

MINUTES
DILLSBURG BOROUGH PLANNING COMMISSION MEETING
AUGUST 27, 2008

The August meeting of the Dillsburg Borough Planning Commission was called to order on the above date at 7:30 PM. Planning Commission Members in attendance were Chairman Allen Reeves, Vice Chairman Brian Radcliffe, Paul Eurich and Leon Zeiders. Also present were Borough Engineer Tim Knoebel, Borough Solicitor Mark Allshouse, Borough Manager Karen Deibler and Borough Secretary/Treasurer Debbi Beitzel.

Planning Commission Member Joe Robinson was absent.

The following visitors were present: Francis McNaughton from the McNaughton Company, Bob Fisher from R. J. Fisher & Associates, Fred Smith, Fred Smith, II, Todd Lyons from Lyons Surveying, LLC, Matthew Hearn from Akens Engineering, Stephen Quigley from H.E. Black and Jeannette and Daniel Mikos.

The first item on the agenda was the approval of the June 25, 2008 meeting minutes. Vice Chairman Radcliffe moved to approve the June 25, 2008 as presented. Paul Eurich seconded the motion. – Motion Carried.

The second item on the agenda was the discussion of the Mikos' Subdivision. Chairman Reeves asked if the plan received was a revised plan. Engineer Knoebel indicated it was. Chairman Reeves asked the Borough Engineer if the plan was reviewed. Engineer Knoebel stated it was not, because the plan wasn't received in time to make the agenda. Manager Deibler stated the plans were received on August 15th, which was past the deadline. She indicated the Mikos' would have to ask for another time extension. Engineer Knoebel noted the Mikos' had obtained various approvals from the Zoning Hearing Board and resubmitted the plan, which will be reviewed and considered at the next Planning Commission meeting. Engineer Knoebel reiterated the Mikos will need to request a time extension. Manager Deibler asked the Planning Commission if they had a problem with the Mikos asking for another time extension. The Committee indicated they did not. Mrs. Mikos stated the revised plan is only reflecting the approvals from the June 2008 ZHB meeting. Leon Zeiders indicated the Planning Commission isn't aware of that because the Borough Engineer hasn't reviewed the plan. Engineer Knoebel indicated to Mrs. Mikos there were a number of things that were talked about at the last Planning meeting and he had met with Mr. Mikos about the items that still needed to be addressed on the plan in order to minimize the amount of waivers the Borough would have to consider. Engineer Knoebel stated the Planning Commission hasn't reviewed any revised plans since the last Planning Commission Meeting. Mrs. Mikos indicated the plan submitted in June showed the street trees and the sidewalks. Mr. Knoebel stated the plan was submitted one day before the Planning Commission meeting and there wasn't any formal submission of the plan. The plan was discussed but it wasn't formally reviewed by the Planning Commission. Mr. Knoebel indicated at this point the plan will get reviewed and hopefully the items were addressed that were discussed with Mr. Mikos. Mr. Mikos asked what the items were. Mr.

Knoebel indicated when they met they discussed the location of the paving of parking lot; suggestions for stormwater management, etc. Solicitor Allshouse clarified by indicating there is a process with a deadline by which a plan needs to be submitted. Every time a plan changes, it's a new plan and needs to be submitted by the deadline. Solicitor Allshouse stated the plan wasn't submitted by the deadline; however the Planning Commission took the time to go over the plan and gave their feedback on what was provided. The Planning Commission indicated to the Mikos', they would have to go before the Zoning Hearing Board and no decision would be made until the zoning variances were approved. A plan was now submitted with the approved variances on it. The plan that was submitted at the last meeting wasn't officially reviewed by the Planning Commission until the Zoning Hearing Board heard the case. Mr. Allshouse continued, by indicating now that the plan has been submitted as a third amended plan, with the new zoning approvals on it, the plan is now properly in front of the Borough Engineer to review and provide comments back to the Planning Commission. Engineer Knoebel indicated the stormwater is being shown on the plan, and asked if the engineer did any calculations to justify the sizing of it. Mr. Mikos indicated the engineer stated to him he did. Engineer Knoebel indicated he doesn't have the report and to have the engineer provide it to him. Paul Eurich indicated the plan states the Mikos are asking for a waiver for the submission of a stormwater report. Engineer Knoebel stated that probably will not happen and should be removed from the plan. Vice Chairman Radcliffe moved for the owners to submit a request for a time extension on/or before September 2 in order to be placed on the September's Committee Meeting agenda and the Planning Commission moved to recommend approval and acceptance of the time extension from the Borough Council. Leon Zeiders seconded the motion. – Motion carried.

