

BUCKINGHAM TOWNSHIP

P.O. Box 413, Buckingham, Pennsylvania 18912
 Phone (215) 794-8834 • Fax (215) 794-8837

Website - www.buckinghampa.org



**BOARD OF SUPERVISORS
 BUSINESS MEETING**

AGENDA

April 8, 2009

Call to Order 7:30 p.m.

1. Public Comment (Maximum 30 minutes)
2. Board's Announcements:
 - **Family Fun Night** with John Hadfield doing *Monkeys in the House* at Buckingham Friends School on April 17, 2009 at 7:00 p.m. Free tickets are available at the township building.
 - **Township Yard Waste Collection Program.** Free bags are available at the township building from March 23-April 9 for pick up to begin on April 13th.
 - **Keep Buckingham Beautiful** – April 25 & 26, from 8 a.m. to 4 p.m. Bring your household trash to the Township Maintenance building located at 4991 Upper Mountain Road.
 - **Annual Plant Swap**, April 25th at the Maintenance Garage from 8 a.m. to 1 p.m., presented by the Park and Recreation Commission.
 - Bucks County's **Household Hazardous Waste and Old Computer Collection** will be July 18, 2009 at the Middle Bucks Institute of Technology located at 2740 Old York Road.
3. Consideration of approving Payroll for the week ending March 29, 2009 and the Bill List for the meeting of April 8, 2009.
4. Consideration of approving Supervisor's Minutes of the March 25, 2009 Regular Business Meeting.
5. Consideration of accepting various Departmental Minutes and Advisory Body Minutes.
6. PUBLIC HEARING: Consideration of approving Ordinance 2009-02, an Ordinance of the Township of Buckingham, Bucks County, Pennsylvania, Establishing Loitering and Residential Restrictions for Registered Adult Sexual Violent Offenders within the Township, Providing for Penalties for Violations of such Loitering or Residential Restrictions and Establishing an Effective Date.
7. Consideration of accepting the **Request for Extension** to the allowable review time under the provisions of the PA Municipalities Planning Code to September 9, 2009, submitted by G. Windsor Tracy on behalf of Frank and Diana Ramsden, for the Preliminary/Final Plan of Minor Subdivision, "**Ramsden Subdivision**", Township File SA 2009-01.
 OR
 Consideration of approving Preliminary/Final Plan of Minor Subdivision (plan dated 1/9/09) of the "**Ramsden Subdivision**", Township File SA 2009-01, submitted by G. Windsor Tracy, Engineer on behalf of Frank and Diana Ramsden, T.P. 6-18-144, Durham Road, 14.831 acres, 2 lots, in the AG-1 Zoning District, with a 90-day review period expiration date of May 5, 2009.

609198

BOARD OF SUPERVISORS
REGULAR MEETING
APRIL 8, 2009
PAGE 2

8. Consideration of accepting the Agreement to Extend the Land Development Contract and Tripartite Escrow Agreement to April 26, 2010 from Larry Rankin of Covenant Presbyterian Church of Mechanicsville, Inc. for **“Covenant Presbyterian Church of Mechanicsville, Inc., Phase I”**, Township File LD 2001-02A.
9. Consideration of accepting the Agreement to Extend the Land Development Contract, Water Service Agreement, Sanitary Sewer Development Agreement and Tripartite Escrow Agreements to April 26, 2010 from Richard Carroll of Heritage Center, L.P. for **“Heritage Center – Office Park (Lot No. 1),** Township File SA 2001-02 & LD 2001-01.
10. Consideration of accepting the Agreement to Extend the Residential Development Contract, Water Service Agreement, Sanitary Sewer Development Agreement and Tripartite Escrow Agreements to April 26, 2010 from Richard Carroll of Heritage Center, L.P. for **“Heritage Center – Apartment / Multi-Family Dwelling Unit No’s. 1-200 (Lot No’s. 2, 3 and 4),** Township File SA 2001-02 & LD 2001-01.
11. Consideration of awarding the **2009-2010 Fuel Bid** to Sunoco Inc. of Aston, PA, through the Bucks County Consortium.
12. Additional Business / Manager’s Items

Buckingham Township Board of Supervisors
Meeting Minutes

The regular meeting of the Buckingham Township Board of Supervisors was held April 8, 2009 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	Township Manager
	Daniel Gray	Township Engineer
	Thomas Kelso	Township Water/Wastewater Consultant

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

PUBLIC COMMENT

Ms. Amy Marles, French Drive, Doylestown, asked the Board to consider adopting a nuisance ordinance similar to one adopted by Newtown, Doylestown and Warrington to remedy problems (noise and smoke) residents were facing with all terrain vehicles (ATVs). She presented the Board with a folder of information and made the following recommendations: a 6:00pm cut-off time for use of ATVs, operation limited to beyond 50 feet of adjoining properties, ATVs should be restricted from properties smaller than two acres, at the least there should be no more than one ATV allowed on a property less than two acres. Ms. Cozza accepted the packet.

