

MINUTES OF THE  
EAST COVENTRY TOWNSHIP BOARD OF SUPERVISORS  
MEETING HELD ON MAY 19, 2008  
(Approved June 9, 2008)

The Board of Supervisors held their regular monthly meeting on Monday, May 19, 2008. Present for the meeting were supervisors W. Atlee Rinehart, Rosemarie C. Miller, Robert F. Preston, Timothy Roland, and Ray Kolb. Also, in attendance were Bernard A. Rodgers, Township Manager, Mark A. Hosterman, Township Solicitor, and Brady Flaharty of ARRO Consulting, Inc. Mr. Rinehart called the meeting to order at 7:20 p.m. and the pledge was recited.

Mr. Hosterman stated that the Board of Supervisors held an executive session at 6:00 p.m. to discuss litigation concerning the THP project, Ivywood Estates, and Coventry Glen as well as personnel issues.

**Sewer Update**

Mr. Flaharty provided the Board of Supervisors with an updated list (status report) of change orders for the Phase II sewer project.

**Change Order No. 20**

There was a discussion regarding Change Order No. 20 for the Phase II sewer project.

Mr. Preston moved to approve Change Order No. 20 – Time Extension for Substantial Completion of Sawmill Road Pumping Station to June 3, 2008 with a Final Completion Date of July 3, 2008. Mr. Roland seconded the motion. Mr. Rinehart called for the vote and **the motion** carried with a 5-0-0 vote.

Mr. Preston provided information and pictures of the property at 2002 East Cedarville Road and noted the driveway needs to be fixed and also provided pictures of the front of his house at 2013 East Cedarville Road and asked that the Contractors be instructed to fix the items in front of his property including cleaning the three (3) pipes of debris for the 60' of pipe as shown in the pictures.

**Public Comment – Sewer**

N. Lance Parson of 79 Brownstone Drive noted that he has not received any response regarding his well water issue.

Walter Woessner of 164 Schoolhouse Road noted the grass seeding at the corner of Brownstone Drive and Schoolhouse Road should be raked out and the clumps removed.

David Hughes of 2590 East Cedarville Road inquired if his property would be serviced by the new sewer lines. Mr. Preston suggested that the property could be connected into the force main from the Creekview Subdivision and the Township Engineer noted that he would not recommend that due to the excessive head pressure. The Township Engineer will look into the item. Mr. Rinehart suggested the property owner attempt to obtain an easement from the neighbor to

connect.

### Payment No. 12

There was a discussion regarding Payment No. 12 for the Phase II sewer project. Mr. Preston was concerned about how the payment amount was developed and what some of the amounts were actually for and that Change Order No. 4 was not listed. The 'less previous unpaid' amount of \$9,704.20 was questioned.

Mrs. Miller moved to approve Payment No. 12 for \$252,224.30 for the Phase II sewer project with the condition that an explanation be provided to the Board of Supervisors via telephone or e-mail prior to release of such payment. Mr. Preston seconded the motion. Mr. Rinehart called for the vote and **the motion** carried with a 5-0-0 vote.

## 1. MINUTES

### Minutes of April 14, 2008

Mrs. Miller moved to approve the R1 version of the minutes of the April 14, 2008 monthly meeting as amended. Mr. Preston seconded the motion. Mr. Rinehart called for the vote and **the motion** carried with a 5-0-0 vote. Amendments being:

- In the second paragraph - list 'Green Acres' and 'Coventry Glen' as the subjects of the executive session.
- Subheading, *Public Comments* – in the second paragraph change 'demanded' to 'requested'.
- Subheading, *Public Comments* – in the second paragraph note the Section No. of the Code that was referred to regarding the noise complaint which is Chapter 6, Conduct, Part 2 – Disturbing the Peace
- Subheading, *Resolution 2008-14 – Transfer of funds* – do not add the exact amount that was to be transferred because the resolution was approved with the \$40,000 amount as presented.

## 2. PUBLIC COMMENTS

Joe Ippilito, developer of the Whispering Woods project, provided a project update. Mr. Ippilito stated that they have received correspondence from the Township Solicitor and two of the three issues have been resolved and the density issue is the only item outstanding at this time.

