

Springfield Township, Bucks County

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Board of Supervisors Meeting

MINUTES

October 23, 2007

The meeting was called to order at 7:35 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 (left at 9:45 p.m.) **Also present:** Terry Clemons, Solicitor; Bob Wynn, Township Engineer; Sandy Everitt, Secretary/ Treasurer; and Rich Schilling, Township Manager.

Minutes

Karen Bedics **moved** that the September 25, 2007, minutes be approved as corrected by Chuck Halderman. Rob Zisko **seconded**. Voting **Yes**: Karen Bedics, Chuck Halderman, Rod Wieder and Rob Zisko. **Abstained**: Jim Brownlow. Motion **carried**.

Jim Brownlow **moved** that the October 2, 2007, minutes of the Public Hearing for the Zoning Ordinance be approved as amended. Voting **Yes**: Karen Bedics, Jim Brownlow, Chuck Halderman, Rob Zisko. **Abstained**: Rod Wieder (did not attend the 10/2/07 meeting). Motion **carried**.

Chuck Halderman **moved** that the October 9, 2007, minutes be approved as corrected by Karen Bedics and Rob Zisko. Karen Bedics **seconded**; motion **passed** unanimously.

Approval of Bills

Rod Wieder **moved** to accept the bills (\$16,853.41) for payment as listed on the October 5 – 19, 2007, bills list (appended to these minutes). Rob Zisko **seconded**; the motion **passed** unanimously.

Public Comments on Agenda Items

Ray Bodnar, Hickory Lane, commented on the Rolling Hills Subdivision, offering two objections to this subdivision. First, Ray said there is a PPL/IEC 30' easement across the site which falls within the building envelopes for 8 of the proposed properties. The easement contains an 18" pipeline which carries fuel oil. Mr. Bodnar is concerned about the potential impact to the area, to Cooks Creek, and to wells in the vicinity if this pipeline ruptured. He feels that this violates Section 102.A. of the Zoning Ordinance which empowers the Board to protect the health, welfare and safety of the citizens. He also feels it violates Section 521 (SALDO) regarding placement of such easements. He provided a letter to the Board dated October 20, 2007, listing these concerns. Second, he feels the site design is in violation of our Act 537 and SALDO with regard to the proposed community sewage treatment plan (as opposed to on-lot systems on one-acre lots). Mr. Bodnar requested that the Board deny this plan and add these two reasons as a basis for denial.

Bob Harrington indicated that the pipeline Mr. Bodnar was referring to also runs under the High Meadows Subdivision on Peppermint Road which was approved by the Board about 5 years ago. The pipeline goes through 6 of the lots in that subdivision.

Public Hearing for Adoption of DROP Ordinance

Rich Schilling distributed a copy of the Ordinance authorized for advertising by the Board. Scott MacNair, co-township solicitor, explained that this is a Deferred Retirement Option Plan which applies to the Police Pension. The ordinance was advertised in The Morning Call on October 16 and was made available for public review at the Bucks County Law Library, township building and the offices of The Morning Call. It implements the provision of the police collective bargaining agreement and defines eligibility requirements, establishes a 5-year maximum period for

participation, states the enrollment procedures, etc. There being no public comments, Rod Wieder **moved** to adopt Ordinance 139 (correct ordinance number later identified as 140 and changed to Ordinance 140). Rob Zisko **seconded**; the motion **passed** unanimously.

Old Business

1. Springtown Water Authority Update – Ken Simmons, chairman of the Authority, presented the report. He noted that the Authority is 10 months into the first year of a 5-year program originally presented to the Board. There are 7 Board members and some volunteers assisting the Authority; namely, Gary Winton, certified engineer, and Karen Freeh, recording secretary. The volunteer time is saving the Authority about \$25,000 a year.

Ken presented an organization chart to the Board and highlighted the sub-committees listed on page 2. Each Board member was assigned to a sub-committee where their expertise would be best used. There is a 24/7 calling service which is working well. The Authority had to handle the billing for the 4th quarter of 2006, and this was done by PRWA (PA Rural Water Association—an organization that assists small, rural water systems) working with Aimee Douglas, treasurer. Ken stated that it costs \$380 a year to belong to the PRWA, but they offer many services which make this a worthwhile investment, including a circuit rider who comes out and helps check the water lines for leaks.

Ken indicated that 4 different meter systems were reviewed. Dick Cernok recommended that a meter made by Master Meters be purchased. 206 of the 213 total customers have these meters installed. 183 meters can be read in less than 30 minutes. The new meters help detect leaks and can give specific reports to help both the authority and the water users. Ken commended Dick Cernok for the outstanding job he has done with implementing this new system and for helping reduce delinquent bills from \$5,100 as of September 1 to a current figure of \$344. Dick personally visited each property owner who was in arrears to determine the reason for the delinquency and was able to work with these people to resolve problems, and when necessary, set up a payment plan.

Reporting for Ray Janus who is on vacation, Ken said that a required 3-year analysis of lead and copper had been completed and the results were satisfactory. Ken commended Ray Janus for his help in this area.

Dennis Steskal, system engineer, reported that a piping installation standard was adopted to guide future installation. With regard to the tank, they attempted to put the bid together so that one supplier would be responsible for the entire job, but were not successful in getting a bid on the entire job. The project was split apart, and within the next two months, bids will be sought for the divided project. The site work for the tank was significantly reduced as a result of suggestions from Bob Wynn, township engineer. A change in the permit has been submitted to DEP in anticipation of the additional tank. Dennis felt that the tank would be in by July or August 2008. The grant issued for this work runs out in June 2008, but because the cost will be incurred early, the grant money can be utilized.

Aimee Douglas, treasurer, reviewed financial reports which were presented to the Board earlier. She noted that \$106,378.69 of the grant total (\$320,000) has been spent, mostly for engineering fees and for the new radio control water meters. The remaining \$213,621.31 of the grant will go towards the tank installation. Aimee stated she is working with PRWA and using their billing department to do the quarterly billing. Hutchinson, Gillihan and Freeh has been retained to do the annual audit for the Water Authority.

Karen Bedics questioned the charges listed for Bucks County Water and Sewer and Springtown Knoll. Aimee said a final payment went to BCWSA early in the year. The Springtown Knoll expenses were legal fees related to producing an agreement to run water to two homes near the development.

