

# TOWNSHIP OF DERRY

## BOARD OF SUPERVISORS MEETING

Tuesday, March 24, 2009  
600 Clearwater Road, Hershey, Pennsylvania 17033

### **CALL TO ORDER**

The March 24, 2009 Township of Derry Board of Supervisors meeting was called to order at 7:10 p.m. by Chairman, Michael H. W. Pries.

### **ROLL CALL**

#### ***Supervisors Present:***

E. Christopher Abruzzo, Vice-Chairman  
Kelly C. Fedeli, Township Secretary  
August (Skip) T. Memmi, Jr.  
George W. Porter  
Michael H. W. Pries, Chairman

#### ***Also Present:***

Barbara Ellis - Director of Hershey Public Library  
Jill E. Horner – Assistant Township Manager  
Cheryl L. Lontz, Manager of Payroll & Employee Benefits  
Matthew J. Mandia – Director of Parks and Recreation  
James N. Negley - Township Manager/Township Treasurer  
Thomas Clark –Director of Public Works  
Edward L. Small – Director of Community Development  
William D. Smith – Chief of Police  
Scott Stein – President, Hershey Fire Company  
Jon A. Yost - Township Solicitor

***Public Present:*** Matt Bonanno, Catherine Hoover, Jack Raudenbush, Elvira Ebling, Jim Ingalzo, Aaron Navarro (Members 1<sup>st</sup>), J. Michael Brell (Members 1<sup>st</sup>), John Lippa (Members 1<sup>st</sup>), Rosemary Lippa, Suzane Hoffer, Matt Weir, Sandy Ballard

***Press Present:*** Drew Weidman, The Sun

#### ***Executive Session:***

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

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

#### ***Visitor/Public Comment:***

No one came forward.

**APPROVAL OF MINUTES:**

Chairman Pries called for a motion to approve the Minutes of the March 10, 2009 Board of Supervisors Meeting. Supervisor Fedeli made a motion to approve the Minutes as written. Vice-Chairman Abruzzo seconded. *The motion carried 5-0.*

**NEW BUSINESS:**

**A1-12 Authorization for the Chairman of the Board of Supervisors to execute a Grant Agreement for the Dauphin County Local Share Municipal Grant Program for the State Route 743 Relocation and Improvement Project.**

James N. Negley - Township Manager/Township Treasurer

The Township was the recipient of \$525,000.00 in Grant Money derived from the Pennsylvania Race Horse Development and Gaming Act. These funds are specifically earmarked for utility relocation for the Route 743 Improvement Project. In order to receive the funds, an agreement must be executed.

Supervisor Memmi abstained from voting since his office would be administering this program.

**Motion:** Vice-Chairman Abruzzo made a motion to approve the authorization for the Chairman of the Board of Supervisors to execute a Grant Agreement for the Dauphin County Local Share Municipal Grant Program for the State Route 743 Relocation and Improvement Project. Supervisor Fedeli seconded. *The motion carried, 4-0-1.*

**B1-14 The Preliminary Subdivision/Land Development Plan for 515, 555, 565 East Chocolate Avenue, Plat No. 1170.**

Edward L. Small – Director of Community Development

The preliminary plan calls for a 120-room 4-story hotel located at 515 East Chocolate Avenue. The use of record at this site was an automobile dealership. It appeared before the Zoning Hearing Board to get relief in two areas: 1) substitution of one non-conforming use for another and 2) a floor ratio of .59 where normally .25 is the maximum limit in this neighborhood commercial district. The Zoning Board granted both reliefs.

At the west end and what was formally a parking facility in the first of six tracts –was vacant of improvement except for paving. The second of the six tracts housed the car dealership addressed at 515 East Chocolate Avenue. The next two parcels towards the east are asphalt covered and marked for parking. These two parcels are not part of any of the calculations for parking or impervious coverage. The next parcel is an existing office building addressed at 555 East Chocolate Avenue. 565 East Chocolate Avenue is vacant of any improvements, but it was a site of a former review of a plan that was proposing an additional office facility with associate parking. It was the intention to combine all six parcels into one description and this plan accomplishes that issue. The six land descriptions will all be combined into one description.