Pat Diener of 683 Kulp Road noted her concerns about the plunge pool at the Blossom Meadows II site at Kulp and Halteman Roads. It was noted that this item will be discussed later in the meeting and should provide her input at that time.

Gail Brown of 500 Sanatoga Road and Chair of the East Coventry Township Historical Commission suggested that the Board's consideration of appointments to the Historical Commission be addressed earlier than scheduled on the agenda because the applicants were present. Mr. Rodgers noted that he intended to bring this item to the Board's attention at the start of his Report which would be earlier than on the agenda schedule.

### Heritage/Ryan Homes

There was a lengthy discussion concerning several issues related to the Coventry Glen Development. Matt Arnoldy, of Ryan Homes, and Mr. Haldeman, Counsel for Ryan Homes were present to discuss these issues which included revisions to driveway locations and building sewer connections at the Coventry Glen project, including six units without outside traps or vents and damage (including traps and vents) to building sewers installed in driveways. Mr. Preston suggested the Township Solicitor and Township Manager work on the issues together to resolve as the items involve a health issue. Mr. Arnoldy stated that the six units without outside traps or vents had been installed per field inspection and should not be dug up because there is not any evidence of problems. Mr. Preston noted the original construction drawings should have been followed by Heritage and Ryan Homes and they were not. Mr. Preston recommended they be installed per the plan and any broken segments repaired. Mr. Arnoldy noted his concerns of causing disturbance and inconvenience for existing residents.

Further discussion involved approximately 20 building sewers that had been installed in driveways. These building sewers had been video taped and sixteen were found to need repairs, particularly with the traps and vents, and all needed manhole caps placed over the traps and vents to prevent further damage

Counsel for Ryan Homes asked if the Board was looking for a commitment from Ryan Homes to have cleanouts and traps installed on the six building sewers that do not have cleanouts and traps and repair the sixteen damaged building sewers and provide manhole caps for all twenty building sewers in the driveways. Mr. Arnoldy, on behalf of Ryan Homes, reluctantly agreed to commit to the above request but said that he could not make that commitment for NV Homes which had installed the building sewers in the driveways.

Mr. Preston suggested the Solicitors prepare a memorandum of understanding.

Ryan Homes' Counsel noted that Field Revision #3 involving driveway relocations had been reviewed and found acceptable by the Township Engineer. Mr. Preston noted the Planning Commission should review the Field Revision Plan at it's next meeting. It was the Board's consensus that the Township Engineer would review the Plan with the Planning Commission.

## **3. REPORTS**

### **Manager's Report**

The following items were addressed:

#### Historical Commission

Mrs. Miller moved to appoint Rich Marchetti and Larry Tietjen to the Historical Commission as proposed by Gail Brown, Chair of the Historical Commission. Mr. Preston seconded the motion. **Mr. Rinehart called for the vote and the motion carried with a 5-0-0 vote.**

#### Sewer Connection Letters

Mr. Rodgers noted that the sewer connection letters were mailed on May 14, 2008 to residents to be serviced by the Phase II sewer system. Mr. Preston stated that 36, 46, 31, and

12 Buckwalter Road did not receive letters. Mr. Rodgers stated that those properties would not connect to the Phase II sewer lines but would be connected to lines installed by Developers and would be required to connect when the Developer's lines were turned over to the Township. It was asked if they could be connected sooner if the Developer agreed and Mr. Rodgers indicated that he thought they could.

#### Ordinance on Decommissioning On-Lot Septic Systems

Mr. Preston moved to authorize advertising for the adoption of an ordinance for the decommissioning of on-lot septic systems. Mr. Kolb seconded the motion. Mr. Rinehart called for the vote and **the motion** carried with a 5-0-0 vote.

#### Resolution No. 2008-24

There was a discussion regarding assessing a fee for the inspection of the decommissioning of on-lot systems. Mr. Rodgers noted there is no language in the ordinance addressing an inspection fee but the language could be added if the Board would like to assess a fee for such inspections. Mr. Hosterman noted a fee may also be adopted by resolution. Mr. Kolb and Mr. Preston expressed their view that the decommissioning inspection should be included with the inspection of the building sewer without an additional fee.