The third item on the agenda was the Discussion/Review of the Final Minor Subdivision Plans for Fred Smith. Chairman Reeves indicated comments were received from the Borough Engineer and the York County Planning Commission. Chairman Reeves asked about the comment from YCPC regarding the lot being a double frontage lot and is the alley considered a street. Engineer Knoebel stated the plan is showing it as a public right-of-way and the property already exists that way and there is virtually nothing that can be done about it. Chairman Reeves asked if the Borough has an ordinance against fronting on an alley. Engineer Knoebel stated the County wrote the ordinance years ago and it's common for the ordinances to state this. Mr. Knoebel indicated this has come up before but was never made an issue of because there was an understanding it wasn't a problem. Engineer Knoebel stated the plan is simple; essentially they are subdividing the property and proposing a new home to be built. Mr. Knoebel stated their comments are minor. He indicated the comment (#2) regarding the density needed to be discussed. Engineer Knoebel indicated the Borough Ordinance states for a single family detached, the density needs to be no greater than 3 dwelling units per acre; and according to his calculations the density for this plan comes to 3.13 dwelling units per acre. Mr. Knoebel indicated they had asked the owners to show the dwelling units per acre on the plan and if it exceeds the ordinance requirements, they will have to go before the Zoning Hearing Board for a variance. Mr. Knoebel stated there are minor issues that can be dealt with; they will need to show where the driveway is going to be, the sewage planning, an exemption form was submitted and has reserved the capacity for the lot and ready to go to DEP. Fred Smith stated off street parking was definitely not a problem; there are at least four in the driveway

and two in the garage. Chairman Reeves asked if the driveway was coming off Welty. Mr. Smith indicated it was. Mr. Lyons indicated it does show on a new plan which wasn't submitted because of the time frame. Engineer Knoebel asked if the water lines were put in. Mr. Smith indicated they were and reserved for the sewer. Engineer Knoebel stated he had no issues with the subdivision; unfortunately the density issue might be an issue. Solicitor Allshouse asked Mr. Smith if he understood the density ordinance. Mr. Smith stated he did not. Solicitor Allshouse indicated there is an ordinance that says you are only allowed so many dwelling units per acres and our ordinance states 3. Mr. Allshouse indicated what Mr. Smith needs to do is to do a calculation and figure out what it extrapolates to and how many houses there are on 70% of an acre; if it comes out to be more than three, the Planning Commission doesn't have the ability to waive, the law indicates it's a Zoning issue and will have to go before the Zoning Hearing Board. Discussion on the explanation of the density ordinance and its meaning. Paul Eurich asked Mr. Smith if he will remain the owner of the whole area. Mr. Smith stated eventually his son will buy it from him. Mr. Eurich indicated the owner of the house beside the Snyder's are Thomas R. & Amanda R. Sabers, not Evans as indicated on the plan. Leon Zeiders asked if there is currently one lot or three lots. Mr. Smith indicated there are three tracts of ground at 49 1/2 feet each and the deed in composes three lots. Mr. Zeiders asked what needed to be done to get into two lots. Mr. Smith indicated the one tangent going back from Welty Avenue to Rose Alley, the third lot as described would only be 49 1/2' wide, we are proposing 74' wide. Mr. Zeiders asked Engineer Knoebel how this get straightens out at the County level. Solicitor Allshouse stated by subdividing the plan and getting it recorded. Engineer Knoebel indicated new deeds will be written based on the new boundaries of each lot. Manager Deibler indicated York County has it all on one parcel. Leon Zeiders asked if a permit will be needed to cut into the sidewalk to put the driveway in. Engineer Knoebel stated a driveway permit would be needed. Engineer Knoebel indicated the plan states the total area of the tracts is .6391 acres which is less than 2/3, if in fact that isn't accurate and it's more that density should be OK. Mr. Smith indicated the tax bill indicates it's larger. Mr. Eurich indicated the ordinance states there must be off-street parking, but can the ordinance be enforced if the homeowners never uses the off-street parking and continue to park on the street. Mr. Knoebel stated it depends on the traffic ordinances of the Borough. Solicitor Allshouse stated a specific Borough Code would have to say no parking at that section of the street, our ordinance only requires them to have off-street parking; it doesn't required them to use it. Manager Deibler asked if the Planning Commission had any suggestions for Council when it comes to the waiver for the plan scale and for the preliminary final plan. Engineer Knoebel indicated the waivers are fine and can recommend them. He also suggested to the Planning Commission to table the plan, however if the surveyor is able to verify the density is in fact less than 3 dwelling units per acre, there wouldn't be an issue to recommend this plan subject to the comments. If the density is ok, they will be able to address the comments very quickly and have their paperwork ready for DEP. Mr. Lyons indicated he would be able to get the information to the engineer by tomorrow. Vice Chairman Radcliffe moved to accept the plan for continued review and table the plan subject to the owner's surveyor computing the lot density. If it's determined the lot density is equal to or less than 3 dwelling units per acre, then Planning Commission will recommend it be placed on the Council's agenda for the next meeting and recommend approval to the Borough Council. This recommendation is

