

**TYRONE TOWNSHIP PLANNING COMMISSION**  
**Approved Regular Meeting Minutes**

**October 24, 2006            7:30 p. m.**

**PRESENT:** Bob Byerly, Sally Eastman, Joe Fumich, Dave Hanoute, Mark Meisel, Steve Hasbrouck,  
Laurie Radcliffe

**ABSENT:**

**CALL TO ORDER:** 7:30 p. m. by Chairman Hasbrouck

**PLEDGE OF ALLEGIANCE:**

**CALL TO THE PUBLIC:**

**Ray Hicks** asked the Planning Commission to review his Runyan Lake East site condominium plans and return them to the Board for approval based on the township attorney's recommendations. As a result of the Board's action, he couldn't compel anyone to do anything with his request and he was sitting there doing nothing. One version of the Board's minutes said that he had to come back to the Planning Commission.

Mr. Hasbrouck said the Planning Commission had provided a favorable response to his concept plan. It was sent to the Board where it was tabled. Mr. Byerly explained that the Board tabled the request until Mr. Hicks met three issues that were referenced in Mr. Milliken's concept review.

Township Planner Gregory Milliken said that his review was written in June when the plan first came to the Township before there were any meetings with the applicant. He was uncomfortable about the way the Board used some of his preliminary comments. For example, based on Township Attorney Harris's letter, there isn't much more that we can do about the road at this level. At the time he wrote the report, there was no information from Mr. Harris about the road easement. Now there are two sets of conflicting arguments about the access and we aren't the people to choose between them. The process should continue to the end and if the road easement can't be shared, Mr. Hicks will have come back with another site plan and go through the process again.

Another issue raised in his letter was environmental. Initially, there were reports of on-site dumping and his letter recommended an environmental study. Reports have been provided that suggest contamination is not going to be an issue. The township will have to judge what it thinks about the reports.

Mr. Milliken was less certain about the grading and drainage. He isn't a drainage expert, so he isn't sure if there will be impacts on neighboring properties or not. His letter said it might be a problem and should be investigated. Mr. Hicks replied that he had gone out for better grading plans which had been submitted October 9, 2006.

Since the Board had tabled the request, Mr. Hasbrouck thought Mr. Hicks would have to go back to them if he believed all of the Planner's comments had been satisfied. Mr. Milliken said

he understood that after it was tabled, the minutes specifically referred the request back to the Planning Commission for satisfaction of three concerns. Mr. Hicks said he had received two versions of the minutes and wondered if Mr. Hasbrouck had the correct one.

Mr. Hasbrouck explained that grading plans and soil erosion permits would be handled by the County Drain Commissioner. The road was still a problem, and he asked Mr. Hicks what he thought the Planning Commission could do or what he could do to satisfy the road usage issue. Mr. Hicks said he had been through all the road mechanics. He has a title to the road easement and he has based his plans on his right to use it. He doesn't have an alternative to using the road. He needs to have some sort of determination. The property owners over there (Runyan Lake Point) want to contest his title to it. They can't. He has Title Insurance. They have hired an Attorney.

Mr. Hasbrouck replied that he agreed with our Attorney's opinion. The township isn't the judge for this problem. Mr. Hicks said that he tried to make contact with them (Runyan Lake Point Association) to get together with their attorney. The only communication he got was a letter from their attorney contesting what he had done. There was a meeting at his house with Mr. and Mrs. Meisel and Mr. Ambruster and he didn't know what else he could do. Mr. Hasbrouck said he thought what the Runyan Lake Point residents wanted was for him to come up with a different plan.

Mr. Fumich said our attorney indicated that we aren't the judge of the road issue. The Planning Commission responsibility is to see if his plan meets our ordinance requirements. So far, he didn't see any comments from the Livingston County Drain Commissioner. Mr. Hicks informed him there weren't any because the Drain Commissioner wouldn't look at the plans until he had conceptual plan approval. Mr. Hasbrouck commented that Tetra Tech would look at the site drainage plans, but the sewer aspects and off site drainage are handled through the drain office. Mr. Hicks said he already had some initial feedback from the Drain Commissioner and Tetra Tech about the sewer connections.

Mr. Fumich commented that the Planning Commission had reviewed the plan several times and had submitted it to the Board with a recommendation for concept approval. It was kicked back for satisfaction of the road situation and the comments that McKenna made. Mr. Milliken has explained the McKenna comments. That leaves the road issue by itself and we can spend another month or two talking about that while Mr. Hicks is waiting. As far as the road goes, it will end up in court and the judge will make a decision about letting Mr. Hicks use it or not. That is not our responsibility. We have a different job to do.

