

**West Donegal Township
Board of Supervisors Meeting
August 13, 2018**

The regular meeting of the Supervisors was held at 7:00 p.m. at the Township Municipal Building. Chairman, Roger Snyder called the meeting to order with the following Supervisors in attendance: Doug Hottenstein, Phil Dunn, and Eric Kreider. Also in attendance were Zoning Officer, Wayne Miller, Township Manager, John O. Yoder, III, Office Manager, Jennifer Rabuck, Roadmaster, Todd Garber, Chief of the NRLCPD, Mark Mayberry, and Solicitor Josele Cleary. Supervisor John Martin was absent.

- I. **Call Meeting to Order**
- II. **Pledge of Allegiance, Silent Prayer, Tape Announcement**
- III. **Roll Call of Supervisors** – Supervisor Martin was absent
- IV. **Approval of Meeting Minutes** – Moved by Supervisor Dunn, seconded by Supervisor Kreider to approve the July 9, 2018 meeting minutes. Motion carried.
- V. **Public Comments** – Nancy Steadman, 81 Timber Villa – Ms. Steadman spoke on behalf of the executive board for the Timber Villa Condominium Association. They are concerned with the type of project proposed and the legal terms used, the general intent of the project’s development, the extra traffic, the lack of infrastructure, the impact on the aged water system, lack of planning for the impact of the local community, and concerned for the storm water management. She also had questions regarding zoning for parking. She noted regarding traffic, the original plan called for assisted living, not independent which will increase the amount of vehicles.

Love Eichler, 108 Timber Villa – Concerns if the apartments could not be sold, it would turn into section 8 housing which would affect their property values. She believes they had to have 100% association vote to approve the project. Questioned if David Heisey’s 20 association votes go with the builder or if they would go away.

Dmitriy Krichevskiy, 266 Dogwood Drive – Stated both his and his neighbors’ wells have gone dry. He believes the water will come from the same aquifer. He also questioned if other utilities such as gas would be run so that others could tap in. Their concern is this is a major disruption and want to make sure it is done correctly.

Richard Evans, 91 Timber Villa – If the area is zoned institutional, he believes you should have the resources to support it. He doesn’t think the water system or their grid is capable of supporting something with 66 units. It is not a municipal water supply; it is two wells.

Wayne Bream, 36 Timber Villa – He doesn’t believe the proposed plan goes with community. He has concerns of the impact on the outside area, traffic, emergency, the gate, and roads. He questioned what would happen to the facility if it would go belly up. Timber Villa Inc has a written agreement with Zimmerman’s until 2026 for the water system.

David Heisey, 112 Timber Villa – He stated on the last plan approved, the only way they could get approval is if they got water from outside of the Timber Villa base. And the state told them if they went down in the Martin area where Masonic Village has wells they would approve them if they got an agreement with the Martins. They had 3 traffic studies for a 120 unit building and this is a lot smaller. The water was built to take care of a 120 unit building which they can document. Water pressure was tested for 66,000 gallons per day by Martin Services and he can get read outs. Roads are not as wide because they were to be private – built to specs from that time and were inspected.

Harold Engle, 52 Timber Villa – Mr. Engle asked when the traffic count was taken?

Tom Viscome, 178 Dogwood Drive – Asked what can this piece of property be used for? He was told when he purchased his property it would be for assisted living. And since then the wording has changed to assisted/independent living which he believes are two different things. He expressed concern with facility having to be operable 24 hours a day depending on the specific laws and usage of the property. He questioned if the non-assisted facility could change into just an apartment building of anyone over 55 years of age. He also asked what percentage of the facility would have to be assisted/independent living.

Rebecca Ulrich, 82 Timber Villa – Stated everything she is hearing is that the township has no control over. That the Township doesn't care about the additional cars or the water in the wells going dry. She stated the township doesn't plow their streets, don't take care of their roads and lights. What does she get as a citizen, what happens with the money she pays the Township.

Ralph Horne, 1498 N. Market Street – When the original plan was presented in the 1990's, the building was on the plan and the developer touted it as continuing care/assisted living but there was going to be 24 hour services, kitchen, etc.

Greg Hoover, 251 Poplar Lane – Asked how the water will be accounted for?

