

EAST PENNSBORO TOWNSHIP  
BOARD OF COMMISSIONERS  
NOVEMBER 7, 2018

Regular Meeting

7:00 p.m.

A Regular Meeting of the East Pennsboro Township Board of Commissioners was held on Wednesday, November 7 2018, at 7:00 p.m. at the Community and Municipal Center, 98 S. Enola Drive, Enola, Pennsylvania.

Those present were: Commissioners - George Tyson, Vice President; Charles Gelb and Raymond "Skip" Magaro; John Pietropaoli, Township Manager; Lisa M. Coyne, Esquire, Township Solicitor; John B. Owen, Assistant Township Manager; Jared Hockenberry, Township Engineer; Dearan Quigley, Housing & Community Development; Chief Mark Green, Police Department; and Erik Owen, Fire Marshal.

I. CALL TO ORDER

Vice President Tyson called the meeting to order at 7:00 p.m. A moment of silent meditation was observed, followed by the Pledge of Allegiance to the Flag.

He noted two board members are under the weather and not able to attend tonight's meeting.

II. APPROVAL OF REPORTS

MOTION approving the Building Report for October 2018, was made by Mr. Skip Magaro, seconded by Mr. Gelb, and was carried by a unanimous aye vote.

III. PRESENTATIONS

Mr. Dennis Small and Mr. Al Bruner, representing the Enola Sportsmen's Club, presented four checks totaling \$20,000 to the township fire companies, and another check for \$12,000 for the Police Department to help equip defibrillators for their cars. The checks were presented to the fire company officials and Chief Green.

Mr. Justin Shaulis, from Cumberland County Public Safety, presented a Local Emergency Management Professional Certification to Deputy Coordinator Erik Owen. He noted the title is to develop and maintain a training program to develop competency in local emergency managers to better serve county citizens. Erik has completed his professional certification, which is 60 hours of classroom and 126 hours of online training, for a total of 186 hours. He presented a plaque and a certificate to Mr. Erik Owen. Vice President Tyson thanked Mr. Erik Owen for his dedication.

#### IV. BUSINESS FROM THE FLOOR

Mr. William Brougher, on behalf of Northeast Fire and Rescue, thanked the board very much for working with them on their parking lot. The paving done so far has made it safer for not only the firefighters but the public as well. Vice President Tyson thanked the Highway Department.

Mr. Paul Hartman, 130 Lancaster Avenue, asked where to take yard waste at the landfill, and if the permits are good for a year. Mr. Pietropaoli noted it is currently a yearly permit. The system is set up for the calendar year, so you would come back next spring or winter and renew and you would keep the same card. It is on a calendar year, no matter when you get it.

#### V. ITEMS FOR DISCUSSION AND APPROVAL

MOTION to approve the request from Central Penn College to hold a bonfire on November 29, 2018, from 7:00 p.m. until 9:00 p.m. at their fellowship area, as recommended by the township Fire Chief, was made by Mr. Skip Magaro, seconded by Mr. Gelb, and was carried by a unanimous aye vote.

MOTION to authorize the Township Solicitor to draft and take appropriate action to advertise the pending LERTA ordinance in light of the December 5,

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2018, public hearing, was made by Mr. Skip Magaro, seconded by Mr. Gelb, and was carried by a unanimous aye vote.

Mr. Gelb asked if this has anything to do with keeping the Enola Miller house where it is or if it is going to be moved. Mr. John Owen noted this is just for tax abatement.

Ms. Coyne noted the draft ordinance circulated to the Commissioners does two things. Under the LERTA Act, this body establishes a geographical area for the LERTA relief with tax abatement, and it establishes a schedule of abatement. That is under the enabling legislation. What the LERTA would consider is possibly giving relief to the entity for any new construction or improvements as defined in the draft ordinance. It purely deals with taxation on improvements made to the property.

MOTION to accept the resignation of Jason Oyler from his unexpired term on the Environmental Advisory Council, was made by Mr. Gelb, seconded by Mr. Skip Magaro, and was carried by a unanimous aye vote.

MOTION to appoint Kyle Mundis, 4 Cedar Court, Enola, Pennsylvania, to the Environmental Advisory Council for a four-year term expiring February 1, 2023, was made by Mr. Gelb, seconded by Mr. Skip Magaro, and was carried by a unanimous aye vote.

Mr. Owen noted Mr. Mundis in the audience tonight with Ms. Samantha Signor, who is chair of the Environmental Advisory Council. Vice President Tyson thanked Mr. Mundis for stepping up to volunteer.

## VII. NEW BUSINESS

Mr. Pietropaoli passed out a copy of the latest budget. He asked the board to please keep in mind that it is the pending budget until they see what happens with LERTA with the school district. There is

only one more meeting until they must advertise the budget. He noted under the current tax rate, he cannot continue to support the Summerdale property without a tax increase.

