

**TOWNSHIP OF DERRY
BOARD OF SUPERVISORS MEETING**

Tuesday, February 10, 2015
600 Clearwater Road, Hershey, Pennsylvania 17033

CALL TO ORDER

The February 10, 2015 Township of Derry Board of Supervisors meeting was called to order at 7:00 p.m. by John W. Foley, Jr., Chairman.

ROLL CALL

Supervisors Present:

Sandy A. Ballard
Justin C. Engle, Secretary
John W. Foley, Jr., Chairman
Marc A. Moyer, Vice-Chairman
Matthew A. Weir

Also Present:

Matt Bonanno, HRG Engineer
Thomas Clark, Director of Public Works
Barbara S. Ellis, Director of Hershey Public Library
Charles Emerick, Director of Community Development
Jill Henry, Assistant Township Manager
Cheryl Lontz, Manager of Payroll and Employee Benefits
Matt J. Mandia, Director of Parks and Recreation
James N. Negley, Township Manager/Township Treasurer
Patrick O'Rourke, Chief of Police
Jon Yost, Solicitor
Brenda Van Deursen, Recorder

Public Present: Dale Holte, Connie Verdelli, Anne Newman, Jack Storm, Lou Verdelli, Sr., Phil Friedrich, Susan Reider, R.W. Smith, C. Wagner, Jack MacBurt, Sandy Cappeli, Rich Cappeli, Elvira Ebling Charleton Zimmerman

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

Chairman Foley announced that the Board of Supervisors met in executive session to discuss land, legal, and personnel matters.

OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD

Rich Gamble, Hockersville Road – Mr. Gamble referred to a question he asked the Board at the Public Hearing and he is asking it again...What does the Board see as an important infrastructure that needs to be done on Downtown Hershey?

Charleton Zimmerman, 119 N. Roosevelt Avenue, Palmdale – Mr. Zimmerman said there is a lot of misinformation out in the community about the blighted area in Downtown Hershey, specifically the East Chocolate plant that was torn down. Is the Township getting tax money that is paid for the East Chocolate plant from the Dauphin County Tax Assessment. Chairman Foley said he did not know.

Rich Gamble, Hockersville Road – Mr. Gamble said he is waiting on the Board’s response to the question he presented to them. Chairman Foley said he would prefer what we are talking about come through the Committee.

APPROVAL OF MINUTES

Chairman Foley called for a motion to approve the Minutes of the January 27, 2015 Public Hearing. Supervisor Weir asked that the spelling of David DeMoire’s name on page 5 be corrected to read David Damore. A motion made by Supervisor Engle to approve the Minutes with the correction made. Supervisor Weir seconded. *The motion carried, 5-0.*

Chairman Foley called for a motion to approve the Minutes of the January 27, 2015 Board of Supervisors Meeting. Supervisor Engle made a motion to approve the Minutes as written. Vice-Chairman Moyer seconded. *The motion carried, 5-0.*

NEW BUSINESS

A1-4 Consideration of Ordinance No. 662 for the issuance of General Obligation Bond, Series 2015, in the estimated aggregate principal amount of \$8,789,000 on behalf of the Derry Township Municipal Authority (DTMA).

James N. Negley, Township Manager/Township Treasurer – Manager Negley said Agenda Items A & B are both contained in Ordinance No. 662. The first one is a general obligation bond in the principal amount of \$8,789,000 on behalf of the Derry Township Municipal Authority (DTMA). The second is a guaranty agreement with DTMA for a bond that they are issuing.

Lou Verdelli, Managing Director, RBC Capital Markets – Mr. Verdelli explained that both of these matters pertain to debt related to DTMA and is not debt that the Township makes the payments on. It is payments made by revenues of the sewer system. This is a structure that was put in place years ago to get the lowest possible interest rates when DTMA was doing their financing. The Township has certain tax provisions and allowances per calendar year of issuing debt so we are trying to take advantage of that to refinance close to \$20,000,000 of DTMA debt at the lowest possible interest rate.

