

**PERKIOMEN TOWNSHIP BOARD OF SUPERVISORS MONTHLY MEETING MINUTES:  
FEBRUARY 3, 2009**

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**BOARD MEMBERS PRESENT:** Edward Savitsky, Chairman  
Richard Kratz, Vice-Chairman  
William Patterson, Member  
Dean Becker, Member  
Gordon MacElhenney, Member

**OTHERS PRESENT:** Cecile Daniel, Township Manager  
David Allebach (In Place of Kenneth Picardi),  
Township Solicitor  
Chuck Frantz, Township Engineer  
John Moran Jr., Code Enforcement Officer  
John Moran Sr., Road Master

**MINUTES:** Cecile Daniel informed the Board that she corrected the first sentence in the first paragraph Richard Kratz was the person that opened the meeting not William Patterson. With that the amended minutes of the January 5, 2009 Board of Supervisors meeting were approved as amended upon a motion made by Dean Becker and seconded by Gordon MacElhenney. There were no public comments on the motion. The motion was carried by a vote of 5-0.

**POLICE REPORT:** The Board reviewed the PA State Police Report for January.

**CORRESPONDENCE:**

- CPVRPC – Minutes of their meeting for January.
- PSATS Bulletin
- Perkiomen Valley School District – Letter informing the public that the Strategic Plan is available for inspection until the end of February.
- Lower Frederick Ambulance December Report.
- Trappe Ambulance Report: Presented to the Board from Sean McCarraher

**SOLICITOR'S REPORT:** David Allebach reported on the following activities:

- (1) HYK: Responded to Paul Ober – and is now awaiting Ober's response;
- (2) Hoffman: Mr. Hoffman went before the Zoning Hearing Board on January 28, 2009 to discuss the attempt that he made to level his back yard which constituted a violation of the Zoning Ordinance due to his encroachment into the steep slopes. However, such leveling may be permitted by Conditional Use. Accordingly, at the public hearing before the Zoning Hearing Board Mr. Hoffman's attorney, Sean Cullen, indicated that a Conditional Use application will be filed promptly, and he requested that the Zoning Hearing Board application has been placed on the back burner pending the outcome of the Conditional Use request.
- (3) Picone Matter – The public hearing for the Picone matter was held on January 14, 2009. The

**PERKIOMEN TOWNSHIP BOARD OF SUPERVISORS MONTHLY MEETING MINUTES:  
FEBRUARY 3, 2009**

---

Zoning Hearing Board approved Mr. Picone's application with the conditions requested by the Board of Supervisors (BOS).

- (4) Resolution 2009-7 – Mr. Allebach reviewed the proposed Resolution 2009-7. This Resolution serves to accept the terms and condition of the Montgomery County Open Space Grant to fund the acquisition of 2.34 acres of ground located at 546 Township Line Road for conservation, open space and recreation purposes. The Township applied for and received approval for a grant in the amount of \$103,250.00 from Montgomery County. The Montgomery County Grant funding is subject to the conditions that the property be subject to a Deed restriction that it be maintained as open space and that there be no change of use, transfer of ownership or sale of the property without the consent of Montgomery County. Upon review of the Resolution, William Patterson made a motion, seconded by Dean Becker to approve Resolution 2009-7. There were no public comments on the motion. The motion was approved by a unanimous vote of 5-0.
- (5) Resolution 2009-8 – Mr. Allebach reviewed the proposed Resolution 2009-8. This Resolution serves to accept the terms and conditions of the Montgomery County Open Space Grant to fund the acquisition of 1.14 acres of ground located at 181 Lodle Street for conservation, open space and recreation purposes. The Township applied for and received approval for a grant in the amount of \$104,000.00 from Montgomery County. The Montgomery County Grant funding is subject to the conditions that the property be subject to a Deed restriction that it be maintained as open space and that there be no change in use, transfer of ownership or sale of the property without the consent of Montgomery County. Dean Becker made a motion, seconded by William Patterson to approve Resolution 2009-8. There were no public comments on the motion. The motion was approved by a unanimous vote of 5-0.
- (6) Resolution 2009-9 – Mr. Allebach reviewed the proposed Resolution 2009-9. This Resolution serves to accept the terms and conditions of the Montgomery County Open Space Grant to fund the acquisition of an easement across land owned by Ken-Crest Services for conservation, open space and recreation purposes. The Township applied for and received approval for a grant in the amount of \$19,358.00 from Montgomery County. The Montgomery County Grant funding is subject to the conditions that the property be subject to a Deed restriction that it be maintained as open space and that there be no change in use, transfer or ownership or sale of the property without the consent or Montgomery County. William Patterson made a motion, seconded by Dean Becker to approve Resolution 2009-9. There were no public comments on the motion. The motion was approved by a unanimous vote of 5-0.

