

AGENDA
EAST GOSHEN TOWNSHIP
CONSERVANCY BOARD MEETING
September 8, 2010
7:00 PM

- 1) CALL TO ORDER/PLEDGE OF ALLEGIANCE
- 2) APPROVAL OF MINUTES – August 11, 2010
- 3) CHAIRMANS REPORT
- 4) OLD BUSINESS
 - a. New Kent Apartments
 - b. Comprehensive plan Goals
- 5) NEW BUSINESS
- 6) SUB-DIVISION/LAND DEVELOPMENT REVIEW
- 7) BOARD MEMBER CONCERNS
- 8) LIAISON REPORTS
- 9) PUBLIC COMMENTS
- 10) CORRESPONDENCE

REMINDER – Newsletter Article Submission Due Dates:

Article Due Date
November 10, 2010

Delivery date
January 1, 2011

draft
EAST GOSHEN TOWNSHIP
CONSERVANCY BOARD MEETING
August 11, 2010
7:00 P.M.

The East Goshen Township Conservancy Board met for their regularly scheduled meeting on Wednesday, August 11, 2010, at the East Goshen Township Building. Board members present were: Chairman Bryan Delmonte, Jane Fava, Ginnie Newlin, Sandra Snyder, Mark Kawecki, Walter Wujcik and Scott Sanders. Also in attendance were Mike Merwin; Bob Huebner, Park & Recreation; Joe Zug, Historical Commission, and Susan Carty, Planning Commission.

1. CALL TO ORDER

Bryan called the meeting to order at 7:00pm and led the Pledge of Allegiance to the Flag.

2. REVIEW & APPROVAL OF MINUTES

Ginnie moved to accept the minutes of July 14, 2010 as corrected. Jane seconded the motion. There was no discussion or public comment. The motion passed.

3. CHAIRMANS REPORT

A. Hershey's Mill Dam – Bryan reported that he received an email on July 15th from Sara Strassman of American Rivers on the possible sale of the dam by the Board of Supervisors. He also received an email on July 20th from a resident Dave Fevre, who was complaining about the smell from the dam and algae problem. Mike said that when the township drained the dam, there was a dust and order problem. Rick will forward this email to Rick Smith.

4. OLD BUSINESS

- A. Pennvest Grant – Jane is writing the grant which has to be completed by Friday, August 13, 2010.
- B. Tree Ordinance – The Board made a final review and agreed that everything was done. Bryan will notify Mark Gordon.
- C. Rain Garden – Ginnie has taken pictures of her rain garden and will write an article about it.

5. NEW BUSINESS

A. 2011 Budget – The Board reviewed the 2010 budget and amounts used so far. The Board will request the same budget totaling \$5,600.00 for 2011.

6. SUBDIVISION/LAND DEVELOPMENT/LANDSCAPE PLAN REVIEW

A. New Kent Apartments – Neil Fisher and Mike Malloy represented the applicant, the Hankin Group. Since the retail part of this development had a 70% vacancy, they want to demolish the retail buildings and replace with 2 apartment buildings providing an additional 24 units. The Board reviewed the Landscape Plan. Neil explained that porous pavement will be used on the down slop side of the parking lot between the buildings. They also use porous pavement in other parts of this community. Jane reminded them to be careful when sealing the parking lot. They want to enhance the entrance by increasing the width of the island to 10 feet. The plant list was reviewed but some of the amounts of the plants to be used were missing. He will bring it to next month's meeting.

7. BOARD MEMBER CONCERNS/COMMENTS

- A. Weeds Inc. - When Jane asked about payments to Weeds Inc. for the invasives they removed, Bryan showed her a recent report that contained some payments. Jane said the Reservoir Road Project is full of purple lustrife which has to be taken care of when it blooms. Bryan will contact Weeds Inc.
- B. Ginnie mentioned that Brian Lentz, who is running for the position that Joe Seztak held, will hold a meeting for the public to ask questions on Monday, August 16, 2010 at 7:00 p.m. at the Township Building.