Mr. Preston moved to approve Resolution No. 2008-24 for criteria for decommissioning of on-lot systems without the addition of a fee. Mr. Kolb seconded the motion. Mr. Rinehart called for the vote and **the motion** carried with a 5-0-0 vote.

#### Municipal Stormwater Summit

The Board agreed to have Mr. Preston, Mrs. Miller and Mr. Rodgers attend the Municipal Stormwater Summit on June 3, 2008 sponsored by Chester County.

#### Bealer – Transportation Impact Fee

At the April 14, 2008 meeting Wayne Bealer of Affordable Homes objected to paying an invoice for information provided by McMahon Associates on the applicability of the transportation impact fee on a lot that his company had constructed a house. Mr. Rodgers stated that as a result of following up on Bealer's concern he determined that the lot in question pre-dated the Township's Act 209 Study and should not have been assessed the traffic impact fee or even the interim fee. Mr. Hosterman confirmed that if a lot existed prior to the start of the Township's Act 209 program it was exempt from paying the transportation impact fee.

Mr. Rodgers recommended that the Board authorize the re-imbursalment of the transportation impact fee in the amount of \$2,159.67 to Construction Emergency Service which submitted the original fee to the Township. Mr. Preston moved to authorize and approve the reimbursement of the traffic impact fee in the amount of \$2,159.67 to the appropriate parties. Mr. Rinehart seconded the motion. Mr. Rinehart called for the vote and **the motion** carried with a 5-0-0 vote.

#### Transportation Impact Fee Committee

Mr. Rodgers stated that he is in the process of contacting the existing members of the

Transportation Committee to confirm their willingness to continue serving. He noted that Mrs. Miller is no longer eligible to serve on the Transportation Committee due to her status as a member of the Board of Supervisors. Therefore, the Board will need to recruit a new member.

#### Ellis Woods Road Park

Mr. Rodgers explained that revised plans had been prepared for the Ellis Woods Park project prompted by the Contractor's request not to remove about 3000 cubic foot of material from the site. KMS, the Township's consultant had prepared revised plans allowing the material to stay on-site by balancing the cut and fill areas and had received approvals from the Chester County Conservation Department. This required a change in elevations and grades within the project area at several locations. Karl Kellerman of KMS was present and presented the Board with copies of the revised plans and reviewed the changes with the Board.

A request for additional payment to KMS for preparation of the revised plan was reviewed by the Board. After considerable discussion by the Board with comments offered by Mr. Kellerman, Mr. Preston moved to approve payment of one half of the requested \$984.00 and have KMS address the other half because cut and fill service are provided in the services provided. Mr. Kolb seconded the motion. Mr. Rinehart called for the vote. Mrs. Miller voted no. Mr. Roland voted yes. Mr. Kolb votes yes. Mr. Preston voted yes. Mr. Rinehart voted yes. **The motion** carried with a 4-1-0 vote.

Mr. Roland moved to approve the revised plan for the Ellis Woods Park Road project as presented. Mr. Preston seconded the motion. Mr. Rinehart called for the vote and **the motion** carried with a 5-0-0 vote.

Mr. Rodgers reviewed a proposed change order dated Friday, May 16, 2008 and numbered CCD#1 for the Ellis Woods Park Project that would extend the completion date by two weeks. The new completion date would be July 14, 2008. The reason for the change order was due to the delay in execution of the NPDES Co-Permittee Agreement. A motion was made and seconded to approve Change Order No. 2. Mr. Rinehart called for the vote and **the motion** carried with a 5-0-0 vote.

Mr. Rodgers reviewed Addendum No. 2 to the Chester County Landscapes 21<sup>st</sup> Century Fund Municipal Grant Program that would provide a six month extension for the completion of the Ellis Woods Park Project. After approval by the Township and Chester County the completion date would be extended to December 2, 2008. Mr. Preston moved to approve Addendum No. 2 for the Ellis Woods Road Park grant program. Mr. Rinehart seconded the motion. Mr. Rinehart called for the vote and **the motion** carried with a 5-0-0 vote.