**ROAD MASTER'S REPORT:** John Moran Sr. submitted his report for February to the Board. In addition to his report, both Mr. Moran and Ms. Daniel reviewed a list of streets that the Board may wish to consider as "Collector Streets." This labeled would used for the purposes of establishing a 5/10 year street maintenance program. As each "Collector Street" came up for consideration, the Board would incorporate the side streets in determine the Township's Road Project for that year. The order in which the streets would be listed would be subject to change depending upon circumstances. The "Collector Streets" would be listed 1 through 10. The Board felt that a map should be attached to this list so that they could better understand the order. Also, do to the nature of this project; the Board felt that this topic would be better discussed at a work session. Ms. Daniel will work on this with Mr. Moran and get back to the Board.

**PERKIOMEN TOWNSHIP BOARD OF SUPERVISORS MONTHLY MEETING MINUTES:  
FEBRUARY 3, 2009**

---

**FIRE MARSHALL'S REPORT:** John Moran Sr. submitted his report for February to the Board.

**CODE ENFORCEMENT REPORT:** John Moran Jr. submitted his February report to the Board. In addition to his report, Mr. Moran submitted a memo to the board regarding the 4<sup>th</sup> of July sale for fireworks at 87 Gravel Pike. This sale would be from June 25 through July 5, 2009. In his memo, Mr. Moran informed the Board that all the paperwork is complete and requests permission to send a letter to Keystone Novelties approving their request to sell fireworks at 87 Gravel Pike from June 25 through July 5, 2009. With the recommendation of Mr. Moran, Gordon MacElhenney made a motion, seconded by Richard Kratz to authorize John Moran Jr. to send a letter to Keystone Novelties approving their request to sell fireworks at 87 Gravel Pike from June 25 through July 5, 2009. There were no public comments on the motion. The motion was approved by a unanimous vote of 5-0.

**PLANNING COMMISSION REPORT:** The Planning Commission held their meeting on January 20, 2009. There were three items discussed at that meeting. (1) Diamond Dreams – A land development plan being proposed in the Iron Bridge Corporate Center; (2) Shopping Center – preliminary plan review for the proposed shopping center located at the Landis Market; and (3) the proposal to create the Light Industrial District on the 20 acres located behind the shopping center.

**MANAGER'S REPORT:**

- (1) Park and Recreation: The Park and Recreation Committee continues to work on the Recreation Survey. The Committee is looking into using Survey Monkey to help with the collection of this data.
- (2) Municipal Authority: The Municipal Authority is working on their I&I Program. Phase 2 is being worked on for bidding purposes. This project will be located in the Village of Rahns, at the Rahns Construction Site down to the Perkiomen Interceptor.
- (3) Flood Plain Ordinance: The Township received a letter from the Montgomery County Conservation District. It is now anticipated that the Township will receive the Flood Plain Maps for review from FEMA in March. Once FEMA has issued their Letter of Final Determination for the maps, the municipalities will have 6 months to make sure that their Flood Plain Ordinance is in compliance with their maps.
- (4) Perkiomen Valley School District Site: A letter was received from the Perkiomen Valley School District regarding the proposed STA bus terminal. Based upon this letter, it appears that there is an inconsistency with what the School District indicated STA will be providing and past information given to the Township regarding STA's operation. A meeting needs to be held between all parties to ensure that there is a clear understanding among all the parties as to the role of STA in using this bus terminal.
- (5) Shopping Center: The Planning Commission continues to work on the proposed Renninger/Landis Shopping Center. In addition, there have been discussions between the Planning Commission and P.V. Associates, the owner of the remaining parcel of ground behind this shopping center. P.V. Associates is looking to try and rezone the remaining twenty acres to Light Industrial. The remaining twenty acres are presently zoned Commercial.

