

ATHENS TOWNSHIP SUPERVISORS

May 18, 2016 6 PM

Vice Chairman Ronald Reagan called the meeting to order at 6:05 PM. Supervisors also present were Susan Seck, Christine Vough and George Ballenstedt. Cheryl Wood-Walter was not in attendance. Solicitor John Thompson and Secretary Robin Smith were also present. George Ballenstedt led everyone in the Pledge of Allegiance.

Voice of the Residents: None

On motion of Ron, second by George, it was unanimous to approve the engineering contract with CEI Engineering for the Round Top Park Expansion Phase II, and to have Ron sign the contract.

Kurt Lafy had contacted Robin again regarding the invitation sent to the Supervisors in February to attend the Civil War soldier grave commemoration in Tioga Point Cemetery on August 27, 2016 at 10 AM. He had not received any responses from the Board. George confirmed he will attend. Ron said he could not go.

John Thompson did not have the original Stormwater Systems Maintenance Agreement, the Open Space Maintenance Agreement or the Road Maintenance Agreements for Gateway Commons, but copies were available for review. On motion of George, second by Susan, it was unanimous to approve, sign and execute the three agreements when John gets the original paperwork to Robin.

Ron began the review of the Austin Excavating & Paving, Inc. land development along Wildwood Road with the instructions that Austin's will go first, the supervisors will then ask any questions they have, and then the floor will be open to the public. Austin's were represented by Tim Gourley of Dietz Gourley Consulting and Attorney Dick Sheetz.

Tim Gourley said he will go over where we are now. He said the plan has changed very little since the Conditional Use approval hearing. They have updated the comments of CEI Engineering's letter dated March 29, 2016. Clif Cheeks passed out the packets that were received by Planning Commission at their May 2nd meeting. Tim read through the comments and provided his answers for each:

- 1) Section 424 Provide PADEP and applicable Federal permits/approvals when available.
 - a. Tim stated they are working through the process

- 2) Section 424.B.1 Identify the township roads that will be utilized by normal truck routes. Provide information necessary for bonding
 - a. Tim said they will use Wildwood Road, Shepard Road and Cayuta Street.
- 3) Accessory storage trailers – provide information regarding construction trailer and storage trailers proposed for the site. Permits will be required, coordinate with Zoning Department.
 - a. Tim said they acknowledge they need to be permitted and in compliance with the floodplain regulations.
- 4) Section 202.A.1 Provide title block with the plans, stating the Preliminary stage of submittal
 - a. Done
- 5) Section 202.A.9 Provide boundary of 100-year floodplain.
 - a. Done
- 6) Section 202.A.9 Provide information regarding the possible floodplain elevation as it correlates to the proposed earthen berm elevation surrounding the mining area. Will flood elevation enter mine area or be held by berm?
 - a. Tim said the berms around the site will not hold floodwater out. The existing drive elevation is 766 and 770 is flood level, so it will flow into the mine 4 feet.
- 7) Section 202.A.10 Provide additional grading information for the entrance to better understand its role as a potential inlet (flood event) and discharge for receding floodwaters.
 - a. Narrative was submitted to Skip
- 8) Section 408.B.5 Provide discussion regarding the interim stages of stormwater flows as separate phases are developed (i.e. wetland D drainage area is truncated with berm)
 - a. Tim said they looked at 8 phases and added additional features and access. In Phase I the perimeter berm will be around 3 homes. Tim went through each phase and discussed berm placement and stormwater sump. Completion will be the reclamation plan they originally proposed, and berms will be graded to the minimum grade.
- 9) Section 409.B Include Wetland Indemnification Statement on plans
 - a. Done
- 10) Section 409.D Provide approvals by PADEP and USCOE for the proposed disturbance of wetlands when available
 - a. Will provide.
- 11) Will a Phase I Archeological survey be required per the PHMC?

- a. They are evaluating at this time. They will have to do a Phase I if they do a phase that disturbs a wetland.
- 12) Provide some additional information regarding internal circulation/site access. There appears to be no break in the berm nor access road to bench elevation 760'
 - a. Shown
- 13) Will berm be installed around the entire perimeter of all phases or will it be around each phase, and then moved? Is there enough material to create entire berm (too much material)?
 - a. Tim said berms will be done for each phase to minimize the amount of disturbance.

