

**NEW HANOVER TOWNSHIP
BOARD OF SUPERVISORS
WORK SESSION
JUNE 8, 2015**

A work session of the New Hanover Township Board of Supervisors was held on Monday, June 8, 2015 at the Boyertown Junior High School-East, 2020 Big Road, Gilbertsville, PA 19525. Present were Supervisors Douglas Muller, David Brown, Ralph Fluharty, Andrew Kelly, and Philip Agliano. Township Manager Kevin Tobias, Solicitor Paul Bauer, David Leh of Gilmore Engineering, Adam Supplee of KMS, and Eileen Pogany were also in attendance. Chairman Douglas Muller called the meeting to order at 6:30 PM.

Review of Agenda – no comments

Review of Bill List – no comments

Work session meeting adjourned at 6:33PM to brief executive session to discuss personnel matters.

**NEW HANOVER TOWNSHIP
BOARD OF SUPERVISORS
REGULAR MEETING
JUNE 8, 2015**

The regular monthly meeting of the New Hanover Township Board of Supervisors was held on Monday, June 8, 2015 at the Boyertown Junior High School-East, 2020 Big Road, Gilbertsville, PA 19525. Present were Supervisors Douglas Muller, David Brown, Ralph Fluharty, Andrew Kelly, and Philip Agliano. Township Manager Kevin Tobias, Solicitor Paul Bauer, David Leh of Gilmore Engineering, Adam Supplee of KMS, and Eileen Pogany were also in attendance. Chairman Douglas Muller called the meeting to order at 6:30 PM and thanked attendees for attending the meeting and for signing the sign-in sheet. Mr. Muller led in a Salute to the Flag.

ANNOUNCEMENTS – Chairman Douglas Muller announced that the following items are available on the counter in the rear of the meeting room: attendance sign-in forms for the official record of who is in attendance, agendas for the public, a notebook containing meeting procedures, a notebook containing approved minutes from prior meetings, and a notebook containing prior meeting bill lists. He added that the Board of Supervisors will give an opportunity for public comment prior to any official action, that non-agenda items from the floor will be addressed after all business items are completed, and that one person speaks at a time with a five minute time limit at the discretion of the Chairperson. No one stated that they were taping the meeting.

Public Hearing – Pottstown Metropolitan Planning Comprehensive Plan

Proposed updates/amendments to the Comprehensive Plan were advertised for public notice; no comments from the public were received and there were no comments from the Board of Supervisors. Philip Agliano **moved** to accept the amendments as written. David Brown **seconded** the motion and it **carried 5-0**.

UPCOMING TOWNSHIP MEETINGS – announced by Douglas Muller

June 10	Planning Commission	6:30pm
June 17	Sewer Authority at WWTP	6:30pm
June 22	Board of Supervisors	6:30pm
June 23	Joint Board of Appeals -3488Church Road	7:00pm

PRESENTATION OF CURRENT BILLS

Bill List #11 –dated 6/5/15

General Fund 01	\$ 70,008.29
Fire Tax Fund 03	\$ 2,755.00
Sewer Operating Fund 08	\$ 14,900.32
Sewer Capital Fund 10	\$ 0.00
Trans. Impact Fund 13	\$ 34,591.60
Capital Fund 19	\$ 0.00
State Liquid Fuels Fund 35	\$ 0.00
Escrow Fund 41	\$ 533.25
Recreation Fund 96	\$ <u>4,674.69</u>
Total	\$ 143,332.90

Ralph Fluharty **moved** to approve payment of bill list #11 in the amount of \$143,332.90 and advance the treasurer the monies for utilities and payroll for the coming month. David Brown **seconded** the motion and it **carried 5-0**.

MINUTES - Action to approve the May 11, 2015 Work Session Minutes and Regular Meeting minutes was made by motion of Andrew Kelly, **seconded** by Douglas Muller and **carried 5-0**.

DEPARTMENT REPORTS – written reports were submitted to the Township Manager. Department heads will be present at the June 22 meeting to present their reports and answer questions.

Finance Department – Cindy O’Donnell
Code Enforcement – James Wozniak
Police Department – Chief McKeon
Public Works Department – Dennis Flynn
Recreation Department – Connie Garner
Waste Water Treatment – Gregory Kopp

MANAGER’S REPORT – Kevin Tobias

Perk-Up Half Marathon - to take place on August 16, 2015 seeking approval for the event and the course.

