

**MINUTES
BOARD OF COMMISSIONERS' PUBLIC MEETING
NOVEMBER 17, 2008**

CALL TO ORDER - ROLL CALL - DECLARATION OF QUORUM:

The Penn Township Board of Commissioners met in a regular session on Monday, November 17, 2008 at the Penn Township Municipal Building. President Johnson called the meeting to order at 7:00 P.M., with a roll call of members. Present were Commissioners Johnson, Prieber, Heilman, Goldsmith, and Rewa. Also present were Solicitor Tilley, Manager Garvick, Acting Police Chief Rhodes, Engineer Bortner and Zoning Officer Menges.

PLEDGE OF ALLEGIANCE TO THE FLAG FOLLOWED BY A PERIOD OF SILENT MEDITATION:

All in attendance stood for the Pledge of Allegiance to the flag, which was followed by a period of silent meditation.

ANNOUNCEMENTS:

President Johnson announced that, following the public meeting this evening, the Board of Commissioners would convene in an executive session with the Solicitor for the purpose of discussing legal and/or personnel issues.

PERSONS TO BE HEARD/CITIZENS COMMENTS:

Edward Jenkins, 216 Azalea Drive expressed concern about the proposed ball field for "Youngstown Park". Commissioner Johnson politely explained to Mr. Jenkins that there is nothing in the 2009 budget for a ball field at Young's Woods.

Joseph Klunk, 130 Littleton Drive, questioned the appointment of Ronald Wentz to the Penn Township Civil Service Commission at the August 2008 meeting because, according to Mr. Klunk, Mr. Wentz no longer resides in the Township and is a member of the Zoning Hearing Board in West Manheim Township. He asked that the appointment be rescinded and an appointment made that meets the requirements of the First Class Township Code.

APPROVAL OF THE MINUTES FROM THE PREVIOUS MEETING:

The minutes of the October 20, 2008 meeting of the Board of Commissioners were approved as submitted.

PUBLIC HEARING

President Johnson convened a public hearing for the purpose of considering a request to rezone thirteen properties between 1403 Baltimore Street and 1453 Baltimore Pike from R-15 to Shopping Commercial. The Public Hearing was properly advertised in the Hanover Evening Sun. All properties were posted and notifications provided as required.

The hearing began with Manger Garvick presenting the Township's Staff Review

and comments. Manager Garvick stated the following:

On August 15, 2008, the township received 11 property owners requests to rezone their parcels from R-15 Residential to SC – Shopping Commercial. The applicants represent 11 of the 13 property owners between 1403 and 1453 Baltimore Pike. The applicants are:

- | | |
|--|------------------|
| 1) Clair & Shirley Shorb – 1403 Baltimore Street | (20,255 sq. ft.) |
| 2) William & Judith Piffner – 1407 Baltimore Street | (17,250 sq. ft.) |
| 3) Ki B. Song – 1409 Baltimore Street | (11,238 sq. ft.) |
| 4) Thomas & Patricia McVey – 1411 Baltimore Street | (11,238 sq. ft.) |
| 5) Anthony & Michelle Thomas – 1413 Baltimore Street | (14,985 sq. ft.) |
| 6) Fred & Dixie Brillhart – 1415 Baltimore Street | (14,985 sq. ft.) |
| 7) Nevin & Phyllis Coppersmith – 1417 Baltimore Street | (14,985 sq. ft.) |
| 8) Jacqueline Wentz – 1429 Baltimore Pike | (24,000 sq. ft.) |
| 9) Donald & Sandra Berkheimer – 1435 Baltimore Pike | (14,985 sq. ft.) |
| 10) Robbin Wonder – 1441 Baltimore Pike | (30,013 sq. ft.) |
| 11) Peter & Sharon Slusser – 1447 Baltimore Pike | (30,013 sq. ft.) |

There are two property owners that are not part of the request, but whose parcels occupy area between 1403 Baltimore Street and 1453 Baltimore Pike. These properties will also be considered in any deliberations as being part and parcel to the request. They are:

- | | |
|---|------------------|
| 1) Gary & Betty Clouser – 1419 Baltimore Street | (15,464 sq. ft.) |
| 2) Rita Wells – 1453 Baltimore Pike | (34,980 sq. ft.) |

The area of the 13 properties comprises 5.84 acres with the smallest being .258 acres and the largest being .803 acres.

The properties are located on the west side of Route 94 and extend from within one parcel south of the Grandview/Route 94 intersection all the way to the municipal boundary line with West Manheim Township. The current use of the properties is that of single family residential. All of the parcels are serviced by public water and public sewer. There are no unusual or distinguishing physical characteristics other than a row of single-family homes. Each property has individual driveway access to Route 94.

