

TOWNSHIP OF DERRY

BOARD OF SUPERVISORS MEETING

Tuesday, February 9, 2010
600 Clearwater Road, Hershey, Pennsylvania 17033

CALL TO ORDER

The February 9, 2010 Township of Derry Board of Supervisors meeting was called to order at 7:10 p.m. by Chairman Michael H. W. Pries.

ROLL CALL

E. Christopher Abruzzo, Vice-Chairman
Sandy A. Ballard
Kelly C. Fedeli, Secretary
Marc A. Moyer
Michael H. W. Pries, Chairman

Also Present:

Matt Bonanno – HRG
Thomas Clark – Director of Public Works
Bob Piccolo – Assistant Director of Public Works
Barbara Ellis - Director, Hershey Public Library
Jill E. Horner – Assistant Township Manager
Matthew J. Mandia – Director of Parks and Recreation
James N. Negley - Township Manager/Township Treasurer
Edward L. Small – Director of Community Development
William D. Smith – Chief of Police
Terry M. Weinhold – Manager of Accounts Payable & Accounts Receivable
Jon A. Yost - Township Solicitor

Public Present: Joshua Warren, Dave Warren, Charleton Zimmerman, Rich Gamble, Pat N.

Press Present: Drew Weidman, The Sun

Executive Session:

Chairman Pries announced that the Board of Supervisors met in executive session prior to this meeting to discuss land, legal, and personnel issues.

Chairman Pries advised that all public meetings are recorded for providing accurate minutes.

VISITOR/PUBLIC COMMENT:

Charleton Zimmerman, 125 Roosevelt Avenue – Mr. Zimmerman mentioned that at the last Zoning Hearing Board meeting on January 20th, a resident asked who interpreted the rules and regulations. Mr. Zimmerman stated that he had that question 4 years ago and was hoping that it would have been answered but it wasn't. He asked if the Board

was informed of this question. They indicated they were not. Mr. Zimmerman mentioned questions regarding Roosevelt. He asked if Mr. Yost could answer the questions by the next Zoning Hearing Board meeting.

Chairman Pries thanked Mr. Zimmerman and asked Mr. Small to review the questions and provide answers.

APPROVAL OF MINUTES:

Chairman Pries called for a motion to approve the Minutes of the January 26, 2010 Public Hearing and the Minutes of the January 26, 2010 Board of Supervisors Meeting.

Vice-Chairman Abruzzo made a motion to approve the Minutes of the January 26, 2010 Public Hearing as written. Supervisor Fedeli seconded. ***The motion carried 5-0.***

Supervisor Moyer made a motion to approve the Minutes of the January 26, 2010 Board of Supervisors Meeting as written. Supervisor Ballard seconded. ***The motion carried 5-0.***

NEW BUSINESS:

A1-7 The Second Revised Preliminary/Final Land Development Plan for Rosemont Integrated Services, LLC, Plat No. 1188.

B1-9 The Second Revised Preliminary/Final Land Development Plan for Deer Run Commons, Plat No. 1187.

Chairman Pries requested that Agenda Items A1-7 and B1-9 be tabled until the next meeting. This will allow the two new Board members as well as the whole Board more time to research and review them. He noted that they have until February 23rd to render a decision. In addition, due to the weather tonight, the Board felt it would only be fair to wait until the next meeting in case any person in the community wanted to be present to comment.

Motion: A motion made by Chairman Pries and seconded by Vice-Chairman Abruzzo to table Agenda Items A1-7 and B1-9 is hereby approved. ***The motion carried, 5-0.***

C1-5 Re-approval of the Final Subdivision/Land Development Plan for 515, 555, 565 East Chocolate Avenue, Plat No. 1179.

Edward L. Small – Director of Community Development

Mr. Small explained that the reason this item is on the agenda is that they ran into a technicality from the last approval of August 11, 2009. There is a requirement of law stating that conditions of any approval that aren't satisfied within 6 months would cause that plan to be null and void unless it would be re-approved. We have reached the 6 month term. All but two of the conditions of the motion had been satisfied. They relate to the bank business that would require the provision of performance security for the site improvements and an additional item for an instrument that would secure off-site storm water improvements downstream.

Supervisor Ballard asked why the conditions weren't acted upon within the six months. Mr. Small referred to the developer.