Comments from Planning Commission meeting of April 4, 2016:

- 1) Road evaluation for bonding
 - a. Tim said this will be addressed with the Hunt Engineering study
- 2) Additional screening for the Campbell property
 - a. This will be done
- 3) Note right-of-way width of Wildwood Road
 - a. Tim said it's on the plans
- 4) Provide additional grading information for the entrance
 - a. Tim said this is done and has been approved by Skip

Tim said they have addressed all they can at this time. Ron asked if any of the Supervisors have questions. Clif Cheeks said they will need zoning permits for accessory structures.

George asked what the supervisors do with the road study once it is done? Ron said we will decide what we and Austin have to do.

Attorney Jon Foster, representing 35 residents and their families from Wildwood, said he is curious regarding what the Hunt Engineering study will do and about getting together with the developer. Ron read the Hunt proposal. They will be doing 5 bores and will be doing a test to check the stability of the subgrade.

Jon Foster asked if there will be bores on Wildwood Road and Ron said yes.

Jon Foster asked if there is something in question as to road suitability. No answer. He said the 25-ton weight limit was determined by Municipal Solutions,

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however no testing was done. Jon asked if the trucks will weigh between 35 – 37 tons and the answer was yes.

Jon Foster asked if there was a question on the adequacy of the road and Ron said that's why the study.

Jon asked if there were concerns about the road width and Ron said the road needs to be maintained – we need to bring it back to the proper width. Jon asked if this would be the entire road and Ron said if need be.

Jon asked if the road was surveyed. Tim Gourley said no, just a boundary survey of the site was done. Jon asked how the 16-1/2 ft. on each side affects trees, etc. Tim said all improvements will be on their land outside of the right-of-way (ROW). He also said they did not survey the whole road.

Jon said there are 55 utility poles – will they be moved? Who pays for that? Ron said he doesn't have an answer. Jon asked what they will do at the swamp and there was no answer.

Jon asked if this is the only township road they are widening, and Susan said no, they are doing through the township.

Jon said a road that serves 20 or more houses is considered a minor collector street in the SALDO. He asked how you fit a 36 foot road into a 33 foot ROW? He was told this is an existing road. Jon asked if, because this is a new development going in, will it have to be brought up to spec? (no answer)

Jon said in section 104H of the SALDO, you have to “ensure that the cost of design and installation of site improvements in proposed subdivisions and land developments be borne by the developer rather than the pre-existing Township residents”. Ron said when the study is done, they will sit with the developer.

Jon also stated the SALDO requires you to follow the Zoning Ordinance. He said in Section 424B it states, “Mineral extraction operations shall abut on or provide direct access to a street or highway capable of accommodating heavy trucks and employee traffic. Truck access to any excavation site shall be arranged to minimize danger to traffic and nuisance to surrounding properties”. Why didn't you do this at the Conditional Use hearing? Ron said they are trying to minimize the impact.

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Jon said the issue of accommodating traffic has to be taken into consideration at the Conditional Use hearing and again in the SALDO review. Will you consider this? Ron said they'll work with the developer.

Jon said if you had the quote from Hunt Engineering back in July, why was this not taken care of before the October decision? Ron said he has no answer to that.

Jon Foster handed out a memo outlining what sections of the SALDO apply to this development, and addressed each point. A copy of this memo is included in these minutes as Attachment #1 (4 pages). Jon said Section 101 states the Supervisors are charged to "promote and protect the health, safety and general welfare of the residents of the municipality". The remaining sections of Attachment #1 state that the Supervisors need to follow their ordinances; take every precaution to preserve natural and historic features; observe street standards; protection of private water wells and wetland areas; also follow Industrial land development criteria; and assure that mineral extraction operations shall abut a road capable of accommodating heavy trucks and employee traffic. Jon asked if the Planning Comm. or Supervisors will take your ordinances into consideration. (no answer).

Jon said Tim had previously stated that he thinks DEP will come back and have them do a survey of all the wells. Tim said yes, he believes they will.

Tim Gourley said they have submitted a pre-application to DEP. When they submit their formal application, a public hearing will be held. Tim added that they have a 1-year window to address the DEP comments from the pre-application. Jon Foster asked if they will do this same process with the air quality permit and Tim said no. Tim said they understand they will not get their zoning permits until they are in compliance with the zoning ordinance.

Jon asked when the board will make that decision if the road is okay and Ron said after the road study.

Jon submitted a memo to the Board that includes Lake Randall's (residents engineer) and Tim Gourley's traffic information. This is included in the minutes as Attachment #2 (19 pages).

