

# TOWNSHIP OF DERRY

## BOARD OF SUPERVISORS MEETING

Tuesday, April 14, 2009  
600 Clearwater Road, Hershey, Pennsylvania 17033

### **I. CALL TO ORDER**

The April 14, 2009 Township of Derry Board of Supervisors meeting was called to order at 7:05 p.m. by Chairman, Michael H. W. Pries.

### **II. 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  
Matthew J. Mandia – Director of Parks and Recreation  
James N. Negley - Township Manager/Township Treasurer  
Robert Piccolo – Assistant Director of Public Works  
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:*** Mary Ann Gregory, Steve Roberts, Elvira Ebling, Garrett Richards, Ben A., Zach Warren, Tracy Troutman, Eric Spangler, Garrett Price, Alex Spangler, Doris Winters, Amy Nicholson, Sean Grier, Ben Bauchwitz, Jeffrey Young, Nick Pawlush, Tom Hagan, Loretta Chubb, Gary Chubb, Ben Ruddle, Kyle Ruddle, Todd Ruddle, Charleton Zimmerman, Jim Ingalzo, Sue Barto, Dave Barto, Maddie Barto, Pete Barto, Lucy Barto, J. Waldron, Roger Olson, Diane Myrvang, Matt Weir, Sandy Ballard, Jim Strine, A. Rogers, Nolan Family, Jeff Festrinch, Shane Fedley, David Barto, Jean Bruggemeier, Sara Dieffenbach, John Commins, Phil Adderio

***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.**

**IV. PROCLAMATIONS STATE CHAMPION HERSHEY HIGH SCHOOL SWIMMERS AND SWIMMING TEAM:**

1<sup>st</sup> Proclamation: Chairman Pries announced that on March 11 & 12, 2009, the Hershey High School Boys' Swim Team competed for the state championship at Bucknell University. The Team won the Men's PIAA Swimming and Diving Team State AA Championship. The members of the team were Nick Pawlush, Sean Grier, Joe Chubb, David Nolan, Ben Bauchwitz, Ben Hagan, Jeffrey Young, Mitchell Veith, Phillip Mancuso, Kyle Ruddle, and Tanner Wilfong.

The Team additionally won the Men's AA State Relay Championship, the 200-yard Medley Relay, setting a new state record in the 200-yard Free Style Relay, and the 400-free relay. Members of this team were Nick Pawlush, David Nolan, Jeffrey Young, Sean Grier, Ben Bauchwitz, Ben Hagan, and Kyle Ruddle

2<sup>nd</sup> Proclamation: Chairman Pries announced that on March 13 & 14, 2009, Kate Nolan competed for the state championship at Bucknell University. Ms. Nolan set a state record of 150-yard Butterfly and won the 100-yard Free Style. She was also awarded the PIAA Most Outstanding female Triple A swimmer.

3<sup>rd</sup> Proclamation: Chairman Pries announced that on March 11 & 12, 2009, David Nolan competed for the state championship at Bucknell University. Mr. Nolan set state records in the 200-yard IM and the 100-yard Backstroke. He was also awarded the PIAA Most Outstanding male AA swimmer. He also participated on the Hershey High School Swim Team, which additionally won Men's Relay AA Swim Titles in the 200-yard Medley Relay, set a new state record in the 200-yard Free Style Relay, and the 400-yard Style Relay.

The Board of Supervisors of the Township of Derry on behalf of all the residents acknowledged, celebrate, and honor these outstanding achievements.

Chairman Pries on behalf of the Board of Supervisors commended and thanked Coach **Greg F.** and his staff. In the Hummelstown Sun a few weeks ago, he mentioned that with what the coach brings to the Team, the program, and the cramped quarters they work in, he is still able to turn out state champion-style athletes. We are very proud of him.

