

TYRONE TOWNSHIP PLANNING COMMISSION

TYRONE TOWNSHIP BOARD

TYRONE TOWNSHIP ZONING BOARD OF APPEALS

Approved Joint Meeting Minutes

June 12, 2007 7:00 p. m.

PRESENT: Planning Commission: Chairman Dave Hanoute, Vice-Chairman Mark Meisel, Secretary Laurie Radcliffe, Gary Butler, Bob Byerly, Joe Fumich, Ed Kempisty

Township Board: Supervisor Andy Schmidt, Clerk Hod Morton, Treasurer Dave Kurtz, Bob Byerly, Treasurer Brian Miles, Steve Nagy, Lynn Thompson

Zoning Board of Appeals: Deputy Chairman Greg Carnes, Dave Cypher, Mark Meisel, Debbie Smulski

Others in Attendance: Deputy Supervisor Ralph Dawson, Deputy Clerk Terri Medor, Zoning Administrator George Van Heck

CALL TO ORDER: Planning Commission Chairman Hanoute

PLEDGE OF ALLEGIANCE:

CALL TO THE PUBLIC:

APPROVAL OF THE AGENDA:

Moved by Meisel, seconded by Fumich to approve the June 12, 2007 Joint Meeting Agenda as presented. Motion carried by unanimous voice vote.

CORRESPONDENCE:

ORDER OF BUSINESS:

- 1) Discussion of the boundaries and revised language for the Public Utilities and Urban Services District section of the Master Plan (pp 62-64)

Mr. Hanoute explained that minor changes had been made to the document following discussion with the Township Planner. The original district was based on areas which might require sewer service. Intervening parcels were included for purposes of computing a working number of units which might require sewer service. Developers within the district will be responsible for installing their own sewer lines and connecting them to the main lines.

Discussion of the proposed Master Plan amendments concerned:

- Existing language in the sewer agreement which prohibited the extension of Tyrone Township service lines into Hartland Township and vice versa;
- The condition of the Lake Tyrone Community system;
- Inclusion of language in the Master Plan text which notes that the boundaries of the sewer district are flexible;
- Cooperation with other townships in developing sewer districts across township lines;
- The cost differential between Hartland Township sewer services and Tyrone Township services;
- Continued discussion of joint services with Hartland Township;
- Developing a time table for expansion of service to Lake Tyrone or Lake Shannon;
- Forming a Committee with Lake Tyrone residents to discuss the future of their sewer system;
- Preparing a break down of the costs associated with Tyrone and Hartland Township sewer service;
- The use of flat fees or metered fees for service;
- The potential for extension of sewer services outside of the district;
- Requiring all residents within the sewer district to connect to the sewer;
- Requiring mandatory connection for parcels within a specified distance from an existing sewer line;
- Mandating sewer connections for any large scale developments;
- Current sewer ordinance language requiring Township purchase of unused sewer taps; and
- Revisions to the sewer ordinance.

Supervisor Schmidt brought up the subject of a Tyrone Township resident who had the Hartland pump station installed on his property on the west side of US 23 at a location which blocked the entrance to his property. As a result, it was agreed that he would be allowed to extend a pipeline under the expressway to his property on the east side of US 23, but he would have to pay engineering and pipe installation costs himself.

Mr. Hanoute asked to include discussion of the sewer district issues with the Planner at the next meeting prior to finalization of the Urban Services text.

2) Discussion of revised language for the Future Land Use section of the Township Master Plan (77-88)

Mr. Hanoute explained that the Future Land Use text had been revised to give better definition to the zoning classifications shown on the Future Land Use Map.

Mr. Meisel explained that the LK-1 and PIRO district are examples of areas where the text had been expanded. Mr. Hanoute said that the next step would be to carry the intent of the language in the Master Plan forward into the Zoning Ordinance where the land use zoning district standards would be set.

- 3) Discussion of the Sample Private Road and Sample Shared Driveway Maintenance Agreement and the language recommended by the Attorney in regard to maintenance and enforcement.

