

Board of Supervisors Meeting

MINUTES

August 14, 2007

The meeting was called to order at 7:30 p.m. by Chairman Jim Brownlow and opened with the Pledge of Allegiance.

All Supervisors Present: Karen Bedics, Jim Brownlow, Chuck Halderman, Rod Wieder and Rob Zisko.

Also present: Sandy Everitt, Secretary/Treasurer; Scott MacNair, Solicitor; Rich Schilling, Township Manager; and Bob Wynn, Township Engineer.

Jim Brownlow noted that the Supervisors had an executive session prior to this meeting to discuss personnel matters.

Minutes

Chuck Halderman **moved** to approve the July 10 minutes as distributed. Karen Bedics **seconded**. Voting **Yes**: Karen Bedics, Chuck Halderman, Rob Zisko. **Abstaining**: Jim Brownlow, Rod Wieder (not present at the meeting). The motion **passed**.

Jim Brownlow **moved** to approve the July 24 minutes as distributed. Rob Zisko **seconded**. Voting **Yes**: Jim Brownlow, Karen Bedics, Rob Zisko. **Abstaining**: Chuck Halderman, Rod Wieder (not present at the meeting). The motion **passed**.

Approval of Bills

Rob Zisko **moved** to accept the bills (\$13,992.06) for payment as listed on the July 25 - August 10, 2007, bills list (appended to these minutes). Karen Bedics **seconded**; the motion **passed** unanimously.

Reports

Jim Brownlow noted receipt of the **Road Department** and **Zoning/Building** Reports and advised they were posted on the bulletin board. Rich Schilling noted that the **Road Department** report contained 232 hours building maintenance, mostly expended in preparing and setting up the FEMA modular home for the UBREMS.

Rich Schilling pointed out in the **Zoning/Building Report** that there are two zoning hearings pending for

1. **September 17, 2007 – Gerald & Janet Cohen Continuance, TMP 42-22-20** – The Cohens have applied for a Special Exception to Article 5, Section 509.1.B. and Article 7, Section 709.E.3., concerning improvements in a floodplain. The Cohen's request is to permit a driveway and replace an existing pipe for access for Lot 1 of the proposed Cohen Subdivision, located off Lehnenberg and Bodder Roads.
2. **Date to be Determined (possibly September 17) – Marino Cervellini - Rocky Valley Road, TMP 42-4-195** – The applicant is requesting use of a vacant, non-conforming lot as a building lot for a single-family dwelling. The relief requested is for a Special Exception for a non-conforming lot for lot size and Variances for minimum lot width and resource protection standards for woodlands and slopes.

Police Report – Rich Schilling advised there were 96 police calls in July. There were 6 accidents with 3 persons injured. There were 45 items stolen. Rich noted that the Police Report is posted on the township website.

Township Manager's Report – Rich Schilling highlighted the following items from his report:

- July 20 – Met with Bob Wynn to review RFPs received for Act 537 Plan revision. A second meeting to do a more in-depth study of the RFPs is scheduled for August 15 with Bob Wynn and Bobb Carson.

- July 30 – Attended Open Space sub-committee meeting to discuss alternatives for open space borrowing with Gordon Walker and Jason Brockman from PFM (Public Financial Management, Inc.). A booklet prepared by PFM containing the various alternatives was reviewed. The sub-committee forwarded a recommendation to the Open Space Committee.
- August 8 – Met with the Open Space Committee. The Open Space Committee finalized their recommendation and it will be presented by PFM representatives later in this meeting.
- August 9 – Met with Treasurer on 2008 Budget. Will meet end of August with department heads to begin budget construction.
- FEMA mobile home will be ready for UBREMS by August 16 or 17.
- PA Byway designation – provided map of proposed byway. Met with Durham Township Recreation Board on June 12 regarding Byway. Followed up August 7 with Durham Township Manager; Recreation Board has decided not to participate in the Byway.
- Police Contract – Tentative agreement has been reached and is a “New Business” agenda item.
- 2008 Budget – Met with Treasurer and CPA candidate to possibly take over for current elected township auditors. This change is being considered because:
 1. CPA audit is required to obtain a bond in the amount required for the Treasurer as indicated in Section 702 of the 2nd Class Township Code.
 2. CPA audit will improve the township’s bond rating.
 3. CPA audit can be completed in 2 – 3 days instead of 2 – 3 months, the time currently required to conduct the annual audit. After completion of the audit, the CPA will also provide a Management Report with suggestions for improving our procedures. Suggestions will be in three categories: Urgent (immediate attention required), Important, and Suggestions.

The cost of current elected auditors is \$3,000 per year. The estimate received from the first CPA interviewed is \$7,000 for the first audit and \$6,000 for subsequent years.

Rich presented a Community Day report to the Supervisors. The Community Day Committee would like the Board to authorize additional funds for them to use above the already authorized \$3,000. Chuck Halderman **moved** to extend the limit the committee can spend to \$4,500. Rob Zisko **seconded** the motion. Karen Bedics noted that the yard signs and the banner being purchased for the event can be reused for future Community Days. Jim Brownlow called for the question. The motion **passed** unanimously.

Jim Brownlow asked how soon the decision needs to be made to replace elected auditors with a CPA. Rich said that he would conduct additional interviews so that a decision could be made by the end of September. There is an auditor’s position open and a candidate on the November ballot. Because of this, Scott MacNair said he would check if there was any problem with making a switch at this time.