Ken Simmons thanked the Board and Jeff Mease for their help in bringing the Authority to where they are today. Jim Brownlow expressed his appreciation for all the work that this group has done in a short time and thanked the Authority for providing copies of the minutes of their meetings.

New Business

1. EAC Flagpole Landscaping Project – Hans Reimann presented a proposal for landscaping the area around the flagpole adjacent to the side lobby. A recent addition to the project is a small bike rack near the proposed garden area. The cost of the bike stand was covered by donations. The garden will consist of native plants, perennials, ground covers, shrubs, ornamental grasses and trees. The flag pole will be in the center of the garden. A flagstone walkway

will be part of the garden surrounded by two semi-circle planting areas. The shrubs currently around the flagpole will be moved to another location on the township grounds. In line with a suggestion from Karen Bedics for a memorial for Web Singer, a former supervisor who recently died, Hans suggested something be placed in the flagpole area. He will leave a mulched area for this to be done at a later date. Karen asked whether, in light of Rod Wieder's request some time ago for a veterans' memorial, that memorial could be placed there with perhaps a tree planted in memory of Mr. Singer. Jim Brownlow asked how large an area the garden would occupy. Hans said the planting would fill a 28' half-circle area. The cost for the plants would be approximately \$300, and he is hopeful that the planting could still be done in November.

Peter Sleeman suggested that the flagstone walkway could perhaps be a memorial walkway so that multiple dedications could take place for deserving residents at appropriate times in the future.

2. Discussion of Sale of Travel Trailer formerly used by EMS – Rich Schilling requested permission to advertise this trailer for sale by sealed bids. Rob Zisko **moved** to authorize advertisement to accept bids for the sale of the travel trailer. Rod Wieder **seconded**; the motion **passed** unanimously. Karen Bedics asked if supervisors could bid on the trailer and was advised they could as long as bid specifications were met. Chuck Halderman asked if another municipality could use it. Rich Schilling said he has talked with three other municipalities about getting a mobile home, but that none of those have expressed interest in the travel trailer.

3. Resolution for Non-Uniform Pension Plan Modification – Rich Schilling indicated that at a recent meeting of employees, Rod Wieder (Board liaison to the Pension Plans), and our plan consultants, it was noted that the non-uniform pension plan was set up so that if a fully vested plan participant died before receiving pension benefits, his spouse would not receive any pension benefits. Our consultant stated there would be no cost to the plan to make a change to permit spousal benefits. Rob Zisko **moved** to adopt Resolution #2007-015 to provide for pre-retirement death benefits for the spouse or beneficiary of a non-uniform plan Member retroactive to July 1, 2007. Rob Zisko **seconded**; the motion **passed** unanimously.

4. St. Luke's Ambulance Funding Request – The township received a request from St. Luke's Emergency & Transport Service requesting funds to help in the purchase of Cardiac Monitors for their ambulances. Rob Zisko **moved** that we give \$500 to St. Luke's Emergency & Transport Service to meet this need. Karen Bedics **seconded**; the motion **passed** unanimously.

5. UBREMS Tax Return & Funding Request – Jim Brownlow noted the Board had received a copy of the 2006 tax return and the audited financial statement for 2006. UBREMS has requested that we pay the \$60,000 committed for 2007 and continue with the same funding (\$60,000) for 2008. Rich Schilling noted that his understanding was that we would release funds based upon UBREMS actual need. Rich suggested that a copy of an up-to-date financial report from the agency would be helpful. The Board did not want to authorize release of any 2007 funds until a current financial statement was available for them to review. The decision on the 2008 budget amount will also be reserved pending review of a current financial statement.

Gary Pearson, President of UBREMS, thanked the township for the mobile home provided for their use and all their support. He indicated that an open house is still being planned, but would be held later in the year. Gary will provide their proposed budget for 2008 to the Board. He asked if a member of our Board would be willing to be on their Board, or if the Board would want to appoint a resident to be part of their Board.

Chuck Halderman asked if the township could do anything to assist with the problem Gary had mentioned at an earlier meeting about providers payments being too low and going to the patient rather than to UBREMS. The amount currently being paid by Aetna is about one-third of what the service actually costs to provide. The Medicare rate is even lower. Although there is a bill in the House of Representatives to require insurance companies to pay directly to EMS instead of the patient, it is not currently under review.

UBREMS will be placed on the next Board agenda for action on the 2007 donation, the proposed amount for 2008 and for discussion about who will serve on their Board from our township.

6. PP&L Power Line Discussion – Chuck Halderman received a call from Francine Schmitt, Richland Township, who expressed concern about the location of the proposed PP&L power lines in Richland Township. Chuck has since learned that PP&L purchased the Creticos property in Springfield Township and plans a substation there with six

transmission lines coming from that location that will criss-cross Springfield Township. Chuck understands that Richland Township has written to PP&L asking that they utilize existing infrastructure along the railroad tracks bordering Route 309 for the new lines rather than crossing through their township. Chuck feels with our current open space work, we need to review what PP&L is planning and how it may affect our township. He suggested we may want to invite PP&L to visit our township for a meeting and that we should also suggest they use existing lines along Route 309 and the railroad tracks.

Chuck introduced Francine Schmitt, who shared additional information. Ms. Schmitt, East Cherry Road, Richland Township, stated that PP&L wants to build a substation on Hickon Road in Springfield Township. She was contacted by PP&L that the new line may involve her property. There was a meeting at the Shelly Fire House in 2005 where four possible routes were shown. The current cross-country route is the one PP&L is proposing, and it will involve both Richland and Springfield Townships, among others. She only learned within the past two months that PP&L wants to build a substation in Springfield Township. She subsequently called Chuck Halderman and Karen Bedics, who both were unaware of this proposed substation. Francine pointed out that the substation does not appear on the map she was showing the Board, although the property for the substation was purchased in the fall of 2006 and the date on the map is the end of July 2006. She is unsure why the substation was not shown on the map.