Escrow Account Policy – draft providing for a change in recording of payments and distribution.

Montgomery County Planning Commission - requests aid in the purchase of the farm property of Leidig/Vallone located at Church and Reifsnyder Roads.

SOLICITOR'S REPORT –Bauer & Associates, LLC

Mr. Paul Bauer stated that he had attended the June 4th Gibraltar Rock Zoning Hearing and that Mr. David Horner, Traffic Engineer representing Gibraltar Rock, offered testimony regarding the additional traffic anticipated to be generated by ten employees from the north side of Hoffmansville Road. A copy of the traffic study and a summary of the testimony will be provided to the Board of Supervisors.

ENGINEER'S REPORT – David Leh of Gilmore Associates

Mr. Leh reported that he has reviewed the application of a four lot subdivision along Layfield Road which will be reviewed at the Planning Commission meeting on June 10, 2015.

BUSINESS FOR ACTION ON 90 DAY TIME LIMITATION WAIVERS – Andrew Kelly **moved** to grant 90-day waiver to N.H.T.P.C. # 782 as listed below. David Brown **seconded** the motion and it **carried 5-0**.

N.H.T.P.C #782	Westwood MacGuire	65 lots	06-15-2015
----------------	-------------------	---------	------------

BUSINESS FOR DISCUSSION OR ACTION:

Recreation Plan Draft and MS 4 Stormwater – Adam Supplee

Mr. Supplee reported that he has completed a draft of the Parks Master Plan and that the Board of Supervisors has requested that it be shared with the various Township committees and the Recreation Steering Committee. He expects to provide comments to the Board of Supervisors in a month and receive comments/decisions from the Board of Supervisors and proceed to prepare a revised plan. Mr. Supplee stated that his meeting attendance expenses for the Township's committees is included in the cost quoted for preparation of the plan. Douglas Muller **moved** to authorize Mr. Supplee to appear at the various meetings, motion was **seconded** by Ralph Fluharty and **carried 5-0**. Mr. Fluharty also asked about the tabulated recreation survey results and Mr. Supplee stated that he would be providing a summary to the Board. Connie Garner asked if Mr. Supplee would be attending the Recreation Committee meeting and was told "yes" by Douglas Muller.

MS 4 - Mr. Supplee explained that this program monitors storm water outfalls during dry weather to assure there are no illegal discharges. He stated that two persons from KMS will carry out the requirements stipulated in the program.

Pedestrian accommodations for traffic signal upgrades – Mr. Tobias explained that there are no access points for pedestrian traffic at the Township's traffic signal upgrades at Swamp Pike and North Charlotte Street. Andrew Kelly **moved** to authorize Mr. Tobias to respond to PennDOT with regard to pedestrian improvements required by PennDOT and lack of pedestrian access at this site. David Brown **seconded** the motion and it **carried 5-0**.

Rosenberry Ridge Escrow Release – Engineer David Leh will follow up and determine amount to be released.

Authorization for preparation of specifications and bids for the Oil/Chip and Paving/Recycling projects – this year's approach to maintain/repair roadways will differ from previous years. A

listing of roadways and priorities for resurfacing and for oil and chip treatment will be prepared with the intent of preserving road surfaces for 5-7 years by using an oil and chip treatment. – Hill and Hoffmansville Road will be given reclamation treatment this year. Mr. John Auman stated that Church Road has received some attention recently but is still in very bad condition. Mr. Muller stated that there are 22 miles of roadways and the Township needs to do the best possible with the funds available for roadways. Rosenberry Road bridge will be discussed at the next meeting.

Gibraltar Rock Preliminary Plan Approval – Mr. Steve Harris was present representing the Gibraltar Rock Plan and seeking preliminary plan approval for the area South of Hoffmansville Road stating that the plan is required to show both North and South sides of Hoffmansville Road but that the applicant is seeking approval for the area South of Hoffmansville Road. Outstanding issues include the bike path which is required and being proposed to be constructed along Hoffmansville and Church Roads and the stormwater management issue. The court upheld the applicants appeal from the Township's stormwater management regulations since the DEP's standards, as proposed, have been met. The Township may apply to appeal the Commonwealth Court of Common Pleas decision to the Supreme Court. The Gibraltar Rock plan shows a reduction in stormwater runoff of 30%.

