

July 11, 2006 – Tontitown Planning Commission – Minutes

7:00 PM – Called to order by Ralph Pendergraft.

Roll was called. Jerome Fantinel was not present.

Ralph Pendergraft asked if everyone had read the minutes.

Karen Inlow noted that an addition was needed on page two where it is written that she asked about the length of time. She asked that “for tabling requests” be added.

Motion to accept minutes with said addition for meeting of 06/27/06 by David Bolinger. Seconded by Karen Inlow.

Motion carried with all ayes.

Ralph Pendergraft called Davenshire subdivision Stop Work Order to the podium.

Geoff Bates – Blew Bates & Associates – stated that they were present to get direction on what they need to do in order to move forward and make the City feel comfortable with what has been done so far. He asked the Commission if they needed a brief overview of what had happened back before.

Chuck Savage replied that they needed to hear it from the start.

Ralph Pendergraft responded that the Commission needed to hear their side of it and then hear from Mr. Williams and Mr. Gilbert.

Geoff Bates stated that back in April of 2005 the Planning Commission approved their project. He continued that there were one or two comments. They addressed the comments, made the construction drawings and were approved by Steve Sabo, Washington Water Authority, and the Health Department. He added that it is essentially the same as Coppertree. Mr. Bates stated that Lorel Aviles had told him that she only wanted to see reports of any testing. He continued that they had everything tested. After they finished that and turned in the final plat, that’s when everything came to a head. He continued that the stop work order was issued, and they called the contractor and told him that he wasn’t to do anything but clean-up. Mr. Bates stated that the contractor called him the following week and informed him that he had some asphalt ordered. He continued that he informed the contractor that they had a meeting with the city, and while they were at the meeting, the contractor poured the whole subdivision. He added that he didn’t know what happened.

Ralph Pendergraft asked if they had density tests on the base.

Geoff Bates replied that they had and that they had all utilities base tested before they were put down.

Ralph Pendergraft asked Rick Williams if he had those tests.

Rick Williams responded that he does have some but does not have complete documentation.

Geoff Bates stated that they have some more information that they need to get to Mr. Williams.

Ralph Pendergraft asked if Mr. Williams had anything he wanted to say.

Rick Williams commented that he was introduced at the request for final plat. He stated that he physically went out to look at the project. He stated that he called Mr. Bates as

well as the owner and advised them not to proceed any further until it was understood exactly where this project stood. He noted that the base was out at that time. He arranged for a face to face meeting at the Planning Office. He confirmed that the meeting took place. Mr. Williams stated that he issued the Stop Work Order in writing as well as verbally. He continued that at that point in was in effect, yet work continued, asphalt was laid, and work continued as of 9:00 AM 7/11/06, as could be seen by the pictures presented to the Commission. He stated that he did not know how to make it any clearer to stop.

Geoff Bates responded that he had no idea that any of that was going on. He continued that he didn't know why the contractor would be out there especially after the asphalt.

Chuck Savage asked if it was Jimmy Jones.

Geoff Bates replied that it was.

Ralph Pendergraft asked Mr. Williams if the Stop Work Order was issued when he went out there.

Rick Williams responded that the stop work order was effective at 10:30 AM June 15.

Ralph Pendergraft asked Mr. Gilbert if he had any comments.

David Gilbert stated that the city subdivision regulations in §152.56, amended in February 2003, and §152.57, amended in April 2001, require construction drawings be submitted prior to construction commencement. He continued that he had received reviewed those and issued a letter of comments on June 19. Mr. Gilbert commented that about that time he drove to the site to observe what work was done. He commented that at that time, curbs were in place, storm drains were in the ground, fire hydrants were in the ground, base material was down, but there was no asphalt on the ground at that point. He stated that he had received the final plat, but had not reviewed it yet as he is waiting for this other stuff to be cleared up. Mr. Gilbert stated that on June 19, he issued a letter of twenty one comments to the Planning Department concerning a variety of different things. He added that he would go into detail if the Commission so requests. He noted that it was reviewed given that the project was passed in April of 2005 by the Planning Commission prior to the passage of the Drainage Criteria Manual and Minimum Street Standards. Mr. Gilbert continued that he referred to chapters 90 and 151 that covers the drainage. He concluded that that was essentially the sum of his efforts to date.