The first part pertains to selling bonds in the Township’s name and the second part is where the Township is approving a guaranty agreement for in DTMA’s name. The Township is issuing its own general obligation bonds tonight – Series of 2015. The purpose is to refinance the existing Township bonds that were issued on behalf of DTMA in 2010. We are not increasing any exposure to the Township, simply replacing what was already there. The Township will issue general obligation bonds and enter into a 4th amendment to the Subsidy Agreement that already is in place that causes DTMA to make the debt service payments on this debt. This borrowing does not impact the Township's borrowing capacity because the revenues that are generated by the sewer authority will be verified under a self-liquidating debt certificate. This debt shows up on the Township’s debt statement but then is credit right back so the impact is zero. The good news is the final issue size is \$8,610,000, the Township’s credit rating of AA+, a fixed rate is 2.02% and a savings to DTMA of \$818,000. If approved tonight, the settlement will be on March 17.

The second part is the refinancing that DTMA itself would be issuing Guaranteed Sewer Revenue Bonds. The Board would be approving a guaranty agreement for their new issue that is scheduled to price in about two weeks. The issue will be about \$8,900,000 and based on current interest rates, DTMA should be able to save about another \$400,000 by refinancing that loan. If approved tonight, the settlement is scheduled for March 30, 2015.

Supervisor Engle asked how many years is the savings over. Mr. Verdelli responded that the \$818,000 from the first issue is scheduled to be spread over 2015, 2016, and 2017 and the \$400,000 savings will be spread about the same way.

The Township's credit rating of AA+ was reaffirmed by Standard & Poor's on Friday. There are only a couple of Townships in the entire state of Pennsylvania that have this credit rating. It speaks highly of the administration and the decisions that the Board has made over the past few years.

Chairman Foley thanked Mr. Verdelli for the continued great work on our financial outlook.

Motion: A motion made by Supervisor Ballard and seconded by Vice-Chairman Moyer that Ordinance No. 662 for the issuance of General Obligation Bond, Series 2015, in the estimated aggregate principal amount of \$8,789,000 in order to refund the Township's 2010 General Obligation Bonds on behalf of the Derry Township Municipal Authority, is hereby approved. *The motion carried, 5-yes 0-no.*

B1-2 Consideration of Ordinance No. 662 to execute a Guaranty Agreement in regard to Derry Township Municipal Authority's Series 2015 Bond Issue.

Motion: A motion made by Supervisor Weir and seconded by Vice-Chairman Moyer that Ordinance No. 662 to execute a Guaranty Agreement in regard to Derry Township Municipal Authority's Series 2015 Bond Issue, is hereby approved. *The motion carried, 5-yes 0-no.*

C1-6 Disposition of sidewalk waivers requested in conjunction with the Preliminary/Final Land Development Plan for the Hershey Lodge Natatorium Replacement, Plat No. 1242.

Charles Emerick, Director of Community Development – On November 25, 2014, the Board conditionally approved Plat No. 1242 for the new swimming pool at the lodge and convention center. During the course of that meeting, they deferred action on sidewalk waivers along 422 and along Sipe Avenue. When looking at the sidewalks in the area of the lodge, there are a few items to be considered. In the past, we typically deferred sidewalks where we did not feel that their construction was immediately needed. During the course of this agenda item, we also discussed fee-in-lieu of ordinance for aiding sidewalk waivers and building sidewalk systems within the Township. Mr. Emerick intends to take a draft ordinance to the Planning Commission once the Board has had an opportunity to look at it. Along with the fee-in-lieu of, we discussed developing an official map or another type of tool to help determine where we would want to see sidewalks and bike trails in the Township and where we didn't think that they would probably ever be necessary.

Mr. Emerick provided the Board with recommendations for three different options. He explained each one of them.