Ms. Radcliffe thought the Board might not have known it was a concept plan when they looked at it. Maybe they wouldn't have tabled it if they looked at it as a preliminary concept plan. The preliminary approval is based on getting all the loose ends tied up before final approval. The board motion doesn't say anything about this as a concept review or a preliminary review.

Mr. Hasbrouck said the request was for concept review and Mr. Hicks had satisfied the ordinance requirements for concept review. It could have been approved with conditions for specific modifications. Mr. Hasbrouck asked Mr. Hicks if he wanted to bring back a modified plan or if he wanted to send his plan back to the Board since the concept review requirements

had been satisfied. Mr. Hicks said he wanted it returned to the Board. He wouldn't be able to satisfy the legal arguments about the road (Runyan Lake Point ) because he isn't a judge either.

Ms. Eastman asked if it was true that the Drain Commissioner wouldn't review the plans until there was concept approval. Did that mean the drainage issues couldn't be resolved until Mr. Hicks got concept approval. Mr. Milliken said that was correct. Ms. Eastman thought the drainage issue could be a condition for final approval, but it should be dropped as a condition of concept approval. Mr. Milliken said that the ordinance did allow for a preliminary review by the Township Engineer at the concept stage. Otherwise, what is required at the concept stage is a general plan for storm water. What is required for final approval is a complete storm drainage plan acceptable to the Township and the Livingston County Drain Commissioner showing run-off calculations, adequacy of the drainage facilities and so on. That review happens after concept and before final approval.

Mr. Milliken told Ms. Eastman that his comments about the environmental report were based on his limited environmental expertise. He didn't want to give final approval and then be held responsible for contaminants discovered ten years in the future. He did feel comfortable about the report he read from the perspective of what was found and what was removed.

Mr. Hasbrouck considered the Planning Commission had two options. They could schedule Mr. Hicks for another meeting and vote on it again or just send it back to the Board. Mr. Milliken recommended scheduling another review. Considering the expected future of this request, the Planning Commission should go by the book and put everything on the Agenda so the Township does what is required.

Mr. Hasbrouck noted that a little more information had been provided on the environment since the last Planning Commission meeting.

Mr. Meisel commented that he had tried to stay away from the request because of the potential for conflict. At the meeting with Mr. Hicks, he was informed by Mr. Meisel that he would not be the contact person for the Runyan Lake Point Association. Mr. Sporer and Mr. Hicks were told to talk to Mr. Armbruster, the President of the Runyan Lake Point Property Owners Association. He has been told that Mr. Sporer has not contacted Mr. Armbruster and Mr. Hicks's Attorney has not contacted Mr. Armbruster. If there is a desire for communication, Mr. Hicks or his Attorney should contact Mr. Armbruster.

Mr. Hasbrouck told Mr. Hicks that discussion of his conceptual approval request would be added to the November Planning Commission Agenda. Mr. Hicks asked if he could get some sort of motion that says the Planning Commission is following the guidance of their Attorney. Mr. Hasbrouck said at this point the Planning Commission would not give any more advice, because Mr. Hicks wasn't on the Agenda for this meeting.

*The meeting was recessed at 8:05 p.m. for the Mathews - Heavenly Scent Public Hearing and reconvened at 8:30 p.m.*

#### **APPROVAL OF THE AGENDA:**

- 1) Moved by Eastman, seconded by Fumich, to approve the Agenda as presented. Motion carried by unanimous voice vote.

#### **APPROVAL OF THE MINUTES:**

- 1) Moved by Hanoute, seconded by Eastman, to approve the October 10, 2006 Work Session minutes as corrected. Motion carried by unanimous voice vote.:

Page 3, Line 19 (...He recommended ~~recommending~~ waivers...)

Page 5, Line 5: (...hay and straw ~~at as~~ the Fenton Trading Post.)

Page 6, Line 22: (~~Mr. Hasbrouck~~ Tetra Tech's bid was addressed to Mr. Schmidt, but **Mr. Hasbrouck** thought...)

Page 6, Line 35: (She suggeseted **the** Township Engineer **inspect** the road...)

Page 7, Line 1: (...Tetra Tech **was** recommended **using** condition of...)

Page 7, Line 19: (...improvements required **for** new...)

Page 7, Line 20: (...discussion of ~~the~~ Mr. Milliken's...)

Page 8, Line 8: ( ~~#~~ **If** the land division...)

Page 8, Line 32: (The Fire Authority **is** still...)