The area directly to the west of and adjacent to the properties is also zoned R-15 Residential. The area to the east, across Route 94, Baltimore Street/Pike is the Grandview Plaza Shopping Center, which is zoned SC-Shopping Commercial. The small parcel to the north was zoned SC-Shopping Commercial in 2003, resulting in all four corners of the Grandview/Baltimore intersection having the SC classification.

The Future Land Use section of the Township's Comprehensive Plan, adopted on August 20, 2001, recommends that the current zoning remain in effect. Typical examples of allowed uses in the R-15 Residential zone include Group Homes, Houses of Worship, No-Impact Home Base Businesses and Single Family Detached Dwellings. As a Special Exception, examples of allowed uses are: Church Day Care Center, Family & Group Day Care Home, Half-Way Houses, Home Occupations, Medical Clinics, Parks & Recreational Facilities and Retirement Villages.

Typical examples of allowed uses in the SC-Shopping Commercial zone include: Personal & Business Services, Commercial Schools & Recreation, Convenience Stores, Eating Establishments, Parking Lots, Medical Clinics, Financial Institutions and Retail Businesses. As a Special Exception, examples of allowed uses are: Adult Regulated Facilities, Child Care Center, Church & Group Day Care Centers, Hospitals, Mini-Storage Warehouses, Public Utility Buildings, Shopping Centers and Malls and Transportation Terminals.

The York County Planning Commission reviewed the request at its meeting on October 7, 2008. An unfavorable recommendation was given since the rezoning would not be consistent with the Township's Comprehensive Plan. Further, YCPC noted that the minimum lot area for a lot in the SC zone is 20,000 sq. ft. The majority of the lots do not meet this requirement. This would result in creating non-conformities as well as hindering any commercial development since the buildable area is so greatly reduced when setbacks are met. Lastly, the County Planners feel there is an adequate amount of Shopping Commercial land already zoned. They don't recommend rezoning these 13 lots.

The Penn Township Planning Commission reviewed the request at its meeting on November 6, 2008. After considering the facts and taking public comment, the Planners gave an unfavorable recommendation to the Board of Commissioners regarding the rezoning request.

Michael Dows, Dows Commercial Realty, represented the applicants requesting the zoning change. Mr. Dows stated that Fred Brillhart, the spokesperson of homeowners, was not able to be here tonight because of a heart attack. He stated that there was a motion made at the Penn Township Planning Commission for a favorable recommendation on this request but it failed for a lack of a second. He provided a packet of information to the Commissioners to consider during their deliberations. He stated that they would like to dispute that there is adequate commercial space within the Township because there continues to be additional construction of homes that will need to be serviced by commercial areas. The applicants live at the property where they are requesting the zoning changes and have problems accessing their properties from the Baltimore Pike. Most of the property owners purchased their homes prior to the change in zoning that occurred at the Grandview Plaza. They feel that the value of their properties are decreasing to sell them for homes but some of those same issues make them more valuable for commercial uses. There are problems with these properties for commercial use. Only five of the lots meet the 20,000 square feet requirement for commercial use. Two of the lots do not have 100 feet of lot frontage. This will create some problems, which could be resolved by combining lots. The lots are only about a 150 feet deep. Setbacks in the commercial zone are fifty feet in the front and thirty-five feet to the rear. The homeowners to the rear of these properties are concerned about the problems that will be created by changing the zoning which are the same problems currently bothering the applicants. Mr. Dows stated that the applicants are considering selling their homes to individuals who want to open businesses such as dentists, doctors, lawyers, and real estate agents. The zoning change will allow them to sell their property as either a home or to someone looking into opening a business. Mr. Dows stated that Mr. Brillhart did write a letter and one of the applicants has been asked to read it. In response to Mr. Klunk's earlier comment, Mr. Dows noted that the Penn Township Board of Commissioners has recently appointed him to take Mr. Wentz's place on the Civil Service Commission.

The following residents provided comments regarding the request for rezoning:

Bill Biss, 67 Cardinal Drive, is located directly behind the properties requesting the rezoning. He sighted several law references regarding zoning changes to properties. He quoted police statistics with regards to police responses for this block of Grandview Road for the first nine months of 2008. He stated that shopping centers attract undesirable people and have other nuisance issues associated with them. The rezoning would affect the families living on Cardinal Drive, East Court and Orin Court and should be denied.

Jane Biss, 67 Cardinal Drive, stated that in the seven years that she has lived in her home she has completed over \$70,000 worth of improvements. She suggests that the request be denied because she does not want a shopping center in her back yard.