Dan Sheffey said the two items outstanding are of a financial nature so they require a bank to make those happen. The donation for stormwater improvements required an agreement, which needed to be approved by the Township Solicitor and wasn't approved in a timely manner. Therefore, he did not meet the timeline for the agreement, and he also did not meet the requirements of his loan commitment. This whole project is on hold because his loan commitment is invalidated due to the two outstanding items.

Supervisor Ballard asked if it was the agreement that held up his loan. The developer said that by the time he needed to have everything ready, it wasn't ready.

Motion: A motion made by Vice-Chairman Abruzzo and seconded by Supervisor Fedeli that the Final Subdivision/Land Development Plan for 515, 555, 565 East Chocolate Avenue, Plat #1179, is reapproved subject to the following:

- a. That performance security is provided no later than August 11, 2010 to guarantee the completion of required improvements.
- b. That the Township receives a Letter of Credit in the amount of \$27,540.00 for the purpose of drawing funds as needed for the stormwater improvements along and beneath Chocolate Avenue, and an executed agreement detailing the understandings associated with the project, subject to review and approval by the Township Solicitor. This is to be addressed no later than August 11, 2010.

The motion carried, 5-0.

D1-3 Consideration of the extension of the term of the performance security for the Preliminary/Final Subdivision Plan for Lot 251 of Deer Run, Plat No. 952.

Edward L. Small – Director of Community Development

This is an acceptance of a renewal of an insurance bond. We are now holding a bond that is valued at \$97,630.00 provided by Doug Gelder, the developer. He agreed to put the value of bike path installations at the Township's direction in exchange for the transfer of 1.29 acres away from what became Gelder Park. This was to be attached to Phase 3 of the Deer Run Development, which enabled more townhouse buildings. The bike path now terminates at Deer Run Drive and users would have to enter the road. This new plan would put the bike path off the road again, follow a sewer easement, and eventually hook up to the Southpoint Meadows Development. This extension would be for another year's term. In that time, a considerable amount of installation could be done. Mr. Small added that they have it committed to paper.

Motion: A motion made by Supervisor Fedeli and seconded by Supervisor Moyer that the Township hereby accepts an extension until February 12, 2011 of the term of the security for the installation of pedestrian/bicycle paths as per an Agreement between the Township of Derry and Shaffer and Gelder Development Corp. of February 26, 2002, supplied as Insurance Bond No. 103 752 628 from Travelers Casualty and Surety Co. in the amount of \$97,630.00 for the Preliminary/Final Subdivision Plan for Lot 251 of Deer Run, Plat #952, provided that the extension is received no later than February 10, 2010, or in the alternative, that staff is authorized to draw the balance to hold pending completion of the improvements is hereby approved. ***The motion carried, 5-0.***

E1-2 Consideration of the extension of the term of the performance security for the Revised Preliminary/Final Land Development Plan for Deer Run Commons, Plat No. 1152.

Edward L. Small – Director of Community Development

This is a renewal of an insurance bond in the amount of \$337,877.05. The insurance companies are reluctant to use our automatic extension policy that we have in letters of credit. This was the first revision of the same development on the plan that was just postponed. There have been no partial releases so the bond renewal would extend for one more year.

Chairman Pries asked if we should wait until the 23rd meeting or act on it tonight. Mr. Small said this one is critical for this evening.

Motion: A motion made by Supervisor Fedeli and seconded by Chairman Pries that the Township accepts an additional term of one year of the performance security of \$337,877.05 in the form of Insurance Bond No. 6603339 supplied by SAFECO Insurance Company of American for the Revised Preliminary/Final Land Development Plan for Deer Run Commons, Plat #1152, or in the alternative, if the extension is not received by February 16, 2010, that staff is authorized to draw the balance pending the completion of required improvements is hereby approved. *The motion carried, 5-0.*

F1-6 Consideration of extending the Solid Waste Contract with York Waste for an additional year from April 1, 2010 until March 31, 2011.

James N. Negley - Township Manager/Township Treasurer

On February 27, 2007, the Board approved a 3-year contract for the collection, transportation, and disposal of municipal solid waste and recyclables. The award was granted to York Waste. The contract in 2007 had a provision permitting two one-year extensions without rate changes.