**V. VISITOR/PUBLIC COMMENT:**

Steve Roberts, 1223 Limerick Court, Hummelstown – Mr. Roberts mentioned he had previously lived on Cocoa Avenue for about 2 ½ years. He has obtained 158 signatures from residents in and around Cocoa Avenue to partner with the Township to resolve the issues with Cocoa Avenue. He referred to a recent accident on Areba and Cocoa in which a car was over turned. Some of the changes that are going to be made at the intersection of Chocolate Avenue and Cocoa have heightened awareness as well as some safety concerns. Of the 158 signatures, there were 40 plus signatures on Cocoa Avenue and 33 of the 34 residents he visited personally had signed. The signatures included long time residents (some were part of a 1998 safety campaign), law enforcement agents in other Townships, those who witnessed accidents including one individual who had a car end up in her front yard earlier this spring, and a crossing guard who stands at Elm & Cocoa and has seen people speed through the crosswalks, putting on their make-up, and shaving as they drive through. He said initially they had

three requests: 1) to change the speed limit from Elm to Governor from 35 to 25 mph, 2) to ensure the police department enforces the 25 mph from Chocolate to Governor. The police department has done an outstanding job of enforcing the law in our area, but he believes the forgiveness factor over and above the speed limit is excessive, and 3) to issue citations to motorists including truckers who exceed the 25 mph speed limit by 20% or more. He explained that the 20% or more is significant because it is the equivalent of doing 66 in a 55 mph zone.

He asked if the Board considers these requests reasonable on the part of the concerned property owners on Cocoa Avenue and does the Township have the authority to make the changes.

Supervisor Fedeli thanked Mr. Roberts for presenting a well-reasoned approach to this problem. She mentioned that PennDOT does have the final say in changing speed limits on state routes. After she saw his letter in the paper, Supervisor Fedeli proceeded by contacting a Community Relations Officer from PennDOT and asked if they would be willing to meet with Mr. Roberts, any resident(s) he would like to have with him, representative(s) from the Board of Supervisors, and possibly a representative from the police department. She believes PennDOT needs to hear the concerns first hand and what has occurred over the years. Supervisor Fedeli is hopeful a meeting will occur.

Vice-Chairman Abruzzo supports the decrease in the speed limit. He shared that there is a process PennDOT goes through in order to determine if a speed limit should be reduced or increased. He said that the Board will support Mr. Roberts and the residents, but cannot guarantee PennDOT will lower the speed limit. He pointed out that the formula PennDOT uses is 85% to determine increasing or decreasing speed limits. Stricter enforcement is a good suggestion as well.

Mr. Roberts asked who the liaisons would be from the Board. Chairman Pries suggested Mr. Memmi, Transportation Liaison, Kelly Fedeli with her direct connections to the State, and Chief Smith.

Supervisor Porter said he understands that speed cannot be enforced within 500 feet of a speed limit sign indicating a decrease of speed. Therefore, if you are traveling north on Cocoa Avenue and you come to the first 25 mph sign, the police cannot enforce 500 feet after that which takes you all the way down past Areba. That is a good argument to make when meeting with PennDOT. Supervisor Porter provided Mr. Roberts with Section 3368E of the Code that refers to this.

Supervisor Memmi said he would be glad to be part of the meeting with PennDOT. He shared that they tried in 1998 to get it changed, but was not successful. He thought PennDOT wanted to raise it to 45 mph and the Township had to fight to keep it at 35 mph. He suggested sending a letter to Rep. Payne, Senator Piccola, and the Department of Transportation to allow local police departments to use radar. Pennsylvania is the only state that does not allow local police departments to use radar.

Mr. Roberts gave a list of signatures to Manager Negley. Chairman Pries also suggested writing a letter to our local state representatives with their concerns. He wanted to

make sure that Mr. Roberts and the residents are aware of the risk that PennDOT may decide to increase the speed.

Chief Smith explained that if PennDOT does a speed study they will use their criteria of what they consider the 85<sup>th</sup> percentile which means 85 out of 100 vehicles going a particular speed or lower then they will go plus or minus 5 mph. He said this is consistent across the state. The state just recently adopted the Federal Highway Administration criteria for consistent signing across the nation.

Supervisor Porter asked Chief Smith if we have equipment in the Township to perform a speed study first to see what our risk may be. Chief Smith said they have the equipment and Public Works can hook it up.