**ENGINEERS REPORT:** Chuck Frantz was present to review the following items:

**PERKIOMEN TOWNSHIP BOARD OF SUPERVISORS MONTHLY MEETING MINUTES:  
FEBRUARY 3, 2009**

---

- **2009 ROAD PROEJCT – STATUS REPORT:** Mr. Frantz informed the Board that American Geotech Inc. has completed the Geotechnical Engineering Report for the Seitz Road Bridge Replacement. The information in this report has been sent to ConTech so that the company can complete the final design plans for the culvert/bridge. Mr. Frantz explained that in the past, submission to the Montgomery County Conservation District and PADEP could be completed at the same time. Due to change in PADEP Policy, this is no longer the case. The Township must first submit the plans and information to the Conservation District. Upon receipt of the Adequacy Letter from the Conservation District, the plans and G.P. 11 Permit can be sent to PADEP for consideration and approval. The impact of the change in this policy will be to stretch out the timeline to complete this project. Mr. Frantz feels that the Notice to Award may need to be extended, but even with this delay the present schedule can still be met. As part of this plan, Mr. Frantz reviewed the Geotechnical Report and recommended that the Board pay the invoice of American Geotech in the amount of \$7,124.50. Richard Kratz made a motion, seconded by Gordon MacElhenney to approve the payment of \$7,124.50 the American Geotech, Inc. There were no public comments on the motion. The motion was approved by a unanimous vote of 5-0.
  
- **2008 GUIDERAIL PROJECT:** Mr. Frantz reviewed the Application for Payment received from J. Fletcher Creamer & Sons Inc. for the installation of Guiderail. There are some minor items that still need to be completed, but the majority of the work has been completed. As a result, Mr. Frantz is recommending that the Board approve the payment to J. Fletcher Creamer & Sons Inc. in the amount of \$33,660.90. With the recommendation of Mr. Frantz, Richard Kratz made a motion, seconded by Gordon MacElhenney to approve the payment to J. Fletcher Creamer & Sons Inc. in the amount of \$33,660.90. There were no public comments on the motion. The motion was approved by a unanimous vote of 5-0.
  
- **HERITAGE WOODS –** Mr. Frantz explained that the 18-month Maintenance Bond Period for Heritage Woods will expire on March 4, 2009. Heritage Building Group has completed all of the punch list items to his satisfaction; therefore, it is his recommendation that the Board allow the Maintenance Bonds to expire. With the recommendation of Mr. Frantz, Dean Becker made a motion, seconded by William Patterson to allow the Maintenance Bonds for Heritage Woods to expire on March 4, 2009. There were no public comments on the motion. The motion was approved by a unanimous vote of 5-0.

**RECEIPTS AND EXPENDITURES:** The treasurer read the receipts and expenditures for the month of January. After review of same, William Patterson made a motion seconded by Richard Kratz to authorize payment of the January bills. There were no public comments on the motion. The motion was approved by a unanimously vote of 5-0.

**NEW BUSINESS:**

- **FONTAINE/GAMBONE:** Joseph McGrory, Esquire was before the BOS representing the