Mr. Pietropaoli informed the board he is preparing to advertise 2019 meeting dates. The first meeting date is January 2. He asked if the board wanted to push it back to January 9. Staff had reasons to push it back to give the board more time to handle the comp plan and the advertising for the comp plan. If there are any reasons why the board would not want to push it back a week until January 9, to please let him know, as he needs to get the advertisement out next week.

Mr. Pietropaoli stated he just received a letter tonight regarding a request for relief from the \$500 stormwater fee for a property owner in Tristan Court. Mr. Gelb suggested a discussion and a vote should take place tonight, considering what has happened and what they are asking. Mr. Skip Magaro agreed. Vice President Tyson noted this is the first that he has seen it and he does not know the specifics, as to whether the \$500 fee is the normal fee for stormwater review.

Ms. Coyne asked to attach a copy of the letter to the minutes. Mr. Skip Magaro noted the property owner has been trying to put a garage up for at least a year. There were some legitimate questions at first and he went to the codes office, and Mr. Magaro thought they had it all resolved.

Mr. Pietropaoli read Commissioner Kristy Magaro's note questioning how the builder is still building if the detention pond is not big enough, and she questioned why the builder is not responsible for making the pond bigger and cleaning out the pond. Mr. Hockenberry noted the development at Tristan Court was designed and started construction after the new 2013 stormwater ordinance, which says that if you add more

than 1,000 square foot impervious area, you have to put in stormwater management. The development was a seven- or eight-home subdivision that clearly exceeded that threshold. The design of the stormwater facility was to handle all the stormwater from the roads and rooftops of the homes. The facility was designed with a certain size rooftop in mind, approval was granted because of the calculations, and construction was started. The developer sold the plan to a new builder. The builder started building homes that were allowed within the Zoning Ordinance, but the rooftops and driveways were significantly larger than what the stormwater was contemplated. As those homes started getting built and the as-built came back indicating the size of the rooftops, staff started asking if the basin was large enough to handle the flows. A new report was provided showing that the homes that were built, plus certain size rooftops on the two remaining lots, would be able to fit in the stormwater facility, but that facility did not contemplate any additions to any of the homes.

Mr. Lumbard, the lot owner, requested an additional garage. The township said it is fine by the zoning, and if the developer could include this additional area in their design calculations, they would have to do nothing else. He asked the builder to do that. For unknown reasons, the builder decided not to include their addition in the revised calculations. So staff suggested that they could handle the stormwater management for the additional garage on their own lot, such as putting in infiltration trenches. The alternative would be to wait to see because typical stormwater management design, the basins are built for erosion sediment in the beginning when everything is dirt, sediment runs off into a low spot and then once the roads and houses are put in, that gets dug out and becomes a permanent basin and has a different function. That basin has not been converted to the final form yet, so the builder will be eventually digging it out and making the basin larger. Once that is done, it will have to be

surveyed to provide additional calculations. Mr. Hockenberry suggested when it is dug out it will hopefully be a little bigger than what the design calculations call for and there will be room for this very small addition, but he noted the Lumbards want to build their car garage now, which is understandable.

Mr. Hockenberry explained that anytime a standalone stormwater management plan is submitted, staff time involved, and like every other application, there is a fee to handle that staff involvement with a particular lot. The fee schedule for stormwater management standalone review is \$500. Vice President Tyson asked if there is any way, with the builder having to go in and clean out and reconfigure the pond, to have him absorb that fee. He asked if there was a deposit or escrow from them for development of that. Mr. Hockenberry stated in this case the lot ownership has changed hands. The basin is on the lots that are still owned by the builder, and he does not believe the builder owns lot 2. He noted that would be asking the township to force one property owner to do work on their property to benefit another property owner. The basin is for the whole community. It is taking flow from the rooftop and driveway from lot 2 and the rest of the lots. He noted staff has met with the Lumbards and their builder, and there has been a good bit of staff involvement to date.

Vice President Tyson asked Mr. Lumbard if there was any cooperation from the developer. Mr. Lumbard noted he has received no cooperation from the builder/developer. When he considered the addition of the garage to the property and the patio in the back, he went to the builder, who wanted him to build a lean-to attached to the house. They said that was not their interest, so they looked for another reputable builder to come up with a set of plans to build the garage, and then they added the covered patio in the back yard. He believes the total ground improvement is less than a thousand square feet. He was under the impression that they would have been exempt from

having to have a review because of the amount of square footage. Mr. Hockenberry noted that scenario would be true if the homes were built before the stormwater ordinance.

Mr. Skip Magaro asked if the property owner should be held up because of what the developer is doing. Mr. Hockenberry noted staff is just following the ordinance. If a home was built before 2013 and the owner came in last year to put in 990 square feet of impervious area, they would not have to do stormwater management. But then if the following year they came in and wanted to do 20 square feet, the cumulative area is over 1,000, and that is how the ordinance reads. Mr. Skip Magaro stated he feels sorry for the homeowner because he is between a rock and a hard place caused by the developer/builder. He believes the township should go after the builder and hold any money, if there is an escrow, until he does what he is supposed to do. He does not believe the property owner should be punished.