Mr. Mark Marles, French Drive, Doylestown, echoed his wife's comments, recommended using the Doylestown ordinance as a model and added that there were also problems with erosion.

Ms. Lisa Macdowell, 4557 French Drive, expressed support for the nuisance ordinance.

Mr. Brett Kissel, 4561 French Drive, expressed support for the nuisance ordinance noting that the ATV noise was too loud for a residential neighborhood.

Mr. John Richards, 4713 Hampton Drive, said he was disappointed that a vote was taken on the Cold Spring Creamery roundabout when the item was not on the agenda. Mr. Richards said pressure was put on the Supervisors and asked if the pressure from the "angry mob" made the Board vote down the roundabout after hundreds of thousands of dollars had been spent studying the roundabout. Mr. Forest responded that the roundabout was discussed at the March 11, 2009 meeting (when he was not present) and Mr. Rowan wanted to vote on it that night and the minutes reflected that Mrs. Rash thought it would be best for all of the Supervisors to be present for the vote. Mr. Rowan stated that he had an indication on March 11 that Mrs. Rash may be considering changing her vote and if that was the case, Mr. Rowan said that there should be a vote. Mr. Rowan read from the March 11, 2009 minutes. Mr. Rowan said that he did not think that the decision to have the whole Board present to have a vote translated into having a vote at the next meeting. Mr. Richards noted that neighbors of the roundabout who were opposed to the roundabout were there. Mr. Rowan said that the procedure was hideous.

Mr. Paul Martissa, Hampton Drive, read a statement regarding transparency of government. He expressed concern about the passing of the bond issue at a special meeting of the Board and

609198

allowing a vote on a non agenda item (roundabout). Mr. Martissa expressed concern about the Board being influenced by an “angry mob.” Mr. Martissa requested that the Board pass an ordinance that prohibited the Board of Supervisors from taking a vote at anything other than a biweekly meeting.

Ms. Debbie Guerino, Whitmore Street, noted that the video quality of the meetings was poor and asked if it was being addressed. Mrs. Rash responded that it was being addressed. Mr. Forest explained that at the next Technical Committee meeting they would be discussing the video and considering the purchase of another camera of higher quality.

Ms. Alyssa Nace, Hampton Drive commented that items should not be voted on without being placed on the agenda. Ms. Nace noted that not a single person stopped at the (Burnt House and Cold Spring Creamery) intersection and asked if the Board would reopen discussions if it was determined that the intersection was not working.

Mr. Harry Veni, Bridlewood II, said it was not a surprise meeting. He explained that Sam Losorelli organized the roundabout neighbors and he prepared the information, some of it presented that night and some in prior years. Mr. Veni questioned if the roundabout was a surprise vote, then why were many supporters of the roundabout there to speak in its favor. Janet French, Glynnis Tihansky, and Lori Rosolowsky had prepared speeches to support the roundabout. Regarding the “angry mob” comments, Mr. Veni explained that the roundabout neighbors had been trying to get their opposition to the Roundabout across for years and weren’t being listened to. He spoke of other intersections, without pedestrian traffic and deserving of a roundabout because of serious vehicle accident concerns. Mr. Veni noted that when the roundabout was originally approved, he had spoke to Henry about it because he had information he wanted to present before the vote. Henry told Mr. Veni it wasn’t going to be voted upon for a month; so Mr. Veni went away on vacation. Upon his return, Mr. Veni found out it had been voted on. About cars not stopping, Mr. Veni reported that he watched the intersection for two days and saw everybody stopping. He added that there had been a beneficial effect at Cold Spring Creamery Road and Route 413 because wait time had been reduced at the traffic light.

Mr. John Roessinger, Watson Drive asked for an update on the Verizon contract. Solicitor Smith responded that they were close to having the Verizon contract signed. He noted that the main outstanding issue had been making sure the entire Township was covered. Mr. Forest noted that Verizon had changed attorneys, which delayed the process.

Ms. Colleen Veni reiterated her husband, Harry’s comments and reported that the stop signs were working.

BOARD’S ANNOUNCEMENTS

Mrs. Rash made the following announcements:

- **Family Fun Night** with John Hadfield doing *Monkeys in the House* at Buckingham Friends School on April 17, 2009 at 7:00 p.m. Free tickets are available at the township building.

