
**LIMERICK TOWNSHIP - BOARD OF SUPERVISORS
MEETING MINUTES**

**FEBRUARY 2, 2010
7:00 P.M.**

A meeting of the Limerick Township Board of Supervisors was held on Tuesday, February 2, 2010, in the Public Meeting Room of the Limerick Township Municipal Building with Kenneth W. Sperring, Jr., Chairman, presiding.

Members Present

Supervisors D. Elaine DeWan, Thomas J. Neafcy, Jr., Joseph St. Pedro, Kara Shuler, and Kenneth W. Sperring, Jr.

Others Present

Joseph J. McGrory, Esq., Township Solicitor; Khaled R. Hassan, P.E., Township Engineer; Joseph P. Platt, Traffic Engineer; Daniel K. Kerr, Township Manager; Beth F. DiPrete, Asst. Twp. Mgr./Finance Director/Treasurer; William J. Albany, Chief of Police; Martena Roshon, Director of Sewer Department and Community Planning; and Stuart L. Rosenthal, P.E., Sewer Engineer.

Call To Order

Mr. Sperring called the meeting to order at 7:13 P.M. Chris Miller led the Pledge of Allegiance.

Opening Comments/Announcements

Mr. Sperring announced that the Board held an Executive Session after the last meeting on January 19th, and prior to this evening's meeting, both regarding legal issues.

THIS MEETING IS BEING RECORDED.

Discount Ski Tickets – Available at the Township Building.

Consideration of Minutes

Motion was made by Mr. St. Pedro and seconded by Ms. DeWan, to approve the January 19, 2010 Board of Supervisors Meeting Minutes.

Mr. Kerr commented that on Page 3, the motion for Evans Tract should read: Motion was made to grant an extension to the five-year limit on the Preliminary Plan for Evans Tract

Upon motion made by Mr. St. Pedro and seconded by Ms. DeWan, the January 19, 2010 Board of Supervisors Meeting Minutes were unanimously approved, as amended.

Public Comments on Agenda Items: None.

Bills List

Upon motion made by Ms. DeWan and seconded by Mr. Neafcy, Bills List #3 for the period of 1/16/10 through 1/29/10 in the amount of \$155,762.99 was unanimously approved.

SUBDIVISION AND LAND DEVELOPMENT

Extensions

Extensions: **Upon motion made** by Mr. St. Pedro and seconded by Mr. Neafcy, the following extensions to the 90-day review period were unanimously accepted:

- | | |
|--|---------------------|
| a. Limerick View Shopping Center (#04-09): | Extended to 5/13/10 |
| b. Ely Property Subdivision (#05-21): | Extended to 5/17/10 |
| c. Providence Oaks Development (#09-11): | Extended to 5/12/10 |

Mr. Kerr noted that the Resolution for Evans Tract Subdivision has not yet been prepared. Therefore, **motion was made** by Ms. DeWan and seconded by Mr. Neafcy, to extend the time review for Evans Tract Subdivision (#07-23) to 2/17/10. Motion passed unanimously.

Confirmed Appointments:

Possum Hollow - Relief of Land Development/Building Permit – Mr. Kerr explained that the application originally came in as a Building Permit and it was rejected by the Zoning Officer because it technically falls under the definition of Land Development. But at the Board's discretion, it also qualifies for the waiver because it is less than 5,000 square feet. This change will not change the use in any way.

Motion was made by Ms. DeWan and seconded by Mr. Neafcy, to waive Land Development for 181 Possum Hollow Road. Motion passed unanimously.

Limerick Garden of Memories - Relief of Land Development – Mr. Kerr noted that last year the Applicant received Land Development approval for the construction of a new mausoleum, and the project was slightly less than 5,000 square feet. Based on the final design and the need to accommodate site issues, the project is now listed at just less than 5,300 square feet of total disturbance.

Tom Smith of Conner and Smith Engineering noted that the building was raised three feet from the original concept, and he explained the changes made to the original design, noting that only Phase I will be completed at this time.

Motion was made by Mr. Neafcy and seconded by Ms. DeWan, to waive Land Development for Limerick Garden of Memories. Motion passed unanimously.

NEW BUSINESS

Debt Refinancing, Gordon Walker, PFM – Mr. Walker prepared a Preliminary Refunding Analysis and he reviewed the refinancing options that are available. A discussion ensued.

