

Minutes of the February 11, 2003 Meeting

The meeting was called to order at 7:30 p.m. by Chairman Waybright. Present were Supervisors Shealer, Weikert and Bowling. Supervisor Gregor was out of town. Also present were: Ron Horton, Henry Heiser, Chief Sease, Carol Merryman, Mike Galassi, Bob Sharrah, Drew Plunkert, Bob Wagner, Kevin Gilligan, Steve Maddox, Shawn Smith and a reporter from THE GETTYSBURG TIMES. The meeting was tape recorded.

The Minutes of the previous meeting were approved by motion of Mr. Shealer, seconded by Mr. Bowling and carried.

Chief Sease presented a written and oral report of police activities for the month of January consisting of 106 complaints, 197 arrests and 5 incidents.

Mr. Bob Wagner presented Roselawn, Phase III, Final Plan and introduced Mr. Kevin Gilligan and Mr. Steve Maddox from Gilligan Homes. Mr. Horton reported that the following things are still outstanding: E & S approval from Soil Conservation, (Mr. Sharrah expects an adequacy letter very soon because the items are only maintenance items) documentation from GMA and CTA that the infrastructure has been approved and financial security is in place (Mr. Horton reported that a revised financial security for the Township is in the works and needs to be finalized by March 8, 2003), and approval of the Sewage Facilities Planning Module which still needs to go to the Planning Commission. Mr. Sharrah presented copies of letters from GMA and CTA satisfying that item. Mr. Gilligan expressed his need to keep the project moving forward because of having staff there full-time. Chairman Waybright stated that it is the Board's policy not to grant conditional approvals. **Mr. Shealer made a motion to table action on the Final Plan until the next meeting, seconded by Mr. Bowling and carried.**

The request for a street light on Meadow Drive remained on the table. Mr. Horton reported that Barbara Kingsley had agreed to attend tonight's meeting to provide further information, but he suspected that the bad weather kept her from coming. Mr. Horton added that they are looking for a light at the far end of the subdivision where the newest homes are.

Chairman Waybright reported that the Certificate of Insurance for the fireworks display at Allstar on May 25, 2003 has been revised to include Cumberland Township as an additional insured as requested. **Mr. Weikert made a motion to approve the request for the fireworks display, seconded by Mr. Shealer and carried.**

Chairman Waybright stated that the next item is a request from Alan K. Patrono, on behalf of S & A Custom Built Homes, Inc., for reinstatement of the Cannon Ridge subdivision plan. Mr. Horton pointed out that the letter asks for a sixty-day approval period from the date of reinstatement, and there is a question when the reinstatement date should be. Mr. Sharrah suggested that the approval period be for ninety days, not sixty days, and start tonight. **Mr. Weikert made a motion to approve Mr. Patrono's request and reinstate the Cannon Ridge plan, effective February 11, 2003, with a ninety-day approval period, per Mr. Sharrah's request, seconded by Mr. Shealer and carried.**

A Resolution adding President's Day as a holiday for the non-uniformed employees was tabled by motion of Mr. Weikert, seconded by Mr. Bowling and carried. Mr. Shealer abstained. Mr. Weikert stated that this had not been discussed by the Board and there may be budget ramifications that they are not aware of.

Mr. Horton reported that he has a fifth request for release of financial security for Roselawn, Phase I. The amount of the draw being \$20,754.60, leaving a balance of \$40,754.60. This balance will be carried over into the security for Phase II and III and he is currently working with Mr. Wagner on this. Mr. Horton stated that he is satisfied that the work they are requesting for release has been completed and there is sufficient money left to

cover the completion of Phase I. **Mr. Weikert made a motion to approve the release, in the amount of \$20,557.50, seconded by Mr. Shealer and carried.**

