

BUCKINGHAM TOWNSHIP

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Website - www.buckinghampa.org



BOARD OF SUPERVISORS BUSINESS MEETING

AGENDA

May 28, 2008

Call to Order 7:30 p.m.

1. Public Comment (Maximum 30 minutes)
2. Board's Announcements:
 - Various **Park and Recreation Programs** including Summer Camps begin this month. Go to our website at www.buckinghampa.org for details!
 - **Buckingham Township Civic Association Flea Market for Land Preservation**, Holicong Park, Sunday, June 8, 2008 from 8 a.m. to 2 p.m. (raindate Sunday, June 15, 2008).
 - Bucks County's **Household Hazardous Waste and Old Computer Collection** will be July 19, 2008 at the Middle Bucks Institute of Technology located at 2740 Old York Road.
 - Volunteers are needed year-round to sell tickets at various events for the 1957 White Thunderbird being raffled during the Annual Concours D'Elegance. Contact Al Pincus or Ralph Tompkins for information.
3. Consideration of approving the Payroll for the week ending May 25, 2008 and the Bill List for the meeting of May 28, 2008.
4. Consideration of approving Supervisor's Minutes of the April 23, 2008 Regular Business Meeting.
5. Consideration of approving Revised Final Major Subdivision Plan (plan dated "rev. 5/2/08") of the **"Estates at Forest Grove (Smith Pfeiffer) aka Mill Creek Ridge"**, Township File SA 2001-05B, submitted by Gilmore & Associates, Inc. on behalf of Toll Brothers, Inc., T.P. 6-23-1, 6-23-4, 6-23-13, 6-23-13-5, 6-23-14 & 6-23-17, Dark Hollow Road / Smith Road / Forest Grove Road, 183.1 Acres, 71 Lots, in the AG-1 Zoning District. Extended 90-day Review Period Expiration date June 30, 2008. (Note: Wastewater Planning Modules were approved by PA DEP 12/22/05.)
6. Consideration of accepting the **Agreement to Extend** the Land Development Contract to June 13, 2009 for the **"Wawa"** Land Development, Township File SA 99-05B & LD 99-04.
7. Consideration of accepting dedication of **"EMC Corporate Headquarters Expansion (aka Doylestown Acquisition LLC)**, Township File LD 2000-03.
8. Consideration of appointing Thomas Gilbert to the Agricultural Preservation Committee.

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9. ESCROW RELEASE:

Heritage Center, Township File SA 2001-02 & LD 2001-01	ER #16, Residential, Site	\$35,556.83 recommended for release
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10. Consideration of awarding the "Buttonwood Phase II" Bid to Couzins Inc., of North Wales, PA, in the total bid amount of \$106,100.00.
11. Additional Business / Manager's Items:
- Shooting Range Safety Concern

Buckingham Township Board of Supervisors
Meeting Minutes

The regular meeting of the Buckingham Township Board of Supervisors was held May 28, 2008 in the Township Building, 4613 Hughesian Drive, Buckingham, Pennsylvania.

Present:	Maggie Rash	Chairperson
	Jon Forest	Vice-Chairman
	Henry Rowan	Member
	Craig A. Smith, Esquire	Township Solicitor
	Dana S. Cozza	Acting Township Manager
	Daniel Gray	Township Engineer
	Lynn Bush	Bucks County Planning Commission
	Thomas Kelso	Township Water/Wastewater Consultant

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Mrs. Rash called the regular meeting to order at 7:30pm and led The Pledge of Allegiance.

PUBLIC COMMENT

Mr. George Michel, Pineville commented that the term green is often misused, however noted that what was being done with the preservation fund was truly green and sustainable. Mr. Michel asked if there had been further movement on a committee to address sustainability and green efforts in the Township. Mr. Rowan responded that there had not been further efforts but that he felt the staff should look seriously at the issue. Mrs. Rash reported that the Environmental Advisory Commission (EAC) had sent an e-mail regarding grants available and that she would follow-up. Mr. Michel noted that he had seen an article about Buckingham providing zoning for wind energy to which Mr. Forest responded that the Township did have an ordinance for residential wind turbines.

Mr. Ed DeSchamps noted that his house had a solar orientation.

