

**LOWER MACUNGIE TOWNSHIP
BOARD OF COMMISSIONERS**

The Board of Commissioners met for a special meeting on April 29, 2010 in the Township Building, 3400 Brookside Road, Macungie, PA 18062.

CALL MEETING TO ORDER – President Reis called the meeting to order at 7:00 p.m.

PLEDGE TO THE FLAG

<u>ROLL CALL</u>	Roger C. Reis, President	Present
	Ryan T. Conrad, Vice-President	Present
	Douglas Brown, Commissioner	Present
	Ron H. Eichenberg, Commissioner	Present
	Joseph Pugliese, Commissioner	Present
	William A. Erdman, Township Engineer	Present
	Peter Nelson, Township Solicitor	Present
	Renea Flexer, Township Secretary	Present
	Bruce E. Fosselman, Township Manager	Absent
	Cassandra Williams, Director of Finance	Absent
	Sara Pandl, Director of Planning	Present
	Darryl Yothers, Township Treasurer	Absent

***** Secretary's Note: This meeting was advertised in the East Penn Press and (in 2 places) on the web site. A draft of the MOU was posted to the website on April 15, 2010 under the BOC agenda details, followed by an updated draft MOU with exhibits (in 2 places) on April 22, 2010 and was also emailed to surrounding municipalities, the LMT Planning Commission and the LVPC. A final draft with exhibits was posted on the web site on April 26, 2010 and was also emailed to surrounding municipalities, the LMT Planning Commission and the LVPC. Letters announcing this meeting were also mailed on April 26th to 102 property owners surrounding the Jaindl Western Properties.

ANNOUNCEMENTS

Solicitor Nelson explained the history of the property; was zoned industrial in the 70's and rezoned in the 80's to agricultural/rural. In 2009, zoning was altered to prohibit quarrying in this area. Mr. Jaindl filed numerous applications proposing to construct a quarry on approximately 700 acres. The Township approached Mr. Jaindl for an alternative use and took active steps to oppose the quarry. Both parties agreed to a settlement and negotiations continued, resulting in the Memorandum of Understanding (MOU) before the Board tonight.

Planning Director, Sara Pandl, explained the exhibits. Proposed is approximately 75-80 acres of preserved greenway lands, privately owned lands within the Township with restrictive covenant that will prevent it from being developed, and approximately 166 acres dedicated to the Township with a park anticipated, including a continuation of the greenway trail along the Little Lehigh. An urban zone is proposed next to the residential zone in Upper Macungie. A limited commercial area is proposed next to Alburdis Borough's commercial/industrial zone. Also, a small commercial area along Route 100 (part of the Romig tract that was sold to the school district) will be retained as commercial use.

Engineer, William Erdman, said that the waivers do not compromise the functional aspects of the project; there are no effects on the function of basins or environmental requirements, no effects on the landscaping and buffering, or the traffic impact. The traffic will be directed to the east and north using Spring Creek Road to Route 100 and avoiding Alburdis Borough. The Township requested the extension of Sauerkraut Lane conditioned upon the Township obtaining approval from Norfolk Southern for a railroad crossing. When the plans come in, a traffic impact study will be done resulting in what is required for the regional impact. Each individual project will be required to do a traffic analysis to establish the number of peak hour trips and the improvements required. There

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will be no traffic impact fees assessed to that traffic count; however, any peak hour trips over the original determined count will be assessed a traffic impact fee.

The Commissioners want to make the best decision for the Township and without the MOU the grandfathered quarry plan is moving forward. They would like to have the land remain farmland, but the facts before the Board preclude that possibility. The property owner, Mr. Jaindl, is willing to negotiate to resolve their differences and save the Township from entering into a lengthy and costly litigation process. To fight the proposed quarry, the Special Counsel recommended budgeting \$200,000 each year for the next 5-8 years, with no guarantee of prevailing. The Commissioners understand that the MOU is not perfect, but there are positive things that come out of it: savings of thousands of dollars, about 317 acres of open space will be dedicated to the Township, save the environment and the quality of life from a quarry, and a 166 acre park. The proposal allows for a more diversified tax base with commercial and residential development proposed.

The Commissioners thanked all involved who put together the MOU. Many hours of work were involved. They also thanked the citizens for their involvement and concern.

