

WINDSOR TOWNSHIP BOARD OF SUPERVISORS  
November 16, 2009

1. The meeting of the Windsor Township Board of Supervisors was called to order at 7:00 p.m. by Chairman Paul Smith.

Those present: Paul Smith, Jan Smith, Dean Heffner, Attorney Charles Rausch, Jennifer Gunnet, Jeremy Trout, Kipp Allison and Deanna Coble. See the attached list of citizens present.

2. The Pledge of Allegiance was recited.
3. On the motion of Dean Heffner seconded by Paul Smith, the minutes from the October 19, 2009 meeting were approved. Motion carried. Two votes yes. Mr. J. Smith did not vote due to not being present at that meeting.

On the motion of Jan Smith seconded by Dean Heffner, the minutes from the November 2, 2009 meeting were approved. Motion carried. Two votes yes. Mr. P. Smith did not vote due to not being present at that meeting.

4. **Local Agency Hearing – Dr. & Mrs. Douglas Schmidt – Waiver of Section 2 C & D of the Windsor Township Building Permit Ordinance** – Attorney Rausch advised that Dr. and Mrs. Schmidt, 617 Pershing Avenue, had been before the Board on September 21, 2009 to request a waiver of Section 2 C and D of Ordinance 09-08-01. At that time, the Board had declined to grant any waivers. He advised that they have now hired Attorney Perry. The Local Agency Hearing is the formal method to present the waiver request for the record.

Attorney Rausch advised that the first section deals with the required Site Plan and the second section deals with exceptional hardships in which the Board may grant relief. Attorney Perry will present the case. He stated that it is then up to the Board to determine if there is a hardship. He noted that there is a stenographer present so there may only be one speaker at a time.

Attorney Ron Perry advised that this is a formal variance request. He noted that he will ask for testimony from Dr. Schmidt, Preston Chronister and Mr. Allison. He will then give a closing statement.

Those that wished to speak during the hearing were sworn in by Attorney Rausch.

Attorney Perry first called upon Dr. Schmidt. He asked him questions regarding ownership of his property at 617 Pershing Avenue as well as if there have been any property line disagreements in the past. The deed for the property dated August 18, 2002 was submitted as an exhibit.

Attorney Perry then called upon Preston Chronister, the contractor for the Schmidts. He asked him to describe the proposed project to the Board and provide information on how the project location correlates to the property lines. A Building and Remodeling Plan prepared by Mr.

Chronister and a hand drawn plot plan were submitted as exhibits. It was noted that the property owner did not have an official survey done when the property was purchased. Mr. J. Smith commented that the purpose of submitting a survey is to prove that the information is correct.

Attorney Perry called upon Mr. Allison. He asked him to describe the purpose of the ordinance and questioned if he felt this case presents an exceptional hardship. Attorney Rausch advised that it is not Mr. Allison's decision to determine a hardship. He noted that it is the decision of the Board of Supervisors. Attorney Perry asked Mr. Allison questions regarding the impact of this project on the surrounding area.

Attorney Rauch asked Mr. Allison if there have been Site Plans submitted since the ordinance went into effect. Mr. Allison advised that there have been and added that this ordinance has brought forth information that would not have been discovered otherwise. Attorney Rausch commented that Mr. Chronister was not aware of other municipalities that have this same type of ordinance. He asked Mr. Allison if he was aware of any. Mr. Allison stated that York Township has similar regulations but does not know if it is an ordinance.

Attorney Perry advised that the purpose of this request is not to challenge the ordinance but to ask the Board to look at the circumstances to determine if it would allow for a variance. He provided information as to why he believes it would meet the requirements for a hardship. He added that he does not feel that the decision of the Board will set a precedence as there is case law that precludes this.

Mr. J. Smith noted that he went through this same process to place a covered patio on the rear of his home and it took less than two weeks to obtain a Site Plan.

Attorney Rausch commented that Mr. Chronister stated that he was in the office for a Building Permit prior to the ordinance going into effect. Mr. Allison advised that he picked up the information but a Building Permit application was never submitted.

J. LaRue Harvey, 142 Meadow Hill Drive, stated that he is the neighbor of Mr. J. Smith. He stated that Mr. J. Smith had spoken of adding the covered patio to his home for years and when he was ready to do so, he went through the survey procedure.