- **Township Yard Waste Collection Program.** Free bags are available at the township building from March 23-April 9 for pick up to begin on April 13th.
- **Keep Buckingham Beautiful** – April 25 & 26, from 8 a.m. to 4 p.m. Bring your household trash to the Township Maintenance building located at 4991 Upper Mountain Road.
- **Annual Plant Swap**, April 25th at the Maintenance Garage from 8 a.m. to 1 p.m., presented by the Park and Recreation Commission.
- Bucks County's **Household Hazardous Waste and Old Computer Collection** will be July 18, 2009 at the Middle Bucks Institute of Technology located at 2740 Old York Road.
- Mrs. Rash announced that the volunteer fire companies were in need of new members.

PAYROLL AND BILL LIST

Consideration of approving Payroll for the week ending March 29, 2009 and the Bill List for the meeting of April 8, 2009.

Mrs. Rash made a motion, seconded by Mr. Forest to approve Payroll for the week ending March 29, 2009 and the Bill List for the meeting of April 8, 2009 in the amount of \$273,936.95. The motion carried with Mrs. Rash and Mr. Forest voting aye and Mr. Rowan voting nay.

MINUTES

Consideration of approving Supervisor's Minutes of the March 25, 2009 Regular Business Meeting.

Mrs. Rash made a motion, seconded by Mr. Forest to table consideration of the Supervisor's Minutes of the March 25, 2009 Regular Business Meeting. The motion carried unanimously.

Mr. Rowan questioned the status of the March 11, 2009 meeting minutes. Mrs. Rash responded that they were approved at the March 25, 2009 meeting. Mr. Rowan commented that he thought that people who were not at the meeting shouldn't vote on the minutes and Mr. Forest had not attended the March 11, 2009 meeting. Regarding the March 11, 2009 discussion about roundabouts, Mr. Rowan wanted to clarify that the Township had hired a Doylestown Engineering firm, VanCleeef, to run the informational meeting and a consultant from Smart Mobility in Vermont, was also in attendance. Mrs. Rash asked whether Mr. Rowan wanted to reopen the minutes to incorporate Mr. Rowan's changes. Mr. Smith said that the majority of the Board could vote to approve the minutes and could also vote to reopen the minutes. Mr. Forest said he had no problem with reopening the minutes because Mr. Rowan was not there for the business meeting. Mr. Smith said that if Mr. Rowan would like to amend the minutes he could make a motion to reopen the minutes and the Board could discuss any revisions. Mr. Rowan said he did not believe the minutes needed to be amended as they accurately reflected what was said at the meeting, but he wanted to make people aware that it was a local engineering firm that handled the public meeting.

Consideration of accepting various Departmental Minutes and Advisory Body Minutes.

Mrs. Rash made a motion, seconded by Mr. Forest to accept the various Departmental Minutes and Advisory Body Minutes. The motion carried unanimously.

BUSINESS

1. PUBLIC HEARING: Consideration of approving Ordinance 2009-02, an Ordinance of the Township of Buckingham, Bucks County, Pennsylvania, Establishing Loitering and Residential Restrictions for Registered Adult Sexual Violent Offenders within the Township, Providing for Penalties for Violations of such Loitering or Residential Restrictions and Establishing an Effective Date.

The hearing was opened at 8:10pm.

Solicitor Smith provided an overview of the draft ordinance. The ordinance would not allow registered sex offenders under Megan's Law to live within 2500 feet of certain facilities where children tend to congregate. Solicitor Smith noted that the ordinance proposed was similar to what had been adopted by many, if not most, municipalities in Bucks County. He noted that none of the municipalities in Bucks County had a protection radius greater than the 2500 ft in the proposed ordinance and some used a lesser radius. Solicitor Smith noted that the question had been asked about completely prohibiting offenders from living in the Township and he explained that an ordinance with total exclusivity would likely not survive a legal challenge. He cited a recent case in Allegheny County that struck down a 2500 ft ordinance. He noted that the Township was trying to take the most aggressive stand it could to protect those areas where children congregate, while still having a law that was defensible and enforceable.

Mr. Rowan recited that on January 28, 2009 Mrs. Rash announced that Mr. Haberkern, who had run for Township Supervisor, had passed away. She noted that he had felt strongly about enacting a sex offender ordinance and she too wanted the Board to pursue this issue.

Mr. Forest commented that he had recommended a sex offender residency restriction ordinance three years ago when he was elected and was told by Mr. Rowan and Mr. Stepnoski, then the Township Manager, that it was unconstitutional and could not be pursued.

Mr. Rowan continued saying Mrs. Rash asked Solicitor Smith to draft an ordinance at the January meeting. Mr. Rowan noted that he felt adoption of such an ordinance required substantial thought and consideration. Mr. Rowan explained that Solicitor Smith drafted an ordinance modeled from Bensalem Township. In mid February Mr. Forest moved to advertise the ordinance. At that time Mr. Rowan suggested that a map be drawn so the Board and the public could see the impact of the ordinance. The overlay map was drawn and two changes were made: 1) to include loitering language 2) to include facilities outside of the Township borders as part of the 2500 ft. limits. Mr. Rowan offered his opinion that he did not believe the ordinance protected children and felt that boundaries should be drawn around where children live rather than facilities where groups of children congregate.

