meeting the Township Engineer recommendations and stipulations. Motion carried unanimously.

Modification for curbing: to construct streets without curbing. Mr. Dayhoff moved, seconded by Mr. Kirschner, to grant the modification for curbing. Discussion: Mr. Chantelau noted that this would correspond with the channel slopes as discussed earlier. Motion carried with Mr. Waybright and Mr. Dayhoff opposing.

Mr. Waybright suggested that the issue of Lot 4 being an open space, be permanently preserved as a recreation area. Mr. Breighner commented that these lots are already large lots, and would hope that permanently preserved lots would not be needed. Six of the fourteen lots are around five acres with the smallest of the fourteen lots just over three acres. Lot 4 is 3.3 acres. Lot 3 is 3.7 acres, and Lot 5 is 3.6 acres. Supervisors suggesting splitting Lot 4 giving half to Lot 3 and the other half to Lot 5. Mr. Breighner did not favor this. The Supervisors felt they could look at this issue next month in order to think about it. Mr. Breighner later agreed to split Lot 4 into Lots 3 and 5 as long as he does not need to submit a new subdivision plan. Mr. Mains noted as long as the Township prompts the change to address a correction, then a new plan submission is not needed. Mr. Davis noted that this plan is only at preliminary stage, and the Final plan should show the corrections.

Mr. Scott added that the alternative for wider shoulder for pedestrian walkway should also be included as a contingency of final approval.

Mr. Scott moved, seconded by Mr. Dayhoff, to approve the preliminary plan as modified with conditions: a) Lot 4 to be split between Lots 3 and 5; b) there will be a 2' shoulder on one side and a 6' shoulder on the other side of the cartway constructed in such a way that it is easy for people to walk on it; c) meet all Township Engineer requirements. Motion carried unanimously.

2. Fields of Gettysburg – Colbier Farms: remains on table.
3. Westminster-Keystone Custom Homes: remains on table.
4. Cianci, Joe & Maria: proposed modified land development plan for a 2,400 sq. ft. pole building at 853 Solomon Road. Planning Commission recommends approval contingent on KPI's approval of the culvert issue. Mr. Dayhoff moved, seconded by Mr. Scott, to approve the modified land development plan contingent on obtaining Township Engineer's approval on the culvert design. Motion carried unanimously.

5. Haines, Samuel: proposed land development plan for a 2,400 sq. ft. storage building at 935 Fish & Game Road. Mr. Haines is requesting a waiver of a full land development plan. Planning Commission recommends approval of the waiver contingent on showing contour lines on the plan. Mr. Dayhoff moved, seconded by Mr. Chantelau, to approve the waiver of a full land development plan, showing contour lines. Motion carried unanimously.

Road Report:

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

Mr. Waybright noted that the Roads Committee and Road Superintendent will be meeting and looking at all township roads to see what improvements are needed. Mr. Scott requested that the dead tree at the corner of Route 97 and White Church Road be looked at and addressed, as requested by Mrs. Holtz.

Zoning Officer's Report:

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

Correspondence:

Ms. Constable noted receiving the following correspondence:

- WRRMA minutes from July
- Letter from Dale Brauning, 749 Harney Road, applying for a General Permit 6 to DEP for cattle crossing over Alloway Creek.
- Request to approve box card changes for Kingsdale Fire Company. Mr. Waybright noted that this would be addressed in the Public Safety Committee Report. He added that the request was made by a citizen of the community, not necessarily a Mount Joy Township resident.
- Request from concerned citizens of Mount Joy Township for a zoning text amendment and is relative to what Mr. Dunchack and Mr. Shultz spoke about during public comment.

Executive Session:

Mr. Waybright called for an Executive Session at 9:10 p.m. this date. Mr. Davis commented that this may not be an Executive Session but more so an attorney/client conference.

Meeting Reconvened:

Mr. Waybright reconvened the Supervisors' Meeting at 9:15 p.m. this date with all members in attendance.