The total area is 4.05 acres. Two significant areas of importance deal with traffic and stormwater. The effect of the plan reduces the impervious coverage by a slight amount and the proposal adds some vegetative cover as required by ordinance.

Supervisor Porter asked if this plan still requires the impervious coverage ratios of our zoning ordinances. Mr. Small said that was correct. The plan took what was a very non-conforming situation and made it less non-conforming. So rather than seeking any relief they actually improved it.

Mr. Small explained that a pipe runs underneath Chocolate Avenue carrying water that flows from the premises. The stormwater facilities on the property will empty into the pipe which comes out on the golf course on the other side.

Chairman Pries said every time it rains or there is ice, there is a dip in the road that is a potential hazard when driving by. He asked Mr. Small where the location is. Mr. Small pointed it out on the map. The inlet already in place is not at the lowest point which is causing some of the ponding. Additional inlets would remedy that.

Mr. Small stated that through inspection of the area, HRG concluded that the pipe is undersized across Chocolate Avenue. It is 18 inches currently and a larger size would be more appropriate to convey the water. It will increase volumes on the other side of the road and eventually get to Spring Creek, but through a defined flow area or channel.

Supervisor Porter asked Matt Bonanno if the remedial stormwater management plan for the Township calls for a new pipe under the road. Mr. Bonanno said it did call for a larger pipe and a new inlet.

Mr. Small said the applicants offered a contribution in lieu of replacing the pipe. He mentioned concern of the stormwater flowing downstream and possibly causing an increase in volume.

Supervisor Memmi mentioned a highway occupancy permit is going to have to be applied for just to put the additional inlets in on 422. Dan Sheffey, Developer, said there are two sets of inlets, one will be on the property, and the other set will be off site. Supervisor Memmi asked if he would be installing both sets of inlets. Mr. Sheffey said their proposal for the offsite inlets would be part of the overall Township program since a proposal to fix the problem is already in place.

Supervisor Memmi confirmed with Mr. Bonanno that this area is not scheduled to be addressed anytime in the immediate future. Mr. Bonanno said that was correct. Mr. Sheffey said they can move up the schedule if need be. Supervisor Memmi thought since Mr. Sheffey is putting in the additional inlets, it might be cost effective to have him apply for the HOP to include it all. Mr. Sheffey mentioned he has not had a good experience in the past with PennDOT in getting things worked out that are required to resolve problems.

Vice-Chairman Abruzzo suggested we put our stormwater project of that area in the first phase knowing the developer is going to pay for it.

Supervisor Fedeli referred to Mr. Small's notes indicating the applicants have offered a contribution for the replacement of the 18 inch pipe beneath 422 with a 30 inch pipe as published in the HRG Stormwater Plan. Mr. Bonanno said their proposal is to do a contribution to use our conceptual design and have the Township responsible for applying for HOP or any permits needed.

Vice-Chairman Abruzzo said if we include their project in our first phase will that affect our ability to get our project moving. Mr. Bonanno said it would not be included in any of the grant funding and would not prevent us from moving forward. It would act as a separate project.

Supervisor Porter asked Mr. Sheffey if he would reimburse the Township for all expenses associated with this project if the Township took control of this project. Mr. Sheffey said he offered a 100% contribution based on the number projected in the engineering report. (\$27,000). Mr. Memmi wanted to assure that the Township or the developer would not get caught in a situation where the costs are so high that we can't get this accomplished.

Mr. Bonanno said regardless who pursues it, the Township will have to sign off on the HOP. Even though it is in the state's right-of-way, PennDOT is pushing the responsibility onto the Township. Vice-Chairman Abruzzo believes the Township has a better chance with PennDOT as a team approach trying to demonstrate this as an isolated problem on that stretch of 422 and does not require further remediation.

Mr. Small referred to a traffic study and the study's addendum. They indicate the nearest intersection at Mansion Road has a failure level for p.m. peak hour and actually most every peak hour. The study submitted by the developer shows his uses are lower in volume compared to the generators of traffic that were there before.

Chairman Pries asked Mr. Small to define what those uses were. Mr. Small said the uses of record include a car dealership and an office building.