Her concern is for the watershed. Ann Rhoads, senior botanist at the Morris Arboretum of the University of Pennsylvania, came to Mrs. Schmitt's property in March and said the proposed line would definitely degrade the stream and the watershed. The letter from Ms. Rhoads was copied for the Board's review. Ms. Rhoads states that PP&L should not be permitted to run the line where they are proposing. They will be cutting down hundreds of mature, hardwood trees in a diabase rock area which acts as a natural recharge for groundwater. Since then, Ms. Schmitt went to the borough and to the County Commissioners, because PP&L wants to go right through preserved forested open space that was purchased with County funds. The County wrote to PP&L requesting that they go around the open space purchased with County and taxpayer funds so as not to damage the environment. Karen Bedics pointed out that PP&L does not mow, rather they spray herbicides under power lines, which would also affect the watershed. Ms. Schmitt said she spoke with DEP and they told her the herbicides used by PP&L are all approved for agricultural use, and they should be appropriate for use by a stream.

At the August 2007 meeting attended by PP&L representatives; Senator Wonderling; Representative Clymer; Lynn Bush, BCPC; everyone opposed the currently planned route. PP&L said they tried to find property near Route 309 where a sub-station could be built, but were unsuccessful. Unfortunately, utilities can pretty much do what they want, but Ms. Schmitt wanted us to be aware of the proposed location of the lines. Ms. Schmitt indicated that 39 property owners from Richland Township have assigned easement rights to PP&L and there are 10 who have still not signed up. She was unaware how many property owners have signed up in Springfield Township, only that one close to her has not. Peter Jones commented that a number of Springfield Township residents have assigned rights to PP&L. He questioned why PP&L cannot run their lines along Route 309, but PennDOT will not permit monolith poles to be placed along Route 309.

Chuck Halderman asked if the other Board members were aware of any of this information. Rob Zisko said that he knew of the sale of the Creticos property to PP&L because he visited the Court House and was looking at recent sale transactions. Chuck was concerned because we are borrowing \$5,000,000 to preserve property and now the PP&L plans to run lines through a lot of the open property in the township. Jim Brownlow asked what the timeframe was for action by PP&L. Ms. Schmitt said they are running a year behind; they wanted to apply to the PUC in 2006 around this time. Scott Douglas suggested that we ask PP&L to hold a hearing within Springfield Township with regard to the proposed sub-station so residents can ask questions. Rob Zisko's understanding is that when an Ag Security easement is part of a property, the PA State Agricultural Preservation Security Board must give approval before eminent domain can take place.

Jim Brownlow moved that:

- A letter be sent to go to PP&L inviting them to attend a public meeting to explain their plans.
- Letters be sent to Senator Wonderling, Congressman Murphy, Representative Clymer, and the County Commissioners (copy to the Governor) making them aware of our concerns about this and letting them know we are just learning of the plans for a substation in our township..

- Our solicitor be authorized to contact PUC to find out if PP&L has obtained a certificate of public convenience and determine what we can do legally as a municipality.

Chuck Halderman **seconded**; the motion **passed** unanimously.

Planning Matters

1. Kucher-Hall Subdivision (Winding & Round House Roads & Oak Lane) – Bob Wynn said the Planning Commission was recommending this minor 2-lot subdivision creating one new building lot for preliminary/final approval subject to the requirements listed in the September 19, 2007, engineering review. Included in their recommendation was that a note be added to the record plan requiring further analysis relative to wetlands and streams before any future development of Lot 1. Further, the Commission recommended approval of the requested waivers with a \$3,000 capital contribution being made in lieu of street improvements.

Scott Mease, Mease Engineering, presented for the applicant. The site, located in the Resource Protection District (3-acre minimum lot size), contains 19 acres of vacant land. Mr. Kucher plans to subdivide one 4.1 acre lot off for his daughter to build a home. Lot 1 will stay intact. Rob Zisko **moved** to grant preliminary/final approval to the Kucher-Hall Subdivision subject to the requirements in the September 19, 2007, engineering review letter. Rod Wieder **seconded**; the motion **passed** unanimously.

2. Pawar Subdivision (Winding & Shade Roads, Oak Lane) – Applicant withdrew from the agenda. It was noted by the Board that an extension until December 11, 2007, was granted.

3. Spear Land Development (Springfield Street) – Bob Wynn said a letter was received from the applicant concerning trees shown on the approved subdivision plan along Springfield Street. PP&L has objected to two of the street trees proposed because of the type of power line above the trees. PP&L sent a list of trees which they will permit. Bob Wynn indicated three of the trees on the PP&L list are on the township's approved list of small trees. Bob also advised the applicant that if the plan is changed from large trees to small trees, the number of trees should be increased from 40' spacing to 30' spacing. As an alternative to that, Mr. Spear would provide a capital contribution to the township and plant no trees under the power lines, which is preferred by PP&L. Mr. Spear prefers to make a donation to the Highway Capital Improvement Fund in lieu of planting any trees, as his building is located some distance from the street with existing trees already in place between the building and the street. Mr. Spear plans to add additional landscaping between the existing trees and the street in the salvage.

Karen Bedics wants trees to be planted to help with storm water absorption. Mr. Spear indicated the smaller trees would require pruning because of their proximity to any future sidewalks. Rob Zisko **moved** that we accept a donation in lieu of street trees subject to receipt of a cost estimate done by the township engineer that is acceptable to the applicant. Chuck Halderman **seconded**. Voting **Yes**: Jim Brownlow, Chuck Halderman, Rod Wieder, Rob Zisko. Voting **No**: Karen Bedics.

Recess from 9:38 p.m. to 9:50 p.m.

4. Rolling Hills Subdivision – Continuation from 9/25/07 (Route 212 & Slifer Valley Road) – Jim Brownlow referred to the information received from Rolling Hills on September 25. He indicated that at the September 25 meeting, both the soils question and the planning modules were discussed in detail. Terry Clemons stated that the discussion stopped prior to discussing the township engineers comments made in his August 13, 1970, review letter. Mr. Clemons listed the items provided at the September 25 meeting without time for the Board (or the Planning Commission) to review them prior to that meeting:

- 9/25/07 DelVal Soils and Environmental Consultants letter (responding to a 7/19/07 Soil Services Co. letter)
- Another DelVal Soils and Environmental Consultants letter dated 9/25/07 (responding to a 7/6/07 SAIC letter)
- A third DelVal Soils letter dated 9/27/07 (responding to Springfield Township Planning Commission Component 4A review)
- 9/25/07 Boucher & James letter (responding to the township engineer's 8/13/07 review letter)
- Additional DelVal correspondence sent previously dated 7/11/07

Mr. Clemons noted that Mr. Gundlach asked for an opportunity to return and have a representative of Boucher & James Engineers address the township engineer's comments in his letter of 8/13/07 after the Board of Supervisors had time to review the information presented to them at the 9/25/07 meeting.