Discussion followed about minutes being taken at work sessions. Mrs. Rash asked Ms. Cozza to find someone to take formal minutes for work sessions.

The following public comments were made:

Mr. Michael Hierl urged meeting participants to be civil, respectful of each other, and to listen quietly to and consider everyone's opinion.

Mr. John Roessinger, Watson Drive, asked what defines where children congregate. Solicitor Smith explained that the definitions, including schools, parks, etc. were set forth in the draft ordinance. Mr. Roessinger asked if cul-de-sacs would be included because children congregate there. He noted that the cul-de-sac in his neighborhood was not in a protected area. Mr. Roessinger referred to the Verizon contract where the Township had been working to ensure that every resident would have service available. He asked why it was not a priority in this ordinance to provide protection to all children. Solicitor Smith explained that all residents would get notice under State law if an offender moved nearby. Mr. Smith noted that the State Probation Office enforces much of what is proposed in the ordinance on their own. Mr. Roessinger observed that with the proposed ordinance there were only about five places in the Township an offender could live. Solicitor Smith explained that he had advised the Board that if they made the Ordinance such that no sex offenders could live anywhere in the Township, then the entire ordinance would likely be declared invalid and then there would be no protection for any children in the Township. Mr. Roessinger advocated for increasing the radius of the protection area, not worrying whether it was legal and seeing if it were challenged.

Mr. John Boyle asked if the intent was to vote on the ordinance that evening. Mrs. Rash responded it was. Mr. Boyle noted that he had not received any mail about this ordinance and he lived in the 5% of the Township that was not protected. Mr. Boyle asked the Board to table the ordinance to provide adequate time for discussion. Mr. Boyle asked who developed the overlay. Mrs. Rash explained that the overlay was not part of the ordinance but was a visual aid developed by Township staff and posted at the request of Mr. Rowan. Ms. Cozza explained how the map was created. Mr. Boyle asked when the Board made the decision to use 2,500 feet, how sure they were about the number, and whether it could be increased. Solicitor Smith responded that 2,500 feet was the practical maximum that had been used in like ordinances throughout the United States and even that number has been found too great. He noted that in Bucks County 2,500 feet was the maximum that had been adopted in any municipality and he advised the Board should not go past that number if they want an ordinance that had a chance to stand up to challenge. Mr. Boyle said he works for a municipality in Bucks County and that he had a copy of an e-mail that had gone out from the Township that day that asked about other municipalities' ordinances including the size of the radius. Mrs. Cozza replied that she had sent an e-mail to members of the Bucks County consortium for the purpose of information gathering. Mr. Boyle asked for more consideration for the residents who were not covered and how it would affect property values.

Mrs. Rash noted that property values had not been negatively affected compared to surrounding Townships because there was no ordinance presently in place and no Buckingham residences were currently covered. Mr. Rowan referenced a 2006 study from the National Bureau of Economic

Board of Supervisors
Minutes of Regular Business Meeting – April 8, 2009
Page 6 of 13

Indicators that showed a 4% drop in property value if a sexual predator lived in your neighborhood. Mr. Rowan reiterated that he felt by protecting some people the Township was creating sexual predator zones and those safe zones would have an increased likelihood of having sexual predators move into them.

Ms. Michelle Schopf, Watson Drive, commented that it felt like some people in the Township were being given more priority than others. She recommended having the Township buy the Toll-Feeney tract and turn it into a park and thereby provide more protection.

Donna Gerbosi-DiFulvio, Ursulus Way, noted that Mr. Boyle's home was not protected and her home was protected. However she noted that most homes did not have fences and it was easy for people to be on and off properties. She noted that an open farm field was covered, but not places in neighborhoods where children live. Ms. Gerbosi-DiFulvio asked how bus stops were being protected. She noted that only kindergarten and first graders were required to have parents waiting at a bus stop. She added that her bus driver allowed her son to get off the bus unattended. She asked if renters were included to which Solicitor Smith said they were. Solicitor Smith explained that under Megan's law if a registered sex offender moves into a neighborhood, the neighbors would be notified. He explained that the Probation Department enforces the 2,500 ft. rule. Solicitor Smith advised that residents could go to the Megan's Law web site to see where sex offenders live. Discussion followed about bus safety issues. Ms. Gerbosi-DiFulvio asked the Board not to vote on this ordinance that evening.

Mr. John Myers, Robin Road, voiced that a Megan's law offender would not be welcome on his street regardless of what law was passed. Mr. Myers supported increasing the 2,500 ft. radius and going to court if necessary.

