

Mount Joy Borough Planning Commission

June 12, 2019 Minutes



The June 12, 2019, Planning Commission meeting was called to order at 7:00 PM, by Vice Chairperson Wendy Sweigart. Commissioners Miller, Deering, Rebman and Gault were present. The Mount Joy Borough Zoning Officer, Stacie Gibbs and the Borough Manager, Samuel Sulkosky were present. Brad Stewart community planner with the Lancaster County Planning Commission was also present.

MINUTES

On a motion by Deering and a second by Miller, the April 10, 2019, minutes were approved with corrections. *Motion carried 5-0.*

PUBLIC COMMENT

Gary Schatz, 1090 W. Main Street, advised that the modifications to the basin that are being discussed tonight are next to his garage. He advised that they have already taken a huge financial hit from an overflow of the basin once. He advised that he wants the Planning Commission to make sure that this thing is done the way it is supposed to be. Schatz advised that they still do not have the infiltration report which is being kept from them. He advised that means a lot as to how they look at things and he would like to make sure this thing does not get steam rolled through and that it gets looked at very closely. Schatz advised the next improvements will be the final improvements and will be the end of this whole thing.

Bruce Haigh, Whittemore and Haigh Engineering, Engineer for Mr. and Mrs. Schatz advised that the Borough Engineer is going to present a plan for the modifications of the basin. Haigh advised they are an applicant. It is his understanding that after they present the plans, there is not going to be any review. No third-party independent review. He advised about a year ago he asked for Pink Alley calculations and he was told he could not have those because the hydro report is confidential and is a trade secret. Haigh advised that there is a lot in the design calculations, and he does not totally agree with ARRO. He is strictly talking about the 500 year.

He advised that Mike Bingham with ARRO was not here 25 years ago. Mr. Haigh began to provide his opinion on this matter. He advised the basin has been studied three different times, and the Borough has reviewed the calculations three different times in 1993, 2008 and 2009. None of those calculations were adequate. In 1999 ARRO reviewed the Melhorn Trucking basin and that basin overflows into the regional basin. The reason why it does is because it was improperly calculated, and they included part of the drainage in the basin calculations that was on the Wilton Armetele property. In 2010 it was looked at again and it was inadequate. He advised that the Borough Solicitor tried twice to make an easement for that and neither one of the easements is adequate. He advised if Charter Homes was in front of the Borough and said here are my calculations, and no engineering review letter is necessary, the Planning Commission which is an independent body would never accept them. Haigh advised that he looked at the Ordinance today and there are possibly 14 different items in that ordinance that would require a waiver. Or, the Borough Engineer can't prove that they meet the ordinance requirements because there are no as-built drawings. There are no construction drawings, inspections, or specifications. We have no idea what that berm consists of. Haigh advised they were told in December the berm sunk a foot. He advised the berm did not sink a foot. It was never built right. Haigh advised that there is a pipe out there that was installed 25 years ago, and we do not know if it is watertight.

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Haigh advised that his comments are based strictly upon what has been presented to him by ARRO and the Public Works Commission in response to his questions and it goes back to the April design. He advised if the plan has changed since then, he does not know. Haigh advised the Commission should change the motion before them and give a 30-day comment period because people have been flooded. He advised the Schatz's suffered and lost over \$250,000.00 in damages.

Haigh advised this has been an extremely difficult design because the Planning Commission was told back in 1994, Haigh began to read minutes from a Planning Commission meeting held in 1994. Haigh advised that DC Gohn told the Borough the flow through the pipe was 17.2 cubic feet per second. Haigh advised it took the Borough Manager hounding AMTRAK before they finally came out and pulled off the pipe extensions and found out that the pipe under the railroad tracks is a 12" x 12" box laid in stone. He advised that the flow through that pipe is about 6 cubic feet per second. Haigh advised Bingham has had to try to design to a pipe that has flow of 6 cubic feet per second, when he has a 100-year storm coming to the basin. Haigh advised that is not easy. He said what has happened now, is that the flow out of the basin is down to about 2 ½ cubic feet per second and now there may be problem with mosquitoes in the basin.