Attorney Rausch closed the testimony. He advised that the Board has 30 days to give a written decision. He noted that an Executive Session may be held to discuss the circumstances of the case but a formal vote must be given during a public meeting. The Board agreed to hold their decision until the next Board of Supervisors meeting.

**The meeting recessed at 7:50 p.m. and reconvened at 7:52 p.m.**

5. The following items of correspondence were presented:

- A. Mrs. Gunnet advised that any Form U applications that had been received from Modern Landfill would be on the counter in the rear of the room.
- B. Mrs. Gunnet advised that she has received an invitation from the York County legislators for a discussion on the York County Economic Development Plan. The meeting will be held on Wednesday, December 2, 2009 at the office of the Realtors Association of York and Adams County. She noted that Mr. Allison has attended these meetings in the past. There is no RSVP required.

6. Plans for Approval:

- A. **MARK S. & DARLENE R. GLADFELTER – Final Subdivision Plan #06011 by James R. Holley & Associates for 2 lots along Springvale Road** – Patti Fisher with James R. Holley & Associates advised that this is a two lot subdivision along Springvale Road. One acre from the 48 ½ acre farm would be subdivided which would include the existing house, well, septic system and driveway. She advised that a right-of-way would be created to provide access to the Gladfelter residence that is located behind the property. She noted that the driveway currently exists across the property but there was never a recorded easement agreement. She described the layout of the lots. Mr. P. Smith asked if the two lots share a driveway. Ms. Fisher stated that they have separate entrances off Springvale Road but there is a connection between the lots. She noted that the connection will be closed off.

Ms. Fisher advised that they are requesting three waivers. The first waiver request is from Section 302.3K for contours. She stated that they are showing contours on the plan but it is not at the intervals that the Township requires.

The second waiver is for Section 406.1 for the extension of public sewer if located within 1,000 feet of the main. She stated that the house currently has a septic system. She added that the property is located outside of the growth boundary area and she is aware that the Board is not in favor of extensions outside of the area. Mr. P. Smith advised that he is not against extending public utilities outside the growth boundary area if it is necessary.

Ms. Fisher advised the third waiver is for Section 502.2 for the widening of the road. She noted that Mr. Trout did not have an issue granting this waiver.

**On the motion of Jan Smith seconded by Dean Heffner, the Board granted the waivers for contours and extension of public sewer. Motion carried. Three votes yes.**

The waiver for widening Springvale Road was discussed further. Ms. Fisher advised that they are not proposing any dwellings for the remaining acreage. Mrs. Gunnet noted that it may be necessary for the road to be widened if the tract was subdivided further but this could be addressed on a future plan. **On the motion of Dean Heffner seconded by Jan Smith, the Board granted the waiver for the road widening. Motion carried. Three votes yes.**

Mr. Allison advised that note #13 on the plan is in regards to a Conservation Plan. He stated that they currently have a plan but it is not valid because the person farming the land has changed. A new plan will need to be created and submitted to the Township to be kept on record. **On the motion of Jan Smith seconded by Dean Heffner, the plan was approved. Motion carried. Three votes yes.**

- B. WILLIAM H. LUTZ & STEVEN L. & CAROL A. LUTZ – Final Subdivision Plan #L-5307 by Gordon L. Brown & Associates for 5 lots along Springvale and Zion Church Roads** – Steven Lutz advised that he is obtaining land from his father and this subdivision will connect it to his property. He noted that he has been farming the land and there are no plans for houses at this time.

Mr. Allison advised that they are requesting waivers. He stated that the first one is of Section 303.1 for plan scale. He noted that sheet 4 of the set shows the entire property and therefore is not to the required scale.

The second waiver request is of Section 302.3K for contours. Mr. Allison explained that they are not proposing any development at this time.