Mr. Joel Nace Hampton Drive, noted that there were multiple references to sexual offenders, sexual predators and sexual violent predators used interchangeably in the ordinance. Mr. Nace noted that in Pennsylvania Megan's Law differentiates between the sexual predators and the sexual violent predators. Solicitor Smith explained that this ordinance specifically refers to Megan's Law and the registered offenders. Solicitor Smith explained that part of the problem with these ordinances (and it was a problem in Allegheny County) was that the courts were saying that if municipalities are trying to protect minors, they need to craft ordinances that specify residential restrictions just for sexual offenders who were guilty of a crime against minors. Solicitor Smith explained that this ordinance covers all sexual offenders who were required to register. Mr. Nace noted that the name of the ordinance included the word violent, which was a separate designation. Mr. Nace suggested that the ordinance should prohibit registered sex offenders from working in the restricted areas as well. Mr. Nace expressed support for the protection of bus stops and/or places where children live. He suggested that the size of the radius might be able to be reduced if using bus stops or homes as the criteria. Mr. Forest expressed support for inclusion of bus stops and maintaining the 2,500 foot radius. Mr. Rowan expressed support for Mr. Nace's recommendation noting that in the case of Megan, the predator lived across the street. Discussion followed about not being able to blanket the Township and the reality that those not covered would come forward. Mr. Nace expressed concern that there was not adequate communication with residents about consideration of this law. Mr. Nace felt that he had been targeted. Mrs. Rash

responded that no one was targeted and that she thought it was beneficial that all these issues were being discussed. Mr. Nace threw his research documents at the Board stating he had been targeted.

Ms. Janine Coopernaut, Pheasant Lane, commented that her home, as well as many other homes with children, were near an unprotected area. Mr. Rowan reminded everyone that there were no protected areas but instead the blue circles (representing the 2500 foot radius from places where children congregate) showed where predators could not live.

Ms. Yanina Pascual, 55 N. Deer Run Road, commented that she had fifth and seventh grade boys who regularly rode their bikes unsupervised in the neighborhood. Ms. Pascual expressed concern that if this ordinance passed, her children would have to stay in the back yard since their neighborhood had one of the few places where sexual predators would be able to live in the Township. She noted that there were many children in her neighborhood. Ms. Pascual expressed support for protection of bus stops noting that even older children were at risk because they are outside in the dark for many months of the year.

Mr. Keith Dambrosio, 5686 N. Deer Run Road, expressed support for protection of bus stops noting that under the current ordinance a sexual predator could be living in a house with a bus stop on the front lawn. As written, Mr. Dambrosio felt it would be better to not have the ordinance.

Mr. John Schwartz, N. Deer Run Road, pointed out that the ordinance protected areas like open farm fields that do not have children. He suggested using census data to determine where children live. He noted that there were probably over 100 children in the Hunter's Run neighborhood. He noted that if a park had been placed in the neighborhood, they would be covered. Mr. Schwartz felt the ordinance should avoid targeting small pockets where predators could live. Mrs. Rash asked if there were enough bus stops. The neighbors responded that there were many. Ms. Virginia Howard noted there were at least five bus stops in the loop in her neighborhood. Ms. Pascual noted that three of those were currently in the white zone. Ms. Michelle Schopf noted that private bus stops would need to be considered as well.

Mr. Rowan commented that ordinances could not be arbitrary and that he was concerned that drawing circles was arbitrary. Mr. Rowan felt the issue had to be intelligently considered in light of what the ordinance accomplishes, the goal of protecting children. In approaching it in that manner Mr. Rowan expressed his opinion that the ordinance would become less arbitrary and more defensible. He suggested that the ordinance could specify that no sexual offender could live within 1000 ft of a residence with a child.

Ms. Jennifer Loving, Village Lane, commented that there was currently a sexual predator across the street from her house on Village Lane who was in court now and would be pleading guilty in May. Ms. Loving asked how the ordinance would affect someone who currently lived in the Township. Solicitor Smith explained that a registered offender currently living in the Township could not be asked to move after the ordinance was passed; however, a person who committed a crime after the ordinance was passed (or who was convicted of a crime) would not be able to return to their home if it were within 2500 feet of a designated place where children congregate. Ms. Loving expressed support for protection of bus stops. Mrs. Rash asked if Ms. Loving would recommend passing the ordinance and then amending it later. Ms. Loving did support passing it

quickly. Mr. Forest commented that people had been calling the police department to see if the Township had a sexual predator ordinance, which they currently did not. Multiple persons in the audience expressed concern that if passed those predators would move into their neighborhoods.

Ms. Sandy Fay, N. Deer Run Road, noted that she lived in an unprotected area and expressed support for protection of bus stops. Ms. Fay asked if the ordinance were passed and a predator moved into one of the designated areas, whether there would be any restrictions on where that person could go. Solicitor Smith explained that the restriction was on residence and loitering, not on travel. Ms. Fay commented that she would like to see the ordinance prevent sexual predators from working in the Township.

