

**MORRIS COUNTY SOIL CONSERVATION DISTRICT
SUPERVISORS MEETING
May 9, 2019**

The May 9, 2019 meeting of the Morris County Soil Conservation District was called to order by Vice-Chair Phil Roehrich at 30 Schuyler Place, Morris Township, and New Jersey. Mrs. Connelly stated that the Open Public Meetings Act requirements have been met. Pursuant to N.J.S.A. 10:4-6 et seq. adequate notice of this meeting was provided by giving the time, date, and location and to the extent known the agenda of this meeting. At least 48 hours in advance this notice has been posted on the bulletin board, 30 Schuyler Place, Morris County Annex Building in Morristown; emailed to The Star Ledger, the Daily Record and filed with the Office of County Clerk.

The following individuals were present

Vice-Chair: Phil Roehrich
Treasurer: Marc Slaff
Assistant Treasurer: Bob McEwan
Manager: Joe Dunn, Jacqueline Connelly

The following individual was absent:

Chair: Louise Davis
Secretary: Nic Platt

The Meeting was called to order by Vice-Chair Phil Roehrich

Accept April 11, 2019 Minutes:
Accepted as submitted

Reports:

Personnel: Progress

Finance:

Motion made by Member Slaff to pay the bills for the month of May and seconded by Member McEwan. Motion carried and all approved.

Unfinished Business:

Supervisors Tour of Morris County 251 Sites - Tentative October 23, 2019

EAB Talk - Chester Library – May 13, 2019

EAB Talk - Parsippany Library - September 21, 2019

New Business:

Appeal Certification / Reconsideration- Hickory Tavern Road # 26 -Jane Hecht

The Morris County Soil Conservation District Board of Supervisors [Board] hearing of May 9th, 2019 to serve as a communication regarding the status of the subject application until such time the minutes of the meeting are approved by the Board at their June 19, 2019 rescheduled regular meeting.

The decision of the Board to certify the application at their meeting of April 11, 2019 was appealed by an adjoining neighbor, Mrs. Jane Hecht, [appellant] via an email on April 23, 2019. The appeal process required three items in requesting an appeal of the district's decision.

1. The appeal be made within a given time frame after the decision
2. The individual had to be aggrieved by the decision
3. The request had to be in writing.

Once the subject appeal request met all of these criteria the district had to hold a hearing within 35 days of the request. As such a meeting was set for May 9th, 2019 at 2PM at the district offices. In addition to stating the three items above the written request also accused the Board of holding a meeting that was not in compliance with the special meeting of the Board on April 11, 2019.

The appeal was heard at 2:34PM on May 9th, 2019. The meeting was delayed due to lateness of a member and the lack of quorum this lateness imposed. In attendance were:

1. Acting Chair, Philip Roehrich, Vice Chair,
2. Member Marc Slaff, Ph.D., Treasurer
3. Member Robert McEwan, Asst. Treasurer (arrived at 2:30PM)
4. Jacqueline Connelly, [Secretary to the Board] Financial and Administrative Mgr.
5. Joseph P. Dunn, District Mgr.
6. Jane Hecht, Appellant

At the meeting the agenda was altered by the Chair to accommodate the appeal by moving it to the beginning of the meeting. The appellant asked if there were any time limits on her presentation. The Manager indicated that was the Chair's discretion. The Chair indicated that the presentation would need to be within "a reasonably time frame". At the commencement of the meeting the Manager discussed the appeal process as

required under the SESC Act rules. The Manager indicated that the written appeal request also contained an accusation of the District's failure to adequately publicly announce the April 11th meeting of the board. The Manager indicated that after consulting with the District's attorney and the Secretary to the Board that the April 11th meeting was in compliance with the NJ Open Public Meetings Act. As a consequence the Manager indicated that today's hearing should be considered a reconsideration/appeal of the April 11th approval not an initial decision brought about by an invalid meeting. Essentially the district is holding an appeal hearing within the 35 days of a request, in compliance of the controlling state administrative code NJAC 2:90.1.16 The effect of this would be that the upon conclusion the Board's decision no further appeals could be made at the district level but an appeal at the state level would still be available to the appellant.

