

**Benner Township Board of Supervisors
March 4, 2019**

The regularly scheduled meeting of the Benner Township Board of Supervisors was called to order at 7:00 p.m. by the Chairman, Randy Moyer with member David Wise present. Mark Capriani was absent. Also in attendance were Don Franson, Dennis O’Leary, Karen Querns, Helen Alters, Edward Galus, Richard Snyder, John McCabe, Peggy McCabe, Larry Ermol, Barbara Ermol, Larry Cramer, John Elnitski, Russell Burman, Robin Burman, Pete Nebroski, Dave Kline, Tim Miller, Dennis McDowell, Jeffrey Lucas, Michele Nicolas, Thomas Eby, John Kostas, Thomas Kalinowski, David Roberts, Steve Johnson, Linda Johnson, Jim Lanning, Greg Bartram, Lee Copper, Ellen Copper, Rich David, Nate Campbell, Stefan Cherinika, Matthew Conrad, Larry Lingle, Eric Krout, Joseph Pawell, Patricia Hunt, Stephanie Grove, Heather Manning, Brandy Urbanik, Czapla, Anne Behler, Warren Miller, Andrea Murrell, Lisa Roberts, Sean Janoscrat, Dorothy Blair, Roger Martin, Brian Book, Jim Buntoft, Charles Dawson, and Sharon Royer.

PERSONS TO ADDRESS THE BOARD

Tony Fructl - Penn Terra Engineering:

Rutters Sewage Postcard: It was noted that this postcard needs to be reapproved and submitted to DEP now that the sewer easement across the County Jail property has been obtained. Mr. Moyer moved to approve the Rutters Sewage Postcard. Mr. Wise seconded the motion.

Vote: Mr. Capriani – absent Mr. Moyer – yes Mr. Wise – yes

Memorandum of Understanding Village of Nittany Glenn Phase V-A.1 and V-A.2: The MOU for the next phase of the Village of Nittany Glenn was submitted for approval. Mr. Moyer moved to approve the MOU. Mr. Wise seconded the motion.

Vote: Mr. Capriani – absent Mr. Moyer – yes Mr. Wise – yes

Memorandum of Understanding for Homeland Manufacturing: The MOU for the Homeland Manufacturing Land Development Plan was presented for approval. Mr. Moyer moved to approve the MOU. Mr. Wise seconded the motion.

Vote: Mr. Capriani – absent Mr. Moyer – yes Mr. Wise – yes

MINUTES

The minutes of February 18, 2019, were presented to the Board for their review and comments. Mr. Moyer moved to approve the minutes as presented. Mr. Wise seconded the motion.

Vote: Mr. Capriani – absent Mr. Moyer – yes Mr. Wise – yes

The February 4, 2019, minutes were tabled due to Mr. Wise not attending that meeting and Mr. Capriani being absent from this one.

BILLS

The bills of March 4, 2019 were presented to the Board for their review and approval. Mr. Moyer moved to approve the bills of the General Fund in the amount of \$75,467.95 and the State Fund of \$12,215.69. Mr. Wise seconded the motion.

Vote: Mr. Capriani – absent Mr. Moyer – yes Mr. Wise – yes

ROAD SUPERINTENDENT’S REPORT

Mr. O’Leary noted that there are some amendments that need to be made to the Township’s Streets Standards Ordinance and that he would try to have the changes to the Board at their next meeting.

OLD BUSINESS

Zoning Ordinance: Mr. Moyer noted that there were changes that should have been incorporated into this latest draft ordinance but was just realized that they weren't. He noted that the Ag District and Forest Conservation Districts lot sizes weren't to be listed as dense as was printed in the draft document.

David Roberts: Mr. Roberts noted that he lives on 1995 Valley View Road. He stated that the Valley needs to be preserved, the Spring Creek Canyon Overlay needs to be put back into the Ordinance and that the current draft zoning ordinance is in complete contradiction with the Nittany Valley Joint Comprehensive Plan. Stressed the importance of doing everything possible to protect Spring Creek and the Canyon area.

John Elnitski: Mr. Elnitski noted that he is still awaiting a formal response back from Township on his written comments. Mr. Elnitski noted that he feels that the airport overlay ordinance that is being proposed is illegal as proposed due to a 2005 court case dealing with airport hazard zones. Mr. Elnitski stated that Bellefonte Airport must be treated equally with the University Park Airport under the equal protection act and noted that if they aren't that they will sue the Township.