Mr. Small said the failure condition is evaluated based on existing conditions as it is now (mostly vacant).

Supervisor Porter asked where the failure condition is located. Mr. Small said at the pull out on Mansion Road onto Chocolate.

Supervisor Porter believes the main cause of the problem at the intersection of Mansion and 422 is the attempt to make a left-hand turn heading east. He asked Chief Smith what could be done to have a left-hand turn prohibited at that intersection. Chief Smith said Mansion Road is a Township roadway, but 422 is a state roadway and we would have to petition the state. There was discussion among the Board members whether to ask for a no left-hand turn or a no left-hand turn with time restrictions. The Board's consensus is to authorize Chief Smith to petition the state for a no left-hand turn in that area. Mr. Small will provide Chief Smith with a current traffic study to assist with the petition.

Mr. Small said there were waivers requested dealing with profiles of existing gas and water lines and the location of a proposed sidewalk. The Planning Commission agreed to recommend approval of the plan with a list of items being satisfactory addressed. Mr. Small recommended also that the preliminary plan be considered for approval.

Mr. Small asked the Board to look at his conditions of the plan because he is not sure if anything that was discussed would alter any of the conditions he suggested. He mentioned "g." which indicates a downstream capacity analysis. You can either ask for that to be done or defer it to the final plan.

Supervisor Memmi asked Mr. Sheffey if he would be willing to contribute dollars for a signal placed at Mansion and Chocolate if PennDOT comes back with that recommendation instead of a no left-hand turn. Mr. Sheffey said he would be willing to enter into discussion.

Supervisor Memmi asked Matt Bonanno about the downstream analysis. Mr. Bonanno said they would look at possibly installing a swale down through the golf course. If they enlarge the pipe from an 18 inch to a 30 inch, they would possibly have to ask for an easement for that flow. They would not increase the pipe and affect the downstream property owner without knowing what the effects of that increase would be.

Mr. Sheffey asked if there is an option of not flowing the stormwater currently ponding on 422 to that side of the road. Mr. Bonanno said that is the low point of the road and he doesn't foresee it going any other place. Mr. Sheffey shared that the owners of the property are not strong supporters of his project. Mr. Bonanno said the final design will look at the ramifications of the pipe going to the other side of the road.

Supervisor Porter stated that the pipe has been going there for decades. Mr. Bonanno agreed. Supervisor Porter asked if the proposed plan will reduce runoff from the project area onto 422 with the use of these pervious pavements. Mr. Small said they are reduced slightly. Mr. Sheffey added that the runoff from the site will be significantly less because stormwater controls will be installed that are not in existence today.

Supervisor Porter noted that the applicant is reducing the size of the problem and not only has he offered to make the repair that we would otherwise have to make. He does not think it is fair to ask the developer to anticipate the reaction of an entity that so far hasn't participated in the discussion.

Chairman Pries said if Mr. Sheffey hadn't offered to alleviate this concern and he proceeded with his plan, would we then as a Township have to go through negotiations with the land owner. Mr. Bonanno said you would have to have conversation with the land owner.

Vice-Chairman Abruzzo said as part of our conceptual design for that phase we were going to remedy that situation and it would be responsibility to negotiate with HE&R regarding that. Mr. Sheffey's plan will reduce some of the water

runoff which is currently on 422 based on the current condition of the plan. Mr. Bonanno said that is correct as long as their proposed stormwater system works properly. Vice-Chairman Abruzzo said that if we were going to have to pay or resolve the issue once it gets to the other side of the road anyway, why would we expect Mr. Sheffey to resolve that problem for us.

Supervisor Memmi's concern is the cost and how close it is to the estimated amount of \$30,000 without the engineering being completed. Vice-Chairman Abruzzo doesn't believe the costs should go up drastically. Mr. Bonanno said the \$30,000 is a ballpark figure. He added that there is possibly an intermediate solution to all of this. There are two problems: the capacity of the pipe and the ponding on the road. You could add an inlet to the low point of the road and tie that inlet into the existing inlet which feeds into the 18 inch pipe. What that would do is alleviate some of the ponding on the road for frequent storm events. If you do that you wouldn't need to do that downstream capacity analysis because you are not changing the size of the pipe. However, during a high storm event, the water is going to pond there.

