

TOWNSHIP OF DERRY

BOARD OF SUPERVISORS MEETING

Tuesday, February 23, 2010
600 Clearwater Road, Hershey, Pennsylvania 17033

CALL TO ORDER

The February 23, 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
Barbara Ellis - Director, Hershey Public Library
Jill E. Horner – Assistant Township Manager
James N. Negley - Township Manager/Township Treasurer
Edward L. Small – Director of Community Development
William D. Smith – Chief of Police
Jon A. Yost - Township Solicitor
Brenda Van Deursen - Recorder

Public Present: Rep. John D. Payne, John Marcucci, Susan Foxx, Elvira Ebling, Jon Sheppard, Nate Pfeifer, Jim Pfeifer, Matthew Weir, Charleton Zimmerman, George Cvijic, Dave Bowser, Diana Myrvang, Jim Ingalzo, Mark Hackenburg, Rich Gamble, Craig Smith

Press Present: Drew Weidman, The Sun and Sheri Melnick, The Patriot

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:

Representative John D. Payne, 106th Legislative District – Rep. Payne reported that there is \$16 million dollars for Derry Township in highway and bridge improvements.

- Actively working on the signal location for Select Medical at Hershey Park Drive. After verification with Mgr. Negley that it is state property, we are trying to get PennDOT to cooperate on that signal.

- Working with PennDOT on an old mowing contract that seems to have disappeared, but we hope to have it finalized.
- Working on the 743 square and Lingle Avenue to make sure they stay on track and on time to avoid excess costs.

It has been a busy time the last two months on Derry Township issues, but everything is going in the right direction. Either Todd Pagliarulo or Rep. Payne will keep Chairman Pries updated.

John Marcucci, 506 West Caracas Avenue – Mr. Marcucci said that in January 2007 there was a water main break in front of his house. He lost his house and had to rebuild. His neighbors had a lot of damage; unfortunately, they did not have insurance and had to live in their house. Two weeks ago, the same water main broke, which resulted in more sink holes. His front yard has approximately \$50,000 worth of damage. He has a brand new house, but the Township has condemned his neighbor's house because it is unsafe to live in. Mr. Marcucci said he realized there is litigation against PAWC.

Mr. Marcucci asked the Township for a snow fence to put some type of barrier up, but he ended up spending \$125 to put up a fence. He commended the Police Department because they were there and helped put up crime tape. He feels the Township is not taking this very seriously and asked them to assist him in getting this resolved. Mr. Marcucci expressed concern with not being able to mow his lawn in the summer because of the deep sink holes in his yard. He is also concerned about children at the bus stop at his property. The road is half opened and there are no caution barriers there because the two that were there fell in the hole. He has two pictures from two weeks ago and from 2007 and the pictures are identical.

Chairman Pries thanked Mr. Marcucci for presenting his concerns tonight. He assured him that the Board shares his sense of frustration and the agony he and his neighbor are going through. They are aware of the problems that have occurred in the past as a result of what occurred under the road. The Township is in litigation with Mr. Marcucci against the other party and he does not believe he is allowed to make too many comments. Chairman Pries said he stopped by Mr. Marcucci's house and the neighbors on four occasions and he has seen those holes. One is at least 6 feet deep and another one is even deeper. He asked the Solicitor what the Township can and cannot do as far as the roadway, the hole that is underneath the sidewalk, and what the future steps are.

Solicitor Yost explained that the Township joined in the litigation that Mr. Marcucci and his wife started a while ago. It is a slow process. Because of the recent event, our approach with the Public Utility Commission may need to be re-evaluated and a formal complaint filed. Solicitor Yost will discuss different approaches with the Board, but does not feel additional litigation is the answer at this stage.

Supervisor Ballard thanked Mr. Marcucci for sharing his concerns. She advised him to call Public Works if more barricades are needed to provide safety for his family and those passing by the road.

Chairman Pries asked Tom Clark the status of his discussions with PAWC in terms of the sidewalk, the road that goes underneath the sidewalk, and the future improvements for

the piping. Mr. Clark stated that he has not talked to them since he called them Saturday morning. Chairman Pries asked that the Township Manager and Solicitor Yost draft a letter to PUC. Solicitor Yost said we could file a formal complaint with the PUC, but it could take months. The immediate concern is to get the road back. The Pennsylvania American Water Company should be talking to us as to what and how much they are going to do. Solicitor Yost suggested Mgr. Negley call Pennsylvania American and put pressure on them. Chairman Pries requested Mgr. Negley to start communication tomorrow and keep the Board apprised of the happenings. In addition, we may need to contact Rep. Payne and any other elected officials to get involved in this.

Mr. Marcucci asked who his contact is in the Township. Supervisor Ballard instructed him to call Public Works if he needs more barricades and Mgr. Negley for overall questions. Chairman Pries advised Mr. Marcucci that if he sees the road going down he should call 911 to get a hold of the Police Department.