John Kostas: Mr. Kostas questioned what ordinance is being followed currently. Mr. Moyer noted that under the pending ordinance as it is the lot sizes are 1/3 acre and there is no Spring Creek Canyon Overlay.

Much discussion was held on the Canyon Overlay District and if it could be put back in with some modifications.

Questions were raised if any traffic studies have been done to see if the potential development that could take place can be handled. It was indicated that traffic studies generally aren't completed until an actual project is proposed. Questions were asked if the schools have been notified of the proposed zoning document. It was indicated that they have not. The questions was asked as to what the connection is with the Township and Berks Homes. It was noted that Berks Homes has bought out the remainder of the Village of Nittany Glen Development. It was noted that the only change in this development is the method of construction. Previously modular homes were permitted, now stick built homes are also allowed. The number of lots and lot sizes are the same. It was noted that there is approximately 400 lots in the development and it has been on the books and approved for years possibly as many as 20.

Mr. Kostas questioned if all of the remaining farms are built out at the ½ acre size how many homes would the Township be looking at?

Mr. Roberts questioned why are sewer lines being put in all over the place?

Questions were asked if there is data to support that there is a need for zoning to allow for more housing? Mr. Moyer noted that the zoning being proposed is taking it back to what it was prior to the Roth Plan.

Dorothy Blair spoke about the Nittany Valley Coalition and what they do.

Jim Lanning asked questions on the Spring Creek Canyon Overlay. Mr. Moyer noted that it is currently out but could be added back in. Mr. Moyer noted that most of the lands that were covered by the overlay are state owned properties.

Questions were asked to what is currently being proposed. Mr. Moyer noted that In the Forest Conservation, Ag District and Rural Residential District with onsite water and sewer the lot size is 1.5 acres, public sewer only $\frac{3}{4}$ acre and public water and sewer is $\frac{1}{2}$ acre. Open spaces varies between 10% and 35% depending on the district.

Mr. Elnitski noted that he feels that the regulations are needed so that messes aren't made as has happened in Cranberry Township and other places.

Mr. Campbell noted that the density is the main sticking point with the Planning Commission. More houses equals more services and more costs. Mr. Campbell noted that the 1 to 1 ratio along with the differing open space percentages is what the Planning Commission unanimously voted on wanting.

More discussion was held on the Spring Creek Canyon Overlay Ordinance. Questions were asked as to why it was taken out. Who enforces this ordinance? Mr. Franson noted that State Entities are exempt from local ordinances. He noted that many times they will work with you and make a good faith effort to comply but they don't have to. Mr. Beard noted that the local agency can take a state agency to court to try to make them comply with local ordinances but that it is very costly to litigate and the state agencies almost always have larger sums of money to fight with.

A member from the audience noted that he feels that this proposed zoning is making it too simple and too easy for the farmers to turn everything in the township into housing developments by simply getting a water system and sewer line to their property.

Andrea Murrell questioned what changes have been made to the proposed document from the first draft to the second draft. Mr. Moyer noted that the traffic study section was added back in, parking requirements and changes to the density. Ms. Murrell noted that she strongly objects to the document not including any environmental standards. Ms. Murrell questioned how many more building permits have been issued since this ordinance went pending? It was noted that yes there has been permits issued in the Village of Nittany Glenn however these are not new lots, these building lots have existed. The only change is the method of home construction – modular verses stick built.

Mr. Beard gave those in attendance an explanation on the procedures to adopt the ordinance.

Mr. Wise noted that based upon the comments that have been received this evening that the Board will take a closer look at the Spring Creek Canyon Overlay Ordinance and see if a compromise can be reached. Mr. Moyer agreed.

Mr. Franson noted that the Township has an existing stormwater management ordinance. It is called the Spring Creek ACT 167 Stormwater Management Ordinance. All of the municipalities within the Spring Creek Watershed have enacted this ordinance. He noted that it is a very good ordinance and does an excellent job in protecting the environment. He noted that the Canyon Overlay Ordinance adds even more restrictions such as no stormwater is permitted to leave the site. Forced infiltration can cause more problems in certain areas. He noted that he doesn't believe that there should be stormwater conditions outside of the main stormwater ordinance. Mr. Franson noted that ACT 167

includes water quality, recharge requirements, etc. It was noted that retaining water at the airport is problematic. Retaining basins with lingering water attracts birds and birds and airplanes don't go well together.

