

MECHANICSBURG BOROUGH COUNCIL COMMITTEE MEETING
COUNCIL CHAMBERS, BOROUGH OFFICE BUILDING
2 West Strawberry @ North Market Street
Mechanicsburg, PA 17055-6282

November 4, 2002

7:30 P.M.

CALL TO ORDER: President Rider called the meeting to order at 7:30 p.m.

ATTENDANCE: In attendance were, President Rider, Vice President Eichelberger, Councilmen McDermott, Ritter, Seagrist, Whitcomb, Winchell, Mayor Ritter, Chief Spotts, Solicitor Schorpp, Codes Officer Ressler, Secretary Stough, and Assistant Secretary Boyer. Also present Cress – Sentinel, Miller – Patriot News, Ron & Georgia Blauch, Keith Brenneman, Esq., Bud Brown, Ken Davis, Bob Dietrich, Ira Eberly, Paul Glantz, Bob Herman, Mark Hughes, Chris Hoover, Kevin & Angela Jayne, Luke Lumby, Jeff Sanders, Larry Seagrist, Tom Stang, Dominic Tarquin and Scott Wagner.

ADDITIONS TO THE AGENDA

Manager Stough noted that he would like to add the telephone system at the new building to the November 19th agenda and also add an executive session on a personnel issue with no action to be taken to this evening's agenda. Chief Spotts requested the addition of consideration of permanent status for probationary officers Brian Curtis and Matthew Hlavac. Vice President Eichelberger moved to approve the agenda with the additions noted, Councilman McDermott second and the motion passed, 7:0.

CITIZEN COMMENTS:

- ◆ Kevin Jayne, 35 West Locust Street, addressed Borough Council regarding the issue of large groups of children on West Locust Street without any parental supervision. Mr. James read a letter he submitted to Borough Council (Exhibit 1) Mr. James stated that most of the children are skateboarders, and residents are concerned about the following behavior: yelling loudly, inappropriate language and obscenities, refusing to move from the street for automobiles, waxing and damaging curbs and sidewalks, playing ball in the street damaging parked cars and private property. In attempting to address these problems with the children and their parents, we have been met with verbal abuse. Mr. James asked Borough Council to consider erecting no skateboarding signs in areas where a large number of complaints are received and to take steps to make the host parent responsible for the behavior of the children they are supervising by imposing fines. Chief Spotts noted that the police have been called to this location, but he does not know how many times.
- ◆ Janice Spahr, 33 West Locust Street, stated that she wanted to go to the grocery store and twelve children refused to move to allow her to move her car. She noted that the Police did respond when she called them. Chief Spotts noted that many times when they are called to the scene, the children have already left upon the officer's arrival. Chief Spotts said he would be happy to look at drafting some changes to the skateboard regulations currently in place, he suggested painting the sidewalks in areas indicating, "No Skateboarding allowed".
- ◆ Angela Jayne, 35 West Locust Street, stated the one thirteen year old pulled down this pants and defecated in the middle of the road. She also added that many times they surround her vehicle and will not move out of the streets so she can move her car. Mr. James added that the children do seem to be aware that the response time is about a half an hour for the police and leave the area many times before the police arrive. Chief Spotts advised Mr. & Mrs. Jayne to follow up on this matter with himself or Lieutenant Meyers tomorrow.
- ◆ Bob Herman, 415 Valley Street, addressed Borough Council regarding property maintenance issues at 422 Valley Street. He indicated that the Borough has helped with the clean up effort in the rear of the property; however, the front of the property is unsightly and he would like steps taken to have the property owner clean up the front of his property. Mr. Herman distributed pictures of the property in question and Manager Stough stated that the Borough Codes Officer would look into the matter further.
- ◆ Jeff Sanders, 501 North Market Street, addressed Borough Council on the issue of signage at Finkebinder Field and fund raising alternatives that are available to the Little League organization. Mr. Sanders noted that the Borough Newsletter neglected to bring voters attention to the referendum on tomorrow's ballot that would benefit Fire Companies and EMS service providers by providing funding for training and equipment. President Rider noted that all Council members have received a copy of the petition against signage being erected at Finkebinder Field.
- ◆ Georgia Blauch, 215 South Broad Street, requested that the minutes be amended to state that the Mechanicsburg Commons Land Development and Subdivision Plan was received on Friday, not last week. She also asked that the comment in the meeting minutes that the Borough Council had required the developer to install a public street be stricken based on previous meeting minutes (January 15th, February 5th, February 19th, 2002) and the Sentinel article from February 26, 2002, which Mrs. Blauch read to Borough Council, in support of her position on this matter. She

