

**Cumberland Township Board of Supervisors  
1370 Fairfield Road, Gettysburg, PA 17325  
September 26, 2017 Meeting Minutes**

The regular meeting was called to order at 7:25 p.m. by Chair Underwood. Present were all Supervisors: Underwood, Waybright, Toddes, Paddock and Shealer; Manager Ben Thomas, Jr., Solicitor Sam Wiser, Police Chief Don Boehs, Zoning Officer Bill Naugle, Engineer Tim Knoebel and Secretary Carol Merryman.

Chair Underwood led the Pledge of Allegiance.

Chair Underwood announced that the Board held an Executive Session at 6:00 p.m. to discuss a legal matter pertaining to Country Meadows' Conditional Use.

**Mr. Toddes made a motion to approve the Minutes of the August 3 and August 17, 2017 workshops and the August 22, 2017 regular meeting seconded by Mr. Shealer and carried.**

**Mr. Waybright made a motion seconded by Mr. Toddes and carried to approve the bills in the amounts of: \$152,733.98 from the General Fund; \$3,597.00 from the Escrow Fund; and transfers in the amounts of: \$40,549.38 from the General Fund to the Health Insurance Account.**

**Public Comment:**

Mr. Speros Marinos, 912 Baltimore Pike, reported that the Cumberland Township Historical Society will be placing a cast iron plaque near Barlow Fire Hall and he asked the Board to stay vigilant on the zoning update.

**Engineer/Plans:**

**Mr. Waybright made a motion seconded by Mr. Shealer and carried to approve a Request for Extension for approval of the Desimone Estate Final Plan until December 31, 2017.**

**Mr. Toddes made a motion to approve a Request for Extension for approval of the Musket Ridge Final Plan until December 31, 2017. The motion was seconded by Mr. Waybright and carried.**

Mr. Knoebel reported that the Douglas, Denise and Vonny Wherley Final Lot Addition Plan is located on Ridge Road and is a minor plan that proposes the reconfiguration of two existing lots. Mr. Knoebel added that there is a Non-Building Waiver that goes along with the subdivision plan that needs approval to be submitted to Pa. Dept. of Environmental Protection. **Mr. Paddock made a motion to approve the Non-Building Waiver and Final Plan for the Wherley's, subject to the engineer's comments on the September 26, 2017 memo being addressed, seconded by Mr. Waybright and carried.**

Mr. Knoebel also reported that the Township received a Request for Extension for approval of the Cumberland Crossing at the Links of Gettysburg Final Plan for ninety days and their Sewage Planning Module is ready for approval by the Board to be submitted to Pa. Dept. of Environmental Protection for their approval with the inclusion of the executed Operation and Maintenance Agreement and Component 4A completed by the Township's Planning Commission. Solicitor Wiser reported that the Operation and Maintenance Agreement has been executed by the developer and is ready for approval by the Board. **Mr. Toddes made a motion seconded by Mr. Shealer and carried to approve the Request for Extension for approval of the Cumberland Crossing at the Links of Gettysburg Final Plan for ninety days as requested by the developer. Mr. Shealer made a motion seconded by Mr. Toddes and carried to**

**authorize the Board Chair to execute the Operation and Maintenance Agreement for the Wastewater Facilities. Mr. Shealer also made a motion seconded by Mr. Paddock and carried to approve the Sewage Facilities Planning Module subject to the Component 4A and executed Operation and Maintenance Agreement being inserted into the Planning Module.**

Mr. Knoebel updated the Board on the dedication of Kestrel Drive in Cumberland Village Phase 1C. Mr. Knoebel reported that they have received the As-Built Drawings and they are acceptable. He added that Maintenance Bonding and Title Insurance are still needed so no action is needed at this time.

Mr. Knoebel also updated the Board on Cumberland Village Phase 1A and 1B. Mr. Knoebel reported that the 18 month Maintenance Bond is coming due and they have compiled a final punch list of items that need to be addressed, dated September 20, 2017, prior to the bond being released.