Mr. Davis stated that the Supervisors just wanted to talk with him about zoning procedures and law, so it was not really an Executive Session, only an attorney/client conference.

Proposed Zoning Text Amendment:

Mr. Dayhoff moved, seconded by Mr. Chantelau, to forward the proposed zoning text amendment as submitted by concerned citizens to the County Planning and Development Office, and the Township Planning

Commission for review and comment, and to set a date and time for a public hearing on the proposed text amendment to the zoning ordinance Chapter 110-21. The date of Thursday, November 9, 2006 at 10:00 a.m. was set for a public hearing. Motion carried unanimously.

Committee Reports:

Personnel: Mr. Scott moved, seconded by Mr. Kirschner, to approve \$1.00/hour increase for Jesse Hubbard, Office Assistant, for satisfactory probationary period, effective retroactive to August 31, 2006. Motion carried unanimously.
Mr. Scott moved, seconded by Mr. Kirschner, to approve full-time status for Jesse Hubbard, for a total of 35 hours/week, effective retroactive to September 18, 2006. Motion carried unanimously.
Mr. Scott moved, seconded by Mr. Kirschner, to appoint Samuel L. Dayhoff to the position of Road Superintendent, effective retroactive to September 6, 2006. It was noted that the pay rate would be set by the Township Auditors. Motion carried with Mr. Dayhoff recusing.
Mr. Dayhoff moved, seconded by Mr. Scott, to appoint Mike Livelsberger as the Emergency Management Coordinator and a \$1.00/hour increase, effective retroactive to August 17, 2006. Motion carried unanimously.
Mr. Scott moved, seconded by Mr. Kirschner, to appoint Robin Crushong as Agricultural Land Preservation Coordinator and a \$1.00/hour increase, effective retroactive to August 17, 2006. Motion carried unanimously.

Finance: Tabled until later.
Planning, Land Use and Zoning: Nothing to report.

Building & Grounds: The Personnel Committee noted that they are currently working on revising job duties and reorganization for building and grounds.
Mr. Dayhoff noted that the Township has a large amount of topsoil for sale and would like permission to advertise to accept bids for the sale of the topsoil.
Mr. Kirschner moved, seconded by Mr. Chantelau, to authorize the advertisement to accept bids from interested parties to purchase topsoil from the Township as one lot. Motion carried unanimously.

Roads: Mr. Waybright noted that the Roads Committee is meeting next Friday with the Road Superintendent to do an inventory and maintenance checks on all Township roads.

Public Safety: Mr. Waybright noted that a letter was received regarding box cards for Kingsdale Fire Company. The Public Safety Committee has instructed the EMC to review box cards and give an updated recommendation to Kingsdale for their review prior to coming to the Supervisors for approval. The EMC will be reviewing all box cards for each of the fire companies that service the Township to see what the status is and if there are any suggestions for improvements.

Agricultural Land Preservation: Received the monthly report.
Recommendation to authorize the Treasurer to file a Requisition for the next preserved farm for settlement. Mr. Scott moved, seconded by Mr. Dayhoff, to authorize the Vice-Chairman to sign the requisition. Motion carried unanimously.
Recommendation to authorize an appraisal and landowner fee for the first ranked farm of Round III. Mr. Chantelau moved, seconded by Mr. Scott, to authorize the appraisal. Motion carried unanimously.

Recreation Board: Recommendation to accept the resignation of Audrey Weiland, effective September 13, 2006. Mr. Scott moved, seconded by Mr. Chantelau, to accept the resignation of Ms. Weiland. Mr. Waybright thanked Ms. Weiland for her time served on this Board. She has been involved with the Planning Commission, Ag Preservation and Traffic Impact Committee and her time is appreciated. Motion carried unanimously.
Recommendation to appoint Toby Hartlaub to fill the vacant position of Sam Dayhoff, with a term to expire December 31, 2010. Mr. Kirschner moved, seconded by Mr. Chantelau, to appoint Mr. Hartlaub to fill this vacancy. Motion carried unanimously.
Recommendation to appoint David Mowery to fill the vacant position of Audrey Weiland with a term to expire December 31, 2009. Mr. Chantelau moved, seconded by Mr. Scott, to appoint Mr. Mowery to this position. Motion carried unanimously.