Chairman Waybright stated that Mr. Dan Frey would be next on the agenda. Mr. Frey stated that he represents Joseph Myers, new owner of the proposed Patriot's Choice subdivision on Biglerville Road. He reported that the plan, along with a check, was presented to the Township on September 4, 2002. At that time, the equitable owner of the land was Westminster Land Trust. At the time the plan was submitted, a transmittal was completed by the Township, and Mr. Sharrah took the plan to Adams County Planning Office for their review. On September 10, 2002, the plan and check was returned to Mr. Sharrah being rejected as an incomplete submittal. Mr. Horton's letter cited six items that were incomplete. On September 30, 2002, Mr. Sharrah resubmitted the plan and check, addressing the six comments from Mr. Horton's previous September 10, 2002 letter. On October 9, 2002, the plan and check were again returned as an incomplete submittal citing three items that were missing: no sewer planning, no reference to phasing of the development and no written requests for waivers containing the grounds and facts of unreasonableness or hardship on which the requests are based. Mr. Frey stated that, to the best of their knowledge, the plan was never reviewed by the Planning Commission or Board of Supervisors. Subsequent to the attempted filing of the plans, Ordinance 02-106 was adopted by the Board which imposes recreation fees on a developer. Mr. Frey stated that it is their position that they have a deemed approved plan under the MPC and Township's SALDO because the plan was not reviewed in the ninety-day time frame and they are willing to litigate that position. With a deemed approved plan, the Township can not look at, nor has any input into the plan, and if they are successful in establishing a deemed approval, Ordinance 02-106 has no applicability to this plan. Mr. Frey stated that they do not want to litigate, but they feel that they have an extremely strong position. He added that Mr. Heiser has indicated that there was some authority for what the Manager/Engineer did in denying the plan, but in the particular case cited, the plan had massive deficiencies, and this plan did not. Mr. Frey stated that they know they need sewer planning, they do not intend to phase the project and if they did, the Township would have approval over that, and they feel that the waivers should be ongoing discussion between the developer and Planning Commission. He stated again that they do not want to litigate and they want the Township to have input into the plan. He stated that they are offering the following: they will file the plan tomorrow or Thursday, with the filing date being retroactive to September 4, 2002, and would agree to extend the time-frame and make the effective date the date that the plan is filed. They would want it to be understood that the plan is to be reviewed under the Ordinance in effect on September 4, 2002. Mr. Frey stated that he has the authority to offer the Township \$500.00 per lot for recreation (1/2 of what the Ordinance requires) and they hope to be able to work closely with the Township to get through the planning process. Mr. Horton stated that the 90 days should start on the date of the Planning Commission meeting and that normally plans must be submitted 10 days prior to the Planning Commission meeting, which is February 20, 2003. Mr. Frey stated that he is willing to have the start date for the ninety-day period to be February 20, 2003, but the ten days prior would have to be waived in this case. He did state that they are not asking to circumvent any other requirements of the Subdivision Ordinance.

At 8:32 p.m., Chairman Waybright adjourned the meeting for an Executive Session to discuss a legal matter.

At 8:55 p.m., Chairman Waybright reconvened the meeting.

Mr. Heiser clarified that the \$500.00 per lot will be paid at the time of final approval and Mr. Frey agreed. **Mr. Weikert made a motion to accept the offer and reinstate the Patriot's Choice Plan through the process under the SALDO as of September 4, 2002 and the ninety days to start on February 20, 2003 and \$500.00 per lot for recreation to be paid at final approval as offered by Mr. Myers, seconded by Mr. Shealer and carried.**

The Manager/Engineer's report was reviewed. Mr. Bowling expressed his feeling that the Township should stay away from motor paving and stick with hot mix. Mr. Horton stated that they are just getting prices now, but they are planning on using hot mix.

The Zoning Officer's report was reviewed. Mrs. Merryman reported that the controlled burn scheduled for 370 Plank Road has been canceled. Mr. Weikert also pointed out that Mr. Bower is again requesting assistance on the Delaney matter. **Mr. Weikert made a motion, seconded by Mr. Bowling and carried to authorize Mr. Heiser to proceed with enforcement of the judgements against James Delaney for inoperable vehicles on his property.**

Mr. Bowling expressed his concern about the \$60,000.00 salary and overtime overage in the 2002 Police Budget. Mr. Horton stated that Chief Sease had indicated that an officer was missed and the same thing will happen in the 2003 budget because all he did was increase the 2002 budget by 3.5%. Mr. Weikert stated that he will speak to Chief Sease about the situation. Mr. Horton stated that the other departments did a good job of actually making money.

Mr. Shealer asked if there is any input on the list of items to possibly go to auction, but not all Supervisors had seen the list.

Mr. Jim Paddock expressed concerns about the proposed Zoning Update and he requested that an un-biased special interest group review the document before it is adopted.

The bills were paid. Expenditures for this meeting totaled \$23,257.35 from the General Fund.

There being no further business, the meeting was adjourned at 9:50 p.m. by motion of Mr. Shealer, seconded by Mr. Weikert and carried.

Carol A. Merryman, Asst. Secretary

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