#### Playground Equipment

Mr. Kolb moved to approve the proposal from Bitting Recreation date May 6, 2008 for the purchase of playground equipment and installation for the Ellis Woods Road Park in the amount of \$47,676.66. Mr. Preston seconded the motion. Mr. Rinehart for the vote and **the motion** carried with a 5-0-0 vote.

### Sewer Inspections by ARRO

The Board reviewed with Mr. Flaharty a proposal from ARRO Consulting, Inc to perform the inspections of the building sewer installations for the properties to be connected as part of the Phase II sewer project. After considerable discussion on what should or should not be included in the scope of services Mr. Preston moved to approve the ARRO Consulting, Inc. proposal dated May 16, 2008 with amendments for the inspection of the building sewers of the 220 +/- homes in the Phase II sewer project. Mr. Rinehart seconded the motion. Mr. Rinehart for the vote and **the motion** carried with a 5-0-0 vote. Amendments being:

- Add ‘witnessing of decommissioned on-lot disposal systems’ under the Scope of Services
- Remove, ‘witnessing of decommissioned on-lot disposal systems’ under Specific Services Excluded

### DCNR Grant

Mr. Roland moved to approve Resolution No. 2008-25 for the \$25,000 grant for the playground equipment and authorizing the appropriate Township officials to execute the grant agreement. Mr. Preston seconded the motion. Mr. Rinehart called for the vote and **the motion** carried with a 5-0-0 vote.

### Heyser Tract

There was a brief discussion regarding the lease of the Heyser Tract for farming. Mr. Roland noted the potential for a community garden utilizing 1 or 2 acres of the Heyser Tract for such use.

Mr. Rinehart moved to authorize advertising for the lease of the Heyser Tract for farming. Mr. Kolb seconded the motion. Mr. Preston suggested the minimum fee be compared to what the taxes are and also requested the minimum fee be increased each year. Mr. Preston requested that Mr. Rinehart amend his motion and Mr. Rinehart was amenable to that.

Mr. Rinehart amended his motion to authorize advertising of the lease for the Heyser Tract with the minimum fee to at least cover taxes and that it be increased by \$50 for Year 2 and by \$100 for Year 3. Mr. Preston seconded the motion. Mr. Rinehart for the vote and **the motion** carried with a 5-0-0 vote.

### Shut-off Agreement with Pennsylvania American Water

Mr. Preston moved to approve the Shut-off Agreement with Pennsylvania American Water. Mr. Rinehart seconded the motion. Mr. Rinehart noted concerns of the township bearing the costs of the lost revenue.

Mr. Preston amended his motion to approve the Shut-off Agreement with Pennsylvania American Water with all costs to the township to be borne by the property owner responsible for the paying the delinquent sewer charges resulting in the water shut-off. Mr. Rinehart seconded the motion. . Mr. Rinehart called for the vote and **the motion** carried with a 5-0-0 vote.

MidAmerica – Administrative Services Agreement

Mr. Preston moved to approve reassignment of the HSA agreement to American United Life. Mr. Rinehart seconded the motion. Mr. Rinehart for the vote and **the motion** carried with a 5-0-0 vote.

Sprint Spectrum Assignment to Least to Mobilitie

Mr. Rodgers provided an update to the Board on the cell tower project. He noted that Sprint Spectrum had requested that the Township approve the assignment of its lease with Sprint to Mobilitie which is a company that essentially finances the construction of the tower and then leases it back to Sprint for operation. The Township Solicitor had reviewed the proposed assignment agreement and commented that Mobilitie should be required to have an office in Pennsylvania for purposes of legal notice and that it provide financial information demonstrating its capability to perform under the agreement. Mr. Rodgers noted that the Solicitor's concerns had been transmitted to Mobilitie and Sprint Spectrum but the Township had not received a response.

Gail Brown, Chair of the Historical Commission, noted that the conditions of the Sprint Spectrum plan approval, specifically relating to Historic issues, were not addressed.

Zoning Ordinance Hearing and Adoption

Mrs. Miller moved to authorize advertising for public hearing and adoption of the proposed Zoning Ordinance on August 11, 2008 at 6:45 p.m. Mr. Preston seconded the motion. Mr. Rinehart called for the vote and **the motion** carried with a 5-0-0 vote.

