

**MINUTES**  
**January 23, 2024**  
**Milford Township Hybrid Meeting**  
**(Joint Board of Supervisors and Planning Commission and Milford Water Authority)**  
**560 Route 6 & 209, Milford, PA 18337**  
**7:00 p.m.**

1. A joint meeting of the Milford Township Planning Board and Board of Supervisors was called to order at 7:00 P.M. by Planning Board Chairman Kevin Stroyan.
2. **Member Attendance** - Also present at this meeting were Members Ray Willis (Vice-Chairman), and Michael Williams, Supervisor & Member Robert Di Lorenzo, Supervisor Rachel Hendricks, Supervisor Gary Williams, Solicitor Thomas Farley, Solicitor Anthony Magnotta, Secretary Shahana Shamim, Assistant Secretary Barbara Schiavone.
3. Bob made a motion to change the order of the agenda and review the minutes at the end of the meeting and proceed with the joint meeting with the Milford Water Authority up first, since the applicant who was to precede them asked to table their appearance until another time. Ray seconded and it was unanimously approved.
4. **Joint Meeting with Board of Supervisors and Milford Water Authority – Wellhead/Watershed Ordinance** – The attendees from the Milford Water Authority were: Scott Sheldon, Frank Tarquinio, Russ Boronow, Doug Manion, Solicitor John Klemeyer, Craig Cox, and Nick May. Mr. Sheldon was appreciative of the opportunity to come in and discuss the Wellhead and Watershed Protection Ordinance and looking forward to subsequent meetings to discuss how to go forward. Kevin felt this meeting didn't need to be limited only to the Wellhead Water Protection Ordinance. He feels this is about what kind of uses the MWA would want to see on the property at Rt 6 & I-84 and the property around that as well. So if the MWA has any specific things to offer or things to discuss, that is the purpose of this joint meeting. Gary Williams also agreed that we want to see any ideas the MWA has. John Klemeyer, solicitor for the MWA suggested we make it certain that 407 clearly applies to permitted uses, conditional uses, and special exceptions, in addition to any other provisions set forth elsewhere in this ordinance. Another thing is requiring commercial projects' zoning applications and land development applications track together. Mr. Klemeyer also said Dingman in coordination with the Water Authority developed an ordinance that was referenced in the zoning ordinance so that applications need to be filed consistent with that. Warehouses are permitted in Dingman but not larger than 50,000sf. There is a page long list of chemicals that are not allowed to be stored in them. So MWA recommends you take a look at that Ordinance despite some objections about how technical and long it was.  
Kevin mentioned that he keeps hearing it said that zoning and land development can be made to run concurrently. And he hears different legal opinions about that. Mr. Farley said that he and Mr. Magnotta feel that you don't always do land and conditional use because you put too much of a burden on the applicant. You can do a conditional

use at a reasonable price. A land development costs a lot more to the applicant. You can't force them on all things to do that. You can ask. Tony Magnotta said a lot of applicants come into the township with less complex plans than what we are talking about tonight. We are trying to let the applicant see if he qualifies for zoning before he has to go into the expense of having plans drawn off by an engineer for the land development. That has always traditionally been the Planning Commission's attitude toward that. There is nothing in the municipality's planning code that requires you to file your conditional use application and your land development at the same time. The three attorneys discussed their differing perspectives on this issue but agreed that the Section 407 loophole has to be closed, and more specific standards for a warehouse are needed. There was discussion regarding the feasibility of limiting the square footage as suggested, with differing perspectives by the MWA attorney and the Township's attorneys. Rachel asked where the 50,000sf number comes from. She said the source water protection plan specifically says that if the size of the building is too large, that could present an issue for the water yet doesn't define what too large is. It also states that if the excavation is too deep it could present an issue but doesn't define how deep is too deep. Rachel also asked if the MWA was going to do revisions to the source water protection plan that would clarify some of those more nebulous issues so that we would be able to use them? John K. said they would be happy to work with them on that. She said there are things that we have identified that we need to work on and she wants everyone to understand that there is an absolute emphasis that changes are going to be made because we learned some important things but what we would like to know from the MWA is the factual basis for some of the things you need us to do to protect the water. The basis for the 50,000sf is one of the things Rachel said we didn't have the benefit of hearing the testimony of MWA's witnesses so we don't know what they were going to tell us with regard to how big is too big and how deep is too deep. If you can get us that information, it would be very helpful for us to be able to make sure we can actually implement some additional protections. If you have specific uses that are less problematic to you, we could look at some other things such as if a hotel of x sf that doesn't do excavation deeper than Y, it's going to be much better or a restaurant, we can make those not conditional uses and suddenly you have somebody much more excited to go forward there because it's a permitted use and they don't have to spend a year and a half or 2 years doing conditional use here. Tom F. suggested that maybe you test the property. Bob D. said when they tested that property we are discussing, they ran tests and found open voids between 20 & 34" on every pit. They had already dug into it. No one ever mentioned where the open void goes. The wetlands feed off the watershed and when you get down to a certain level, there may just be rock with no loose dirt between it but it's an open void that's a water channel. Bob explained an open void is when there is rock with no dirt between them or loose sand with no dirt around it.