Solicitor Yost suggested looking at the stormwater project and what it would entail. He recommended the developer pay for the inlets and the 18 inch pipe and anything outside of that will be the Township's responsibility.

Mr. Small said he would remove "g." from his recommendation and motion. Supervisor Memmi said two conditions should be added to the motion, one being language for a signal and contribution language for the stormwater remediation.

**Motion:** Supervisor Memmi moved to approve the Preliminary Subdivision/Land Development Plan for 515, 555, 565 East Chocolate Avenue, Plat No. 1170, contingent upon working out an agreement with the parties dealing with the potential traffic signal at Mansion Road and Chocolate Avenue and the stormwater issue at Chocolate Avenue and the golf course to be determined at the final plan review and subject to the following:

- a. That the applicant reimburses the Township for costs incurred in reviewing the plan no later than April 24, 2009.
- b. That the entry of dates on the cover sheets for the waiver be done prior to the recording of the plan.
- c. That applicant's offer of a contribution toward the replacement stormwater pipe in the Stormwater Drainage Condition Brief of January 15, 2009 is acknowledged by the Township.
- d. That the Net Developable Area table be corrected for internal inconsistencies no later than April 24, 2009.
- e. That any offered and mutually agreed upon traffic mitigation proposals for presentation at the final plan stage be acknowledged by the Township.
- f. That additional inlets at the low point of East Chocolate Avenue that connect to the existing inlet to reduce the amount of ponding currently occurring along the frontage of the property be provided no later than April 24, 2009.
- g. DELETED

- h. That the existing 18" CMP under East Chocolate Avenue be replaced with a larger pipe no later than April 24, 2009 as the calculation show that the existing 18" CMP is undersized for the contributing runoff conditions.
- i. That letters of agreement to provide service be provided from applicable utility companies as required by Section 185-12.D.(3).(a).[39] of the Subdivision and Land Development regulations no later than April 24, 2009.
- j. That data substantiating minimum fire hydrant flow requirements, flow availability, recharge capabilities, duration of flow, and a determination if additional fire hydrants are required for the site be provided as required by Section 185-12.D.(4).(g) of the Subdivision and Land Development regulations no later than April 24, 2009.

It is further moved that the following waivers are granted form the Subdivision and Land Development regulations.

- a. From Section 185-12.D.(3).(a).[23] regarding profiles of existing and proposed gas and water systems.
- b. From Section 185-34.A.(1) regarding the location of proposed sidewalks so that where new sidewalk installations are necessary and will connect with existing sidewalks at each end, they may gradually transition from any connection with existing non-conforming sidewalk to a conforming location over the entire run of the new installation.

**Discussion:** Solicitor Yost referred to Mr. Small's comments on B 11 - the existing 18 inch CMP under East Chocolate be replaced with a larger pipe no later than April 24, 2009. He wondered if it was reflecting a change on the plan or does that mean that actually have to have the work completed by that date. Mr. Small said it is only a notation.

Supervisor Porter seconded. ***The motion carried, 5-0.***

**C1-15 The Preliminary/Final Subdivision Land Development Plan for Members 1<sup>st</sup> Federal Credit Union, Plat No. 1171.**

Edward L. Small – Director of Community Development

This plan involves three separate properties: a current location of an ice cream place, Kramer Orthodontist office, and the third was another doctor's office. These three parcels were intended to be combined in this description for the Members 1<sup>st</sup> 2700 square foot building facility. They will have stormwater facilities under the proposed parking facility with several onsite inlets to convey the stormwater flow. The stormwater facility will be conveyed to the existing stormwater system located with Cherry Drive by means of an existing 18 inch pipe located within the alley. Access for the development will include widening of the existing alley and constructing a driveway approximately 80 feet from Cherry Drive There will be another secondary one-way access drive on the east side of the property for exiting ATM and drive-thru traffic. Traffic from both drives will exit using a private alley between the applicant's site and the Verizon building. Applicant has agreed to perform maintenance and repairs of the alley and intend to enter into an easement agreement with Verizon. Verizon has agreed to allow widening of the alley to approximately 24'-27'.