Jon asked if the Archeological Phase I is a USACOE issue, and Tim said it was. Jon then asked about the PHMC. Tim said they received a letter back from them that a Phase 1 study is recommended but not required. If a federal permit is required for

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anything, they will need to do that. ACOE is driving it, but PHMC will be overseeing it and clearing it.

Jon asked in what phase the berm would be installed for the Rude property. Tim said they will do the whole back section before the berm is constructed. Jon asked about fencing and Tim said they will not fence the whole thing – just the active highwall areas.

Jon commented that they are working with the township supervisors to get the study to show if it can handle the weight and Tim said yes. Jon asked if the 33 ft. ROW is shown on plan and it is. Jon asked if the cartway is shown and Tim said it is not. He said it's anywhere from 18 – 20 feet.

Jon asked if the 33 ft. ROW goes into the wetland and Tim said no.

Jon submitted a handout on silica/dust and said he applauds the supervisors for getting a cab on their new roller to keep their employees from the dust. He said OSHA has new requirements and referred to the handout he gave them. The handout is included as Attachment #3 (3 pages) in these minutes. Jon said he has no further questions or comments.

Marion Campbell, Wildwood Road, said she has lived there 65 years. No one has ever cared about this road. Why now – to accommodate this business?? Susan said a lot of roads have not been maintained. Marion asked Susan if this would have been done if this operation was not planning to locate here and she said yes, it would have been done. Marion said she did not appreciate Mr. Reagan's cavalier attitude when he states they will be coming through and taking what is needed and some of the neighbors won't like it.

Ron asked the Board if they have any more questions or comments. George said he thinks we need to revisit this as a group after the study is done to see what it says. Once we give preliminary approval we can't go back. Gourley has done a good job, but what if the road needs major improvements?

Attorney Sheetz said, on behalf of Austins, they have filed all the necessary papers. They have always maintained they are prepared to meet any contingencies the supervisors need to be met. They have gone out of their way to see the township is satisfied. He added that Industrial development plans don't apply here – your definition doesn't fit. He asks that the board give approval.

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Ron asked if we are the first part of the process and was told yes. Tim Gourley said if they can't meet the zoning ordinance, they can't apply. Tim said they've received zoning approval with the Conditional Use approval. They are trying to please everyone.

Jon read the definition of Industrial development which does include mineral extraction operations.

Jon said the Board gave Conditional Use approval which is being appealed by the residents. The hearing will be before Judge Smith on June 8th. Jon feels it would be proper to table this before it goes further. His clients have spent a lot of money on this for him and for their engineer.

George asked Clif about the final plan approval. Clif said they will have to ask for a 5-year extension every 5 years until their 20 year project is complete.

John Thompson asked Attorney Sheetz if he had any comments. He stated that the Planning Commission gave this unanimous approval and would like the supervisors to approve this.

Mike Austin said it's not just us using the road. The township plows go out there – he's not the only one. He also said they will try to keep it all Ag use as long as they can. He would hate to see the residents meet the plow or Ag machinery on that road. He said he can only imagine what it must be like meeting a snowplow.

George asked if the bond is set by what the study shows. John said you have to get a handle on the weight limit of the road. Robin said you can only request a bond amount of \$12,600 per mile. The road from the bad intersection east to the pit driveway is only about 8/10 of a mile, so your bond would be around \$10,000. You are responsible for keeping track of the damage of the road and asking Austin to fix it before you get \$10,000 damage. If they won't fix it, you use the bond. George asked if once they're on Cayuta Street, do they have to deal with Sayre? Mike Austin said he has talked with Blaine Lathrop and Dave Jarrett and they have no problem.

Ed Campbell of Wildwood Road asked how far did you go on Wildwood Road when you were on your road inspection Monday? Ron said they went to Winding River Drive. Ed said if you had gone around the curve to the end of Wildwood Road, people's houses are close to the road. Why didn't you go to the end? Ron said "I

don't know". George said it was getting dark. Ed asked if there was any other reason why? Christine said she has driven to the end herself and it is very narrow.

Ed Campbell asked if the township was going to widen the road all the way to the end and Ron said no, only as far as the development driveway. Marion Campbell asked why not go all the way out?? Susan asked if anyone in attendance lived out that way and no one did. She said if the engineer comes in and says it should be a 5-ton weight limit, it can't be feasible for Mike to go forward.