Motion was made by Mr. St. Pedro and seconded by Ms. Shuler, to authorize Gordon Walker with Public Financial Management Inc. to proceed with refinancing the Township's 2005 Series Bonds. Motion passed unanimously.

U.S. Census Agreement – Use of Building – Mr. Kerr explained that the U.S. Census Bureau has requested the use of a small portion of the Township Building for four weeks (3/19/10 to 4/19/10) from 11:00 AM to 2:00 PM, Monday through Friday. This would entail the placement and manning of a table where residents could come into the Township to ask any questions they may have concerning the U.S. Census. This is a formal agreement with no monetary transaction.

Motion was made by Ms. DeWan and seconded by Ms. Shuler, to authorize the Township Manager to execute the Conditions for Donation of Services and Space Agreement with the U.S. Census Bureau for the 2010 Census. Motion passed unanimously.

17 Faust Road Planning Module – Mr. McGrory stated that the Planning Module for 17 Faust Road was discussed at the last Planning Commission Meeting, and they voted to reject it at that time. The issue is that an adjoining lot owner complained that the isolation distance of the conventional sand mound system restricts future development of his lot. So in order to appease the neighbor, the owner and the developer of the Faust lots agree to install alternate A/B on-lot sewage systems which have smaller isolation distances. The problem here is that alternate systems do not gain approval with DEP. Approval of alternate systems must be obtained from the local County Health Board. Therefore, until DEP approves the Planning Module, the Applicant cannot move forward. At this point, the Planning Commission is unwilling to recommend the Planning Module for approval until they receive some assurance that the A/B system will be installed. Mr. McGrory suggested that the applicant obtain a letter from the Health Department. A discussion ensued, and thereafter, Mr. McGrory again suggested that the owner and developer of the Faust Road lots enter into an agreement with the adjoining lot owner stating that the sewage system will not be conventional, and then the Planning Commission may be more inclined to reconsider recommendation for approval of the Planning Module. No action was taken.

Resolution – Disposition of Records – **Motion was made** by Mr. St. Pedro and seconded by Ms. Shuler, to approve Resolution No. 2010-06 Approving Disposition of Old Records of Limerick Township. Motion passed unanimously.

Traffic Signal Application – O’Neill Properties/Costco - **Motion was made** by Ms. Shuler and seconded by Mr. Neafcy, to authorize the Township Manager to execute the Application for Permit to Install and Operate Traffic Signals on Lightcap Road and Sanatoga Springs Driveway. Motion passed unanimously.

LEGAL

Mr. McGrory explained that these two Stipulations for Assessment Appeals were previously tabled, and the Board asked him to speak with the land owners’ attorneys to ask if they would be willing to donate something to the Township’s Parks and Recreation Department. Both attorneys require that the Stipulations be signed prior to entering into any discussions regarding voluntary donations to the Township. Because there are large numbers involved, and in order to eliminate the risk of having the assessments reduced any further than what is in the agreement, it is the Solicitor’s recommendation that the Stipulations be signed in order to avoid jeopardizing the settlement with the School District and the County.

- Walnut Crossing Associates

Motion was made by Ms. DeWan and seconded by Ms. Shuler, to authorize the Township Solicitor to execute the Stipulation to Settle regarding the Walnut Crossing Associates Appeal to the Montgomery County Board of Assessment. Motion passed unanimously.

- Chestnut Pointe Associates

Motion was made by Ms. DeWan and seconded by Ms. Shuler, to authorize the Township Solicitor to execute the Stipulation to Settle regarding the Chestnut Pointe Associates Appeal to the Montgomery County Board of Assessment. Motion passed unanimously.

Walmart Settlement

Mr. Sperring noted that normal procedure is to allow only Limerick Township residents to speak at Board of Supervisors Meetings, but the Board has decided to make an exception this evening and will permit Upper Providence Township residents to comment regarding the Walmart matter as well. Each person will be allotted 2 minutes for comment.

Mr. McGrory briefly summarized the rules.

Stephen Porreccas, 64 Long Meadow Road, Limerick, was recording the meeting.

Tina Makoulian, attorney for Sam's Real Estate Business Trust and Walmart Business Trust, said the Applicant is seeking the Board's consent to enter into a Settlement Stipulation and Agreement which would settle the litigation over the Conditional Use approval that was previously granted and has since then been under appeal. Adam Benosky with Bohler Engineering, gave a brief presentation and overview of the Land Development Plan.

