

WINDSOR TOWNSHIP BOARD OF SUPERVISORS

November 19, 2012

1. The meeting of the Windsor Township Board of Supervisors was called to order by Chairman Dean Heffner at 6:00 p.m.

Those present: Dean Heffner, Paul Smith, Rodney Sechrist, Attorney Charles Rausch, Mike Hess, 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 Rodney Sechrist seconded by Paul Smith, the minutes of the November 5, 2012 Budget Meeting and November 5, 2012 Regular Meeting were approved. Motion carried. Three votes yes.
4. 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 notification from Comcast informing that there will be lineup changes effective December 10th. They will be removing 11 channels and adding 10 others.
5. Public Hearing & Possible adoption of Proposed Zoning Ordinance – Mr. Heffner opened the Public Hearing. Mr. Hess gave a synopsis of the process to arrive at this point. He noted that the Comprehensive Plan had been started in 2008 and adopted in 2010. The rewrite of the Zoning Ordinance began approximately 1 year ago. The draft was recommended for adoption by the Windsor Township Planning Commission on August 16, 2012 and by the York County Planning Commission on October 2, 2012. He advised that there are two new zones proposed and read the purpose of the Rural Residential and Neighborhood Commercial zones. He then asked for public comment.

Dan Rooney, 1512 3rd Avenue, York, advised that he is a planner by trade and is representing York Shotokan. He stated that the owners, both present, oppose the rezoning of their property at 3195 East Prospect Road, York from C-1 to C-N. He explained that they are limited with the types of uses that are permitted between the zones. He added that “clubhouses” are not permitted in the C-N zone and feels that the current business would be considered an athletic club, therefore making it a non-conforming use. He advised that the owners had purchased the property with the intent for marketability. He presented a letter to the Board. Larry Selfon, owner, stated that the property is adjacent to York Excavating and they had considered purchasing it but their use would not be permitted in the C-N zone. He requested that it remain zoned C-1.

Attorney Robert Strickler, 110 S. Northern Way, York, advised that he represents W. David Hildebrand and Harold Hildebrand III. They own Tax Map 12, Parcel 1A which is proposed to be rezoned from R-1 to R-R. He stated that this property is currently adjacent to other residential zones and Springettsbury Township. He noted that it is the only single lot that is proposed to be rezoned to R-R and feels that it is selective zoning. He advised that the Hildebrands had purchased the 68 acre tract with the intention to develop it and the rezoning will affect the value of the property. He noted that they were previously

working with a developer. In 2006, the Township had sent a letter to the developer to request the status of the project. The developer requested that no further action be taken on the plan due to the economy.

Harold Hildebrand, 1245 Delta Road, advised that they had purchased the property to develop under the R-1 zoning. He stated that a plan was ready for a development. Mr. Smith questioned if a plan had been submitted to the Township and what impact that would have. Mr. Hildebrand stated that a plan was not submitted to the Township but they had reserved sewer capacity. Mr. Allison advised that if a preliminary plan was submitted it would be grandfathered under the current ordinance.

Dave Hildebrand questioned if the fees for the sewer capacity reservation could be refunded and if the taxes would be lowered since the value of the property would decrease. Mr. Allison advised that the Township had verified with the York County Assessment Office that property assessment is based on land use and not the zoning classification.

Attorney Tim Bupp, CGA Law Firm, advised that he represents Marlin and Lois Bupp of 1680 Freysville Road. He stated that he feels the Township's proposal would create spot zoning. He commented that the tracts that the Bupps own are surrounded by existing developments under the R-1 Zone. He noted that there are already road stubs to the tracts. He added that these tracts are similar in nature to the surrounding tracts but will have a different zoning. Attorney Bupp advised that the regulations are well developed but he feels the Township could face a validity challenge based on the location of the chosen properties. He presented a letter to the Board.

Peggy Manifold McFarland, 902 Windsor Road, advised that she is the Executor of the estate for her father's property at 900 Windsor Road. She stated that she is opposed to the rezoning of the property from R-1 to R-R. She commented that she feels that the Township only gave 30 days notice of the zoning change which she does not feel is enough. She added that she feels the Township is spot zoning. She explained that her father was the developer of Manifold Manor and had intended to develop this property at some time. Ms. McFarland advised that none of the children farm and does not feel that 53 acres can be a self supporting farm.