The Township Solicitor was requested to review the Zoning Ordinance for possible conflicts between the timing requirements of issuing permits of the Historical Resources Protection Standards and the UCC and address the adoption of the Historic Resources Map.

Mr. Preston moved to notify the property owners affected by the map changes by regular mail. Mrs. Miller seconded the motion. Mr. Rinehart called for the vote and **the motion** carried with a 5-0-0 vote.

Local Services Tax Ordinance

There was a discussion regarding the local services tax ordinance, specifically the exemption amount. Mr. Hosterman noted the ordinance is a standard ordinance that has been dopted by many municipalities.

A discussion ensued on establishing the exemption amount after which Mr. Preston made a motion to authorize advertising the adoption of the Local Services Tax Ordinance with exemption for individuals whose total income and net profits from within the Township is equal to or less than the amount consistent with the maximum earnings allowed to receive Social Security retirement Benefits without reduction. The motion was seconded by Mr. Roland. Mr. Rinehart called for the vote and **the motion** carried with a 5-0-0 vote.

Driveway and Stormwater Ordinance Amendment – Ordinance No. 146

Mr. Rodgers reviewed this ordinance as prepared and advertised noting that it provided for the Board of Supervisors to waive provisions of the existing Driveway and Stormwater Ordinances

Mr. Roland moved to authorize advertising the adoption of Ordinance No. 146 as advertised. Mr. Rinehart seconded the motion. Mr. Rinehart called for the vote and **the motion** carried with a 5-0-0 vote.

### **Reports from Various Departments and Committees**

Chief John Theobald noted the selection of Arthur Brown for position of Part-time Police Officer contingent upon successful passing of the State Municipal Police Officer Certification Examination, physical examination and psychological examination.

Mr. Rinehart moved to bring on Part-time Police Officer subject to satisfactory completion of pending examinations and requirements. Mrs. Miller seconded the motion. Mr. Rinehart called for the vote and **the motion** carried with a 5-0-0 vote.

There was a review of the reports from various departments and committees.

Mr. Flaharty reviewed the draft MS4 Annual Report as prepared by ARRO Consulting, Inc. and a discussion followed. Mr. Preston noted that he was concerned that there were not any standards or criteria to follow from the State DEP or the EPA regarding enforcement and as a result an inability of the Township to enforce.

Mr. Rinehart moved to approve the MS4 annual report prepared by ARRO Consulting, Inc. with the noted changes and to authorize the appropriate Township official to sign. Mrs. Miller seconded the motion. Mr. Preston abstained. Mr. Kolb voted yes. Mr. Roland voted yes. Mr. Rinehart called for the vote and **the motion** carried with a 4-0-1 vote.

Noted changes:

- Page 18 – Section 18A remove the check in box followed by ‘Measurable goal for this BMP is not met’.
- Page 19 – Section 18C remove the check in box followed by ‘Measurable goal for this BMP is not met’ and check box followed by ‘Measurable goal for this BMP is met’.

Mr. Preston moved to accept all the reports as discussed. Mr. Roland seconded the motion. Mr. Rinehart called for the vote and **the motion** carried with a 5-0-0 vote.

## **4. SUBDIVISION AND LAND DEVELOPMENTS**

Project: Creekview Applicant: Heritage Building Group

Mr. Preston moved to approve Escrow Release No. 18 for Creekview for the amount of \$24,570.00. Mr. Rinehart seconded the motion. Mr. Rinehart called for the vote and **the motion** carried with a 5-0-0 vote.

Project: Schollenberger Subdivision Applicant: Joy and Jeff Schollenberger  
Mr. Preston moved to approve Resolution No. 2008-26 granting preliminary/final plan approval for the Schollenberger Subdivision. Mr. Rinehart seconded the motion. Mr. Rinehart called for the vote and **the motion** carried with a 5-0-0 vote.