then read for Borough Council a section of the judicial code she referenced as §42PS8541. Engineer Bruening indicated that the last plan reviewed by his office was the plan dated October 11, 2002, and the comments on that plan are listed in the review of October 23, 2002 letter (Exhibit 2). Mrs. Blauch noted that at the February Council meeting the plan displayed did not include the location of her driveway, even though she had requested it be displayed on the plans.

◆ Ron Blauch, 215 South Broad Street, submitted comments on the Mechanicsburg Commons Subdivision and Land Development plan to be included as a matter of record with this evening's minutes (Exhibit 3). Mr. Blauch then asked the Borough Engineer about the escrow for possible stormwater damage, and if that means that the plan as submitted is not sound, that is why some assurance is being required. President Rider stated that the additional escrow was a goodwill effort on the part of Mr. Hughes to ease concerns about future problems that may or may not arise, and does not indicate any deficiency in the plan submitted. Engineer Bruening stated that the Borough's Ordinance is very inadequate and to hold a developer to a higher standard is very hard for the Borough to do and in light of concerns of residents, the developer agreed to provide the bond for maintenance as an assurance that funds are available if an unseen problem does develop at some time in the future. Mr. Blauch asked about the culvert running under the proposed extension of West Coover Street at the intersection of South Broad Street. Mr. Blauch noted that this "structure" could be considered a bridge and he is concerned that we do not have funding to repair existing bridges but are taking on another bridge structure. Engineer Bruening noted that this is considered a culvert, not a structure, and would not qualify as a bridge.

◆ Dominic Tarquin, 611 Cocklin Street, of the Mechanicsburg Crime Watch distributed information on the Crime Watch activities to Borough Council. Mr. Tarquin distributed stickers that people can display in their windows indicating that they are participating in the Crime Watch program. President Rider asked where residents could obtain these stickers. Mr. Tarquin indicated that they are available at the Borough Office. Chief Spotts reported to Borough Council that Mr. Tarquin was honored this year by the Pennsylvania Commission on Crime and Delinquency with a Citizens Crime Prevention Volunteer award from the Governors Office, and Sgt. Pellmen and the Chief attended the luncheon on October 4th when he received the award for his work in the Borough. Last year, Mr. Tarquin won a similar award from Pennsylvania Crime Prevention Officers Association.

Manager Stough discussed with Borough Council the recent condemnation that occurred at a property on South Market Street. He passed a basket around to collect monies for the Red Cross, which is paying to house the displaced tenants of the condemned structure. A total of two hundred twenty five dollars (\$225.00) was collected.

CORRESPONDENCE:

Manager Stough stated that he has received the following correspondence:

1. The Borough has advertised for bids on two trucks, a plow and an aerial lift and is taking bids for the 1997 Ford F- 250 pick up, 1975 Dodge 200 pick up and a 1987 Aerial lift.
2. Correspondence was received from the Capital Region Economic Development Corporation regarding the establishment of a Technology Corridor Enterprise Zone asking for a letter of support for this project. President Rider indicated that this item should be put on the November 19th meeting agenda for discussion.
3. Memo was received and distributed from the Wastewater Treatment Plant on the mapping of the storm and sanitary sewers. Mr. Adams and Mr. Reinecker have been working to identify where our lines are located and where they discharge to. This information will be helpful in making repairs and performing maintenance in the future.
4. Correspondence was received from the Walnut Villas Condominium Association regarding the noise from the Nestle Purina facility located on Old Silver Spring Road in Hampden Township. Manager Stough noted that a letter could be sent to Hampden Township on behalf of these residents. President Rider directed the Manager to send a letter to Hampden Township.
5. Received a letter from the Veterans Council inviting Council to the annual Veterans Day Services at the Mechanicsburg Cemetery, Monday, November 11th at 11 a.m. President Rider asked that the Manager RSVP on his behalf. Councilman Whitcomb noted that the services might not be held at the Cemetery. Manager Stough will check on the location and advise President Rider and Chief Spotts, both of who are planning on attending.
6. Memo was received from PSAB regarding the referendum question on the ballot urging support for this referendum at the polls tomorrow.
7. Received a letter from the Senior Adult Center regarding the issue of space rental as outlined in their lease with the Borough. They are asking to reopen discussion on this issue at the meeting on November 19th.
8. A letter was received from Upper Allen Township Commissioners about restriction being enacted on truck traffic on Diehl Road. This may increase truck traffic going out York Street to the Auto Auction.
9. West Shore Council of Governments has scheduled a meeting on November 18th at 7:00 p.m. at Hampden Township regarding the Regional Tax/RAD.

APPROVAL OF THE MINUTES

President Rider asked for a motion to approve the minutes of the October 22, 2002 with the correction that Mrs. Blauch has requested. Manger Stough clarified that the requested change is that the plan was submitted on Friday. Much discussion followed, after which Councilman Seagrism made a motion to approve the minutes with the change of text to indicate that the plans for the Mechanicsburg Commons Land Development and Subdivision Plans were resubmitted on Friday. Councilman McDermott seconded the motion, which passed by a vote of 7:0.

MANAGER'S REPORT: None

MAYOR'S REPORT

Mayor Ritter reported the following:

- ◆ October 15th, swore in six Special Fire Police at the beginning of the Halloween Parade.
- ◆ October 21st attended the Killer Angel Book review at the Library. This book was picked as the two counties one book current reading selection.
- ◆ Officiated two weddings.

Trivia Questions: Who was known as the "Hamburger Lady" on North Market Street near Allen?

Answer: Helen Gelwicks mother of Russell E. Gelwicks, who was the Mayor from 1953 till 1977. Councilman Whitcomb knew the correct answer and won a tote bag. Bonus Question: What type of burgers were they? Councilman Whitcomb indicated they were Mexican.

CHIEF OF POLICE REPORT

- ◆ Monthly Report not yet ready for distribution.
- ◆ Traffic Study reported last month as Locust St. was actually for Coover St. I apologize for the error.
- ◆ We received notification that we have been awarded a grant by the National Center for Missing and Exploited Children for a LOCATOR (Lost Child Alert Technology Resource) System to assist us with missing person's cases.
- ◆ We received notification from DCED that we will receive a \$10,000.00 grant for technology assistance at the new station.
- ◆ A Letter of Commendation was sent to citizen Gregory Antoon for his assistance with apprehension of a person attempting to fill a forged prescription.
- ◆ You have my memos regarding Gross Drive.
- ◆ I received additional information from Mr. Lumby in support of the 53 foot Trailer access on Allen St. and a Complaint from Ms. McAfee against same.

President Rider noted that he attended the Eagle Scout Ceremony for Adam Marc Weber on Sunday October 27th at the Environmental Center and the Resolution prepared by Borough Council was greatly appreciated.

SOLICITOR'S REPORT

The Solicitor had no report.

FIRE CHIEF'S REPORT

Chief Seagrism had no report.

COUNCIL COMMITTEE REPORTS

Recycling Committee: Winchell: NONE

Finance-Appropriations-Insurance: Rider: NONE

Health-Recreation: Rider: Councilman McDermott reported that the Recreation Commission would meet next Monday.

Public-Safety-Highway: Eichelberger: NONE

Public Communications: Eichelberger: NONE

Ordinance-Administration-Legislative Action: Seagrism: Councilman Seagrism asked the Manager to contact the business involved in the Walnut Villas noise complaint and the Manager indicated that he would do so.

Property-Building: Ritter: NONE

School Board: McDermott: NONE

Community Development: McDermott: Councilman McDermott noted that there will be a meeting of the 175th Anniversary Committee on Tuesday, November 12th at 7:00 p.m. The Crime Watch meeting will be Monday night and President Rider will be the guest speaker.