8. **LIAISON REPORTS**

- A. Planning Commission – Sue reported that 2 sketch plans were presented – 1 from C. Weber to expand a house on Center St. and 2 from Angelini who wants to create flag lots and is offering an easement from Wineberry to Cornwallis to the Township for Emergency access only. Neighbors at the meeting are all protesting this. Ginnie received a call from one of the neighbors who says there is wetland where they are proposing this. Regal Arms Apartments are reworking their plan to put apartments on the Smith property on West Chester Pike.
- B. Historical Commission – Joe reported that July 22nd Town Tour was a success. About 150 people attended and there were 50 volunteers. Sandy volunteered and said they received lots of good feedback.
- C. Park & Recreation – Bob reported that the Board members and Jane Fava did a site walk in Applebrook before the Park Board's meeting last week. They decided to enlarge the meadow near the Pulte development and widen the mowed strip along the path to 2 widths of a mower. Christopher Moore gave a report on his Eagle Scout project. He installed mile markers in Applebrook.

9. **PUBLIC COMMENT**

None

10. **CORRESPONDENCE**

11. **ADJOURNMENT** - There being no further business, Scott made a motion to adjourn the meeting. Walter seconded the motion. There was no discussion or public comment. The motion passed. The meeting was adjourned at 8:30 p.m.

Respectfully submitted,

Ruth Kiefer
Recording Secretary

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Buckley, Brion, McGuire,
Morris & Sommer LLP
ATTORNEYS AT LAW

For Immediate Release
August 23, 2010

NEW REGULATIONS

CHAPTER 102 OF TITLE 25 OF THE PENNSYLVANIA CODE

The Pennsylvania Environmental Quality Board ("EQB") recently published new stormwater regulations. Those regulations will become effective this fall and will impose very significant limitations on development.

The new regulations (which will completely supplant existing Chapter 102 of Title 25 of the Pennsylvania Code) include provisions to:

- require riparian buffers for projects located within a special protection watershed, establish a presumption of anti-degradation when such buffers are provided and allow exceptions from such requirements;
- require consistency between erosion and sedimentation control plans and post-construction stormwater management plans, expand the universe of projects that will require NPDES permits and provide a roadmap for satisfying anti-degradation requirements in the planning and implementation of erosion and sedimentation control practices;
- increase permit application fees; and
- establish requirements for post-construction stormwater management planning and require that site-specific stormwater management obligations be memorialized in the deed record for that site and that the stormwater management design engineer be present on-site during construction of BMP's.

Riparian Buffers; Presumption of Anti-degradation; Exceptions.

In perhaps the most significant stormwater management regulation ever imposed in Pennsylvania, the EQB mandated riparian buffers within special protection watersheds and encouraged the use of such buffers in other watersheds. More than any other provision, the riparian buffer mandate will limit developers' actual ability to improve property and may dramatically impact yield, soft costs and site costs.

The scope of the requirement for riparian buffers depends upon whether the host special protection watershed is attaining its designated use. In those watersheds that are attaining that use, developers will be prohibited from conducting earth disturbance activities within 150 feet of a perennial or intermittent stream, creek, lake, pond or reservoir, measured from the top of each bank. In those watersheds that are not attaining their designated use, however, developers of properties that contain, are along or are within 150 feet of a perennial or intermittent stream, creek, lake, pond or reservoir will be required to:

- protect any existing forest riparian buffer; or
- convert an existing riparian buffer into a riparian forest buffer; or
- establish a new riparian forest buffer.

The new regulations include descriptions of what will constitute a riparian buffer and what will constitute a riparian forest buffer and what is required in each of the 2 zones that will comprise

the buffer. The new regulations also contain a requirement for written buffer management plans for all riparian buffers. Given the number of special protection watersheds in southeastern Pennsylvania, the impact of the riparian buffer mandate will be hardfelt in our region. The EQB, however, attempted to offset the impact of the new buffering mandate by formally establishing that the use of a riparian forest buffer satisfies the anti-degradation requirements applicable within special protection watersheds.

The new regulations include details about which activities are permitted and which activities are proscribed within a riparian buffer. Permitted activities include, for example, activities needed to protect and maintain the buffer, timber harvesting (subject to certain limitations), passive or low impact recreational activities, water obstructions and encroachments (when permitted by the Department of Environmental Protection) and roads, bridges, trails, storm drainage, utilities or other structures (when permitted by the Department). Proscribed activities include soil disturbance and draining by ditching, underdrains or other drainage systems. In any event, construction of occupied buildings, parking lots or other revenue producing structures within riparian buffers is prohibited.

