

**RYE TOWNSHIP
SUPERVISORS' MEETING
March 23, 2009**

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PRESENT: Robert Lightner, Chairman, Sharon Cole Engdahl, Supervisor, Daisy Lightner, Secretary/ Treasurer, Ron Cree, Zoning Officer, Sean Fedder, Peggy Fedder, Nancy Sunday, George Askins, Pete Fitting, Randy Barlup, Don Barlup, Ken Quigley, Charles and Sheila Naylor, Tom Graupensperger, Gordon Warren, Gary Roth, Max Shradley, PE. Township engineer of Rettew Associates, John Madden, PE, of John Madden Engineering, Joe A. Burget of Burget Associates, and P. Richard Wagner, Esquire.

Former Supervisor present: Phyllis Page

Absent: Supervisor Ron Evans

The meeting was held at the municipal building and called to order at 7:30 PM. A quorum of the Board was established. Chairman Robert Lightner convened the meeting with the pledge of allegiance to the flag. The meeting was tape recorded to aid with the preparation of minutes. Supervisor Cole Engdahl announced that she was tape recording the meeting.

CITIZEN PARTICIPATION: Chairman Lightner asked if there was any citizen participation. None was offered at this time.

APPROVAL OF THE MINUTES: Cole Engdahl made a motion to approve the minutes of the February 23, 2009 supervisors' meeting. Lightner seconded; Motion carried.

SUBDIVISION PLANS: Cole Engdahl made a motion with a second from Robert Lightner to grant a one hundred and twenty (120) day time extension request for approval of Woody's Auto Salvage Land Development plan to address reviews and comments. Motion carried.

Joe Burget of Burget Associates along with engineer John Madden and Township engineer Max Shradley approached the Board to discuss and review a Preliminary Barlup and Barlup Plan for approval. This proposed subdivision is located in the 2700 Block of SR 850. The former owner, Michael Vishnesky, previously subdivided the road frontage lots of this property in 1997 under the subdivision name of "Sherwood Acres." The Barlup and Barlup Plan proposes the subdivision and land development of the residual lot of approximately forty (40) acres into three single family residential building lots. The Preliminary Plan was submitted to the Rye Township Planning Commission and was conditionally approved at the January 6, 2009 meeting. Perry County Planning comments were addressed. The Township engineer reviewed the Barlup Preliminary Subdivision Land Development. A 30 day time extension request was granted at the February 23, 2009 supervisors' meeting extending the time period for action on said plan to April 26, 2009.

Burget provided a copy of the plan for review. The Board reviewed the outstanding concerns expressed at the February 23, 2009 supervisors' meeting for the Preliminary Barlup and Barlup Subdivision Land Development plan:

1. A private driveway at 2753 Valley Road partially encroaching into the 50' feet R-O-W
Burget indicated that the residents affected by this encroachment were contacted as previously discussed. However, they are not willing to move their paved driveway. Discussion ensued. Planning commission member, Gordon Warren and Solicitor Wagner recommended the addition of a note regarding a permanent driveway easement granted to all present and future residents of the effected property to ensure that there is never an

attempt to close the said driveway. Thereby, the Township is not held liable. After conferring with his client, agreement to this stipulation was acknowledged by applicants.

2. Review and discussion by the respective engineers of the adequacy of the storm water measures proposed.

John Madden, PE, applicant's engineer and Max Shradley, Township engineer, met prior to the meeting at the site of the Barlup and Barlup property proposed for subdivision. Madden explained that Berm C mainly controls the runoff from the R-O-W. A diversion swale is also proposed to minimize the amount of flow before the water runs to the Berm. The berm proposed is approximately three feet in height with the potential of containing two feet of water to store the runoff in a 50 year storm water event. A minor release is proposed from Berm C for the 100 year event.

Chairman Lightner expressed concerns with the runoff that currently ponds in several of the western end road frontage lots and therefore requested an assessment of the possibility of Berm C. overtopping and flooding properties situated downstream of Berm C. Chairman Lightner asked Max Shradley, the Township engineer, if he was satisfied that the storm water measures proposed are adequate to address these concerns.

Discussion ensued regarding Berm C proposed for construction on the eastern side of the proposed subdivision.

George Askins of 2759 Valley Road noted that at the March supervisors' meeting, Burget indicated the berm was adequate for a 25 year storm event. Askins asked for clarification since Madden now indicated the Berm was adequate for a 50 year storm event. Madden said the height of the Berm size was increased approximately one half a foot to handle a 50 year event.