W.S.C.O.G.: Ritter: NONE

Fire Committee: Winchell: Councilman Winchell stated that he does not have the Fire Fighter presentation ready for this evening, so the presentation will be made at the meeting of November 19th. Next Fire Committee meeting has been changed from November 18th to November 25th at 7 p.m. here at the Borough Office.

AGENDA ITEMS:

- ◆ **Discussion and possible action on the Mechanicsburg Commons Subdivision and Land Development Plan waiver requests and plan approval.**

Representing the application is Chris Hoover, Hoover Engineering, and Mark Hughes, project developer. Mr. Hoover noted that an additional waiver request has been submitted since the last Borough Council meeting. Mr. Hoover stated that he is here to address any questions or concerns of Borough Council regarding the plan submission. Councilman Whitcomb questioned the curb heights at the South Broad Street/West Coover Street intersection. Mr. Hoover stated and Engineer Bruening agreed that the curb heights suggested are adequate for this location and increasing the curb height would not help the stormwater flows. Engineer Bruening reviewed the stormwater system proposed. Solicitor Schorpp stated that he and Attorney Brenneman are working on the developer's agreement and there may be some additional conditions upon plan approval. The Solicitor noted that since the Borough Council has voted on six of the seven requested waivers, before Council could vote on them again, it will be necessary for Council to pass a motion to reconsider the prior votes, which can be done collectively or individually on each waiver request. Manager Stough noted that Engineer Bruening will not be able to attend the meeting on November 19th, so he is in attendance this evening to answer any of Council's questions or concerns about this project. Councilman Whitcomb stated that since he was not in attendance at the last meeting, he is not familiar with what was done at that meeting, and if a vote is to be taken this evening, he would not be able to vote, as he is unprepared and would prefer that the matter be put to a vote at the meeting on November 19th. President Rider asked Engineer Bruening if he could send another associate from his firm to the meeting of November 19th. Engineer Bruening indicated that he would do so. Solicitor Schorpp indicated that Council will need to consider the 7th waiver, which was requested after the meeting of October 14th also. President Rider asked Mr. Hughes if it was acceptable to table the matter till the meeting of November 19th. Mr. Hughes indicated that would be acceptable and indicated that since the last meeting he has obtained an easement from the Mays to use their property for grading purposes and that he has received approval from Cumberland County Conservation.
- ◆ **Discussion and possible action on removing restrictions on 53' trailer on Allen Street.**

Chief Spotts indicated that he received a letter from Ms. McAfee of 314 West Portland Street complaining that this regulation will increase truck traffic on Walnut Street and there is already too much truck traffic on Walnut Street. Chief Spotts noted that Walnut Street is currently a permitted truck route. Mr. Lumby provided information to Chief Spotts which he reviewed relative to the setting of the king pin on the 53-foot trailers. Much discussion followed on the setting of the king pin on the 53-foot trailers. Councilman Whitcomb questioned if trucks making deliveries west of York Street should be allowed to make a left hand turn onto York Street to leave the Borough. After some discussion, it was decided to leave the Resolution as it stands, with all traffic entering and exiting on Walnut Street. Councilman Winchell made a motion to adopt Resolution 16-2002 to permit 53 foot trailers on Allen street, entering and exiting the Borough via Walnut Street. Councilman Whitcomb seconded the motion, which passed unanimously. President Rider thanked Mr. Lumby and the other Allen Street business owners for bringing this problem to the Borough Council's attention. Chief Spotts will inform the Allen Street business owners and the Pennsylvania State Police of the new regulations.
- ◆ **Discussion on Regional Asset District Information from West Shore COG.**

Vice President Eichelberger briefly reviewed this matter with Borough Council. President Rider made a motion, seconded by Vice President Eichelberger, to direct Councilman Ritter, as the Council Of Government representative, to voice opposition to this proposal in its current form and to direct the Borough Manager to send letters stating our position to the legislators in Harrisburg and Carsilie. Much discussion followed on the particulars of this proposal. After much discussion President Rider called for a vote and the motion passed with all members in favor.
- ◆ **Discussion on public records policy.**