The final waiver request is of Section 406.1 for the extension of public sewer. Mr. Allison advised that there is approximately 300' along Circle Drive that would be affected. He commented that a portion of the property is zoned Industrial and if a future subdivision were to occur, the extension could be required at that time. **On the motion of Jan Smith seconded by Dean Heffner, the Board granted the waivers of plan scale, contours and extension of public sewer. Motion carried. Three votes yes.**

Mr. Allison advised that a Road Right-of-Way agreement has also been signed by the Lutzes and needs to be approved. He stated that there is a barn located within the dedicated right-of-way. Should future development of Lot 6 take place or the Township require the road to be widened, it would give six months to have the barn removed. He added that this would allow them to keep the barn until road widening would be required. **On the motion of Jan Smith seconded by Dean Heffner, the Board approved the Road Right-of-Way agreement. Motion carried. Three votes yes.**

**On the motion of Jan Smith seconded by Dean Heffner, the Board approved the plan. Motion carried. Three votes yes.**

Mr. Lutz asked if the property would need to be resurveyed if he wanted to obtain a Building Permit for a pole building. Mr. Allison advised that the Site Plan section of the Building Permit Ordinance does not apply to pole buildings and he would only need to apply for a Building Permit.

7. Solicitor:

- A. Attorney Rausch advised that he has received a phone call from Emanuel United Church of Christ letting him know that they are shopping for a snow blower.

8. Township Engineer:

- A. Act 537 Plan Update #3 – Mrs. Gunnet advised that the letters were sent out and approximately 30% were received back. She thanked those who returned the questionnaires.
- B. Mrs. Gunnet advised that a request for a security reduction has been received from Act 167 Group (Sonic) in the amount of \$41,855.30 which would bring the balance to \$5,285.53. On the motion of Jan Smith seconded by Dean Heffner, the Board approved the security reduction based on the recommendation of the Township Engineer. Motion carried. Three votes yes.
- C. Mrs. Gunnet advised that a request for planning module exemption has been received for Brookfield Crossing and Rockledge. She explained that an exemption can be granted if the development poses no projected overload of the sewer system and treatment facility. She noted that she has received a letter from Springettsbury Township stating that there is capacity available for these proposed developments. **On the motion of Jan Smith seconded by Dean Heffner, the Board granted the planning module exemptions for Brookfield Crossing and Rockledge. Motion carried. Three votes yes.**

9. Public Works:

- A. The Monthly Report for November is available for review. Mr. P. Smith asked if the Board had any questions.

Mr. J. Smith questioned if Meadow Hill Road is the same as Meadow Hill Drive on the street update. Mr. Trout stated that it is. Mr. J. Smith questioned the repair that was done. Mr. Trout advised that there was a sinkhole that was repaired. He added that he would

like to add the dates that the streets were adopted to the spreadsheet as well as any additional information that can be found. He commented that information prior to 1999 is limited. The Board agreed that the street maintenance spreadsheet is a good start. Mr. P. Smith added that he does not feel that the information prior to 1999 will be very beneficial. He added that the spreadsheet exceeds his expectations.

The Board questioned the amount of loads for leaf collection. Mr. Trout advised that there were approximately 340 loads last year. He stated that he anticipates that the loads will increase as they are collecting in areas that they never collected before. Mr. P. Smith asked Mrs. Gunnet to see if and by how much the solid waste invoice increases during leaf collection.

Mr. J. Smith asked if the crack sealer machine has been fixed. Mr. Trout advised that it has.

- B. Kendale Pump Station – force main – Mr. Trout advised that the Board received information regarding the force main in their report. Mrs. Gunnet advised that a permit will need to be obtained from PennDEP. Mr. Trout stated that C.S. Davidson will need to create a design as PennDEP is requiring that the force main will need to be lowered because of the stream location. He added that a section of the force main will need to be abandoned once the new section has been installed and connected. Mr. Heffner asked if they would be hooking in above the air release when the main needs to be pumped. Mr. Trout advised that it could be done this way. Mrs. Gunnet noted that the force main would need to be drained. Mr. Heffner expressed his concerns about the pumping of the main due to the amount of flow. Mr. Trout stated that it takes approximately five hours to drain Beaverson. Mr. Heffner commented that there is a difference between working at night and during the daytime. Mrs. Gunnet advised that PennDEP will not permit the stream to be relocated. Mr. J. Smith asked if they gave any reasons why this could not be done. Mrs. Gunnet stated that they did not. Mr. J. Smith suggested that Representative Saylor and Senator Waugh be contacted. Mr. Trout commented that the stream has moved between 12' and 15' which has left the pipe exposed. Mrs. Gunnet added that if there is a strong storm, the pipe could break. Mr. J. Smith stated that PennDEP needs to give a reason why the stream cannot be relocated. Mr. P. Smith stated that Representative Saylor and Senator Waugh need to put the pressure on state agencies. Mrs. Gunnet advised that if the legislators are contacted, they will want to know a rough cost for the work to be done. An estimate will be obtained and then the legislators will be contacted and a meeting will be scheduled.
- C. **Louvers – Public Works Building** – Mr. Trout advised that quotes for the electrical work have been obtained for the louvers to be retrofitted at the Public Works Building. The lowest quote is from Century Farms. It was the **consensus of the Board to have Century**