Tom Eby questioned when will the draft be adopted? It was noted that it is currently unknown.

Walnut Grove/Shiloh Road Sewer Extension: Mr. Wise noted that the Board had a preliminary meeting on February 18th to kick off information on this potential project. Mr. Wise noted that he has meet with both sewer authorities and spoken with 18 property owners. He noted that based upon the responses of the 18 that he spoke with that 15 of them were in favor and three were against the project. He noted that the 15 are in favor are universally reluctant, universally unhappy and resistant to spending the money but do recognize that it makes sense to do it. It was noted that the Board has received written comments from the following:

- a. John & Peggy McCabe
- b. Steve & Linda Johnson
- c. Joseph Pistone
- d. David & Sandra Kline
- e. Gene Stocker
- f. Rich Davis, Roe Davis

A 537 Plan revision update will need to be completed before the process can proceed.

The question was asked as what Mr. Wise found out when he spoke with UAJA. Mr. Wise noted that what he has learned was that it was almost politically impossible to get the changes done that would be required. Technically it wouldn't be a problem. Economically it is more than double for tap on fees and their monthly bills are also considerably higher. It was noted that other than the two commercial properties located along Shiloh, any other properties would require the entire Centre Region to approve of an expanded service area. It was also noted that with any new construction it would also carry with them a nutrient offset charge of around \$15,000 per house. UAJA would also be required to change their 537 plan to include the area outside of the two commercial properties which includes all of the Townships that are members of UAJA to amend their 537 Plans. It was noted that of recent years this has proven to be a difficult task and has been met with resistance. It was noted that it will need to be looked at as an alternative during our 537 plan update.

Concerns were raised about only having 60 days to hook on to the sewer line once notice is given as some property owners have much more extensive work that will be required along with costs. Mr. Wise noted that some discussion has begun about the possibility of extending the hook on deadline notice. Mr. Wise also suggested that homeowners contact SBWJA and have them come out and take a look at their personal situation as it is possible that there could be an easier way to handle the connection than the homeowner thinks.

It was noted that the tap connections are usually placed about 5 feet into the properties.

Mr. Wise also noted that the homeowners in Zone 1 would also be waived from participation in the Septage Management Program in 2020 if the decision is made to go ahead with the sewer line project.

Questions were raised on when it is expected for the sewerline project to break ground.

Mr. Wise noted that Brian Book and Tim Miller (Benner Township Representatives of SBWJA), Denny McDowell (SBWJA Board Chairman) and Warren Miller (SBWJA Executive Director) are all present this evening. Mr. Book noted that procedurally the 537 Plan must be revised first. It will need to have a 30 day public review and comment period before the Board could vote on the amendment. Then a design would need to be completed and permits would need to be issued. After that, bids would need to go out and be let. Mr. Book noted that you are possibly looking at a year and a half to two years to complete this process before actual construction could start. It was anticipated that construction, once started, could be completed within 9 months.

Mr. Moyer asked Mr. W. Miller what is needed from the Board to start the 537 Special Study. Mr. Miller noted that SBWJA needs to know from the Board of Supervisors whether or not the existing homes are going to be hooked up or not.

Mr. Book indicated that Spring Benner Walker Joint Authority is asking that Benner Township formally ask SBWJA to be the townships agent in updating Benner Township's Act 537 Plan for this area. At the time SBWJA will hire their engineer to complete this study. He noted that it would also be beneficial if it was stated what areas should be included in this. The Board indicated that they are in agreement to sewer Shiloh Road Commercial properties. Mr. Wise noted that he is not yet comfortable in including all of the remaining areas at this time as he hopes to hear back from more property owners. It was noted that he feels that it is important that all three supervisors are present to make such an important decision on how to proceed.

Members of the audience indicated that they too want all three supervisors present to make this decision. Members noted that they voted for three Board members not two.