Nichole Kline with McMahon Associates, the Traffic Engineering Consultant for the Applicant, noted that they prepared the Traffic Studies and traffic improvement design work for the project. She gave a brief overview of their work. Jamie Coach with McMahon, explained the proposed roadway improvements.

Gabe M_____ with _____ Architects reviewed the building design for a traditional Walmart as well as the Limerick design and interior themes proposed for the store.

Mr. McGrory noted the change that was made to the Amended Settlement Stipulation & Agreement.

Motion was made by Ms. DeWan and seconded by Mr. St. Pedro, to authorize the Chairman to execute the Amended Settlement Stipulation & Agreement with Walmart.

Public Comments

Jessica Miller, Esquire, advised that she recently filed a Petition on behalf of various persons in neighborhoods located on/off of Old Mill Road. She commented that the Applicant is trying to circumvent the Municipality Code and proceed through a Conditional Use Hearing that was heard 5 years ago as a Sam's Club, not as a Walmart. They are now trying to have a completely different proposal and a completely different building, and get that approved via Stipulation rather than going through the channels of a Conditional Use Hearing, Land Development Hearing, and public hearing where citizens have the right to attend and to voice their concerns prior to any approval. She asked that the Board not consider this Agreement because it is not factual. It is something that they are trying to bait and switch. They came to a Conditional Use Hearing based on a Sam's Club. The building is in a completely different location than where it would have been if a Sam's Club. The building is a completely different size than how it would have appeared as a Sam's Club. The hours of operation are different. The parking is different. The development to the property is different. She asked the Board to reject this Settlement Agreement and have the Applicant return to a Conditional Use Hearing in order to go through the proper channels to get this structure approved. She believes the residents of Limerick Township and Upper Providence Township will be much more open to having this facility here if they pursue the proper channels and requirements provided by the law. It was a Supreme Court Decision that determined that the Municipality Planning Code is mandatory, and therefore, all the procedures and requirements must be followed, and can't be circumvented. These

Stipulations shouldn't be used for a different Applicant. The buildings and proposals are completely different.

She noted that the residents are very emotional this evening, and she pointed out that she is a resident in that neighborhood as well, not just the attorney. She lives directly behind where the loading docks will be located. When she moved into her home in June of 2009, she did not know this building was going in. It is her opinion that the residents would be much more open to this facility if the Applicant would pursue the right channels and procedures, without circumventing the entire system with a bait and switch. She said these residents will not shop at this store. She asked for confirmation on where the dumpsters will be located, and also the hours of operation of the Walmart.

Mr. McGrory said he believed the hours to be 24/7.

Stan _____, 71 Long Meadow Road, said his major concern is for the safety of his children and his neighbors' children along Long Meadow Road. He implored the Board to drive on Long Meadow Road. It has a terrible ditch, and children are running and playing all over the place. The Traffic Impact Studies are all out-dated (approximately 3 years old), and there is cut-through traffic due to traffic backing up. The new widening for the 2 lanes on Township Line Road still does not accommodate or take into account all the traffic that will be coming from the Northwest down Ridge Pike and Royersford Road and cuts right through Long Meadow Road. He does not trust the Traffic Studies in their completeness. He quoted excerpts from the original Conditional Use Decision at which time Mr. Sperring was Chairman. In the Discussion section, there was clear concern among the original Supervisors about the safety and use of Long Meadow Road. There were 11 Conditions of Approval listed in the Decision; Condition #5 refers to Long Meadow Road, but this is not addressed in the Settlement Agreement, or by the Board. The hours of operation for Sam's Club is different than the Walmart hours which he just learned to be 24/7. The Walmart is not in compliance with Condition #11.

Richard _____, 908 Fox Meadow, said that Walmart produces high volume on weekends so \$3 Million in traffic improvements amounts to nothing, and with a 24/7 operation there will be trucks going in and out of the facility all hours of the day. Says he would like to see more sidewalks put in.

Dina Schott, 258 Old Mill Road, asked the Board to go through the proper channels as far as the Conditional Use Hearing, and to consider the impact to the residents that surround the site. She does not want the Walmart along Buckwalter Road either because her children walk to and from school. She also has the loading docks near her residence. She pointed out a quote in The Mercury wherein the Board of Supervisors "encourage development away from retail". Statics show that the Pottstown Walmart averages 500 Police calls a year. The residents don't want to include this statistic in their community. She also pointed out the trash and pollution. Last year

Old Mill Road residents picked up 100 bags of trash across from Wendy's. She said she will call the Supervisors to pick up all of the trash. She also mentioned the major accidents that could, and have, occurred. She asked to see pictures of the loading dock in the back of the building, which is the closest part to the residents.