Lastly, Mr. Knoebel reported that the MS4 Application has been submitted to Pa. Dept. of Environmental Protection.

### **Police Report:**

Police Chief Don Boehs presented a written and oral report of police activities for the month of August, 2017 including: 416 complaints - Psych/suicide-2, Disturbances-8, Assault/Harassment-7, Domestic-13, Criminal Mischief-1, Suspicious Activity-18, Thefts-1, Alarms-14 Medical Emergency-13, 911 Hang Up-4, Sexual assault-2, Burglary-0, Fraud-4, Wanted Person-2, Reported Drug Activity-1, Welfare checks-11, Shots Fired-0, Follow-up Investigation-43; 150 traffic stops, 141 combined arrests, 8 traffic accidents, 49 targeted enforcements and 10,014 patrol miles. He added that they assisted other agencies 12 times, they were assisted five times and the assists to Pa. State Police were in Straban, Franklin, Mt. Joy, Hamiltonban and Mt. Pleasant Townships. Police Chief Boehs reported that they had 73 walk-in complaints. Sgt. Biggins reported that Officer Goodling is receiving a "Top Gun Award" for 2016 DUI arrests and they are receiving an Aggressive Driving Grant.

### **Active Business:**

Chair Underwood read the following regarding the Country Meadows Conditional Use Hearing application:

"The Board has met in executive session to consider the Application of Country Meadows of Gettysburg, L.P., which is Application No. CU-2017-002.

The Board has held approximately 15 hours of hearings and received numerous exhibits from the Applicant and Objectors and has received a significant amount of correspondence from our residents. We feel it is important to reiterate to the public what standards we must be guided by in considering a conditional use request. We are concerned that the public has a perception that designating a use as a conditional use allows the Board of Supervisors broad discretion in considering the requests. This is not the case.

The objectors have alleged that allowing assisted living facilities in the residential district is poor planning. If that is the case, we are constrained to live with the terms of the ordinance in place at the time the application for conditional use was submitted. The ordinance allows assisted living facilities as a conditional use in the residential overlay district. This is, by law, a presumption that the use is consistent with the general welfare of the community. Consequently, we must determine whether the applicant has met the specific and objective criteria of the zoning ordinance.

Here, based on the testimony and evidence presented, the Applicant has met the specific and general criteria applicable to an assisted living facility in the residential overlay district. The board has heard a significant amount of speculation of possible harm, however, has not received testimony or evidence reaching the “high degree of probability” required. Further, the objectors have not demonstrated that the possible conditions are conditions that are not normally associated with an assisted living facility use. Therefore, the application is a permitted use with the ability of the Board to impose reasonable conditions.

The Board does have the ability to attach reasonable conditions as it may deem necessary to implement the purpose of the Municipalities Planning Code and the Cumberland Township Zoning Ordinance. The following is a general review of the conditions, to be further detailed, as appropriate, in the final written decision. A general description of the conditions and acknowledgement of concerns that should be addressed in the Land Development Plan Process are as follows:

1. Recommend vertical wall and earthen planted screening with appropriate tree landscaping to buffer the receiving area to mitigate noise. In addition a 6ft. high buffer shall be required from the existing tree line adjacent to Fauth property along the property boundary to the southernmost point of the Moore property.
2. Truck deliveries shall be between the hours of 8 A.M. and 7 P.M.
3. The Township should not accept any dedication of any areas to be “open space” on the exhibits.
4. Adams County Office of Planning & Development comments in their June 19, 2017 letter to the Supervisors should be considered but no specific alterations to the plan are required; Specific to applicant’s Overall Design considerations: For site layout placing the larger buildings toward the center of the site surrounded by cottages for a softer transition between uses; even if the building height is increased in accordance with the Township’s ordinance.
5. As demonstrated by the evidence submitted by Applicant, the Board affirms that outside lighting shall be screened to ensure that illumination shall not be greater than 0.1 foot candle at the property line. 27-103 (3)
6. NOTE: During Land Development Planning review, a traffic study will be required in accordance with 22-413 (1) as Applicant Exhibit 7 indicates 581 new ADT.
7. NOTE: At the Land Development Planning Stage the Applicant will be required to demonstrate there is sufficient water and sewer capacity to provide utility and fire protection services in accordance with Sections 410, 411, and 506 of the Cumberland Township Subdivision and Land Development Ordinance.