BOARD'S ANNOUNCEMENTS

Mrs. Rash announced the following items:

- Various **Park and Recreation Programs** including Summer Camps begin this month. Go to our website at www.buckinghampa.org for details!
- **Buckingham Township Civic Association Flea Market for Land Preservation**, Holicong Park, Sunday, June 8, 2008 from 8 a.m. to 2 p.m. (raindate Sunday, June 15, 2008).
- Bucks County's **Household Hazardous Waste and Old Computer Collection** will be July 19, 2008 at the Middle Bucks Institute of Technology located at 2740 Old York Road.
- Volunteers are needed year-round to sell tickets at various events for the 1957 White Thunderbird being raffled during the Annual Concours D'Elegance. Contact Al Pincus or Ralph Tompkins for information.

PAYROLL AND BILL LIST

Consideration of approving the Payroll for the week ending May 25, 2008 and the Bill List for the meeting of May 28, 2008.

Mrs. Rash made a motion, seconded by Mr. Forest to approve payroll for the week ending May 25, 2008 and the Bill List for the meeting of May 28, 2008 in the amount of \$473,171.19. Mr. Forest noted that he would vote on everything except bills submitted by McCormick & Taylor. The motion carried unanimously.

MINUTES

Consideration of approving Supervisor's Minutes of the April 23, 2008 Regular Business Meeting.

Mrs. Rash made a motion, seconded by Mr. Forest to approve the minutes of the April 23, 2008 Regular Business meeting. The motion carried unanimously.

BUSINESS

1. Consideration of approving Revised Final Major Subdivision Plan (plan dated "rev. 5/2/08") of the "Estates at Forest Grove (Smith Pfeiffer) aka Mill Creek Ridge", Township File SA 2001-05B, submitted by Gilmore & Associates, Inc. on behalf of Toll Brothers, Inc., T.P. 6-23-1, 6-23-4, 6-23-13, 6-23-13-5, 6-23-14 & 6-23-17, Dark Hollow Road / Smith Road / Forest Grove Road, 183.1 Acres, 71 Lots, in the AG-1 Zoning District. Extended 90-day Review Period Expiration date June 30, 2008. (Note: Wastewater Planning Modules were approved by PA DEP 12/22/05.)

Representing the applicant was Mr. Steve Harris, Attorney. Mr. Harris explained that they had not had an opportunity to review the most recent Knight Engineering review and therefore were not ready to have action taken on the plan; however they had two issues that they wished to discuss. Mr. Harris explained that a condition of preliminary approval was that no construction traffic would enter onto Smith Road. Now that the entrance onto Forest Grove Road was to be removed, Mr. Harris asked where the Board wanted to site the construction entrance and whether the Board wanted to use that area for emergency access and if so what materials would be used for the access road. Mr. Gray commented that he felt Forest Grove Road was better able to handle traffic from construction activities.

Mr. Matt Hockley commented that he agreed Forest Grove was a better construction entrance.

Mr. George Michel, Pineville, expressed concern that the construction entrance on Forest Grove Road would put more trucks on the Wycombe Bridge. He felt if the construction entrance were located higher on Smith Road it would promote the use of Swamp Road for trucks rather than going through Wycombe.

Ms. Bush asked what needed to be done to create a construction entrance onto Forest Grove Road. Mr. Harris responded that they would need to construct a road sufficient to handle construction traffic. He noted that the work would have to be done anyway if there was to be an emergency access. After discussion, consensus was for a construction entrance onto Forest Grove Road and at the completion of construction the entrance would be converted to the emergency access with grass pavers. Mr. Rowan suggested that there would be no right turns for those exiting the development. Mr. Harris asked about the limits of the bridge. Ms. Cozza responded that there was a traffic study that indicated that there should be no trucks on the bridge but no ordinance had been enacted. Ms. Cozza reported that there was a draft of an ordinance that she would provide to the Board members. Mr. Tom Imperato, Toll Brothers Project Manager, commented that they had influence over the contractors regarding trucks utilizing the bridge.

Mr. Ed DeSchamps noted that there were signs at Upper Mountain Road restricting trucks and it did not keep them off of there. Mr. Imperato offered to look into the situation.

No action was taken on “Estates at Forest Grove (Smith Pfeiffer) aka Mill Creek Ridge”, Township File SA 2001-05B.

2. Consideration of accepting the Agreement to Extend the Land Development Contract to June 13, 2009 for the “Wawa” Land Development, Township File SA 99-05B & LD 99-04.

Mrs. Rash made a motion, seconded by Mr. Forest to accept the Agreement to Extend the Land Development Contract to June 13, 2009 for the “Wawa” Land Development, Township File SA 99-05B & LD 99-04.