Act 209 Traffic Impact Advisory Committee: Received the monthly report.
With recommendation from the Advisory Committee, Mr. Kirschner moved, seconded by Mr. Dayhoff, to approve the Transportation Capital Improvements Plan, Resolution #19 of 2006. Motion carried unanimously.

Other Business:

Ordinance No. 2006-03 Traffic Improvement Districts and Impact Fees:

Mr. Scott moved, seconded by Mr. Chantelau, to adopt Ordinance No. 2006-03, amending the Township Code of Ordinances adding a new chapter "Traffic Improvement Districts and Impact Fees", imposing an impact fee upon new development within transportation service areas within the township and establishing procedures and standards ancillary thereto.

ORDINANCE NO. 2006 - 03

AN ORDINANCE AMENDING THE MOUNT JOY TOWNSHIP CODE OF ORDINANCES ADDING A NEW CHAPTER TITLED "TRAFFIC IMPROVEMENT DISTRICTS AND IMPACT FEES", IMPOSING AN IMPACT FEE UPON NEW DEVELOPMENT WITHIN TRANSPORTATION SERVICE AREAS WITHIN THE TOWNSHIP AND ESTABLISHING PROCEDURES AND STANDARDS ANCILLARY THERETO.

WHEREAS, the Township of Mount Joy, Adams County, Pennsylvania (the "Township") has experienced significant growth in the form of residential, commercial and industrial development in recent years, and

WHEREAS, it is anticipated that such development will continue; and

WHEREAS, it is anticipated that such future development will create a substantial impact upon the transportation facilities within certain districts of the Township; and

WHEREAS, the Board of Supervisors is required to keep all roads open, in repair and usable for the safe and convenient travel by the public; and

WHEREAS, fulfillment of the above duty by the Board of Supervisors will entail a substantial cost directly attributable to the impact of new development; and

WHEREAS, the Board of Supervisors is empowered by law to impose all or a portion of said cost upon new development; and

WHEREAS, the amount of the "impact fee" to be imposed shall be determined by the cost of the additional transportation improvements needed to meet such minimum safety and capacity standards, which public facilities shall be identified in a capital improvements program, considering the projected growth and development in each transportation district sub-area; and

WHEREAS, the Township hereby finds and declares that an "impact fee" imposed upon residential and non-residential development in order to assist in the financing of specified major transportation capacity improvements in designated transportation district sub-areas, the demand for which is uniquely created by such development, is in the best interest of the Township and its residents, is equitable, and does not impose an unfair burden on such development.

The Board of Supervisors, therefore, hereby ordains as follows:

Section 1. The Code of Ordinances of the Township of Mount Joy is hereby amended to add a new chapter (the number and format of which shall be selected by the Code's editorial staff and publisher) titled "TRAFFIC IMPROVEMENT DISTRICTS AND IMPACT FEES", and it shall provide as follows (where ### is the number of the new Chapter):

§ ### - 1. Short Title.

This Ordinance shall be known as the "Mount Joy Township Traffic Impact Fee Ordinance".

§ ### - 2. Purpose.

The purpose of this Chapter is to establish an Impact Fee Program ("Program") to ensure that the transportation system is available and adequate to support new growth and development. To advance this objective, there is hereby created an impact fee payable to the Township at the time of building permit issuance.

§ ### - 3. General Findings and Conditions.

