

EDGMONT TOWNSHIP BOARD OF SUPERVISORS
REGULAR MEETING MINUTES
April 16, 2008 - 7:30 p.m.

1. Executive Session – prior to their advertised work session the Board members, manager and solicitor met to discuss and resolve a fee dispute concerning sewers.

2. Work Session – at an advertised work session attended by Ronald Gravina, Joseph Conan, Chip Mackrides, Samantha Reiner, Mike Conrad, PE and Ken Kynett, Esquire, officials met with Al Gianantonio, P.E. and Matt Boggs, P.E. of Yerkes Associates to discuss the status of the public sewer project and the township's revisions to its' Act 537 Plan.

Dan Poppowell, P.E. was also present on behalf of his client, Jamie Greco to ask the board for more details about their request to make improvements at the intersection of Farmers Lane and Middletown Road. Mrs. Reiner offered to set a meeting with PennDOT officials to consider the improvements under PennDOT's maintenance provisions.

Cedar Knoll resident David Jarjesian asked the board to consider allowing him to construct or install at least one 33 foot tall windmill turbine. He was accompanied by Mr. Caminsky representing Green Power Solutions, a wind turbine provider. He has survey results indicating a constant 7 – 12 mph wind on his property and he is interested in providing an alternate energy source to his home. The board would want to see more specific information about the tower including sound decibels, ice and wind load, ground equipment required, maintenance, foundation required, fall zone, relationship with tree proximity, and more. Mr. Jarjesian said he would provide additional information to the Township.

3. Pledge of Allegiance & Open Meeting: Mr. Gravina called the meeting of the Edgmont Township Board of Supervisors to order at 7:38 p.m. with the Pledge of Allegiance. In attendance were Ronald Gravina, Chairman; Joseph Conan, Vice Chairman; Chip Mackrides, Member; Ken Kynett, Township Solicitor, Samantha Reiner, Township Manager; Mike Conrad, Township Engineer; Ed Theurkauf, Township Land Planner; and Nicole Cariello, Administrative Assistant. There were 11 guests.

4. Public Comment:

Margery Locke – White Horse Village – Mrs. Locke thanked the Board for participating in the ground breaking on March 26th and felt that it was a spectacular time and the participation was enjoyed.

Will Martin – 1014 Arbor Way – Thanked the Board and Mrs. Reiner for the work on the sewer plant and that there was positive resident feed back. Mr. Martin wanted to re-request that Linemere Homes be found in default so that outstanding items could be resolved. Mr. Martin asked the Board if they could take over the hydrants that are on Arbor way and part of Columbus and the pipes and structures under the road.

Mr. Gravina noted that the hydrants would be paid for through taxes and that the road situation would not be settled tonight.

David Jarjisian, Cedar Knoll resident – Noted that his home and his tenant house is across the street from the White Horse Village construction site. He indicated his displeasure at the sound and sights from the area. Mr. Jarjisian indicated his tenant's son was autistic and that the child is experiencing behavioral alterations due to the noise and the sight of the construction site. Mr. Jarjisian requested that the start time of construction be moved to 8 a.m. and that it conclude by 3 p.m. He further requested the developer be required to build a barrier that could block the view of the construction site from his tenant house. Mr. Gravina responded that these matters could have been addressed during the planning phase, meetings which Mr. Jarjisian attended, and asked the resident why he waited until now to bring this up. He suggested the resident write out his complaints, and work through the matter with White Horse Village property owner and CEO.

5. Bill List: Mr. Conan moved and Mr. Gravina seconded to approve the Bill List totaling \$155,705.33. Mr. Gravina indicated that the number was high because of a tax transfer from general tax for revenue and fifteen thousand dollars was to pay for a walkway from the firehouse to the Township building. There was no further discussion and the motion approving payment of the bills presented unanimously passed. Mr. Conan inquired about the funds that needed to be collected from developers for professional fees. Mrs. Reiner stated that some fees were delinquent, including Paolino and Scheivert. A discussion followed on the 1% interest amount and if this could be increased.

