

**Cumberland Township Board of Supervisors  
Minutes of the June 26, 2012 Meeting**

At 7:00 p.m., Chairperson Underwood reconvened the Conditional Use Hearing for Brandon Keller's application for two poultry barns. Chairperson Underwood turned the hearing over to Solicitor Wiser. Solicitor Wiser reported that the Board held an Executive Session at 6:30 p.m. to review the Memorandums of Law from Attorneys Smith and Marines regarding the contract between Mr. Keller and Hillendale. Solicitor Wiser also submitted exhibits from the previous hearing.

**Mr. Shealer made a motion not to subpoena the contract between Mr. Keller and Hillendale because it is not relevant but, the Board will accept the contract if Mr. Keller voluntarily submits it, seconded by Mr. Toddes. A roll call vote was taken: Mr. Shealer voted aye, Mr. Toddes voted aye, Mrs. Underwood voted aye, Mr. Waybright voted aye and Mr. Ferranto voted nay. The motion carried 4-1.**

Solicitor Wiser stated that the record will remain open until the close of business on Thursday for Mr. Keller to submit the contract to the Township Office or Solicitor voluntarily. He added that a decision must be made 45 days from today, the last hearing date.

The regular meeting was called to order at 7:10 p.m. by Chairperson Underwood. Present were all Supervisors; Manager Ben Thomas, Jr., Solicitor Sam Wiser, Assistant Secretary Carol Merryman, Police Chief Don Boehs, Engineer Tim Knoebel and Zoning Officer Bill Naugle. There were approximately forty residents present, Mark Walters from The Gettysburg Times and Tim Prudente from The Evening Sun. The meeting was recorded.

Chairperson Underwood led the Pledge of Allegiance.

**Mr. Waybright made a motion to approve the Minutes of the May 3, and May 17, 2012 workshop meetings and the May 22, 2012 regular meeting seconded by Mr. Shealer and carried.**

**Mr. Shealer made a motion to pay the bills, in the amount of \$82,365.20 from the General Fund, \$3,925.00 from the Escrow Fund and \$1,200.00 from the State Fund, seconded by Mr. Toddes and carried.**

**Engineer:**

Mr. Knoebel reported that the Lutheran Seminary Western Gateway Final Land Development Plan is acceptable and the few technical issues that were discussed at the workshop have been addressed. He added that there are a few administrative items left and a minor waiver request for the submission of a Preliminary Plan, Section 303 of the subdivision Ordinance. Mr. Knoebel reported that the Township has financial security set for the Township related improvements, in the amount of \$315,125.00. **Mr. Shealer made a motion to grant the waiver to Section 303 of the Subdivision Ordinance requiring a Preliminary Plan, seconded by Mr. Ferranto and carried. Mr. Shealer also made a motion to approve the Final Land Development Plan contingent upon the comments in the Engineer's June 26, 2012 memo being addressed, seconded by Mr. Waybright and carried.**

Mr. Knoebel also reported that Gettysburg Airport is requesting a 180-day time extension for approval of their land development plan. **Mr. Toddes made a motion to grant the 180-day time extension for Gettysburg Airport seconded by Mr. Ferranto and carried.**

**Public Comment:**

Mr. Tom Clowney, 361 Barlow Road, thanked Solicitor Wiser for conducting the Conditional Use Hearing for Mr. Keller's application and the Supervisors for listening to countless hours of testimony. He added that the Supervisors have a thankless job and he asked them to make their decision based on scientific facts, the law and

to disregard any emotional issues.

Mr. Speros Marinos, 912 Baltimore Pike, thanked the Board for having the Pledge of Allegiance. Mr. Marinos also reported that the Historical Society is selling a throw with the Township's insignia for a fund raiser. He added that James D. Fox will be speaking at their September meeting. He stated that he feels that the visitors to the area should be paying for the services that they use by way of the Admission Tax. He reported that the Culver property on Emmitsburg Rd. has been occupied commercially in the past and he would be in favor of them being allowed to use a holding tank.

Ms. Andrea Theisson, 965 Black Horse Tavern Road, asked the Board to consider the inconvenience to everyone if a portion of Herr's Ridge Road is closed.

Ms. Elizabeth Magner, Belmont Road, reported that under the Right to Farm Law, after a Concentrated Animal Operation has been in business for one year, citizens are no longer allowed to complain and the operation can expand without approval and the Township has no jurisdiction over it. She stated that the protection that citizens have is at the inception and she asked the Supervisors to consider the text amendments that were submitted.