The Board of Supervisors hereby finds and declares that:

A. The conditions and standards for the determination and imposition of the impact fee set forth herein are those set forth in Act 209 of 1990, and any and all amendments thereto (hereinafter the "Act"), and consist of:

- (1) The recitals set forth in the original ordinance from which this Chapter is derived (see footnote at the end of this Chapter);
- (2) The analysis, advice and recommendations of the Impact Fee Advisory Committee;
- (3) The Land Use Assumptions as adopted by the Board of Supervisors;
- (4) The Roadway Sufficiency Analysis as adopted by the Board of Supervisors;
- (5) The Transportation Capital Improvements Plan, as adopted by the Board of Supervisors; and
- (6) Such other conditions and standards as the Board of Supervisors may by resolution identify from time to time as being relevant and material to the imposition of an impact fee and consistent with the provisions of the Act and any amendments thereto.

B. The collection, disbursement and accounting of impact fees shall be administered by the office of the Secretary-Treasurer, subject to review, oversight and control by the Board of Supervisors.

C. The time, method and procedure for payment of impact fees shall be as set forth in § ###-16 of this Chapter.

D. The procedure for credits against or refunds of impact fees shall be as set forth in § ###-17 of this Chapter.

E. Such exemptions as the Board of Supervisors shall choose to enact shall be as set forth in § ###-18 of this Chapter.

§ ### - 4. Definitions.

The terms and definitions set forth in Section 502-A of the Act of Dec. 19, 1990, P.L. 1343, No. 209, as amended, ("the Act"; also found in 53 P.S. §10502-A.) are hereby adopted and incorporated in this Chapter by reference.

§ ### - 5. Imposition.

There is hereby enacted an impact fee to be imposed upon new development for the purpose of off-site public transportation capital improvements authorized by the Act and as described in the Program adopted by the Board of Supervisors. Said impact fee shall apply to all new developments or subdivisions within each of the transportation service areas identified herein and shall be a condition precedent to final approval of a development or a subdivision plan or issuance of a building permit.

§ ### - 6. Uses.

Impact fees collected pursuant to this Chapter shall be expended for costs incurred for improvements attributable to new development and designated in the Transportation Capital Improvements Plan adopted by the Board of Supervisors in Resolution No. 19 of 2006 for improvements within each of the transportation service areas in which the new development will be located. Additionally, such fees may be used for the acquisition of land and rights-of-way, engineering, legal and planning costs, and all other costs, including debt service related to road improvements within the designated service area, and including such proportionate amount of the Roadway Sufficiency Analysis as is allowed under the provisions of the Act.

§ ### -7. Documents Adopted by the Board of Supervisors.

The following documents, previously adopted by the Board of Supervisors, are hereby incorporated by reference in this Ordinance:

A. Land Use Assumptions as adopted by the Township Board of Supervisors on January 19, 2006.

B. Roadway Sufficiency Analysis as adopted by Township Resolution #18 of 2006 on August 17, 2006;

C. The Transportation Capital Improvements Plan as adopted by Township on September 21, 2006.

D. The Impact Fee Schedule as established by Township Resolution #8 of 2005.

E. Designation of transportation districts as set forth on the Transportation Service Area Map identified in Exhibit A and incorporated herein by reference.

§ ### - 8. Special Traffic Studies.

Where intended to assist in determining the appropriate amount of traffic impact fees, the Township may require the preparation of special transportation studies to determine the traffic generation or circulation patterns in new non-residential developments only; provided, however, that no studies may be required where the proposed development will not require a deviation from the land use assumptions used to create the Program.

Any such studies required by the township shall be submitted prior to the imposition of the impact fee and shall be considered in the determination of the fee.

§ ### - 9. Applicability of Impact Fee.

This Ordinance shall be uniformly applicable to all development that occurs within a designated transportation service area or a designated sub-area (see § ### - 13 below).

§ ### - 10. Imposition of Impact Fee.

No building permit shall be issued for a development in a designated transportation district sub-area, as herein defined, unless the applicant therefore has paid the "impact fee" imposed by and calculated pursuant to this Ordinance.