Manager Stough reviewed this item with Borough Council and indicated that action would need to be taken to update our policies prior to December 31st. President Rider tabled this matter till the meeting of November 19th.
- ◆ **Discussion on intergovernmental cooperation agreement relative to the joint refuse and recycling bid.**

Manager Stough introduced Tom Stang from Waste Management to Borough Council and asked that he address Borough Council relative to the recent joint refuse/recycling contract bid. Mr. Stang spoke about the cost increase reflected in the joint bid. President Rider asked what the potential increase would be under the joint bid. Manager Stough indicated that we are currently billing \$10.00 per household and the proposed rate would be \$14.95. President Rider indicated that is a fifty percent increase. Mr. Stang indicated that the price quoted represents a rate that will continue to provide service to the residents at the same level they are currently receiving. Manager Stough then introduced Scott Wagner from Penn Waste. Mr. Wagner explained to Borough Council that his

company did not bid on the joint contract because of the number of variables that exists between the municipalities involved. The bulk item pick up and the tipping disposal taxes were reviewed by Mr. Wagner and cited these items as reasons that his company chose not to submit a bid for the joint contract. Mr. Wagner encouraged Borough Council to consider going out to bid independently, and stated that he would be interested in submitting a competitive bid, if we bid independent from the surrounding townships. Much discussion followed on the benefits of an independent bid versus the joint bid and the value to the customer of competitive bid options. Manager Stough presented information for two municipalities that had bid openings today. Lower Swatara Township had a bid opening and the bids were \$15.62 from Waste Management and \$13.25 from York Waste for 2,400 households. Monroe Township just went from \$32.00 to \$48.00 per quarter under their new contract. Manager Stough noted that the Borough's refuse and recycling rates have not changed since 1997. After much discussion, President Rider made a motion to authorize the Borough Manager to go out for refuse/recycling bids with unlimited service for a bid opening date of November 19th at 1 p.m. at the Borough Building, with action to be taken on this bid and the joint bid at the Council meeting of November 19th. Councilman Winchell seconded the motion, which passed by a vote of 7:0. Manager Stough will inform the other participating municipalities of the Borough's decisions.

AGENDA ITEMS FOR November 19, 2002

- ◆ **Consider possible action on the bids received for new Trucks, plow and bucket.**
Manager Stough indicated the requests for information and bid specifications have been received from several potential bidders.
- ◆ **Consider action on Ordinance establishing relationship between West Shore COG and Mechanicsburg Borough.**
Manager Stough noted that Dan Cohen is working with Comcast on the parking issue relative to the vacant lot.
- ◆ **Consider action on Ordinance to change Borough Zoning Ordinance to exempt municipal owned property.**
Solicitor Schorpp noted that there would be a public hearing on the proposed Zoning Ordinance change advertised for 7:30 p.m. on November 19th.
- ◆ **Consider authorizing to Solicitor to advertise an Ordinance to change the on-street parking regulations for oversized vehicles and trailers.**
Council has received a memo from Chief Spotts and comments from Solicitor Schorpp for their review. Solicitor Schorpp explained the items in his memo for which clarification from Council is needed. Some discussion on the matter followed. Councilman Winchell asked about temporary use exceptions, and it was noted that there are none in the proposed draft because of enforcement concerns. All suggested changes should be sent to the Borough Manager for consideration.
- ◆ **Consider action on Resolution to eliminate Participant Contributions for the Police Pension Plan and certification of the Minimum Municipal Obligation for Police and Non-Uniformed Pension Plan.**
Manager Stough noted that these items need to be acted upon each year.
- ◆ **Update and discussion on possible actions needed relative to the traffic concerns of Gross Drive and East Coover Street residents.**
Manager Stough indicated that Borough Council could consider if any additional action is need in response to resident concerns in each of these areas.
- ◆ **Review of the street light request application.**
Manager Stough explained that an application is being developed to be used for these types of requests.
- ◆ **Discussion and possible approval of Joint Recreation agreement.**
Manager Stough explained that an intergovernmental cooperation agreement should be in place in conjunction with the Joint Recreation Program and at this time there is no agreement in place. The School District Solicitor has been contacted and additional information will be forthcoming. Upper Allen Township and Shiremanstown Borough have already approved the agreement without an intergovernmental cooperation agreement being in place.