Mr. Bill Dana, Mummasburg Road, stated that he and his neighbors, who could not be present tonight, are unalterably opposed to a Concentrated Animal Operation being located in an Agricultural/Residential (A/R) district. He added that their area had been zoned strictly Residential and he would like to know when/how/why it was changed to A/R which was a down-zoning of the area.

### **Police Report:**

Police Chief Don Boehs presented a written and oral report of police activities for the month of May including 553 complaints, 128 combined arrests, 165 traffic stops, 10 traffic accidents and 11,494 patrol miles. He added that they assisted other agencies 11 times and they were assisted 3 times. Police Chief Boehs also reported that Sgt. Biggins and K9 Max attended training at the National K9 Conference and Workshop in Lancaster and did very well and were one of the top contenders.

### **Active Business:**

Solicitor Wisner reported that three amendments have been submitted by citizens under a provision of the Zoning Ordinance. He added that the amendments have been advertised and a public hearing was held. He stated that the Board has three options: do nothing, move forward with the enactment process or consider alterations or amendments to what has been submitted. Solicitor Wisner suggested that the Board act on each amendment individually.

Solicitor Wisner stated that the first amendment asks to remove Concentrated Animal Operations from the Agricultural/Residential (A/R) district and to remain a permitted use in the Agricultural district. Mr. Ferranto stated that he was recusing himself from voting because he signed the citizens' petition before he was a Supervisor. Solicitor Wisner also reported that the Board received comments from the County and Township Planning Commissions and has received the transcript from the public hearing. Solicitor Wisner also stated that if the Board acts favorably on this amendment then there is no reason to consider the third amendment which further regulates CAOs in the A/R district. There was discussion regarding Mr. Ferranto's recusal and it was his decision not to vote on this amendment. **Mr. Waybright made a motion that the Board not amend the Zoning Ordinance as requested by the citizens. The motion died for lack of a second. Mr. Shealer made a motion to request that Section 27-402 of the Cumberland Township Code of Ordinances be amended by prohibiting Concentrated Animal Operations in the Agricultural/Residential districts in accordance with the Adams County Office of Planning and Development which stated that the A/R district is not an appropriate district to allow Concentrated Animal Operations. The motion was seconded by Mr. Toddes. The motion carried 3 in favor. Mr. Waybright voted no and Mr. Ferranto recused himself.** Solicitor Wisner

stated that the Board has 90 days from the public hearing to take action and this will be advertised and he feels that it will be acted upon at the July 24, 2012 meeting. Mr. Ferranto announced that he will be out of town during the July 24<sup>th</sup> meeting.

Solicitor Wisner read a summary of the second text amendment request as follows: Section 27-1903 be amended to require posting of the affected tract 30 days prior to the hearing and certified mail notice be sent to all properties within 1,000 feet of the affected tract at least 30 days prior to the date of the hearing. Mr. Thomas reported that he believes that the amendment is well intended, but it will be a costly and challenging timeframe for the staff given that the entire process has only 60 days to be completed. Mr. Thomas read a Resolution recommended by staff which requires posting and notice 15 days prior to the hearing and notices going out by certified mail to adjacent property owners and by regular mail to all property owners within 500 feet of the affected tract in all districts. He added that the Resolution will be placed on the Township's website so citizens have access to it. Solicitor Wisner suggested that this could be worked into the Township's proposed text amendments. Mr. Shealer suggested that the Board take more time with this and make sure that it is done correctly. **Mr. Ferranto made a motion to take no action on the citizen's amendment #2. The motion died for lack of a second.** Solicitor Wisner suggested that staff come up with some recommendations.

The third amendment request was not considered because the Board voted to advertise removing Concentrated Animal Operations from the Agricultural/Residential districts and the amendment dealt directly with requirements for Concentrated Animal Operations in the Agricultural/Residential districts.

Chairperson Underwood reported that the next item is response to citizens' petition regarding Bream Hill Road status. **Mr. Shealer made a motion to follow the Manager's recommendations and Bream Hill Road will remain open, budget funds in 2013 to have a traffic engineer review all turning movements at all intersections of Bream Hill Road and Fairfield Road for possible restricted turning movements and proper signage seconded by Mr. Waybright and carried.**

The next item on the agenda was the request from PA interfaith Community Programs to utilize Cumberland Township Recreation funds. **Mr. Toddes made a motion to table the request and request PA Interfaith to submit a plan, the Park and Rec Committee review the plan, and make a recommendation. The motion was seconded by Mr. Waybright and carried.**