6. Minutes: February 20, 2008 revised and March 19, 2008: Mrs. Reiner noted that the February minutes had been revised because it was not noted that the Board had approved the Supplemental Agreement to join CDCA. Mr. Conan moved and Mr. Gravina seconded to approve the revised Board minutes of 2/20/08 as amended, Mr. Mackrides abstained. There was no discussion and the motion passed. Mr. Mackrides moved and Mr. Gravina seconded to approve the Board minutes of 3/19/08. There was no discussion and the motion passed unanimously.

7. Reports: Mr. Gravina noted that the reports were available to the public in the back of the meeting room. Mrs. Reiner read her report as follows:

Township officials will welcome back the Bates family as organizers of the 9th annual Stream Clean Up set for Saturday May 3rd, and volunteers are needed. The board has determined the watershed project this year will be in areas of the Ridley creek. Volunteers are asked to come to the township building by 9 a.m. on May 3rd dressed for the woods. Teenaged children are welcome. Please leave your toddlers and pets at home that day.

Primary Election day is Tuesday, April 22, 2008. If you live in the following neighborhoods, you vote here in the municipal building: Runnymede Farms, Cold Springs, Okehocking Hills, Winderly, Springton Chase, Summerhill and areas in between. Most other residents vote at White Horse Village. If you have any questions you may contact the Delaware County voter registration bureau or the township.

The Edgmont Township Fire Company invites the public to support and become part of their new facility by participating in a “buy a brick” program. Bricks are being sold to raise funds for the fire company, and may be engraved with a special message. The bricks will be used to pave a “Hero’s Walk”, brochures are available at the back of the room. Please consider supporting this opportunity and become a permanent part of the history of the Edgmont Township Fire Company.

The State Legislature has passed the new Right-to-Know law in the hopes of building a better bridge of trust with the public. Edgmont prides itself on its open form of government, and welcomes public comments and queries. Information relating to certain sensitive materials such as specific residential building plans will remain unavailable for public view and reproduction without the written permission of the owner. Personnel records are strictly confidential. All municipal staff are attending a state sponsored workshop on April 29th to gain a full understanding of the access to governmental information. A listing of specific record exemptions is published in the April edition of Township News and posted at the reception area of the municipal building.

Message to residents – with spring come many home improvement projects. Please remember to contact the township to inquire if the work you wish to do requires a permit. Many residents are finding themselves in the unfortunate position of being penalized and delayed in completing their projects because they did not check first. Most renovations, including new roofing and demolition of structures require permits. ALL DIGGING, no matter how minimal, even fence post hole digging and tree planting, require a contact to PENNSYLVANIA ONE CALL. The process is simple for PaOneCall – just dial 811. When cleaning up lawns and leaves, remember open burning is not permitted by the township, composting and recycling are encouraged.

Mr. Gravina clarified that open burning is not permitted by DEP, the Township does not regulate it or permit for it and that we are in a clean air basin. Mr. Gravina noted that the Township cannot supersede the state so we cannot create ordinances that prohibit or permit burning. Mr. Gravina stated that if the burning creates a nuisance then the Township could handle the matter, but only if it gets to that point.

8. Old Business

a. Public Sewers

(1) Act 537 Plan

Mrs. Reiner noted that the Act 537 Plan is still pending with Pa DEP, but that she will meet with members to review their points.

(2) CDCA Membership Update – Resolution #18 and Ad

Mrs. Reiner noted that the CDCA is looking for a re-approval by Edgmont of their desire to join and Mr. Kynett revised a Resolution that was placed in front of the Board this evening. Mrs. Reiner noted that the Resolution would adopt and approve the clarifications suggested by Nether Providence last month which are amendments to the Supplemental Agreement. Mr. Kynett explained that as a formality an application needs to be sent to the Secretary of the Commonwealth to be approved. He felt it would be prudent to create a resolution stating what had been done to

date. Mr. Kynett noted the need for the advertisement before the application can be submitted to the Secretary.

Motion: Mr. Gravina moved to adopt Resolution #08-18. Mr. Conan seconded the motion. There was no further discussion and the motion passed unanimously.

Mr. Gravina indicated that the whole Township would not have public sewers in a few years, only the Eastern portion of the Township is included in the project to provide public sewers.

i. Appointment of CDCA representative

Mrs. Reiner stated that the Township was required to appoint a representative for a one year term as a member of the CDCA board. Mrs. Reiner noted that she and Mr. Mackrides had shared the position. Mr. Gravina stated to place this item on the agenda when they received approval from the Secretary of the Commonwealth.