Gilmore & Associates, Inc. review letter of May 7, 2015 - comments include but are not limited to a summary of waiver request recommendations of the Planning Commission to the Board of Supervisors and noted items still needing to be addressed. Clarification regarding bikeways and curbing and sidewalks is needed. Compliance with Zoning Hearing Board requirement for consolidation of lots into a single lot needs to be addressed as well as legal descriptions and deeds of consolidation need to be provided to the Township Solicitor for approval. Stormwater Management requirement needs to be determined via a court decision. Engineer states that the maximum grade of the driveway at 6.10% exceeds the ordinance maximum of 5% and believes that a waiver is needed. A copy of the Penn DOT Highway Occupancy Permit should be submitted to the Township since they had not been a party to any discussion or meetings with Penn DOT and ADA compliance must be verified. Engineer's letter included Township Public Works Director's concerns include the icing of roadways during the winter due to shading by tall trees and asks that the trees be removed, culvert on Church Road south of Route 73 needs to be improved to eliminate flooding, suggests widening of Church-Hoffmansville Road intersection to improve school bus travel; concerns will be addressed with the exception of the culvert improvement on Church Road. Mr. Harris stated that right-of-way will be determined by bike path if it is constructed along Hoffmansville and Church Road. Engineer Leh stated that Planning Commission recommended a waiver of concrete monuments but Mr. Leh suggests that concrete monuments be required and he also requested that an additional inlet for stormwater be provided along Hoffmansville and Church Roads. Inlet #14 needs to be revised since the 25-year flow far exceeds the inlet capacity.

KMS review letter of May 8 comments include but are not limited to consolidation of tracts resulting in the establishing of separate blacktop, crushing and concrete plants. Notes that manufacturing uses could be located in the LI district. Suggests that all processing equipment be as far away from property boundaries as possible. Noted that the ultimate use and ownership with reclamation as water impoundment will be owned by the applicant after the quarry use has expired. Noted that the applicant should comply the Township's nuisance standards with respect to noise. Suggested that the plan include information on how complaints will be monitored on site by quarry operator and how they will be reported to the Township. Minimum

setback for improvements is 30 feet and proposed berms and improvements in the LI district shall comply. Minimum of 30% open space for each lot is required in the Li district and applicant's position is that the requirement does not apply to non-residential use. Compliance with maximum height of 35 feet should either be shown on plan or applicant should seek relief. Required 10 foot fence cannot be located in the required front yard or within the ultimate right-of-way and plan does not offer ultimate right of way dedication to the Township. Recommend that the applicant indicate how long term protection of existing natural resources will be maintained throughout the life of the quarry. Applicant has violated the ordinance by performing site alterations. Tract boundaries need to be defined, partial waiver of sidewalk requirement has been requested, bikeway does not appear in location suggested for the master plan but serves the purpose of making connections for the trail, applicant contends that Commonwealth Court decision determined that recreation land fee-in-lieu and recreation infrastructure fee-in-lieu of is not required. Holding tank system will be utilized. Plan should state that proposed lights will not be visible or cause glare onto adjacent properties, should indicate long term tree protection and a diverse selection of tree and shrub species should be planted in the buffer and along streets.

Solicitor Paul Bauer thanked Mr. Harris for being available and summarized the procedure for the public stating that the applicant is coming before the Board of Supervisors following a recommendation made by the Planning Commission. A resolution has been prepared summarizing the application and conditions and a motion and a second will be made by Board of Supervisors members followed by an invitation for public comment. At the conclusion of the public comment period, a vote may be taken by the Board of Supervisors. If the vote is for preliminary plan approval, a final plan will be submitted to the township Planning Commission and the process will be repeated. If the Board of Supervisors decides to appeal the Commonwealth Court decision with regard to compliance with the Township's Stormwater Management Ordinance, Gibraltar Rock will be required to update their Stormwater Management Plan. Mr. Bauer then summarized the draft resolution which has been prepared for possible adoption by the Board of Supervisors.

Mr. Bauer read the Resolution presented for preliminary approval which enumerated the conditions for approval and areas of information where the applicant is not required to comply, otherwise, applicant must comply. The Township *may* file an application to the Supreme Court for an appeal of the Commonwealth decision regarding Stormwater Management Ordinance compliance.

Note was made that Mr. Mullaney, counsel for the Ban the Quarry group, had been provided a copy of the draft resolution and that his comments have been provided to Mr. Stephen Harris.