Mr. Gundlach said there was a sixth letter in the packet given to the Board on 9/25/07 which Mr. Clemons did not list—an updated waiver letter, revised 9/25/07. Mr. Clemons agreed.

Mr. Gundlach introduced Ron Jackson, an engineer from Boucher & James, and provided a copy of his Curriculum Vitae to each Board member. The discussion moved to the township engineer's 8/13/07 review letter. Mr. Jackson said he reviewed the items in that letter and discussed them with Mr. Harrington, the applicant. All items in that letter are "will comply" except for six comments within the main review portion of the letter and seven comments in the engineering and drafting part of the letter.

Mr. Jackson listed the 13 items in the review letter the applicant will not comply with and explained why as follows:

Main Review Comments:

1. Easements in lot areas – In Comment 2, the township engineer stated that Zoning Ordinance Section 201.58(a) calls for the exclusion of easements within lot areas. Their interpretation of the Zoning Ordinance is that only right-of-ways were excluded from the lot area, so the applicant's submission did not exclude easements from the lot areas.
2. Comment 5 indicated that the lot lines should be revised so that all the 75-foot wetland buffer area would be outside of the lot areas. The applicant proposed deed-restricted covenants for the protected areas within lots to ensure those areas remained protected in perpetuity, which would be in keeping with the intent of the ordinance.
3. Comment 6 related to soils classifications. Dr. Palkovics discussed our difference of opinion about the soils classification at the 9/25/07 meeting.
4. Comment 7 was similar to Comment 6, in that the applicant's difference of opinion with the SAIC letter was discussed last month and is contained within the DelVal correspondence submitted to the Board on 9/25/07.
5. Comment 10(e) dealt with the waiver requests, specifically the applicant's request to have street trees pulled back from the road frontage outside the site easement required for the road intersection. Mr. Wynn asks that the intersection be revised to provide minimum sight distance requirements. The applicant's position is that the intersection as currently designed meets all ordinance and sign distance requirements.
6. Comment 11, where Mr. Wynn suggests that a through street be provided for the cul-de-sac. The applicant's position is that a cul-de-sac provides the most logical service for that area of the site. An existing conservation easement on an adjacent lot makes access to it by a through road not possible. The other road through the site—Hillside Drive—could not be a through road because of wetlands, flood plains and a watercourse that would need to be crossed.

Engineering & Drafting Comments:

7. In Comment 4, Mr. Wynn suggests that a proposed berm for the basin disrupts an existing swale. The applicant agrees, but almost the entire watershed to that swale will be collected by the storm sewer system and channeled into the basin; thus, the swale is no longer necessary. Calculations can be provided to show that the remaining drainage area can be serviced by the channel that remains after the basin is constructed.
8. Comment 6 indicates that some seepage beds are too close to the proposed houses which may cause water to seep into adjacent basements. Because all of the seepage beds will be below the basements' elevations, no ground water will ever seep into the basements as a result of the adjacent infiltration beds.
9. Comment 7 lists several sump pump discharges Mr. Wynn suggests would be better served if they discharged into a storm structure. The applicant feels it is a better management practice to recharge ground water back to where it came from.
10. Comment 17 pertains to certain utilities that cross at angles less than 90 degrees. They feel that the requirement to cross 90 degrees usually applies to water and sewer mains, not the laterals. The only features that are crossing at less than 90 degrees are the laterals. This occurs at the end of the cul-de-sac where the homes are in a circle around the utilities, thus making it more difficult to get laterals across at 90 degrees.
11. Comment 23 suggests that earth calculations be provided during the excavation of the seven basins in the trap. They disagree because there will be no accumulation of soil during excavation. Soil will be reused as the site grading progresses. It will be stockpiled and replaced as construction work continues.
12. Comment 37 requests that it be detailed how the underground systems would be vacuum flushed to remove sediment. They feel with the variety of maintenance methods for this type of system available, to lock the applicant into one at this point would be a disservice. This is an element that can be better handled after plan recording takes place.

13. Comment 41 requests catalog information for the tot lot. Again, this can be better handled later in the project closer to final approval.

Mr. Brownlow asked that they proceed with their presentation and the Board would hold questions until the end of their presentation.

Mr. Jackson confirmed that he was present at the 9/25/07 Board of Supervisors meeting when Dr. Palkovics discussed the difference in interpretation between DelVal and the township as to the agricultural soils on the site. p. He confirmed that Boucher & James designed the current plans based upon DelVal's interpretation of the soils. Mr. Gundlach summarized for the Board that DelVal's interpretation is that there are no prime soils on the property, while Ms. Mueller's (Soils Services) interpretation is that 10.9 acres of soil on the tract are prime agricultural soils. Dr. Palkovic's interpreted that 31.7 acres of the tract contained soils of statewide importance, while Ms. Mueller interpreted that 59.7 acres of the tract contained soils of statewide importance. Mr. Gundlach asked Mr. Jackson if he had investigated what amount of agricultural soils would be on found on the site if the township consultant's soils classification was accepted, and how that would impact the layout for this project. Mr. Jackson indicated he had done this. The result was visualized on a colored sketch of sheet No. 8 of 64 (the Natural Resources Protection Plan sheet). Mr. Jackson said if Dr. Palkovics' soils interpretation was used, 19 acres of the tract would require protection. If Ms. Mueller's soils interpretation was used, 43.4 acres of land within the tract would require protection.