Concerned with a home that is situated immediately down stream of the proposed Berm C., Planning Commission member, Gordon Warren asked if the capacity of Berm C. is adequate to contain a 100 year event with a nominal amount of outflow to the emergency spillway.

Burget indicated that Warren's statements were correct. He anticipated a release of 1.5 cfs during a 100 year event.

Warren offered the following recommendations:

1. Relocate the proposed emergency spillway so that the excess water is directed into the ditch that parallels the access drive rather than onto the adjacent properties, and
2. Verify that the conveyance capacity of the ditch is adequate to handle the overflow.

Nancy Sunday of 2759 Valley Road, owner of one of the western end road frontage lots, offered that she lived in her home for 8 ½ years and cited examples of two separate storms: one storm brought nine (9) inches of rain within a 24 hour period and another storm brought 4 ½ inches of rain. Ms. Sunday asked if the proposed storm water measures were adequate to handle similar types of events.

Gordon Warren offered that typically storm water facilities are not designed to store water for a 100 year event.

Solicitor Wagner asked if the 2759 Valley Road residents' water concerns are from surface or ground water.

George Askins of 2759 Valley Road indicated his concerns are from ground water that enters his basement. Askins asked for clarification of the location of Berm C. and the direction of flow for the release spillway.

Joe Burget offered that the water runoff will be directed to flow down the side of the proposed access drive and flow west into an existing recorded drainage easement, which is located adjacent to the road frontage lot addressed as 2759 Valley Road.

Township engineer Max Shradley offered that Berm C was designed to safely withstand the 100 year event, but not control it adding that the difference between the pre and the post, whatever is coming down now, will not discharge any more water into the area than what is presently discharged.

Askins, who has several sump pumps in his basement & a sump pump in the front yard, continued to express concern with additional water draining into his front yard & the increased costs to maintain the sump pumps if additional water is drained onto his property. Askins explained that water from the other side of SR 850 also is presently piped onto his property.

Referring to the 1997 Sherwood Acres SDDL plan, which established the road frontage lots, Max Shradley, PE explained that a substantial drainage easement is located on the lots addressed as 2759 Valley and 2763 Valley Road. The Board and respective engineers reviewed the Sherwood Acres Plan with property owner, Nancy Sunday.

Chairman Lightner asked if Planning Commission members Gordon Warren and Tom Graupensperger had any further comments.

Tom Graupensperger offered that the rate of flow will not increase with the proposed development, but the volume and duration will increase.

John Madden PE offered that normally a pre and post is completed and the rates for the storms are matched 1 through 100. Madden indicated that the proposed retention basins for the Barlup & Barlup subdivision are sized to store up through a 50 year storm. No water is released from the spillway until a 100 year event occurs. Madden indicated he would look for possible ways to better control the runoff such as altering the spillway location & providing suitable capacity and other controls of the water running adjacent to the proposed access drive. Madden indicated the water runoff on to the road frontage lots, is for the most part from the R-O-W & not from the dwellings or driveways.

Discussion continued. Solicitor Wagner explained that the 1997 Sherwood Acres SDDL plan of record indicates that approximately 25% of the 2759 Valley Road lot is part of a drainage easement.

Solicitor Wagner explained that the plan presented for approval tonight is a preliminary plan & is not recorded. However, this plan, if approved, becomes the concept upon which the final plan is based. Therefore, if the concern is regarding storm water runoff, Solicitor Wagner advised that if the Board approves the plan, they do so conditioned upon the restructuring of the runoff and the drainage structures satisfactory to the Township engineer so that there is no issue.

3. Discrepancy between the interpretation of the R-O-W as a private driveway or a private street, the determination of the slope of the access way and the cartway width.

Supervisor Lightner asked if the cartway width was decreased to 18 feet. Burget indicated it would be, which would farther decrease the amount of runoff, but that this would require a waiver to the SDDL requirements. Lightner further expressed concern with stones and sediment from the aggregate proposed for the surface of the access way

washing into the property owners' yards downstream.

Township engineer Max Shradley, PE offered that the construction of broad based dips is proposed to slow the water and direct it into the channel. The redesign and increase of the spillway would also additionally prevent any adverse impacts from the increased runoff. Shradley said the ponding of water in the road frontage lots was an existing problem.

Chairman Lightner asked if there were any further questions or comments from residents in attendance.

Charles and Sheila Naylor of 2755 Valley Road said they have no drainage issues currently and offered that the proposed development does not appear to have any adverse effects on their property. The owners would like to keep it that way.

