

**PENN TOWNSHIP BOARD OF SUPERVISORS**  
**1301 Centerville Road**  
**Newville, PA 17241**  
**Tel: 717-486-3104 Fax: 717-486-3522**  
**Special Meeting**  
**November 29, 2017**

Chairman Martin called the meeting to order and led everyone present in the Pledge of Allegiance.

Those present: Chairman Gary Martin, Vice Chairman Ken Sheaffer, Supervisor Albert Shuller, Solicitor Marcus McKnight, and Secretary Vicki Knepp. Also present were Township Engineer Craig Wilson of Dawood Engineering and the Township Hydrogeologist William Seaton of A. R. M.

**PUBLIC COMMENT**

Cathy Cornman asked the Supervisors to vote the plan down. She wanted to know what protection there is for wells. Chairman Martin stated that we will cover it during our discussion.

Vic Barrick asked if they will be able to make comments during the discussion. He was assured that they could. Mr. Barrick asked the Solicitor if he is representing the Burgetts. The Solicitor stated he represents the Burgett Estate and the land has been publicly advertised. It was asked if this is a conflict of interest if the Ickes are interested in it. The Solicitor stated that the land has been advertised and if it were a conflict he would remove himself. The Solicitor has advocated the positions taken by the Planning commission and the Board of Supervisors.

Gary Cribbs asked about the escrow account. He says there is nothing written in the escrow account for future well damage. The Solicitor stated we would discuss that. Mr. Cribbs also brought up berm heights. He asked if any changes have been made to the plans. The Solicitor stated no changes have been made to the plans since the Planning Commission reviewed them.

Dan Ries made a comment that it appeared that the Supervisors were just reading the Agreement. Chairman Martin stated he had read every word of it this morning. Vice Chairman Sheaffer said he had just received it.

**APPROVAL OF SUBDIVISION PLANS**

Ridge Penn Commerce Center – Representing Ridge Penn Commerce were: Charles Suhr of Stevens & Lee; Brian Reisinger from HRG; Steve Kros of Ridge; and Paul Scott from Geo-Technology Associates.

Solicitor McKnight stated that the Planning Commission had the plans and looked at them. We have had the plans here at the Township for everyone to look at. The major issue the Planning Commission has is with the wells. The Planning Commission's major concerns were:

1. How will the people who have already been injured be taken care of; and
2. Is there any way to avoid using the wells altogether.

The developer still wants to go ahead just with roof water and have it filtered before it gets into the wells. All other stormwater from pavement and the rest of the property will go through traditional stormwater management.

The Solicitor stated he is working with the Township experts on the documents to implement this. The major documents are:

1. The last comments from Dawood Engineers dated November 27, 2017, all final comments are incorporated into the decision;
2. The Development and Financial Security Agreement, both of our experts have given us input and we have reached a bonding figure of Eleven Million, One Hundred Eighty Thousand Dollars (\$11,180,000.00). Mr. Wilson stated that HRG has addressed the final comments, the still outstanding comments are Conservation District and DEP approval, signatures and seals, the PennDOT HOP, the associated fees, an As Built Plan which will be completed after construction, maintenance responsibility which are spelled out in the Developer's Agreement and reiterating the Planning Commission comments on the wells.

The Agreement adopts and incorporates the Engineer's comments, the Developer's Agreement as it has been changed the Stormwater Control Agreement as it has been changed, The Highway Occupancy Permit Agreement and all the Plans and notes as have been developed and sent to the Township. In addition every other Township Ordinance and all applicable State Ordinances have to be complied with by the Developer.