Mr. Jackson stated if Ms. Mueller's soils interpretation was used, the area shown on the right side of the plan (where the treatment plant is currently shown) could not be developed because of the large amount of prime agricultural soils there. In addition, the area where the cul-de-sac is currently shown could not be developed because of prime agricultural soils. That would leave only the northern edge of the site where development could take place. Mr. Gundlach asked if he had estimated the number of lots that could be obtained if the half-acre cluster option was implemented, with its required on-site community sewage and water facilities, and also respecting Ms. Mueller's interpretation of the soils that would need to be preserved. Mr. Jackson estimated that constructing half-acre lots with the required community treatment facility, or using one-acre cluster lots with on-lot sewage and water would both limit the applicant to between 8 and 12 lots. Mr. Jackson indicated that the site capacity calculations performed on the record plans and included with the current submission indicate that, using DelVal's soils classification, 36 lots are possible under the density requirements.

Mr. Gundlach, referring to the revised Zoning Ordinance adopted in October 2007, asked if the new requirement that each lot must have a primary and a reserve on-lot septic system location would further impact the projected lot yield. Mr. Jackson stated, using Ms. Mueller's soils interpretation, the lots would need to be larger than one acre to provide the required facilities, setbacks from the well, etc., thus reducing the lot yield to 8 or fewer lots

Mr. Clemons pointed out that the revised Zoning Ordinance does not apply to the plan currently before the Board, and thus is not relevant to the current subdivision. He asked if Mr. Jackson had analyzed the actual yield (under the newly adopted Zoning Ordinance) using one-acre lots with a primary area for on-lot systems and a back up and was advised he had not done a complete yield plan. Mr. Clemons noted that when Mr. Jackson made the statement, "It stands to reason" (a comment Mr. Jackson made when naming the reduced number of lots possible under the newly adopted Zoning Ordinance), it was based more upon an impression he had rather than upon any actual studies done regarding a lot yield plan. Mr. Jackson agreed, indicating his statement was based upon a comparison of soils to the existing lots and visually looking at what the effect might be.

Mr. Clemons asked if Mr. Jackson had done a yield study under the Ordinance the current subdivision plan was filed under to see how many one-acre lots were possible. Mr. Jackson said he had not done a yield plan.

Mr. Clemons asked if it was correct that the soils as were mapped in the current plan were based upon the DelVal Soils study done around November of 2005. Mr. Jackson stated that was correct. Mr. Clemons asked if the initial subdivision plan, that has been continually reviewed, was filed initially around February 18, 2005. Mr. Jackson stated that was approximately when the original plan was filed. Mr. Clemons asked Mr. Jackson to look at page 7 of the original plan submitted in February 2005 by Boucher & James, Mr. Jackson's engineering firm. Mr. Jackson confirmed that page 7 (the agricultural soils plan page), of the original plan that he was viewing had been prepared by Boucher & James. Mr. Clemons pointed out that on this original submission Boucher & James identified ARB (Ardentsville Gravelly Silt Loam) as prime agricultural soil. Mr. Jackson agreed that Ardentville was identified as a

prime agricultural soil on the original submission. Mr. Clemons pointed out that Ardentsville C soils were identified by Boucher & James as a soil of statewide importance on the original submission; Mr. Jackson agreed that was true. Mr. Clemons pointed out that other soils on the original submission were identified by Boucher & James on the original submission as soils of statewide importance, including Penn Channery Silt Loam and Redington Silt Loam. Mr. Jackson agreed that Redington, REA, and Penn Channery were listed as prime agricultural soils on the plan. Mr. Clemons noted that Redington B and Abbottsville Silt Loam were also listed as soils of statewide importance on the original submission. Mr. Jackson agreed. Mr. Clemons asked if Mr. Jackson agreed that on the original subdivision plan filed in February of 2005, the entire site is covered with either soils of statewide importance or prime agricultural soils, and that a total of 62.5 acres of prime agricultural soils were identified by Boucher & James on that February 2005 plan submission. Mr. Jackson agreed that was correct, according to the plan sheet he was viewing. Mr. Clemons said that under the original plan submitted by Boucher & James, 43.7 acres of prime or statewide agricultural soils would need to be preserved. Mr. Jackson agreed that was true. Mr. Clemons asked what source Boucher & James had used to identify the soils on the plan submitted in February 2005. Mr. Jackson stated the determination would probably have been taken from the Bucks County Soils Survey and their listings and charts. Mr. Clemons asked if that would have been an authoritative source they relied upon when submitting the original application. Mr. Jackson said that it would have been a source.

Mr. Clemons noted that on the original plan, Boucher & James had indicated they could protect 44.29 acres of Ag soils and still achieve a 33-lot subdivision. Mr. Jackson said the site would yield 32 lots, according to the original plan filed. When Mr. Clemons asked if the 44-sheet original plan submitted met all the requirements of the Zoning and the Subdivision and Land Development Ordinances, Mr. Jackson said that was not accurate. The reason is that although the original plan showed 32 one-acre lots, it did not show the required sewer treatment plant. For that reason, he couldn't say that the soil disturbance areas were accurate on the plan set, even though it was submitted by his office (Boucher & James). He wasn't certain what the impact of the sewage treatment facility would have been to the plan. Mr. Clemons agreed, but noted that Boucher & James must have had a professional opinion in February 2005 when they submitted the plan that they could achieve a 32-lot subdivision in compliance with the Ag soils protection standards of the township's Zoning and Subdivision and Land Development Ordinances. Mr. Jackson agreed this was accurate.

Mr. Clemons asked if Boucher & James had mapped the soils on the tract sometime prior to February 18, 2005, and discussed those findings with the applicant. He noted that the general notes on the February 2005 plan indicate that the Alluvial soils and the wetlands represented conditions as they existed in the field at that time and these were identified and located by DelVal Soils. Mr. Jackson agreed that was what the note stated. Mr. Clemons verified with Mr. Jackson that as of February 2005, DelVal Soils was involved as a consultant for this project, and Mr. Jackson agreed. Mr. Jackson was unable to verify whether DelVal was involved in a review of Boucher & James mapping of the prime agricultural soils and soils of statewide importance, that were noted on the February 2005 plan. Mr. Jackson could not answer that question, as he was not involved personally with the Rolling Hills project when it was originally submitted.

Mr. Clemons asked Mr. Jackson if it was true that Ms. Mueller's recent review of the soils on the Rolling Hills tract and the review of the soils by Boucher & James as noted on the February 19, 2005, plan were not substantially different or at odds. Mr. Jackson agreed this was true.