Public Comments on Agenda Items

Kay Moats – 2899 Old Bethlehem Pike – Kay presented a 5-page letter, a petition with 18 signatures and a photograph to the Board. She and her neighbors have concerns about the Prime Building Group 5-home subdivision planned for Zion Hill. They are opposed to the subdivision because of stormwater issues. She stated that a former 10-home subdivision built a few years ago in Zion Hill has caused two wells in the area to go dry. There is a third homeowner who had to add a filter to his well because the sediment he was drawing from his well was clogging his faucets. They are concerned that 5 additional homes are now proposed for the same area. She asked for more information about the 5-year well protection plan they heard was being offered by the developer.

They are also concerned that the stormwater design proposed is to run across Mr. Boyskey’s property (an adjoining landowner) into a 14” wide drainage pipe which runs under Old Bethlehem Pike and drains into a pond. They are concerned that the pipe will not be able to handle the flow and the water will backup onto Old Bethlehem Pike, their driveways and their basements.

John Cunningham – 550 West Cherry Road – Mr. Cunningham’s property borders the proposed subdivision property. He does not want to live in a “development,” and 5 more homes behind his home will create a development. The traffic will be greatly increased past his home every day.

John Boyskey – He asked for a guarantee that the stormwater provisions for the new development are adequate and this his adjoining property will not be flooded.

Bruce Whitesell – Bruce feels that now is a good time to switch from elected auditors to a CPA. Secondly, he feels uncomfortable about the information he read in the newspaper that was presented to the Zoning Hearing Board from which they made a decision to permit a pool to be constructed within the 125’ buffer of a Cooks Creek perennial stream.

Tamer Ahmed – Attorney for David & Jennifer Palumbo – He suggested that residents should not believe everything they read in the newspaper. He will comment further when this issue is discussed as an agenda item.

There being no further public comments, Jim Brownlow moved the Open Space Borrowing discussion (scheduled under Old Business) to permit the presenters (who traveled from Harrisburg for this meeting) to leave early for their return trip to Harrisburg.

Old Business (1 Item Only)

L. Gordon Walker, Managing Director of PFM, opened the discussion with several comments. There have been three meetings with the Open Space Committee and a related sub-committee. As a result, the Open Space Committee has a recommendation for financing future open space acquisitions. Jim Brownlow clarified for residents that this recommendation is a result of the approval by the electorate in May 2007 to take on debt of \$5,000,000 to acquire open space. The Open Space Committee was charged with making a recommendation to the Board about the best way to obtain the \$5,000,000. Jim pointed out that the debt would be repaid using the current .25% of EIT assigned to Open Space. There will be no additional taxes to the residents.

Mr. Walker introduced **Jason Brockman, Consultant**, who continued the presentation by reviewing several financing alternatives that were presented in a booklet dated July 30, 2007, shared with the Open Space Committee and also with the Board. From the alternatives offered, the Open Space Committee is recommending a General Obligation Bond in the amount of \$5,000,000 (five-million dollars) for 25 years. This option was recommended for several reasons including:

- Interest rates for this type of borrowing are at 40 basis points of a 40-year low.
- The annual debt service is less than the current income generated by the Open Space portion of the EIT
- The township will generate additional capital through the “arbitrage” on the invested proceeds for the first three years.
- The township will avoid additional expenses by borrowing all the money at once rather than duplicate borrowings with the associated borrowing costs involved.

There are approximately 12 – 13 borrowing costs which will total approximately \$130,000. The interest earnings (figured at a conservative 4%) on the borrowed amount (if it is spent in equal amounts of approximately \$1,700,000 a year over a three-year period) will be approximately \$300,000. These earnings will exceed the cost of borrowing, which will actually result in having more than \$5,000,000 to spend. The loan will be paid in semi-annual payments made to a bank (to be determined). That bank will distribute the funds to the various people who have purchased the bonds. The bank cost for providing these services will be approximately \$300-\$500 a year. Currently, the interest rates are low. If there is a significant interest rate drop, this bond issue can be refinanced into a lower rate.

If the bond is approved at this meeting, the bonds could be sold on an internet auction basis in October with closing in November or December 2007 at the latest. The auction in October will be in the morning, the numbers will be run in the afternoon, and PFM will present the winning bid and the final numbers at the Board meeting that evening. The Ordinance will need to be enacted by the Board at that meeting (which will be advertised in advance). Rob Zisko **moved** that the financial advisor (PFM) and the financial team be authorized to move forward with a five million dollar, 25-year bond issue. Rod Wieder **seconded**. Karen Bedics requested information on how much the rates would be if the bond term was for 20 years. The **motion was amended** to “move forward with a \$5,000,000 bond issue with the bond issue length to be determined in September”. It was noted there is no pre-

payment penalty, so if there is extra money, it can be paid off early. However, there is a 5-year waiting period before the bond can be paid off. Jim Brownlow **called for the question**. The motion **passed** unanimously.

Planning Matters

Wieder/Fisher Lot-Line Adjustment (Quarry/Crowthers Road) – (Rod Wieder recused himself from discussion and voting on this item.) Scott Mease, Mease Engineering, presented for the applicant. This lot-line adjustment involves conveying 2.358 acres from TMP #42-8-53-2 (Andrea Fisher, owner) to TMP #42-8-53 (Rod & Judy Wieder, owners). Both properties are located within the Rural Residential Zoning District. No development is proposed as part of this lot-line adjustment.