Waivers requested included a sidewalk to be installed on the private property side of the right-of-way line. The applicant proposed this location in order to satisfy the intent of the regulations and agreed to create an easement for the public to use the walkway. If the Township requires a public sidewalk in the future, the applicant would remove the walkway and extinguish the easement. Another waiver included providing handicapped accessible curb cuts and ramps at pedestrian crosswalks.

Chairman Pries asked Solicitor Yost about the liability of putting sidewalks that lead to no where. Solicitor Yost said there is always that possibility.

Vice-Chairman Abruzzo stated he is not for sidewalks that go no where because of the safety of the pedestrians.

Sandy Ballard, 650 Cocoa Avenue, stated that it is time for the Township to enforce the agreement it made in regards to sidewalk installation because of the increase in walkers.

There was further discussion regarding sidewalks among the Board members, both pro and con. Member Memmi felt strongly that the sidewalks should be included because we need to start somewhere and as further projects are brought before the Board, the sidewalks will be connected. He said that he would not vote in favor of the plan without sidewalks.

Supervisor Memmi asked if the building was going to be sprinklered. Aaron Navarro, Members 1<sup>st</sup>, said the proposed building is not going to be sprinklered.

Supervisor Porter asked about the underground cistern. Mr. Navarro explained it really isn't a cistern, but a collection of pipes under the parking lot that collects the water and releases to existing pipe in the alley.

**Motion:** Supervisor Porter moved to approve the Preliminary/Final Subdivision and Land Development Plan for Members 1<sup>st</sup> Federal Credit Union, Plat #1171, subject to the following occurring no later than the dates indicated and prior to the recording of the plan:

- a. That the applicant reimburses the Township for costs incurred in reviewing the plan no later than April 24, 2009.
- b. That performance security is provided no later than September 24, 2009 to guarantee the completion of the required improvements.
- c. That a letter be provided by the Dauphin County Conservation District no later than September 24, 2009 approving the erosion and sedimentation control plan as required by Section 185-21.B. of the Subdivision and Land Development Plan.
- d. That a "Private Alley Maintenance and Easement Agreement" be executed between Members First Federal Credit Union and Verizon Corporation no later than September 24, 2009 subject to review and approval of the Township's solicitor.
- e. That a "Dedication of Pedestrian Access Easement Agreement" be executed between Members First Federal Credit Union and Derry Township no later than September 24, 2009 and subject to review and approval by the Township Solicitor.

It is further moved that the following waivers be granted from the Subdivision and Land Development regulations:

- a. From Section 185.34.A.(1) to allow the sidewalk to be installed on the private property side of the right-of-way line, with the stipulation that the applicant enter into an agreement with the Township no later than September 24, 2009 which would allow the Township to require the applicant to replace the sidewalk at a conforming location in the future if deemed necessary.
- b. From Section 185-34.A.(3) regarding providing handicapped accessible curb cuts and ramps at pedestrian crosswalks.
- c. From Section 185-12.D.(3).(a)[9] to not be required to provide the location of all existing features within 200 feet of the tracts of land to be consolidated and developed.
- d. From Sections 185-12.D.(3).(a).[35] to not be required to depict topographic land contours within 200 feet of the perimeter of the property to be developed.

**Discussion:** Vice-Chairman Abruzzo said he would not hold up the plan for his view on sidewalks leading to no where. Supervisor Fedeli commented that this is a good project, but she also is concerned with the sidewalks.

Chairman Pries, seconded. ***The motion carried, 5-0.***

**D1-4 Consideration of Resolution No. 1225, which would revise the reimbursement fee schedule for subdivision and land development plan review and the inspection of improvements related to such plans.**

Edward L. Small – Director of Community Development

Mr. Small reported that this consideration would reflect current costs of the municipal engineer's services. There is no impact on our budget since we are reimbursed dollar for dollar.