Mr. Clemons then referred to a sketch plan dated February 9, 2005, prepared by Boucher & James of the Rolling Hills plan. He noted that the same soils classification appeared on this sketch plan as appeared on the subdivision plan submitted by Boucher & James dated February 18, 2005. Mr. Jackson agreed that was correct.

Moving to Mr. Jackson's summary of the 13 points in the township engineer's review letter that the applicant would not comply with, Mr. Clemons asked Mr. Jackson if it was true that many of the comments in the August 13, 2007, township engineer's review letter had appeared in many review letters, the oldest dating back to March 28, 2005. Mr. Jackson agreed that was true. Mr. Clemons counted about 68 "will comply" that have not yet been addressed in the subdivision, despite the fact that the reviews go back to 2005. Mr. Jackson said that 20 is a more accurate number of review comments that are continuously reiterated. Mr. Clemons asked if he would agree that there are about 20 "will comply" that have existed since 2005. Mr. Jackson agreed. Mr. Jackson agreed that if they were to use the township's (Ms. Mueller's) soils interpretation it would not be possible to construct within the land currently

occupied by the proposed subdivision. Mr. Clemons asked if the subdivision would appear more like the original subdivision that was submitted by Boucher & James back in February of 2005. Mr. Jackson agreed that was correct and that the cul-de-sac would not be necessary if that design was used.

Mr. Clemons referenced Comment 3 of the township engineer's review letter pertaining to water and sewer facilities, which are classified as a Utility Operating Facility Use, F-1, which are permitted by special exception. He noted that Mr. Jackson had not addressed that comment when he listed the items they were not in agreement with in the township engineer's review letter.

Mr. Jackson stated that it was Boucher & James and Mr. Gundlach's position that the sanitary and water treatment facilities are required by the township's Zoning Ordinance for the use that is being proposed. Because it is their position that it is a "required" use, it is an accessory to the proposed plan and therefore it is not necessary to obtain a special exception. Mr. Clemons asked if that was the response indicated in item 3(a) of the letter written by Mr. Jackson. Mr. Jackson stated he believed that was accurate. Mr. Clemons asked if the response in 3(a) was Mr. Jackson's words, or if they were the words of his attorney. Mr. Gundlach objected to this question, stating that his firm does not represent Boucher & James or its engineers. Mr. Clemons restated his question to Mr. Jackson, "Who prepared the response under 3(a) in your letter of September 25 of 2007? Whose words are they? Are they your words, or were those words provided to you by the applicant's law firm?" Mr. Gundlach again noted his objection to the perceived, rather aggressive, cross-examination Mr. Clemons was performing on an engineer that was presented to the Board to address some comments. Mr. Gundlach felt Mr. Clemons should be counseling the Board on the information before them, not cross-examining witnesses, and felt the proceedings were inappropriate and turning adversarial, and thus were a violation of his client's due process rights.

Mr. Brownlow noted Mr. Gundlach's objection to the veracity with which Mr. Clemons was asking questions, but stated that he believed Mr. Clemons was trying to get information in front of the Board, and he appreciated his efforts to try and accomplish that. Mr. Clemons added that he was just trying to determine whether the statement in 3(a) was a legal conclusion or an engineering conclusion. He was not disputing Mr. Jackson's reputation because of this, but simply wanted to know if the response was prepared by counsel, because it sounded like a legal interpretation to him.

Mr. Jackson stated that he discussed the wording with Mr. Gundlach. Mr. Gundlach highlighted certain things in the Ordinance that he believed, and asked that Mr. Jackson review those sections and see if he concurred. After Mr. Jackson reviewed the sections, he agreed with Mr. Gundlach's conclusion that that sanitary and water treatment facilities were an accessory use and were required under the township Zoning Ordinance. The treatment plant must be put there, so Mr. Jackson couldn't see how a special exception would be required for something that the applicant was required to do. Mr. Clemons asked if Mr. Gundlach had offered an opinion that a required accessory use was not a use that should require the applicant to go to the Zoning Hearing Board; Mr. Jackson said that he had.

Mr. Clemons completed his questioning, and Mr. Gundlach asked for an opportunity to follow up with a few questions. Mr. Gundlach stated that Mr. Clemons seemed to imply that someone from his office may have written the 9/25/07 Boucher & James letter for Mr. Jackson to sign. Mr. Gundlach asked if that was accurate, and Mr. Jackson stated it was not accurate. Mr. Jackson stated that Boucher & James typically prepares all their letters. They send them to the applicant and his attorney for review and comment. The applicant and/or attorney send back ideas for improvement and that is how the final letter is produced.

Mr. Jackson stated that he had worked at Boucher & James since November 2000 and considers them to be a competent engineering firm and himself to be a competent engineer.

Mr. Gundlach stated that Mr. Clemons questions about the number of comments in the numerous township engineer's review letters that appeared numerous times seemed to imply that the engineers "couldn't get it right." Mr. Gundlach noted that the first review letter (March 2005) had 8 pages. The plan was revised and the December 2006 review letter went to 18 pages. After a subsequent plan revision, the February 2007 review letter went to 25 pages, the May 2007 review letter went down to 17 pages, and the final August 2007 review letter went up to 22 pages. Mr. Jackson agreed. Mr. Gundlach asked Mr. Jackson if he felt these lengthy review letters were a result of engineers doing a poor job, maybe missing comments or not paying attention to them. He asked why they were not addressing and responding to each comment made. Mr. Jackson stated that of the 25 comments in the most recent

review letter, at least half pertained to the treatment plant and the planning modules, or other approvals that are required. Many of these recurring comments cannot be addressed until final approval is received.

Mr. Gundlach asked whether it was true that many of the comments concerning the soils interpretation which appear throughout the reviews cannot be addressed through plan revisions because there is a disagreement between the applicant's consultant and the township's consultant about soils classification. Mr. Jackson said that was correct. Mr. Gundlach asked Mr. Jackson if, in the case of some review comments, applicants sometimes agree to comply with the request even though they may not see the necessity or need to do a particular thing. Mr. Jackson stated that was correct and that it was customary for engineers/applicants to address minor comments with a "will comply" rather than to suggest that such a change is not necessary.