subject to successfully addressing all the engineer's comments and the YCPC's comments prior to the September 2, 2008 Committee Meeting and sufficient time for the engineer to review the changes. Mr. Eurich seconded the motion. – Motion carried.

The fourth item on the agenda was the Discussion/Review of the Preliminary Subdivision/Land Development Plan for Meadows Edge. Mr. Fran McNaughton introduced himself and Bob Fisher from R. J. Fisher and Associates. Mr. McNaughton indicated the plan was brought before the Planning Commission in the form of a sketch plan. He stated the plan presented tonight was totally consistent with the sketch plan. Mr. McNaughton addressed the comments with the engineer and the Planning Commission. He discussed the Zoning Ordinance Comments:

#1. Site density should be provided. - The dwelling units per acre will be provided.

#2. Residential uses are not listed as permitted in the MC District. He indicated there were several conversations regarding this item and there is a very liberal interpretation under the ordinance in section 27-106. However it was the understanding it was a progressive zoning and shared with the Planning Commission previously the understanding was if the site was cleaned up the residential units would be a permitted use. Engineer Knoebel indicated one of the prior zoning officer believed to have written a letter indicating it was permissible and our suggestion to the developer is to provide a copy of the letter or get determination. Mr. McNaughton indicated he wasn't sure if they had the letter, but it was his understanding. Chairman Reeves asked what the area is zoned now. Engineer Knoebel indicated some of it is MC. Mr. McNaughton indicated when they went in there, the property was a nonconforming use, an abandoned site, tax issues and environmental issues and we went to great lengths to resurrect the site in reliance that it would be used as a permitted residential use. Mr. McNaughton indicated it was unfortunate that he didn't have this in writing.

#3. A buffer yard for lot three will be provided

#4. The building isn't in the building setback line, the patio is.

He discussed the Subdivision Ordinance Comments:

#5 & #6. Mr. McNaughton indicated he was hoping to receive favorable consideration to the waiver requests.

#7. He will comply with a separate subdivision sheet.

#8. The "IT" symbol will be listed in the legend.

#9. The date of the wetland delineation will be provided.

#10. The curve data table will be provided.

#11. Mr. McNaughton indicated the last two times he appeared before the Planning Commission there was a conversation to extend the street and there would be a nonconforming street. Mr. McNaughton stated they aren't opposed to this, and would eliminate us having to put an emergency access road to eliminate the cul-de-sac issue. Engineer Knoebel indicated it was discussed if this ever was to happen, this is the time the plan is being presented so if you ever wanted any chance for easements through this property to connect to Winfield Drive, now is the time to do it. Vice Chairman Radcliffe asked Mr. McNaughton if he would do this. Mr. McNaughton indicated yes and we are amenable to do what is ever in the best interest of the Borough. He stated they personally

think it should be extended and it would be a nonconforming street based on the specifications of Borough Streets, but the street in which it connects is a nonconforming street. Engineer Knoebel stated they aren't suggesting extending the street, just to provide the easement. Mr. McNaughton asked how they should show that on the plan, as an easement or to put asphalt down. Bob Fisher indicated they could provide a 20' easement at the end of the blacktop. Solicitor Allshouse stated they would be required to note on the plan and a separate easement document.