Mr. Stephen Harris summarized briefly Gibraltar Rock's response to the Planning Commission comments and conditions. Comments provided by Mr. Mullaney were summarized by Mr. Bauer and noted those conditions which have complied with and the items outstanding. Township TDR ordinance will need to be interpreted.

Douglas Muller call for a motion on Resolution 15-15, N.H.T.P.C. #771. Philip Agliano **moved** for adoption, Andrew Kelly **seconded** the motion and it **carried 3-2** with Ralph Fluharty and David Brown voting negatively.

Opportunity was given for public question and comment with a request that the public be respectful and that questions not be repeated.

COMMENTS FROM THE FLOOR

Mr. Mullaney, representing the Ban the Quarry citizen group, deferred his comments until Township residents had been given an opportunity.

John Auman of 3624 Church Road asked if the plan and public comments would go back to the Planning Commission for consideration. Mr. Bauer advised that Planning Commission could incorporate any comments in the final plan. Mr. Auman also asked if GR #4 is a continuation or a separate application needing to comply with the procedures in GR #1. Mr. Auman added that he believes there are 3-4 uses being proposed and believes the applicant skirted the Township Ordinance.

William Miller of 325 Layfield Road stated that he does not want the Board of Supervisors to vote since the people did not have sufficient advance notice and mentioned that the berm installed in 2001 was illegal and it's not right for people who pay taxes.

Bob Meyers of 2345 Little Road, Perkiomenville asked why the rush since the Board of Supervisors has not decided upon appealing Storm Water Management to the Supreme Court and since Mr. Mullaney had just submitted his comment letter. Mr. Bauer replied stating that the Board of Supervisors does not consider it a rush and often the 3rd party is not given an opportunity to comment, that certain conditions mentioned in Mr. Mullaney's letter have been incorporated in the resolution and that the plan is almost identical to the plan submitted in 2012. He added that the Superior Court rarely grants an appeal and that the resolution covers both situations with regard to stormwater. He was advised that the Board will adjourn to a litigation session at the close and reconvene to regular meeting to announce any decisions. Question was asked if Ralph Fluharty had sold any property to the quarry and the answer was that Mr. Fluharty's son had sold property and that there was no conflict with the sale. He expressed concerns about well water and foundations and asked if there are written protections for the citizens living in excess of 1500 feet from the quarry boundaries. Mr. Bauer advised that protections are outlined in the DEP permit and that the resolution does not address these issues. Mr. Meyers asked if any private meetings had been held and Mr. Bauer stated that over time there had been meetings for certain reasons. Mr. Meyers asked if the Board of Supervisors is satisfied that pollutants are not an issues and was told that air and water quality are regulated by the DEP.

Ross Snook of 2395 Sanatoga Road stated that his home dates to 1737 and that he is aware that a house and barn along Hoffmansville Road had been a log cabin, has been dismantled and is concerned about the loss of history associated with the home. Mr. Bauer and the Board were not aware of what he was referring to. Mr. Harris stated that the property at Church and Hoffmansville was purchased by Gibraltar Rock and was in very bad condition. Mr. Snook questioned the plume of contamination in the area and added that the DEP is dealing with a contaminated site and that contaminants may enter the water at the quarry site and will need to be treated.

Celeste Bish of 2504 Finn Road asked when the Planning Commission had reviewed the April 2015 revisions. Mr. Bauer stated that the Planning Commission had not reviewed the most recent plan but that the approvals and waiver recommendations were based on the August 8, 2012 plan, that the 2015 plan was determined to be almost identical, that the both David Leh and Adam Supplee had reviewed and provided comments and that the Stormwater issue is

being litigated. Mrs. Bish also asked why Mr. Mullaney hadn't been notified prior to Friday afternoon before this meeting and also about a review letter received that day from the Montgomery County Planning Commission which Gibraltar Rock stated they will comply with. Mrs. Bish asked why Gibraltar Rock had been taken off the May 13 Planning Commission agenda and was told it was because Gibraltar asked to be removed. She asked when the Zoning Hearing Board approved the asphalt, blacktop uses referenced in the resolution. Zoning Hearing Board decision of 2007 determined that manufacturing uses, asphalt and blacktop, are allowed by right in the HI District and extracting requires a special exception.

Ronald Sekellick of 281 Township Line Road asked if Township staff met in private meetings relative to plan approval and if representatives of Gibraltar Rock made any incentive offers to the Township such as reductions in pricing of materials or paving. Mr. Bauer stated there have been many meetings during the litigation process and that early on incentives were considered but not accepted.