(3) Sewer Project/DELCTORA update

Mrs. Reiner noted that she and Mr. Conan had met with representatives from DELCTORA and that they were poised to enter into a contract with whatever engineer the Township chooses to move the Township forward. The engineer would work for DELCTORA to design, install and maintain the sewer system.

b. Arbors

(1) Request for escrow release

Mrs. Reiner stated that Mr. Latiff had requested a partial release of escrow, and had agreed to an extension of time for the township to address the request. Mr. Gravina moved to deny the request of Linnere Homes for the escrow release of \$20,000.00 dated 2/23/08 based on the recommendations of the Township professionals. Mr. Conan seconded the motion. Mr. Mackrides abstained. There was no further discussion and the motion passed.

(2) Development status update

The Developer has met with the Township manager and evidenced his inability to complete the improvements on the approved plan. The Township finds Linnere Homes in Default of the Developer's Agreement, and pursuant to the terms of the Agreement will step in to complete the improvements for Arbors at Edgmont. Mr. Gravina directed the manager to check with the Mesticelli's about the resolution of the problem with stormwater washing out their driveway.

(3) Resolution #08-16

Mr. Gravina read the Resolution as follows:

Declaration of Default of Linnere Homes, Inc.

WHEREAS, Linnere Homes, Inc. ("Linnere"), proposed to develop a certain track of land within the Township of Edgmont ("Township") containing approximately 13.74 plus or minus acres located at the Eastern end of Columbus Avenue and identified as tax folio 19-00-00060-00 into 30 lots for single family detached dwellings and common open space with

associated improvements including storm water management, erosion and sediment control, public water system, community sewer system, internal roadway paths, landscaping and certain off-site improvements; and

WHEREAS, by its Resolution 2002-20 dated September 20, 2002, Edgmont Township (“Township”) granted Final Approval of Developer’s application for subdivision, subject to certain conditions stated in the Plan Approval Resolution and accepted by Developer; and

WHEREAS, a condition of Developer’s Final Plan Approval was Developer’s execution of Development and Financial Security Agreements for purposes of legally binding Developer to complete all public and common improvements and infrastructure shown on the Developer’s Final Plan of Subdivision; and

WHEREAS, pursuant to the conditions of Final Plan Approval, Developer entered into a Development Agreement dated December 23, 2003 by and between Developer and Township, and Three Party Agreement-Completion dated February 9, 2004 among Developer, Township, and Commerce Bank; and

WHEREAS, Royal Bank America (“Royal Bank”) subsequently assumed the responsibilities of Commerce Bank under the Three party Agreement-Completion; and

WHEREAS, Developer has failed to complete the required improvements shown on Developer’s Final Plan of Subdivision, pursuant to the Development Agreement; and

WHEREAS, Developer’s failure to complete the required improvements pursuant to the Development Agreement constitutes a default by Developer under such agreement; and

WHEREAS, Developer’s default under the Development Agreement establishes Township’s right to demand from Royal Bank such funds as Township reasonably deems necessary to satisfy Developer’s obligations under the Development Agreement pursuant to the terms of the Development Agreement and the Three Party Agreement-Completion; and

WHEREAS, Township has reasonably determined that all remaining security funds held by Royal Bank pursuant to the Three Party Agreement-Completion appear necessary to satisfy Developer’s obligations under the Development Agreement.

NOW THEREFORE, BE IT RESOLVED by the Board of Supervisors of Edgmont Township, that Linmere Homes, Inc. is hereby declared to be in default of its obligations pursuant to the Development Agreement with Township, and Township, pursuant to the Three Party Agreement-Completion, hereby makes demand upon Royal Bank for all remaining funds held by Royal bank as security for Developer’s satisfaction of its obligations pursuant to the Development Agreement, including all incorporated approvals of the plans.

RESOLVED this 16th day of April, 2008.

Mr. Conan seconded the motion. Mr. Mackrides abstained. There was no further discussion and the motion passed.