If the fee-in-lieu of sidewalk construction is desired, Mr. Emerick is suggesting that the fee be based on the RSMMeans construction cost data, that a pedestrian easement be provided for possible future trails and that the waiver of future installation of concrete sidewalks along Route 422 and Sipe Avenue be granted.

If the Board chooses to follow the standard deferment agreement, Mr. Emerick suggested they include language that if we do adopt a fee-in-lieu of ordinance that we may be able to revisit this particular project to collect the fee and actually offer a waiver at a later date.

The Board could deny the waiver and require the sidewalk installations.

Discussion: Vice-Chairman Moyer recalls the Board was strongly considering a fee-in-lieu of with a particular price per square foot. His understanding is if we go with that option and the ultimate cost of installation is higher than that, HE&R would pay that difference. Mr. Emerick said that was not one of his options. Chairman Foley said the risk would be if we took that option and wanted to add sidewalks, then it would be the Township's burden.

Supervisor Ballard said the Board received information from Mr. Emerick with estimates on the square footage and it is about \$49,300 for both Sipe and Chocolate Avenue. The last time this came up, the lodge was going to build the sidewalk continuation on University. Supervisor Ballard suggested granting the waiver and accepting in fee-in-lieu of installation.

Supervisor Engle said the sidewalks have been waived with that standard agreement for many years and we came across a project and there was controversy in the community. Chuck Emerick, Chris Brown, and Garrett Gallia worked together and came up with a great solution. The money will be well spent on some critical connections that will affect thousands of people in the near future. Mr. Emerick asked Mr. Gallia if HE&R is offering the \$49,289.40. Mr. Gallia replied that they are. They do have some discretion as it relates to the 20 foot easement because of safety concerns and would like to work with the Township regarding this. Mr. Emerick said Mr. Gallia is referring to his suggestion that we collect or obtain an easement today that if in the future the Township does choose to put in some type of pedestrian-way that we are not giving him back his \$49,289.40 to buy the land to put in the facility.

MOTION: A motion made by Supervisor Ballard and seconded by Supervisor Engle that a waiver is granted from Section 185-34.A.(1) of the Subdivision and Land Development Ordinance regarding the installation of sidewalks along the Route 422 and Sipe Avenue frontages of the property, with the following stipulations:

- 1) That the owner/developer has offered to and will pay a fee-in-lieu of installation of sidewalks prior to recording of the land development plan.
- 2) That the fee-in-lieu of sidewalk installation along Route 422 and Sipe Avenue is paid based on the one-to-one lineal foot value for 5-foot wide concrete sidewalk, as established in the RSMean's construction cost data, current quarter, regionally adjusted to Hershey, PA.
- 3) That a 20-foot wide pedestrian easement along the Route 422 frontage is established concurrently with the recording of the land development plan to allow for future pedestrian improvements as may be desired by the Township. The width of this easement may be reduced if engineering plans are provided to the Township demonstrating that a lesser width will accommodate a 5-foot wide concrete or 8-foot wide macadam walkway.
- 4) That the owner/developer provides an easement agreement and exhibit to the Township no later than May 25, 2015 regarding the easement noted in condition 3 above; that HRG reviews and approves the easement agreement and exhibit, and that the easement agreement and exhibit are recorded concurrently with the land development plan.

Discussion:

Chairman Foley asked if we are setting a precedent for any potential sidewalk requirement in the Township that is going to be subject to the fee-in-lieu that today does not formally exist if this is approved. Mr. Emerick said HE&R is working with the Township in trying to help develop an appropriate program. He doesn't know that anything is cast in stone or setting a precedence. The benefit to HE&R is that we will never bother them about sidewalk on Route 422 and Sipe Avenue again. Chairman Foley said he is looking at the long term view of this. He asked if another project comes up are we as a Board almost compelled to look at it exactly the same way. Mr. Emerick said you may be. Solicitor Yost added that the waivers are done on sort of a hardship basis to a certain extent. If someone

comes in with a similar situation, you have to take a look at it, but it doesn't mean it will be the situation for every waiver that is granted. Chairman Foley said he just wants to ensure we maintain the ability to defer a waiver.