Steve Seitz, 60 Carson Lane, advised that he owns the property at 2831 Cape Horn Road. He stated that it is a residential home that he rents out. It is proposed to be rezoned from R-1 to C-N. He commented that he feels that this will diminish the value of the property, will make it unsellable and the bank will not lend money due to it being a residential use in a commercial zone. Mr. Seitz stated that the Township just approved the Comprehensive Plan and questioned why the Township is changing it. Mr. Hess advised that the Comprehensive Plan is not enforceable. Mr. Allison added that the Comprehensive Plan is the driving force for the text and map of the Zoning Ordinance. Mr. Hess explained that the Rural Residential Zone was called Residential Open Space in the Comprehensive Plan. Mr. Seitz commented that he wanted a zone to protect properties where C-1 is adjacent to R-1 and he sees that these zones still abut each other on Cape Horn Road beside the Carol Heights development and across from the Living Word Church.

Mr. Allison clarified that an existing residential use is permitted in the C-N zone. Mr. Hess added that it is not considered to be grandfathered or non-conforming. Mr. Seitz stated that the banks will still not loan money because it is considered commercial.

Jack Dehoff, 400 Kendale Road, advised that his farm is proposed to be rezoned to R-R. He commented that he does not feel that there is such a thing as R-R. He stated that it should be either Ag or R-1. He stated that agricultural land is needed and constructing 1 home on 2 acres is not useful. He noted that his farm is adjacent to the Windsor Commons Apartments and Shopping Center and he feels it should be zoned R-1. Mr. Dehoff stated that he has always worked with the Township and currently has 3 sewer lines crossing his property. He commented that the Township now wants a 25' x 250' right-of-way and he does not feel it is right to give up his land for \$1. Mr. Sechrist asked how much acreage he owns. Mr. Dehoff stated that it is about 200 acres.

John Fitz, 510 Windsor Road, advised that he owns 40 acres split by Windsor Road. He stated that the portion on the western side of Windsor Road, approximately 31 acres, is proposed to be rezoned from R-1 to R-R. He commented that he has access to public water and sewer and feels that this portion should be zoned R-2 since the golf course adjacent to his property is this zone. He added that he feels the R-R zoning is spot zoning because there are no other properties in this area on the same side of Windsor Road that are zoned R-R.

Brock Warner stated that he owns United Tire on East Broadway which is proposed to be rezoned to C-N. He admitted that he did not do any research on the zone and questioned how the change would affect his property. Mr. Allison advised that his use could be continued as is. Mr. Warner asked if there is commercial zoning on Broadway or Delta Roads. Mr. Allison noted that the commercial zoning is south of his property. He added that the current zoning of United Tire is R-2 and although the zoning change will not bring him into conformity, it would allow for a commercial use on the property. It was asked if the existing business could be continued if the property were sold. Mr. Allison stated that the business could continue as it exists today. Mr. Warner questioned if he would be able to expand. Attorney Rausch advised that he would be able to expand up to 25% of the existing use. Mr. Warner commented that the zoning of the property with his home is also proposed to change to C-N. Mr. Allison explained that the house is a permitted use and he could also have a business in conjunction with the residence. It was asked if United Tire could be expanded onto the lot with the house. Mr. Allison advised that this would not be permitted. Mr. Hess read some of the uses permitted in the C-N zone.

Harold Hildebrand questioned why these changes are taking place. Mr. Hess advised that the R-R zone is a way to manage overall growth in the Township. He stated that the zone provides for open space. Mr. Hildebrand questioned who would be responsible for the open space. Mr. Allison advised that it would depend upon how the development was designed.

Mr. Hess advised that the current ordinance was adopted in 2001 and the proposed ordinance will not be in place forever. He stated that there has been a disproportionate amount of higher density growth in the Township and this taxes the infrastructure. The R-R zone will help to balance out the type of growth. As the market changes, the zoning can be reassessed later.