(4) Resolution #08-17

This item was tabled due to the fact that Mr. Malman has yet to receive a sworn statement that there are no assets available to Linnmere Homes, Inc. or Chuck Latiff personally, which he wants to have before the Township moves forward with the next resolution.

c. Spring Road Inspection

(1) Designate Road Project

Mr. Gravina stated that the Engineer, the Manager and the Board had performed their annual road inspection on Friday to evaluate all of the Township roads but did not feel that the Board was prepared to designate the project at this time. The board asked Mr. Conrad to project the cost per each project and rate them in order of priority, to discuss at the May meeting.

9. New Business

a. One Landmark Final Plan submission

This item was tabled until the next meeting.

b. Barakat/Halcyon – Status Update and Finalization of Subdivision Plans, Extension

Present: Mike Lyons, Esquire
Joe Barakat, landowner

Mike Lyons, Esquire stated that he was presenting on behalf of the applicant, and noted that the cost of the improvements made to Edgmont was in excess of a million dollars and wanted to give the status of the project and to state that the project had not been abandoned. Mr. Lyons stated that he hoped to revisit within 6 months if not sooner. Mr. Kynett noted that according to the MPC, the applicant had a five year protection time period which runs from Preliminary Plan approval, during which ordinance changes can not adversely impact the plan. Mr. Lyons stated that the Final Plan had been approved in January 2006, and that the zoning approval had been extended as well. Mr. Barakat indicated that he had applied for the PennDOT HOP, cleaned up the property recently, and received approval to connect to public water from AQUA. He was asked to supply the Township with a copy of his public water approval letter.

Mrs. Reiner noted that she had written to Benson regarding the outstanding bills and told Mr. Barakat that if they were to receive the funds she would let him know. It was further clarified that the applicant did not need an extension because they were covered under the MPC five year time clock and that a 90 day clock for recording plans would not start until the date the plans are signed by the Board of Supervisors.

c. White Horse Village Request for Extension to Record Plans

Mrs. Reiner noted that the applicant was close to finalizing their plans.

Motion: Mr. Gravina moved to approve an extension until April 30th, 2008. Mr. Conan seconded the motion. There was no further discussion and the motion passed unanimously.

d. Escrow Release Request

(1) Edgmont Country Fair Parcel B

Mr. Gravina noted that the request was for \$49,839.23 of which Yerkes recommended \$40,290.73. Mr. Gravina noted that Mr. Conrad had stated the reasons why in his letter of recommendation.

Motion: Mr. Gravina moved to approve escrow release #6 for Edgmont Country Fair in the amount of \$40,290.73, based upon the review and recommendation received from Yerkes Associates 4/9/08 and the TCA review dated 8/6/07. Mr. Mackrides seconded. There was no further discussion and the motion passed unanimously.

(2) Sycamore Woods Estates

Mrs. Reiner explained that the request to amend a final recorded plan had not come in proper form. The Township had responded to ask the applicant to submit the request in proper form and recommended that the applicant be present at this meeting. Mr. Gravina noted that this must be done correctly and mailed certified and that Mrs. Reiner follow up with Mr. Kynett after the meeting. Mr. Kynett suggested that it be sent to Gary as well as the applicant.

Mrs. Reiner explained that the applicant was requesting all of the escrow left for Phase I, \$4,291.65, constitutes the wearing course, landscaping, the as built plan and the concrete monuments. Mrs. Reiner noted that the Board did not have the Title Report or the Deed of Dedication, or resolution needed to further the dedication process. This being so, Bruce Irvine stated that no more money should be release in case the applicant does not complete the work. Discussion followed on the wording of the motion.

Motion: Mr. Gravina moved to deny the escrow release request from Gary Hurwitz on an undated letter received by the Township on 3/10/08 for \$4,291.65 under line #9 and \$1,601.00 under landscaping in accordance with the recommendations received from TCA dated 3/31/08 and Herbert MacCombie's recommendation dated 4/11/08 and further denied due to the Township not being provided a deed, title insurance certificate and maintenance bond in accordance with the MPC, the Subdivision and Land Development Ordinance and the Subdivision Agreements signed by the developer and the township. Mr. Conan seconded the motion. There was no further discussion and the motion passed unanimously.