Mr. John Long, Pineville, asked about the status of construction at WaWa. Mr. Gray provided an updated and said they expected to be done with the majority of improvements within three to four weeks.

The motion carried unanimously.

3. Consideration of accepting dedication of “EMC Corporate Headquarters Expansion (aka Doylestown Acquisition LLC), Township File LD 2000-03.

Tabled.

4. Consideration of appointing Thomas Gilbert to the Agricultural Preservation Committee.

Mrs. Rash made a motion, seconded by Mr. Rowan to appoint Mr. Thomas Gilbert to the Agricultural Preservation Committee. The motion carried unanimously.

Mr. George Michel, Pineville, commented that Mr. Gilbert would be a major asset to the Township.

RELEASE OF FUNDS

ESCROW RELEASE

Heritage Center, Township File SA 2001-02 & LD 2001-01	ER #16, Residential, Site	\$35,556.83 recommended for release
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Mrs. Rash made a motion, seconded by Mr. Rowan to approve the escrow release to Heritage Center, Township File SA 2001-02 & LD 2001-01 in the amount of \$35,556.83. The motion carried unanimously.

ADDITIONAL BUSINESS / MANAGER'S ITEMS

1. Consideration of awarding the "Buttonwood Phase II" Bid to Couzins Inc., of North Wales, PA, in the total bid amount of \$106,100.00.

Mrs. Rash made a motion, seconded by Mr. Forest to award the "Buttonwood Phase II" Bid to Couzins Inc. of North Wales, PA in the total amount of \$106,100.00. Mr. Kelso provided a review of the project noting that 12 bids were submitted. The motion carried with Mr. Rowan abstaining.

2. Shooting Range Safety Concern

The following public comments were made:

Mr. Rich Harbert, Dark Hollow Road, read a petition summarizing concerns about safety at the Wicen shooting range and presented it to Ms. Cozza. Mr. Harbert recommended using the Bucks County Fish & Game shooting range as a template. Mr. Harbert stressed the importance of having safety measures in place that correct for human errors. Mr. Harbert expressed concern about the proximity of Dark Hollow Park and the people who use that park.

Mr. Kevin Las asked why Fish & Game uses the baffles. Mr. Harbert responded that the range is located at the bottom of a quarry and at one point in time they found a spent round on the grounds of the youth detention center adjoining and elevated from the quarry and so put in the metal baffles to stop the bullets escaping the range. Mr. Harbert described the construction of the baffles.

Mr. Larry Lunak (member at Bucks County Fish & Game shooting range) showed the Board photographs of the protective measures at Bucks County Fish & Game and provided an explanation about how they work. Mr. Forest asked who designed this facility. No one in attendance knew the answer.

Mrs. Rash asked if the group had brought a written request or recommendation with changes they thought would make the Wicen range safer. Mr. Harbert responded that they were providing the template of the County Fish & Game shooting range.

Mr. Lunak commented that he did not feel there was any way for a bullet to leave the County facility. He noted that when people were on the creek, there was no shooting until the area was cleared. He did not feel the Wicen property had those safety measures in place.

Mr. Marvin Brown, Furlong, commented that the operation of a shooting range poses safety issues and that it was incumbent on the operator to demonstrate to the surrounding community and Township that the design does not pose a risk to citizens. Mr. Brown commented that he felt the Township should require the range to obtain the services of a consulting engineer with expertise in shooting range safety to evaluate the safety of the range and make recommendations for safety. Mr. Brown felt that if the owners did not agree to such an inspection, then the Township should shut down the facility immediately. He added that if the laws did not exist to allow such action, then the laws should be changed. Mr. Brown warned of civil and criminal liability if someone were to be injured or killed. Mr. Brown reported that he had found one consulting engineering firm, C. Vargus located in Florida who could perform an evaluation at a cost of \$7,500. Mr. Forest noted that he too had found and had spoken to Mr. Clark with C. Vargus and that Mr. Clark would forward a contract that he used in Connecticut for a similar inspection. Mr. Forest noted that Mr. Clark was not certified as an engineer in Pennsylvania.

Mrs. Rash reported that the National Rifle Association (NRA) had conducted a study of the Wicen range after the incident in February and that Ms. Cozza had been working with the NRA to obtain a copy of the report. Ms. Cozza learned that the NRA could not release a report without the permission of the range owner and they could not tell her if the report was complete. The report would contain information about the safety of the range, whether it was operating properly and would make suggestions for safety improvement. Ms. Cozza asked Solicitor Smith to contact the Wicen attorney to ask for permission to get a copy of the report. Mr. Smith reported that the Wicen attorney was in the hospital and another attorney was working to get permission.