Dave Hildebrand asked what control the Township has over the roadways. Mr. Hess advised that there are both Township and PennDOT roads in the township. Attorney Rausch noted that the Township has adopted a Capital Improvements Plan which allows the Township to assess a fee for off site improvements.

Toni Danley, 885 Thomas Armor Drive, advised that she represents the Red Lion Cemetery Association. A vacant property that they own on Craley Road is proposed to be rezoned from R-1 to C-N. She stated that the lot was intended for the expansion of the cemetery but this is not a permitted use within the C-N zone. Mr. Allison advised that he had spoken with their attorney earlier in the day regarding this issue. He noted that it was not the intent of the Township to prohibit the expansion and feels that the Board could entertain a change in either the text or the map.

Marlin Bupp, 1680 Freysville Road, estimated that the number of lots he would be able to subdivide from his farm will decrease from 250 to 50 if his lot is rezoned to R-R. He stated that this devalues his property by 80%.

Dan Rooney suggested adding clubhouses as a permitted use in the C-N. He stated that York Shotokan has been in business for 20 years and is a permitted use in the C-1 zone. Mr. Allison advised that retail sales/services and offices are still permitted in the C-N zone. He noted that the proposed C-1 zone does not permit clubhouses either. He added that he believes the business would still be considered a permitted use in both the C-N and C-1 zones.

Rod Kohler, 805 Lombard Road, advised that he is proposed to be rezoned and this is the third time he has been rezoned in 12 years. He stated that he was rezoned when the Windsor Commons Townhouses were built and when the signal was installed. Mr. Allison advised that he had spoken with Mr. Kohler and had looked into the rezoning but was not able to confirm that he was previously changed. Mr. Kohler commented that he does not know what kind of hardship this rezoning could create for him.

Mr. Hess advised that the Township has spoken with the Chairman of the Zoning Hearing Board regarding the process for appeals and challenges. He stated that a correction must be made to Section 601.4 of the Ordinance. Based on House Bill 1329, the Zoning Hearing Board hears validity challenges and the Board of Supervisors hears curative amendments.

Mr. Allison advised that the Township has received correspondence from Laucks & Laucks on behalf of the Red Lion Cemetery Association, Marlin Bupp regarding the rezoning of his property from R-1 to R-R and Ed Heindel, Chairman of the Zoning Hearing Board, regarding procedural changes, livestock operations and definitions for incidental and substantial.

Mr. Smith questioned if it would be a concern to allow for a cemetery in the C-N zone. Mr. Allison stated that a cemetery is listed under the definition for Place of Worship so that would need to be added to the zone. Attorney Rausch commented that there is also a separate definition for cemetery. Mr. Smith advised that he would like to see Place of Worship permitted in all zones.

Mr. Sechrist asked if part of the Agricultural Zone is being changed to R-R. Mr. Allison advised that all of the proposed R-R parcels came from the R-1 zone. Mr. Hess noted that agricultural uses are permitted in the R-R zone with the exception of large scale livestock. Jack Dehoff questioned if the large scale livestock regulations are compatible with the state requirements. Mr. Hess stated that they are. Mr. Dehoff asked if it incorporates rented ground. Mr. Allison advised that it is not included. Mr. Hess added that if there is an existing large scale livestock operation, it would be grandfathered. He advised that the Township's regulations would not supersede state requirements.

Mr. Heffner asked if there was any more public comment. There being none, the Public Hearing was closed.

Bob McFarland questioned the subdivision regulations in the R-R zone. Mr. Hess noted that it is dependent upon the parent tract size. Mr. McFarland stated that their farm is 53 acres. Mr. Hess advised that it would be required to be developed under Open Space Option #1. He explained that it is not possible to determine a figure as there are items that must be netted out and open space is required.

Margie Lewis, 690 Kendale Road, questioned if the rezoning benefits the MS4 regulations. Mr. Hess advised that the Township is not implementing the new zone because of the MS4 regulations though it could have an impact depending how development occurs. She questioned how soon the Ordinance could be adopted. Mr. Hess stated that it is advertised for possible adoption this evening.