Supervisor Moyer suggested that when Mgr. Negley communicates with the PA American Water Company to get some timelines from them rather than some open-ended promises.

Charleton Zimmerman, 125 Roosevelt Avenue – Mr. Zimmerman did some checking and found that mix use is a new type of zoning called Form Based Codes. It came from the Philadelphia Zoning Code Commission. Basically, they are getting away from the old way of doing zoning. He gave Ms. Horner an article from the National Association of Realtors copyrighted in 2009 for the Board to review. Mr. Zimmerman said he would appreciate it if the Township would put Palmdale back the way it was in the 50's and 60's. Walkability. He said zoning codes from 1993 are antiquated and need to be re-done. He mentioned that East Chocolate is zoned by Dauphin County as commercial strip. It is getting worse...turning into a slum. At the last Zoning Hearing, same term was used for Swatara Station. He asked the Board of Supervisors to take a hard look at this.

Chairman Pries thanked him for his comments. He said that Mr. Emerick and Mr. Small will be sending him a letter in response to his questions from the last meeting.

Diana Myrvang, 720 Cocoa Avenue – Ms. Myrvang referred to a draft of a Wren Grant Proposal that was given to the Board. She explained that the proposal is for the purpose of education and public awareness in the community about our stormwater issues. Recently, Lebanon Water Conservation District did a couple rain barrel workshops which were very well received. Basically, you get some grant money, you subsidize the cost of the rain barrels, and then you do an educational workshop for the community. The draft timeline is on the back of the materials given to the Board. However, two dates have been changed. She was to be here on Feb. 9th to outline the draft proposals, but the date changed to Feb. 23rd. The next date change would be February 24th to March 10th for drafting the grant presentation for review by all partners.

Supervisor Fedeli explained that we would be applying for a \$5,000 grant and the match can be made either financially or in-kind such as volunteer time, office space, etc. Ms. Myrvang suggested the Township do this in-kind. She added that since this proposal

was written, Pennsylvania American Water has tentatively agreed to be a partner with them and they also proposed to not only assist in the planning as an in-kind contribution match, but they also would be willing to give \$250 towards the workshops.

Supervisor Fedeli said she understands that the partnerships between the Municipality and Water Company really strengthen the application. Ms. Myrvang said if we don't have a municipality, we don't have a proposal.

Supervisor Fedeli shared that she had talked to her colleagues about this particular proposal. She does not see any red flags, but does see benefit to the Township.

Motion: A motion made by Supervisor Fedeli and seconded by Supervisor Ballard to proceed with the Wren Grant Proposal is hereby approved. ***The motion carried, 5-0.***

Ms. Myrvang said she will be contacting Mr. Negley to see who would like to be the participant. Then there will be a meeting to discuss a draft proposal, pursue the proposal, and submit it on time.

On another note, Ms. Myrvang thanked the Police Department regarding her sixteen year old son who called 999 (SOS) on his cell phone accidentally when he was sleeping. Three minutes later she was awoken to a banging on her door to find two police officers. She was very impressed that it only took three minutes for the officers to respond to the 999.

Susan Foxx, 1222 Quail Hollow Road in the Stoney Run Development – Ms. Foxx thanked the Board of Supervisors on behalf of the Stoney Run Homeowners Association for so quickly addressing their concerns about the new stop sign at the intersection of Quail Hollow and Stoney Run. They had concerns with the removal of the stop sign. Two days after Frank Carson brought it before the Board, the engineers were out there evaluating the area. She is very pleased with the plan to place three stop signs at that intersection. The residents appreciate the response.

APPROVAL OF MINUTES:

Chairman Pries called for a motion to approve the Minutes of the February 9, 2010 Board of Supervisors Meeting.

Vice-Chairman Abruzzo made a motion to approve the Minutes of the February 9, 2010 Board of Supervisors Meeting as written. Supervisor Moyer 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.

Edward L. Small – Director of Community Development – This is the third version of the plan. The first one was Plat #1073 and was approved on October 9, 2006. It was proposed to have 108 units and they were age restricted for residents 55 years and older. The second version was the first revision. It was Plat #1183 and was approved on August 25, 2009. The purpose of the plan was not to make physical changes, but it did alter the style from a condominium to a planned community. The third version is

the second revision...Plat #1188 which is the one here tonight for approval. It removes 18 units from the design and reduces the density to a conforming density for housing units that are not age restricted. These are limited to not more than 10 units per net developable acre and the new density will become 9.91 units per net developable acre. In addition to the change in the number of units is the parking analysis with two spaces per dwelling unit as opposed to one per dwelling unit. This was based upon an initial large surplus number of spaces that were designed for the property. They had extra parking even when the units were age restricted.

Waivers are approved from the providing of sanitary sewer and gas and water plans. The profile waiver was requested only for the portions of the site that contained sewer or water services that would be abandoned as part of this project. There are no gas services on the site. All proposed water and sewer facilities are profiled. The second waiver deals with the scale of the plan. The permission was granted to allow the use of one inch to 60 feet on the overall plan to allow the plan to be viewed on one sheet.