Chairman Pries asked Chief Smith to run a test and in the meantime we need to proceed with a preliminary meeting with PennDOT as discussed.

Mr. Roberts said those who signed the petition had no idea that they could be potentially endorsing an increase in speed. He is concerned about submitting the signatures to the Board in case this would happen. Chairman Pries said on record it will be indicated that the signatures were submitted and it is a request for the Board to look into their concern. If we sense the discussions with PennDOT are not going in our favor, we will back off. Chairman Pries suggested Mr. Roberts share this information with those who signed the petition.

Diana Myrvang, 720 Cocoa Avenue – Ms. Myrvang shared that she has three children in the Hershey School District and loves living here. She acknowledges that Cocoa has speed issues, but there are also crosswalk issues. She mentioned the difficulty in crossing at the crosswalk. The traffic does not stop. When they put the crosswalk in at the library, she thought it would be safer for her kids to cross. But it is a false sense of security. She has taught her kids to not assume cars will stop, but to wait until there are no cars coming in either direction. She has been in contact with the police department who has responded by sending out patrols. She asked that even more enforcement be done of the crosswalks. Ms. Myrvang mentioned trucks going 35 mph who come over the ridge at Cocoa Castle and when they put their brakes on at the top of the hill they have a hard time coming to a stop at that crosswalk.

Chief Smith said there is a misconception in Pennsylvania. PA's laws are not exactly like the laws in other states. PA has a pedestrian obligation as part of the crosswalk laws. When you are at a crosswalk, it is the pedestrian's obligation not to enter that crosswalk until it can be done safely. Once a pedestrian is in a crosswalk, a car approaching has the responsibility and obligation to stop.

Tom Hagan, 55 Maple Avenue – Mr. Hagan referred to the island where we have our schools, library, pool, rec center and on the other side of the road are homes. We have not maintained best practice to allow our children to cross safely. The school crossing lights at Homestead and one on Cocoa (per PennDOT regulations) comes on at 8:20 a.m. This time accommodates the elementary kids going to school, but not the middle school and high school kids. In the winter when kids in high school and middle school

leave for school at 7:20, it is still dark. He encouraged the Board to request PennDOT to have the lights go on earlier to cover the middle school and high school times.

Chairman Pries asked if the school crossing lights are controlled by the Township or the School District. Chief Smith said all school zones have to be approved by PennDOT. We actually have a permit for Homestead and Cocoa Avenue. Supervisor Fedeli suggested this be brought to the meeting with PennDOT.

Mr. Hagan mentioned there are neon signs located at the crosswalk in front of the library and at the baseball field pointing directly towards where the crosswalk is. At the crown of Cocoa Avenue (Cocoa Plaza), there are no signs and it might be beneficial to have them to alert drivers.

Sandy Ballard, 650 Cocoa Avenue – Ms. Ballard helped gather signatures on Areba regarding the speed limit on Cocoa Avenue. She noted that three people have been killed at the intersection of Cocoa Avenue and Areba. She asked that the Board officially vote to have the speed limit reduced to 25 mph and to direct the police, as per the petition, to monitor the Areba and Cocoa Avenue area and issue warnings to those violating the speed. She also suggested asking the police to specifically enforce the crosswalks and to issue tickets when cars do break the law.

Vice-Chairman Abruzzo said it did not make sense to vote when it is non-binding and it could actually revert in a higher speed limit and every member has already voiced their support. Ms. Ballard said she would still like the Board to vote to show they are all in agreement to reducing the speed limit to 25 mph. She wanted it on record that the Board agrees the speed limit is too fast for the kids in the community.

Chairman Pries recommended that we ask the Chief to review the petition and the requests within said petition over the next two weeks. He then asked Chief Smith to provide the Board of Supervisors with a recommendation that not only includes the requests contained within the petition submitted by Mr. Roberts, but also tying in what the Board is willing to do on behalf of the residents along that corridor.