**Farms complete the work.** The Board agreed to pay the additional \$100 for them to provide their own equipment to access the louvers.

- D. **Snow Plowing Equipment Contractor Bid results** – Mrs. Gunnet advised that the bid results are attached to the Board’s agenda. The low bidder is Trout Excavating and Paving. **On the motion of Jan Smith seconded by Dean Heffner, the bid was awarded to the low bidder. Motion carried. Three votes yes.**

Mr. Trout recommended that the Board approve for the second bidder, Craley Excavating, to be used in emergency situations at the prices bid. There would not be a setup fee. Mr. J. Smith asked if there is a setup fee for the low bidder. Mrs. Gunnet explained that the setup fee of \$300 per large truck was included in the bid document. Mr. J. Smith advised that this setup fee should be included with all the costs on future bid reports. **On the motion of Jan Smith seconded by Dean Heffner, the Board approved the use of Craley Excavating in the event of an emergency. Motion carried. Three votes yes.**

- E. Update – Line Painting bid – Mrs. Gunnet advised that the line painting bid was done as a joint bid. She stated that she has found that there were issues with the quality of the work. The lines painted in both Manchester Township and East Manchester Township did not have the correct reflectivity. When checked, it was determined that the lines in the Township were not correct either. Also, the distance between the center lines was not the correct measurement. She advised that payment is being withheld since the work does not meet PennDOT’s specifications as required by the bid.
- F. Date to meet with Public Works employees – It was the consensus of the Board to postpone the meeting until 2010 as there are no pressing issues at this time.

10. Other Business:

- A. Mr. P. Smith reminded that the MA & PA Community Greenway Open House will be held on Wednesday, November 18<sup>th</sup> from 12:00 p.m. to 8:00 p.m. at the Dallastown Fire Company.
- B. Mr. P. Smith advised that the Dog Officer’s report for October is available for review.
- C. Request for Proposal – Township Engineer – Mr. P. Smith advised that a Request for Proposal for Township Engineer was advertised and the Board has received the proposals. Mr. Heffner asked if a decision would need to be made before the first meeting in January so that the engineer could be appointed at the reorganizational meeting. Attorney Rausch advised that the appointment could be made at a later date. Mr. J. Smith suggested holding a workshop to review the proposals.

- D. **Request for Proposal – Investment Accounts** – Mrs. Gunnet advised that the Board has received information on the proposals for the investment accounts. She stated that the funds must be 100% liquid with no fees. She stated that the best proposal came from Peoples Bank which uses the Wall Street Journal Rate minus 1.3 points. She stated that the Wall Street Journal Rate is the same as the Federal Prime Rate which is currently 3.25. She noted that it has been this rate since December 16, 2008. She added that if this rate would substantially decrease, the funds could be pulled out of the account and put into a Certificate of Deposit. Mrs. Gunnet explained the other proposals that had been received. **It was the consensus of the Board to move the funds from Integrity Bank to Peoples Bank.**
- E. Joint Comprehensive Plan Update – Mr. Allison advised that at the last York County Planning Commission meeting, a favorable review was received and the plan was approved. He stated that it will be reviewed to make sure all the necessary revisions are made and then a public meeting will be held. Mr. P. Smith asked why he has been attending the meetings and making the revisions instead of Spotts, Stevens, McCoy. It was noted that they may not have budgeted for additional meetings. Mr. P. Smith stated that it should not be the responsibility of the staff to handle this work. He asked if they have been paid in full. Mrs. Coble advised that they have not. **On the motion of Jan Smith seconded by Dean Heffner, the Board voted to hold future payments to Spotts, Stevens, McCoy. Motion carried. Three votes yes.** Mrs. Gunnet advised that she will schedule a public meeting for next year.
- F. Mrs. Gunnet advised that the 2010 Budget is now open for inspection. She stated that there is no increase in the Real Estate or Fire Hydrant taxes. She stated that the Street Light Tax will increase from .2 to .25 mils. She noted that this tax only affects properties on Starview Drive and Rimrock Road. The increase is due to the anticipated 125% increase for unmetered electricity. Mrs. Gunnet advised that there will be a \$5 per quarter increase for the sewer bill which will take effect February 1<sup>st</sup>.
- Mr. P. Smith thanked those who were part of the budget preparation. He also thanked the Windsor Area Recreation Commission and the York Area Regional Police Department for their part in eliminating or decreasing rate increases. He stated that the Board had asked for their help and both were receptive.
- G. Mr. P. Smith advised that the Board has received the Township Manager's Report for October. Mr. J. Smith asked if the lunchroom floor at the Public Works Building was cleaned. Mrs. Gunnet advised that it was. She stated that pitting was found and was waxed again. The cleaning company is recommending that the floors be waxed twice a year due to the stones being dragged into the building.