Rob Zisko **moved** to grant preliminary/final approval of the Wieder/Fisher Lot-Line Adjustment, along with approval of the waivers requested in the Township Engineer's June 27, 2007, review letter, subject to completion of the items enumerated in the same review letter. Karen Bedics **seconded**; the motion **passed**. Voting **Yes**: Karen Bedics, Jim Brownlow, Chuck Halderman, Rob Zisko. **Abstaining**: Rod Wieder.

Prime Properties Subdivision (Cherry Road) – Ed Wild, Attorney, presented for the applicant. Kirk Clauss, Schlosser & Clauss Consulting Engineers, Inc., was also present for the applicant. This 5-lot subdivision is before the Board for preliminary approval. Referring to the Township Engineer's July 2, 2007, review letter, the applicant is willing to comply with all issues outlined in the review letter.

Referring to the residents' concerns regarding stormwater issues, Mr. Wild stated that Bob Wynn recommended they consider alternate improvements beyond what the township ordinances require by way of concrete piping across an adjacent tract. The applicant was willing to make the recommended alternate improvements and met with Mr. Boyskey, the adjacent property owner, but to this point, they have been unsuccessful in gaining permission to run the pipe across Mr. Boyskey's property. Mr. Wild indicated that the plan is fully compliant in its current state and has the support of the Planning Commission and of Bob Wynn, Township Engineer.

Bob Wynn noted that granting of the waiver from the requirement to install a public water system (Item 1.A. in the 7/2/07 review letter) was based upon the applicant agreeing to a well protection agreement to be prepared in a manner satisfactory to the township. In addition, the Planning Commission's recommendation was also based upon the applicant granting deed restrictions and agreeing to no further subdivision on any of the lots. Prior to recordation, the developer will also be required to submit a disclosure statement for review by the township that would be utilized within the development. Finally, up to the final recording of the plan, if the adjoining property owner will grant an easement for stormwater improvements on his property, the applicant has agreed to make those improvements.

Bob Wynn noted that the current plan is compliant with the Stormwater Management Ordinance in that the rate of stormwater runoff leaving the site does not increase due to impervious surface. The proposed basin actually reduces the rate of runoff onto the adjoining property by approximately 50%, so it exceeds the minimum requirements of the ordinance. Bob clarified that the "rate" of runoff would be reduced, not the "volume" of runoff; meaning the water will run for a longer period of time at a lesser rate.

Mr. Boyskey asked how many gallons of water the stormwater retention basin would hold. He was advised that water retention was measured in cubic feet and was later advised by Kirk Clauss, engineer for the applicant, that the seven-foot deep basin would hold approximately 81,807 cubic feet in total volume, which is approximately 575,000 gallons of water. Mr. Boyskey stated that since he had declined to give an easement for the sewage line, he had heard nothing more about the proposed stormwater easement across his property. Kirk Clauss stated that they had been denied access to Mr. Boyskey's property. He added that he submitted a sketch to the township, the township engineer and Mr. Boyskey, and has heard nothing regarding the stormwater issue from Mr. Boyskey since that sketch was submitted.

Ed Wild stated that the reason for the request for the easement to permit a sewer pipe to cross Mr. Boyskey's property underground was in response to a suggestion from Lee Myers, Milford/Trumbauersville Sewer Authority,

and Pennoni Engineering, the Authority's engineering firm. This would have permitted gravity sewage removal rather than grinder pumps; however, the current design with grinder pumps meets the township code.

A lengthy discussion followed on stormwater concerns, some of which concerned the fact that the pipe under Old Bethlehem Pike was too small to accommodate the water that would flow through from this development. Chuck Halderman encouraged Mr. Boyskey to pursue discussions with the developer regarding the additional stormwater protection that was being offered to him. It was later agreed that the township manager would write a letter to PennDOT requesting that they replace the pipe under Old Bethlehem Pike to accommodate a greater flow of water.

An unidentified neighbor stated that the neighbors did not want this development because they had moved to this area to be away from developments. Chuck Halderman and Rich Schilling clarified for her that other property owners have a right to develop their properties. As long as the proposed development meets township ordinances, it is illegal to deny development. The Supervisors are required by law to apply the ordinances that are in place.

Kirk Clauss stated that the stormwater basin is designed under current ordinances to handle a 100-year storm. Currently, the flow that leaves the proposed subdivision property and crosses Mr. Boyskey's property is 18.41 cubic feet per second. Following development of the property and installation of the proposed stormwater basin, the combined flow across Mr. Boyskey's property of what is coming out of the basin plus what is coming around it would be reduced to 9.61 cubic feet per second.

Following a resident's question about what the proposed "well guarantee" would actually cover, Ed Wild stated his applicant had agreed as a condition of approval that the wells of the surrounding property owners would be subject to a well guarantee consistent with what Terry Clemons' office had prepared for other municipalities. Some of the terms discussed were that the guarantee would be for a period of five years, that the applicant would post a sum of money commensurate with what has been required in other municipalities, and if during that 5-year period one of the defined events in the well guarantee occurred on one of the properties covered by the guarantee, there would be a fund of money available to correct the problem. Normally, the 5-year period begins with issuance of the occupancy permits of the new homes. Scott MacNair said that well guarantees are often used in quarry situations where great amounts of water are pulled from the supply available. Normally, in well guarantees, if the adjoining properties' wells provide less than a minimum amount of water—usually 5 gallons per minute—the developer must in some way bring that well's production back to the minimum standard (dig the well deeper, provide a new pump, dig a new well, etc.).

