

June 17, 1999

The Mount Joy Township Supervisors held their regular monthly meeting on Thursday, June 17, 1999 at 7:30 PM in the Township Municipal Building located at 902 Hoffman Home Road, Gettysburg, PA. All Supervisors were present as well as Township Solicitor Walton V. Davis and Township Secretary Bonnie L. Koontz.

Regarding the approval of the minutes of last month's Meeting, May 20, 1999, Beebe noted that page three, paragraph three, line 9 should read "Boyle's first application", not Boyle's approval. Minutes approved with correction by motion of Beebe, 2nd by Waybright, carried unanimously.

Public Comments:

Phil Morey (2235 Baltimore Pike) - Regarding Boyle and the eminent domain issue, he doesn't think the Mount Joy Township taxpayers should have to pay; secondly, he would like to see a moratorium on big development until the comprehensive plan is completed. He would like to see urban sprawl stopped. He is concerned that the Board as a whole is pro big development. The land should be protected; put a moratorium on big development.

Dick Emerson - He would like to reaffirm what Phil Morey said. Eminent domain should be for the public interest; don't spend money on eminent domain for a developer.

Bill Henderson (991 Heritage Drive) - As long as negotiations are proceeding there is no need for the Township to step in. The only offer from The Boyle Group was for \$200,000. The Lake countered with \$600,000, Boyle said 'no' and made no counteroffer. The Lake is trying to bring Boyle back to negotiations and has invested a lot of money. The Lake has lowered their request to \$300,000; The Boyle Group has yet to respond. They (Boyle Group) want to ram the project through. If the project fails, they will leave the taxpayers to clean up. The Supervisors are urged not to err in haste, but in caution, as we will have to live with the decisions here forever.

Tim Redding - Regarding Violet Schwartz's preliminary plan, the (Township) engineer wants a 30' right-of-way along the remainder of the farm; he does not see this in the ordinance. Atty. Davis said that this is not uncommon when new subdivision occurs on an existing road. Experience is that this is the only shot to get right-of-ways to be what SALDO calls for. Following discussion, it was decided to provide right-of-ways over the entire tract. Redding also asked if metes and bounds description was needed and was advised to do what the engineer recommended.

The Treasurer's Report for May was approved by motion of Beebe, 2nd by Waybright, carried unanimously.

The Bills to be Paid for May and June to Date Report was approved by motion of Waybright, 2nd by Beebe, carried unanimously.

Bids for road seal coating will be opened Monday, June 28, 1999 at 10 AM in the Township Municipal Building.

Land Development Plans:

Joe Hood - Motion to approve the Hood plan by Waybright, 2nd by Dayhoff, carried unanimously.

Miller Fabrication - Miller wants to add a 19 x 30 building that was not on the drawing reviewed by the Mount Joy Planning Commission. Atty. Davis said that the Supervisors can approve because the Planning Commission is a recommending body; the Supervisors have control. Motion by Dayhoff to approve the preliminary plan as presented with an additional 19 x 30 building, 2nd by Beebe, carried unanimously.

Ken Wenger - Preliminary/Final Land Dev. Plan - A letter was received from Soil Conservation that the soils are not hydric and there are no wetlands. Motion by Dayhoff to approve, 2nd by Waybright, carried unanimously.

Subdivision Plans:

Harold R. Beebe - Preliminary/Final Plan, DEP approval has been received and the engineer's comments satisfied. Motion to approve by Dayhoff, 2nd by Waybright, carried, Dayhoff and Waybright in favor, Beebe abstained.

Harold R. Beebe - Preliminary Plan; won't be further acted upon until the mounds cure. The engineer's comments regarding sight distance have been satisfied. Motion by Dayhoff, 2nd by Waybright to approve the preliminary plan. Motion carried, Dayhoff and Waybright in favor, Beebe abstained.

Budd Hallberg - Modules; Motion by Beebe, 2nd by Dayhoff to forward the modules to DEP, carried unanimously.

Phil Plotica - Modules; Motion by Dayhoff, 2nd by Beebe to forward the modules to DEP, carried unanimously.

Road Report :

The Road Report was read by Road Superintendent Bill Miller. (Copy in Township files) Dayhoff noted that Mike Purnell has been doing a good job with roadside mowing.

Zoning Officer's Report:

The Zoning Officer's report was read by Sam Dayhoff. (Copy in Township files)

Correspondence:

- The Land Conservancy of Adams County, Inc. - Letter requesting funding. The Township is not legally able to contribute to organizations such as this.
- Gettysburg Area Recreation Dept. - Minutes from the 5/17/99 meeting.
- PennState College of Agricultural Sciences - Brochure entitled "A Home in the Country"
- Lake Heritage Property Owners Association - Letter commenting on The Boyle Group's 5/25/99 letter.
- White Run Regional Municipal Authority - Annual report.

Old Business:

The Boyle Group - Atty. Carl Primavera stated that the Conditional Use Permit approved by the Supervisors with regard to the Gettysburg Village Factory Stores, page 19, dd, requires the acquisition of rights-of-ways to Heritage Drive for the Yingling auction property. The Boyle Group and LHPOA have been back and forth for about a year and it is clear that the June 4, 1999 proposal contains elements beyond what Boyle can do. They would entertain workshops to resolve these issues. However, any agreement would require a two-thirds vote of the homeowners. The Boyle Group is requesting to move forward with the process that would end in condemnation. They will provide escrow, pay all expenses. They request the Township solicitor to prepare the necessary documents. They will continue dialogue with Lake Heritage, but Boyle can't commit the Township for things. They will work in the spirit of compromise and progress.