The Solicitor reviewed the major changes to the Agreement, a copy of the agreement showing the changes was provided to the Supervisors and members of the Planning Commission. Page 1, paragraph C the actual square footage sizes were broken out to 1,413,600 sq. ft. in building A and 753,000 in building B. Page 2, Paragraph 3 sets the amount of the bonding. The Solicitor stated that the following statement is important . . ."During the construction the Township may designate an inspector to determine whether or not the improvements are being made with the Plan and this Agreement." The inspector shall have the power to request the scheduling to allow him to actually inspect major items. The Inspector may be the Engineer or the Hydrologist depending upon the work being done. In order to take care of the inspections and other costs incurred by the Township, there will be an initial Escrow account of One Hundred Thousand Dollars (\$100,000.00) if the balance falls below Twenty Thousand Dollars (\$20,000.00) the Township will notify the Developer who will have thirty (30) days to replenish the account to at least Forty Thousand (\$40,000.00). The Solicitor stated he believed the plan was to have an independent inspector of the operation of the system once it is up and running. Mr. Wilson replied that the supplier, Contech, has a certification process for the filtration system. The Solicitor stated that it is our intent to have someone onsite inspecting the system during construction. This would be covered by the escrow account.

The Developer is also paying .04 per square foot per building for a period of 12 years once the buildings are occupied. The Developer will pay One Hundred Fifty Thousand Dollars (\$150,000.00) prior to recording of the Plans for the Rec fee, the sum of One Hundred Fifty Thousand Dollars (\$150,000.00) will be paid to the Penn Township Volunteer Fire Company prior to the recording of the Plan, the Township will receive One Hundred Fifty Thousand Dollars (\$150,000.00), Seventy Five Thousand (\$75,000.00) upon obtaining a building permit for each building. This money will be placed in an escrow account for possible improvements to the interstate intersection. After ten years if there are no plans to make changes to the intersection the Township may use that money.

The Developer will install, at its cost, a traffic signal at the driveway intersection. In addition the Developer shall pay the Township Eight Thousand Dollars (\$8,000.00) per year for ten years for maintenance of the signal. If within six months of occupancy of the buildings it is determined that a traffic signal is necessary for the intersection with the north bound ramps, both exit and entrance, to I-81 the Developer shall install the signal and pay the Township Eight Thousand Dollars (\$8,000.00) per year for ten years to maintain the light.

Prior to the recording of the Plan the Developer agrees to pay the Township Twenty Thousand Dollars (\$20,000.00) to be placed in an escrow account to be used to compensate the residents who have already developed issues with their wells. The Solicitor stated that it is his understanding that the Developer has already done improvements to the system at the Wardle's and has negotiated a restitution amount with Mr. Wardle that he is satisfied with. Mr. Heishman has agreed that if the same work is done at his property as done at the Wardle's he will be satisfied with that and a restitution amount. The restitution will include a release for the Developers and the Township, for past damages. The future will be dependent on what happens with the testing. We cannot escrow for damages that have not occurred. Mr. Cribbs stated that Mr. Heishman does not know anything about a release. There was some discussion by the residents attending that they did not feel this is written clearly in the Agreement and they would like to see it rewritten. Chairman Martin asked that they allow us to continue on with the rest of the documents. He believes that what they want will be covered in those.

The Exhibits attached to the Agreement will be: Exhibit A the Plans and Exhibit B the Bonding documents.

The Solicitor moved on to the Stormwater Controls and Best Management Practices Operation and Maintenance Agreement. He stated he has had input from both the Township experts on the Stormwater Management Agreement.

He asked Mr. Wilson to go over his comments. Mr. Wilson stated that on Page 2 Rain Garden definition he added the words "or soil", to Class V Inflow Well he added "roof" stormwater. Paragraph 1 added "As depicted on the Plans and described at the public Planning Commission meeting of November 20, 2017, only roof water is to be directed into the Class V wells. There shall be no deviation thereof. If there is a deviation from this plan the site will be corrected to not allow water from any other surfaces, other than the roof surfaces, to enter into the Class V wells." Paragraph 4 he changed 90 days to 45 days. He believes 90 days is excessive to get a problem corrected. Chairman Martin wondered whether 45 days was even too long. Mr. Wilson explained that if it is a problem that requires a contractor to repair it would take that long to get a contractor to do the work. Mr. Wilson stated that on Page 3, Paragraph 8 he added "The Landowner shall also inspect the BMP's as specified on the plan and provide copies of all inspection reports to the Secretary of the Municipality." The Solicitor stated that in addition, Paragraph 9 calls for Thirty Thousand Dollars (\$30,000.00) in a Maintenance Fund to cover the costs of inspections. The fund is replenished if it falls below 10%.