Ms. Mary Schwartz, N. Deer Run Road, shared that she had spoken with her children about the proposed ordinance and its potential implications and that her children were petrified that the ordinance would allow a sexual predator to move into their neighborhood. Ms. Schwartz felt the ordinance told predators, "You can move here."

Mr. Paul Martissa, Hampton Drive commented that there were a number of options to consider and suggested tabling the vote to allow time to go back and run through computations on homes that contain children and/or consider bus stops. Mr. Martissa felt that while the advertising was done properly based on State laws, this was a significant ordinance that deserved headlines in the newspaper. Mr. Martissa said the ordinance was on the Township web site by Thursday (March 26) but felt more time was needed for such an important issue. Discussion followed about the time frame to consider some of the suggestions, rewrite the ordinance and advertise. Consensus was that a revised ordinance could be ready for consideration in 4-6 weeks as long as the information could be obtained from the school district in a timely manner. Mr. Martissa suggested using a grid system to determine safe zones. Solicitor Smith explained that under existing case law and the theories that were currently being used to attack these ordinances, if the only places not covered were vacant farm fields with no structures, then the ordinance would likely be challenged. Mr. Martissa suggested it was better than total exclusion. Mr. Martissa complained that he lived in a bulls-eye. Mr. Martissa asked how the overlay map would be used. Solicitor Smith explained that the ordinance would have to be applied on a case by case basis as was done with the Probation Department. Solicitor Smith noted that map was not part of the ordinance but was just a visual aid to help the public interpret the ordinance. Mr. Martissa asked for some specifics about the incest part of the ordinance, which were explained by Solicitor Smith.

Ms. Michelle Schopf commented that home schooled children should be covered.

Ms. Janine Hoobernaught commented that research has shown that sexual offenders cannot be cured.

Ms. Alyssa Nace, Hampton Drive, noted that the residents have come up with good ideas and expressed concern that the Board had not done so on their own. Ms. Nace urged the Board to further discuss the issue and return.

Solicitor Smith noted that the law that was struck down in Allegheny County was based on the legal theory of preemption, where the Township was not allowed to pass an ordinance concerning

an area where the state had already passed laws. Mr. Rowan urged constituents to contact their State representatives about the issue.

Mr. John Kozlowski, Village Lane, asked how the proposed legislation would affect someone about to plead guilty to child pornography charges. Solicitor Smith explained that the Township currently had no prohibition on where sexual predators could live and if no ordinance was passed, then there would still be no prohibition. Solicitor Smith explained that if there were an ordinance, its implementation would depend on the sentence and whether the person was classified as someone who needed to register. If the person had to register as a sex offender, then they would not be able to move back to their home (if it were in a protected zone). Mr. Kozlowski asked when the vote would take place if not that evening. Mrs. Rash felt that realistically the vote would not take place before May 13, 2009. Mr. Kozlowski asked when amendments would be added if the ordinance were voted on that evening. Mr. Rowan did not suggest going that route because he felt an ordinance that was adopted and then amended in a short time period could appear haphazard and have a harder time being held up in court. Mrs. Rash asked Solicitor Smith if that were accurate. Solicitor Smith stated that in evaluating an ordinance's constitutionality, courts are not supposed to look at the history of the adoption of the law but just whether the law on its face was constitutional.

Mr. Michael Hierl commented that he and Mr. Haberkern could not have been further apart politically. But that in working with Mr. Haberkern on the land preservation bond issue he came to know Mr. Haberkern. Mr. Hierl was confident that Mr. Haberkern would say it was time to pass this ordinance. He thought Mr. Haberkern would acknowledge that the ordinance could not protect every house but it was trying to protect places where children congregate and the ordinances are upheld when they include places where children congregate. Mr. Hierl noted that right now no one in Buckingham had protection, but people in other towns were protected. Mr. Hierl felt that Solicitor Smith was trying to give the Township an ordinance that could withstand a challenge and Mr. Haberkern would support that action.

Ms. Susan Sciacca, Antler Drive, commented that the ordinance would pit neighborhood against neighborhood. Solicitor Smith provided Ms. Sciacca with a copy of the Allegheny case. Solicitor Smith explained that the courts determined that the Probation and Parole Department dealt with sexual offender issues and so the Allegheny County ordinance was preempted by State law and therefore was invalid. Ms. Sciacca noted that until Harrisburg passed an enabling statute to allow these ordinances to exist there would continue to be problems.

Mr. Rowan summarized his view that the proposed ordinance was protecting facilities and not children. He argued that children in school are better supervised than children in most cul-de-sacs. Mr. Rowan supported legislation that would keep sexual offenders away from where children live by a specified distance and it would be done on a case by case basis. Discussion followed about whether the ordinance would lead to total exclusivity.