Lee Hunschur – 530 Cherry Road – Two years ago in September while Mr. Hunschur was vacationing away from home, he received a call from home that his well was dry. This came after the 10 new homes in the Penn Meadows subdivision were occupied. He called a well driller who came and lowered his pump to 4 feet from the well's bottom. Mr. Hunschur felt this problem occurred because all the property owners in the new development were watering their lawns overnight. As a result, his well water dropped 20' from what it had been when he had the well driller come several years earlier to install a new pump. Mr. Hunschur is very concerned with the additional 5 wells that are now being proposed. Scott MacNair said this was just the type of situation which would be covered by the proposed well guarantee being required for this new development.

Chuck Halderman asked how big a radius around the proposed subdivision would be covered by the well guarantee. Ed Wild understood that the guarantee was for those property owners adjoining the proposed subdivision. Scott MacNair said he has seen wells covered up to a half mile from a particular property, but that is usually when a quarry is involved. Chuck suggested covering homes within a one-quarter mile radius. Mr. Wild was willing to have that discussion with his client if a condition of preliminary approval was that a radius not to exceed a quarter mile would be covered. He added that he felt that for adjacent property owners, there would be no "burden of proof." The applicant would fix any wells that had problems. However, beyond "adjacent" but within a quarter mile, there would need to be a demonstration by the property owner that the well problem was caused by the new wells on the Prime Properties subdivision.

Jim Brownlow called for the question. Chuck Halderman asked that the well protection area be defined before the vote took place. Mr. Wild feels that additional study needs to be done to determine how many properties a quarter

mile area would encompass. Without knowing the number of homes involved in the quarter-mile area, he is not comfortable committing to the one-quarter mile area, particularly since there was discussion that the property owners would not need to show proof of causation.

Chuck Halderman **moved** to grant preliminary approval for the Prime Properties subdivision subject to the conditions listed in Bob Wynn's July 2, 2007, review letter and subject to a well guarantee being established for the adjacent properties located within a quarter mile of the subdivision with terms of the well guarantee to be finalized prior to final approval. In addition, prior to plan recordation, the developer will submit a disclosure statement that will be utilized within the development for review by the Township, and there is to be no further subdivision on any of the properties of the subdivision. Finally, there is to be no residential building within the RR portion of the property. Rob Zisko **seconded** the motion. Scott MacNair clarified with the applicant that for the well protection agreement they were agreeable to "no causation required" for adjacent property owners, and up to a quarter mile is an open question to be worked through with the Board as to whether those properties will be included and if causation will be required if they are included. Voting **Yes**: Jim Brownlow, Rod Wieder, Rob Zisko. **No**: Karen Bedics, Chuck Halderman.

Cuff Major Subdivision (Passer Road) – Scott Mease, Mease Engineering, P.C., presented for the applicant. This is a 22-acre property proposed for subdivision into 3 lots. Existing site improvements are located within Lot 1. Two new single-family building lots are proposed. Lots 2 and 3 are each 2 acres, and Lot 1 is approximately 17.5 acres and is deed-restricted from further subdivision.

Rob Zisko **moved** to grant final approval for this subdivision based on completion of the items listed in the May 30, 2007, Bob Wynn review letter. Rod Wieder **seconded**. Karen Bedics, referring to a July 2, 2007, letter written by Bob Wynn issuing a *Stop Work Order* for unauthorized work being done on the property, asked for a status report. Bob Wynn indicated the applicant had stopped unauthorized work after receipt of the July 2 letter. Remedial work has been completed, but further road improvements, etc., cannot be completed without final approval by the Township of the subdivision plan. Jim Brownlow called for the question. The motion **passed** unanimously.

Springtown Knoll Subdivision (Drifting Drive) – Bob Wynn explained that when this plan received final approval, there was a condition that a lime kiln be preserved; the kiln is located on property dedicated to the Township on the frontage of Lot 19. In order to grade the site and comply with the slope requirements, the lime kiln could possibly be encroached upon. For this reason, Reshetar Realty is proposing to construct a 3 – 4' high wall made from one of the products shown on information provided to the Supervisors. The developer wants to know if the wall concept is acceptable to the Board, and if it is, what color stone should be used to construct the wall. Jim Brownlow noted that because the Historic Commission had requested that the lime kiln be preserved, this decision should be referred to them for review and further direction to Reshetar Realty.

Thornton Land Development (Mine Road) – Bob Wynn indicated that the deadline for completion of improvements on this Land Development Plan—landscaping, buffering, retention basin, paving at the entrance—expires at the end of August. Bob noted that although all the work required cannot be completed prior to the end of the month, there is money held in a letter of credit to ensure that the work does get completed. Bob thinks that the improvements may be completed by September, and he will report back to the Board when the work is completed.

Recess from 9:33 p.m. - 9:43 p.m.