Mr. Hanoute recalled that in previous discussions the main agreement issues involved private road and shared driveway maintenance and the responsibility for enforcement of the maintenance agreements. In addition to the language presented for discussion, he recalled that other methods of enforcement had been discussed during an earlier joint meeting. Issuance of tickets was one of them.

Mr. Kurtz recalled that one of the previous maintenance documents had required establishment of an escrow account with contribution from each owner to a maintenance fund. Each parcel with an individual tax ID number would have one vote. He was concerned about the equity in cases where there might be two acre parcels and ten acre parcels involved in the agreement. The definition of the road as "private" meant that it was private not public so the Township wouldn't have to maintain it. Before developers would be allowed to build, the maintenance agreement should be in place with a mechanism to maintain the road. That way they become responsible for the health, safety and welfare of those who live on the street.

Some of the (proposed) language establishes an unfunded mandate that obligates us to look at the roads. We don't have anyone at the Township who qualifies to inspect the road so we would have to hire an engineer to take core samples to determine whether it is good or not. The question is do we really want to be judge, jury, and advocate for a bunch of neighbors on a private road or shared driveway. He didn't think so.

One way to do it would be to set up an escrow fund at the time the property is developed. and owners would have to keep it at the same level. An owners association can lien any property that doesn't meet it's assessment. Once the fund is set up, it should be monitored by the owners association. There should be a way to do this so the Township doesn't have to become cops.

Mr. Meisel and Mr. Miles provided information about the organization of the maintenance associations which regulated their property. Costs were assessed by annual fees or special assessments depending on the association bylaws. The method of determining when improvements were needed and the type of improvements (major or minor) could be determined by the bylaws or by vote of the general membership

Mr. Kurtz thought the agreement looked good until it got to the part which involved the Township in maintenance and enforcement. If the Township wants to put something in the ordinance regarding the health and safety of the people on the road, and wants to be involved in the maintenance and repair, they should find a way to fund it. If the Township feels the road needs repair and the owners don't agree, then we could have a fight on our hands.

Mr. Hanoute said the intent of the ordinance wasn't to invade the privacy of the road owners, it was to relieve the Township of liability. Mr. Kurtz thought the ordinance specifically stated that private roads were not the responsibility of the Township. Mr. Hanoute said his concern was that once the Township approved the private road, they assumed some degree of liability as to how it is used and how it is maintained. Somehow the Township has to be removed from liability.

Mr. Morton said he thought that was the purpose of the Maintenance Agreement. When the Township approves a private road they should approve a maintenance agreement which would spell out the liability for that road. The owners of the road become an association with responsibility for the road, not the Township.

Mr. Hanoute's concern was that the road would become public when school buses, mailmen and ambulances started using it. Mr. Morton said the private road is a private road, but grants public use of the road for certain essential services like ambulances or visitors and vendors that are given permission to come in.

Mr. Van Hecke said that once a private road was built, it was reviewed by the Township's Engineer for verification of compliance with the standards. From then on, the owners should maintain it. Mr. Morton thought the Attorney had stated that the private road becomes the responsibility of the people who own the road and live on the road.

Mr. Meisel recommended asking the Attorney to review a scenario. For instance, ten years after a road has been built and approved, a resident has a heart attack at the far end of the road and the ambulance can't get there. The resident dies and the family sues the Township. In a case like this, is there a limit to the Township's liability by virtue of the private road maintenance agreement. We need to have an opinion on that to make sure that we have a foundation for limiting liability.

Referring to Groveland Township's recently adopted "poop ordinance," Mr. Kurtz said we should be careful about how far we regulate public health and safety concerns. Mr. Meisel said he wanted to determine whether the risk would be minimal or not. We should take the risk with our eyes wide open. If the Attorney feels it is minimal, we can say we are comfortable. Mr. Kurtz said the issue was how the maintenance would be enforced.

Referring to shared driveway easements, Mr. Kurtz wanted to know why utility easements were included as part of the right-of-way. If the driveway is a dedicated easement, they need to have two separate descriptions.

Mr. Fumich wanted to comment on the liability issue. If our engineer says the road was built according to specs and it is turned over to the property owners with a road maintenance agreement that says they are to maintain that road, he couldn't understand why the liability would fall back on the Township. If the owners are the ones who are supposed to maintain the road, then the liability is theirs.