- 2) Moved by Hanoute, seconded by Eastman, to approve the Ron Gordon PUD Amendment Public Hearing minutes of October 10, 2006 as corrected. Motion carried by unanimous voice vote.

Page 2, Line 12: (send notices **to** the rest...)

Page 2, Line 27: (hold a public **hearing**...)

Page 2, Line 36: (...~~the this~~ PUD contract...)

Page 2, Line 42: (...told him it his business was...)

Page 2, Line 58: (...years **until** ~~untill~~ he can...)

Page 3, Line 4: (...be used until 2012 ~~4012~~)

Page 3, Line 32: (...Chairman **Hasbrouck Hanoute**...)

#### **CORRESPONDENCE:**

- 1) October 20, 2006 - Letter from the Livingston County Department of Planning regarding proposed revisions to zoning ordinance Article 29.00 - Zoning Amendments

Township Planner Greg Milliken said he would like to contact the Livingston County Planning Department about the points they raised and bring a report back for the next meeting.

#### **SUBCOMMITTEE REPORT:**

#### **OLD BUSINESS:**

- 1) Review of proposed text revisions for Article 2.02.A - Minimum lot width

Mr. Milliken said he had revised the terms to refer to curves as "concave" and "convex" and removed the "cul-de-sac lots" reference because the new definitions would describe all road curves in general. Another change was in locating the tangent contact point at the midline of the lot width. Mr. Hanoute suggested that the center point of the arc would be an easier way to describe the point of tangency. Ms. Eastman asked to have the arc midpoint shown on the proposed graphic for measuring curves. Mr. Milliken said he would include another graphic showing the same measurement procedure for water front lots.

- 2) Review of proposed text revisions for Article 24.00 - Private Roads and changes proposed by Attorney Harris for the private road maintenance agreement

Mr. Milliken explained that the ordinance revisions dealt with nonconforming private roads Section 24.04.F. He felt that deleting the maximum number of lots allowed would make land divisions easier to administer but that might create another problem because there will be no limit on the number of lots on a road with a single public road access point.

Discussion comments concerned:

- The importance of regulating the cul-de-sac length rather than the number of lots;
- Measuring the length of the private road from the public road to the most remote private residence setback;
- Whether to allow shared driveways to be extended from a cul-de-sac;
- Requiring stub street extensions at the end of cul-de-sacs;
- Funding stub street development through perpetual escrow accounts or developer funding when the street is opened;
- Revision of section 24.03.K - Signs to have them "contrast in terms of color with **public** street signs" and addition of language to differentiate between **regulatory** signs and **private street** signs at intersections
- Requiring maintenance agreements whenever use of non-conforming private roads is increased (24.04.B.2); or
- Requiring a maintenance agreement between the developer and the new parcel owner(s) at a minimum;
- Including a reference to the maximum cul-de-sac length of 1200 feet in Section 24.04.B.3;
- Provision of language which would allow planning commission variance of the standards for length, width, or number of parcels in response to unusual or unique private road circumstances;
- Determining whether the basic road requirements will be based on Livingston County Road Commission standards or AASHTO standards; and
- Clarification of the language in Section 24.06.Q.

During discussion of the revised Private Road Maintenance Agreement, the Planning Commission asked for language to require "cutting and clearing of brush and weeds" in the sight distance easement and the road easement. They also requested an extension of the 15 day waiting period mentioned in Section 6.7.

**NEW BUSINESS:**

1) Discussion of Revisions for Article 4.03.A - Agri-Business

Mr. Hasbrouck recalled that all the comments received at the Mathews hearing were favorable in regard to their project. So far, the Township and Planning Commission haven't had any unfavorable responses to the request.

Mr. Milliken asked the the Planning Commission if they wanted to expand the definition of agri-business or create a new definition like agri-tourism for ordinance Article 4.00. Revisions should be based on "worst case" scenarios because the FR and RE Zoning Districts constitute about 75% of the land area in the township.

The Mathews have done everything right and the new regulations should require that everything is right in terms of location, access, parking, signage, existing structures, new structures, the relationship to agricultural uses and maintenance of rural character.

During discussion, the Planning Commission agreed to continue with the agri-business reference since it was a broader term than agri-tourism. Specific standards could be based on "road side stand" or "recreational" concepts as a general classification. Mr. Milliken thought he might be able to have some preliminary language ready for review at the next meeting.

2) Review of proposed revisions to the Planning Commission Bylaws

Two copies of the by-laws were provided. One copy showed Mr. Meisel's original recommendations and the second version showed other items for consideration.