The Chair turned the hearing over to the appellant for the purposes of making a presentation. The appellant spoke for 50 minutes on the circumstances surrounding her residency and experiences on the lot adjoining the proposed development. In support of her presentations the following documentsⁱ were used:

1. A May 6th New York Times article on species extinction
2. A pre development topographic map by design engineer
3. A pre development topographic map by the appellant's engineer
4. A post development grading plan
5. A transparency overlay placing topographic lines (from document #3) across the post development grading plan (document # 4 above).
6. April 8th, 2019, [Received May 3rd, 2019] correspondence for William Hollows P.E. regarding existing grade
7. Photographs of the appellant's lot 4
8. A plat map for the construction of a tennis court, on another lot (Tax Block 13803 Lot 8) also adjoining lot 4.

The appellant's presentation covered both a significantly broad to narrow view of the Board's April 11th decision to certify the subject SESC plan. During the presentation the appellant discussed larger environmental issues by using items 1 above. The appellant also described the initial efforts to stabilize/vegetate her property with Pachysandra. The appellant described lot 4 as an "upland wetlands". The appellant utilized documents 2, 3 & 4 to indicate that runoff would flow to lot 4 and negatively affect both the environmental and economic value of the property. During the presentation the appellant utilized item 8 as an example of a design change required by the Township to address her concerns regarding runoff onto lot 4. Document 8 indicated a berm allowing runoff from the tennis court onto lot 4.

In addition the appellant utilized documents 2, 3, 4 & 5 to indicate that water would flow onto lot 4. The appellant further indicated that the flow symbols in the proposed grading pointed at lot 4 and 3. The appellant asked that the flow path symbols be altered to indicate the flow away from lots 4 & 3. The appellant asked that in addition the Board consider some permanent controls to assure that runoff would not be directed toward lot 4 for in the future.

In response the documents presented the manager the following observationsⁱⁱ;

- A. That document 2 from the design engineer did not agree with the transparency lines drafted by the appellant an overlaid on the design PE's post development grades (documents 3 & 4).
- B. That it was not unusual for the existing and post development plans to be of different scales.
- C. That is was common practice for post development plans to limit grading information to be limited to the point where post development grade tie into the pre-development grades.

At the conclusion of the presentation the manager indicated:

- I. That the limit of disturbance [LOD] was 100 feet away from the common boundary line shared by lots 1 & 4.
- II. Inside the LOD the grade was to be altered to divert all water away from the Appellant's common lot line to flow down gradient away from the common boundary with lot 4. The width of this grade change is 50 to 60 feet, meaning runoff would have to flow across gradient for 50 to 60 feet for water to reach the LOD line, then across a 100+ foot buffer before it could cross the common boundary.
- III. That the flow path symbols did represent the proposed flow of water accurately and away from lots 3 & 4 and that the design plans were not written for the average person but could be clearly discerned as flowing away from lots 3 & 4 by the experienced conservationists on the district staff.

The manager also indicated that the Township Engineer, the District's Engineer as well as the Consulting Design Engineer all had a differing opinion from that of the Appellant's Engineer, William Hollows, P.E.

The Chair asked, what's was the next step? The manager indicated the Board should make a motion to confirm their initial approval of April 11, 2019, this will determine if the initial approval is supported by a majority of the Board. The Chair asked for a motion to confirm the April 11, 2019 decision of the Board to certify the subject plan. Member McEwan and Second by Slaff. The Board Secretary called the roll, all approved.

Motion to Confirm

Motion made to confirm by Member McEwan and Member Slaff seconded to approve the motion 'Approval of Certification for Application # 2017-10205 - Hickory Tavern Road Residence # 26 from Special Meeting/ April 11, 2019.' Upon a roll call vote being taken, the vote was: Aye: 3 Nay: 0. The Chair indicated the motion CARRIED. 3 – 0

251 Certifications

Motion made by Member Slaff to approve 251 Certifications and seconded by Member McEwan. Motion carried and all approved.

RFA Authorizations

Motion made by Member McEwan to approve RFA Authorizations and seconded by Member Slaff. Motion carried and all approved.

Reapprove April 11, 2019 Certifications

In consideration of the charge of improper notice for the April 11, 2019 meeting of the Board of Supervisors, The Manager requested to reapprove all 251 Certification taken at the April 11, 2019 meeting. The Manager assured the Board that this requests in no way altered this opinion nor the advice received by the District Counsel. The request for approval is being made out of an abundance of caution should a higher authority not agree with this opinion.

Motion made by Member Slaff to reapprove April 11, 2019 251 Certifications and seconded by Member McEwan. Motion carried and all approved.

4:03 - No more business to be brought before the board

Respectfully Submitted,
Jacqueline Connelly
Office Manager