Chris Brown said it is not setting precedence, it is doing the opposite. It is actually giving us thoughtful walkability and pedestrian activity in the Township.

The motion carried, 5-yes 0-no.

D1-7 Consideration of adoption of a decision in the matter of Conditional use Request No. 2014-01, as filed by Catherine E.R. Wagner, Esq., on behalf of A.J. Troncelliti.

Charles Emerick, Director of Community Development – This item was discussed earlier this evening at a public hearing. The Board is not required to act this evening, but it is required to act within 45 days of the close of hearing. Mr. Emerick prepared a draft adoption that would allow for the use along with the road test associated with PA State Safety & Emissions testing restricted to the private road adjacent. Also that the operator of the facility would be responsible for removal of all vehicles upon the close of business each day. This responsibility will include contracting the services of an automobile towing business as may be necessary to comply with this restriction. All work must be within the enclosed building with the exception of road tests. All garage doors and other doors must remain closed when work is being performed. The services provided may be only those services permitted under the definition of Automotive Lubrication facility. In accordance with Conditional Use Decision No. 2006-01, a video surveillance system shall be installed and operated/maintained on site 24/7. The authorization granted in this draft adoption is based on the specific circumstances and cannot be otherwise expanded; and finally, any violation of any condition shall be enforced as provided in the regulations.

Supervisor Ballard mentioned again that it is frustrating to get their agendas on Friday afternoon. For the public, she is concerned as to whether the public had enough notice to know about this. She requests in the future getting the agenda packets a week in an advance so they can help get the word out. Supervisor Ballard said in the interest of transparency she would like to allow the people time to share their opinion. Supervisor Ballard acknowledged that the applicants have waited a long time, but she believes dialogue especially with the Middletown Road Interest Group would be well time spent. She would prefer to defer to allow more time for public comment.

Chairman Foley noted that this topic has been out there for months. The folks that are engaged are seeing it and are here speaking. One of the challenges for the Board getting our information a week in advance is we run the risk of having things that are add-ons because of time constraints and then we actually fall into the lack of transparency. This way we ensure it is all there. There are a lot of efforts made including the website to ensure our community is well informed of our actions.

Supervisor Engle said the one thing that has changed is the formation of the Middletown Road Interest Group. This group can speak for an area of town similar to what the Downtown Hershey Association is doing for downtown. There is a meeting scheduled for Tuesday. Delaying this decision could almost be viewed as out of respect for this group to weigh in. The reality is that the Middletown Road Interest Group may meet and say they don't want more traffic or more commercial or they may meet and say this will limit the trips because our residents could use this without driving further away.

Vice-Chairman Moyer said that the road tests associated with state safety and emissions will be on the internal roads is a factor for consideration. The applicant doesn't have a contractual guarantee and it is possible that the current owner could prohibit the applicant from conducting any road tests.

Motion: A motion made by Vice-Chairman Moyer and seconded by Supervisor Weir to delay the vote on this agenda item until the next meeting, is hereby approved. *The motion carried, 5-yes 0-no.*

E1-6 Consideration of entering into an agreement for the modification of the Preliminary/Final Subdivision Plan requirements for lands of Jerry Shank, Sr., and Bettylou Shank, Plat No. 1185 and waiver of conditions for consideration of the release of the performance security.