During discussion, the Planning Commission :

- Agreed to leave the language in section 1.01 - Selection as currently stated;
- Asked to revise section 1.03 - Appointments to reference any **permanent** subcommittee chairman;
- Revise 2.03 - Duties of the Secretary to delegate ~~all~~ or some of the duties;
- Revise 2.03.A - Minutes to provide a subsection regarding **Subcommittee Minutes or Reports**; and
- Revise 2.03.D - Annual report to require a **written** annual report and cite the reference.

Mr. Meisel wanted to know why the Subcommittee had the authority to make recommendations to the Planning Commission. Three people review something and say we want you to approve it. At that point, you are violating the statute that says that all things have to be brought before the full Planning Commission for review. Mr. Hanoute said everything was brought before the Planning Commission. All the information was in the packet with the Subcommittee report and everyone at the Planning Commission had the right to review it and vote yea or nay. Mr. Hasbrouck said that we discuss the Subcommittee Reports at the Planning Commission meeting and they were never intended to be a consent item. He wouldn't want to be apart of the Planning Commission if that is how they were handled. Everyone is always given a chance to comment at any time before the Planning Commission takes a vote.

Mr. Meisel said he was confused about the objective of the Planning Commission if there is a subcommittee in the back room making all the decisions and reviewing all the material, bringing it before the Planning Commission and saying, "Here. Rubber stamp it." He wanted to know if there was a process that shows how the open space is calculated for the rest of the Planning Commission with enough of the details so the members really know what is going on.

Mr. Fumich explained that the Subcommittee doesn't ask anyone to rubber stamp anything. We bring applications to the Planning Commission where they are discussed and everyone has a chance to ask questions. You get the same documents we have in Subcommittee. Hopefully, the Subcommittee makes things go faster at the Planning Commission meeting by

asking questions and making suggestions about anything that has to be provided or corrected before the request gets sent up here. Even if it won't fly, but they insist on a review, we bring it to the Planning Commission and let them handle it. We don't rubber stamp anything.

Mr. Hasbrouck said the Subcommittee was put together to go over the drawings and they come back there until they have all the required information. Sometimes, staff will be asked to decide if they have done what the subcommittee recommended before forwarding the request to the Planning Commission. The biggest thing the Subcommittee does is to make sure that everything the ordinance requires is there, so when it gets to the Planning Commission everyone will have the information they need to look at before we take action at the meeting.

Mr. Meisel said he was concerned that it isn't operating that way. There is a lot more information submitted to the subcommittee than we get in the packets. He can't come in and

get information from subcommittee meetings because it isn't made available. Mr. Fumich asked Mr. Meisel what information he wasn't getting. Mr. Mesiel said there were a couple of documents for one of the more interesting requests that were made available to the subcommittee but he had not received them. Mr. Hanoute said Mr. Meisel should bring those problems up when they happen. He wasn't aware of any. Mr. Fumich said he wasn't aware of any either.

Mr. Hasbrouck asked Mr. Meisel if he wanted to serve on the Subcommittee, or if he felt we shouldn't have one. Mr. Mesiel said he had some concerns that he thought were legitimate and were well documented. He didn't think they were intentional and he didn't know how to solve the problem. Nine meetings ago there was a motion to have subcommittee minutes in our packets and we still don't have them. He can't get them and he has asked for them. Mr. Hanoute said he got the subcommittee meeting minutes in his packet. Mr. Mesiel replied that he wasn't getting them. He went through his entire packet for tonight and the Subcommittee minutes weren't in there. Mr. Hanoute explained that there was no Subcommittee meeting in October, so there were no minutes. Mr. Meisel said he had never gotten any. Mr. Fumich explained that they were very brief, usually just a paragraph, and they came with the packets.

Ms. Eastman said he had leveled strong accusations and she wanted to hear some specifics.

Mr. Meisel wanted to know what happened to his recommendations regarding the bylaws. Mr. Hanoute observed that there was a document from Mr. Meisel, one from the Recording Secretary, and one from Mr. Milliken presented to the Planning Commission. He thought there should only be one.

Mr. Meisel said he didn't want to work on the bylaws anymore. He had tried to collaborate on it and obviously people didn't want to collaborate. His original plan was to collaborate and get the paragraphs Mr. Milliken worked on with some proposals he brought forth that the Planning Commission approved and now there are two versions when we should only have one.