Mr. Forest suggested that adult probation would take care of implementation. Ms. Cozza noted that the Township gets calls to see where predators can live in the township and it might be difficult to answer with such an ordinance. Solicitor Smith advised that he would need to look at

the Allegheny decision. Solicitor Smith commented that there could be different size protection areas based on the location (home, bus stop, school, etc.).

Ms. Alyssa Nace noted that Georgia and Texas did not allow grandfathering and asked if Buckingham would consider not allowing grandfathering. Solicitor Smith responded that an ordinance that required people to pack up and leave their homes would not be likely to be upheld in Pennsylvania. Ms. Nace asked if changes could be made to the ordinance and then be voted upon that evening. Solicitor Smith responded that it could not be because any substantial change would need to be readvertised. Ms. Nace then expressed support for tabling.

Ms. Jennifer McGeisic, Antler Drive, asked what would happen if the ordinance were deemed unconstitutional. Solicitor Smith responded that it would go away, the Township would be back to where it is now with no school protected, no park protected, no neighborhood protected, and registered sexual offenders able live anywhere in the Township. Ms. McGeisic questioned why the Township would not move forward with a more restrictive ordinance even if it was unconstitutional. Solicitor Smith replied that the Township would incur litigation costs it may not want to incur and explained that lawyers did not advise legislative bodies to do things that were unconstitutional. Ms. McGeisic expressed support for the idea of different size radii. Ms. McGeisic expressed support for tabling.

Mr. Rowan noted that if the ordinance passed, then it was likely that a resident in an unprotected area would file for a day care center and then there would be total exclusion.

Mrs. Rash summarized that the Board was going to look at bus stops, cul-de-sacs, and protection of children in homes. Mr. Rowan agreed to e-mail a draft ordinance regarding protection of children in homes. Mrs. Rash urged everyone to share with each other the information they have found and thanked the residents for attending the meeting and sharing their thoughts and ideas.

Mr. Rowan asked why the churches were included in the proposed ordinance. Ms. Cozza explained that each one included day care. Mr. Rowan questioned the definition of open space and whether private open space was covered. Mr. Rowan asked why the Ridings open space was included. Solicitor Smith explained that the open space had to be accessible to the public and noted that open space open to a homeowners' association is accessible to the public and would be included.

Consensus was to discuss the proposed ordinance at the next work session. Ms. Cozza was given direction to start a database for resident e-mails for improved communication. Discussion followed about redoing the web site and communication with residents. The consensus was that for this issue neighborhood leads would be utilized to contact all neighbors. Ms. Cozza will coordinate.

Ms. Cheri Cosentino, Duke Drive, noted that she lived in a white (unprotected) area and had no idea the ordinance was being considered except for the flyer. Mrs. Rash agreed that even though the Township did what was legally required by advertising in the newspaper, and went beyond that by posting the proposed ordinance and map on the Township website, that more could be done to make the notice even more effective.

Mrs. Rash made a motion, seconded by Mr. Forest to table consideration of Ordinance 2009-02, an Ordinance of the Township of Buckingham, Bucks County, Pennsylvania, Establishing Loitering and Residential Restrictions for Registered Adult Sexual Violent Offenders within the Township, Providing for Penalties for Violations of such Loitering or Residential Restrictions and Establishing an Effective Date. The motion carried unanimously.

The hearing was closed at 10:50pm.

- 2. Consideration of accepting the Request for Extension to the allowable review time under the provisions of the PA Municipalities Planning Code to September 9, 2009, submitted by G. Windsor Tracy on behalf of Frank and Diana Ramsden, for the Preliminary/Final Plan of Minor Subdivision, "Ramsden Subdivision", Township File SA 2009-01.**

Ms. Rash made a motion, seconded by Mr. Rowan to accept the Request for Extension to the allowable review time under the provisions of the PA Municipalities Planning Code to September 9, 2009, submitted by G. Windsor Tracy on behalf of Frank and Diana Ramsden, for the Preliminary/Final Plan of Minor Subdivision, "Ramsden Subdivision", Township File SA 2009-01. The motion carried unanimously.

- 3. Consideration of accepting the Agreement to Extend the Land Development Contract and Tripartite Escrow Agreement to April 26, 2010 from Larry Rankin of Covenant Presbyterian Church of Mechanicsville, Inc. for "Covenant Presbyterian Church of Mechanicsville, Inc., Phase I", Township File LD 2001-02A.**

Mrs. Rash made a motion, seconded by Mr. Rowan to accept the Agreement to Extend the Land Development Contract and Tripartite Escrow Agreement to April 26, 2010 from Larry Rankin of Covenant Presbyterian Church of Mechanicsville, Inc. for "Covenant Presbyterian Church of Mechanicsville, Inc., Phase I", Township File LD 2001-02A. The motion carried unanimously.