Karl Hess, 207 Old Mill Road, Upper Providence Township, says he is a Department Store Manager for a small store, outside of the area, not in competition with Walmart. He would estimate that Walmart will probably have approximately 15 tractor trailers delivering goods per week, with approximately 20-25 trailers per week at Christmas time. They almost always deliver at night time. He also mentioned the possibility of containers and pods that many Walmarts have with additional storage outside of their buildings. They are generally stored to the rear of the buildings. He feels that the Sam's Club and Walmart are two completely different buildings, and that Walmart should go through the Conditional Use process.

Matt Cornely, 924 Main Street, Royersford, said the Board has not addressed anything regarding the traffic impact to the Borough of Royersford. He says Main Street can't handle the traffic that it has now. Also, they have a new High School opening with no traffic improvements. 422 can't handle the traffic that it has now; that is why they are trying to make it a toll road. He mentioned the traffic at the Philadelphia Premium Outlets and the Black Friday sales. He said he believes that the Walmart plans should go back to be re-approved. It should be looked at as a Walmart, not a Sam's Club. It has changed from a 9 to 5 operation to a 24/7 operation.

Manny Jesudason, 140 Buckwalter Road, says his main concern is pedestrian traffic on Buckwalter Road. He questioned if there were any studies done regarding pedestrian traffic. He believes this store will attract a lot of pedestrians. How will people be able to get to this facility from other streets? He is concerned that the loading dock is facing Buckwalter Road. Also the road is very narrow. How will it be able to handle the large tractor trailers? He believes this will lead to accidents and major traffic jams.

Patricia Burns, Montgomery Brook, says she is on the Board in Montgomery Brook. She is very concerned about the Police and Fire Department, as well as the traffic. She has been told that the Downingtown Walmart has seen a large increase in petty crimes. Also, the Arch Diocese of Philadelphia is putting in a new High School close to the Walmart. It is 3 High Schools being consolidated into one. How will all this traffic be handled? She is very concerned that homes are so close to this site. She said the Board is supposed to represent the people. The people are important, and we don't get heard enough. She asked that something else be put in there.

Jeremy Miller, Old Mill and Buckwalter Roads, he believes the Board should not rule on the Agreement until the Petition to Intervene has been reviewed by the Court. He says the 24/7 hours are a shock to residents.

Matt Harris, 1516 Foxmeadow Drive, he is a Police Officer in another Township and he services another Walmart. He noted that the crime rate goes through the roof i.e. retail thefts, vehicles in the parking lots, accidents, vagrancy, and people that park in the lot over night. The call volume will go way up.

Jeff _____, 206 Grasshopper Lane, adjacent to Old Mill, said that since the facility has gone from a Sam's Club to a 24/7 Walmart Super Center, wouldn't this project have to go through a completely different evaluation process? Is this a typical stance taken by the Board in a situation like this?

Mr. McGrory commented that because this is a litigation matter, the Township is not engaging in question and answer. We are only taking and considering your input.

Sandy Breidegam, Old Mill Road and Cathlyn Lane, said her driveway will come right down to the back of the store. The berm that is proposed won't do her any good. She lives at the top of a hill, and she says they will be basically trapped in the neighborhood. Township Line Road will be shut off and traffic will have to go down Old Mill Road and go out Buckwalter Road. The traffic will be unbelievable.

Michele Kielkopf, Old Mill Road and Buckwalter Road, said her home will be directly across from the loading docks. She asked the Board to hear the residents this time.

Ms. Makoulian with Ballard Spahr, addressed the question regarding the location of dumpsters. There will be trash compactors, not dumpsters, at two areas to the rear of the building. They will be completely screened behind a 10 ft. high screen wall. She also addressed the questions regarding pedestrian access along Buckwalter Road. There is a sidewalk proposed that connects into the sidewalk that leads to the parking lot to the main entrance to the store.

Motion passed unanimously.

Adjournment: There being no further business, **motion was made** by Mr. St. Pedro and seconded by Ms. Shuler, to adjourn the meeting at 9:00 P.M. Motion passed unanimously.

Respectfully submitted,

Daniel K. Kerr, Twp. Manager