The last item under Active Business was the Woodhaven Agreement for improvements to Herr's Ridge Road. Mr. Thomas reported that the Board has been reviewing this agreement regarding the reconstruction of Herr's Ridge Road. Mr. Thomas read a history of the road, written by Mr. Knoebel, which indicates that negotiations with the developer dates back to 2005 during the review and approval of the Cumberland Village subdivision. The agreement includes the recommendation to close the portion of Herr's Ridge Road between the new Fairplay Road and old Fairplay Road (Paddock Drive) for public safety. Mr. Thomas added that the portion of the agreement that proposes the closure of the road could be removed, but he feels that it should remain on the table because of the safety issue. He added that the intersection would have to be reconfigured if the developer's improvements stop there and there will still be a grading issue. **Mr. Toddes made a motion to move ahead with the Woodhaven Agreement, deleting Section 3 leaving Herr's Ridge Road open seconded by Mr. Waybright.** Mr. Shealer stated that he feels that the Township should still try to direct the substantial amount of traffic down Fairplay Road and the Township should continue to look at this. Mr. Ferranto also stated that this will have to be addressed in the future as the area becomes built out. **Mr. Toddes, Mr. Waybright and Mr. Ferranto voted in favor of the motion. Mr. Shealer and Mrs. Underwood voted against the motion and the motion carried.**

#### **New Business:**

Mr. Thomas announced that the Township received a request for inclusion in the Agricultural Security Area and the Township will be making public notice and receiving applications. The applications will be forwarded to the Agricultural Security Area Review Committee, County and Township Planning Commission and to the Board of Supervisors who will conduct a public hearing.

Mr. Thomas also reported that the Township has received a Box Alarm Card Review Form for Gettysburg Fire Department and the Board has requested a visit from Fire Chief Baldwin, but he is involved with the annual carnival tonight and he will attend a future meeting. **Mr. Waybright made a motion to approve the Box Alarm Card Review Form for Gettysburg Fire Department seconded by Mr. Toddes and carried.**

Chairperson Underwood reported that Biglerville Borough is using the Township's Police Command Unit for their office while their office is being repaired after being damaged by fire and a non-emergency fee for use needs to be established. **Mr. Ferranto made a motion to establish a \$15.00 per day fee for the non-emergency use of the Township's Command Unit seconded by Mr. Shealer and carried.** The fee will be paid by their insurance.

Mr. Thomas reported that Ray Culver owner of 2523 Emmitsburg Road is rehabilitating the building for minimal commercial use and requested the use of a holding tank for sewage disposal. Mr. Thomas added that the Township has a Holding Tank Ordinance and Rules, Regulations and Agreement have been written and reviewed by the Solicitor and Sewage Enforcement Officer. He added that the Agreement will also need to be approved by PA Department of Environmental Protection before Mr. Culver can be issued a permit. **Mr. Waybright made a motion to approve the Agreement with Mr. Culver seconded by Mr. Ferranto and carried.**

**Mr. Toddes made a motion, seconded by Mr. Ferranto and carried to appoint Police Chief Boehs and Lieutenant Guise as Right to Know Officers for police documents.**

Mr. Thomas reported that Resolution No. 2012-10 CLOSING OUT COMMUNITY CONSERVATION PARTNERSHIPS GRANT PROJECT (BRC-TAG-14-377) for the Gettysburg Peer-to-Peer Recreation Study is ready for the Board's approval and the Township will receive the final \$1,000.00 when the closing documents are submitted. **Mr. Shealer made a motion to adopt Resolution 2012-10 closing out the Community Conservation Partnerships Grant Project stating that the report is complete and acceptable to the Township seconded by Mr. Toddes and carried.**

**Reports:**

Mr. Thomas reported, on behalf of the Finance Committee, that the purchase of a new police vehicle has been approved by the Board and the funds were going to be borrowed. He added that the Finance Committee met yesterday and it was decided to defer any transfer of General funds to the Capital Reserve Fund and additional payment on the mortgage until October. The Committee reviewed the costs of borrowing the money that alone would be approximately \$2,300.00 and recommend that no loan be procured and monies from the General Fund balance be used to purchase the vehicle, in the amount of \$23,723.00. He added that the equipment will cost approximately another \$9,000.00. **Mr. Shealer made a motion to defer additional payment on the mortgage until October and make the purchase of the police vehicle, in the total amount of approximately \$33,000.00, from the General Fund account 410.700 seconded by Mr. Waybright and carried.**

The Zoning Officer and Assistant Secretary's report were reviewed.

**Solicitor: No report.**

There being no further business, the meeting was adjourned at 8:50 p.m.

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Carol A. Merryman, Asst. Secretary

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