**PERKIOMEN TOWNSHIP BOARD OF SUPERVISORS MONTHLY MEETING MINUTES:  
FEBRUARY 3, 2009**

---

Fontaines. The Fontaines owned a large parcel of ground on Wartman Road that has been subdivided and developed by Gambone Development Company. As part of this subdivision, the Fontaines' home and surrounding acreage became known as Lot #13. The two issues for discussion before the Board concerned Lot #13 as well as Lot #12. First, the issue for Lot #12 concerned the Gambone Organization and the current 18" diameter pipe which encroaches 24 feet into Lot #12 from the Fontaines Property. The other issue regards the Fontaine's encroachment into the steep slopes when they relocated their existing driveway without Township approval. Mr. McGrory explained that when the development was under construction the Gambone Company needed to relocate the Fontaines' driveway. A temporary driveway was created on Lot #14. When Lot #14 was sold, the driveway for the Fontaines needed to be completed. Mr. Fontaine relocated his driveway from the curb cut that Gambone placed in Merion Lane. When relocating this driveway, Mr. Fontaine encroached into the existing steep slopes. When the plans for the development were approved, there was a location shown on the plans as to where this driveway was to be located. Mr. McGrory explained that his client, Mr. Fontaine, felt that the driveway shown on the plans was not located in the best location based upon the existing field conditions. As a result, Mr. Fontaine moved his driveway to a location that he felt was both safer and a better design based upon existing conditions. The problem is that Mr. Fontaine encroached into the steep slopes without first obtaining Township approval. Mr. McGrory explained that if the Board required that the driveway be located back in its original location, Mr. Fontaine would have to go back and disturb the steep slopes that have already started to re-establish themselves. Mr. McGrory explained that it was not his client's intention to ignore the Township's Zoning Ordinance, but to have a driveway so that he and his wife could have access to their home. As a result, Mr. McGrory is asking the Board to work with his client and not object to his client's application before the Township's Zoning Hearing Board. In addition, Mr. McGrory informed the Board that after obtaining approval from the Zoning Hearing Board, his client will need to apply to the Board for a Conditional Use. The Board expressed their frustration with people violating the Township's Zoning Ordinance. The Board understands that the Fontaines' feel that the place where they located their driveway may be in a better location than what was part of the approved subdivision plan. Still, the Fontaines should have contacted the Township before doing the work. The Board discussed the situation as well as looked at the disturbance that would have to be done again to the steep slopes in constructing the driveway per the approved plan. After much discussion, Dean Becker made a motion, seconded by Richard Kratz to authorize the Township Solicitor to appear before the Zoning Hearing Board on behalf of the Township, not in opposition of the Fontaines' application, but to ensure that the following conditions are met: (1) that the Fontaines receive the approval of the Zoning Hearing Board; (2) that the Fontaines file the Conditional Use Application; and (3) that the Fontaines establish an escrow not to exceed \$5,000.00 to cover the engineering and legal fees that the Township has incurred in this case (Mr. McGrory indicated that his client will establish this escrow after receiving approval from the Zoning Hearing Board and Conditional Use Approval by the Board). There were no public comments on the motion. The motion was approved by a unanimous vote of 5-0. Next David Drach was present representing his client Gambone Development Company. While the engineer for Mr. Fontaine was completing the final design of the Fontaines' driveway, it was determined that there was an existing 18" pipe that ran under the existing Fontaines' driveway. When the driveway was moved, this 18" was extended. Upon reviewing the plans, it was determined that 24 feet of this 18" pipe was actually located on Lot #12. Mr. Drach explained that Gambone has

**PERKIOMEN TOWNSHIP BOARD OF SUPERVISORS MONTHLY MEETING MINUTES:  
FEBRUARY 3, 2009**

---

sold this lot and the buyers want the portion of the pipe that is located on their property removed. In the review completed by the Township Engineer, Mr. Frantz has indicated that this section of the driveway pipe is unnecessary. In his review, Mr. Frantz had originally recommended that the pipe be cut and abandoned in place; therefore, removal of this section of pipe will not have an adverse affect on where Mr. Fontaine relocated his driveway. Charles Davis of the Gambone Development Company was present. Mr. Davis indicated that this spring, he will go in and remove the pipe and stabilize the area since this pipe feeds into an existing drainage path. Before Mr. Davis goes in to do this work, Mr. Drach would like the Board's approval. Richard Kratz made a motion, seconded by Gordon MacElhenney to allow the Gambone Development Company to remove the 24 feet of 18" pipe that is located on Lot #12 and in the spring Gambone Development Company shall return and stabilize the area where the pipe was removed. There were no public comments on the motion. The motion was approved by a unanimous vote of 5-0.

- **RESOLUTION 2009-10:** John Riebow was present to review with the Board the land development plan for Diamond Dreams Baseball Academy: Diamond Dreams is a baseball skills training center. At this center they teach batting, catching, and hitting skills to students. The proposal is both a lot line adjustment and a land development plan. The lot line adjustment plan involves lots 6, 7, and 8. Presently the total area of lot 6 and lot 7 is 3.30 acres. Lot 8 is 2.96 acres. The proposal is to split lot 7 so that the total area of lot 6 and lot 7 is 2.00 acres and the total area for lot 8 is 4.2 acres. The owner of the company proposes to have three full time trainers and approximately twelve students. The land development shows a 10,000 sq.ft. building with the possibility of adding a 5,000 sq.ft. batting cage in the future. In anticipation of the total development, Mr. Riebow explained that the storm water calculations were completed as if the total site was being developed now. The intent of doing the storm water calculation this way was to ensure that all storm water issues were taken care of as part of the construction of the building. This would allow the owner to add the batting cage later and not have to worry about dealing with the storm water issues. The Planning Commission, at their January meeting recommended that the Board approve this plans with the following conditions and waivers set forth in Resolution 2009-10 as follows:

**COMPLIANCE WITH THE ZONING ORDINANCE**

1. Zoning relief was granted on October 22, 2008 for the following items:
  - a.) Article 21, Section 21.2 Permitted Use in Industrial District.
  - b.) Article 2, Definition "Indoor Sports Facility".
  - c.) Article 9, Section 9.2 Required off-street parking: Applicant must provide a total of twenty-seven (27) parking spaces.
2. The Applicant shall change note #22 to read as follows: "The Owner is proposing an Indoor Refuse Area. If at any time after the Township issues the Use and Occupancy Permit, the Owner, Landlord, or Tenant places a refuse container outside of the building, the Owner shall be required to provide a screen service area complying with 21.6.B of the Industrial District Zoning Requirements or any other provision of the Zoning Ordinance relating to the screening of refuse area. This requirement shall not apply if the Owner, Landlord, or Tenant is placing a refuse container outside on a normal refuse pickup day."

**PERKIOMEN TOWNSHIP BOARD OF SUPERVISORS MONTHLY MEETING MINUTES:  
FEBRUARY 3, 2009**

---

**COMPLIANCE WITH SUBDIVISION AND LAND DEVELOPMENT ORDINANCE**

1. The Plan shall contain the license number and seal of the registered engineer, landscape architect, or surveyor for the plan Section 11.42(a)(3) Subdivision and Land Development Ordinance.
2. Prior to issuance of a Use and Occupancy Permit, the Township shall inspect the condition of Kestral Drive along the project site and any damage shall be repaired by the Applicant prior to the issuance of the Use and Occupancy by the Township. A note shall be added to the Record Plan stipulating this condition.
3. All blocks and certifications shall be in accordance with Sections 11.43(a) (13) through (16) of the Subdivision and Land Development Ordinance and shall be completed prior to the Recording of the Plan. Legal descriptions for the proposed easement shall be provided and reviewed by the Township Solicitor and Township Engineer prior to the Recording of the Plan.

**GENERAL COMMENTS**

1. The Record Plan shall contain a note that identifies the approximate location, ownership and responsibilities for construction and long term maintenance of the proposed ten foot (10') future pedestrian trail easement. The Township Solicitor shall prepare the language for this note.

**STORMWATER COMMENTS – ORDINANCE NO. 189**

1. The plans currently include notes to indicate that the proposed storm sewer system shall be bedded and backfilled in the same manner as the proposed sanitary sewer system. These notes shall be removed and the plans shall include a note to state that the proposed storm sewer system shall be bedded and backfilled in conformance with the current Penn DOT Road Construction Standards, Section 311.C.6.
2. Note 21 on Sheet C-1 shall be reviewed by the Township Solicitor.
3. Note 15 of the General Notes on Sheet C-1, regarding perpetual ownership, operation and maintenance responsibilities for the proposed stormwater management system on the subject property shall be reviewed by the Township Solicitor, Section 702.B.
4. A Maintenance Agreement for Privately Owned Stormwater Facilities shall be prepared and submitted for review by the Township Engineer and by the Township Solicitor. The Agreement shall be signed by the applicant and recorded with the plans, Section 703.
5. The following items shall be recorded with the Record Plans, Section 702.D.
  - a. Signed Maintenance Agreement, (See Comment 4).

**SANITARY SEWER AND WATER SERVICE COMMENTS**

1. The manhole Rim elevation for the terminal manhole on Kestral Drive shall be added to the plans as previously requested. The elevation for Manhole 3 shows the sewer depth to be approximately 15 feet. This could result in a large drop in the lateral. The slope on the existing sewer line on Kestral Drive would help determine if the connection in this area is also 15 feet deep or less.

**PERKIOMEN TOWNSHIP BOARD OF SUPERVISORS MONTHLY MEETING MINUTES:  
FEBRUARY 3, 2009**

---

**WAIVERS**

1. The applicant is requesting a waiver from providing significant man-made or natural features 150 feet beyond property line as required. The Planning Commission recommended the Board of Supervisors support this waiver since this information was provided as part of the Phase 3A Iron Bridge Corporate Center Subdivision. Section 11.42(a)(10).