Ms. Jane Brown asked why the Wicens would be reluctant to release the information to which Mrs. Rash responded that no one said they were, but their attorney was in the hospital and it was creating a delay.

Mrs. Rash added that in addition to the NRA report, State Representative Bernie O'Neil was trying to enlist a neutral party to do an inspection and Mr. Rowan was meeting with Larry Glick from Representative Patrick Murphy's office on Tuesday morning.

Mr. Kevin Las asked if the Township had the jurisdiction to enforce or recommend or enact into law the enforcement of recommendations made by an inspector. Solicitor Smith responded that the Township had no present authority to shut down the range. Moreover, without agreement or an administrative search warrant, the Township could not enter the property to make an inspection.

Mrs. Rash commented that everyone was moving to the worst case scenario when there was no reason to think that the Wicens would not cooperate.

Mr. David Knipe, Dark Hollow Road, commented that in 1984 a bullet went through his barn and almost killed his daughter. He encountered difficulty trying to work directly with the owners

and ended up going to court where a stipulation was agreed to. Mr. Knipe reported that he did not believe the conditions of the stipulations were lived up to by the Wicens. Mr. Knipe further reported that to his knowledge in 2003 and 2004 the Township gave permission for the Wicens to have a military show where they shot canons and machine guns. Mr. Knipe ended up back in court with the Wicens. Further safety measures were taken and Mr. Knipe felt the range was much safer now than in 1984 but there were still safety issues. He noted that pistols were supposed to be limited to the left hand side of the right hand berm. Mr. Knipe felt the range had to address the possibility of human error. Mr. Knipe commented that the Township did have police powers with the responsibility to protect citizens. Solicitor Smith responded that the Township could not enter the property without probable cause that a crime was being committed or a warrant.

Mr. Rowan reinforced that there has been no pushback from the Wicens other than that they want the safest range also and noted that he would prefer to avoid the lawsuit route.

Mr. Marvin Brown noted that the ordinance requires certificates, etc. and asked if the Township had that paperwork on file for the Wicen range. Solicitor Smith explained that under the zoning ordinance people who have a prior nonconforming use are entitled to continue that use and the Township could not, through zoning, prohibit specific already existing businesses.

Mr. Las asked if safety concerns were addressed in zoning to which Solicitor Smith responded that he did not think zoning could be used to enforce safety at a pre-existing business.

Mr. Marvin Brown commented that the Township did have the right to change the zoning. Solicitor Smith explained that even if the zoning were changed and did not allow a specific use anymore, the shooting range could still legally exist as a nonconforming use. Mr. Brown asked if the Township could set standards for the operation of gun ranges within its borders to which Mrs. Rash responded they could and that was why Mr. Rowan was working with Larry Glick.

Mr. Rowan summarized that the problem with zoning was that there were almost no standards other than the NRA standards. The zoning right now dictates that the range must comply with NRA standards. If the Township did not use specific standards in the ordinance then the courts would say the standards were arbitrary and capricious. Mr. Rowan added that the range inspector with C. Vargus was not licensed in Pennsylvania which could be a problem if this went to court.

Mr. Kevin Las asked how the Board would act if people had been killed. Solicitor Smith explained that higher and different levels of government would be involved in that situation including the police. He explained that the Board members did not have expertise in gun ranges and would only enact legislation after having been advised by experts in the area. Mr. Smith again recommended that the quickest solution would be approaching the Wicens and working cooperatively rather than going through the courts.

Mr. Marvin Brown commented that the Township needed to get the NRA report and it needed to be made public. The Board agreed and said that if the Township gets the report the public will see it.

Mr. Harbert asked what would happen if the zoning was not being followed. Solicitor Smith explained that the zoning officer would issue a violation and then the property owner would have 30 days to appeal to the Zoning Hearing Board. Once the Zoning Board ruled, any dissatisfied party would then have 30 days to appeal to the Court of Common Pleas. After that any party could appeal to Commonwealth Court. Mr. Rowan reiterated that the zoning does not apply to them because they are grandfathered in as a pre-existing use.

Mr. Kevin Las commented that public safety should supersede grandfathered status. Solicitor Smith responded that the Township does have some authority to deal with health and safety issues when they are not preempted by a higher level government and it was possible for the Township to put in appropriate regulations.