Old Business

1. Open Space Borrowing (covered earlier in the meeting)

2. Zoning Ordinance – Scott MacNair reviewed the process. If the Board advises Scott to send the draft Zoning Ordinance to the Bucks County Planning Commission for review, he will do so tomorrow. The BCPC has 45 days in which to review the ordinance. If there are no changes required, the public hearing could be held on October 9. The vote can be taken the night of the public hearing to adopt the Zoning Ordinance if no substantial changes are required. Scott MacNair suggested that the current Ordinance be enacted and modifications could be made in the

form of amendments after enactment of the Ordinance. Rich Schilling suggested that a special meeting be called for October 2 at the Springtown Fire Hall for adoption of the Zoning Ordinance so that the regular Supervisors meeting on October 9 can cover normal Township business.

Jim Brownlow asked if the Board was comfortable forwarding the document to the BCPC. Rob Zisko stated he is not comfortable forwarding the document. He is concerned about several sections that have been made very restrictive, in particular, the forestry section and several other environmental sections. There are additional requirements in the new ordinance that will ultimately require greater expense to the applicant, and he is concerned that these new requirements are overly restrictive. Rob pointed out that his copy of the ordinance does not contain a copy of the Cooks Creek Watershed Protection Plan or the USGS Stream Map, both referenced in the Zoning Ordinance. Rob feels that these both should be available for the Board to review prior to the Ordinance being forwarded to the BCPC. Bobb Carson noted that the Cooks Creek Watershed District is not being included in this document, but will be added at a later date as an amendment. Bobb understands that the Stream Map will be updated and added to the Zoning Ordinance at that time also.

Rob is also concerned that some of the new requirements, for example, two septic system sites now required on each lot, will actually make currently conforming lots non-conforming lots under the new ordinance. This will affect land values for many people in the township. Rob pointed out that of the approximate 200 homes in Springtown, about 50 of those homes do not have a septic system that meets current Health Department standards. Scott Douglas acknowledged that there are sewage problems affecting Cooks Creek in the Springtown area. Rich Schilling indicated that the current move toward updating the Township's Act 537 plan is the first step toward correcting sewage issues in the entire township, including the problems in Springtown.

Rob feels it is vital to maintain a balance between environmental protection and the rights of individual property owners. Rob received the updated Zoning Ordinance on August 4, and has not had adequate time to review it carefully. For that reason, and those listed previously, he is not comfortable forwarding the document to the BCPC.

Jim Brownlow polled the Board about their readiness to forward the document. Rod Wieder and Rob Zisko are not satisfied with the Zoning Ordinance in its current state. Rob Zisko would feel better about forwarding the document if the forestry provisions were backed down somewhat and if he had copies of the Cooks Creek Watershed Protection Plan and the USGS Stream Map to review. Jim Brownlow feels that it is time to move the ordinance forward amendment it as necessary later. Barbara Lindtner pointed out that there are many items in the draft that will protect the township from various issues which now come up frequently before the Planning Commission and the Board. These vary from clarification of language so that the meaning of certain sections is clear to changes which will protect the township in other ways. Barbara also feels that the Ordinance should be passed, but that each Supervisor should carefully review it and come up with major issues which they feel need revised in future amendments, just like the Planning Commission has done by putting placeholders in the current draft for various topics which they could not finalize quickly. These topics will be addressed and proposed as amendments later.

Rob Zisko referenced the Palumbo situation (on the agenda after this item), where the family is attempting to put a swimming pool behind their existing home. This family went before the Zoning Hearing Board and received a favorable decision. Because they did not have an environmental scientist put together all the requirements required by the ordinance, which would have cost them an additional \$3 - \$5,000, the township is now planning to appeal the Zoning Hearing Board decision. To fulfill township ordinance requirements, this family will have spent \$5,000 to \$6,000 before they even begin construction of the pool. Rob does not feel that township ordinances should make it cost prohibitive for property owners to do something with their property. He understands we need to have protection in place, but he feels we must be careful to maintain a balance between protecting the environment and giving people the right to use their own properties. The Palumbo situation is what has made Rob uncomfortable with forwarding the zoning ordinance in its present state.

Jim Brownlow **moved** that the solicitor be authorized to send the draft Zoning Ordinance to BCPC. Karen Bedics **seconded**. Voting **Yes**: Karen Bedics, Jim Brownlow, Chuck Halderman. Voting **No**: Rod Wieder, Rob Zisko. The motion **carried**.

Jim Brownlow **moved** to schedule a public hearing for the Zoning Ordinance at the Springtown Fire Department Social Hall for October 2 at 7:30 p.m., provided the Fire Department is available. Karen Bedics **seconded**. The motion **passed** unanimously.

Palumbo Zoning Hearing Board Decision – Jim Brownlow explained that a request was made by some Board members at the last meeting to obtain a transcript of the Zoning Hearing Board for review. The decision tonight is whether the Township will appeal the decision of the Zoning Hearing Board as a result of reviewing the transcript. Karen Bedics noted that correspondence was received from the Environmental Advisory Council, the Delaware Riverkeeper, Trout Unlimited and Cooks Creek Watershed Association concerning the Zoning Hearing Board's decision to permit construction of a pool on the Palumbo property within the riparian buffer. There is a general consensus in this correspondence that construction of the pool in the buffer should not be permitted.

Rob Zisko feels that the Palumbos should be permitted to proceed with installing the pool on their property. They have already paid \$550 to go to the Zoning Hearing Board. Now, to comply with the additional requirement in the Ordinance, they will have to pay an additional \$3,000 - \$5,000 to have additional testing done. Rob feels that it is inappropriate to appeal this decision using tax payers' funds. He feels the decision will likely be remanded back to the Zoning Hearing Board, the Palumbos will spend the money to obtain the additional reports, and consequently, the Zoning Hearing Board will grant the same decision they have already granted.