During discussion of whether to require the Township to inspect roads and issue violations, Mr. Kurtz asked who would be responsible for issuing them. Mr. Morton said the Township should know just how the violation would be determined and if the engineer would be needed.

Mr. Meisel recommended that the Township should require an escrow account for the road, build it to a standard, and establish a private road maintenance agreement that turns all liability and maintenance requirements over to an association. Mr. Kurtz said he wanted to see maintenance fees established per stirpes. Mr. Nagy thought that could be left to the maintenance agreement and what would be acceptable to the association members. They could use road frontage, size of lots, number of lots, or assessed value of lots to determine an assessment amount for each parcel.

Referring to Section 5 - Voting in the Shared Driveway maintenance agreement, Mr. Morton noted that it said that any "costs so expended should be a burden on the land, and such an owner with a lien enforceable as set forth herein." Mr. Kurtz asked if putting a lien on a property would be an Assessing issue. Mr. Morton thought the agreements authorized the association to assess the lien not the Township.

Mr. Hanoute said the Planning Commission would ask the Township attorney for an opinion regarding the liability issue and review the agreements again.

4) Discussion of Zoning Ordinance Amendment processing requirements

Mr. Hanoute explained that the Township has an ordinance processing procedure, but he didn't know if it was being followed or not.

Mr. Schmidt commented that it appeared that some of the procedures hadn't been followed. He wanted to know if there was a mechanism to insure that each of the procedural steps had been done.

Laurie Thielen, Zoning Board of Appeals Recording Secretary, commented that during their Monday meeting they were using page numbers of the Ordinance to reference Section 27.06.B. The section was on page 10 in some ordinances and page 8 in others. How could the members tell if the ordinance was up to date if all the pages were different.

Mr. Morton explained that ordinances should be referenced by Section number not page number. Ms. Thielen said that if the copies were up to date, all the sections should be on the same page. Mr. Morton said they should all be in the same section. When a copy is made the page numbers can change, but the Section doesn't change and the Section language doesn't change.

The Planning Commission Recording Secretary commented that there were frequently changes in the page breaks when the Ordinance was copied from one computer to another or from one printer to another. If the page breaks aren't corrected before printing, the page numbering system will change, but the section numbers will remain the same.

Mr. Kurtz said that someone needed to find the Ordinance, proof it and get it on line so everyone could get to it. The first thing we have to do is create the Holy Grail. Mr. Morton said that was being done. The Ordinance is being proofed and new ordinance sections are coming down the line. He has cut off requests for any new ordinance amendments until the new sections take effect and are put into the Township records. Then the members will get revisions to put in their books. Once the Township has a new server, we can develop a web-site and post the ordinances on it.


Mr. Meisel presented his recommendations for processing Ordinance revisions. He had prepared a check list to track the process and ensure that the approval goes forward. We need to have something so a judge would be able to verify the correct copy of the ordinance. He had prepared a procedure list for the Township to follow.

The lists provides procedures for the Planning Commission and Board to follow and the information which should be tracked. Page 1, the "Procedure for Zoning Ordinance Amendments," lists 20 steps which need to be followed in order to complete the Tracking process. Page 2, the "Township Zoning Ordinance Amendment Sheet," is a project information cover sheet. Page 3 the " Tyrone Township Zoning Ordinance Revision Page" would be used to identify the ordinance copy. Two spread sheets are also included---the Tyrone Township Zoning Ordinance Master Revision Log (Page 1) and the Tyrone Township Zoning Ordinance Issuance Log (Page 2) which tracks the copies as they are issued.

Mr. Morton said he would like to require that the Township representatives hand in their old ordinances before they could get a new one. Mr. Hanoute commented that there were many copies of zoning ordinances in his business office and most of them were out of date. They relied on the internet for current information.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 8:30 p.m. by Chairman Hanoute.



Laurie Radcliffe, Secretary
Tyrone Township Planning Commission



Barbara Burtch, Recording Secretary
Tyrone Township Planning Commission