Mr. Beard noted that the Supervisors could, delay making the decision as to whether or not the homes in Walnut Grove would have to hook up or not; but they could decide to appoint Spring Benner Walker Joint Authority to commence with the amendment to the 537 Plan to address possible sewage to this area. He noted that, that way SBWJA knows that the Township wants to proceed with looking at this in greater detail but they don't have to make a decision tonight if the homes must hook up tonight or not. Mr. Beard noted that more information will come out of that study and that it what is being asked of by the residents. Mr. Beard noted that he thought that he heard that SBWJA was willing to go that far understanding that there is some risk involved. Mr. Wise asked Mr. McDowell if this was done could the project keep moving? Mr. McDowell indicated that he believed that it could.

Mr. Moyer noted that earlier there was a lot of outcry to protect the canyon. Public sewer upstream from the Canyon will aid in protecting it from malfunctioning septic system pollution. He noted further that it seems as though we are getting mixed signals on what people ultimately want.

Mr. Wise noted that until the Act 537 Plan revision is prepared and public comment received and hearing held for a final vote, there is no binding vote. It was noted that the revision would include the technical approach, the environmental concerns, financing, the easements, alternatives considered and things such as that. It wouldn't include final engineering design. Mr. McDowell noted that the project would not be started until approval of the plan revision was approved by the Township, the County and DEP.

Mr. Moyer moved that the Benner Township Supervisors appoint Spring Benner Walker Joint Authority as their agent to commence with the review and amendment of the Act 537 Plan to sewer this area with Spring Benner Walker to be the public sewer provider. Mr. Wise seconded the motion.

Vote: Mr. Capriani – absent Mr. Moyer – yes Mr. Wise - yes

Mr. McDowell noted that the dilemma for SBWJA is now what to include in the revision. More discussion was held.

Mr. Book noted that it is best to look at the past and not to the future with what we don't know about yet in this instance. In the past, SBWJA advanced the funding to create the document sitting on the desk as well as plans for Spring and Walker Townships without any indication if any of the plans would be adopted by the Townships. That resulted in Seibert Road getting sewer service and part of Walker Township getting sewer service. It also resulted in no solution for Helca Park and the Marion Walker School and he believes that Spring Township never adopted the amendment. Spring Benner Walker is in the business to providing public sewer service. The Township would adopt the plan and it is the Authority's job to implement the plan.

It is noted that if this project area (Walnut Grove, Rock Road, Big Hollow Road) isn't going in at the same time as the Shiloh Road project, a special tapping district could be established and it will cost the homeowner substantially more to connect at a later time. Board members noted that the installation of public sewer is an excellent way to help protect well water.

Mr. Wise noted that he hopes that Spring Benner Walker members now have enough evidence that they can proceed with the 537 Plan amendment.

Nittany Valley Joint Planning Commission Appointment: Mr. Moyer moved to appoint Nate Campbell to serve as the Township's Planning Commission member on the NVJPC. Mr. Wise seconded the motion.

Vote: Mr. Capriani – absent Mr. Moyer – yes Mr. Wise - yes

Executive Summary – One Water for Integrated Management of Water Resources: This item remains tabled.

SCI Rockview Secured Housing Project Land Development: It was noted that this plan was presented to the Board several years ago. The project is now complete and ready for Board of Supervisors signatures and subsequent plan recording. Mr. Moyer moved to approve the plan. Mr. Wise seconded the motion.

Vote: Mr. Capriani – absent Mr. Moyer – yes Mr. Wise - yes

NEW BUSINESS

Road Paving Bids: The sealed 2019 Road Paving Bids were open. The bids include work to be done on T-376, T-784, T-383, T-344, and T-392. It was noted that the bids were as follows:

Glenn O. Hawbaker, Inc. - \$448,294.65

HRI, Inc. - \$444,439.00

Mr. Wise moved to award the bid to HRI, Inc. in the amount of \$444,439.00. Mr. Moyer seconded the motion.

Vote: Mr. Capriani – absent Mr. Moyer – yes Mr. Wise - yes

CORRESPONDENCE

The board acknowledged receipt of the following correspondence:

1. February Zoning Officer's Report
2. SBWJA Minutes of January 28, 2019 and February 11, 2019
3. BTWA Key Points of Meeting 2/19/19
4. Announcement of Watershed Clean Up Day 2019
5. Traffic Impact Study Review letter Rutters
6. Centre County Planning Commission
 - a. Rutters Final Land Development Plan
7. BTWA Minutes of January 15, 2019
8. Centre County Conservation District Letters
 - a. ARL Test Site Building

ADJOURNMENT

The meeting was adjourned the time being 9:20 p.m.

Sharon Royer, Secretary