Charles Emerick, Director of Community Development – Mr. Shank had gotten a plan approved that proposed a few lots including one for him to build his underground house on. He had planned to construct a large garage as part of this plan and since that time he has decided not to build that garage. He built a smaller garage complying with our stormwater ordinance, but it did not meet the requirements of the subdivision plan. In a few instances in the past, we amended plans so that we could release escrow accounts. In coordination with Solicitor Yost and Mr. Shank's attorney an agreement was drafted that will forfeit Mr. Shank's ability to build the garage in return for returning his money to him that guaranteed the installation of the stormwater. An inspection was done by HRG and their recommendation was for Mr. Shank to provide \$208.20 as maintenance security for the two driveways that he cut into the public roads and Mr. Shank has already provided the maintenance security.

Motion: A motion made by Supervisor Ballard and seconded by Supervisor Weir the that the Township enters into the "modification of Preliminary/Final Subdivision Plan and Waiver of Conditions for Lands of Jerry Shank, Sr. and Bettylou Shank"; that the Board of Supervisors authorizes its Chairman to execute the Agreement on behalf of the Township; that the Board of Supervisors authorizes the release of the remaining balance of \$15,612.95 of Fulton Bank Letter of Credit No. D005674, which was provided as performance security for Plat #1185; and that Jerry Shank, Sr. and Bettylou Shank provide \$208.20 as maintenance security for the two driveways that were cut into the public roads, is hereby approved. *The motion carried, 5-yes 0-no.*

F1-2 Adoption of Resolution No. 1423 authorizing an Application for Dauphin County Aid for professional and related project services for a Corridor Transportation Evaluation on Route 322.

G1-2 Adoption of Resolution No. 1424 authorizing an Application for Dauphin County Aid for professional and related project services for the Chocolate Avenue Streetscape Improvement Project.

James N. Negley, Township Manager/Township Treasurer – On December 16, 2014, the Board approved both of these scopes, F1-2 and G1-2, to be conducted by our Township engineer, HRG. The scope for the 322 study was \$49,800 and that was to be split between the Township and the Med Center. The Township's responsibility was \$24,800. With the Streetscape Improvement Project, HRG was to do the scope and the Township was to be billed \$42,395. HRG reached out to the Dauphin County Commissioners and we received a grant from the Commissioners. They are going to pay both the \$24,800 and \$42,395. Manager Negley thanked HRG for actively pursuing this grant and the Commissioners for granting the money.

Motion: A motion made by Supervisor Engle and seconded by Vice-Chairman Moyer that Resolution No. 1423 authorizing the acceptance of \$24,800 grant from the County of Dauphin for professional and

related project services for a corridor Transportation Evaluation for Route 322, is hereby approved.

The motion carried, 5-yes 0-no.

Motion: A motion made by Supervisor Engle and seconded by Vice-Chairman Moyer that Resolution No. 1424 authorizing the acceptance of a \$42,395.00 grant from the County of Dauphin for professional and related project services for the Chocolate Avenue Streetscape Improvement project, is hereby approved. *The motion carried, 5-yes 0-no.*

HI-2 Consideration of an extension of the term of the performance security for the 4th Revised Preliminary/Final Land Development Plan for Deer Run Commons, Plat No. 1245.

Motion: A motion made by Chairman Foley and seconded by Supervisor Ballard that the Board accepts an extension until February 18, 2016 of the term of SAFECO Insurance Company of America Bond No. 6603339, in the amount of \$258,158.00 supplied as performance security for the 4th Revised Preliminary/Final Land Development Plan for Deer Run Commons, Plat No. 1245, is hereby approved.

The motion carried, 5-yes 0-no.

CORRESPONDENCE/BOARD/COMMITTEE INFORMATION

Vice-Chairman Moyer was contacted about the possibility of a three-way stop sign at the intersection of Bullfrog Valley Road and Wood Drive. He asked the Chief to check into this. Chief O'Rourke reported that a study has been conducted and the results do indicate criteria that warrants a three-way stop sign. He will have this before the Board at the next meeting for a vote.

REPORTS

Patrick O'Rourke, Chief of Police – Chief O'Rourke reported on the Polar Bear plunge, a benefit for the Special Olympics. Officer Rebecca Kessler's group won the award for generating the most amount of revenue for public safety groups.