Mr. Sechrist advised that he is not prepared to adopt the Ordinance this evening. He stated that he needs a better understanding and does not want to create hardships. Mr. Heffner commented that the new zone will help to slow development.

Mr. Dehoff questioned if it would be beneficial to have a committee of landowners to discuss the regulations. Mr. Smith advised that the Ordinance rewrite was discussed at the Planning Commission meetings which were open to the public. He commented that there were not many people in attendance. Mr. Hess added that portions of the Ordinance had been previously presented to the Board at least once for their input. Mr. Bupp questioned why the homeowners were not notified prior to the letter they received. Mr. Smith advised that articles had been put in several newsletters.

Attorney Rausch advised that the Board has 90 days to approve the Ordinance before it would need to be readvertised. It was the consensus of the Board to table the adoption of the Ordinance. A notification of when it will be discussed again will be placed on the Township website and in the local newspaper.

The meeting recessed at 7:19 p.m. and reconvened at 7:23 p.m.

6. Proposed 2013 Budget – Open for inspection with adoption on December 17, 2012 – Mr. Heffner advised that the proposed 2013 Budget is open for inspection. Mrs. Gunnet gave an overview of the budget. She advised that the Real Estate Tax millage rate will remain the same at .6 mils. She noted that there will be a transfer from the reserve account. She added that the largest expense is for public safety at 49.3%. The Fire Hydrant Tax will remain at .1 mils. The Street Light Tax will be eliminated as the lights have been removed. Effective February 1, 2013, the sewer bill will increase by \$7.50 which will make the quarterly bill \$105. The last increase was February 2011. She advised that 2013 will be the second year for the 7 year pump station improvement plan. Funds for the Panorama Hills pump station upgrade are also included in the budget.
7. Solicitor – Attorney Rausch did not have anything to report.

8. Township Engineer:

- A. MS4 Update – Mr. Hess advised that a Notice of Intent has been submitted to PennDEP with approval slated for March 2013. He stated that the Chesapeake Bay TMDL Plan must be done within 1 year. However, the EPA has not approved the plan for Pennsylvania yet. The Township cannot proceed until this is approved. He noted that there are no TMDL streams in the Township. Fishing Creek is an impaired stream that could eventually become a TMDL. He stated that if the Township is proactive, this may help to delay or eliminate it becoming a TMDL stream. Mr. Allison added that there are federal standards that need to be met and we must do as much as possible to comply.
- B. **Bid results – Manor Road, Freysville and East Prospect Road Generators** – Mr. Hess advised that the bids were opened for the replacement of the generators and associated work for Manor Road, Freysville and East Prospect Road pump stations. There were 6 bidders. The lowest was from Monacacy Valley in the amount of \$283,200. He noted that they have done work in the Township before. He has reviewed the bond and they are in compliance. He recommended awarding the bid. **On the motion of Paul Smith seconded by Rodney Sechrist, the Board awarded the bid to Monacacy Valley. Motion carried. Three votes yes.**

Mr. Smith questioned which budget the funds were allocated to. Mrs. Gunnet advised that it was in the 2012 budget but will be carried over to the Sewer Capital Improvements Fund for 2013.

9. Public Works:

- A. Mr. Trout advised that the Board has received the Monthly Report for November. He asked the Board if they had any questions. Mr. Heffner questioned if the Township is responsible for paying for the repairs to the generator at the Taylor Estates, Phase IV pump station. Mrs. Gunnet advised that Gemcraft Homes will be responsible for reimbursing the Township. Mr. Trout noted that rain blew into the generator exhaust during Hurricane Sandy and broke numerous parts.

Mr. Smith asked what the Township is doing regarding the storm water pipe on the Voytek property on Husson Road. Mrs. Gunnet advised that she has had correspondence with PennDEP. They looked at the pipe on site and feel that the size is sufficient although they did not perform any engineering calculations. Mr. Trout noted that there are no issues with pipes under Husson Road before or after his property. Mrs. Gunnet stated that she will try to get the PennDEP representative to put his findings in writing. Mr. Allison asked if the Township could file a formal complaint to PennDEP. Mr. Hess advised that he would contact a representative that he works with regarding this.