Haigh advised this plan needs an independent review of the calculations to try and make sure the design is done right and it is the best design. He said the outlet that was shown in April is a 4" pipe which is an orifice. Haigh is concerned it will get plugged quickly. He said he is not trying to criticize Bingham because it is a very difficult job to do this design. Haigh advised this will not delay anything. He said they can still send this to the Lancaster County Conservation District. Haigh advised we have already lost the entire construction season, and this will not get built until next Spring. He said the basin does not hold anything but the 2-year storm. Haigh advised that we do not know if there are anti-seep collars or what the gaskets are in the concrete pipe are. Or, what the embankment material is. Haigh advised there are a lot of questions that someone really needs to ask. Haigh further advised that he has prepared a resolution for the Commission that changes the motion they have and would be glad to give it to them. He advised this plan needs to have more than just a stamp and seal on it, and Bingham is assuming a lot of risk.

Ned Sterling, 13 W. Main Street, thanked the Borough Manager for placing the Parking Study on the website. Sterling questioned if the Planning Commission reviewed the study and discussed it. The Commission was provided a copy via email. Sulkosky advised that the study was a recommendation and Council took no action on the study. Gibbs advised there were comments received from Commission members and were forwarded to Council. Deering advised it will ultimately go back to the Public Safety Committee where it originated from. Gibbs asked the Commission if they would like to discuss the parking study formally on their agenda for July. The Commission will email Gibbs if there are any agenda items to add on the July agenda.

Sterling advised that he reviewed the code officers report and did not see any permits for the mill for the work they are doing. Gibbs advised they have a permit and it was on her May report. Gibbs advised they are moving their loading operation and enclosing the process to minimize dust and noise.

Sterling advised the Planning Commission might want to consider a small amendment to the historic preservation because now that the Borough has purchased the property next door. If the Borough would want to demolish it, the Borough would be reviewing their own demolition permit.

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Gibbs advised the Solicitor will provide instructions and advice on what steps we would have to take, if any since we are the owner. Gault asked if there is an actual review for demolition. Gibbs advised there is a waiting period only for potential historic structures if it was built before a certain date. Gibbs further advised the property next door is on the actual Borough Historic Registry and believes a conditional use process must be followed. Gault understood Sterling's point that the Borough would be its own applicant. Sulkosky advised that the Solicitor has been consulted thus far on the property. Sweigart asked if there is a plan for demolition. Sulkosky advised there is no plan at this time. At that time, the Borough would seek Solicitor advice. Sulkosky advised there has been some talk of reforming the Borough building Ad-Hoc Committee since some employees that were on the committee are no longer with the Borough.

Brad Stewart announced that James Cowey is retiring at the end of June and his position has been advertised. Four candidates will be interviewed and hopefully they will have a replacement sometime at the end of summer.

Brad Stewart also announced that Dave Salley is the Borough's representative on the Borough's Initiative. Stewart advised the initiative is an organization representing all Boroughs in the County and assisting Boroughs in any way they can. The Lancaster County Economic Development Company, the Lancaster County Housing and Redevelopment Authority and the LCPC are all part of this initiative.

UPDATES

The Planning Commission was provided a copy of the Zoning and Code Officer report by email.

Gibbs advised Mount Joy Borough Staff, LCPC staff and Project Managers with Rettew conducted a Complete Streets Implementation Guide kick-off meeting. Gibbs reminded the Commission the Borough was awarded funding through the Smart Growth Transportation Fund. Gibbs advised Michael Baker will be the project lead on the Complete Streets Guide with Fred Jones as the Complete Streets technical lead. Staff is looking forward to working with Michael Baker's Urban Design Studio and their Harrisburg Traffic Group.

Josh Deering advised that he is all for grants and doing these types of things. But considering the direction Council is leaning towards as it relates to the sidewalk ordinance is concerning as it relates to this funding. Deering is concerned that we will be spending a lot of someone's money to do a study that is basically going to get shelved. Complete Streets takes sidewalks into the equation. Gibbs advised when you complete a street it does not necessarily mean sidewalks would be installed. Gibbs advised that Council has been provided with educational material over the last year as it relates to complete streets. Gibbs further advised that she had the kick-off meeting on her report and announced it at a Council meeting. Sulkosky advised Council was also provided with a copy of the minutes from that kick-off meeting. Gibbs advised that Council was informed staff was moving forward and staff was not directed to disengage and not accept the funding to create a Complete Street Guide.