#12. They will have Home Owner Documents that will be submitted for the solicitor's review.

#14. A blow-up detail of the intersection of Winfield & Gettysburg Street will be provided.

#15. The YCPC comments haven't been received yet, but will comply with their comments.

#16. An owner's acknowledgement and related certifications by the Surveyor and Engineer are required to be executed and will be complied with.

#17. Sewage plan - will have to go through DAA.

#18. Erosion Control Plan and NPDES permit are required – we will meet the requirements.

#19. The plan will be submitted to Carroll Township.

#20. Mr. McNaughton reminded everyone that this is a through street and there are no houses on it and has a concern with the speed of traffic and would rather do sidewalks on one side. Chairman Reeves indicated Winfield Drive in the adjoining area has no residences either, but they do have sidewalks planned on both sides.

#23. Traffic Impact Study is being updated by the traffic engineer.

#24. Didn't feel this was a cul-de-sac because it was the understanding to either connect to the street or show an emergency access extension. Engineer Knoebel stated they can't have a dead end street. Mr. McNaughton indicated they would connect that with an emergency access. Mr. Knoebel asked to where. Mr. McNaughton indicated to West Hanover Street. Mr. Knoebel indicated they are OK with the layout of the development, but in order to have the two accesses Winfield Drive has to be built or bonded. Mr. McNaughton indicated they have Gettysburg Street and West Hanover Street as their two accesses. Engineer Knoebel stated the plan doesn't show connection to West Hanover Street. Mr. McNaughton stated they will show the connection. Mr. Knoebel stated he didn't think that was acceptable. Vice Chairman Radcliffe stated the intent of the easement was if something ever develops, West Hanover Street can be improved and made into a viable street out to Second Street. We would want the easement there, which would benefit the development. Mr. McNaughton indicated he thought that Mr. Sealover had already bonded the street. Mr. Quigley indicated he had not.

#25. Will be in compliance and provide evidence of wetlands encroachments and USAC/DEP permits.

#26. Mr. Fisher indicated there two alternatives for the street section which are provided for in the ordinance and we choose the alternate street section. Mr. Knoebel stated Winfield Drive is going to have to be the standard street specifications; the alternate is available for lesser type of streets.

#27. The lighting will meet the standards of the Borough.

#28. The corrections to the General Notes will be corrected.

#29. Mr. Knoebel indicated for phase 1 would construct a street that exceeds the cul-de-sac length requirements, so the developer would have to bond the distance between that point and Winfield Drive. Mr. McNaughton stated they would comply. Mr. Zeiders asked what would happen if the Winfield Development doesn't go. Mr. Knoebel indicated that references back to comment #24.

#30. A detail for the emergency access from Access drive "A" will be provided.

#31. We will be able to meet all the requirements of the utility plan. Vice Chairman Radcliffe indicated there was a regulation change on item e and will have to loop the water line. Mr. Fisher stated he did talk to Sheldon Williams about this issue.

#32. We will expand the spot elevations. Mr. Fisher commented on 32c regarding the future maintenance and repair to the proposed retaining walls. He stated all the retaining walls are back out of the public dedicated area and will be part of the Home Owners Association. Solicitor Allshouse indicated to propose an alternative for when the Home Owners Association fails regarding the maintenance. 32d – The drainage swale behind building #3 appears to cut through the end unit – Mr. Fisher indicated they would make the deck smaller. Mr. McNaughton stated they could comply with items e, f & h. Item g: the slope to the rear of building #9 presents a potential unsafe situation in relation to the detention basin that will be located at the toe of the slope. Mr. Fisher indicated there is a leveling area off the deck about 20' and then the embankment starts, we could propose a decorative fence across the back of the landing. Mr. Knoebel indicated they are listening to all that is said, however it's difficult to give affirmative answers without seeing them on the plan. Item i – they will go to Carroll Township. Item j – Sight distance - Mr. Fisher stated where the landscape mounds are located doesn't seem to cause any sight issues but we will show some sight lines.