- B. Snow Removal discussion – Mr. Trout questioned if it is the desire of the Board to do all of the plowing in house in the future. Mr. Heffner stated that he feels it should be done by the Township employees. Mr. Trout noted that it is becoming more difficult to find third party contractors for plowing. He added that PennDOT had to rebid 3 times to get their routes covered. Mr. Trout advised that the Board will need to assess the equipment. Currently Mr. Dietz plows with the F550 truck which does not have a large bed but since he is centrally located it is more convenient when

refilling. Mr. Smith asked if a route is being added this year to alleviate some of Mr. Dietz and Jackie Trout's routes. Mr. Trout advised that a route is being added for Mr. Sematoske.

Mr. Heffner commented that in the future the Township may need to go to 2 shifts. Mr. Trout stated that he does not feel that is the best option because it keeps the residents waiting to be plowed out. Mr. Heffner advised that he does not want to purchase trucks to only be used for plowing. Mr. Smith suggested seeing how this winter goes with the extra plow route and reevaluate for 2014. Mrs. Gunnet advised that she could check with other municipalities to see how they handle plowing. She added that currently the Township meets the CDL regulations and they are dropped if a snow emergency is declared.

Lynn Cheeseman questioned what a snow emergency is. Mrs. Gunnet explained it is declared in larger storms so that cars are required to be removed from the streets.

10. Other Business:

A. **Resolution #2012R-11-10 – Procedures of implementation of Act 46 of 2010 and Act 87 of 2012 regarding permit extensions** – Mr. Allison advised that Act 46 allowed for permit extensions through July 2, 2013. Act 87 amends Act 46 to extend the expiration date to July 2, 2016. He stated that the Township currently charges an extension fee. This Resolution continues the same process. **On the motion of Rodney Sechrist seconded by Paul Smith, the Board approved Resolution #2012-11-10. Motion carried. Three votes yes.**

B. Payoff of General Obligation Bonds – Mrs. Gunnet advised that the Board had asked her to find out if it is possible to payoff the bonds early. She stated that she has checked into this and it is possible. It will save approximately \$6,000 in interest but some funds would be used to pay the fees for Attorney Hovis to do the paperwork to call the bond.

C. Mrs. Gunnet advised that the following terms will expire on December 31, 2012:

Planning Commission:	Jerry Pilachowski
Planning Commission:	J. LaRue Harvey
Zoning Hearing Board:	John Cheeseman
Vacancy Board Chairman:	Ronald Norman
Member at Large – YARPD	

Mr. Smith suggested that someone else be appointed to fill the Vacancy Board Chairman position. Mrs. Gunnet advised that the Township will be responsible for appointing a Member at Large for YARPD. She noted that she will contact those with terms to expire to see if they are interested in continuing to serve.

D. **Security Reduction – Argento (Ezio's Way)** – Mrs. Gunnet advised that Mr. Argento is requesting a security reduction. The sewer televising has been completed and has been approved. The amount to be reduced is \$1,130 which would leave a balance of \$14,205.50. She stated that they are also asking to eliminate the contingency amount and the security for the trees. Bob Argento advised that

the lots are wooded. Mrs. Gunnet noted that someone could purchase a lot and remove the trees. There was discussion on the amount of security held for sidewalks, trees and seepage pits. Mr. Smith asked for staff recommendation on the release. Mrs. Gunnet advised that it is standard procedure to hold security until the work is complete. Mr. Hess agreed. **On the motion of Paul Smith seconded by Rodney Sechrist, the Board granted a security reduction in the amount of \$1,130. Motion carried. Three votes yes.**

E. Mr. Heffner advised that the Zoning Report for October is available for review.

11. Unfinished Business:

A. Panorama Hills Pump Station – Right-of-Way – John & Kristen Falenski – Attorney Rausch advised that the Falenskis have signed the Agreement. **On the motion of Paul Smith seconded by Rodney Sechrist, the Board approved the Right-of-Way agreement for the Falenskis. Motion carried. Three votes yes.**

Attorney Rausch advised that the owners for the Golf Course are requesting an additional \$2,500 due to potential loss of revenue. He stated that he feels this is a reasonable amount. He added that he is giving the Enfields, Argento Family Partnership, John Argento, Mr. Dobrinoff and the Taylors one last opportunity to sign the agreement before proceeding with the Declaration of Taking.