§ ### - 11. Exemptions. RESERVED

§ ### - 12. Calculation of Impact Fees.

- A. The impact fee for transportation capital improvements shall be based upon the total costs of the road improvements included in the adopted Transportation Capital Improvements Plan within a given transportation service area attributable to and necessitated by new development within the service area as defined, divided by the number of anticipated week-day afternoon peak-hour trips generated by all new development consistent with the adopted Land Use Assumptions and calculated in accordance with the *Trip Generation Manual* published by the Institute of Transportation Engineers, 7th or subsequent editions, which is hereby adopted by the Township, to equal a per-trip cost for transportation improvements within the service area.
- B. The specific impact fee for a specific new development or subdivision within the service area for road improvements shall be determined as of the date of land development or subdivision approval by multiplying the per-trip cost established for the service area as determined in Section hereof by the estimated number of trips to be generated by the new development or subdivision using generally accepted traffic engineering standards. If the Township Engineer determines that the proposed use is not adequately addressed by the said *Trip Generation* manual, the estimated number of peak hour trips may be documented by other relevant studies and/or data, subject to the review by, and approval from, the Township Engineer.
- C. The Board of Supervisors may authorize or require the preparation of a special transportation study in order to determine traffic generation or circulation for a new non-residential development to assist in the determination of the amount of the transportation fee for such development or subdivision.
- D. As provided in §505-A.(h) of the Municipalities Planning Code (as of the date of adoption of this Ordinance), new developments that generate 1,000 or more new peak hour trips may be required to perform a traffic analysis of the impact outside of the transportation service area in which the development is located, and to mitigate the impacts to maintain the predevelopment conditions after completion of the development.
- E. As provided in §504-A.(e)(4) of the Municipalities Planning Code (as of the date of adoption of this Ordinance), the Board of Supervisors may, no more often than annually, request the traffic impact fee advisory committee to review the capital improvements plan and impact fee charges, and recommend revisions of them based on the criteria set forth in the said Code.

§ ### - 13. Establishment of Transportation Service Areas.

Transportation service areas are established as shown Exhibit A, (attached hereto and incorporated herein by reference). Additional transportation district sub-areas or combinations of transportation district sub-areas may be designated by the Board of Supervisors from time to time consistent with the procedure set forth in this Ordinance and in consideration of the following factors:

- A. The Comprehensive Plan;

- B. Any standards for adequate public facilities incorporated in the Program;
- C. The projected build-out and timing of development areas;
- D. The need for and cost of unprogrammed transportation improvements necessary to support projected development; and
- E. Such other factors as the Board of Supervisors may deem relevant.

Fees collected from development in each of the transportation district sub-areas will be used exclusively to fund transportation improvement projects scheduled for that district.

§ ###-14. Non-binding Impact Fee Estimate. Prior to making an application for a building permit, an applicant may request a non-binding impact fee estimate from Township, which shall be based upon the maximum development potential of the site pursuant to existing zoning regulations, unless the applicant specifies a lesser use or development.

§ ###-15. Administration of Impact Fee.

- A. Collection of Impact Fee. Impact fees due pursuant to this Ordinance shall be collected by the Township in the manner or manners prescribed herein prior to the issuance of a building permit.
- B. Establishment of Fund. Upon receipt of impact fees, the Secretary-Treasurer shall be responsible for the separate and proper accounting of such fees. All such fees shall be deposited in interest-bearing accounts in a bank authorized to receive deposits of the Township funds. Interest earned by each account shall be credited to that account and shall be used solely for the purpose specified for funds of such account.
- C. Establishment and Maintenance of Accounts. The Secretary-Treasurer shall establish appropriate trust fund accounts and shall maintain records whereby impact fees collected can be segregated for each transportation district sub-area.
- D. Maintenance of Records. The Secretary-Treasurer shall maintain and keep adequate financial records for each such account which shall show the source and disbursement of all revenues, which shall account for all monies received, and which shall ensure that the disbursement of funds from each account shall be used solely and exclusively for the provision of projects specified in the Program for the particular transportation district sub-area.