Paragraph 10, subparagraph a. ii added "as needed". Subparagraph b added "and exercised". That way the valve will not get frozen. Added a new subparagraph c. "The Contech Stormfilter system that is integral to the Class V well systems shall follow the inspection and maintenance protocols as set forth on Sheet NT-2 (03 of 60) of the plan set. Also set forth in these protocols are the training requirements for inspection and maintenance personnel". Mr. Wilson stated that if something other than the Contech System is used we would need to get something updated for that.

Solicitor McKnight stated that one of the exhibits to the Stormwater Plan is Exhibit A the Plan Sheets and Exhibit B will be a testing protocol that Mr. Seaton has negotiated with the Developer. Mr. Seaton stated that they are trying to get an idea of all the wells that may be impacted by any kind of injection of the site. The first step is to inventory all the wells and springs showing them on a map. They will then zoom into the homeowner wells that are most susceptible to injecting water at the site. Then from those wells they will contact the owners and notify them they are going to be doing testing for flow rate, bacteria, nitrates, and turbidity. This will be done before anything happens. After the testing samples will be taken again. In some particular wells they will place electronic measuring devices in the wells. Any changes associated with injection they will be able to see. They have selected two wells on the Ridge site to use for the testing. They will inject large volumes of clean water to stress the wells to see what happens. A second testing they will perform is a geophysical test, basically taking an x-ray of the ground. This will give two kinds of information to show what happens when water is injected at the site. The information will be compared before the testing and just after. Problems can be highlighted and also look at areas that do not have any impacts. This is state of the art testing. The Solicitor asked if Mr. Seaton finds this acceptable for the site. Mr. Seaton stated he did and he has input in how it was developed.

#### **BREAK FOR THE SECRETARY TO MAKE COPIES**

The Solicitor stated the tests up a before and after. The Solicitor asked how the farms will be addressed during testing. Mr. Seaton replied that they will be testing their wells both before and after and placing monitoring devices in the wells. He said that prior to testing they will have a plan in place to provide water if the testing causes problems. The negotiated plan allows for this. The Solicitor told the Developer if there were issues with the testing we will have to come up with another plan. They agreed. The Solicitor stated this is being incorporated into the Developer's Agreement which is part of the actual project.

The Solicitor stated the Board has the following options to consider:

1. They can work with the Plan that has been developed and negotiated by our experts with the Developer; or
2. Deny the Plan and let the Developer go forward with their original plan which may be approved by DEP.

The Solicitor stated that the Developer is willing to go to DEP with the modified plan based on what our experts have recommended. The Developer is willing to escrow money for inspections. The Plan is designed in part to protect the Developer from liability.

Mr. Ries stated that there are two key items brought up in the Planning Commission Meetings that seem to be forgotten here. To their knowledge, where gravity wells have been used it is always in a situation where municipal water supplies exist. The Planning Commission also has concerns regarding bacteria from bird droppings getting into the ground water supply. Mr. Seaton said they will be testing homeowner wells for bacteria both before and after. Vice Chairman asked if the water would be filtered. The filters will not filter out bacteria. He asked if it would be possible to use an infrared light before it goes into the ground. Due to the high volumes of water it would not be practical. Mr. Cribbs asked how many years they will test. Mr. Seaton said he is not sure. The Solicitor stated that if there were problems with wells in the future they will be tested and if it is determined that the problem stems from the site it will be handled at that time. Ms. Corman asked if testing will be done before during and after construction. Mr. Seaton can recommend after the tests if wells need follow up tests in the future. The Solicitor stated that the purpose of the tests is to determine what wells might be at

risk. Once that is done we can come up with a plan for the future. The Solicitor stated that this is above or beyond what DEP would require and the Developer is agreeing to do it. Mr. Ries stated that the testing parameters need to be extended past construction. He stated that he had to place a remedial solution on his well. He understands there can be solutions. He wondered if operations like the local dairy farms have a remedial solution available to them. Mr. Seaton stated yes, the specific solution will depend on what happens. He needs to discuss this with the farmers to decide what the best solution would be.