PUBLIC COMMENT

1. Ira Lehrich, 3353 Tolchester Lane, cautioned the Commissioners on the legality of spot zoning. This was a concern of the Commissioners, but was given legal advice that this was not spot zoning or contract zoning; the MOU is legal and proper.
2. Pana Columbus, 2317 Minnich Rd, Allentown, expressed hope that Jaindl will reconsider and put forth plans to develop the land in a gentler way.
3. Don Denburg, 1254 Clearview Circle, read his written statement expressing concern of transparency, public notice, zoning districts, zoning changes and SALDO waivers. He requested postponing action on the MOU to permit further public evaluation.
4. Peter Smith, 8433 Mertztown Rd, understands that there is no other option, but said the MOU is outside of what everyone's hope was; he hopes that Mr. Jaindl understands that. He said there is a huge drainage problem on the land that will be given to the Township. Mr. Smith also hopes that this is a harmonious process with surrounding municipalities. He asked everyone to be sensitive to the process, so it's done right.
5. Jim Lancsek, Zoning Officer, said a lot of effort and time was spent in consideration of the adjoining municipalities. He spoke several times with the Planning Director of Upper Macungie Township and met with the Mayor and Council President of Alburtis. There was a lot of thought in the planning process.
6. Deana Zosky, 3705 Orchid Place, asked the Board to place themselves in the residents' shoes while making this decision. She gave the history that led up to tonight's meeting. As a former commissioner, she regrets voting 'yes' to the curative amendment. Ms. Zosky said that preservation is not mentioned in the MOU and that the farmland is in great jeopardy of being lost. She disagrees with the zoning changes and does not feel it is good land use planning. Ms. Zosky requests that Mr. Jaindl abandon the request for highway industrial, big commercial and dense urban zoning and work with Ms. Pandl. She also requests that the Board deny the MOU and fight the quarry.
7. Scott Bieber, 6071 St. Peters Road, Upper Milford Township, grew up near Route 100 and Spring Creek Road and feels the settlement is a betrayal of the agricultural legacy LMT once had. He does not agree that the MOU requires the zoning amendments be in effect before June 30th. Mr. Bieber said the MOU is worse than the quarry and that the Township should fight the quarry.
8. Steven Hill, Alburtis Borough Council President, said that what is proposed in the MOU is not in the Regional Comp Plan. Ms. Pandl said that Plan was done 5 years ago and, under the governmental agreement, it's time for the 5 municipalities to revisit the comprehensive plan. Mr. Hill said that Lower Macungie did not contact Alburtis after the settlement was made public and hopes to work together in the future. See Secretary's note on page 45.