Gordon Warren reminded the Board that the Preliminary Barlup and Barlup Subdivision Plan if approved becomes the concept upon which the final plan is based. However, Warren noted approval of the concept should not be construed to imply approval of all aspects of the E & SC plan nor all provisions of the Post Construction Stormwater Management Plan since there are outstanding concerns with the proposed measures to permanently stabilize the proposed drainage ditch along the access drive. In addition, the final approval of the proposed E & S Control plan and post construction stormwater management are necessary conditions prior to the issuance of the required NPDES permit. Accordingly, applicant should understand that details may need to be modified to assure there is adequate conveyance capacity and stabilization of the ditch in compliance with the aforesaid approvals.

Planning Commission member Tom Graupensperger offered that since the surveyor interpreted Rye Township's Subdivision Land Development Ordinance and denoted the R-O-W access a private driveway instead of the usual private drive, that the Solicitor review the Subdivision Land Development Ordinance 90-4 and provide an interpretation. Graupensperger discussed SLD Ordinance, Article 7. Design Standards, Section 706. D., which requires paving of the road way with slopes exceeding 8%. It is noted that the access to the proposed Barlup and Barlup subdivision is 10%. Graupensperger recommended that the applicant post security equal to 110% of the actual cost of improvements, including the drive and all E & SC and SWM improvements.

Solicitor Wagner advised that the difficulty is the conflict with three definitions for private drive, private driveways and a private street with the same concept, yet different requirements for paving depending on the slope. Solicitor Wagner advised that legally if you have something that is subject to multiple interpretations, it is the interpretation that is least restrictive to the landowner that rules. He noted that such situations are construed against the Township since the Township drafted and wrote the regulation. Wagner advised the Board to direct the Planning Commission to address this concern in their updates to the Ordinances as soon as possible.

Gordon Warren requested the applicant submit a waiver request for the paving requirement. Burget indicated he'd accommodate the request, citing that the proposed private driveway is consistent with SALDO, Article 7. Design Standards, Section 716 D and not with SALDO, Article 7. Design Standards. Section 706C.

Warren reviewed the following outstanding conditions on the plan:

1. Update lot line to situate SWM storage areas on respective lots
2. Add the annotation "bsl" (building set back line) to each isolated steep slope
3. Add a note on the plan referencing E & S plan provisions upon E & S plan approval in regards to the maintenance of all the drainage facilities.

Burget indicated the lot lines the "bsl" annotations were added to the plan.

Upon due consideration, Cole Engdahl made a motion and Lightner seconded to approve **the Preliminary Barlup and Barlup Subdivision Land Development Plan** contingent upon the following:

1. Relocate the proposed auxiliary spillway so that the water is conveyed into the ditch
2. Verify that the conveyance capacity of the ditch is adequate to handle the overflow
3. Prepare to post bond at 110% of the actual cost for construction of the proposed improvements
4. Provide a waiver that the proposed private driveway is consistent with SALDO, Article 7. Design Standards, Section 716 D and not with SALDO, Article 7. Design Standards. Section 706C.
5. Add a note on the plan referencing E & S plan provisions, (upon E & S plan approval) in regards to the maintenance of all the drainage facilities.
6. Demarcation of an easement and inclusion of a note on the Plan granting access and egress to all present and future residents of 2755 Valley Road, situated immediately west of the access drive proposed to service the planned Barlup and Barlup subdivision.

Motion carried.

Solicitor Wagner asked Joe Burget if he accepted the conditions for approval on behalf of the applicant. Burget accepted the conditions. Joe Burget, Donald Barlup, Randy Barlup, John Madden, PE, Max Shradley, PE and Gordon Warren left the meeting at this time.

MONTHLY MUNICIPAL REPORTS: Corporal Shoop submitted a copy and Chairman Lightner read the February Police Report as follows: 120.9 gallons of fuel used, drove 1,657 miles, worked a total of 153.5 hours, 1 traffic accident, 2 assists to other agencies, 14 traffic citations, 3 non-traffic citations, and 2 warnings. Total fines collected from the District Justice were \$ 605.82. Total fines received from the Perry County Court were \$ 54.45.

The March Zoning Report was submitted and available for review by Zoning Officer Cree. Cree reported the following: nine calls and complaints, five (5) zoning permits, one (1) demolition permit, zero certificates of use, traveled 77 miles for a total of \$ 275.00 in fees collected.

Chairman Lightner discussed an ongoing situation on Pine Hill Road with abandoned trailers, cars, and junk on this property with Solicitor Wagner. Zoning Officer Cree said that certified violation notices have been sent over the years. The property owner now has placed a cable across the access drive so that the Zoning Officer is unable to conduct interim inspections.

Zoning Officer Cree confirmed the concern. Cree said a letter was sent and the property owner has until May 1, 2009 to clean up the lot. However, no progress has been made to date.