John K. wanted to bring to our attention something they found in their research from PennFuture and it's a model ordinance on what they call logistics and that is dealing with manufacturing uses, small and large warehouses, truck terminals and it focuses on NE Pennsylvania and various sizes based upon various property sizes and all aspects of a particular development so this was heavily developer influenced but it's still better than most of us are dealing with now so I think this could be reviewed and a lot of

valuable information could be pulled out of it. He left the copy with Tom F. Bob asked to continue speaking of the open voids. There was a system used, he thinks the name was jellyfish, but he looked into it and it was 80% efficient and his question is what happens to the 20%. It's going into the sediment pits and if you have sediment pits and you already have openings between 20 – 34", we are at the pits and that is where the push of the snow goes and the first push of the snow is where all the garbage is, the oils from the trucks and so he thinks we need to come up with a plan of what is considered a safe distance from the bottom of a sediment pit to the water table.

John Klemeyer said two municipalities outside of Philadelphia, Radner and lower Marion Townships have ordinances on absolutely everything. He has borrowed many ordinances from those municipalities because they have more expensive planners than we could afford, and they do the research. They are before the Commonwealth Court dealing with zoning issues often and they rarely lose.

Bob inquired if there would be funding available for geo-probing testing soil samples, John didn't know, said there might be and some other people might know. That would be the preferable way to go about it. Rachel Hendricks stated that we would be happy to support or assist or apply for any grants to help the MWA continue to study or to make modifications to the source water protection plan to firm it up. Maybe one of our legislators could assist with identifying some funding sources that might be available. Kevin Stroyan agreed. Kevin said we are actively working on other additions to the zoning ordinance. John asked if it could be done in stages and that we move ahead with 407 revisions relatively quickly. Kevin agreed and said there are some other provisions that are straightforward to us. Tony M. had one other thing to ask the MWA about, which was a discussion a few meetings back about certain things that should not be conditional uses or not permitted with regard to the aquifer, so if you have a list of those items that you think should be changed in the Well-head protection ordinance, we would need to see that list because we keep hearing about these changes but if you could provide us with something, he would appreciate it. Rachel asked that the list not be a wish list but have specific reasons for the specific item. One of the requests in the past was to completely block warehousing altogether. If there is a factual basis, give us the factual basis and then we will seek legal counsel advice to find out if it's even possible. She indicated that the Department of Community and Economic Development has a conditional use guide that tells you not to place too high of a burden on the applicants for most conditional uses. It's only a matter of what is the list of conditions going to look like, so the applicants very often do want to come through that process together because it saves them time and money, *but* on the ones where they know going in, it is not a slam dunk, and their use may not get approved, that's where they don't want to put their business exposure that far over the line and do all this additional expense if they're not going to get past go.

Bob DiLorenzo said up by the watershed we have two gas stations, a Chinese restaurant, a junkyard, a construction company and multiple housing and we have had problems in the past, not on those properties but a property where excavation went too deep and created a huge problem. The Mobil had leaking tanks. He said he was curious if the water was affected by what's there now. Scott Sheldon indicated that there was a spill about two decades ago at the PennDOT facility and they had to put a monitoring well in there. Ray Willis asked if there was a leak at Mirabito, where tanks leaked and

contaminated the property. He was involved in the purchase of the property next door at one point and was told their water was no good. Scott said nothing major has happened in at least 10 years.

Rachel asked the MWA if they are applying to EPA for sole source aquifer designation for the aquifer. They have started to look into that and will be pursuing that for sole source protection. Rachel asked him to explain that, and Scott said there is only a few things you need to do to qualify. It must be a source of water that serves a community, which they do. There are a couple of other parameters and it's based on our aquifer and how it's an unconfined aquifer and how it can be easily contaminated, which is one of the other eligibility requirements. Rachel was asked what that accomplishes. She said no federal money can go into a project, unless it's directed towards water protection and those standards are met first. When looking at a lot of these projects, they are going after federal money as well for funding. Kevin asked if there were any further questions and Frank Tarquinio said extensive study would be required in order to answer the questions about what would be safe activity for the site in terms of maintaining water quality. There was discussion regarding the ability to obtain the owner's permission and funding to do those studies and the desire for the studies not to hold up some of the protections being requested. The reporter from Blue Ridge stated that the sole source aquifer plan seems a great way to inhibit anybody's ability to come in and work a project or propose a project like this if it's going to have federal funds. It seems like this hasn't even been considered until recently. Why wasn't it done years ago? John K. responded that when they used it, they had a different tactic which was when they went to their engineers and said what should be looking for in terms of protection. The ordinance that was based upon the water study was adopted by Dingman Township and modifications were made to the zoning ordinance to deal with it. We did not go in the direction of dealing with anybody's funding. Kevin said this is a separate federal designation as he understands.