Project: Neuman a.k.a. Ridgefield Estates Applicant: West Gate Land Development  
Mr. Preston moved to approve Resolution No. 2008-27 approving the Plan Revision for New Land Development and approval and signature of the Neuman Subdivision Sewage Facilities Planning Module with corrections as noted. Mr. Kolb seconded the motion. Mr. Rinehart called for the vote and **the motion** carried with a 5-0-0 vote.

Corrections noted:

- Component 4B – Item No. 7 is not answered.
- Page 1 of Component 2 – correct Township Manager’s name
- Section G.6 – Historic Preservation Act information not provided
- Note that the SEO indicates marginal conditions

Project: Green Acres Applicant: Joseph and Patricia Kandler  
The Green Acres Sewage Facilities Planning Module – Component 1 has already been approved and will be signed.

#### Blossom Meadows II

Mr. Flaharty reviewed with the Board his inspection comments of the plunge pool and the outfall from the detention basin near Mr. Cahill’s property. He noted that the Chester County Conservation District had met with him at the site and it would not agree to change anything relative to the detention basin and that a swale from the plunge pool to the creek would not be permitted. In both cases sheet flow was the accepted method of discharge. It was questioned if easements had not been obtained from the neighboring property owners for the sheet flow discharge. Mrs. Diener stated that sediment is going to the creek and that the developer had cut down three (3) trees on her property, the landscaping had not been completed and she cannot mow the grass in those areas. Mr. Flaharty’s recollection was that the Final Plan for the development was approved without the stormwater plan finalized and approval was conditioned on the County’s approval of the stormwater plan but that the Township did not review what the County approved.

Mr. Rodgers recommended that the Board authorize the Township Engineer to review existing conditions relative to the stormwater improvements versus what was approved to determine if the Developer has complied with all the requirements and obtained necessary easements, etc. Mr. Preston recommended Mr. Hosterman review the Developer Agreements.

Mr. Preston moved to authorize the Township Engineer to address the technical details of Blossom Meadows II stormwater detention basin and Mrs. Diener’s property and Mr. Cahill’s property and obtain any homeowners association’s information available for the maintenance for review by the Township Solicitor including any easements for review for

recommendation to the Board. Mrs. Miller seconded the motion. Mr. Rinehart called for the vote and **the motion** with a 5-0-0 vote.

The Township Solicitor is to be provided with any homeowner association information associated with this project.

## **5. OTHER BUSINESS**

### Historical Commission

Appointment of new Historical Commission members was addressed earlier.

## **6. DISCUSSION ITEMS**

## **7. PAYMENT OF BILLS**

Mr. Preston moved to pay bills for all funds as presented for the amount of \$304,850.52. Mr. Rinehart seconded the motion Mr. Rinehart called for the vote and **the motion** carried with a 5-0-0 vote.

Mr. Rodgers noted he has been speaking to Jerry Murphy at NV Homes regarding the monies received by the Township from NV Homes estimated at \$26,000.00 for unused building permit fees. Mr. Rodgers stated that he had advised Mr. Muppy that if NVHomes had the building sewers installed in the driveways of the 20 units in Coventry Glen video taped to assess their condition he would recommend to the Board that it release \$4,000 to NVHomes to cove the cost of the video. Mr. Rodgers noted that the video taping had been completed as evidenced by the earlier discussion and asked that the Board approve the release of \$4,000.00 to NV Homes.

Mrs. Miller moved to approve the \$4,000.00 payment to NV Homes. Mr. Roland seconded the motion. Mr. Rinehart called for the vote and **the motion** carried with a 5-0-0 vote.

## **8. ADDITIONAL ITEMS BROUGHT TO THE BOARD**

Mr. Rinehart thanked the Board for allowing him to attend PSATS' and found it very educational.

Mr. Rinehart noted he attended the COG meeting and found this meeting to be very educational also.

Mrs. Miller noted she attended the water seminars at PSATS and found them to be very beneficial.

Mr. Rinehart noted the meeting to be held at Owen J. Roberts on May 22, 2008.

Mr. Preston provided the Board with copies of the sewer flow projection report.

## **9. ADJOURNMENT**

The monthly meeting adjourned at 11:40 p.m.

Respectfully submitted,

Bernard A. Rodgers  
Township Secretary