Supervisor Porter said he believes all of the Board members agree that the speed limit should be 25 mph in that segment of Cocoa Avenue. We really do not need to vote on it because it really wouldn't give us anything. He thought we were getting better at motorists stopping at crosswalks and did not realize it was such an issue on Cocoa Avenue. If that is the case, he agrees we should be monitoring that area. He mentioned that the speed limit must be exceeded by 10 mph before a policeman can cite anyone for a violation of a vehicle code. He believes that was due to the equipment used in the past having a big margin for error. Now we have more precise equipment. We really should allow the use of radar for our local police because radar is much less conspicuous than the other speed timing devices.

Sara Dieffenbach, 360 Elm Avenue - Mrs. Dieffenbach and her children witnessed another accident at the corner of Elm and Glenn. Children in the community travel across Elm and Glenn during school hours which cause a concern for safety. The speed limit on Elm is 35 mph and after talking to the police at the recent accident, she was made aware of the 10 mph margin. She was told they cannot issue a ticket to anyone

going down Elm until they hit 46 mph. Drivers are also using Elm as a cut through to get to Cocoa traveling at high rates of speed. She suggested cutting the speed limit to 25 mph and install stop signs in Elm to force people to stop on their cut through. She asked if the police department has the responsibility for the speed limit on Elm.

Chief Smith said the complaints heard tonight are complaints the police department hears every day from every neighborhood. He said the biggest issue with any police department is traffic complaints and speeding; however, we cannot make every road 25 mph. State regulations do not allow you to use stop signs to inhibit speed. You have to do a study and warrants met before a stop sign, parking sign, and a speed limit sign are put in place. We can put up an advisory signs, but not regulatory signs. He stated we have 8 million tourists a year and a minimum of 4 million people going in and out of the medical center a year. Traffic has always been one of our heavy focuses. We are the most proactive municipal police departments in Dauphin County when it comes to traffic interdiction. There are certain regulations we have to go by or we would have chaos trying to regulate roadway traffic. We will do everything we can to make this community as safe as possible. In an average year, we respond to over a 1000 accidents/year and investigate about 650 of those.

Chairman Pries asked Chief Smith to do an analysis from his perspective and make any suggestions that he feels is needed to make the area safer. He asked Chief Smith to let the Board know of his findings.

John Commins, 313 Cocoa Avenue – Mr. Commins offered more signatures to add to the petition. He said what has been mentioned are short term fixes that could have long term implications. He would like to look at a long term fix which would be to re-route 743 out of downtown.

Chairman Pries mentioned that at one time 743 ran down Homestead which was even a bigger concern due to the school being there. Supervisor Memmi added that the state made the transition because of the school. Mr. Commins suggested doing a study to see where 743 can be relocated. He also suggested putting a stop sign at Elm and Cocoa to help prevent cars speeding in that area.

Phil Adderio, 305 Cocoa – He asked if there was any enforcement detail for the crosswalks. Chief Smith said it is enforced when they see it. Mr. Adderio said the only police officer he sees is the Community Service officer. He asked Chief Smith how many citations he has given regarding the crosswalk. Chief Smith said his department has given out 6,000 citations last year, but he doesn't have with him the breakdown of what they are all for. Mr. Adderio said we need to enforce the crosswalk law for the safety of our children.

Chairman Pries said the police department has quite a territory to monitor along with the tourists throughout the year. Mr. Adderio asked how many police officers there are. Manager Negley said we have 39 sworn police officers. Mr. Adderio said all he is asking is for the police department to enforce the crosswalk law.

**VI. APPROVAL OF MINUTES:**

Chairman Pries called for a motion to approve the Minutes of the March 24, 2009 Board of Supervisors Meeting. Supervisor Porter made a motion to approve the Minutes as written. Supervisor Memmi seconded. ***The motion carried 5-0.***

**VII. NEW BUSINESS:**

**A1-3 Renewal of the approval of the Preliminary Subdivision Plan, Plat No. 1127, and the Final Subdivision Plan, Plat No. 1162, for Winters.**

Edward L. Small – Director of Community Development

The renewal of the approval is requested for no other reason than that the schedule for a meeting with Penn State University to ratify the agreement and authorize the process to proceed will not take place until after our approvals have expired. An additional purpose for extra time is for the parties to pursue a review to the configuration of the two lots involving a cul de sac. If the Board will approve their extension for six months, they would be able to have their conversations with Penn State and a new plan submitted in order to re-design that area so there would not be any need for the street.