James Shelly of 302 Township Line Road stated that he and his wife have been residents of the Township, that he served as a Pastor in the community and is concerned regarding the future welfare of the children. He mentioned the school library close by and the concerns about dust. Mr. Bauer stated that issues mentioned have been considered by the Zoning Hearing Board following expert witness testimony and the Board of Supervisors are responsible to assure compliance with the Subdivision-Land Development and Zoning Ordinances.

Susan Rice of STA spoke on behalf of the Bank the Quarry citizens asking how many waiver requests we made – Mr. Bauer stated there were 12 with 1 request withdrawn. She inquired about the bike trail and was told that the proposed location along Hoffmansville and Church Road has been approved by DEP and will be installed by Gibraltar Rock. She stated that she believes things have been glossed over Lot 1 contained three separate uses, the quarry contends that the scale house is accessory to the quarry use. Fence height in the front yard has been preempted. She inquired as to whether the Township has been updated on permits such as mining and Highway Occupancy Permit and stated that parcel numbers should be shown clearly on the plans. She believes the review letters have outstanding items, some of which are sensitive and said that the prior applicants have never had opportunity to choose what they would comply with.

Mr. Mullaney stated that he believes the Board of Supervisors is operating without a full deck, thinks they need to consider all plans, and asked if the Board had sufficient time to review the resolution. He is of the opinion that the revised plans should be reviewed by the Planning Commission and thinks the Board of Supervisors should give it more time. He stated that a right-to-know request had been denied. Mr. Bauer clarified that the request had not been denied and that Mr. Tobias needed time to determine it was public information prior to making it available and **did** provide the requested information. Ban the Quarry disagrees with approving the resolution. Supervisors denied meeting individually with Gibraltar Rock. Mr. Mullaney asked if the Board of Supervisors understood the resolution and Mr. Muller stated that he reviewed the resolution and plan. Mr. Mullaney mentioned 7 monitoring wells and asked if they were shown on the plan and was told that DEP has full control and is monitoring the wells. It is the decision of the Board of Supervisors as to whether they choose to file an appeal to the Supreme Court on the Commonwealth decision which was received the day following the Planning Commission meeting. Mr. Mullaney stated he did not have sufficient time to prepare, the people are upset and he respectfully disagrees with certain statements of Mr. Harris. He

thanked the Board for the opportunity to speak and asked that the audience be given additional opportunity to comment.

Mr. William Miller inquired as to how many of the Board of Supervisor have served since 2001 and was told 2. He stated that he currently has 6 wells on his property, needed to use bottle water for a long period of time due to contamination, believes his water problem is because of Gibraltar Rock, his wife is very ill and he has spent \$94,000 for her care in a four month period – he is begging the Supervisors not to allow the quarry to operate.

Mr. Bob Meyers requested that Mr. Agliano and Mr. Kelly rescind their vote. David Brown stated he wants to assure the plan complies and protect landowner rights.

Keith Leonard of 559 Kulp Road stated that he listened to comments made and stated that the Planning Commission has never recommended plans with this magnitude of conditions for approval; he believes there is a long laundry list associated with the plans.

Douglas Muller stated that the Board has been through a long process and has spent a considerable amount of money determining what is right or wrong and that the property owners have a right to develop land if the development meets requirements. He stated he has spent many hours looking over the plans and the hydrology and is trying to do the right thing.

Philip Agliano **moved** for approve the preliminary plan, Andrew Kelly **seconded** the motion and it **carried 3-2** with Ralph Fluharty and David Brown voting negatively.

Adjourned to executive session at 10:10 pm.

RECONVENED REGULAR MEETING

After a brief discussion, the chairman reconvened the general meeting at 10:25 pm and took the following actions:

By motion of Supervisor Brown, **seconded** by Supervisor Agliano, and by a vote of 5-0, the solicitor was authorized to file an appeal of the Commonwealth ruling with the PA Supreme Court with regard to the Gibraltar Rock Stormwater Management requirements.

By motion of Supervisor Kelly, **seconded** by Supervisor Fluharty, and by a vote of 5-0, a salary adjustment of \$7,000.00 for the Township Manager was approved.

With no further action being taken and on motion by Supervisor Kelly, the meeting was declared adjourned at 10:30 pm.

ADJOURMENT

Regular meeting was declared adjourned by Douglas Muller at 10:30 PM.

Kevin Tobias, Township Manager/Secretary