#33. Mr. McNaughton indicated this deals with stormwater management and the engineers could deal with those issues.

Mr. Zeiders asked how the slopes and the growth control are going to be maintained. Mr. Fisher stated the Erosion Sedimentation Control Plan addresses this issue and these areas will be provided with more ground covers. He stated they are proposing the roof leaders of all the units be tied directly into the storm sewer system so the only drainage area coming down the slopes will be the water that falls on the slope itself. Mr. Zeiders asked on how many units the water will not go into the storm system. Mr. Fisher indicated on the map which ones would be affected.

Mr. Zeiders made a suggestion on the mail stops and could they possibly provide another one at the other end of the development. Mr. Fisher stated the numbers of mailbox stops are dictated by the Post Offices.

Mr. Zeiders commented on #9 of the General Notes and indicated there is only one sensible option; to use photo cell.

Mr. Zeiders indicated to have two sets of General Notes, one set for Dillsburg Borough and one set for Carroll Township.

Mr. Eurich indicated commented on #25 of the General Notes indicating the future maintenance and repair of proposed retaining wall will be the responsibility of the lot owners where the lot is located, not the Home Owners Association. Mr. McNaughton stated there is only one lot where there is a retaining wall and the lot is the Home Owners Association.

Mr. Zeiders indicated he had a concern with the width of Winfield Drive in the Meadows Edge Development doesn't match up to the Winfield Drive in the Winfield Development. Mr. McNaughton stated there aren't any units on this street and isn't any parking permitted on the street, so when the street width is made too wide, the speed of traffic is accelerated. He stated they would like to try to find a way to reduce the speed of traffic with calming devices if possible. Mr. Fisher provided copies from the Pennsylvania Standards for Residential Site Development and discussed what their recommendation of what street widths should be. Mr. Fisher indicated they are proposing a 34' paved road with a 52' right-of-way and not proposing any parking along the road. The Pennsylvania Standards for Residential Site Development's recommendation without parking is a 20'-28' road. Mr. Fisher indicated it will be a high cost when the Borough has to repave the street. He stated what they have proposed is more than adequate for a conveyance road of this size and magnitude of what is coming through. Mr. Zeiders stated they are bumping up another developer that was required to make the street 60/40. Mr. McNaughton suggested the Planning Commission reduced the width of the street of the adjoining property.

Engineer Knoebel asked if the stormwater design was based on the 34' width. Mr. Fisher indicated it was based on the 34' width.

Chairman Reeves asked if there are plans for sidewalks on the private streets. Mr. Fisher indicated yes.

Chairman Reeves commented on the extreme difficulty it is to move traffic. We would like is to be able to move traffic through town more easily and don't want to continue to add more developments that end in dead ends.

Mr. Zeiders asked the Borough Engineer if the swale is being taken care adequately that is coming off Second Street. Engineer Knoebel stated they have taken the easement and directed into the storm drainage system and then there is a culvert pipe that is being proposed underneath the private drive and carries the water over. Mr. Fisher asked if Borough Council is the one to approve the street standards. Engineer Knoebel asked if he meant the waiver request for the width of the street and allowing the private streets. Mr. Fisher stated yes. Mr. Knoebel indicated the waivers are noted on the plan and on the letter. He indicated with the private streets in Winfield, the Planning Commission made recommendations and then passed onto Borough Council. Mr. Fisher asked if Borough Council moves forward so when plan revisions are being made we know the answer. Engineer Knoebel stated the Planning Commission votes on that. Discussion on the publication of the Pennsylvania Standards for Residential Site Development. Vice Chairman Radcliffe moved to table the plan subject to continued review and the developer addressing the engineer's comments. Leon Zeiders seconded the motion. – Motion carried.