Gault advised the concept of a complete street is to accommodate all users on all streets, and that can take different forms and does not necessarily mean a sidewalk on every street or a bike lane on every street. Gault advised it provides a safe place for all users. Gault advised that this could

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potentially help guide the Borough on how to deal with the sidewalk issue. Gault agreed with Deering given the make-up of Council it is probably a waste of money to do anything that is forward looking. Deering does not think it is going to go anywhere. Stewart advised the Borough should have a steering committee that would look over whatever is produced by Michael Baker. They would give constant feedback. Gibbs advised Juli from Rettew informed staff that Michael Baker will be putting together a proposal and a meeting will take place. Stewart advised that if there are concerns there would be a benefit to have folks from Council review and have discussions about it before it goes to a public meeting.

Sweigart asked if staff could provide an update on the train station project. Sulkosky advised completion should be mid-September 2019.

OLD BUSINESS

None.

NEW BUSINESS

Mike Bingham, with ARRO Engineering advised that he wanted to address some previous comments that were made. Mike advised this plan is going for a NPDES Permit and we have to submit to the County and the State. Therefore, Bingham advised that will be the third-party review. Bingham advised that the older plans were approved back in 1999 and 2004 were done under a previous ordinance which was much less restrictive than what is currently in place. Act 167 Ordinance updates were not in place until 2014. Bingham advised the concern with the 4" orifice is not a valid concern and is fairly common to have a 4" dewater orifice low in the basin. If it ever clogged, Bingham advised there are operation and maintenance notes that would require it to be cleaned off. If it does clog, there is an overflow that will prohibit the basin from failing. The basin is being designed to dewater within 72 hours so there will be no issues with mosquitoes.

Bingham advised he does not appreciate the fact that Mr. Haigh has been spreading the seeds of doubt with respect to his work and ARRO's work. Bingham advised that if he puts his seal on it, he truly believes the design meets the intent and the requirements of the Ordinance and will function as it is supposed to.

Bingham advised that on August 31, 2018, the basin flooded, everywhere flooded. Bingham advised they were asked to go take a look at it and in doing so, they have identified several problems. Bingham advised the volume within the basin is not what was per original design. There was an overflow in the northwest corner of the basin, a pipe going through the basin which was defeating the purpose and actually letting water out. It was lower than what the top of the berm was. The berm was not to the height it was supposed to be. Bingham advised they went in and put in a slight slop of 1/2%, increased the berm height, allowed for the orifice for a slower dewater and also designed it so that the bottom of the basin is lower than what it is currently. Sweigart asked if anything has been done to date. Bingham advised nothing has been done to date. Bingham advised the basin currently will flood in the 10-year storm. Bingham advised what they are proposing will prohibit it from flooding in a 100-year storm. In a 100-year storm it will still be a foot below the neighboring property floor elevation. The contours are all surveyed contours done by a registered surveyor. Bingham advised they have not used any Pennsylvania Spatial Data Access (PASDA) for any topography. Bingham advised that one of the things they have been accused of is using PASDA instead of a surveyor. They have had accurate topography put in and have not used PASDA for any of the design.

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Bingham advised they are increasing the capacity of the basin by 115,000 cubic feet. They are decreasing the discharge of the basin from 45.95 cubic feet per second to 2.96 cubic feet per second. In the 100-year flood, the basin elevation will be 383.2', the nearest property finished floor elevation is 384.49'. Bingham advised what they are asking for is a motion to recommend moving forward towards acquiring the NPDES permit so they can make these changes before the next flooding event.

Gibbs asked Bingham if he could explain what changes, if any, were done to this plan compared to the draft completed in April. Bingham advised once the plans are finalized and ready for submission the date on the plan will be updated, and the plan will be finalized. Bingham advised they do not anticipate the plan changing drastically in any way.