We have checked recent contracts negotiated in our area and determined these recent agreements result in higher rates than our residents are currently paying. In discussing the contract renewal with York Waste, they voluntarily added some enhancements for the extension of the contract. The enhancements include proposed service modifications, a reduction in fees for the one bag/week service (reduce \$24/year), a "pay as you throw" option (\$3.50 one/bag), and those who maintain the three/bag will receive at no cost a 96 gallon mobile cart.

Chairman Pries was pleased with York Waste for providing us with a very impressive proposal to extend the current contract.

Motion: A motion made by Supervisor Moyer and seconded by Vice-Chairman Abruzzo that the Township exercises its option to extend the Solid Waste Contract with York Waste for an additional year from April 1, 2010 until March 31, 2011 is hereby approved. *The motion carried, 5-0.*

G1-7 Authorization to accept a proposal from Herbert, Rowland & Grubic, Inc. to provide engineering services for Part II Final Design Balance of Base Green-T plus the Chocolate Avenue Pedestrian Underpass for the relocation of the Route 743 Bridge

over Norfolk Southern Railroad contingent upon the receipt of a Pennsylvania Infrastructure Bank Loan.

James N. Negley - Township Manager/Township Treasurer

This proposal is for work already done and HRG is waiting for payment from a Pennsylvania Infrastructure Bank Loan. Additionally, the Township had applied for Gaming Proceeds under Dauphin County and recently received the award. The entire amount of this scope of service is in the amount of \$548,902.00, which will be paid by the Dauphin County Gaming Commission money.

Chairman Pries thanked the Board of Commissioners for approving the monies from Gaming Funds. Supervisor Fedeli added that the community should be very pleased as this project progresses and improvements are made in the heart of downtown.

Motion: A motion made by Supervisor Fedeli and seconded by Supervisor Moyer that the Township Manager may execute an agreement with Herbert, Rowland & Grubic, Inc., (HRG) to provide engineering services for Part II Final Design Balance of Base Green-T plus the Chocolate Avenue Pedestrian Underpass for relocation of the Route 743 Bridge over Norfolk Southern Railroad contingent upon the receipt of a Pennsylvania Infrastructure Bank Loan is hereby approved. *The motion carried, 5-0.*

H1-8 Authorization to advertise an ordinance amending the Code of the Township of Derry (Ordinance No. 553), Chapter 210 (Vehicles and Traffic), Article II, (Traffic Regulations), Section 210-24, by establishing a stop sign on Quail Hollow Road, southbound, a stop sign on Quail Hollow Road, northbound, a stop sign at Stoney Run Road, westbound. In addition, the deletion of a right-turn sign at Quail Hollow Road.

William D. Smith – Chief of Police

There have been concerns regarding the traffic posting configuration at the intersection of Quail Hollow Road and Stoney Run Road. The Board authorized HRG to conduct a traffic safety study at the intersection, which they have done. They provided the results to the Board at the meeting of January 26th. This is now before the Board for their approval.

Motion: A motion made by Vice-Chairman Abruzzo and seconded by Supervisor Ballard that authorization to advertise an ordinance amending the Code of the Township of Derry (Ordinance No. 553), Chapter 210 (Vehicles and Traffic), Article II, (Traffic Regulations), Section 210-24, **stop Intersections established**, by establishing a stop sign on (1) Quail Hollow Road, southbound as it intersects with Stoney Run Rd., (2) a stop sign at the intersection of Quail Hollow Road, northbound, as it intersects with Stoney Run Rd., and (3) a stop sign at Stoney Run Road, westbound as it intersects with Quail Hollow Rd. In addition, to delete the authorized sign permitting a right turn on Quail Hollow, northbound, as it intersects with Stoney Run Road. This motion is hereby approved. *The motion carried, 5-0.*

I1 Pennsylvania American Water Company Upgrades in Bradley Avenue

Jon A. Yost - Township Solicitor

Pennsylvania American Water Company is upgrading water lines in the area of Bradley Avenue. The Water Company has obtained easements from the adjacent property owners, but they also need an easement from the Township. Part of the line will be

installed on the right-of-way that was dedicated to the Township. Solicitor Yost requested the Township to approve both of the easements.