Mary Jo Warnick, 69 Cardinal Drive, has lived at her home for twenty years and has concerns about the depths of the lots and the fact that all commercial space in the Township is not currently being utilized.

Judy Piffner, 1407 Baltimore Street, read the letter from Fred Brillhart who was unable to attend. The letter expressed some concerns about the rezoning of the Smith property at the corner of Grandview Road and Baltimore Street. On her behalf, she stated that they are looking for the opportunity to have the most options available for them when they choose to sell their property.

Lavenda Fischbach, 54 Cardinal Drive, stated they just added an additional \$85,000 worth of improvements to their home. She has concerns about the traffic getting worse with additional commercial property.

Paula Diethorn, 8 Cardinal Drive, expressed concern about safety with regards to traffic.

Clara Henson, 9 Cardinal Drive, expressed concern about the increase in crime and rats that can result in the change in zoning.

Jane Bamford, 1 Cardinal Drive, has lived in her home about twenty-two years. She does not want the property rezoned because she already has a problem with stormwater runoff and rats from the existing shopping center. She also is concerned because of the type of businesses that can be put in there if it is rezoned.

Jennifer Shirk, 7 Cardinal Drive, expressed concern about the change because she currently lives behind the Wonder's property and has problems with runoff and rats. She stated that properties were not graded properly for water run off and she does not want to see them rezoned.

Mike Dewald, 3 East Court, whose property is adjacent to three of the properties that have requested the rezoning. He has problems from the shopping center at Grandview and does not want additional problems that would be created with having commercial properties in his back yard.

Shirley Shorb, 1403 Baltimore Street, questioned how the Smith property was rezoned. Manager Garvick explained the process that resulted in the corner property

being rezoned in 2003. She also questioned the increase in traffic that will occur with the Tom/Arby's at the current Tom's Exxon. She stated that the properties could be landscaped between the residential and commercial.

Claire Shorb, 1403 Baltimore Street, expressed concern about how the Smith property was rezoned. He stated that he has problems getting out of his driveway.

Nancy Bosely, 15 Cardinal Drive, stated that she has problems accessing the development (Grandview Acres) from Baltimore Street at the traffic signal at Meadow and Baltimore Street. She also stated that she has grandchildren who ride their bicycles on the street and felt that may change with additional traffic. She also has had problems with rats from the Exxon station. She has lived there for twenty years.

Eric Davis, 7 Meadow Lane, sympathizes with his neighbors but it is a too broad of a spectrum of uses to change the properties from residential to shopping commercial.

Tom McVey, 1411 Baltimore Street, expressed concern about tractor-trailers parking in the street doing paperwork. He feels that a buffer can be installed to protect the neighbors. He does not know how some of the neighbors access Baltimore Street from their driveways. He stated that crime has increased and the Township is not like it was twenty years ago.

Louise Geppi, 167 Windsor Court, expressed concern about the increase in traffic and the large amounts of empty commercial space in the Township.

Josh Schwartz, 21 Cardinal Lane, questioned if the residents had been approached about selling their property. Some have had in the past but not recently. He was also concerned about future road improvements that would need to take place, which would further decrease the size of the lots.

Jerry Brodie, 11 Cardinal Drive, stated that the elected officials have to decide what is in the best interest of the Community.

Mike Rudy, 63 Cardinal Drive, agrees with the people opposing the rezoning change. He is concerned about where the rezoning will stop. He has lived at his home for ten years. He stated that since he has lived here both Rutters and Hollywood Video have caused light pollution. He also stated that the businesses that currently are allowed under the current zoning should be encouraged to locate there and not rezone the property.

Beth Rudy, 63 Cardinal Drive, who has lived in her home for ten years, and has been walking her dog for four years and was almost hit again because the traffic has gotten so bad. She stated that her sixteen-year-old daughter works at the McDonalds at Grandview Plaza and it is not safe for her to walk to work and cross the street. Mrs. Rudy also indicated that the crime rate has increased and has had two cars in front of her house broken into in the last two months.

Steve Saal, 26 Garden Lane, stated that he has only lived here for twenty years and watched northern Anne Arundel County deteriorate because of increased commercialism and families moving out. He noted that continuous commercial

development is not progress but deterioration. He just wants to know when you stop.

Commissioner Johnson thanked all the individuals for speaking about their concerns.

Commissioner Heilman stated that he would like to consult with the Township Solicitor about certain issues with regards to rezoning. He thanked all those who offered comment about the situation and for maintaining order.

Commissioner Prieber stated he would like to take the time to consider the request. Commissioner Goldsmith and Rewa both wanted some time to consider both sides of the issue.

The Commissioners will make a decision about the request at their meeting in December.

At this time Commissioner Johnson adjourned the public hearing.