Mr. Jackson stated that given the nature of the Rolling Hills submission, the only thing in the township engineer's review letters which he feels is not "standard," is Mr. Wynn's continuous use of the last comment where he indicates a thorough review will be done at a later date. He feels that a thorough review of the plan could have been done by now.

Referring to Mr. Clemons questions about the soils classification on the February 2005 plan, Mr. Gundlach asked where those soil designations came from. Mr. Jackson stated these soil lines should have come from the Bucks County Soils Survey that was last updated in September 2002. Mr. Gundlach asked if Mr. Jackson received a DelVal report entitled *Refined Soil Mapping Report*, dated October 12, 2005, and revised November 4, 2005. Mr. Jackson said he had received that report after his office had prepared the first draft of the plan in February 2005. Mr. Gundlach asked what he did based upon the information in that report from DelVal Soils. Mr. Jackson noted that while the Bucks County Soil Survey is fairly accurate, it is not as accurate as an on-site soil survey done by a soil scientist. His office tends to use the results of an actual field investigation above what the Bucks County Soil Survey provides. He added that they use site evaluation results because they are a more recent and accurate study of the actual site soils as opposed to a general analysis that goes into providing a statewide or countywide soils survey. Mr. Gundlach asked if it was true that at least a year or a year and a half ago his office had prepared and submitted to the township a fully engineered, one-acre plan with on-lot water and on-lot sewage systems. Mr. Jackson said to the best of his knowledge, they had submitted a one-acre engineered set of plans, although he personally was not involved with that submission. He agreed that plan also considered the soils as interpreted by Palkovics.

Mr. Clemons asked if that submission wasn't a sketch plan rather than a full submission. Although Mr. Jackson wasn't personally involved in that submission, in talking with Mr. Gundlach and Mr. Harrington, it was his understanding that a full submission was done. Mr. Clemons said a review of that plan would show what was accurate, but asked if he recalled whether that plan was for 21 or 24 lots. Mr. Jackson said that plan had 21 lots. Mr. Clemons asked if it was accurate that when Mr. Jackson spoke earlier, he felt that if he complied with the soils as identified by Ms. Mueller, he would only get 8 – 12 lots, but the identical soils were shown on that 21-lot site plan submitted a year or a year and a half ago. Mr. Jackson stated that was correct.

Mr. Clemons referred Mr. Jackson to sheet 11 of 64 of the latest revision dated July 11, 2007. He asked if the soils classification on that sheet was based upon the soil types as evaluated on the November 4, 2005, mapping by DelVal Soils. Mr. Jackson said that was correct. Mr. Clemons asked Mr. Jackson to compare the soils listed on the July 11, 2007, plan with the soils listing from the September 18, 2005, plan. After a review of each soil listed, Mr. Jackson agreed that a substantial part of the listings on both plans refer to the same soil types. He stated that the Bucks County Soil Survey of 2002 would be fairly accurate, and he was basing the soils classification on the Bucks County 2002 Soil Survey. Mr. Clemons asked whose characterization he was basing the September 2005 plan soils classification upon to determine whether they were prime agricultural or soils of statewide importance. Mr. Jackson stated probably from the soils survey on the former plans. Mr. Clemons asked if those happened to be the same designation as were in the township's SALDO. Mr. Jackson stated that was true, as the soils were currently defined in the township's SALDO. Mr. Clemons advised him that the same soils designation was in the SALDO at the time the September 2005 plan was developed. Mr. Jackson was unsure of the date our SALDO was enacted, but if it was adopted in 2004, that was correct.

Mr. Clemons assured Mr. Jackson he was not attacking him or his competence, as his firm served as planners for Wrightstown Township where Mr. Clemons is also township solicitor. Mr. Jackson answered that questions are just that, questions, and he is not afraid of questions. Mr. Clemons asked Mr. Jackson, if, in his role as planner for Wrightstown, he would typically not recommend that the township approve a subdivision plan until the comments in

the township engineer's review letter had been addressed to the satisfaction of the township. Mr. Jackson said that on occasions, when there are minor issues or even issues large in nature, but the applicant has demonstrated his willingness to comply, they will give preliminary, conditional approval. Mr. Clemons asked if it was not customary in a review letter Mr. Jackson would write for a municipal client to include the statement that the reviewer does not recommend approval of a plan until the comments contained in the review letter have been addressed to the satisfaction of the township. Mr. Jackson stated that is typically included when there are comments in a letter.

Mr. Gundlach asked to follow up, but Mr. Brownlow denied his request and opened the discussion for the Board members. Karen Bedics questioned a letter from DelVal Soils dated 12/19/07 regarding fracture traces. The letter refers to limestone conglomerate and faults located on the site. With the comments made earlier by Mr. Bodnar regarding a pipeline running through the tract, she asked whether Mr. Jackson, as an engineer, saw this as a potential problem. Mr. Jackson asked where the fault line was located. Ms. Bedics showed him a map that located the fault line. Based upon his review of that map, Mr. Jackson did not feel there would be a problem with the Rolling Hills development because the crossing of the fault and the pipeline occur approximately 300' east of the end of the cul-de-sac. He assured Karen that disturbance at the pipeline area was prohibited and would not occur.

Mr. Schilling, Township Manager, asked whether Mr. Gundlach had not "spoon fed" the answer to Mr. Jackson relating to complying with items in a review letter that you do not agree with "just to make it go away." Mr. Jackson stated if it came across that Mr. Gundlach was speaking for him, that was inaccurate. His opinion is the same as Mr. Gundlach's with regard to comments in a review letter that are very minor in nature. Rather than fight with a township engineer on something that has no bearing on the outcome or upon being able to complete a project in a cost effective way, he would change the plan as the engineer suggests just to make it go away and move the plan on.