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9. Stanley Smith, 8595 Mertztown Road, is not in favor of the quarry and feels the Township should fight it. He's concerned with development and higher school taxes. He also feels that the land designated for a park and greenway is swamp land.
10. Jack Knauss, 1822 Riverbend Road, said that water is a big problem. He lived here for 57 years, has seen many dry spells and urged the Board to think about the future. Mr. Knauss wishes to save the farmland.
11. David McGuire, 223 N 19th St. Allentown, representing the Sierra Club, read the statement he submitted. He is concerned that the proposal will change the quality and character of the community and puts a risk to the Little Lehigh Creek. He feels the MOU is contract/spot zoning. Mr. McGuire is concerned with flooding and water quality issues. Solicitor Nelson said the Township is not obligated under the MOU to adopt either of the zoning and/or SALDO amendment conditions or grant the requested waivers; however, Mr. Jaendl then has the right to proceed with the quarry.
12. Barb Lotte, 8796 Mertztown Road, wanted to know how the zoning changes would affect her. Ms. Pandl will meet with Ms. Lotte to review.
13. Bob Rust, 4461 Kohler Drive, submitted a letter to each Commissioner expressing several concerns about the MOU process. He feels that it is important for the community to know what is being committed so that the citizens can provide input.
14. Sharlene Sones, 8268 Mertztown Road, recognizes that farmland may go away, but is not happy about it. She lives creek-side and said she will be impacted enormously no matter what happens. Ms. Sones feels it is not right to have a vote at the same time of discourse.
15. David Petke, 7183 Tuscany Drive, understands that the Board is in a tough spot and that the public cannot be part of all the amendments. He said a quarry is not what is best for the Township and appreciates what the Board is doing.
16. Julie Timmcke, 4569 Woodlawn Drive, as a former commissioner, regrets voting 'yes' to the curative amendment. She hopes that the Board uses the knowledgeable opinion of the residents so that they do not make a decision they will regret.
17. Karen Smoyer, 202 S. Main Street, Member of the Alburdis Borough Council, said that the MOU is better than a quarry, but not sure it's the best. She herself hopes that, if the MOU is approved, Mr. Jaendl would continue to be a good servant, a good resident to the community and that he considers how to make this a great place to live.
18. Dorothy Shackelford, 7299 Spring Creek Road, said there are many possibilities for this land and cannot believe there are only 2 options discussed; a quarry or industrial use.
19. Mark Derr, 8371 Mertztown Road, confirmed with the Board that a quarry was always an allowable use for Mr. Jaendl's land. He is concerned with the urban zoning district being in a suburban area. Mr. Derr expressed concern with additional development and the flooding of the bridge on Spring Creek Road that goes over the Little Lehigh.
20. Peter Smith, 8433 Mertztown Road, expressed concern with the flooding the proposed urban area already receives. Water floods up and over an arched bridge. The flooding created an impound, which has changed the streambed twice. This will be looked into by the Planning Department.
21. Don Denburg, 1254 Clearview Circle, requested that the Traffic Impact Fee Advisory Committee be included in the traffic study. Mr. Erdman said the study will be done by Mr. Jaendl's consultants and will be reviewed and approved by the Township; the TIFAC will be included.

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The MOU was agreed upon between the Board and Mr. Jaendl. It cannot be arbitrarily changed without going through Mr. Jaendl's staff, legal counsel and engineer. There will be a Planning Commission hearing on May 11th and possibly on June 8th on the zoning and SALDO amendments. The adoption of zoning and SALDO amendments will be done in conformance with the requirements of the MPC.

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Motion by Commissioner Eichenberg, seconded by Commissioner Brown to approve Resolution 2010-12 approving the Memorandum of Understanding between the Township and Mr. Jaindl.

Commissioner Conrad thanked everyone for coming out. He said that the Board would love to see the land stay farmland, but unfortunately a quarry is a permissible use and without this MOU the quarry proceedings will go forward. The Board understands that the MOU is not a perfect fix, but believes it is a better alternative than a quarry. Mr. Conrad urged the community to focus on the positive aspects; saving hundreds of thousands of dollars in legal fees, preserving 317 acres of open space, saving the environment from detrimental impacts of a quarrying operation, protecting our quality of life, and taking ownership of a 166 acre park, which will be the largest in the Township. Commissioner Pugliese said this is not an easy decision for the Board. Near his work place, Mr. Pugliese sees numerous trucks coming from a quarry that is an eyesore in a beautiful Mennonite community and does not wish to see this in LMT. His vote will reflect the lesser of the 2 evils. Listening to public comment, Commissioner Brown said it was hard to tell how many were in favor of the quarry and how many were in favor of the MOU. He said if the Board does not take action on the proposal, then the option of the MOU goes away and Mr. Jaindl will move forward on the quarry. The MOU is not set in stone; the Board still has the option to walk away from the conditions of the MOU.

Roll Call Vote: Brown aye, Conrad aye, Eichenberg aye, Pugliese aye, Reis aye. Motion carried.

Motion by Commissioner Brown, seconded by Commissioner Eichenberg to authorize Solicitor Nelson and Staff to move forward with distributing, advertising and posting the zoning and SALDO amendment for its consideration at the June 17, 2010 meeting of the Board of Commissioners. There were 5 ayes. Motion carried.

Motion by Commissioner Brown, seconded by Commissioner Pugliese to authorize Staff to move forward with negotiations with Norfolk Southern to cross the Sauerkraut Lane extension over the railroad. There were 5 ayes. Motion carried.

ADJOURNMENT

Commissioner Reis adjourned the special meeting of the Board of Commissioners at 9:32 p.m.

Bruce E. Fosselman
Township Manager

Renea Flexer
Township Secretary
May 10, 2010