The fifth item on the agenda was the Discussion/Review of the Final Subdivision Plan for Chestnut Hollow Phase 2. Mr. Matthew Hearn introduced himself. Mr. Hearn reviewed the comments from the engineer with the Planning Commission and indicated none of them are significant hurdles:

#6-The E&S Control Plan has been submitted to York County Conservation along with a NPDES permit. Engineer Knoebel asked if a copy was included in the plan. Mr. Hearn stated it wasn't and would forward a copy to the Borough Office. Mr. Hearn indicated they would also incorporate the E & S Control Plan into the plan set as suggested.

Engineer Knoebel stated if a copy is provided to the PC to review now; then when the plan is ready to be approved; it would be better if the approved E&S plan is built into the set. He stated the concern is with final plans, since this is the plan used to construct the development; we want to make sure all the construction plans are in a set.

#7 – The improvement costs will be resubmitted reflecting the unit prices. Leon Zeiders asked what the unit was on d & e. Engineer Knoebel indicated it was lineal foot.

#8 – The developer's agreement will be put together and submitted to the solicitor for review.

#9 – Some references will be added to the plan as indicated by the engineer.

#10 – The paving section will be changed to the standard specifications.

#11a – The pipe labels will need to be completed, #11b – the stormwater detention basins are located in Carroll Township and currently reviewing the same plan, #11c – There are new easements agreements which are being processed, #11d – Is a technical issue regarding the amount of water in the stormwater basin and determining how it affects the pipe flow into the basin. Engineer Knoebel stated d & e revolve around the swale that borders Chestnut Hollow and Autumn Woods, the new pipe that is being proposed, we want to make sure that any headwater that backs up there as a result of bigger storm events doesn't cause hydraulic surcharge on the swale. Discussion on the issues of the swale problems. Engineer Knoebel stated they met with the Conservation District and they will be giving permission for the silt sacs to be removed. #11f – There is a typographical error and the pipe will be outlet controlled. #11g – Will comply with the minimum, pipe size of 15". Discussion. The pipe will be dedicated and is an existing drainage easement on the property.

#3 – The sewage planning module – Mr. Hearn indicated they do have approval letters from DEP for the Dillsburg Borough and Carroll Township. Engineer Knoebel asked if the approval is back from DEP. Mr. Hearn stated yes. Mr. Knoebel asked where they stood with Carroll Township. Mr. Hearn stated they are still in the review process. Mr. Knoebel asked where Mr. Hearn thought they would be after the next meeting with them. Mr. Hearn stated he wasn't sure, because he hasn't received the review comments from them. Engineer Knoebel stated he would like to see any changes that have to be made to the stormwater as result of that meeting before any approval could be given by the Planning Commission. Engineer Knoebel indicated he is very concerned about the swale and wants to take a close look at it.

Paul Eurich indicated he read the constructed wetland specifications and maintenance information and asked about the perpetual maintenance schedule and who is going to maintain this. Mr. Hearn indicated it would be the Home Owners Association, which is in existence and recorded at the courthouse. Vice Chairman Radcliffe moved to table the plan subject to continue review and changes addressing the engineer's comments. Paul Eurich seconded the motion. – Motion carried.

The sixth item on the agenda was the Discussion of the Winfield Development. Mr. Steven Quigley indicated Mr. Sealover is working diligently trying to get the project finished however it's tied up at Penn DOT. Mr. Quigley stated it is over the indemnification agreement that the developer has to sign, which basically stated that anything that may happen within the work area of the Highway Occupancy Permit (HOP) therefore the intersection at South Baltimore Street and Winfield Drive, is placed on all the homeowners

until such time as another party becomes responsible for the indemnification. Mr. Quigley stated they have received three letters from three different title insurance company that indicted they won't give us title insurance with this hanging over the properties. He stated they are fighting with Penn DOT, have rewritten the indemnification agreement and waiting for a meeting with Tom Haiste, In-House Council for Penn DOT to review the changes and get the HOP signed.