**Motion:** Vice-Chairman Abruzzo moved to adopt Resolution No. 1225, which would revise the reimbursement fee schedule for subdivision and land development plan review and the inspection of improvements related to such plans. Supervisor Porter seconded. ***The motion carried, 5-0.***

**E1-3 Consideration of the release of the maintenance security for the Final Subdivision Plan for Southpoint Meadows, Plat No. 1031.**

Edward L. Small – Director of Community Development

Mr. Small explained that the Township accepted maintenance security in the amount of \$59,189.48 in the form of a bond. The bond expires April 9, 2009. HRG inspected the public improvements and approved them.

**Motion:** Supervisor Porter moved to approve the release of maintenance security of \$59,189.48 in the form of Bond No. 39BCSCZ4209M from the Hartford Fire Insurance Co. for Southpoint Meadows, Plat No. 1031. Vice-Chairman Abruzzo seconded. ***The motion carried, 5-0.***

## **CORRESPONDENCE**

Supervisor Memmi shared the following information:

March 16 - March 20 from 9 a.m. to 3 p.m. Construction crews are scheduled to begin saw-cutting, excavating and replacing concrete mountable curb on a section of PA 39/Hersheypark Drive between US 322 and Hockersville Road. March 22 - May 28 from 8:30 p.m. to 6:30 a.m. Over the next several weeks, crews have scheduled night-time milling, base repair and paving operations.

Supervisor Memmi announced that the application submitted by the Township for a Greenhouse Gas Grant was denied. He added that there are limited amount of dollars available.

Vice-Chairman Abruzzo asked Jill Horner to post the road construction schedule on the website.

## **BOARD/COMMITTEE INFORMATION**

Supervisor Memmi suggested starting a process to consider requiring a clear plan before it comes before the Board. He referred to a plan that was submitted to the Planning Commission containing 62 items that had to be resolved. Engineers for the developers need to take care of the items before bringing them to the Planning Commission. Solicitor Yost said the Board did adopt a policy to allow the Director of Community Development to withdraw plans if deemed necessary. He asked Mr. Small to pull this policy for the Board's review.

Supervisor Porter commented on the 2008 accomplishments of the Hershey Volunteer Fire Company. He noted 10,464 man hours by crew members for service to the community and recruitment of 28 new members. He congratulated Scott and his department.

Vice-Chairman Abruzzo reported that the Parks and Recreation on-line registration went well and positive feedback was received. He thanked Matt Mandia and his staff.

Vice-Chairman Abruzzo referred to a letter from the President of the Deer Run Association thanking Chief Smith and his department for the arrest of the arsonist.

Supervisor Fedeli commented on the two new links at the Library website. Tell Me More is an on-line personalized program for learning foreign languages. The other site is Thumblebooks for young people.

## **REPORTS**

### **William D. Smith – Chief of Police**

Chief Smith received a request from the Children's Network for their event scheduled on May 30<sup>th</sup> at 9:00 a.m. It affects the Township roadways and bike paths. Chief Smith wanted to let the Board know he granted them permission.

Chief Smith shared that on March 21<sup>st</sup> they received their 5<sup>th</sup> re-accreditation from the Commission on Accreditation for Law Enforcement Agency.

Thomas Clark –Director of Public Works

Mr. Clark said there is a meeting on Monday regarding Kiss Hershey Back.

Barbara Ellis - Director of Hershey Public Library

Ms. Ellis said that the money received from Verizon two years ago was used for the language program. She mentioned that we have the highest percentage in this area for people who speak other languages.

Matthew J. Mandia – Director of Parks and Recreation

Mr. Mandia said they are draining the pool this evening, but it should be open and ready Saturday morning.

**APPROVAL OF ACCOUNTS PAYABLE (\$417,037.27) AND PAYROLL (\$268,740.26).**

Supervisor Memmi moved to approve accounts payable in the amount of \$417,037.27 and payroll in the amount of \$268,740.26. Vice-Chairman Abruzzo seconded. ***The motion carried, 5-0.***

**VISITOR/PUBLIC COMMENTS**

**ADJOURNMENT**

Vice-Chairman Abruzzo moved to adjourn the meeting at 8:55 p.m. Supervisor Fedeli seconded. ***The motion carried, 5-0.***

SUBMITTED BY:

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Kelly C. Fedeli  
Township Secretary

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Brenda Van Deursen  
Recording Secretary