Ralph Pendergraft stated that they are still working so what is the Commission supposed to do.

Geoff Bates suggested whipping the contractor; he's been told to stop work. He commented that perhaps the city could make the bond period longer to ensure things had been done correctly. He offered to go out personally to make sure the contractor is not out there working. He continued that they thought they were following the correct procedures since they did everything just like they did Coppertree. Mr. Bates stated that with Mr. Sabo there was no direction.

David Bolinger commented that from what he has read through there's a question as to whether or not the water line size is up to standard. He asked what else is not up to standards. He stated that it seems to be two issues: that they didn't stop and that needs to be addressed, and things need to be up to standard and if they're not, then what needs to be done to get them there.

David Gilbert addressed Mr. Bolinger's concerns stating that there are several items missing from the plans that can be added without any impact as they are technical or administrative items.

David Bolinger commented that he thought he had read something to the effect that testing had failed.

David Gilbert replied that he was not aware; no one representing Tontitown witnessed any of the testing.

David Bolinger asked what it would take to go back and test everything to see if meets standards now and if that would be possible.

David Gilbert responded that it is possible that some of the testing would be destructive at this point. He continued to state that there are a few items that need to be cleared up that aren't in the plans such as street sections that have been put into place. Under chapter 90 it required that a pavement design be done on the local subdivision streets and it gave a minimum thickness. Mr. Gilbert stated that it is not known if what has been done is sufficient based on the underlying soil. He recommended that that paperwork be cleared up before holes are cut into a new street. He continued that if it turns out that that pavement section is deficient then the pavement has to come out and the correct section has to be installed.

Geoff Bates stated that they have hired a geotechnical engineer, and that he is preparing that information.

David Bolinger commented that with having been told to stop work several times and it not being done, things are somewhat questionable at this point.

Tommy Granata asked about the water lines, since they were told to put in an eight inch line and a six inch was installed.

David Gilbert clarified that Water and Sewer retains their own engineer for reviews and would be more equipped to answer that question.

Geoff Bates replied that they ran it through Washington County Water Authority, that they only had six inch (water line) a mile away because it is a dead end line and they tied onto it with an eight inch and carried that throughout the development. He continued that the Planning Commission approved it that way.

Ralph Pendergraft stated that he thought he had read that he had said it should be an eight inch. He continued that first thing that needs to happen is the Stop Work Order needs to be adhered to some way. He commented that he wasn't sure what the Commission needed to do, if they needed to send the Sheriff out there or something. Mr. Pendergraft stated that then need to get together with Water and Sewer because that's separate. He continued that they need to get with Mr. Williams and get this worked out

Geoff Bates confirmed that he would go to the site tomorrow personally and make sure that the contractor is not there. He again stated that he had no idea that he was working past the Stop Work Order.

Ralph Pendergraft asked if anyone else had anything else to say.

Mick Wagner confirmed. He commented that from a Water and Sewer standpoint, Mr. Bates keeps alluding to the Preliminary Plat and then there's the minutes he talks about when six inches were approved. Mr. Wagner continued that the Water and Sewer Commission came in effect in July 2005, some sixty days or so after the recorded approval of your body here. He went on that Mr. DeWeese contacted him sometime late in the fall of '05 with a dilemma in that Washington Water had concerns that they didn't have rights to give easements for the City of Tontitown in view of the fact that road right-of-way along Steele Road this is a four inch or two inch line that Washington Water had and in view of the fact that this is Washington Water service area, Mr. DeWeese asked Mr. Wagner if he could help him in view of the fact that Water and Sewer Commission

has no easements that we were aware of at that time it seemed that since lines were existing in the right-of-way that it would be the Council's responsibility. Mr. Wagner stated that he did intercede and that the minutes would reflect on behalf of Mr.

DeWeese's group in view of the fact and addressed Washington County Water Authority. Ralph Pendergraft asked Rick Williams if he had anything to comment.

Rick Williams stated that he issued the Stop Work Order, that it was given written, then verbal, and then written again, and they are still working.

Ralph Pendergraft commented that perhaps they should table it and get it cleared up with Water and Sewer and Rick and come up with something.