Gault asked if the flooding in August 2018, was a result of the basin design or a result of too much water trying to get to the small pipe under the tracks. Bingham advised both were the problem. Bingham advised that was a 1000-year storm event and it was going to flood. Gault advised one of his concerns is he does not care what the ordinance says in terms of rainfall. Gault said to design for 10 inches of rain in 10 hours. Gault said that is the kind of storm we are seeing over and over again. Bingham advised this basin design would not function in a 1000-year storm event. It is not possible nor feasible. Gault asked when this basin flooded before. Bingham advised the basin flooded before in Tropical Storm Lee. Gault advised that was a 500-year storm. Gault advised that we are trying to retrofit the basin and we are not actually designing it for the times it flooded. Gault advised we are saying the basin is undersized even though it has never flooded in the storm that we are still designing it to achieve. Bingham advised if any developer comes in, we only have the leverage to require him/her to design to the 100-year storm. Gault advised we have people that are impacted because their property was flooded, and they are hoping that what we do to fix it will prevent that from ever happening again. Gault said the realty is it's not. Gault advised it is not because Bingham is not designing it right. Gault advised that the realty is the world is changing and there are patterns and climatology data only goes back so far and the cycles of the earth are different now. Bingham advised he does not disagree. Gault advised he does not want anyone to have the expectation that this is going to solve everything, and if it doesn't it is not because it was not designed right.

Bingham agreed 100% and advised we can design this exactly correct and in 6 months we could have 1000-year storm event and it will flood. Bingham advised that we know it currently does not meet current design standards and they are trying to make it so it does. Gault advised he is trying to make a point that the times there has been flooding, the retrofit is not necessarily going to prevent future flooding for those types of events. Gault advised we are not even thinking of what realty is and it is not a reflection of anyone here. Gault further advised that Bingham mentioned reducing the flow which will hold back and release slower which will reduce how much is going to hit that pipe. Gault asked if there was any water that does not come from the basin that is getting to that pipe. Bingham advised there is bypass and they have reduced that as much as they can and tried to accommodate for more in the basin to prohibit that from being an issue. Gault asked if what is being proposed is maximizing what can be done. Gault asked if there is anything else that can be done in this area more than what is being proposed. Bingham advised that it is not feasible. Bingham advised they could possibly go with a higher berm but then it may become a structural issue.

Gault advised that one of the other comments we heard is about who is reviewing it. Gault then advised that it is his opinion if a developer is coming in for recommendation or approval, the reason we hire the Borough's Engineer is to review what the developer does because their engineer is

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working in the best interest of the developer and not the best interest of the Borough. In this instance, the Engineer should be working in the best interest of the Borough. Gault advised it does not make sense for the Borough to hire two Engineers and go back and forth. Gault advised if someone did an independent review, he does not see why the information would not be shared with all and made available. Sulkosky advised that pre-decisional documentation was not shared as described in the Right-To-Know Law. Gault advised he does not care what the Right-To-Know Law says, he is just saying what is the right thing to do. Gault advised that Sulkosky can legally deny it but, is it the right thing to do. Bingham advised that every time they shared something with Mr. Haigh, they have received an 11-page letter responding why he does not believe what they are doing is correct. Bingham advised it is costing the taxpayers a lot of money to go back and forth. Bingham advised at the end of the day his interest is the Borough. Gault advised no one should just “nitpick” but come up with a different design then if the proposed design is not agreed upon. But there might not be a better way to design it and we have to work within the constraints we have.

Sweigart advised there seemed to be a concern about the review process. Bingham advised because we are over an acre of earth moving disturbance, we have to have an NPDES Permit. They are looking at both stormwater and erosion and sedimentation plans to make sure everything meets the pre and post reductions. They also look at calculations and make sure that standard engineering practices are being used. Bingham advised it will then probably go to the County for review as well. Sweigart asked if they actually come out and inspect. Bingham advised there will be a preconstruction meeting and they will identify the stages in which they will need to come out and inspect.

Deering advised that another reason that this was flooding in his opinion was the culvert under the railroad was partially clogged and not allowing flow through. Deering confirmed that the berm of the spillway is 384.5. Bingham concurred.