Solicitor Wagner offered that as a courtesy a letter could be sent to inform the property owner that one of the remedies discussed by the Board was to file a complaint against the owner in Common Pleas Court seeking an injunction. If no response is received Wagner advised the following:

1. File a complaint in equity, which is requesting the court to undertake for certain conduct for which money is not necessarily the ultimate answer.
2. File a concern with the sheriff with 20 days to answer
3. If no answer is received, take a default judgment and go to court
4. The court enters the judgment

Supervisor Cole Engdahl suggested contacting the property owner to see if she would be willing to agree to the Township placing a lien on this property for clean up of the lot. Solicitor Wagner advised that would work as long as there are not too many other lien holders on the property.

Upon due consideration, the Secretary/Treasurer was directed to add this concern to the April board meeting agenda for further discussion.

The Sewage Enforcement Report was submitted by Mike Higgins, SEO. Chairman Lightner read the report as follows: 4activities: evaluate existing system for Martin Linwood, consultation and probes for William Dittmar on Pine Hill Road and a final inspection for Gary Decker on Dutch Cemetery Road for a total due in wages of \$ 395.00.

The March Road Report was submitted by Road Foreman, Brad Sloop and was placed on the table for review.

Recreation Board chair, Nancy Sunday announced the following upcoming events:

April 4- 11:00 AM, Easter Egg Hunt, children up to 10 years old

May 9 - 9-11:00 AM, Fishing Derby; children from 3 to 12 years old.

Nancy requested the Board open the gate to allow for additional parking for both events in the rear lot of the Township. Chairman Lightner offered to take care of unlocking the gates one hour prior to the start of each event.

No Emergency Management report was presented.

The February Treasurer's Report and General & Solid Waste Fund Balance Reports were submitted for review by the Secretary/Treasurer. With no discussion, the treasurer's reports presented were accepted as read conditional upon the final audit. The Secretary/Treasurer reported of notice received that the State Liquid Fuels allocation is expected on April 1st of approximately \$87,400.00, a decrease of approximately \$2,600 from last year's allocation of \$91,000.

LEGAL BUSINESS: The Solicitor sent a letter to United Water Pennsylvania requesting an onsite meeting to discuss a concern with low flow and pressure in the two fire hydrants in Rye Township. A meeting was held on March 16, 2009 with three representatives from United Water, Marysville Fire Chief, Scott Weaver, and Public Safety Superintendent, Robert Lightner. Lightner said United Water agrees there is a problem and will be conducting additional research and testing. However, if the pressure and flow cannot be improved, signs may be installed at the hydrants that say for "line flushing only." Lightner noted there is a dry hydrant at Heisley's Farm pond for water. Two additional hydrants are anticipated for installation this year at the Idle Road culvert and at the bridge over SR 850 immediately west of Fleisher Road. An existing dry hydrant at Sites Circle needs repaired and cleaned. Graupensperger suggested installing a fish enhancement structure, which requires a general permit from DEP. United Water Pennsylvania also indicated they would be willing to assist with the expense of installation of the dry hydrants in Rye Township.

Solicitor Wagner followed up on a question from the February meeting as to whether the Township is obligated to pay the high costs contracted for fuel with the Central Pennsylvania Energy Consortium., CPEC. Wagner said he spoke with attorney Paul Zeigler of CPEC and reviewed copies of the contracts. Because the Board authorized CPEC to act on our behalf to find us a company that would provide fuel at a fixed price, we are obligated to pay that price. So Tally Petroleum of Grantville continues to charge the Township \$4.11 per gallon for diesel fuel, because of the contract with CPEC, even though the costs of fuel are now much lower. The current contract expires June 1, 2009.

Solicitor Wagner contacted Capital Tax Collection Bureau, CTCB regarding the placement of liens on the properties of severely delinquent trash accounts. Wagner spoke with the newly appointed executive director of CTCB, Joshua Vecchio, who indicated CTCB would vigorously pursue the collection of the delinquent accounts. Solicitor Wagner said he would check with Vecchio at CTCB again to see if they as our agent on our behalf are permitted to place municipal liens on properties for the trash delinquencies.

RESOLUTIONS: Solicitor Wagner explained that the Capital Area Tax Collection Bureau changed their membership to Board of Directors of the CTCB. Cole Engdahl made a motion and Lightner seconded to approve **Resolution 09-07**, which authorizes the CTCB to amend the Articles of Incorporation as indicated on the attached. Motion carried.

OLD BUSINESS: Solid Waste Superintendent Lightner tabled any discussion on the trash collection policies until the April meeting due to Supervisor Evan's absence.