A final written decision shall follow this determination in accordance with the requirements of the Pennsylvania Municipalities Planning Code and contain the binding decision of the Board of Supervisors.”

**Mr. Toddles made a motion seconded by Mr. Shealer and carried to approve the conditional use application No. CU-2017-002 of Country Meadows of Gettysburg, L.P., subject to the conditions as stated and in accordance with the written decision to be issued by the Board of Supervisors, which written decision shall control.**

Mr. Thomas read the following statement regarding the Traffic Impact Fee Ordinance:

“On Thursday, September 21, 2017, the Cumberland Township Supervisors held a public work-shop with the Township’s Transportation Advisory Committee. A history of the ordinance was reviewed and “Talking Points” were discussed. The Traffic Impact Fee Ordinance (Chapter 25) was adopted July 11, 2006. Since that time some \$368,068 has been collected with little spent other than engineering costs.

Shortly after the Ordinance was passed the Great Recession began in 2008 which reduced the amount of projected development. Though \$368,000 is a lot of money, the anticipated projects in 2006 totaled \$6.3 million dollars for mainly traffic signal installations in two Transportation Service Areas. None of the recommended improvements have commenced.

The Advisory Committee expressed concerns of would there be enough funds collected to fulfill substantive projects primarily on PennDot roads?; The impact fees for small and large projects that are difficult to complete on a timely basis...if at all?; Will these impact fees have a negative effect on future economic development to enhance the Township’s tax base given the vacant buildings that may some-day be re-purposed?”

**Mr. Shealer made a motion seconded by Mr. Toddles and carried to suspend the current Act 209 (of 1990) Traffic Impact Fee Study by McMahan Associates; Authorize the Solicitor, Manager, and Treasurer to recommend an exit strategy to consider abolishing the Chapter 25 Traffic Impact Fee Ordinance; Authorize the Solicitor to include language in future Developers’ Agreements assessing and funding current and future road condition impacts; and further, work with PennDot where off-site Pennsylvania highway improvements may be implemented by PennDot for development roadway conditions impacts.**

**Mr. Waybright made a motion seconded by Mr. Paddock and carried to approve the 2018 Minimum Municipal Obligations as follows: Non-Uniformed Pension Plan in the amount of \$50,142.00 and Police Pension Plan in the amount of \$120,119.00.**

**Mr. Toddles made a motion seconded by Mr. Shealer and carried to adopt Resolution 2017-09 placing the Emergency Operations Plan of Cumberland Township into effect immediately and for the plan to be reviewed every two years to make certain that it complies with the requirements of the Adams County Emergency Operations Guidelines.**

**Mr. Waybright made a motion seconded by Mr. Paddock and carried to send a letter of thanks to A/V Solutions of Biglerville, PA who cleaned and focused the onsite security cameras at no charge to the Township in support for the Cumberland Township Police Department.**

Mr. Thomas reported that the Township received an email correspondence from Stanley Flaggs, 284 Swetland Road, regarding the zoning of four parcels that he owns. The email states that two of the parcels are zoned Agricultural/Residential (A/R) and the other two are zoned Agricultural (A). Mr. Flaggs wants the two parcels that are zoned A to be changed to A/R and feels that this change should be made at the Township’s expenses because he feels that the Township zoned the two parcels A in error. Mr. Thomas asked Mr. Flaggs to attend the next workshop on October 19, 2017 at 8:30 a.m. Mr. Flaggs agreed to come to the workshop.

