Maidencreek Township Board of Supervisor Meeting
September 8, 2016

Present: David Franke, Joseph Rudderow III, Eugene Orlando, Jr. – Orlando Law Offices, Thomas Unger – Systems Design Engineering, Inc., Diane Hollenbach – Township Manager

Guests: Jean Odenweiler, James Schoellkopf, Jr., Russell Bennicoff, Val Lacis, Gene and Marylou Bossler

## MINUTES & FINANCES

**Approval of the Meeting Minutes**

A motion was made by David Franke to waive the reading of the minutes and approve the minutes for the August 11, 2016 regular meeting. Joseph Rudderow III seconded the motion and hearing no questions on the motion, it passed unanimously.

**Treasurer's Report and Bill List**

A motion was made by David Franke to approve the August 2016 Treasurer's Report and Bill List. Joseph Rudderow III seconded the motion and hearing no questions on the motion, it passed unanimously.

A motion was made by David Franke to adopt Resolution 18-2016 Minimum Municipal Obligation which set the 2017 pension contribution at $20,000. Joseph Rudderow III seconded the motion and hearing no questions on the motion, it passed unanimously.

## PUBLIC COMMENT

Russell Bennicoff, Park Road Lock and Store, introduced himself to the Board of Supervisors. Mr. Bennicoff developed the property in 1995 and paid to install the detention basin, swale and catch basin. The improvements are on the Esbenshade property and they are not maintaining the swale or catch basin. Because of this, Mr. Bennicoff has experienced flooding and wash outs. He has spoken with the manager at Esbenshades but achieved no results. He is asking for the Township's help. Mr. Bennicoff stated that he has cleaned up his portion and moved some earth to help direct the storm water away from his property. Mr. Rudderow cautioned Mr. Bennicoff not to deviate from the recorded plan and advised Mr. Bennicoff to make a complaint at the Township office.

Gene Bossler, 122 Grove Road, Blandon updated the Board of Supervisors on 115 Grove Road. The bank sent people out to cut the grass twice. The first person did not have the correct equipment and the second person told Mr. Bossler that the property owner threatened to shoot him if he stepped on the property.

## REPORTS

ENGINEER'S REPORT

**Brandywine Transportation Letter of Credit Reduction** – Tom Unger reported that an inspection was performed at the Brandywine Transportation facility. Mr. Unger would like to meet with the builder and discuss drainage issues where the facility driveway meets W Wesner Road. Mr. Unger recommended retaining $30,279.01 of the letter of credit.

A motion was made by David Franke to authorize the chairman to sign the Brandywine Transportation letter of credit reduction letter in the amount of $151,537.14. Joseph Rudderow III seconded the motion and hearing no questions on the motion, it passed unanimously.

**West Shore Drive Bridge** (North of closed bridge) – Mr. Unger reported that a meeting was held with the bridge inspector. There is exposed rebar on the underside. Some repairs could be made by the road crew; however, the work is time consuming. The bridge seems oversized for the size of the stream and Mr. Unger suggested looking at the size of the drainage area, calculating the necessary pipe size and researching the cost of the permit to replace the bridge with a pipe. This would eliminate future costly bridge repair and the need to have an inspection every two years. The Board of Supervisors agreed that the engineer should investigate the bridge conversion and report back on the cost.

Joseph Rudderow reported that the Chief of Police is concerned about activity occurring at the closed West Shore Drive Bridge (known as the Ontelaunee Bridge) and would like the road blocked to traffic at Kemmerer Road. David Franke was concerned about the ability of Fire and EMS getting through if there was an emergency at the bridge with someone who is fishing and suggested bollards and a chain instead of a jersey barrier.

A motion was made by Joseph Rudderow III to authorize the Township engineer to investigate options and costs of closing West Shore Drive from Kemmerer Road to the Ontelaunee Bridge. David Franke seconded the motion and hearing no questions on the motion, it passed unanimously. Mr. Unger will meet with Chief Eaken to get his thoughts on the matter.

**LED Streetlights** – Mr. Unger asked for additional clarification on what the Supervisors are looking for him to do in regards to LED streetlights. Mr. Rudderow stated the Board wants to maintain safety but wants Mr. Unger to investigate if there are places in the Township that are over lit. The goal would be to achieve the right balance of light while being as cost effective as possible.

**Zoning Ordinance** – Mr. Unger stated all Berks County Planning Commission comments were addressed last month but the Board was given copies of additional ordinances for solar, wind energy, mini cell towers, outdoor furnaces and medical marijuana to review. Mr. Rudderow asked if sixty-five feet is a realistic height for a wind turbine. He asked if the engineer could look at the height in relation to other uses in the township like billboards and the industry standards for wind energy. At a height of sixty-five feet, Mr. Rudderow stated you would have to be careful where a wind energy device went because of the fall zone.

Mr. Rudderow stated that the new Medical Marijuana Law does not allow dispensing of medical marijuana where it is grown. He was not in favor of allowing dispensing in the Commercial Residential Zoning District because of the proximity to homes and felt it was not appropriate in the C2 Regional Commercial District either. The C1 Local Commercial Zoning District was suggested as the district for dispensing and the Industrial Zoning District for manufacturing. Mr. Rudderow stated that the Act states medical marijuana is not an agricultural use. David Franke asked if the State is working on any regulations since the Federal Government doesn't allow the sale of any marijuana and can seize money and product from these businesses. The Board asked the engineer to make corrections to the ordinances and have the Planning Commission review them. The Board plans at the October meeting to schedule a hearing date. Mr. Unger asked that any additional comments on the other ordinances be sent to him by the third week of September.