Marcia Leeds asked how many wells there will be. Mr. Seaton stated the number of wells is based on the volume of water they need to take away. There is a known amount of water and in some ways a larger number of wells may be an advantage because it spreads it over a larger area. Chairman Martin stated that reducing to roof water only instead of all the runoff should cut the number of wells down. Ms. Leeds asked what happens if the property is abandoned or no tenant, who is responsible. Chairman Martin stated that they still have a property owner who will be responsible.

The Solicitor stated he is confident in what we have come up with. We will deal with any problems as they arise. We have the experts in place. He believes it is far better now than it was when they suggested using the wells for all the ground water issues.

Paul Group asked what provisions will be in place during the testing to provide water if something happens to homeowner and farmer wells. The provisions will be made in advance before the testing is done. Mr. Group asked how far the radius will be. Mr. Seaton said every well surrounding the site and directly adjacent to the site.

Sean Lacey asked why Mr. Seaton is the one answering the questions and not the developer. Paul Scott stated that they have agreed to go with the plan developed by Mr. Seaton and have been cooperating with him.

Clyde Barrick said we are going about this backwards. The testing should be done before we even look at the plans. Chairman Martin stated that we cannot set up an after the fact testing program. We are approving the preliminary test. Mr. Barrick wanted to know what they are going to do if something happens to their wells. It would put their dairy out of business. Chairman Martin asked how that will be addressed. Mr. Scott stated that the tests will be done with clean water. Mr. Seaton said the scanning will give them heads up of some risks. If it looks questionable they will move to a different well. Prior to the testing he will discuss with the Barricks what can be done if the testing causes them a problem. Mr. Scott said they have moved to wells further from the property.

Vice Chairman asked if the developer would consider hooking up people to Newville Water at their expense. Mr. Scott stated that if they have an impact on a neighbor they will come up with a solution. Mr. Seaton would tell the Developer to relocate their injection well.

Mr. Scott stated that there are two elements to what is being done on the site:

1. Is there going to be an impact to the neighbors? Mr. Seaton is covering this.
2. Is the impact going to be negative or positive? Mr. Scott said they are taking 160 acres of heavy agricultural use with manure spreading, pesticides, herbicides, etc. Those pollutants are being eliminated. The injection wells are taking filtered roof water. It could actually improve water quality.

Mr. Ries asked if the Supervisors could authorize the testing and after the testing is done revisit the Development Plan. Mr. Scott said that they do not have the time. They have agreed to implement the Township's recommendation to separate roof water and ground water filtration. They are here to ask for final approval. They have gone beyond what was required by law and they ask for approval today. Mr. Ries asked why we could not have a letter of understanding. The Solicitor stated that we are doing a conditional approval based on the conditions.

Ms. Leeds made a statement that the three Supervisors are residents of the Township; she trusts them to come up with best decisions to make the Township safe. They have to live here and in some ways their hands are tied. DEP has the final word in the approval.

Vice Chairman Sheaffer again suggested if there are problems the Developer would hook the problem properties up to Newville Water. Chairman Martin stated that he was not sure if Newville could handle it. Vice Chairman Sheaffer asked if the Developer would give us a written agreement that they would do so. Mr. Scott stated that he does not have the authority to make a commitment of that magnitude. He said it would be approached on a case by case basis. Extending water would be the most expensive solution; they would be willing to follow the recommendations by ARM for the remediation for consequences of damages caused by the wells. The Solicitor suggested that a way to solve this is to add to the final paragraph on Page 4 of the GTA letter "And the Developer agrees to follow any remedial recommendations made by A.R.M." Mr. Seaton recommends that if there is a disagreement between him and the developer the Supervisors would decide the course of action. Mr. Suhr said it is always difficult to agree to do something that may occur in the future. He believes it should be that they would follow the recommendations as can be agreed upon by the experts. We cannot agree to all contingencies because we don't know what they are, how severe they will be or how expensive. They can commit to come up with the best possible solution. Chairman Martin agreed with Mr. Suhr.