George asked can't we do the study first and Ron said if we want to pay for it. George asked if we can pay upfront and have Austin reimburse the township. Jon Foster asked if they would be giving him preliminary approval contingent upon him paying for the road study?

Ron Reagan said we've had this quote for the road study since July and should have done the study back then. Now we have to take action. If we deny it, we need good reasons. We need to move on with this. No executive session. We need to decide.

Christine asked Jon Foster (about the article) if there are concerns regarding substances in the air coming to the residents. Jon said there are 300,000 workers and 2-million construction workers that are exposed. OSHA has a real concern with silica. Limiting it would be the best thing. Will workers of the mine have masks? Tim Gourley said MSHA will be monitoring personnel onsite, not OSHA. The onsite workers will be subject to these regulations. Jon said the Federal government is finally concerned with dust exposure. George said what about people on the dirt roads. Bob Sheetz said it's interesting that mining doesn't apply under OSHA – mining has its own regs.

George asked what would be appropriate conditions in reference to the road study. Susan said he won't take a wheelbarrow out there.... Hunt will give a recommendation as to what the weight limit should be and what needs to be done.

Ron said keep in mind that we do have zoning. If we didn't have it, Austin would be digging right now. We've had zoning for 15 years. Nothing has changed. This has been a gravel pit. Robin said this was a small gravel pit pre-zoning.

George asked about the cost of the study. Tim Gourley talked to Chris Wood and he said the cost would be about the same. Jon Foster asked how long the study will take and Tim Gourley said about a month.

Ron went through the deficiencies and asked for copies of all the submissions.

Tim Gourley said the DEP mining permit is the only one that requires a public hearing. Christine asked how you know if it will need a public hearing. Tim said they will advertise for 4 weeks in the local paper. Then there will be a 30-day comment period for written complaints. He said DEP will decide whether or not a public hearing would be required by the number of letters they get. He said from what they've seen so far, there will be a hearing.

Jon Foster asked what leverage the township has if you approve it and they say they're not going to do the improvements? John Thompson said it depends on how you make the motion.

George questioned if this would be feasible if Hunt says the road is a 5-ton rating. Is there a guideline that says you can't do the project after this limit? Jon said \$10,000 is not going to fix your road. He added Mile Lane Road has a 10-ton limit.

Ron made the motion to grant preliminary approval subject to the following conditions:

- 1) We undertake the road study at the cost of the developer.
- 2) Mike provide a bond for the township roads traveled.
- 3) Approval is contingent upon the developer working with the township to incorporate the proposed improvements recommended by the road study.
 - a. Attorney Sheetz said, "What does that mean"?
 - b. George said, "Share the cost"?
 - c. Ron said, "We can throw that word in there"
 - d. Robin said, "The township would share the cost"???
 - e. Attorney Sheetz was curious regarding the contingency if it's above what it's currently set at.
 - f. Ron said there's no way PennDOT went around doing core bores.

Austin's asked how much the township plow weighs that does that road. Susan said 17,500 lbs (approx.). They said they are asking about when it's loaded. Ralph Blowers was in attendance (he plows the Wildwood area) and said the 17,500 IS when it's loaded – they only take a single-axle out there.

Susan seconded Ron's motion and it passed, with Christine opposed.

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The Drug and Alcohol policy was presented for adoption at this time. Susan said the union is good with it, the crew is good with it, and John Thompson is good with it. Christine said the police just got this yesterday and haven't had a chance to review it. John Thompson said this is just for CDL employees. Christine said it's not just for CDL employees, and she proceeded to read sections of the policy that apply to all employees, including recycling attendants, office, and even the Supervisors the way it's written.

Christine said she spoke with Mr. Snavelly. Susan said you've had this for how long and you didn't reach out to the police department until now?? John said the police union steward had it. Christine said Mr. Snavelly confirmed it would be any front office employee, and any employee. Christine asked why rush into a decision today – we need to take more time. Susan asked Christine when did you reach out to the police department? John Thompson said you would have to adopt it as written. Robin said the non-federal/non-CDL employees would not have to be on the roster for random testing – just be tested if they were in an accident when they were on the job. George said Mr. Potter is okay with this. On motion of Ron, second by Christine, it was unanimous to table this until the May 25th meeting.

Vice-Chairman Reagan took the Board into executive session at 8:15 PM. The secretary was excused and the regular meeting reconvened at 8:47 PM.

On motion of George, second by Susan, it was unanimous to adjourn the meeting at 8:48 PM.

Respectfully submitted,

Robin L. Smith
Secretary