**Motion:** Supervisor Memmi moved that the Township renews the August 12, 2008 approval of Plat #1127, the Preliminary Subdivision Plan; and the October 14, 2008 approval of Plat #1162, the Final Subdivision Plan for Winters, subject to the following occurring no later than the dates indicated:

- a. That performance security be provided no later than October 14, 2009 to guarantee the completion of required improvements.
- b. That the Preliminary Subdivision Plan for Winters, Plat #1127 be recorded prior to the recording of the Final Plan.

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

**B1-2 Renewal of the approval of the Preliminary/Final Land Development Plan for Hershey's Chocolate World Employee Satellite parking, Phase 1, Plat No. 1154.**

Edward L. Small – Director of Community Development

This is a renewal request brought by the Hershey Company regarding their plans for Phase 1 of the Satellite parking. They would like to defer due to the economy and seek an extension for one year.

Supervisor Porter abstained from voting.

**Motion:** Supervisor Fedeli moved to approve the renewal of October 27, 2008 for one year of the Preliminary/Final Land Development Plan for Hershey's Chocolate World Employee Satellite Parking, Phase 1, Plat No. 1154, subject to the following occurring no later than the date indicated and prior to the recording of the plan:

- a. That performance security be provided no later than April 14, 2010 to guarantee the completion of required improvements.

Vice-Chairman Abruzzo seconded. ***The motion carried, 4-0-1.***

**C1-2 Consideration of the extension of the term of the performance security supplied for the Final Subdivision Plan for Deer Run, Phase 5, Plat No. 1047.**

Edward L. Small – Director of Community Development

This is the performance bond that is now down to the 10% level. At the last renewal there was approximately 55% of the units either started and not active or not started. There is a lot more work to do and things are slow.

**Motion:** Supervisor Porter moved to accept and approve an extension of the term of the performance security supplied in the form of insurance bond No. SU 1015264 by Arch Insurance Co. for the Final Subdivision Plan for Deer Run, Phase 5, Plat #1047, at its current balance of \$127,708.73, provided that it is supplied no later than April 17, 2009, or in the alternative, that staff is authorized to draw the current balance to hold pending the completion of required improvements. Vice-Chairman Abruzzo seconded. ***The motion carried, 5-0.***

**D1-2 Proclamation proclaiming April 24, 2009, the observance of Arbor Day in Derry Township.**

Robert Piccolo – Assistant Director of Public Works - This is one of the criteria we have to meet for our Tree City, USA certification. We have been doing this since 1992.

**Motion:** Supervisor Porter moved that the Board of Supervisors of Derry Township proclaim the last Friday in April, that being April 24, 2009, the official day for observance of Arbor Day in Derry Township is hereby approved. Supervisor Fedeli seconded. ***The motion carried, 5-0.***

**E1-2 Ordinance No. 585, amending the Code of the Township of Derry (Ordinance No. 553), by establishing parking restrictions on the west side of Glen Rd. from W. Granada Ave. to S. 3<sup>rd</sup> St. and on the east side of Glen Rd. from W. Areba Ave. to S. 3<sup>rd</sup> St. This will be on school days only from 7:30-8:15AM and 2:30-3:15PM for the purpose of safely crossing the school students.**

William D. Smith – Chief of Police

On March 10, 2009, the Board of Supervisors at their regular scheduled meeting authorized the advertisement of this ordinance amendment. On March 18, 2009, the advertisement appeared in The Sun.