Mr. Quigley stated Penn DOT is saying anything that is a facility placed in a right-of-way, needs to be on a HOP signed by the municipality. There is a piece of pipe at one catch basin to catch the water ahead of the intersection going in the right-of-way and Penn DOT wants a separate HOP for this. This information was given to Engineer Knoebel previously and Mr. Quigley is asking for a yes or no vote from Council whether or not they will sign this, in order to move forward. Leon Zeiders asked if the catch basin was placed on the Winfield property, would there be a problem. Mr. Quigley indicated no, but he can't get it on the property. The intention is to get the water before it gets to the intersection. Discussion. Engineer Knoebel indicated we deferred this to Penn DOT and they are requiring it. Discussion. Engineer Knoebel stated this has just started to happen recently with developments and in some cases there would be an agreement that would say the developer or the Home Owners Association would be responsible to maintain that. Mr. Quigley indicated Penn DOT isn't accepting this; the municipality has to maintain it. Solicitor Allshouse indicated they could set up a bond or an escrow account, which indicates the developer would take responsibility. Discussion on how the bond would work. Manager Deibler indicated she would put the issue on the agenda for the Committee meeting.

Manager Deibler asked the Borough Solicitor if the developer had a clause in the HOA in case the Home Owner Association goes bankrupt. Solicitor Allshouse stated their HOA hasn't been finally approved yet and no there is nothing in it. Manager Deibler stated the solicitor should make them aware of this clause. Mr. Allshouse indicated he has and that is why it's not approved. Solicitor Allshouse explained how the HOA works.

Vice Chairman Radcliffe asked how the Planning Commission was for time. Manager Deibler stated she received an extension letter from Winfield through December 31, 2008 and asked how the members felt about it and what would they suggest to Council. Mr. Eurich stated the Commission and the developer have invested a lot of time and should recommend the extension. Vice Chairman Radcliffe stated it was a decent amount of time to extend. Mr. Zeiders stated his concern is that Council is out of patience with numerous extensions, but he doesn't have a problem with it. Vice Chairman Radcliffe stated it was a good thing that Mr. Quigley came to the meeting and shared with the Planning Commission about where the developer is at and the status of the development. Mr. Eurich indicated if Council is impatient with December 31, 2008, we would then have to start over again. Chairman Reeves stated he didn't see any negative in giving them the extension. Manager Deibler stated her concern as the person who has to present this to Council; is December 31, 2008 long enough. Mr. Quigley indicated he could make it longer but he doesn't want Penn DOT to know the developer has been given more time.

Engineer Knoebel asked when Penn DOT issues a permit what do they want indemnified. Mr. Quigley stated what happens is when the application is put in; they want you to first go to all the owners and get a release from the owners that could be affected by the work in the area, which is three properties (Mike Murphy signed the release, the other

two won't talk). The next step was to show Penn DOT the entire backup and they would go ahead and issue the HOP, not any more. They now want the developer to indemnify the work in the permit for all eternity, which can't be done. Manager Deibler asked what the releases actually say. Mr. Quigley indicated they are in a lot of legalese and it sounds like you are giving up all your rights to everything in terms of access to your driveway, but you are not. Vice Chairman Radcliffe asked if Mr. Quigley could provide documentation on this issue to present to Council. Mr. Quigley indicated he would do that. Manager Deibler stated if he could provide it by Tuesday, September 2nd, it would be added to the Committee meeting agenda. Mr. Quigley stated it would be at the Borough Office by tomorrow (August 28th). Vice Chairman Radcliffe moved to recommend to Borough Council they accept and approve the time extension to December 31, 2008 and direct their attention to the letter the developer has pledged to provide that explains the current delay situation with Penn DOT regarding the Highway Occupancy Permits. Leon Zeiders asked what happens if the two adjoining owners never sign the appropriate documents. Mr. Quigley indicated it would probably go to court. Leon Zeiders seconded the motion. – Motion Carried. Engineer Knoebel asked if the Borough had to be involved with the indemnification process. Mr. Quigley stated no.

Old Business: There was none.

New Business: Chairman Reeves indicated Joe Robinson is scheduled to report at the next Borough Council meeting on September 9, 2008 and since he wasn't present, would anyone else be able to report. Vice Chairman Radcliffe and Leon Zeiders both indicated they would be attending and could report.

Adjournment: As there was no further business, Member Leon Zeiders moved to adjourn at 9:30 PM. – Motion Carried.

Debbi L. Beitzel
Secretary/Treasurer

cc: A. Reeves M. Allshouse
 B. Radcliffe Mayor Snyder
 J. Robinson K. Deibler, Borough Manager
 P. Eurich Council
 L. Zeiders T. Knoebel