12. Public Comment – Mr. Heffner noted that if speakers do not wish to have their address recorded, they must state this when speaking. Lynn Cheeseman, 910 Cranberry Lane, questioned the number of animals considered for a large scale livestock operation. Mr. Hess stated that the number of animals permitted is based on the size of the animals and the lot size. Ms. Cheeseman asked how these regulations affect Mr. Dehoff and Mr. Bupp. Mr. Hess advised that if they have this use now, it may continue and can be transferred to a new owner if sold.

13. Supervisors Comments – Mr. Heffner asked the Board if they had any comments. Mr. Sechrist did not have any comments.

Mr. Smith advised that he would like the staff to respond to the letters that were received regarding the rezoning, including the letters received this evening. Mr. Hess questioned if the Board wants to make a change for the karate club. Mr. Allison commented that their lot is not large and is pretty well built out. He added that when York Excavating wanted to purchase the property, it was for office space which would be permitted.

Mr. Allison stated that an overall density change will limit growth in the Township. Mr. Smith added that this will have an impact on the roadways and the school district. Mr. Hess advised that the change is to balance out the type of growth.

Lynn Cheeseman questioned how many houses per acre would be permitted in the R-R zone. Mr. Allison stated that there are many factors used to determine density so there is not an exact figure. A lot with a septic system would need 1 acre with 2 approved septic locations.

Mr. Heffner did not have any comments.

14. On the motion of Rodney Sechrist seconded by Paul Smith, the bills were approved. Motion carried.
Three votes yes.
15. The meeting of the Windsor Township Board of Supervisors adjourned at 8:17 p.m.

Respectfully submitted,

Jennifer L. Gunnet
Secretary

CITIZENS PRESENT

November 19, 2012

Tony Abel	3195 East Prospect Road York PA
Larry S. Selfon	3195 East Prospect Road York PA
Daniel Rooney	1512 3 rd Avenue York PA
Vera Miller	
Robert M. Strickler, Esquire	110 S. Northern Way York PA
Harold Hildebrand	1245 Delta Road Red Lion PA
W. David Hildebrand	401 Marlow Garth Red Lion PA
John & Lynn Cheeseman	910 Cranberry Lane Red Lion PA
Ramon G. Wolfe	40 Dietz Road York PA
Shawn Bupp	1682 Freysville Road York PA
Marlin L. Bupp	1680 Freysville Road York PA
Bob Argento	886 Heritage Hills Drive York PA
Steve Seitz	60 Carson Lane Red Lion PA
Bill Dietz	1306 Christensen Road York PA
Brock Warner	33 E. Gay Street Red Lion PA
Brock R. Warner	531 E. Lancaster Street Red Lion PA
Barbara Snyder	805 Lombard Road Red Lion PA
Rodney Kohler	805 Lombard Road Red Lion PA
Ruth R. Fishel	930 Lombard Road Red Lion PA
Jeffrey B. Fishel	2143 Bayberry Lane York PA
John G. Fitz	510 Windsor Road York PA
Jack Dehoff	400 Kendale Road Red Lion PA
Peg & Bob McFarland	900-902 Windsor Road Red Lion PA
Steve Koehler	775 Witmer Road York PA
Toni Danley	885 Thomas Armor Drive Windsor PA
Karin Ellinger	210 Meggon Lane Red Lion PA
Steve Olkowski	350 Craley Road Red Lion PA
Eugene & Roberta Zimmerman	860 Zimmerman Road Red Lion PA
Charles Silar	1500 Windsor Road Red Lion PA
Ed Heindel	Windsor PA
Randy Byrd	York PA
Barb Byrd	York PA
Greg Howard	York PA
Licia Lehman	York PA
Keith Howard	165 Country By Way York PA
Joe & Nancy Hilferty	3280 East Prospect Road York PA
Attorney Tim Bupp	CGA Law Firm
Margie Lewis	690 Kendale Road Red Lion PA