§ ### - 16. Method of Payment.

Payment of the transportation capital improvements impact fee shall be made by the developer, builder, owner, agent of the owner, or other traffic generator prior to the issuance of a building permit or a land use permit by the Township to anyone for development on the applicable site.

§ ### - 17. Credit.

Any applicant who shall perform, at his own expense and with the consent and agreement of the Board of Supervisors, off-site improvements that fulfill the needs (in whole or in part) of the applicable transportation improvement district in accord with the Program shall be eligible for a credit from the impact fee otherwise due in the amount of the actual cost of such off-site improvements as approved by the Township Engineer. Such credit shall not exceed the amount of the impact fee.

- A. If the applicant makes such improvements, he must enter into an agreement with the Board of Supervisors prior to the issuance of any building permit. The agreement must establish the estimated cost of the improvement, the schedule for initiation and completion of the improvement, a requirement that the improvement be completed to Township and Pennsylvania Department of Transportation (if applicable) standards and design criteria and such other terms and conditions as deemed necessary by the Board of Supervisors. The Board of Supervisors must review the

improvement plan, verify costs and time schedules, determine if the improvement is an eligible improvement, and determine the amount of the applicable credit for such improvement to be applied to the otherwise applicable impact fee prior to issuance of any building permit. In no event shall the Board of Supervisors provide a credit which is greater than the applicable impact fee. If, however, the amount of the credit is calculated to be greater than the amount of the impact fee due, the applicant may use such excess credit toward the impact fees imposed on other building permits for development on the same site and in the same ownership.

Any such applicant shall be required to supply financial security sufficient, in the judgment of the Township, to cover the cost of any such improvement installed by the applicant for which credit is sought.

- B. An applicant shall be entitled as a credit against impact fees an amount equal to the fair market value of land dedicated by the applicant and accepted by the Township for future right-of-way, realignment or widening of existing roadways.
- C. An applicant shall be entitled as a credit against impact fees an amount equal to the value of any off site road improvement construction which is contained in the Transportation Capital Improvements Plan, which has been approved by the Board of Supervisors, and which was performed at the applicant's expense. However, nothing herein shall affect the Township's authority to require an applicant to pay for on-site improvements as provided in the Township's land use ordinances.

§ ### - 18. Refunds.

Impact fees collected pursuant to this ordinance shall be refunded, together with interest earned thereon, to the payor of the fees under the following circumstances:

- A. In the event the Township completes or terminates the capital improvements plan and there remain undisbursed funds, the respective payors shall be entitled to a share of the fund balance in the same proportion as the payor's impact fee payment plus interest earned bears to the total impact fees collected plus interest.
- B. In the event any specific road improvement project is completed at a cost to the township less than 95 percent of the budgeted cost of the road project, the Township shall refund an amount equal to the excess budgeted cost over actual cost to the payors, pro rata, plus accumulated interest.
- C. In the event the Township fails to commence construction within three years of the scheduled construction date of the project as set forth in the Transportation Capital Improvements Plan, the Township shall refund the portion of the fee paid by any payor making written request therefore which is attributable to said project, with accumulated interest, provided no refund shall be paid with respect to any project actually begun prior to the receipt of such refund request.
- D. In the event the development for which impact fees were paid has not commenced prior to the expiration of the building permit issued therefore, the impact fees paid with accumulated interest shall be refunded to the payor. Further, if a building permit after issuance is altered in such a way as to reduce the indicated impact fee, the difference between the amount indicated and the amount actually paid shall be refunded. The payor, at his option, may roll over the impact fees attributable to an expired building permit to cover fees incurred by a renewal of said expired permit.
- E. With respect to refunds arising out of subparagraphs (a) or (b) hereof, any funds unclaimed within one year after notice as required by law shall be transferred to the general or other account of the Township, as the Supervisors shall direct, and the payor's entitlement to said refund shall lapse. It is the responsibility of the payor to provide the Township with the current address of his place of business.