Mr. Thomas reported that the Township is still receiving complaints about Advanced Disposal’s trash service.

Mr. Thomas reported that the Finance Committee discussed/recommended the following: sale of the 1990 Dump Truck through the Municibid website; the estimated 2018 Pa. Liquid Fuels allocation amount is \$272,526.00 up from \$255,000.00 received last year; the reimbursement owed for previous fees collected for citizen's text changes totals \$3,388.00 – the \$710.00 reimbursement to Stephan and Jan Lewis was approved in tonight's bill list; computer file server replacement with Microsoft Office 365 for up-graded emails system in the amount of \$4,199.00 and 30 hours of pre-paid technical service in the amount of \$2,850.00, annual savings of approximately \$1,000.00 recurring costs (CTA will assist). **Mr. Waybright made a motion to approve the purchase of a new computer file server with Microsoft Office 365 and 30 hours of technical service in the amount of \$7,049.00 (a portion to be paid by CTA). The motion was seconded by Mr. Paddock and carried.**

Mr. Thomas reported that the following items will be on the October 19, 2017 workshop agenda: Cumberland Village HOA requesting discussion regarding ownership of street curbing; Future road/street dedications; Pensions Minimum Municipal Obligations option discussion with Township Actuary Charles Friedlander, 2018 budget process and 2017 budget overview.

Mr. Thomas explained that Chapter 27, Part 20, §27-2001.4 currently reads that “No fee shall be assessed for applications and/or petitions requesting a change or amendment to the text of this chapter.” Mr. Thomas added that these changes require expenses to the Township such as the legal advertising, paying for the stenographer, transcript and solicitor so this needs to be changed. Mr. Thomas added that there are about five people that are going to be reimbursed for the fee that was collected in error. **Mr. Shealer made a motion to authorize the solicitor to draft an ordinance amending §27.2001.4 Fees and authorize the advertisement of the ordinance seconded by Mr. Paddock and carried.**

**Solicitor: No report.**

#### **Committee Reports and comments from Board Members:**

**Public Safety** – Chair Underwood reported that Gettysburg Fire Dept. is having an Open House on Sunday to showcase a new piece of equipment and everyone is invited.

**Highway** – Mr. Waybright reported that the Horner Road Bridge construction has been completed and he read the report from Road Superintendent Chris Walter. The report included in part: replacing various storm sewer pipes, fog seal applied on 2017 seal coated roads, in-house paving project in the Woodcrest development cul-de-sac, paving for Windbriar/Redding Lane to be completed this month or early next month and line painting in the near future. The report also included the delivery of the new 2018 Mack tandem axle dump truck, sale of the 1990 dump truck via the Municibid website and a storm damage report from the 9/5/17 high winds and rain that took down twelve trees across Township roads.

**Personnel** – Chair Underwood reported that the committee has been meeting regarding the new hire for the Administrative Assistant position.

**Parks and Recreation** – Mr. Toddes reported that everything is going good at the park and the Kiwanis playground has been completed.

**Economic Development** – Mr. Thomas reported that the airport runway extension has been completed and they will be doing an additional \$3 million dollars' worth of projects there in the future.

**CTA** – Mr. Shealer reported that the sewer line replacement project has been completed and they will be doing the final road restoration on the 15<sup>th</sup>. Also, they will start spreading bio-solids tomorrow on Mr. Waybright's farm.

**Finance, Building and Grounds, Planning and Zoning, COG, and CT 411 – no reports**

Mr. Thomas thanked the Board and the staff for the 15 extra hours that they spent here for the Country Meadows Conditional Use hearing.

**Staff Reports:**

The Zoning Officer and Secretary's reports were reviewed.

Unless otherwise noted, all votes were unanimous. The meeting was adjourned at 8:55 p.m. for a brief Executive Session with no action to follow.

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Carol A. Merryman, Secretary

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