Bob DiLello, Fire Company – Mr. DiLello reported that the construction on the new station is on target to begin next month. To expedite the process, the HVFD will temporarily relocate to the rear of 515 West Chocolate Avenue in the old Trolley Barn.

Chris Gawron, Hershey Public Library – Tomorrow night, the Library will be hosting the Great Backyard Bird Count. Friends of Library are sponsoring Folktale Fun with Tahira.

Matt J. Mandia, Director of Parks and Recreation – Mr. Mandia announced that the spring programs just came out and encouraged everyone to take a look.

Supervisor Ballard asked about the Middletown Road crossing. Mr. Mandia reported they are scheduling a meeting with the property owner to determine the best route and will pass that information on to HRG.

Chris Brown, Township Planner – Mr. Brown reported that the Economic Development candidates were received and given to the Board to review the 33 applicants. Chairman Foley asked the Board members to supply their top four candidates to Mgr. Negley.

Matt Bonanno, HRG Engineer – Mr. Bonanno said as part of the stormwater improvement project along Cocoa Avenue the stream in that area was relocated. After construction, HRG applied for a FEMA letter of map revision to map the stream properly. Effective February 6, the map is now current and effective.

Charles Emerick, Director of Community Development – Mr. Emerick reported that his department is working on revising the design review standards in the zoning ordinance. It is scheduled for discussion at the Planning Commission’s meeting of March 3. He would like to schedule a public hearing on either March 24 or April 14. Chairman Foley suggested April 14 at 6:00 pm due to the heavy agenda for March 24.

Mr. Emerick announced that the Township has an opportunity once again to apply for the connections grant which funded the Walton Avenue study and our bicycle study. This year they are looking at submitting an application for \$25,000 to fund the official map for the sidewalks. The Township’s match would be \$5,000. The application is due the 25th and the next meeting is the 24th. The Board agreed to authorize the application for this grant tonight.

Mr. Emerick said he has received questions regarding the fill across the street from the sewage plant on Hockersville Road. It is a fill site permitted by the 19 East demolition as part of their Conservation District Plan where they are hauling some of the waste material. They are outside of the flood plain but he wanted to make the Board aware of it.

Solicitor Yost asked if there were any regulations on leaving the dirt on the roadway. Mr. Emerick said the Dauphin County Conservation District has the regulations. Solicitor Yost said they are not keeping it off the roadway. Mr. Emerick will contact the contractors.

Supervisor Engle asked about the mounds of dirt at 19 East. Mr. Emerick said that is the material moving over to the North Hockersville site. They are trying to retain some on site for fill. The Design Review Board did not set any limitation on how long. Mr. Emerick will let them know.

Supervisor Ballard asked if we have a list of where the stormwater basins are. Mr. Emerick said there is no organized list. They are looking for money to pull together that program which may require some staff. For newer facilities, there is an inspection. For stormwater facilities that went in since 2005 there is a written obligation of the owner to maintain. For the older systems there are going to be questions as to whose it is and whose responsibility it is to fix them.

APPROVAL OF ACCOUNTS PAYABLE (\$385,386.13) AND PAYROLL (\$304,793.87).

Supervisor Moyer moved to approve accounts payable in the amount of \$385,386.13 and payroll in the amount of \$304,793.87. Supervisor Ballard seconded. *The motion carried, 5-yes 0-no.*

OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD

Rich Gamble, Hockersville Road – Mr. Gamble asked if anyone has looked at the actual state requirements for inspections in regards to the Jiffy Lube request.

ADJOURNMENT

Vice-Chairman Moyer moved to adjourn the meeting at 8:30 p.m. Supervisor Ballard seconded. *The motion carried, 5-yes 0-no.*

SUBMITTED BY:

Justin C. Engle
Township Secretary

Brenda Van Deursen
Recording Secretary