Tamer Ahmed, attorney for the Palumbos, presented a history of the current situation regarding the Palumbo Hearing.

1. Referring to the correspondence presented from various agencies mentioned by Karen Bedics, Mr. Ahmed stated that no representatives from any of these agencies appeared to object at the actual Zoning Hearing. The only persons present for the hearing were the Zoning Hearing Board, the Palumbos and their attorney. For this reason, he does not feel there is a valid basis for the current objections. The hearing was properly advertised and anyone could have come and voiced their opinion.
2. The Palumbos purchased their property in 2004. They attempted to obtain a building permit in 2005-2006. This was detained because a stormwater plan was required. The Palumbos complied with that, although at the time, they questioned the wisdom of placing the stormwater basin near the creek. At that time, members of the EAC were opposed to the placement of the stormwater basin. However, the Palumbos were required by the Board to install the stormwater basin, and this has since been completed. At that time, the Board required the Palumbos to disturb the watercourse margin for the stormwater basin. A grading plan was submitted at that time which showed the proposed disturbance within the watercourse margin. No additional disturbance is being proposed at the present time.
3. Mr. Ahmed noted that the Palumbos are currently trying to put a swimming pool on their property—not a dump, a nuclear power plant, etc.
4. He referred to The Morning Call article dated July 25, 2007. He stated that there was misinformation presented in this article and the article does not reflect what actually happened at the Hearing. He stated that full-size plans of the proposed pool and deck were submitted to the Zoning Hearing Board. Also submitted was information about water quality, stormwater management and the effect the pool would have on the environment. Referring to issues of concern in the Morning Call article, he listed the following:
 - The article states that Supervisor Karen Bedics is concerned that the pool would seriously compromise the stream bank and under flood conditions, the pool walls could collapse and pollute the creek. Mr. Ahmed stated that for that to take place, a 50-year storm would need to take place with at least 6" of rain falling to cause the pool to overflow. Then, the water would have to flow at least 40' uphill to reach the stream. Although that is not possible, there are still safety measures in place to direct any pool overflow to the water quality basin where it would be filtrated. An additional safeguard is in place so that if there is a very heavy rain, the Palumbos could release water from the pool into the water quality basin for filtration and safe release into the ground. Additionally, chlorine is not being used in the pool; rather, salt is being used to purify the water. Salt levels will not harm the water, and in fact, if someone was to drink the pool water, they would not taste salt in the water.
 - The pool walls will not collapse. They are reinforced concrete 4000 psi. Similar material was used to construct New York City tunnels and to build Yankee Stadium.

- Concerning this approval setting a “precedent” for future pool approvals, Mr. Ahmed noted that under the MPC or even zoning laws on a township level, an applicant cannot request a variance or special exception because someone else received an approval. Each case must be evaluated on its own merits.
- Finally, everything currently on the Palumbo property falls somewhere within the 125’ water margin, including 85% of the house, portions of the driveway, the septic system, and the water quality basin. If the watercourse margin was enforced 100%, the Palumbos would have no ability to use their property.
- No report was submitted to the Zoning Hearing Board because the ZHB was advised there was no reason to submit a report because the Palumbos had been before the Supervisors and the EAC on another issue on the property and at that time, no mention was made of the water course margin.

Mr. Ahmed closed by referring to Rob Zisko’s comment about how much the Palumbos had spent on legal and/or engineering fees. He stated they have spent close to \$20,000 to date on engineering and legal fees to build a house on an approved, buildable lot. This figure does not include what will be spent to go forward with building the pool.

Rob Zisko asked Scott MacNair what it would cost the township to proceed with an appeal of the Zoning Hearing Board decision. Scott replied it is almost impossible to estimate because of the many variables involved in what might take place. Rich Schilling estimated that the first step would be approximately \$6,000. If the case continues on as high as the Pennsylvania State Supreme Court, it could easily rise to \$50,000 and resolution of the issue could take years. Rob Zisko concluded that the Zoning Hearing Board made a common sense decision and he is unwilling to spend tax payers’ dollars to appeal it.

Chuck Halderman stated that the applicant did not meet the requirements of 509.C.2. in the information presented to the Zoning Hearing Board—that is the requirement of the township ordinance. It doesn’t matter who said what; what matters is that the applicant did not supply the required information to obtain relief from the township ordinance’s requirements.

Scott Douglas, Chairman of the EAC, stated that when the Palumbos came before the EAC, no prior information had been provided to the EAC from the Board advising what they expected the EAC to do. The EAC listened to the Palumbos and made some suggestions. No memos were produced because the EAC had no instruction from the Board as to what to do regarding the matter. Scott was personally asked by Palumbo’s engineer to come out and look at the stormwater basin on the Palumbo property. Scott made some personal comments while on site for that meeting, but they did not represent the EAC as a whole. As far as the pool itself, that has never been discussed with the EAC. The EAC reviewed the ZHB decision, which was what prompted the memo to the Board expressing concern about that decision. Those concerns have not been changed by anything presented at this meeting.