Manager Stough reminded Borough Council that November 19th is the deadline for Junior Councilperson applications for the 2003 year. So far, only one resume has been received. Manager Stough noted that an update on the Delta Development Strategic Plan will be available by the end of the week. Dauphin DataCom has a phone system that is being considered for the new municipal center, and information will be distributed to Borough Council prior to the meeting on November 19th. Manager Stough asked for a Finance Committee Meeting to be scheduled to finish review of the preliminary budget. President Rider will contact the Manager tomorrow to schedule an appropriate time. President Rider reminded Borough Council that this meeting would be followed by an executive session with no action to be taken.

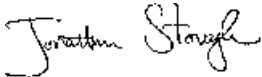
GUESTS:

- ◆ Bud Brown, ARRO Engineering, presented proposals to Borough Council for the Mulberry and Church Road bridge projects. Mr. Brown asked if Borough Council had any questions, and there were none.

- ◆ Luke Lumby, Allen Street Business Owner, thanked Borough Council for their support of the Allen Street business owners with their lifting of the truck restrictions. President Rider thanked Mr. Lumby for bringing the matter to Borough Council's attention.
- ◆ Jeff Sanders, 501 North Market Street, asked Manager Stough about funding for low income families to help with sidewalk repair. At this time, Manager Stough, has received no official correspondence regarding funding.

ANY OTHER BUSINESS: NONE

ADJOURNMENT: With no further business to come before Council, President Rider moved to adjourn at 9:35 p.m. An Executive Session on a personnel issue to follow with no action to be taken.



Jonathan S. Stough
Borough Manager

**Jayne Letter – Exhibit 1
November 4, 2002 Borough Council Meeting**

October 30, 2002

Mechanicsburg Borough
2 W. Strawberry and N. Market St.
Mechanicsburg, PA 17055

To Whom It May Concern,

My wife, Angela, and I are writing this letter to the members of the Borough Board so that you will have some advance notice of the issue we would like to discuss at the Borough meeting on Monday, November 4th.

The issue is, we're sure, is a familiar one: bands of children on the streets without adult supervision. Generally, but not exclusively, they are the skateboarders. Although we're aware that we are not alone with our complaints about them, the police records will show that the residents of West Locust Street have had more than our share of trouble with these kids. The following is a brief list detailing a few of the problems we've experienced:

1. Yelling at the top of their lungs (often times expletives).
2. Refusing to move from the street for the passing of an automobile.
3. Skateboarding for hours at a time in the middle of the street.
4. Waxing and otherwise doing damage to the sidewalk curbs.
5. Playing ball in the street (hitting various parked cars and houses in the process).

By attempting to resolve these problems ourselves, we've been met with verbal abuse, not just from the kids, but also from a few of the parents themselves (although perhaps only 1 or 2 of the typical band of 4-1.0 kids actually live on West Locust). In fact, the animosity that some of the parents possess have frightened many of the elderly residents from voicing their complaints for fear of reprisals. After meeting with some of these parents, you'd know exactly why they have this fear.

Unfortunately, the involvement of the Borough police has yielded little beyond the occasional screaming match between the police and a few of these parents. The sight of the police has now become commonplace for all of these kids and barely registers concern. Numerous run-ins with the police have taught these kids that the worst they'll get is a written or verbal warning, neither of these official reprimands having any lasting effect on the child or parents of the child.

We understand that any change of municipal ordinance will not make children respectful and considerate of others or make better neighbors of their parents, but we would like you to consider the following ideas:

1. Post "No Skateboarding" signs in the areas registering a high proportion of complaints.
2. Since these kids usually hang around a given house, make the "host" resident responsible for the behavior of the kids by imposing a fine upon the "host", on receipt of an official complaint, to be multiplied by the number of the kids they're not supervising.