Mr. Brownlow asked Mr. Gundlach what action he wanted from the Board. Mr. Gundlach stated they were here to address the Board's comments/concerns with respect to the items contained in the engineer's review letter. It is the applicant's opinion that he has not received a fair and impartial review at the Planning Commission level. Mr. Gundlach characterized the Planning Commission meetings as hostile and adversarial and he does not feel the Planning Commission was conducting an independent review; rather, they were looking for ways to adversely impact the project. This applicant has worked and spent substantial funds to prepare and resubmit plans only to hit one roadblock after another concerning any plans to develop this property. From the start, he attempted to work with the Planning Commission by submitting sketch plans they requested and attempting to work through issues with them. The Planning Commission has recommended denial of this plan, and the applicant is here in an attempt to convince the Board that the plan does comply with township ordinances, that he is willing to address all the items contained in the review letters, with the exception of those that have been noted, and would like the Board to grant approval of the waivers and consider granting preliminary plan approval subject to the conditions of compliance as noted at the 9/25/07 meeting and as noted at this meeting.

Jim Brownlow recognized Bob Harrington, the applicant. Mr. Harrington stated that during the approximate two and a half years the plan has been before the Planning Commission, he has put in probably 14 or 15 separate sketches labeled A through L or M. He met with 30 or 40 neighbors at different times at their homes trying to find out how to develop the property in a way that would be acceptable to them. He came with the neighbors who presented a petition to the Planning Commission with how they wished to see the property developed. The Planning Commission basically told the neighbors they didn't really care what the neighbors think. He never heard that before in any township. In the beginning, he went through a lot of expense to try to work with the Planning Commission. Two members of the Commission laughed at sketches that he brought in—he has tried.

Mr. Brownlow summarized that it appears to have come down to a number of areas where there are disagreements, and from his perspective, fairly major disagreements. Speaking for himself, the soils issue is a big deal. The whole purpose of protecting soils is to protect an area for future agricultural use. Splitting agricultural soil up into unusable space was not the township's intention when the SALDO was put in place. The second major issue for him is sewage. He doesn't really understand what is being proposed, because of the many different plans that have been submitted. He realizes that plans change during the planning process, but with each change of this plan, it seems more ground was being eaten up with buildings and he has difficulty with that. He is sorry Mr. Harrington feels he wasn't treated well by the Planning Commission. Mr. Brownlow feels we have a very good Planning Commission. For the most part, they have been very professional when he has interacted with them. He feels they have raised some

very serious concerns which would make it difficult for him to grant preliminary approval based upon the information that has been presented thus far.

Karen Bedics has attended many of the Planning Commission meetings. Things are said and issues go back and forth, but she feels that they are a dedicated, intelligent group of people that know our ordinances and know our township. She trusts their judgment and with the major issues that still need to be ironed out, she doesn't feel she can grant approval.

Chuck Halderman's main concern is with the soils classification. He doesn't understand how on the original plan submitted the engineer's showed 43 acres as prime agricultural soils which needed protection. The same soils classification also appeared on the sketch plan that followed—again, prime agricultural soils were identified. The third plan submitted still identified prime agricultural soils and soils of statewide importance. Then somewhere down the road, these prime agricultural soils and soils of statewide importance aren't there anymore. He has a problem with that. He is also concerned with them putting a treatment plant that is not permitted on the agricultural lot. He feels they need to go before the Zoning Hearing Board for that approval. They have not demonstrated to Chuck that they cannot put a through street in the development; in fact, he doesn't see any place where they attempted to do so. He is not happy with the 1,800' +/- cul-de-sac, and he is not happy with the plan.

Rod Wieder feels that the other Board members have expressed pretty much his own thinking about this plan. He is not comfortable moving the plan forward until a lot of the unresolved issues have been addressed.

Karen Bedics **moved** to deny the Rolling Hills Subdivision preliminary plans based on unresolved outstanding issues contained in the August 13, 2007, engineer's review letter. Chuck Halderman **seconded** the motion but suggested Ms. Bedics amend her motion to include the 5/22/07 Laurel Mueller letter, the 7/6/07 SAIC letter, the 4/7/07 SAIC letter, the 4/15/05 and 9/5/07 Bucks County Planning Commission letters. Karen Bedics **amended** her motion to include the letters listed by Mr. Halderman. Chuck Halderman **seconded** the amended motion. Mr. Clemons suggested that Karen include in her motion action on the waivers requested by the applicant. Karen **amended** her motion to include denial of the waivers requested for this plan. Chuck **seconded** the third, amended motion. Voting **Yes**: Karen Bedics, Jim Brownlow, Chuck Halderman, Rod Wieder. The motion **passed**.

Mr. Clemons stated that the Planning Commission had specific concerns that the planning module was submitted by the applicant indicating that there were no prime agricultural soils on the tract. The Board has expressed in the previous vote that they do not agree with this and also, expressed concern about whether other alternatives had been sufficiently considered. Mr. Halderman also pointed out that the opinions expressed by our township consultants—SAIC and Laura Mueller—were not considered. These concerns are the basis for not approving the planning modules.

Jim Brownlow **moved** that the planning module be denied because they were submitted indicating there were no prime agricultural soils on the tract, which contradicts the opinions expressed by our township consultants. Further, the Board does not feel that other alternatives have been sufficiently considered. Karen Bedics **seconded**. Voting **Yes**: Karen Bedics, Jim Brownlow, Chuck Halderman, Rod Wieder. The motion **passed**.

Mr. Gundlach submitted for the record the plan that Mr. Jackson was referencing. Mr. Gundlach asked Mr. Clemons if the other plans that he was referencing would be made part of the record of this meeting and was told that they would be.

Correspondence

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

Public Comments – None

Supervisors Comments

Karen Bedics asked the Board to authorize that a letter be sent indicating support for HB110 which is to encourage our legislators to pursue decreasing the emission of greenhouse gases in Pennsylvania. There is a bill before the

house that will be voted on shortly and Karen would like them to know we are in favor of having a greener state. Karen Bedics **moved** that the Board authorize a letter be sent to Paul Clymer encouraging him to support HB 110. Rod Wieder **seconded**; the motion **passed** unanimously.

Chuck Halderman **moved** to authorize Terry Clemons begin the process to collect the \$20,000+ outstanding fees due to the township from Rolling Hills. Rod Wieder **seconded**; the motion **passed** unanimously.

Adjournment

At 11:30 p.m., Jim Brownlow **moved** to adjourn the meeting. Chuck Halderman **seconded**; the motion **passed** unanimously.

Respectfully submitted,

Sandra L. Everitt
Secretary/Treasurer

Next meetings: November 13, 2007
Approved: December 11, 2007