Solicitor Cleary stated the law the Board of Supervisors has to follow is based on ordinances and not private agreements. Under the zoning ordinance, what is proposed, is a permitted use in the zoning district in which the land is located. There may have been agreements between the condominium association and the developer of the condominium. Under the law the board cannot deny a plan because the plan violates an agreement between private parties. The developer presented a storm water management plan which was a revision of a plan approved in 2008. They are seeking to develop using waivers granted by the board in 2008 subject to conditions. One condition was the condominium association be a party to the storm water management agreement; whether the association agrees to be a party is up to the association. The developer will be required to have the water flow for a sprinkler system. She noted there are zoning requirements for parking, parking is shown on the plan, and there should be sufficient off street parking for the units proposed. Solicitor Cleary noted the condominium association agreements should have the information regarding the votes as that is private between the builder and association. She stated the Department of Human Services would regulate the use of the property. What is proposed on the plan is a continuing care retirement community; which doesn't mean it has to meet all of Department of Human Services regulations to offer certain levels of care. The plan must meet zoning requirements pertaining to the institutional zoning district. Solicitor Cleary stated the use of the property is age restricted and read the zoning uses permitted. Solicitor Cleary stated when this development was first proposed the developer had a choice to construct the streets to standard required for a public street and dedicate the streets to the township. Or the developer could pay less money and develop the streets not to those standards with the knowledge the streets would be private – that is what the developer chose to do. As private streets, the township cannot and does not illuminate private streets. The Township provides police services, recreational facilities, makes contributions to the fire company and EMS. There are lots of services the township provides.

Manager Yoder noted the township has been presented a plan for a continuing care building. No building permits have been approved. The township has no percentage of what the building will be assisted living verses independent living. What qualifies as assisted or independent is determined by the Department of Public Welfare. If it is presented as a seniors housing apartment building, it falls within the zoning requirement whether it's assisted or independent living. Manager Yoder stated the current developer has pledged to abide by the conditions.

Chief Mayberry thanked Township Staff and the participants for National Night Out's success.

VI. **Reports** – Moved by Supervisor Dunn, seconded by Supervisor Hottenstein to approve the monthly reports. Motion carried.

VII. **Consent Items**

Moved by Supervisor Dunn, seconded by Supervisor Kreider to approve the following consent items:

- A. Release of developer escrow – Donegal Woods, LLC, Phase 3 early start financial security in the amount of \$26,155.25 – WDT 17-11 as the plan was cancelled.
- B. Release of developer escrow – David G. Heisey, Timber Villa Assisted Living in the amount of \$1,818.92 – WDT 07-08 as Mr. Heisey has sold the project to a new developer who has posted the required developer's escrow.

Motion carried.

VIII. **Actions**

- A. Moved by Supervisor Dunn, seconded Supervisor Kreider to approve the 2019 Minimum Municipal Obligation for the West Donegal Township Non-Uniformed Employee Pension Plan for budgeting purposes. Motion carried.
- B. Moved by Supervisor Dunn, seconded by Supervisor Kreider to approve Resolution 05/2018, accepting dedication of StoneyBrook Lot 317A also known as StoneyBrook Park. Motion carried.
- C. Moved by Supervisor Dunn, seconded by Supervisor Kreider to approve Resolution 06/2018, accepting dedication of streets from Phase 1 of Bishop Woods. Motion carried.
- D. Moved by Supervisor Dunn, seconded by Supervisor Kreider to approve the reduction of escrow for the Donegal Woods Phase 3 project, WDT 17-11. The request is for a reduction of \$445,785.46 retaining \$379,885.74 for work remaining. This is a first request. Motion carried.
- E. Moved by Supervisor Dunn, seconded by Supervisor Hottenstein to approve Resolution 07/2018 updating the Township's drug testing policy to match the new CDL testing provider. Motion carried.
- F. Moved by Supervisor Hottenstein, seconded by Supervisor Kreider to advertise Ordinance 233/2018 updates to the street sign ordinance. Motion carried.
- G. Moved by Supervisor Dunn, seconded by Supervisor Hottenstein to approve the consent agreement with Vincent Gerace of Harrisburg Avenue. Motion carried.
- H. Moved by Supervisor Dunn, seconded by Supervisor Kreider to approve Ordinance 232/2018 adopting the Property Maintenance Code.

Supervisor Hottenstein thought the only intent was for structurally deficient buildings. There is language in the ordinance dealing with outside items besides structurally deficient buildings. He stated that multiple times there is reference to the code official's judgment. He does not want the township being a babysitter telling people how to maintain their properties. He said what was presented was that we would not go inside unless it was a structurally deficient issue; that's not what this says as it calls out Interior Structure, Section 305. He feels the township should not be telling people how to keep the inside of their homes and the ordinance takes away personal property rights. He has major issues with the ordinance as presented.

Chairman Snyder called for a roll call vote:

Supervisor Dunn – Aye, Supervisor Kreider – Aye, Supervisor Hottenstein – Ney, Supervisor Snyder - Aye
Motion carried.