Effective Dates.

The new regulations will be effective in mid-November. Post-construction stormwater management plans submitted after the effective date must comply with the new regulations. Moreover, except for riparian buffers, any post-construction stormwater management measures implemented under a NPDES Permit issued prior to the effective date of the new regulations but renewed *after* January 1, 2013 will need to comply with the new regulations. Where a NPDES Permit application was (or is) submitted prior to the effective date of the new regulations, that project will be exempt from the new buffer requirements.

Property owners, developers, and municipalities should consult with counsel, their environmental consultants and civil engineering professionals

about the impact these new regulations will have upon the design and implementation of pending or proposed development projects. Moreover, special attention must be given to these new requirements during the due diligence phase of any proposed land acquisition.

Erosion and Sedimentation Control.

The new regulations represent the first time that the Commonwealth codified a requirement for post-construction stormwater management planning, and accordingly, the new regulations require that ~~erosion and sedimentation control measures be~~ consistent with that planning.

The regulations also represent a change in the size of projects that will require permits. Existing regulations require a permit for earth disturbance activities between 1 acre and 5 acres if the developer makes use of a point source discharge. The new regulations, however, require permit coverage for any earth disturbance activities over 1 acre regardless of whether a point source discharge is used.

Additionally, for projects in special protection watersheds, the new regulations require that permittees first evaluate and include non-discharge alternatives and, if such alternatives don't exist, use ABACT (anti-degradation best available combination of technologies) as listed in the Commonwealth's *Erosion and Sedimentation Pollution Control Program Manual*, in order to meet Chapter 93's anti-degradation requirements.

Importantly, the Environmental Quality Board clarified that "non-discharge" in the context of stormwater management does not have its literal meaning. Rather, developers must recreate the natural pre-development hydrology of the 2-year / 24-hour storm and apply non-discharge alternatives (or ABACT) to any new runoff from that storm event.

Permit Fees.

The EQB substantially increased the permit costs. Those costs will include a base fee (\$500.00 for

coverage under the General Permit; \$1,500.00 for an Individual Permit) plus a per-disturbed-acre fee of \$100.00. By contrast, the current NPDES permitting fee is capped at \$500.00, regardless of whether an applicant seeks coverage under the General Permit or an Individual Permit and regardless of the size of a given project. The new regulations also allow Conservation Districts to charge additional fees (in fact, this is where developers spend most of their stormwater management permitting costs today).

Post-Construction Stormwater Management Planning.

Since 2002, developers seeking coverage under an Individual or General NPDES Permit were required to address post-construction stormwater management in order to satisfy requirements under Chapter 93 (for projects within special protection watersheds), to facilitate compliance with federal regulations and as a result of decisions by the Environmental Hearing Board. These requirements have been incorporated in the new regulations, and, as noted above, apply to all projects with greater than 1 acre of earth disturbance.

Individuals who prepare post-construction stormwater management plans will need to be “trained and experienced in [post-construction stormwater management] design methods and techniques applicable to the size and scope of the project being designed.” The EQB, however, left unanswered the question of who will make the determination of whether a given professional meets those qualifications. In any event, the qualification requirement goes hand-in-hand with the new mandate that “[a] licensed professional or a designee shall be present onsite and shall be responsible during critical stages of implementation of the approved” post-construction stormwater management plan.

The new regulations contain a list of the information that developers will need to provide, which includes (but is not limited to) “[a] long term operation and maintenance schedule . . . to ensure proper function and operation” of post-construction stormwater management BMP’s. Permittees are

now responsible for long-term operation and maintenance of those BMP’s and shall provide in a given property’s title history constructive notice of the presence of the BMP’s and the obligations associated with them.

The EQB did address redevelopment scenarios where a developer cannot design to the 20% meadow pre-development condition due to “existing site conditions [that] have a public health, safety or environmental limitation (*i.e.* sites with known environmental conditions). In those situations, and in a clear effort to encourage redevelopment, in lieu of designing to the 20% meadow conditions the developer will have the opportunity to demonstrate that it can use alternate designs so that stormwater volume reductions and water quality treatments will be “maximized to the extent practicable in order to maintain and protect existing water quality and existing and designated uses.”

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