Mr. Hasbrouck thought the bylaws could still be done before the Election of Officers. He agreed that the Subcommittee Report should not be a Consent Agenda item. Mr. Meisel said he never considered it a Consent Agenda Item. He wanted to make sure everyone was on the same page so the Planning Commission could focus on what we are really trying to accomplish. We had a challenging planning commission meeting and some people walked out of here and were concerned about a conclusion in the Bylaws as to whether or not we had met voting requirements, and that turned into a big snowball where people were trying to nit pick the bylaws apart and come up with weaknesses.

Right or wrong, he took the bull by the horns and came back to address the issues those people commented about. First of all, we didn't have a conflict of interest section. He agreed we needed one and felt we should put the MTA recommendations in there. The other area was the statutory requirement for meeting notices, not that we were violating it, but our bylaws weren't up to date. He didn't want someone to come back and say you aren't following your bylaws, and the bylaws don't follow the statute. In that process, our current set of bylaws claimed that the subcommittee report is a consent agenda. He didn't want someone to treat that like a consent agenda item and say you can't bring it before the Planning Commission.

Mr. Hasbrouck said it wasn't treated like a consent agenda item and we never had one on the Agenda. Mr. Meisel said the bylaws didn't show that. He had asked the Planning Commission to address that project immediately and instead we keep making it a bigger project instead of

fixing a few things.

Mr. Hasbrouck said if the consent agenda bylaw language was in error, we could make that amendment right now. Then everything else can be looked at later and Mr. Milliken can make the merge. Mr. Hanoute suggested calling the subcommittee the "Application Subcommittee."

MOTION: Moved by Hasbrouck, seconded by Fumich, to amend the bylaws to remove the Consent Agenda item and replace it with an Application Subcommittee report.

During discussion of the motion, Mr. Hasbrouck said he thought we should require minutes or reports of any other meetings Planning Commission members attended and they should be forwarded to the Planning Commission members.

Mr. Meisel said he still had problems with scheduling the subcommittee report before Old Business and New Business. That pushes Old Business and New Business back. We put new things as a Subcommittee Report before Old Business or New Business so we never have time for New Business. Mr. Hanoute said it was approved that way because we have residents who come to the Planning Commission specifically for review of their applications. Why should we make them sit and listen to discussions that will sound like a lot of nonsense to them. We put the Subcommittee Report where we did to expedite the meetings. Mr. Meisel was concerned about what happened to people who returned to the Planning Commission with Old Business when they were superceded by new people. Mr. Hanoute commented that generally there was no Old Business of that type. If you review your old packets, you will find that Old Business is usually work being done by the Planning Commission, just like it is tonight.

Mr. Milliken commented that Agenda Item 4 was the Approval of the Agenda. That is to allow each meeting to be adjusted on a case by case basis. For instance, this evening the Agri-Business discussion could have been moved ahead of Lot Width or Private Roads.

Chairman Hasbrouck closed the discussion and called for the motion to replace bylaws Section 3.07 - "Consent Agenda (Subcommittee Report)" with 3.07 - "Application Subcommittee Review." Motion carried unanimously by voice vote.

Mr. Hasbrouck asked Mr. Milliken to provide compiled bylaws revisions as soon as possible.

**OTHER BUSINESS FROM MEMBERS:**

**ZONING ADMINISTRATOR'S REPORT:**

**ZONING BOARD OF APPEALS REPORT:**

**BOARD ACTION:**

Mr. Byerly reported that a Town Hall meeting was scheduled for October 30, at 7:00 p.m. pertaining to the Fire Authority Law Suit. The Township Board has invited the Deerfield and Hartland Township Boards, Fire Authority Boards and various Attorneys. The meeting will be held at the Andrew Schmidt Middle School to try and resolve the Fire Authority litigation. We have made two offers. The Fire Authority didn't respond to the first one and refused the second.

Planning Commission appointments will be made at the November 9, 2006 meeting because Supervisor Schmidt was unable to attend the last Board Meeting.

**FUTURE AGENDA ITEMS:**

The Planning Commission scheduled review of pending land divisions, review of the Ray Hicks site condominium concept plan tabled by the Board, review of comments from the Livingston County Planning Department for 29.00, review of Zoning Ordinance Articles 20.02A, 24.04, and 4.03, the election of officers and review of the bylaws revisions presented at the November 14, 2006 meeting.

**NEXT MEETINGS:**

November 14, 2006 - Work Session

November 21, 2006 - Subcommittee Meeting

November 28, 2006 - Regular Meeting

**ADJOURNMENT:** 9:45 by Chairman Hasbrouck

  
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Laurie Radcliffe, Secretary  
Tyrone Township Planning Commission

  
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Barbara Burtch, Recording Secretary  
Tyrone Township Planning Commission