**Motion:** Supervisor Memmi made a motion to adopt Ordinance No. 585, amending the Code of the Township of Derry (Ordinance No. 553), by establishing parking restrictions on the west side of Glen Rd. from W. Granada Ave. to S. 3<sup>rd</sup> St. and on the east side of Glen Rd. from W. Areba Ave. to S. 3<sup>rd</sup> St. This will be on school days only from 7:30-8:15AM and 2:30-3:15PM for the purpose of safely crossing the school students. Vice-Chairman Abruzzo seconded. ***The motion carried, 5-0.***

**F1-4 Ordinance No. 585, amending the Code of Township of Derry (Ordinance No. 553), by establishing Ridge Rd. southbound at the railroad underpass as a stop sign controlled street.**

William D. Smith – Chief of Police

On March 10, 2009, the Board of Supervisors at their regular scheduled meeting authorized the advertisement of this ordinance amendment. On March 18, 2009, the advertisement appeared in The Sun.

**Motion:** Supervisor Fedeli moved to adopt Ordinance No. 585, amending the Code of Township of Derry (Ordinance No. 553), by establishing Ridge Rd. southbound at the railroad underpass as a stop sign controlled street. Supervisor Porter seconded. ***The motion carried, 5-0.***

**G1 Request to conduct the Hershey Company/Children’s Miracle Network 5K Run scheduled for Saturday, June 20, 2009 starting at 8:00AM on both State and Township roadways.**

William D. Smith – Chief of Police

This event has been held in the past. They made a request this year to take part of the run out to Old W. Chocolate Avenue down to the VFW and back. There is minor inconvenience, but because it is on a state road the Board has to approve this request.

**Motion:** Supervisor Memmi moved to approve the request to conduct the Hershey Company/Children’s Miracle Network 5K Run scheduled for Saturday, June 20, 2009 starting at 8:00AM on both State and Township roadways. Chairman Pries seconded. ***The motion carried, 5-0.***

**VII. CORRESPONDENCE**

There was no correspondence to report.

**IX. BOARD/COMMITTEE INFORMATION**

Supervisor Memmi asked Matt Bonanno if he was going to attend the MS4 Listening Session. Mr. Bonanno said he was and would provide the Board with a summary. Supervisor Porter added that he is interested in attending the Session if his schedule allows.

Chairman Pries announced that the 2<sup>nd</sup> Annual Kiss Hershey Back is this weekend from 1:00-5:00 p.m. Mr. Piccolo said they will be planting trees and the girl scouts will be planting flowers. As of the meeting today at 1:00, there were approximately 500 pre-registrations.

**X. REPORTS**

Barbara Ellis - Director of Hershey Public Library

Ms. Ellis reported that the Library was awarded a grant from the Office of Commonwealth Libraries from the Library Services and Technology Act in the amount of \$18,780.00. The money is expected to be available in June. This will allow the purchase of a mobile lap top computer lab for training and computer courses in the library. The police department and Brian Blahusch cooperated in helping obtain the grant by writing a letter in support of this. The computer lab may be able to be used for other trainings throughout the Township. Ms. Ellis shared that this week is National Library Week and the 24<sup>th</sup> of April is the Volunteer luncheon.

Matthew J. Mandia – Director of Parks and Recreation

Mr. Mandia thanked Supervisor Fedeli for attending the Annual Easter Egg Hunt held on April 4<sup>th</sup>. He said the turnout was great. Supervisor Fedeli thanked Mr. Mandia's staff for their organization in making this a great event.

**XI. APPROVAL OF ACCOUNTS PAYABLE (\$448,568.45) AND PAYROLL (\$268,787.04).**

Supervisor Fedeli moved to approve accounts payable in the amount of \$448,568.45 and payroll in the amount of \$268,787.04. Vice-Chairman Abruzzo seconded. ***The motion carried, 5-0.***

**XII. VISITOR/PUBLIC COMMENTS**

No one came forward.

**XIII. ADJOURNMENT**

Supervisor Memmi moved to adjourn the meeting at 8:30 p.m. Chairman Pries seconded. ***The motion carried, 5-0.***

SUBMITTED BY:

---

Kelly C. Fedeli  
Township Secretary

---

Brenda Van Deursen  
Recording Secretary