Chairman Snyder noted this ordinance is a stepping stone and the Board can revise it as time passes.

- I. Moved by Supervisor Dunn, seconded by Supervisor Hottenstein to approve the following for the Major Storm Water Management Plan for Ironstone Ranch Newville Road Access Drive, WDT 18-09:
 - Approve modification to SALDO 200-35.I, Vertical Street Alignment
 - Approve modification to SALDO 200-35.I.1, Vertical Curve Length
 - Approve modification to SALDO 200-35.I.2, Length of Grade Leveling Area
 - Approve modification to SALDO 200-35.J, Minimum Horizontal Curve Radius at Centerline
 - Approve modification to SALDO 200-35.O.1, Clear Sight Triangle
 - Approve modification to SWMO 190-32.A.2.(c), Maximum Loading Ratio for Volume Control Facilities
 - Approve modification to SWMO 190-37.D.2.(a)(3), Minimum Pipe Cover
 - Approve Modification to SWMO 190-37.A.2, Side Slope of Impoundment Areas in Unrestricted Basin
 Motion Carried.

Moved by Supervisor Kreider, seconded by Supervisor Dunn to approve the financial security in the amount of \$100,580.70. Motion carried.

Moved by Supervisor Kreider, seconded by Supervisor Hottenstein to approve the signing of the Storm Water Operation and Maintenance Agreement when they have been finalized as approve by township staff and the Solicitor. Motion carried.

Moved by Supervisor Dunn, seconded by Supervisor Kreider to approve the Storm Water Management Plan when all conditions have been met per the Solicitors letter dated July 30, 2018 and David Miller Associates letter dated August 2, 2018. Motion carried.

- J. Moved by Supervisor Kreider, seconded by Supervisor Dunn to release payment from the Capital Reserve Fund to Custer Excavating Inc. in the amount of \$71,057.36, retaining \$3,992.64, until the erosion and ruts around the inlet are corrected. Motion carried.

IX. **Discussion**

- A. PPL bill for street lights in StoneyBrook Phase 1 – Manager Yoder noted the street lights were turned on in 2016 as authorized by the Supervisors at that time. PPL has just sent the initial bill. The streets are not currently dedicated and therefore, the bill cannot be paid from Liquid Fuels.

Moved by Supervisor Kreider, seconded by Supervisor Dunn to pay the street light bill for StoneyBrook out of the General Fund in the amount of \$4,966.29. Motion carried.

- B. Fire & EMS Commission Meeting – August 23rd.
- C. WDT Township building exterior door hardware replacement – Manager Yoder stated the hardware on the lower level entrance broke. He received two quotes for replacement from Builders Specialty Service Inc.

Moved by Supervisor Dunn, seconded by Supervisor Kreider to accept the quote of \$4,340.00 from Builders Specialty Service, Inc. for the replacement of hardware on the exterior lower level door of the township building. Motion carried.

- D. New VOIP phone system update – The phones have been installed and are currently being transferred into service.
- E. W. Ridge Road Update – W. Ridge Road has been closed for the culvert replacement. A binder coat was placed on the road.

It was asked who was paying for the culvert and who paid for the trees to be removed. As stated, the culvert was paid for by the developer and the tree removal will be split three ways between the homeowner, the township, and the developer.

IX. **Zoning**

Zoning Officer Miller sent a letter to 68 Hilltop View Way. A pool was installed and the topsoil was placed into the swale. With the rain, the topsoil has flowed onto the adjacent property. Mr. Miller instructed the homeowner to install a silt fence so the soil didn't flow onto the adjacent property. He has not heard from the homeowner regarding the corrections needed. Solicitor Cleary stated the homeowner is in violation since they altered a storm water management swale. The Board instructed Solicitor Cleary to send a violation letter to the homeowner.

Mr. Miller issued a letter to 1009 Garber Road for violations of the height of their bushes in the front yard creating a sight distance issue. The homeowner has until August 21st to correct the situation. The Board instructed Solicitor Cleary to send a violation letter to the homeowner after the deadline should the situation not be corrected.

- X. **Executive Session** – Manager Yoder asked for an executive session regarding a personnel issue.
- XI. **Bills Payable (Final Unpaid List)** – Moved by Supervisor Dunn, seconded by Supervisor Hottenstein to approve the bills payable. Motion carried.
- XII. **Adjourn** – Moved by Supervisor Kreider, seconded by Supervisor Dunn to adjourn the meeting at 8:55 pm. Motion carried.

Prepared by Jennifer Rabuck for

Philip Dunn, Secretary