

**Board of Supervisors
Regular Meeting (Following Re-Organization Meeting)**

MINUTES

January 5, 2009

Supervisors Present: Karen Bedics, Jim Brownlow, Barbara Lindtner and Rob Zisko. **Absent:** Volker Oakey
Also present: Sandy Everitt, Secretary/Treasurer; Rich Schilling, Township Manager; Terry Clemons, Township Solicitor.

The regular meeting was called to order at 8:18 p.m. by Jim Brownlow, Chairman.

Public Comments on Agenda Item

Patrice Ryan thanked the Board and Terry Clemons for their efforts in arriving at a compromise with Rolling Hills that is acceptable to many of the concerns voiced by residents—traffic safety, scenic vista issues, preserving agricultural land, saving waterways, etc.

Ray Janus expressed three remaining concerns.

1. Precedent that this agreement might have as relates to future subdivisions. Terry Clemons assured residents this would not affect future subdivisions, but residents are still somewhat concerned.
2. Driveway position of Rolling Hills is still on the corner; Terry stated the driveway was moved and he will address this issue in his presentation.
3. Drainage on left side of development goes toward Ray's home, floods the field and flows into their pond.

Ken Simmons noted that water after a heavy rain goes into Ray Janus' basement.

Old Business – None

New Business

Settlement of Rolling Hills Litigation – Terry Clemons reviewed the history of this litigation. In October 2007, the Board denied the Rolling Hills Subdivision plan comprised of 34 lots on the 78-acre tract located on Slifer Valley Road and Old Bethlehem Road. The applicant appealed the Board's decision to the Court of Common Pleas. After discussion between Fox Rothschild LLP, attorneys for HMH Limited Partners, LP; Terry Clemons, township attorney; and the appointed Judge, a decision was made to attempt a settlement outside of the court. Subsequently, the Board reviewed multiple plans and found none suitable, Terry Clemons then suggested preserving most of the agricultural property on the tract with a few building lots to permit the applicant to recoup his investment. With a substantial portion of the tract being conserved—65 to 68 acres—Terry felt the Township would support a conservation easement on the property through the County's Agricultural Preservation Program for a sum of \$1,050,000. The applicant was interested in this and the settlement was also favorably received by the Planning Commission and the Board.

The Stipulation of Settlement plan proposes a conservation easement on 68 acres of the tract, with one residence on a 2-acre building envelope, as well as 4 new building lots off of Old Bethlehem Road. The Plan was reviewed by the Township's Planning Commission, who made suggestions about placement of the building envelope on the farm lot which the applicant incorporated into the plan they are proposing.

Terry met with interested residents at the home of Patrice Ryan and Ray Janus with the suggested settlement plan. They were in favor of the plan, but had concerns about the driveway entrance location. PennDOT also had issues with the driveway location, so the driveway was moved 100' to the east to provide 400' of optimum visibility. Although the driveway will likely meet PennDOT's standards, additional minor modifications may be required if the plan is approved and moves forward.

The Stipulation of Settlement agreement states that the developer will submit plans for the Board of Supervisors' review depicting this configuration and that he will go through the process of securing required E&S and NPDES permits, but there will be no further review by the Planning Commission. The Board of Supervisors and the township engineer will ensure that township requirements are met. The conditions for the Township is that they will guarantee a purchase price for the conservation easement on the 68 acres of \$1,050,000 which comes to \$15,000 per acre, contingent upon the Township obtaining at their own cost, an appraisal confirming that the value of the easement is at least \$1,050,000. Ted Evans, Natural Lands Trust, evaluated the property and feels it would rank as a property to receive County funds. Terry met with Rich Harvey, Director of the Bucks County Agricultural Preservation Program; Ted Evans; and one of the Commissioners, whose sentiments were that this property would qualify for County funding. The next step in the process is for the applicant to apply for placement of this property in the County Agricultural Preservation program. The applicant has already applied to have the property entered into the Township's Agricultural Security Area, and the settlement stipulation states that both parties anticipate that the bulk of the funding for this conservation easement will come through participation in the County Agricultural Program. Assuming that there is an appraisal for the value of the conservation easement of approximately \$12,000 per acre, Terry estimates that the County and State would be funding a figure of approximately \$800,000 of the total purchase price of \$1,050,000, with the Township funding approximately \$250,000. If for some reason the County/State funding does not occur as anticipated, the Township could use funds from the \$600,000+ awarded by the County for the purchase of municipal open space easements. The Stipulation of Settlement agreement addresses the County Agricultural Conservation Easement, but also requires that the developer enter into a township open space conservation easement, so that there will actually be two conservation easements on the property—the Agricultural Conservation Easement and the Open Space Conservation Easement—which would prohibit any further subdivision of the property, and limit all of the improvements (other than the 5,000 square feet) to the approved building envelope.