Mr. Ahmed asked why no one from the EAC had attended the Zoning Hearing. Scott said that although the hearing was advertised as required, members of the EAC do not normally review the paper for announcements of all zoning hearings. Scott understands that the township is now notifying all township committees of pending zoning hearings and the nature of the hearings. In the future, if the Board wishes the EAC to represent them at a hearing, they will do so. However, the EAC has no authority without being directed by the Board.

Jim Brownlow stated that there were two issues at the core of this matter.

1. The Township does not believe that the applicant met the requirements contained in township ordinances about what should be presented to the Zoning Hearing Board.
2. What is the purpose of the appeal? Is it just to make the applicant “cross the T’s ” and “dot the I’s.” or is the appeal because there is a true concern about what would have been decided by the Zoning Hearing Board if the information required according to the township ordinance had been submitted?

From Jim’s perspective, his concern is whether the same decision would have resulted if the required information had been submitted.

Rob Zisko asked Jim if he was comfortable spending \$6,000 of tax payer money to appeal this decision, possibly ending up spending up to \$50,000 of tax payers’ money.

Rich Schilling said that it would seem unlikely that the applicant would spend a large amount of money to take this to a higher court when probably they could simply submit the required scientific reports if the case was remanded to the Zoning Hearing Board by the judge (as is probable) and probably receive an approval.

Jim Brownlow felt that the ZHB did not have adequate information provided to them to make a well-informed decision. That doesn't necessarily make their decision flawed. By the same token, unless the required information is submitted for the ZHB to review, it is impossible to know if the decision rendered is the correct decision.

Rob Zisko shared information he had requested and received from the township about how much had been paid to engineers and solicitors. Although a good portion had been paid from escrow accounts, the solicitor has received a total of \$59,947.88. Bob Wynn's office has received a total of \$56,266.05. The more complicated the zoning ordinance gets, the more it will cost not only developers, but also the residents of the township who are putting up a garage, trying to put in a swimming pool, or any other things they wish to do on their properties. If this decision of the ZHB is appealed, tax payers' money is actually being used to appeal something a tax payer is trying to do.

Jim Brownlow feels that it is the responsibility of the elected supervisors to see that the ordinances of the township are followed. If there is a problem with the rule, the rule needs to be changed. Otherwise, the supervisors are responsible for seeing that the rules are followed.

Karen Bedics moved that the Board of Supervisors, on behalf of the township, appeal the Zoning Hearing Board decision regarding the construction of the pool on the Palumbo property. Chuck Halderman seconded the motion. Voting Yes: Karen Bedics, Jim Brownlow, Chuck Halderman. Voting No: Rod Wieder, Rob Zisko.

New Business

Bucks County Municipal Waste Management Plan – Scott MacNair stated that the Bucks County Planning Commission is proposing a model ordinance to be enacted by all municipalities. The purpose of the ordinance is outlined in a June 8, 2007, letter received from the BCPC. Municipalities are required to implement the Plan Revision in order to be in compliance with changes to the municipal waste planning regulations adopted by the Commonwealth of Pennsylvania on December 23, 2000.

Rod Wieder moved that the solicitor be authorized to prepare an ordinance for the Collection and Transportation of Municipal Waste and Source-Separated Recyclables. Karen Bedics seconded the motion. Voting Yes: Karen Bedics, Jim Brownlow, Rod Wieder, Rob Zisko. Abstaining: Chuck Halderman. The motion carried.

Police Contract – Jim Brownlow noted that the Supervisors had received a copy of the proposed Police Contract between the Township and the Springfield Township Police Association. In addition, the Board received an Executive Summary of the contract showing the differences between the old and the new contracts. This contract has been approved and voted upon by the Springfield Township Police Association and was signed by them on August 10, 2007.

Jim Brownlow moved that the contract dated August 1, 2007, be approved as presented. (The contract will be effective retroactive to January 1, 2007.) Chuck Halderman seconded the motion. Karen Bedics thanked Rich Schilling, Township Manager, for his hard work in bringing the police contract to a resolution. Chuck Halderman agreed. Jim Brownlow thanked Rich, but also thanked the Springfield Township Police Association for their work in bringing about an amicable resolution to contract negotiations, as reported to the Board by Rich Schilling. Jim Brownlow called for the question. The motion passed unanimously.

Agricultural Security Applications – Scott MacNair noted that several of the applications were from properties in Richland Township, one from Durham Township, and another parcel is divided between two townships—Richland and Haycock Townships. Scott was not aware that one portion of a parcel on the list

was in Haycock Township. At this time, he has resolutions from Richland and Durham Townships recommending inclusion of parcels from their townships in Springfield's Agricultural Security District. In a letter mailed today, Scott has requested a resolution from Haycock Township's Board of Supervisors recommending that the portion of the Wukovits property in Haycock Township also be included in Springfield's Ag Security District. Haycock is currently forming an Agricultural Security District, so Scott is not certain what their response will be to his request. The decision to be made by the Board tonight is whether or not to authorize the township solicitor to advertise a public hearing to consider these properties for inclusion in Springfield's Ag Security District.

Rob Zisko noted that the Springfield Township Agricultural Security Committee recommended all but the David Barnhart property in Richland Township for inclusion in Springfield's Ag Security District. The primary reason they did not recommend the Barnhart property is that they would like to see Richland Township start their own Ag Security District. The Wukovits property was included (although it is primarily in Richland Township) because they are going through the Ag Preservation process and they are near closing. To be considered, they must be in an Ag Security District. The Planning Commission recommended that all of the properties be included. Chuck Halderman asked whether we could give a property currently in our Ag Security District back to another township if and when they formed their own Ag Security District. Scott MacNair thinks that can be done. 250 acres are required to begin an Ag Security District.