H. Mr. P. Smith advised that the Zoning Report for October is available for review.

11. Unfinished Business:

- A. Panorama Hills Pump Station Update – Mrs. Gunnet advised that a meeting has been scheduled with Robert Holweck and Keystone Custom Homes on December 18<sup>th</sup> to discuss the progress of the project.
- B. Joint Stormwater Drainage Study – Mrs. Gunnet advised that she has submitted the paperwork to PennDEP and she is waiting to hear back from them.
- C. Proposed Open & Confined Burning Ordinance – Draft #5 – Mrs. Gunnet advised that changes have been made and she is waiting for an approval letter from PennDEP.
- D. Herre Bros. – Trench drains – Mrs. Gunnet advised that a meeting was held with the manufacturer, eciConstruction and Herre Bros. She stated that there is an issue with the way the trench drains were installed. The manufacturer was asked if they would warranty the work. They stated that they would not since it was not installed to the correct specifications. Mrs. Gunnet noted that she has this in writing from the manufacturer. During the meeting, Herre Bros. advised that they do not work with concrete and that eciConstruction was responsible for bringing the concrete to grade. She noted that all the work on the trench drains was included in the plumbing bid. She suggested taking legal action against Herre Bros.

Mr. Heffner commented that the Township paid for LSC Design to do inspections on the work and he feels that they are at fault as well. Mrs. Gunnet advised that there was not a full time inspector on site. Mr. Heffner noted that they took pictures of the work. Mr. J. Smith commented that Kathy Conley had stated that there was no need for additional inspectors. Mrs. Gunnet questioned if the Board wanted to take legal action against LSC Design also. Attorney Rausch advised that they could if they wished to. **On the motion of Jan Smith seconded by Dean Heffner, the Board authorized for Attorney Rausch to proceed with legal action against Herre Bros. and LSC Design. Motion carried. Three votes yes.**

- E. Starview Detention Pond – Mrs. Gunnet advised that a notice had been posted on site for the property owner that she had not been able to contact and she has not received a response. She noted that she will contact the Sheriff's Office and submit an application to have the inmate crew perform the work. She noted that recently an inmate crew did work on the detention basin between Red Lion and Yoe. Mr. Trout commented that no dumping signs should also be posted.