The latter idea may seem a bit rash but, quite frankly, my wife and I as well as many other residents, are at our wit's end with these kids and their irresponsible parents. We would appreciate any consideration you can give this issue.

Respectfully,
Mr. and Mrs., Kevin B. Jayne

Exhibit 2 – Page 1 Breuning Memo



M E M O R A N D U M Mechanicsburg Borough Council

FROM: Mark B. Bruening
Mechanicsburg Borough Engineer

DATE: October 23, 2002

SUBJECT: Mechanicsburg Commons Preliminary Subdivision Plan -
Engineer's Reference No, MECH 102.01

We have reviewed the above referenced Preliminary Subdivision Plan dated April 17, 2002, last revised October 11, 2002 as prepared by Hoover Engineering Services, Inc. and offer the following comments:

A. Subdivision

1. Improvement guarantees must be established with the Borough (404.1).
2. Plans must be reduced to 17" x 22" for recording (503.B).
3. Plan must be signed by individual responsible for plan content (503.C.5).
4. Plan must be signed by landowner(s) and be properly notarized (503.D.2).

B. Storm water

Show how secondary discharge path from proposed low point in West Coover Street will be discharged without adversely effecting properties downstream or provide financial surety to cover any future damage. Applicant has offered to establish a \$75,000.00 surety for the perpetual maintenance of facilities and for any damage that may occur to downstream properties.

C. Waivers

1. A preliminary plan is required (403). Planning Commission recommended granting of a waiver to this section. If Borough Council denies waiver request, plan title should be changed to "Preliminary Plan".
2. Sidewalks shall be provided on both sides of a street in residential areas (604.F.2). Planning Commission recommended granting of a waiver to this section.
3. Lots shall have at least 40' of frontage on the street (607.B). Planning Commission recommended granting of a waiver to this section,
4. Proper super elevation shall be required between curves (604.B.4). Planning Commission recommended granting of a waiver to this section,
5. Newly planted shade trees shall be spaced not less than 40' (Ordinance 845, Section 13). Planning Commission recommended granting of a waiver to this section.
6. Private driveways on corner lots should generally be located at least forty (40') from the intersection and should have grades as to furnish a safe and convenient parking space (605.6). Applicant is requesting a waiver to this section.

D. General

1. Waiver block should be revised based on final outcome by Borough Council prior to final plan recording.
2. Borough must approve the sanitary sewer extension (Chapter 18, Sections 104 & 201, Code of Mechanicsburg).
3. A portion of the existing alley encroaches onto the subject tract. Borough Council should decide a course of action regarding the alley encroachment upon dedication.
4. Developer must enter into agreement with water supplier prior to recording plan.
5. Planning module must be approved by Borough and D.E.P.
6. Construction surveillance escrow must be established with the Borough.
7. Borough solicitor should review submitted "Declarations of Covenants".
8. Applicant offered \$500.00 per lot for donation towards drainage improvements in watershed.

Blauch Letter – Exhibit 3
November 4, 2002 Borough Council Meeting

Mechanicsburg Commons Ordinance Issues
November 3, 2002

Zoning Ordinance 973

Article 5 R-M Residential District
Section 506

Under the Zoning Ordinance, the proposed street will create a third front yard on our property. This Article will impose a front yard setback of 15 feet where we currently have a 5 feet setback. We do not argue the right of the

Exhibit 3- Page 2

Borough to impose setbacks in the Zoning Ordinance. However, once the Zoning Ordinance has been enacted through due process, the imposition of additional set back on a property for the convenience of another land owner amounts to a taking of property rights without due process for the benefit of another land owner.

Article 11 General Provisions

Section 1108 Obstruction of Vision

A 4 feet high railing at the top of a proposed retaining wall near Broad Street that will likely obscure vision within the sight triangle.

Section 1109 Fences and Walls

Section 1109.6 There appears to be a 4 feet high railing at the top of proposed retaining wall near Broad Street. Fences are not permitted within the street right-of-way. If the developer owned sufficient land to properly construct the street, railings (fences) would not be necessary.

Section 1109.7 All fences (railings) must meet intersection visibility requirements set forth in the ordinance.