Solicitor McKnight said we have come a long way in analysis of the aquifer and the impact of injected water into it and the impacts it may have. He believes turbidity issues will be the biggest problem. The Developer needs to agree to commit to the remedy, whatever needs to be done needs to be dealt with. Mr. Suhr said they can commit to that. Solicitor McKnight state that we could agree to "If there are problems remedial action will be agreed to by the experts". Vice Chairman Sheaffer said that if they are willing to take responsibility to remedy a problem they cause he can agree to that.

The Solicitor stated that we have negotiated the best possible solution to finding out what the impacts are going to be and giving a conditional approval. He thinks if the line is added to the Stormwater Management Plan and if approval is given we are as covered as we could ever be.

Mr. Ries made an objection to the fact that some of the Supervisors were just reviewing the Developer's Agreement at the meeting. Vice Chairman Sheaffer stated that he had reviewed the Developer's Agreement. He is just reviewing the most recent changes. Solicitor McKnight stated that the changes had been added by our experts and they were just completed yesterday afternoon.

Jim Buchanan stated that Paragraph 17 of the Developer's Agreement needs to be rewritten to make it clear that the escrow account is for the issues in the past. The Solicitor stated he will modify the wording to reflect that it is prior problems.

A discussion ensued about the feasibility of hooking properties damaged or harmed to Newville Water. Chairman Martin stated that would be a worst case scenario. Mr. Ries asked about the possibility of contamination of the spring that feeds the Borough water supply since testing is

not going to be done north of I-81. Mr. Seaton stated that testing will be done between the site and the interstate. If something is found they would keep going down grade from the site to find the extent. Vice Chairman Sheaffer stated that he trusts our expert. Chairman Martin stated that we said up front that we would trust his recommendations.

Chairman Martin stated he has a question for Mr. Wilson. Why did we reduce the days to repair an issue to 45 days? He feels that is too long. Filters should be kept on site or be available closer. Mr. Wilson stated that if it was an issue with a collapsed pipe or something else that needs a contractor to repair it will take more than 2 – 3 days. There are many different parts before it gets to the filters. Mr. Suhr stated that the maintenance protocol has canister replacement in a matter of days.

Supervisor Comments: Vice Chairman Sheaffer stated he has reservations about the plan and the injection wells. However, DEP, EPA and the other agencies have more authority over the wells than we do. Supervisor Shuller felt that he did not believe he had enough time to review the documents and he did not feel comfortable about his knowledge of what is involved and stated he would abstain. Chairman Martin stated that he agrees with Vice Chairman Sheaffer that he does not like injection wells. However, he knows what the State would do if we just said we do not like it. He stated he also has a lot of faith in Mr. Seaton, the Township Hydrogeologist.

Vice Chairman Sheaffer made a motion to approve the Ridge Penn Commerce Center with the following conditions:

1. As the Agreement has been written;
2. All comments of the Dawood letter of November 27 have been resolved to the satisfaction of the Township Engineer;
3. The Developer's Agreement is a Condition;
4. The Stormwater Control with Exhibit B modified to set forth that the Developer will take care of remedies that the experts agree are necessary for any consequences as a result of the injection wells and testing done or supervised by our expert;
5. The Highway Occupancy Permit;
6. All the Plans and notes as currently exist in the Township; and
7. Abide by all State and Township Ordinances and Regulations.

Chairman Martin seconded the motion. Motion passed with 2 ayes and one abstention. Supervisor Shuller abstained.