**Road Paving 2017 Contract A** – Mr. Unger has received the invoice for contract A for the paving of Lee Spring Road. The project came in slightly under bid at $60,692.38. Mr. Unger reported that contract B for Evansville Road was also complete but no invoice was received. This project is also on target to the bid cost.

A motion was made by David Franke, upon the recommendation of the engineer, to approve the payment of $60,692.38 to EJB Paving and Materials, Inc. for Contract A of the 2017 Road Paving Project. Joseph Rudderow III seconded the motion and hearing no questions on the motion, it passed unanimously.

MUNICIPAL SOLICITOR REPORT

**Verizon Cell Tower Hearing** – A conditional use application and variance request were received by the Township from Cellco to place a cell tower on the municipal property. Mr. Orlando stated that he was unaware of legal authority that would allow the Zoning Hearing Board to hear the conditional use although the legal standard of both the conditional use and variance are exactly the same legal standard. Since the Township is the landlord, the Board agreed to appoint special council to represent the Township in upholding its ordinances.

A motion was made by David Franke to authorize the solicitor to advertise a public hearing for the Cellco conditional use application on October 13, 2016 beginning at 5:50 p.m. Joseph Rudderow III seconded the motion and hearing no questions on the motion, it passed unanimously.

A motion was made by David Franke to authorize the solicitor to engage special council for the Cellco conditional use hearing. Joseph Rudderow III seconded the motion and hearing no questions on the motion, it passed unanimously.

**Penn DOT Maintenance Agreement** – Joseph Rudderow stated that he was fine with the changes Attorney Orlando made but thought they should go further. The question rose whether a roundabout fell into the definition of a traffic signal and Attorney Orlando agreed to look further at the regulations, definitions and penalty. Mr. Rudderow could not agree to the legacy costs associated with repairing or replacing curbs and sidewalks on a state owned highway that has a high volume of tractor trailers and plow trucks which may cause damage. David Franke commented that the Township had no say in the engineering or the size and we have already been told that tractor trailers cannot travel the roundabout without swinging onto the apron. Mr. Rudderow asked that something be added to the agreement to allow Township inspection of those improvements we are accepting. Mr. Orlando suggested the Township might be able to be a beneficiary under Penn DOT's contractor's letter of credit. Mr. Unger asked why this was being done before the final design is presented and recommended the Board not agree to anything until the final plan is reviewed. Mr. Franke added that the agreement says Penn DOT is only responsible for the roadway and plowing. It says nothing about replacement if the roundabout does not work.

NEW BUSINESS

**Speed Limit on Independence Court** – A complaint was received regarding vehicles speeding on Independence Court, which is a one-way street with townhomes on both sides. The Township

foreman drove the road to determine the location of the speed limit signs and reported that he would feel uncomfortable driving 25 M.P.H. on the road.

A motion was made by David Franke to authorize the Township Engineer to perform a speed study on Independence Court to determine the appropriate speed. Joseph Rudderow III seconded the motion and hearing no questions on the motion, it passed unanimously.

**Fleetwood Library** – The Board of Supervisors took the letter under advisement.

**Trick or Treat Night**
A motion was made by David Franke to establish Maidencreek Township Trick or Treat Night as October 31 from 5 p.m. to 9 p.m. Joseph Rudderow III seconded the motion and hearing no questions on the motion, it passed unanimously.

**Truck #4 Tarp Arm**
A motion was made by David Franke to authorize the purchase of a tarp arm for Truck #4 from EM Kutz with a cost not to exceed $2,120. Joseph Rudderow III seconded the motion and hearing no questions on the motion, it passed unanimously.

**Blandon Fire Company Swing**
A motion was made by David Franke to purchase swings for the Blandon Fire Company Tot lot from Boyce Associates with the cost not to exceed $2,729.50. Joseph Rudderow III seconded the motion and hearing no questions on the motion, it passed unanimously. The equipment is to replace existing equipment that does not meet current playground safety regulations.

FOR THE GOOD OF THE ORDER
The Board agreed that the purchase of the loader could be pulled from the agenda. Mrs. Hollenbach will budget for the rental of an arm mower to do roadside trimming in 2017.

Mr. Unger stated that the developer of Melrose Place wishes to dedicate the roads early. Mr. Folino thought he had only 10 to 12 empty lots and asked if he did base repair and final paving quick, if the Board would accept dedication. Mrs. Hollenbach pulled up the Berks County Assessment parcel search and counted 26 lots under Mr. Folino's ownership including the commercial parcels and detention facility. The Board of Supervisors agreed that this was still too many vacant lots that would require heavy construction vehicles accessing roads. This would be additional liability and expense if the Township accepted dedication now. The Board was not interested in dedication at this time.

The Board thanked Mrs. Hollenbach for her work at the picnic and everyone who attended.

A motion was made by David Franke, seconded by Joseph Rudderow III, to adjourn the September 8, 2016 meeting of the Maidencreek Township Board of Supervisors. Hearing no questions on the motion, all members present voted "Aye". Motion carried. Meeting adjourned at 9:10 p.m.

_____

Township Secretary,

Cc: Board of Supervisors
Eugene Orlando, Solicitor
Thomas Unger, Township Engineer
Planning Commission
Park & Recreation Board
Zoning Hearing Board and Alternates
Joan London, Zoning Hearing Board Solicitor
Maidencreek Township Authority
Patrick Donovan, Maidencreek Township Authority General Manager
JoAnn Schaeffer, Maidencreek Township Authority Secretary
Daniel Becker, Authority Solicitor
Greg Unger, Authority Engineer
Barbara Hassler, Tax Collector
Daniel Miller, Blandon Fire Company Chief
Chief Scott W. Eaken, Northern Berks Regional Police