Article 13 Nonconforming Building and Uses

The first sentence of this Article refers to nonconforming uses or other structure existing on the effective date of the zoning ordinance may be continued. There are no provisions in the Zoning Ordinance that permit nonconformances to be created other than through the Zoning Hearing Board. The proposed street will create three nonconforming driveways without any involvement by the Zoning Hearing Board. This appears to be in violation of the enabling state legislation, the Municipalities Planning code.

Article 16 Motor Vehicle Access

Section 1601.4 Driveways shall not cross the street right-of-way within 40 feet of an intersection. There are three existing driveways within 40 feet of the proposed intersection and they will become nonconforming with the construction of the street. Once the Zoning Ordinance is enacted (in 1991), the only way the new nonconformances can be created is by obtaining a variance from the Zoning Hearing Board. This is also indicated in the Municipalities Planning Code, the enabling state legislation that grants municipalities the authority to enact zoning.

Subdivision and Land Development Ordinance 830

Section 202 Definitions

Street: Strip of land including entire right-of-way. During the Planning Board meeting, it was discussed that **Section 708** requires a release from adjoining for the building of a street. The developer's engineer stated that they did not need signatures of the adjoining because they owned the strip of land between the paved street and curb and the property line. That strip of land is in the right-of-way of the proposed street and; therefore, the street adjoins our property. The developer does not own land on either side of the right-of-way, the adjoining do. His claim is incorrect and should have been challenged by the Codes Officer.

Through Lot: A lot, which abuts a street on two or more opposing or non-adjacent sides. This plan makes the Blauch lot a through lot. **Section 607** does not allow this type of lot.

Section 405.D.4.k Curbs, Driveways and Sidewalks

Exhibit 4: No driveway is permitted at street corners. Our existing driveway already exists within 14 feet of the proposed street. Pedestrian safety zones are required – 20 feet along full height curb at corners. With the ADA compliance curb cuts required there will be less than 9 feet provided as a pedestrian safety zone.

Section 602C Land Suitability

Adequate safeguards are not being provided for safety because there are three existing driveways in close proximity to the new street intersection in addition to another intersection only 150 feet away.

Section 604.D3 Clear Sight Triangles

Exhibit 3- Page 3

Trees are shown as being planted along the sight triangle on Washington Street. The recent addition of a 4 feet railing on both sides of the proposed street to Broad Street along both the Blauch and May property makes the sight distances shown on the plan in error.

Section 605.D4 Sight Distance at Intersections

Broad Street meets the definition of a collector street as defined in 603.E.3 because of the two major schools (community facilities) located along it. Minimum sight distance should be 400 feet, but the Valley Street intersection will be 150 feet from the proposed street. It will be difficult for anyone on Valley Street or the proposed street to see each other prior to pull out, making two streets pulling out onto a collector street within 150 feet of each other.

Section 605.F Driveway Location

This ordinance states that driveways should generally be located 40 feet from a street intersection. There are three existing driveways within 40 feet of the proposed intersections.

Section 606.B Block Width

Blocks **shall** have a minimum length (so far as practical) of 500 feet. The proposed street creates a block width that is less than 160 feet.

Section 607.G Double Frontage Lots Are Not Permitted

Exhibit 2 – Page 2

November 4, 2002 Council Meeting

The proposed street creates a double frontage lot, ours! We are already bounded by Broad and Valley Streets, with an alley behind us. We would not be allowed to do this to ourselves nor would the developer be allowed to create it on his own property, but yet the developer is doing this to an adjacent subdivision.

Section 708 Releases

Releases are required from adjoining owners when any new street or drainage facility is constructed abutting land of persons other than the subdivider. The proposed street abuts our property, as does the proposed culvert and swale that will result from the street fill. This requirement, which is **specific** to adjoining owners of a proposed street or drainage structure, is being ignored.

Section 709.F Contract Required

This section requires the subdivider to enter into a written agreement, wherein he or she agrees to obtain all easements and releases required by this ordinance. We have never been contacted about obtaining a release and the plans do not provide an easement for the utility lines along the north side of the tract.