§ ### - 19. Effect of Impact Fee on Zoning, PRD and Subdivision Regulations.

This Ordinance shall not affect, in any manner, the permissible use of property, density of development, previously adopted design and improvement standards and requirements or any other aspect of the development of land or provision of public

improvements which remain subject to applicable zoning and subdivision regulations of the Township, which shall be operative and remain in full force and effect without limitation with respect to all such development.

§ ### - 20. Impact Fee as Additional and Supplemental Requirement.

The impact fee is additional and supplemental to, and not in substitution of, any other requirements imposed by the Township on the development of land or the issuance of building permits. Nothing herein contained shall be deemed to alter or affect the Township's existing ordinances and regulations regarding on-site improvements. In no event shall a property owner be obligated to pay for transportation capital improvements in an amount in excess of the amount calculated pursuant to this Chapter; provided, however, that a property owner may be required to pay, pursuant to Township ordinances, regulations or policies, for other public facilities in addition to the impact fee for transportation improvements as subdivided herein.

Section 2. Liberal Construction. The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes, which are hereby found and declared to be in furtherance of the public health, safety, welfare and convenience.

Section 3. Repealer. All ordinances, code sections or parts thereof in conflict herewith shall be repealed to the extent of such conflict.

Section 4. Severability. Should any sentence, section, clause, part or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this Ordinance as a whole, or any part thereof, other than the part declared to be invalid.

Section 5. Effective Date. This Ordinance shall take effect five (5) days after its passage, in accord with the Pennsylvania Second Class Township Code.

Section 6. Retroactive Application. Notwithstanding Section 5. hereof, impact fees may be imposed on those projects involving developments and subdivisions for which an application has been filed on or after the first publication of notice of the Township's intent to adopt this Ordinance; provided, however, that such retroactivity does not exceed 18 months after the adoption of the resolution that created the advisory committee in connection herewith. In retroactive applications, the per-trip fee may not exceed One Thousand (\$1,000.00) Dollars or the actual calculated fee, whichever is less.

ENACTED AND ORDAINED this 21st day of September, 2006.

MOUNT JOY TOWNSHIP SUPERVISORS

Motion carried unanimously.

National Incident Management System:

Mr. Dayhoff moved, seconded by Mr. Chantelau, to authorize the Chairman to sign the PEMA Certification stating that Mount Joy Township representatives have received the NIMS training as required. This training is mandated by the State so that the State can get federal monies to offset critical incidents that might happen in the State. Mr. Waybright noted that Mr. Chantelau and Mike Livelsberger have received this training. Motion carried unanimously.

White Run Regional Sewer Easements:

Mr. Waybright noted that WRRMA just received a letter tonight from Barbara Neth, Chairman of WRRMA, regarding easements affected by Colbier Farms project for sewer lines. Mr. Waybright had Ms. Constable read the letter aloud. The letter stated that WRRMA made a motion on September 20, 2006, which was unanimously

approved by all WRRMA Board members, to authorize the taking of a 30' wide easement across affected and necessary property (properties of: Sukeena, Breighner, Reaver, Holmes, Davis, Bloom, Payne and Davis, Jr.) for purposes of running the sewer line from the proposed development of the Fields of Gettysburg to the plant, and providing access for maintenance of the sewer line, subject to the following conditions:

1. The adoption of a resolution by the Mount Joy Township Supervisors approving and authorizing WRRMA to take the easement for sewer purposes only, even though the land affected is outside of WRRMA's current service area;
2. Inclusion in that resolution of unequivocal language that the Township will not pursue or require the Authority to pursue a hike/bike/walking trail, or other recreational facilities over the easement area, to be acquired by WRRMA;
3. There will be a 45 day period from September 21, 2006 for the property owners to negotiate with the developer the terms of an easement for the sewer line only, which easement will be in a form acceptable to WRRMA, after which time the Authority will move to pursue Eminent Domain; and
4. Prior to the filing of any Eminent Domain papers the developer must enter into an agreement with WRRMA whereby the developer agrees to be responsible for and reimburse to the Authority any and all costs, including, but not limited to, acquisition costs, attorney fees, engineering fees and damages payable to the property owners, associated with the Eminent Domain proceedings.