Gault advised he observed the parking spaces for Gus’s restaurant on the plan in the basin. Gault advised at that point we were told the basin was oversized and we did not need that capacity. Gault advised that is what he remembers. Rebman believes that is correct. Gault is trying to figure out where the calculations went wrong. Bingham advised they tried to figure that out for a long time. Gault asked if there was a stormwater analysis done for that parking. Gibbs was not sure if there was any done for that particular addition of parking. Deering asked if we could take those parking spots. Bingham advised the Borough would have to consult with their Solicitor regarding what is in that agreement. Gault advised before we say that this is the right plan, he would like to know what the terms of that lease are. Gault advised if we were told the basin was oversized and therefore granted approval for the additional parking in the basin, and now we know that information was incorrect, what were the terms under which that was approved. Bingham advised it would not really matter because we are capturing the 100-year storm with the proposed design. Gault advised he knows the ordinance requires design to the 100-year storm but if it did not capture the 500-year storm why would we not design to capture more. Deering advised by removing the parking spots it would reduce the sheet flow coming off the parking lot. Bingham advised that is true it would reduce some impervious and increase some volume but would not change the bypass flow. Gault asked if the bypass flow is what is creating more of the flooding. Bingham advised we have gotten as much as we can into the basin without infringing on other properties. Bingham advised the basin is dewatering at 2 and some change cubic feet per second to reduce that anymore would not make much difference with respect to that culvert.

Sulkosky advised the Borough has applied for two different grants to pay for this. Sulkosky advised that if we start to design to a 500-year storm we probably would not receive any funding.

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Gault asked if the Borough does not get funding will the project still go through. Sulkosky advised that is Council's decision. Gault questioned if there has been any discussions on acquiring additional property to increase the size of the basin understanding the impacts on the neighboring properties

Deering noticed a lot of trash that accumulates in the area of the existing pipe that is to be removed. Deering questioned if trash will be blowing into the basin a lot easier and will trash clog the pipe. Bingham advised there are maintenance procedures for cleaning the orifices. Bingham advised there is also a trash rack that will go on to prevent any clogging from taking place. Bingham advised the holes will be smaller than the size of the orifice.

Sweigart asked if the Commissioners wanted to have the Borough investigate using the leased parking area by Gus's. Deering advised without seeing the agreement and it is a multi-year call-back agreement, these basin improvements need to happen quickly. Deering also advised that if we start designing to the 500-year storm he has concerns with obtaining grant funding. Gault advised someone needs to redefine how much is in the 100-year storm. Bingham advised that would be the National Oceanic and Atmospheric Administration (NOAA). Deering asked if there is anything that can be done temporarily this Summer that would help for the Fall season when the storms start rolling in. Sweigart advised she would hate to see this plan stall any further and nothing happen.

Bingham wanted to know why we would not want to move this forward. Miller advised if we are going to do a design, grant or not, we need to be designing for reality. Bingham agreed that we should capture as much as we can, but he asked who defines that reality. Bingham advised we have a government entity that tells us what the 100-year storm is. We have the state and the federal government that regulates the NPDES by the 100-year storm and FEMA looks at the 100-year storm. Bingham advised if we change that it will cost too much for the Borough to do anything with it. Bingham further advised that there would be two problems with changing the culvert. One, AMTRAK already said they would not do it because it costs too much and two, if we increase the size of the culvert you increase the flooding downstream and other design challenges. Gault advised that he is struggling with it because we want to design to the 100-year storm to satisfy some government documents but yet the whole purpose of doing the project is because someone's property flooded, and we are not even solving the problem. Bingham advised that we are designing to the 100-year storm because that is what the standard is. Gault asked when the last time a 100-year storm flooded the property. Bingham asked if it is better to leave it for the next 5 years while we decide and figure out how to design to the 500-year or 1000-year storm, or if we should go for the grant money for the 100-year storm so the Borough is covered. Sweigart advised that she does not feel qualified to determine what we should be designing for. Sweigart further advised if we determine a different design standard, we would be setting a precedence for all of our projects. Bingham advised that is correct.

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On a motion by Deering and second by Sweigart the Planning Commission recommended Council approve the Preliminary Plans for the Mount Joy Borough Detention Basin Plan Modifications.

Roll Call vote: Commissioner Sweigart- Yes; Commissioner Rebman- Yes; Commissioner Miller – No; Commissioner Deering- Yes; Commissioner Gault – No. Motion carried 3-2.

On a motion by Miller and a second by Gault, the Planning Commission meeting of June 12, 2019, was adjourned. *Motion carried 5-0.*

Respectfully Submitted,

Stacie Gibbs, Zoning, Code and Planning Administrator