The Stipulation of Settlement also provides that the developer will reimburse the township for roughly \$18,500 paid for consultant fees incurred by the township, either from the sale of the conservation easement or out of the sale of the first lot. The applicant also agreed to reimburse the township for consultant fees to review the subdivision plan and prepare documentation after the date this stipulation is approved, with a cap of \$5,000.

The developer has agreed as part of the Settlement of Stipulation to meet with the township engineer and develop a storm water design that is approved by the township's engineer to address storm water runoff concerns on the Ryan/Janus property up to a maximum of \$5,000.

The developer has already signed the Stipulation of Settlement, so he will be locked into the conditions of the agreement if it is approved and executed by the Board.

Rob Zisko asked if the Township was committed to funding the conservation easement for \$1,050,000. Terry agreed that was correct, but the agreement requires that the township obtain an appraisal that supports the \$1,050,000 price. Terry requested Board authorization to obtain that appraisal from David Palmer, of the Doylestown Building & Land Group, at a price of \$2,500. Mr. Palmer is a general certified appraiser and has indicated he can do the appraisal and report to the Board by the end of January. If the appraisal does not support the purchase price, a second appraisal will be obtained. If the average of the two appraisals comes in at less than \$1,050,000 for the conservation easement, then the developer must either decide to accept less or walk away from the agreement.

Jim Brownlow asked what Board action was required and Terry advised that a motion to approve the Stipulation of Settlement agreement was required, with execution by one supervisor of the four copies of the agreement.

Barbara Lindtner **moved** to approve the Stipulation of Settlement for the HMH Limited Partners, LP, project known as Rolling Hills and the Springfield Open Space Conservation Easement as prepared by the township solicitor and all the attached exhibits. Jim Brownlow **seconded** the motion.

Rob Zisko asked if David Palmer, the proposed appraiser, is recognized by the County and State Ag Preservation Programs. Terry advised that he is a general certified appraiser, which is the title required for someone to appraise agricultural conservation easements. Terry advised that the County's appraisal would likely be performed by Jim Scanzillo, and their offer will be based solely upon their own appraisal.

Rob Zisko pointed out that this plan still has a number of hurdles to overcome. Jim Brownlow agreed that if the developer gets over those hurdles, the Township is willing to fund the plan. Terry added that if the County appraises the tract at \$800,000, the Township is obligated under this agreement to make up the difference if the Township's appraisal comes in at \$1,050,000. Jim Brownlow and Barbara Lindtner noted that the trade-off is worth the funding.

Karen Bedics asked if moving the driveway would affect the storm water runoff. Terry said no additional impervious surface was created by moving the driveway, and that Bob Wynn would review the plan as it progressed. Rich Schilling asked Terry if the individual lot owners would be required to do the storm water management plans rather than the developer. Terry advised this was correct, and that each property owner will enter into an Operation and Maintenance Agreement with the Township, while the developer will address the storm water runoff issue on the Ryan/Janus property (which existed in large part prior to this subdivision) to the cap of \$5,000.

Jim Brownlow called for the question. The motion **passed** unanimously. Jim Brownlow executed the four documents as Chairman of the Board.

Public Comments

Ken Simmons stated that the last section of the Springtown Water Authority's 150,000 gallon tank will be installed on January 6 (tomorrow morning). There are some related tasks being handled by the site preparation people, but everything should be completed very shortly.

Supervisor Comments – None

Karen Bedics **moved** to cancel the scheduled January 13 Board meeting and have the next meeting on the fourth Tuesday of January. Barbara Lindtner **seconded**; the motion **passed** unanimously.

Rob Zisko **moved** to authorize David Palmer to perform an appraisal of the Rolling Hills tract at a price not to exceed \$2,500. Karen Bedics **seconded**; the motion **passed** unanimously.

At 8:55 p.m., Jim Brownlow **moved** to adjourn the meeting. Barbara Lindtner **seconded**; the motion **passed** unanimously.

Respectfully submitted,

Sandra L. Everitt
Secretary/Treasurer

Next meeting: January 27, 2009
Approved: April 8, 2009