Mr. Scott moved, seconded by Mr. Chantelau, to accept the letter received from WRRMA, dated September 20, 2006. Motion carried unanimously.

Mrs. Neth explained that because this right-of-way would be outside of their service area, their attorney said that due to a new law passed on September 5, 2006, the governing body must approve the Authority going outside their service area, and this is to be done by resolution. Mr. Davis stated that the Supervisors would actually be asking the Authority to expand their service area because if they start taking eminent domain, that would be their service area.

Executive Session:

Mr. Waybright called for an Executive Session at 9:45 p.m. this date.

Meeting Reconvened:

Mr. Waybright reconvened the Supervisors' Meeting at 10:15 p.m. this date with all members present.

Mr. Davis explained that the Executive Session was for legal advice regarding the WRRMA letter. In addition, other issues were discussed that would result with motions being made during this public meeting. The concerns were with regard to a grant application for a recreation study; and grant application for a potential piece of land acquisition and seeking proposals for a recreation study.

Recreation Grant:

Mr. Chantelau moved, seconded by Mr. Scott, to adopt a resolution to file for a grant with DCNR for a park and recreation study for Mount Joy Township. Discussion: Robin Crushong noted that this is just a planning process to hire a planning consultant to go through the township to review any potential parcels for recreation and/or a park. Mr. Dayhoff explained that he and Robin, and the Rec Board Chairman had a meeting with DCNR representative who made a recommendation do a parks and recreation feasibility study. The Township had hoped to piggyback off of the County's study that had already been done, which included Mount Joy Township, but it was her opinion that it was not in depth enough for Mount Joy Township's needs. It was the Rec Board's

recommendation to do this study, which will also encompass how we can work with adjoining municipalities to fulfill recreation needs in this area. Motion carried unanimously.

Mr. Chantelau moved, seconded by Mr. Scott, to adopt a resolution to file a grant application for acquisition of land for future recreation use with DCNR. Motion carried unanimously.

Mr. Chantelau moved, seconded by Mr. Scott, to approve a request from the Recreation Board to proceed with obtaining bids to perform a recreation study. Mr. Dayhoff suggested that the Township work with KPI and Eric Mains in evaluating those firms who do submit bids, and including up to the Request For Proposal process. Motion carried unanimously.

WRRMA Easements:

Mr. Dayhoff moved, seconded by Mr. Scott, to adopt a resolution accepting the conditions as recommended in WRRMA's September 20, 2006 letter and direct Mr. Davis to prepare a written form of the resolution for Supervisors' signatures. Motion carried unanimously.

New Business:

Planning Commission requests that the Supervisors offer clarification of zoning ordinance sections 110-155 versus 110-155.D.(6)(d)[1][2] for the RR district with regard to allowing public water and sewer or not allowing public water and sewer. Mr. Dayhoff moved, seconded by Mr. Scott, to table this issue until next month. Motion carried unanimously.

Mr. Chantelau moved, seconded by Mr. Kirschner, to accept the 2007 Minimum Municipal Obligation Report for the General Employees' Pension Plan as presented. Motion carried with Mr. Dayhoff recusing.

Adjournment:

With no further business to come before the Board, Mr. Dayhoff moved, seconded by Mr. Scott, to adjourn the Supervisors' Meeting at 10:30 p.m. this date. Motion carried unanimously.

Respectfully submitted,

Brenda J. Constable
Secretary