Mr. Gelb noted there is a lot of background where this developer and the builder were not able to continue to build, and then they did build. He stated if the developer or builder does not want to cooperate with the Lumbards, he is in favor of waiving this fee for the Lumbards. Even with the money involved of staff review, he is willing to review on a case-by-case basis. He believes the builder is in the wrong because the homeowner tried to work it out, they tried to talk, yet there is no communication.

Ms. Coyne noted this is the first she has seen it. She respectfully suggested, notwithstanding the desire of the Commissioners, if she could confer with staff. She asked Mr. Lumbard if he bought the lot directly from the developer. Mr. Lumbard stated he bought the house resale, so they are the second owner of the home. As far as he knew, they were buying into a housing development that would offer the ability to do additions to the home, whether a garage, a swimming

pool, whatever property owners typically do to improve their property. Ms. Coyne asked if there is a homeowner's association with this development. Mr. Owen noted it is too small of a development, only six lots.

Ms. Coyne respectfully suggested if she could confer with staff to be able to provide some guidance for the next meeting. Vice President Tyson stated he too would like more information. He noted the ordinance is written to reflect the mandates of DEP, which every community is facing the stormwater MS4 management fee, whether it is referred to as a stormwater management fee or a rain tax. He noted there have been submissions for single-family houses to be built with \$10,000 to \$15,000 in stormwater management as a part of that. Unfortunately, that is not a decision the board gets to make when regarding licensing and permitting for the MS4 requirement that is approved by DEP. The township needs to make sure that it is not in a position of precedence setting because a lot of people who would want their fees waived. He does not want to go awry of the statute.

Mr. Pietropaoli noted since the next meeting is not until November 28, and he did meet with the builder, that would most likely kill their schedule until next spring. He asked if there was any way to maybe postpone payment of the fee and let him go on with his permit and move forward with the building permit knowing that there could be a chance to pay that fee, just to keep him on schedule. Mr. Hockenberry stated this is a request of a fee waiver, not design and installation of stormwater management facility. Mr. Lombard noted they are going to put the stormwater on their property because the builder has failed to do so, and apparently the township cannot force the builder's hand to do so.

Mr. Pietropaoli stated the way the builder graded the lots with the lot empty next to him, he is going to need some type of standing water improvement

anyway. The way the vacant lot is, sitting 20 to 30 foot higher is a problem. Mr. Hockenberry stated he does not have the design of the stormwater for the addition. Mr. Lombard feels he has been getting the run-around between the builder and the township. He is doing what the builder should be doing because they have made them come up with the plans, and now he is stuck. They are not going to redraw any plans because now there are property line issues with setbacks that they have to address. He does not want to keep redrawing plans because they keep charging him every time he comes up with new plans.

Mr. Hockenberry noted all these single lots require an O&M agreement signed by the record property owner and recorded that they will maintain the facility in perpetuity, and successors and assigns have to do the same, and whatever the cost of that facility is is bonded ahead of construction. Mr. Lombard asked how to get the builder to fix the pond. Mr. Hockenberry asked if the developer and home builder are different than the builder Mr. Lombard is using for the garage. Mr. Lombard stated the developer builder is the same builder. Vice President Tyson asked if there is a plan for the garage or the drain. Mr. Hockenberry explained that staff met with the property owner a week or so ago and unfortunately, the plan then was for a much bigger garage for which they needed a setback, but that has changed now when they decided to go with a smaller garage that works in the setback. Vice President Tyson offered suggested options: one would be to submit the plan and agree to pay the fee with the potential to refund that, or to let the board have time between now and its next meeting to be able to definitively come up with a determination.

Mr. Lombard noted he is stuck with having to put the stormwater management on his property because the township is not able to force the builder to comply and make the basin big enough. Mr. Quigley stated their facility has to be adequate for what they are building, so the other additional space, while it is

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not an ideal scenario and does not take into account the needs of the neighborhood, it is going to be designed sufficiently to accommodate what he has built, and unfortunately, that is all that is required. They do not have a mechanism to make him go above and beyond that. Mr. Pietropaoli noted the houses are 6,000 square foot larger than the house sizes that were on the approved subdivision plan. They are so much larger than what was originally granted in the subdivision plan. Vice President Tyson noted because he does have to go in eventually and convert the pond by removing the dirt and silt, if he removes a little extra dirt, he could resolve the problem. He stated he would be happy to meet at the property and talk with the builder. Mr. Lumbard was in agreement.

Mr. Pietropaoli suggested the request be put on hold while staff will keep moving forward. Vice President Tyson noted delaying until the next meeting does not mean they are not working on it. Ms. Coyne stated she would like to work with staff.

Mr. Pietropaoli noted the tree lighting ceremony will be held December 5, 2018.

MOTION to adjourn the meeting at 7:50 p.m. was made by Mr. Skip Magaro, seconded by Mr. Gelb, and was carried by a unanimous aye vote.