Karen Bedics **moved** that the solicitor be authorized to advertise all the applications for presentation at a public hearing. Rob Zisko **seconded**; the motion **passed** unanimously.

Correspondence

Jim Brownlow noted that a number of correspondence items had been received (listed on the agenda) and copies of the correspondence were distributed to the Supervisors.

Public Comments

Rose Strong feels that comments made by Rob Zisko at various meetings are inappropriate for a supervisor to make. Concerning Rob's frequent comments about the meetings being "too long," Rose feels that it is important in any level of government to welcome free discussion on a topic, even from those who express opinions that someone may not agree with. Rose indicated that Rob had timed the discussion about the Zoning Hearing Board decision held at the last meeting and publicly stated that the discussion lasted one hour. She stated that Rob also said the discussion was "stupid," which was subsequently quoted in the Morning Call. As a taxpayer, voter and a regular attendee of the Supervisors meetings, she takes offense at the comments Rob made. What is important to people within the community should not be classified as "stupid." Rose stated that time is a valuable commodity to everyone, and if Rob has chosen to serve the community as a supervisor, it is his responsibility to serve without voicing constant complaints that indicate that because he doesn't want to stay for a late meeting, he may be less than inclined to vote on issues with a fair mind. Rob assured Rose that any vote he ever made was made because he believed in it and because he thought it was the right thing to do. Rose added that it doesn't give her confidence when Rob continually watches the clock and complains about how long the meetings take. Rob Zisko apologized for the comments he has made.

Bruce Whitesell thanked the Board for the careful decisions they made at this meeting. He referred to the care taken in the discussion about the well protection guarantee for the neighbor's of the new subdivision in the Zion Hill area. He also thanked them for their concern in fairly applying the ordinances that are in place as demonstrated with the discussion of the Zoning Hearing Board issue. He noted that the same principal applied to both these decisions. Just as the Board could not turn down a subdivision that met with township ordinances, so they could not approve a decision made with incomplete information according to the ordinances. It is important to him to know that the ordinances are being applied fairly from one situation to another.

Cindy McCurdy requested a copy of the correspondence listed on the agenda from Ted Evans, Natural Lands Trust. Rich Schilling indicated that correspondence would be provided to Cindy at the next Open Space meeting. Her next comment was about three separate times on different occasions—4 p.m., 6 p.m. and 11:30 p.m. —when she called for police assistance and was advised there were no Springfield Township police officers on duty. The State Police responded in each situation. Cindy asked when Springfield Township police are on duty. Rich Schilling stated that police schedules are not released to the general public because if a criminal knows when police are not on duty, it creates an opportunity for crime to take place during that period. He reminded the public that the current police department consists of two officers, when last year there were three officers. With only two officers, it is impossible to staff the department 24 hours a day, 7 days a week. In fact, even with a full staff, 24/7 service would not be provided. Rich assured Cindy that the Township police are on duty, and now that the police contract is in place, the next step will be to appoint a police chief who will then make recommendations on how to proceed with additional staffing. Rich commended the two officers on staff for their work in cleaning up cases and moving the department forward in a positive manner since the resignation of the former police chief.

Donald Littman, attorney for Donald Metzger, expressed concern that the Board spent more time discussing a pool that affects one property owner than they did discussing a new Zoning Ordinance which affects every property owner in the township. He also questioned why there was no public notice that the Zoning Ordinance would be discussed. He was informed that this was not a public hearing on the Zoning Ordinance; rather, it was a discussion about whether to forward the draft ordinance to the Bucks County Planning Commission for review. Mr. Littman reminded the Board that they are the elected officials of the Township, not the Planning Commission. Jim Brownlow responded that the Zoning Ordinance draft revision was completed by a Joint Committee of the Board of Supervisors and the Planning Commission, which was formed and appointed by the Board of Supervisors. When the Zoning Ordinance is returned to the Township by the BCPC, a public hearing will be scheduled and advertised.

Supervisors' Comments

Karen Bedics moved that the Board authorize the purchase of a less expensive, luster-board sign for the Township Building from Summit Signs at a cost of \$900. Rob Zisko **seconded**; the motion **passed** unanimously.

Chuck Halderman thanked the Board and the residents for staying for this long meeting.

Rod Wieder feels that the Zion Hill residents often feel neglected. In the past, the April meeting of the Board was held in Zion Hill in the Fellowship Hall of the church there. He feels that we should consider this again. Jim Brownlow asked Rich Schilling to check into doing this in April 2008.

Jim Brownlow noted for the record that even though the meeting is ending late, discussion was deferred on several major issues—selection of a sewage consultant, expansion of the Zoning Hearing Board, and hearing the first quarterly update of the Springtown Water Authority. The Supervisors are attempting to manage the time of the meetings, but it is difficult to do that and still allow input.

Adjournment

At 11:25 p.m., Rob Zisko **moved** to adjourn the meeting. Chuck Halderman **seconded**; the motion **passed** unanimously.

Respectfully submitted,

Sandra L. Everitt
Secretary/Treasurer

Next meeting: September 11, 2007
Approved: September 11, 2007