## **BREAK TO SIGN DOCUMENTS**

## **RECONVENE**

LeDane Property – Mr. Knepp stated that at the last township meeting we decided to use the Dilapidated Structure Ordinance resolve the issues with the LeDane property since nothing was being done. He sent a notice of violation giving them 10 days to start repairs and 60 days to complete. As of Monday morning nothing had been done. He spoke with Attorney Shaw. Mr. Shaw claims that the tenant has given him bad information. The tenant claims the sale satisfied all liens and the owner told him the liens had been paid. Neither of these statements are true. Mr. Knepp explained the condition of the building to Mr. Shaw. Mr. Shaw said that he was assured by the tenant that contractors would be in over the past weekend. Mr. Knepp stated nothing has happened. Mr. Shaw stated he will take action to get it resolved. The Solicitor stated that he spoke with Mr. Shaw just before he left the office. The original plan was to sell the one piece of property and give the other lot with the house to the girlfriend. The girlfriend was

to take care of all the liens and clean the place up. The girlfriend told Mr. Shaw that she had someone coming in to clean it up over the weekend. She did not. Mr. Shaw is no longer able to get in touch with her. The deeds have not been recorded because of the outstanding liens. Mr. Shaw has now agreed that the estate is liable. They will no longer deal with the tenant/girlfriend. Mr. Shaw will send the solicitor a letter saying they are responsible for the liens and they are responsible to clean up the property. Mr. Shaw will give him the name of the person coming out to clean the property up. The Secretary reported that Mr. Shaw has requested an accounting of the liens and the proceeds of the sale. The Secretary asked the Solicitor to review the letter she has prepared before she sends it out. Chairman Martin stated we should table the decision until January. The Solicitor stated he would like an update in December.

Nolt Sale – The solicitor stated that tomorrow is the public sale for the Nolt buggy. He is afraid that the Nolts will intimidate anybody interested in the item and no one would bid. Someone should bid it up to what we are owed. Mr. Knepp said he works with a Mennonite who is familiar with the Nolts. He said the Nolts are not aggressive.

Zimmerman Automotive – Mr. Knepp reported he has been contacted by a gentleman regarding the Zimmerman Automotive property on Centerville Road. They want to know if the property could be subdivided. It is already a non-conforming lot for size for their use, subdividing it would make it worse. The Solicitor stated that it would require a Zoning Hearing for a Variance.

2597 Walnut Bottom Road – Mr. Knepp reported he has received multiple complaints regarding the property at the corner of Mt. Rock and Walnut Bottom Road. The property has been recently sold. The complainant stated that it looks like they are running a business out of the property. Mr. Knepp stated he has been past the property several times. At first it just looked like they were storing equipment there. It now appears that they are running a landscaping business there. Mr. Knepp believes that he needs to notify the new property owner that it is zoned Residential and a landscape business is neither a Permitted nor a Conditional Use and they will need to apply for a Special Exception from the Zoning Hearing Board. Chairman Martin stated that years ago it was a landscaping business; however, it has not been so for more than two years so it is no longer grandfathered. Chairman Martin stated that if the owner keeps everything inside for storage he has no problem with it, but he cannot store things outside.

Vice Chairman Sheaffer stated that he got a call from Jonathan Bream. They are still having stormwater issues with runoff from 85 Kutz Road. During the Conditional Use Hearing for the sale of the property we had discussed having the swale re-dug but when the sale fell through we dropped the ball. We need to have the Township Engineer look at it and report back to us.

FPE - The Secretary reported that she had heard a rumor that John Shambaugh was working for HRG. She has confirmed the rumor was true, but now Mr. Shambaugh has retired. Chairman Martin stated we need to get on the ball and get that settled. We need to put the culvert repair out to bid by April and get a contract in place.

The Solicitor told the Supervisors that both Mr. Wilson and Mr. Seaton have done a supper job on the Ridge Development. They have both been very responsive.

The Secretary stated she wanted everyone aware that she would be out of the office for a while in the morning for a CCATO meeting. They are working on selecting the venue. Vice Chairman Sheaffer stated they needed to use the same caterer as they had this year. Chairman Martin stated that maybe the Carlisle Economic Development Center might be able to recommend them someone.

Chairman Martin made a motion to adjourn. Vice Chairman Sheaffer seconded the motion.  
Motion approved.

**NEXT REGULAR MEETING December 14, 2017**

Respectfully submitted,

Vicki Knepp  
Secretary