Mr. Pinchot said we're talking about the conditions of the site which would dictate how dangerous this would or would not be. We want to find out. That's one issue. When a developer comes in, they are going to talk about a set of technologies that are going to try and mitigate those impacts given whatever the geology and soils are. They came in with a fairly sophisticated set of technologies. They were cutting edge and new and don't have a huge amount of track record. One of the things he believes is concerning is the maintenance. If it's not working perfectly and isn't maintained or someone else comes in and takes over and doesn't care about that, there will be a big impact that will not have been planned for. So it's very important to have a long term maintenance requirement and have the Township invested in overseeing that maintenance. That is almost as important as the system itself. Kevin Stroyan said that can be part of the Developers and Contractors agreement as well.

Fred Weber said we are still in the same situation. That guy went away but the situation remains. He is happy to hear that we can do something quickly regarding section 407, close that loophole. He would like to see another planning meeting or workshop set up as soon as possible. He made mention of a pending bill which is legislation that will ensure that each municipality has added protection from these negative impacts talking about warehouses by requiring any municipal approval for a warehouse development receives approval of the electorate before it is approved. He feels this is important

because Supervisors are elected and will change. The reason we are here tonight is because the zoning was changed over time because elected officials come in and have different agendas.

Then Vito DiBiasi spoke asking if specific minutia can be put into some kind of criteria, either by the MWA or through the ordinance process. Kevin replied that Vito is asking if we can dictate engineering in that sort of a facet in the ordinance and he doesn't know whether that is possible. Tom Farley said it could be caught by having our engineer review their engineering work to see if it's sufficient. John K. said he was discussing the fact that we now get the 100-year storm every year and that's a problem. Kevin asked about another meeting. March 14<sup>th</sup> at 7:00pm was decided.

Kevin Stroyan asked what is the MWA's position on acquiring the property and holding that in reserve in perpetuity. Mr. Klemeyer said they are discussing it with land development trust people. Mr. Farley asked why wouldn't we do the studies first before moving forward with purchasing? Kevin said if there's a will to change the use of that property for good, there would be public support. There may be other avenues of funding that haven't been discussed. If it's a part of the conversation along with all the rest of this preservation, let's have that conversation.

Mr. Sheldon said they are in a lot of discussions with PennVest to see what they are eligible for in terms of the loan to purchase and acquire the property. They are also in discussions with DCNR for eligibility for grants, which are based on appraisal value not asking price of \$2.2 million. Also in discussions with DEP at higher levels. They are also in talks with Trust with Public Lands, previously National Land Trust. So there are many different avenues, many different things to pursue and we are reigniting our efforts. Kevin indicated that generally the public would support them if they are going to truly preserve that property, to get it into a Land Trust that they will sell again afterward if not appropriate if you are going to get the general public behind you. Mr. Klemeyer said no land trust, just an easement. Mr. Sheldon said if they were to get grants from DCNR, there's a stipulation that the easement would have to be held by the MWA. John said their goal would be if they get it with someone else's money and not rate payers money, such as a grant, they would want to work with a government body to have something like a park up there. And we wouldn't have to worry about what is up there in the future, but if they have to borrow money, there will need to be a sharing of the burden. Mr. Stroyan said DCNR and some of the other entities will take a couple of years to do anything. Mr. DiLorenzo said the purpose is to determine what needs to be protected. Mr. Klemeyer said the point should be made that it is very favorable if there's a combination of municipal entities that are involved in a project. So if we go in that direction, the Township, the Borough and the MWA should work together on that and make it more likely to be approved.

**Minutes:** November 28<sup>th</sup> minutes were reviewed and changes were made to them. Mr. DiLorenzo made a motion to adopt the minutes with the suggested changes made. Michael Williams seconded the motion and it was passed unanimously. December 14<sup>th</sup> meeting minutes were reviewed and changes were made. Mr. DiLorenzo made a motion to adopt the meeting minutes after the changes were made. Michael Williams seconded the motion and it was passed unanimously. January 11<sup>th</sup> meeting minutes were reviewed and no changes were made. Ray Willis made a motion to adopt the

minutes after the changes were made. Michael Williams abstained and Mr. DiLorenzo seconded the motion. The motion was passed.

5. **Land Development and Conditional Use Application Update – AutoZone Retail Auto Parts Store** Mr. Farley suggested sending the applicant a letter. Mr. DiLorenzo made a motion to accept MDM's letter of January 23, 2024 requesting the permit application for the AutoZone, conditional use be continued for 120 days. This extends their presentation to that length of time. Ray Willis seconded the motion. It passed unanimously.
6. **Emergency Management Plan** – Mr. Stroyan asked if this is something that just needs to be reviewed. Mike Williams, responded that the last revision that he worked on was in October. He also said he needs to get together with Eric Passaro to go over it together.

Kevin mentioned no sewer project update has come to the Township in reference to the sewer plan.

At 8:45pm Bob D. made a motion to adjourn, Ray W. seconded it, unanimous agreement.

Respectfully Submitted,

Barbara Schiavone  
Assistant Secretary