Motion: A motion made by Vice-Chairman Abruzzo and seconded by Supervisor Ballard that the easements obtained from the property owners and the Township to allow the upgrade of water lines on Bradley Avenue is hereby approved. ***The motion carried, 5-0.***

J1 Sandhill Road Cell Tower

An appeal is made by American Tower regarding a cell tower that they have located on 325 Sand Hill Road for the assessment for real estate tax purposes. The property is currently assessed by the County at \$318,800.00. The County had an appraiser give an estimate at market value, which would produce an assessment of \$239,800. The County Assessment Appeals Board solicitor is recommending approval of the settlement with the assessment at \$239,800 with a market value of \$350,000. We have historically gone along with the County since we collect about 6% of the taxes, the County collects about 30%, and the school district collects the balance.

Supervisor Ballard mentioned that part of the reason we would not contest the evaluation is because we would assume the legal costs on our own.

Motion: A motion made by Supervisor Fedeli and seconded by Supervisor Ballard to execute a stipulation of settlement in the amount of \$239,800 for assessment of the property located at 325 Sand Hill Road is hereby approved. ***The motion carried, 5-0.***

K1 Lescanec Library Legacy Funds

Barbara Ellis - Director, Hershey Public Library – Ms. Ellis is requesting the approval for expenditures up to \$100,000 from the Lescanec Library Legacy Funds for redesign and renovation in the interior of the Hershey Public Library. In late 2009, the library received \$378,000 from the Estate of Isabelle Lescanec. As part of the library's 5-year plan beginning in 2005, we discussed reassessing how we use some of the spaces of the library. In 2006, Gerald McCabe, a consultant, helped us reassess the efficiency the library space. His recommendations included several interior redesigns including the central area of the library. One of the key components was to make it more welcoming and usable space. We began in 2007 to look at ways to do that project, but at the time it was not financially feasible. Funding was limited in 2009 and this year the Lescanec Library Legacy makes it possible to begin this project in Phase 1.

Supervisor Fedeli said this project has been put on hold for quite some time due to the current economic situation. It is being made possible only by the bequest from Ms. Lescanec. The redesign will benefit the library and its patrons. The balance of the bequest will be set aside and used as a "rainy day" fund. Both Chairman Pries and Supervisor Fedeli have been stressing to the library the importance of being very careful with the funds especially with the State budget situation.

Supervisor Ballard added that this bequest is separate from the Hershey Endowment Fund. She asked if there were any restrictions on the bequest. Ms. Ellis said there were no restrictions.

Motion: A motion made by Supervisor Ballard and seconded by Supervisor Fedeli that \$100,000.00 of the Lescanec Library Legacy Funds be used in Phase 1 of the redesign of the interior of the Hershey Public Library project is hereby approved. ***The motion carried, 5-0.***

L1 Creation of a Panel of Five Members to make Recommendations and Suggestions connected to the implementation of Act 167 as it pertains to Derry Township.

MOTION: A motion made by Chairman Pries and seconded by Vice-Chairman Abruzzo to appoint a panel of five (5) to consist of three (3) Township residents, one (1) member of the Board of Supervisors, and one (1) employee from Community Development within Derry Township to be named at the February 23rd meeting of the Board of Supervisors. The panel of five will make recommendations and suggestions connected to the implementation of Act 167 as it pertains to Derry Township.

DISCUSSION: Supervisor Ballard explained that resident Steve Todd gave some suggestions to the Board regarding Act 167 stormwater regulations. There are some opportunities to make it easier for developers and homeowners who want to make adjustments to their home using more modern technologies that are currently available. Our current ordinances are not quite up to-date with the modern technologies. We have some intelligent individuals in our community and getting them involved on an ad hoc limited task force is a wonderful opportunity.

Supervisor Moyer said this panel is representatives from the community who will serve in an advisory capacity to proffer good ideas and their own personal interest and knowledge to assist the Board in making the best and most reasonable decisions possible.

Chairman Pries asked the Board to come up with some names within the Township, a member of our Board, and someone from Community Development to provide at the next Board meeting.

The motion is approved. ***The motion carried, 5-0.***

M1 Hiring Freeze for any New Vacant Full-time Position within Derry Township

MOTION: A motion made by Chairman Pries and seconded by Vice-Chairman Abruzzo that Derry Township Board of Supervisors implements a Township-wide hiring freeze effective February 10, 2010 for any newly vacant full-time positions until rescinded by the Derry Township Board of Supervisors.