**LANDSCAPING WAIVERS (PER ORDINANCE NO. 173)**

1. Section 2: (Property Buffer) Required softening buffers have not been complied with. All non-residential development requires buffering along property lines. The Applicant was requesting that the Township grant a partial waiver. The request was to grant a partial waiver not requiring the buffer requirements for the adjacent lots since the lots are zoned Industrial. The Planning Commission recommended that the Board of Supervisors grant a partial waiver that would waive the buffer requirements along the adjacent lots except the buffer along the property line that abuts Trappe Borough Line. The Applicant indicated that there is existing vegetation situated along the border of the property where it abuts the Trappe Borough Line. The Planning Commission recommended that the Board consider the Applicant's request for a partial waiver from Section 21.6.D with the condition that the Applicant place a note on the Record Plan, that the existing vegetation along the Trappe Borough Line shall not be removed.
2. Section 3: (Parking Lot Screening) Parking lot screening and landscaping does not meet the requirements for screening and landscaping under Section 3. The Applicant was requesting that the Township grant a partial waiver from the requirements for the parking lot screening. The Applicant pointed out that all the adjacent properties are zoned Industrial. The request is for a partial waiver because the Applicant proposes street trees, parking lot trees, and shrubbery around the proposed building. The Planning Commission recommended that the Board of Supervisors grant the requested partial waiver from Section 21.5.B with the condition that the Applicant installed the plant material as discussed and shown on the plans.

The Board reviewed the proposed plan and Resolution 2009-10 and Richard Kratz made a motion, seconded by Dean Becker to approve Resolution 2009-10. There were no public comments in the motion. The motion was approved by a unanimous vote of 5-0.

- **MONTGOMERY COUNTY ASSOCIATION OF TOWNSHIP OFFICIALS:** The Spring Convention of the Montgomery County Association of Township Officials is scheduled for February 20, 2009, Dean Becker made a motion, seconded by Richard Kratz to authorize them following people attend this convention: Edward Savitsky and William Patterson. There were no public comments in the motion. The motion was approved by a unanimous vote of 5-0.



**PERKIOMEN TOWNSHIP BOARD OF SUPERVISORS MONTHLY MEETING MINUTES:  
FEBRUARY 3, 2009**

---

- **2009 PERKIOMEN TOWNSHIP FIRE COMPANY EVENTS:** The Board reviewed the proposed 2009 Perkiomen Township Fire Company Events. The Board must approve these dates to provide workman's comprehensive coverage to the Fire Company while engaged in these activities. Dean Becker made a motion, seconded by Richard Kratz to approve the 2009 Perkiomen Township Fire Company Events. There were no public comments on the motion. The motion was approved by a unanimous vote of 5-0.
  
- **PERKIOMEN TOWNSHIP MUNICIPAL AUTHORITY:** The Board is in receipt of a letter from Keith Kling of 842 Welsh Road. In his letter, Mr. Kling indicated his interest in being a member on the Perkiomen Township Municipal Authority. This term will be for five years. Gordon MacElhenney made a motion, seconded by Richard Kratz to appoint Keith Kling to fill a five year term on the Perkiomen Township Municipal Authority from January 1, 2009 through December 31, 2013. There were no public comments on the motion. The motion was approved by a unanimous vote of 5-0.
  
- **APPRAISAL:** There has been interest on the part of the owners of a parcel ground in Perkiomen Township to consider the possibility of selling their property to the Township. As required by the Township's Second Class Code, an appraisal must be completed before the Board can consider purchase of this property. Dean Becker made a motion, seconded by Gordon MacElhenney authorizing that an appraisal be completed. There were no public comments on the motion. The motion was approved by a unanimous vote of 5-0.

**COMMENTS FROM THE PUBLIC**

Thomas Cavanaugh of Mayberry Road was present to express his displeasure with the recent installation of guiderail along Mayberry Road. Mr. Cavanaugh does not like the guiderail and feels that it detracts from his and his family's enjoyment of their property. The Board explained that the reason for the installation of the guiderail was the safety of the traveling public on Mayberry Road. The Lodal Creek runs along Mayberry Road and there is a drop off between the roadway and the creek. Mr. Cavanaugh would like the Board to consider removal of the guiderail. A question was asked as to the possibility of painting the guiderail. At this time no final decision was made on Mr. Cavanaugh's request. The Board authorized the Township Engineer to look into the possibility of painting the guiderail.

There being no further business, the meeting was adjourned upon a motion made by Dean Becker and seconded by William Patterson.