NEW BUSINESS: Four requests for proposals were received for the Spring Clean-up scheduled for May 1, and May 2, 2009 as follows:

	<u>Waste Management</u>	<u>Sylvester's Services</u>	<u>Cocalamus</u>	<u>Tiger Trash</u>
Hauling fee	\$ 100.00	\$105.00	\$130.00	\$ 0.00
Haul fee w/waste	<u>\$ 175.00</u>	<u>\$105.00</u>	<u>\$130.00</u>	<u>\$205.00</u>
Total per pull	\$ 275.00	\$210.00	\$260.00	\$205.00
Tipping fees	\$ 60.00	\$ 67.00	\$ 67.50	\$ 66.00
Charge Scrap	-----	-----	-----	-----
Metal Containers	\$170.00	\$. Zero	\$ Zero	\$ Zero

Discussion ensued. Cole Engdahl made a motion to award the Spring Clean up contract to Tiger Trash as noted above for the delivery of and hauling away of roll offs, tipping fees, and scrap metal disposal conditional upon the receipt of a certificate of Workers Compensation and Liability and a certificate of compliance with Federal CDL requirements for drug and alcohol testing for their drivers; Lightner seconded; motion carried.

Chairman Lightner reported the receipt of certification of Township taxes for the year 2009 from tax collector, Stanley Humbert and read it as follows:

Real Estate	\$160,383.40
Per Capita	\$ 9,095.00

The Secretary/Treasurer noted that the entire amount is never collected due to the 2% discount period, delinquencies, and exonerations.

Chairman Lightner announced the following upcoming meeting:

- ◆ April 6, 2009 Special meeting – 6:00 PM to open and tentatively award road resurfacing bids based on budgetary restraints. The road project this year involves resurfacing of .78 of a mile on New Valley Road.

Upon due consideration and in consideration of the economy and budgetary restraints, Lightner made a motion and Cole Engdahl seconded to appoint Ken Snyder to mow Oak Grove Cemetery at a rate of \$100.00 per mowing. Motion carried.

Cole Engdahl made a motion to authorize the Secretary/Treasurer to prepare bids packets and advertise for resurfacing of the municipal building's front parking lot. Lightner seconded. Motion carried.

APPROVAL AND PAYMENT OF THE BILLS: The Secretary/treasurer provided a March expense check register and submitted the following checks for approval and payment: General Fund Checks #s 11895- 11937 in the amount of \$34,687.74. No checks void.

Payroll checks #s 5372-5382 in the amount of \$6,176.63. Payroll checks #s 5383-5395 in the amount of \$6,662.57. No payroll checks void.

An electronic transfer, ELF, was made from the General Checking account by PCI, Insurance on March 20, 2009 in the amount of \$5,192.27 for April's health insurance.

Lightner made a motion to approve all the checks & pay the bills, except for check #11897 issued to his spouse, Daisy Lightner for mileage. Cole Engdahl seconded. Motion carried.

Solicitor Wagner advised to note this possible conflict of interest in the minutes. Wagner said the amount of \$36.30 is very minimal and the mileage rate is set by the IRS. Chairman Lightner preferred to wait until the full board is present to approve his wife's mileage check. The Secretary/Treasurer was directed to add check #11897 to the April 27, 2009 meeting agenda for approval.

CITIZEN PARTICIPATION: Cole Engdahl reported that she attended the Capital Region COG meeting where she acquired information on the "Smart Pen" technology. With this pen employees can fill in the same paper format they are currently using and no longer need to have data transcribed or manually entered into a Database. The forms are filled in with the PEN and the data is transmitted to your computer for processing using the docking station. Cole Engdahl said she did not know the cost of the PEN, but provided the office with information if anyone is interested.

Former Supervisor, Phyllis Page of 165 Mountain Road asked for clarification on what the initials "ELF" stand for under the Approval and Payment of the Bills. The Secretary/Treasurer explained that "ELF" stands for "electronic transfer".

John Smith of 15 Cove Road notified the Board that the Game Commission is planning to timber mountain ground behind his residence and will be using Cove Road for access. The Board asked Mr. Smith to notify the Township office as soon as he is aware that the bid is awarded. The Township will inspect the road and prepare a guaranty agreement with the successful bidder to assure that any damage incurred will be repaired.

ADJOURNMENT OF THE MEETING: There being no further business before the Board, Cole Engdahl made a motion and Lightner seconded to adjourn the meeting at 9:15 pm. Motion carried.

Respectfully submitted,

Daisy Lightner
Secretary/Treasurer