Mrs. Reiner asked what should be done with the plans and Mr. Kynett stated that the plans should be returned along with a letter regarding outstanding items.

e. May Meeting – Possible Date Change

Mr. Gravina will not be able to attend the meeting in May so it was decided that there will be two meetings in May due to the agenda. The regular meeting dates would remain May 21st and an additional date for the two Conditional Use Hearings would be May 27th.

f. Zoning Application(s): See 9.c

Mr. Gravina noted that there were no new applications and that he had received and read the Vet's decision and a brief discussion followed on the aspects of the Vet's office.

10. Miscellaneous Discussion

a. Stream Clean Up -

Mr. Gravina felt a project clean up area could be determined once it was known how many volunteers showed up – he planned on attending the event on May 3rd.

b. NextG -

The Township has received a request from NextG to locate structures on at least three utility poles in the township for an undisclosed telecommunications client. Mrs. Reiner was asked to provide more information and do more research with the telecommunications attorney, Dan Cohen, Esquire.

c. Various Ordinance Requirements –

Mrs. Reiner suggested a committee be organized and charged with meeting regularly to discuss the pending ordinances as well as certain new regulations the township may want to consider. She indicated that the SEO suggests the Township may want to create protection for the aquifer in case residents were to dig geothermal wells and then abandon them. Mrs. Reiner has received complaints about the parking of RV's and horse trailers in developments. There have been new requests for consideration for windmills, and the board should consider solar panels, bill boards, etc. No action was taken.

d. DeHaven – The board was asked if they would consider a waiver from the tree replacement requirement due to the heavily wooded nature of the building lot. Mr. Kynett indicated the township has requirements that either the developer or lot purchaser should comply with by fitting shade trees and understory trees into the lot and make a donation to the tree fund for the balance. The plan should include a schedule of plantings, with quantities.

e. 12 Spruce Road – Request permission to retain well for yard watering. The Board discussed a request of Ms. Barbara Moore to keep a well that was previously servicing a swimming pool that was being demolished. The board felt if the well was currently maintained and in working order it could be retained, however if it was not currently in working order and has been out of order for a period of time it must be properly abandoned and inspected by township officials.

f. Insurance - Brokerage Professionals has offered a blanket additional rider to increase coverage for volunteers at a cost of \$350, which the board unanimously approved the purchase of.

- g. PSATS - the Board discussed the upcoming state convention and voting on the resolutions presented there.
- h. Bates – tree replacement or an offer in lieu of tree replacement will be required by the Board for the switch out of the primary with the replacement septic area.
- i. Dortone – The board directed the manager to take the matter to the District Justice because the resident has failed and refused to remove his horse from his property, continuing the zoning violation.
- j. Sewer Engineer- After discussion, the Board members unanimously approved the appointment of Walter Fazler, P.E. of Bradford Engineering, Inc. as sewer engineer for the Township. Mr. Fazler will be charged with the completion of the public sewer project and all related work.

11. Announcements

- a. The Board of Supervisors will meet at 5:30 p.m. Monday, May 19, 2008 for a joint work session and at 7:30 p.m. Wednesday, May 21, 2008 for their regular meeting at which we expect a Conditional Use Hearing and an Ordinance Hearing.
- b. The Planning Commission will meet on Monday, April 28, 2008 at 6:30 p.m. for a work session, and at 7:00 p.m. for their regular meeting.
- c. The Zoning Hearing Board will not meet on Tuesday, April 29, at 7 p.m. as no applications were submitted.

12. Adjournment: At 9:33 p.m. Mr. Gravina moved and Mr. Conan seconded to adjourn the meeting. There was no discussion and the motion passed unanimously.

Respectfully submitted,

Samantha Reiner
Township Manager

ACTION ITEMS

April 16, 2008

<p>Samantha Reiner</p>	<p>Barakat/Halcyon – Receive copy of AQUA letter concerning approval</p> <p>Sycamore Woods – Follow up with Ken the motion made this evening, return plans along with direction on how to proceed</p> <p>Greco – Setting a meeting date with PennDOT regarding intersection improvements</p> <p>Appoint CDCA Representative – Place on agenda when approval is received by the Secretary of the Commonwealth</p> <p>NextG – Provide more information and research with Dan Cohen, Esq.</p> <p>Various Ordinance Requirements – Set up meeting date to discuss the ordinances</p> <p>Dortone – Take this matter to the District Justice due to lack of cooperation from the resident</p>
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