James Yingst, attorney for LHPOA, responded that they were aware of the request to be made this evening and believe it is premature. The 6/8/99 proposal has just been received. The original proposal was made by Boyle at a Lake meeting and was deemed unacceptable by the Lake. A counteroffer was made which was deemed unacceptable by Boyle. Lake Heritage has since got an engineer, etc. involved and come out with a second proposal. They don't believe there's been a delay, these things take time. The Lake Board meets on a monthly or bi-monthly basis. A lot of time, money and effort is involved. Now there has been no response except to ask to move forward with eminent domain. LHPOA is awaiting its engineer's evaluation and the appraisal of Heritage Drive. They don't believe there's an impasse. There was no time limit set in the conditional use approval. The developer's self-imposed time frame is not an issue. There really has been no delay and the developer's assertion that a two-thirds vote can't be acquired is pure speculation. The developer shouldn't be forcing the Township to act.

Atty. Primavera replied that the Conditional Use Permit says if the developer is unable to consummate an agreement; they have been unable to do that. There are some serious issues to be resolved. They have been acting in good faith and have volumes of documents to demonstrate this. It is not fair for the (Township) Board to have to decide if there's an impasse.

Harold Beebe said that Attorney Yingst voiced it better, but he would just like to add that he also thinks condemnation action would be premature. Boyle offered \$200,000; the Lake asked for \$300,000.

Bill Chantelau said that with the \$200,000 offer, the Lake would only receive what, if anything, was left over after the roadwork. He is concerned that The Boyle Group is saying there's an impasse.

Atty. Primavera stated that the proposal contains things that Boyle can't address, things over which he has no control, for example, snow plowing on Heritage Drive.

At this point, the Supervisors and Township Solicitor went into executive session. The meeting was recalled to order at 8:47 PM.

Atty. Davis said that following discussion, he wants to say to the three supervisors that even if they wanted to start eminent domain procedures, they could not do so tonight because it has not been determined what part is going to be taken and would be premature. It would not be premature, however, to authorize the Township solicitor to review any agreement Boyle wants to present regarding funding of condemnation, etc. This does not mean that eminent domain has started. That must be done by resolution at a public meeting. The Board must know the exact metes and bounds and have a description of what is being taken. The Board would like to sit in a workshop session with LHPOA and The Boyle Group. This would be an advertised meeting, but no public comments would be taken.

Beebe said he would like to see LHPOA and The Boyle Group work things out.

Atty. Primavera said that they remain ready, willing and able to sit at any work session. He was advised to contact the Township secretary to set a date and advertise for a meeting.

Information from Office Policy - Discussion on this matter was tabled.

Comprehensive Plan/Act 537 - The Township is currently working on a comprehensive plan and update of Act 537. Beebe said that the Planning Commission has been working with Herbert, Rowland & Grubic, Inc. to come up with a Request for Proposals, which is now ready to be put out to firms. He believes the Township is ready to pass and go ahead with the RFP.

George Scott said someone ought to tell the people what a Comprehensive Plan is. Dayhoff recommended that Scott do this. Scott said that it is a study of the Township, basic services, and deals with everything except sewerage. Act 537 deals with sewerage. Dayhoff added that in the process different questionnaires will be sent to generate information. Motion by Waybright to move on with the RFP, 2nd by Dayhoff, carried unanimously. Waybright said that this is important; citizens will have input. Beebe added that this is an opportunity to say what they want to happen.

New Business:

Moratorium - Beebe said that any plans currently before a Mt. Joy body are exempted from any moratorium. Dayhoff asked if a moratorium could be legally enforced. Atty. Davis referred to a case (Naylor vs. The Township of Hellum) in 1998 where a moratorium ordinance was in place. The moratorium on residential development and subdivision was upheld. However, if the Township wants to put such an ordinance in place, it must be very specific about what is being stopped. Consider what is meant by all subdivision. A moratorium can be done, but be specific and do by ordinance. Beebe is concerned about how a moratorium would affect someone who wanted to give a lot to a son or daughter or how someone would be affected who has fallen upon hard times and might need to sell a lot or two. Waybright agrees with Beebe's concerns. Dayhoff feels that the Township has good zoning and subdivision and land development ordinances in place and if someone comes in and meets them, they have the right to do what they want.

Bill Chantelau, Planning Commissioner, said that if everyone knows that a moratorium is being considered, there will be a rush to develop everything. A line must be drawn somewhere because if there is development during the comprehensive plan, we will never get a baseline.

Waybright said that it may not be a fair situation to someone who has bought property with the intention of building or subdividing; it could cause a financial hardship.

Beebe said that more guidance is needed from the solicitor than from the Planning Commission.

Atty. Davis said that it (a moratorium) couldn't be done tonight as an ordinance is required.

Dayhoff said that the Planning Commission should come back with more specifics.

Motion by Beebe to adjourn at 9:13, 2nd by Waybright, carried unanimously.

Respectfully submitted,

Bonnie L. Koontz
Secretary