- 4. Consideration of accepting the Agreement to Extend the Land Development Contract, Water Service Agreement, Sanitary Sewer Development Agreement and Tripartite Escrow Agreements to April 26, 2010 from Richard Carroll of Heritage Center, L.P. for "Heritage Center – Office Park (Lot No. 1), Township File SA 2001-02 & LD 2001-01.**

Mrs. Rash made a motion, seconded by Mr. Forest to accept the Agreement to Extend the Land Development Contract, Water Service Agreement, Sanitary Sewer Development Agreement and Tripartite Escrow Agreements to April 26, 2010 from Richard Carroll of Heritage Center, L.P. for "Heritage Center – Office Park (Lot No. 1), Township File SA 2001-02 & LD 2001-01.

5. Consideration of accepting the Agreement to Extend the Residential Development Contract, Water Service Agreement, Sanitary Sewer Development Agreement and Tripartite Escrow Agreements to April 26, 2010 from Richard Carroll of Heritage Center, L.P. for “Heritage Center – Apartment / Multi-Family Dwelling Unit No’s. 1-200 (Lot No’s. 2, 3 and 4), Township File SA 2001-02 & LD 2001-01.

Mrs. Rash made a motion, seconded by Mr. Forest to accept the Agreement to Extend the Residential Development Contract, Water Service Agreement, Sanitary Sewer Development Agreement and Tripartite Escrow Agreements to April 26, 2010 from Richard Carroll of Heritage Center, L.P. for “Heritage Center – Apartment / Multi-Family Dwelling Unit No’s. 1-200 (Lot No’s. 2, 3 and 4), Township File SA 2001-02 & LD 2001-01.

Mr. Forest asked about the bankruptcy of Heritage Center Multi-Family dwelling units. Mr. Kelso noted that the Township was still holding \$500,000 to \$600,000 in escrow. Mr. Hierl asked if their bankruptcy might give the Township vulnerability. Solicitor Smith responded that it was possible that the court could recapture the holding and share it with other creditors. Ms. Cozza reported that the Township has not received notice. Solicitor Smith advised that the Township ought to hire bankruptcy counsel. He advised that even if the Township opted to pull the escrow, the bankruptcy courts could order the money to be given back, even if it was pulled as much as 90 days prior to bankruptcy filing.

Mr. George Michel asked if the Township would want to put out some legal message that the Township wanted to be represented even if they did not vote to hire counsel. Solicitor Smith explained that Heritage Center would have to file a statement of claim at the time of the bankruptcy filing and they would have to submit a list of creditors. At some time the Township would be formally notified. Solicitor Smith noted that the Township should be a preferred creditor. Mr. Michel asked if there was a link between the Furlong water problems and Heritage. Solicitor Smith responded that they were part of the problem. Solicitor Smith explained that accepting the extension would only preserve the Township’s rights.

The motion carried unanimously.

6. Consideration of awarding the 2009-2010 Fuel Bid to Sunoco Inc. of Aston, PA, through the Bucks County Consortium.

Mr. Forest made a motion, seconded by Mrs. Rash to award the 2009-2010 Fuel Bid to Sunoco Inc. of Aston, PA, through the Bucks County Consortium.

Mr. Forest provided an overview of the prices. Mr. Michel asked if the Township was getting a fixed price for a year. Ms. Cozza explained that the price would fluctuate based on the OPIS Philadelphia mean. She noted that contract ensured reliable delivery. Mr. Michel noted that now was a good time to be locking fuel prices and asked if there were any other options. Mrs. Rash reported that none of the bidders offered a fixed price and that Sunoco Inc. offered the lowest delivery prices at the time.

The motion carried unanimously.

ADDITIONAL BUSINESS / MANAGER'S ITEMS

1. Plans for proposal to preserve Histand Property

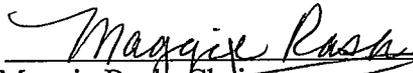
The Board reviewed plans for the Histand Property.

The Board adjourned to executive session at 11:07pm to discuss real estate.

Mrs. Rash made a motion, seconded by Mr. Rowan to adjourn the meeting at 11:20pm. The motion carried unanimously.

Approved by the Board of Supervisors on the 22nd day of April, 2009.

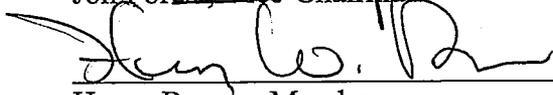
Buckingham Township Board of Supervisors



Maggie Rash, Chairman



Jon Forest, Vice-Chairman



Henry Rowan, Member

Attest: 

Dana S. Cozza, Secretary

609198