Supervisor Moyer clarified that the Board will reserve the right to consider positions on a case by case basis in the event the need arises. Chairman Pries added that currently there are a couple of positions that are funded and vacant that we have already started interviewing for. This new hiring freeze will not affect those positions.

The motion is hereby approved. ***The motion carried, 5-0.***

CORRESPONDENCE

No correspondence to report.

BOARD/COMMITTEE INFORMATION

No Board information to report.

REPORTS

William D. Smith – Chief of Police

Chief Smith announced that on February 7th, Tim Shollenberger of Hershey Corps Security hosted a security symposium at the Giant Center. This is a meeting to gather security interests within the Township and emergency service providers to discuss issues of mutual concern. Those in attendance included Hershey Security Interest Hotel Lodge, Medical Center, Police Department, Fire Department, EMA, PA State Police, South Central Task Force, and the FBI.

Thomas Clark – Director of Public Works

Mr. Clark said they received salt deliveries this evening. They will be out for the duration of the snow storm.

Chairman Pries shared that he received four calls and an email complimenting Tom Clark and his staff regarding the snow storm. On behalf of the Board and the residents, he thanked Tom and his staff for their diligence and hard work.

Supervisor Moyer said all you have to do is travel outside the Township to surrounding communities to appreciate the work that Tom and his crew have done on this last snowfall.

Supervisor Fedeli said she received three phone calls complimenting Tom and his staff.

Barbara Ellis - Director of Hershey Public Library

Ms. Ellis expressed her appreciation of the work Public Works and the Recreation Department have done relating to the snow. They received compliments from the public as well. Ms. Ellis thanked the Board for their approval of the redesign of the library.

Terry M. Weinhold – Manager of Accounts Payable & Accounts Receivable

Chairman Pries asked Ms. Weinhold if the numbers for 2009 are officially done. Ms. Weinhold said they will continue posting through the month of February.

Matthew J. Mandia – Director of Parks and Recreation

Mr. Mandia said the Recreation Center will most likely be closed tomorrow, but their full-time staff will be there getting things done that they normally can't get to. He thanked Public Works for getting their facility opened up. They were able to open up on time Sunday and accommodate all the programs.

Chairman Pries commented on Mgr. Negley's commitment and spending the night at the Township Building to assure things are functioning from the Township Building tomorrow.

APPROVAL OF ACCOUNTS PAYABLE (\$332,166.01) AND PAYROLL (\$278,178.78).

Supervisor Ballard moved to approve accounts payable in the amount of \$332,166.01 and payroll in the amount of \$278,178.78. Vice-Chairman Abruzzo seconded. ***The motion carried, 5-0.***

Chairman Pries acknowledged a member of the Boy Scouts. Josh Warren introduced himself and said he was working on the Citizenship and Community Merit Badge.

VISITOR/PUBLIC COMMENTS

Rich Gamble inquired about the status of the old Municipal Building. Manager Negley said it is still being marketed by the ICDA with Bill Gladstone. There is no firm commitment yet. We have an agreement with Mr. Gladstone for a year. Mr. Gamble referred to the intersection that comes out of Staples and goes across. Since the Township owns that property would they consider improving that intersection for better visibility or even considering making it a one-way street.

Chairman Pries said they would take his suggestion under advisement.

Tom Stang, 25 Boxwood Drive – Mr. Stang asked about the Board’s action regarding the Waste Contract extension. He apologized for not being here at the beginning of the meeting. Manager Negley said it was presented and approved 5-0. Mr. Stang asked if the services would remain the same. Manager Negley said the services are going to be enhanced as a reduction in fees for the one bag (reduction of \$24/year). There is a pay as you go for \$3.50/bag and a free 96 gallon cart container being provided to all the people having the three bag option.

ADJOURNMENT

Vice-Chairman Abruzzo moved to adjourn the meeting at 7:55 p.m. Supervisor Moyer seconded. ***The motion carried, 5-0.***

SUBMITTED BY:

Kelly C. Fedeli
Township Secretary

Brenda Van Deursen
Recording Secretary