There was a short recess at 8:15 and Commissioner Johnson reconvened the Commissioners meeting at 8:25.

TOWNSHIP REPORTS - STANDING COMMITTEES:

Public Safety Committee - Commissioner Prieber:

Commissioners Prieber/Heilman moved to approve the Hemler/ACS agreement for 2009. Motion carried.

Commissioners Prieber/Heilman moved to approve the York County SPCA municipal contract for 2009. Motion carried.

Personnel Committee - Commissioner Prieber:

Commissioners Prieber/Heilman moved to accept the resignation of Christopher Raubenstine from the position of Lieutenant effective November 3, 2008. Motion carried.

Commissioners Prieber/Heilman moved to appoint Kristina J. Rodgers as the Township Records Officer. Motion carried.

Planning & Recreation Committee – Commissioner Prieber:

Commissioners Prieber/Goldsmith moved to approve a request dated September 26, 2008 from the Harvest Time Temple for a waiver of the land development requirements to install a pole building. Motion carried.

Commissioners Prieber/Goldsmith moved to approve a request dated November 3, 2008 from the Penn Township Volunteer Emergency Services, Inc. for a waiver of the land development requirements and permit fees to install a utility building. Motion carried.

There were no additions or changes to the Zoning Officer's Report.

The following subdivision plans were formally filed:

P08-14 – National Barn
P08-15 – Tom Matthews
P08-16 – Ramsburg
P08-17 – J.A. Myers

Commissioners Prieber/Goldsmith moved to approve the following subdivision and land development plans:

P08-10 – Stone Ridge Development/Crosswinds
Motion carried.

Commissioners Prieber/Goldsmith moved to approve the following extension requests that will expire on February 16, 2009:

P01-28 – High Point @ Rojen Farms
P02-28 – Gateway Hanover
P03-06 – Brookside Heights
P03-20 – Wallen Tract Apartments/Southwest Crossing
P03-30 – Mustang Pointe
P05-15 – Avion
Motion carried.

Finance Committee - Commissioner Heilman

Commissioners Heilman/Prieber moved to approve Township warrants in the amount of \$890,386.54. Motion carried.

Commissioners Heilman/Prieber moved to approve the York County Economic Development Corporation agreement for 2009-2010. Motion carried.

Commissioners Heilman/Prieber moved to approve a request dated October 13, 2008 from God's Meal Barrel requesting a waiver of the sign permit fees to advertise Buckley Chiropractic's Appreciation Day. Motion carried.

Commissioners Heilman/Prieber moved to approve a request dated October 27, 2008 from the Mason-Dixon Credo for a waiver of the sign permit fees to advertise their events at the Penn Grove Retreat Center. Motion carried.

Commissioners Heilman/Prieber moved to approve a request dated October 31, 2008 from South Western Lacrosse, Inc. for a waiver of the sign permit fee to advertise their registration night. Motion carried.

Commissioner Heilman presented the first reading of the proposed 2009 budget. He stated that the Highway Aid fund is balanced with \$525,334 in revenues and expenditures. The sewer fund is balanced with revenues and expenses being \$4,390,250. He stated that the General Fund projected revenues are \$7,938,810 while the expenditures are projected to be \$9,117,967 leaving an inbalance of \$1,179,157.

There is a budget meeting scheduled for November 18, 2008 at 6:00 p.m. to work on balancing the budget.

Public Works Committee - Commissioner Goldsmith

There were no additions or changes to the Engineer's Report.

Health & Sanitation – Commissioner Rewa

Commissioner Rewa announced that a newsletter would be sent out the first or second week of December. Document shredding will be held on Saturday, December 13, 2008 from 9:00 a.m. to 2:00 p.m.

Commissioners Rewa/Goldsmith moved to authorize the execution of the PA DEP Consent Order and Agreement. Motion carried.

Commissioners Rewa/Goldsmith moved to authorize the termination of the NPDES Discharge permit appeal. Motion carried.

Commissioners Rewa/Goldsmith moved to authorize the execution of an agreement with Staiman Brothers Inc. for the collection of recyclable materials. Motion carried.

MANAGERS REPORT: There were no additions/corrections to his report.

OLD BUSINESS: None.

NEW BUSINESS: None.

PERSONS TO BE HEARD/CITIZENS COMMENTS: None

QUESTIONS FROM THE PRESS FOR THE COMMISSIONERS:

There were no questions from the press.

ADJOURNMENT:

There being no further business to come before the Board, Commissioners Rewa/Goldsmith moved for adjournment at approximately 8:36 P.M. Motion carried.

Respectively submitted,

Kristina J. Rodgers
Township Secretary