Karen Inlow stated that she really has a problem with the fact that they have not stopped working. She continued that there has only been two Stop Work Orders issued since her tenure and both were adhered to.

Tommy Granata asked if something needed to be added to the preliminary plat.

Steve Gunderson informed Mr. Bated that his firm may have placed Mr. DeWeese in the position of having to may hefty fines.

Motion made by Chuck Savage to table. Seconded by Karen Inlow.

Ralph Pendergraft stated the reason would be to get the issues worked out, even though there could be some fines.

Motion carried unanimously.

Motion was made by Norbert Ranalli to table American RV at developer's request for thirty days. Seconded by Tommy Granata.

Motion passed unanimously.

Melissa Lee – 19404 Walker, Siloam Springs (has real property in Tontitown) – stated that a group of concerned citizens on and around S. Pinalto have some concerns and questions that they would like addressed when the RV park returns for approval. She read the questions as follows:

- What responsibilities does the Planning Commission have to those not living within the city limits but within the Planning Zone? Are there specific policies on file?
- If a decision is made by the Planning Commission which affects the property owner living in the Planning Zone, what responsibilities does the Planning Commission have to that individual, i.e., an increase in traffic on an essentially one lane dirt road which is technically in the county?
- That thought has the Planning Commission and county given developing an infrastructure which can support 80 plus vehicles likely resulting from this park as well as the traffic which will be associated with the new development going in right now?
- How will we be guaranteed these RV owners won't become permanent residents? Will there be a maximum length of stay? If so, how do you plan to make it binding?

- How will the sewage be safely managed? This area is in the county and is not connected in to a sewage treatment facility, is this correct?
- What recourse will we have if the sewage is not contained safely and the adjacent area begins to reek like a foul-smelling public toilet? Who will be responsible for enforcing public health concerns, the Planning Commission or the county?

Tammy Graham – 1838 S. Pianalto – stated that she lives in the smallest house on S. Pianalto. She continued that they (she and other residents) live on that road because of what it is; it is a place where you can walk with your kids and dogs and not be afraid. It is a place where you can sit on your porch in the afternoon while enjoying the quiet together. She added that some of them have lived on and around that road all of their lives and some are newcomers; but they have a few things in common. They want to feel safe, surrounded by others whom they know. She continued they don't want traffic noise to push them inside of their homes where they can no longer enjoy things as simple as their garden or their porches. They want to protect their homes, what to many of them is the largest investment they have. She commented that that road is where they have chosen to live with their families, pets, neighbors, and friends. Their families and their homes are the main reason they get up every morning and go to work. She stated that if this RV park is approved, it will disrupt our way of life and depreciate the surrounding property values. It will also be a deterrent to other families wishing to move to their area who have similar priorities. She pleaded to let them keep their road the way it is; it's their home.

Carol Mason – 1831 S. Pianalto – asked the Commission to imagine if a RV park moved in next to their homes, with all the generators, dumping, etc. – what would the Commission think if it was next to one of them.

Chuck Savage responded that it is right next to him.

Greg Baskins – 1770 S. Pianalto – asked if a petition would mean anything.

Steve Gunderson replied that one can be taken into consideration.

Ralph Pendergraft stated that if it goes in it will have a sewer system according to Water and Sewer regulations; it would not have raw sewage. He continued that as it's in the county, the Commission can't really dictate what can go in, just how it can go in.

Karen Inlow offered that if Tontitown passes it, then the county will probably pass it too.

Mick Wagner discussed enforcement of a waste system.

Jay Potter – American RV – stated that he was not trying to be a bad neighbor and attempted to address some of the concerns of the residents.

Tommy Granata asked in regards to Davenshire who will see to it that it is stopped. He continued that it shouldn't be an issue that we should have someone.

David Gilbert stated that it has been addressed; the owner is listed on the Preliminary Plat and Construction Drawings. He continued that it is typically not a problem, but the owner is ultimately responsible. He commented that Mr. DeWeese was present at the meeting and understood the Stop Work Order.

Ralph Pendergraft mentioned that the new zoning map would be discussed at the next meeting, which would be a Public Hearing at 6:00 PM.

Motion made by Tommy Granata to adjourn. Seconded by Norbert Ranalli.

Motion carried with all ayes. Meeting adjourned at 7:50 PM.