Ms. Lynn Hovagimyan asked when the zoning passed. Mr. Rowan responded that the zoning ordinance was created in 1952 but it did not address the shooting range until 2005. Ms. Hovagimyan asked when the direction of shooting changed (out toward the neighborhood). Ms. Jane Brown asked what kind of guns were being shot in 1923 and recommended that perhaps the grandfather status should apply only to that type of use.

Ms. Dawn Wright asked if the Wicens had received the NRA report to which Mrs. Rash responded she did not know.

Mr. David Knipe, Dark Hollow Road, asked if the Township could enact a ban on high powered rifles until the NRA report was received. Solicitor Smith explained that legislation must have a rational basis and the Township would need to study the appropriateness of such legislation. Mr. Knipe suggested setting a two week limit to get the NRA report. Mr. Rowan commented that cutting out high powered rifles would not improve safety.

Mr. Las asked if Solicitor Smith could go to the Wicen attorney and ask them to not allow high powered rifles until the issues were resolved.

Mrs. Brown commented that if she were the owner she would be so upset and concerned that she would be doing everything in her power to make sure nothing would happen and would voluntarily retract the use of those high powered weapons.

Mr. David Knipe commented that he was impressed with the work of the Supervisors and felt they were moving quickly and agreed there would be a quicker solution through cooperation and negotiation than if the situation went to court.

Mrs. Rash acknowledged that the legal system did not seem rational because people had to wait so long for protection. Mrs. Rash added that in saying that she was not casting aspersions on the Wicens.

Mr. Harbert commented that he had been unable to talk to the Wicens. Mrs. Rash responded that under the circumstances they needed to talk through their attorney.

Mr. John Shaw, Macclesfield Road, asked if the Wicens or their representative was present. Mrs. Rash explained that this was an agenda item for the neighbors to advise the Board of their concerns and was not an invitation to the Wicens to come in and talk.

Mr. Roy Harbert asked if the recent safety improvements were a result of the NRA recommendations.

Ms. Connie Herman expressed concern that the Board had an interest in preserving a portion of the Wicen property and that interest might impact the Board's response to the matter. Mrs. Rash assured residents that no one would put land preservation ahead of safety. Ms. Herman commented that she felt there was not a sense of urgency because bullets were not coming at Board members.

Mr. Harbert asked Mr. Knipe if there was an NRA report in 2004 to which Mr. Knipe responded there was not.

Mr. Knipe asked what the Township would do if the NRA report shows that the range is generally safe. Mr. Rowan suggested that it could lead to a battle in the courts.

Mr. Las noted that the military did safety inspections of shooting ranges. Mr. Brown responded that it was only for military ranges.

Mr. Las asked if the Board could advocate for State level legislation. Mrs. Rash responded that residents could do that themselves by contacting State Representative Bernie O'Neill.

Mr. Marvin Brown, suggested that the Board ask Solicitor Smith to approach the Wicen attorney and request that the Wicens voluntarily submit to those provisions of the zoning ordinance that address safety concerns. Board consensus was to authorize Solicitor Smith to ask the Wicen attorney if they would voluntarily follow the zoning ordinance.

Mr. Ed DeSchamps commented that up until late 1960's or early 1970's residents could still hunt in Buckingham with a 50 caliber rifle.

Mrs. Rash summarized that the Board was going to pursue independent experts with State Representative O'Neill and Congressman Murphy and authorize Solicitor Smith to open a dialogue with the Wicen attorney. Mr. Harbert will be the point person with which the Township will communicate information. The issue would be back on the agenda when there was something substantive to report.

3. Highway Occupancy Permit (HOP) Applications for Bonargo Subdivision

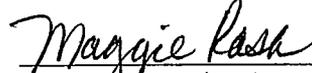
Mrs. Rash made a motion, seconded by Mr. Rowan to authorize the Township Manager to authorize PennDOT to review the Highway Occupancy Permit applications for the Bonargo subdivision (Township File SA 2008-02) upon receipt of a favorable recommendation from the Township engineer. The motion carried unanimously.

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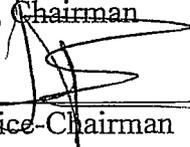
Mrs. Rash made a motion, seconded by Mr. Rowan to adjourn the meeting at 9:42pm. The motion carried unanimously.

Approved by the Board of Supervisors on the 25th day of June, 2008.

Buckingham Township Board of Supervisors



Maggie Rash, Chairman



Jon Forest, Vice-Chairman

Henry Rowan, Member

Attest: 

Dana S. Cozza, Secretary

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