- F. Knox Box Ordinance – Mrs. Gunnet advised that the Knox box ordinance was discussed at the fire association meeting and changes were recommended to require a Knox box for all commercial, industrial and institutional uses even if they do not have an alarm system. She asked if the Board agrees with this change. It was the consensus of the Board to make the change. Mrs. Gunnet will advertise the ordinance for adoption.
  - G. Possible rental of acreage – Mr. P. Smith advised that this needs to be discussed as it is soon time to plant certain crops. Mr. Heffner stated that much depends on PennDEP's response to the usage of this land for a woody waste collection site. Mr. P. Smith asked how much land Mr. Dehoff is looking to rent. Mrs. Gunnet advised that she will walk the land with Mr. Dehoff and report back to the Board.
  - H. Regulations on Storage of Recreational Vehicles, Boats, Campers, Trailers and Trucks – There was no update.
  - I. Change Order – eci – G-16 – Modification to stone release channel – \$6,565.05 – This will be held until next spring.
  - J. Mr. P. Smith commented that the Cluster Overlay topic was not on the agenda. The Board advised that it has been eliminated from the Zoning Ordinance and Mr. Allison will not be working on it at this time.
12. Public comment – Richard Bolton, 3018 East Prospect Road, questioned what draft #5 of the Open & Confined Burning Ordinance is. Mr. P. Smith advised that it is similar to draft #4 but includes wording under the agricultural exemption regarding leaf waste. Mrs. Gunnet added that it also changed the exemption for agricultural burning from 10 acres to 5 acres. Mr. Bolton commented that it is still burning regardless of the size of the land. He stated that it does not make sense why the Township is in this situation. A ban on burning was not needed in the past but now PennDEP does not want burning. He asked why the Township is trying to please them for only a couple of dollars per resident per year. He asked that the Township determine the cost for the collection of woody waste. Mr. J. Smith commented that the Township does not know what the fines will be for noncompliance. Mr. Bolton stated that at the meeting when PennDEP was present, there was no mention of fines, only that they were holding approximately \$50,000 per year for several years. Attorney Rausch advised that PennDEP has the authority to levy fines but since the Township is working on an ordinance that complies with their regulations, none have been issued. Mr. Bolton noted that the regulations on burning have not been enforced statewide. Mr. P. Smith advised that this is not a favorable position. Mr. Bolton asked what the fines are. Mr. P. Smith stated that he did not know exactly what they are. He added that he is aware that the grant money does not cover the entire cost for the collections. He suggested that he contact Representative Saylor and Senator Waugh with his concerns. Mr. J. Smith advised that he does not want to be part of a Board of Supervisors that gets fined because of noncompliance. Mr. Bolton stated that he feels

that the Board will approve the ordinance no matter what the residents say. He asked again that the Township figure the cost for woody waste and leaf collection. Mr. P. Smith advised that the woody waste is approximately \$4,000 per collection but knows that it will increase. He stated that he does not know what the cost for leaf collection would be. Mr. Bolton reminded that there are more costs involved than just the collection.

13. Mr. P. Smith asked the Board if they had any comments. Mr. J. Smith did not have any comments.

Mr. Heffner stated that at Convention there was information on State Police Funding. He stated that he takes offense to this as some municipalities are getting free service by relying on the State Police for coverage. He added that it is much easier to pass a budget without a \$1 million line item for police services. Mr. P. Smith suggested adopting a resolution saying that the Township is against PSATS view and support charging a fee for those who elect to have State Police coverage.

Mr. P. Smith did not have any comments.

14. On the motion of Jan Smith seconded by Dean Heffner, the bills were approved. Motion carried. Three votes yes.
15. The meeting of the Windsor Township Board of Supervisors adjourned into an Executive Session to discuss a personnel matter at 9:20 p.m.

Respectfully submitted,

Jennifer L. Gunnet  
Secretary

CITIZENS PRESENT

November 16, 2009

|                    |                                 |
|--------------------|---------------------------------|
| Preston Chronister | 1835 Alpine Road York PA        |
| Marguerite Schmidt | 617 Pershing Avenue Red Lion PA |
| Doug Schmidt       | 617 Pershing Avenue Red Lion PA |
| Ronald Perry       | 345 East Market Street York PA  |
| Vera Miller        | 830 Marvell Drive York PA       |
| Patti Fisher       | James R. Holley & Associates    |
| Allen Emenheiser   | 1027 Hastings Boulevard York PA |
| Yvonne Emenheiser  | 1027 Hastings Boulevard York PA |
| Stefanie Brennan   | On behalf of resident           |
| Gene Zimmerman     | 860 Zimmerman Road Red Lion PA  |
| Bobbie Zimmerman   | 860 Zimmerman Road Red Lion PA  |
| June Lloyd         | 3119 Lakefield Road York PA     |
| J. Michael Hess    | Arro Consulting                 |
| J. LaRue Harvey    | 142 Meadow Hill Drive York PA   |
| Charles Silar      | 1500 Windsor Road Red Lion PA   |
| Carol A. Lutz      | 240 Springvale Road Red Lion PA |
| Steven Lutz        | 240 Springvale Road Red Lion PA |
| Richard Bolton     | 3018 East Prospect Road York PA |