In addition, we were requested to expend with some additional consideration regarding the removal of the 18 units and the removal of the age restriction and whether or not any relief previously granted would still qualify. They reviewed this and will repeat the relief granted by variance by the Zoning Hearing Board. The other dealt with the disturbance of sensitive environmental areas. This was done for the conveyance of some of the stormwater. This does not have any bearing on the age of the occupants and can be granted.

The relief granted by the Zoning Hearing Board for the style of separations was also not effected by the age of the occupants.

Regarding the change of the use from a nursing home to a multi-family as it may or may not relate to the age of occupants, there was no reliance upon the age. The surrounding uses are not age restricted.

Under the Land Development Subdivision Ordinance, these waivers were granted in the past and have no bearing on the age of the occupants.

The Planning Commission has recommended approval of this plan and of the waivers that were presented.

Motion: A motion made by Supervisor Fedeli and seconded by Vice-Chairman Abruzzo that the Township hereby approves the Second Revised Preliminary/Final Land Development Plan for Rosemont Integrated Services, LLC, Plat #1188, subject to the following:

- a. That the applicants reimburse the Township for costs incurred in reviewing the plan no later than March 23, 2010.
- b. That the applicants re-assign the performance security agreement from Plat #1073 to Plat #1188 no later than August 23, 2010.
- c. That applicants provide a letter from Dauphin County Conservation District no later than August 23, 2010 affirming that the NPDES permit in effect for Plat #1073 is still valid for Plat #1188.

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

- a. From Sections 185-13.E.(4).(a).[20] and 185-13.E.(4).(a).[21] regarding providing sanitary sewer and gas and water plans and profiles.
- b. From Sections 185-12.D.(2) and 185-13.(3) regarding plan scale to allow sheet 2, Existing Site Conditions, to be depicted at a scale of 1" = 60.

The motion carried, 5-0.

B1-8 The Second Revised Preliminary/Final Land Development Plan for Deer Run Commons, Plat No. 1187.

Edward L. Small – Director of Community Development – This has been before the Board previously. The first time was a preliminary plan and it approved 25 townhouse units and 92 multi-family units. All development is occurring on Lot #1. Lot# 2 is a narrow tract along the Swatara Creek. There is no development proposed for Lot #3 but it is going to be held by the Homeowners Association to help offset any impervious calculations.

There are townhouse units that will be affected by an additional 10 units using the same footprints or footprints similar enough that there is no issue for impervious coverage and runoff. These units were supplemented by 44 units in the past by the previous version of the plan. They were formally four-unit buildings but have been transformed to six-unit buildings.

Regarding the effect of the initial density under the zoning ordinance, there was no relief needed from the Zoning Hearing Board. Each housing type was permitted by right since there were two zoning districts within the land area shown as Lot #1. No other types of relief were sought.

A waiver was sought for the plan scale which has very little difference in the analysis because of a change in the plan as far as the density is involved. The Planning Commission has recommended approval of the plan.

Supervisor Ballard mentioned notes from the Board of Supervisors Meeting of August 2008 indicating you could not go through to the property at the intersection with Deer Run Drive. Mark Hackenburg, RGS Associates, said that the barricade being referred to is actually on the original driveway that comes in off of Middletown Road. It is out on the frontage of Lot #3 where there is an existing driveway.

Motion: A motion made by Vice-Chairman Abruzzo and seconded by Supervisor Fedeli that the Township hereby approves the Second Revised Preliminary/Final Land Development Plan for Deer Run Commons, Plat #1187 subject to the following:

- a. That the applicant reimburse the Township for costs incurred in the reviewing the plan no later than March 23, 2010.
- b. That Insurance Bond No. 6603339 and the Agreement to Provide Financial Security be amended to refer to Plat #1187 no later than August 23, 2010.
- c. That the fee in lieu of parkland dedication for Plats 1152 and 1187 be provided prior to recording Plat #1187.

- d. That PA American Water Company provides a letter acknowledging the capacity for the additional units no later than August 23, 2010.

The motion carried, 5-0.

C1-11 Consideration of the adoption of a decision in the case of Conditional Use Request No. 2009-01, as filed by Colleen A. Steckbeck.

Edward L. Small – Director of Community Development

This is for the Board's consideration of adopting a conditional use for a personal service establishment with facilities for a beauty salon plus a spa. A public hearing was conducted on January 26th.

Supervisor Fedeli said as she understands the approval of this plan is that they cannot alter the structure in any way. Mr. Small said they cannot enlarge it.

Supervisor Moyer understands that the footprint would not be modified or enlarged, but he questioned the parking provisions. Mr. Small said the front yard is adequate for parking and would satisfy the requirements of three spaces per operator plus a handicap accessible space.

Motion: A motion made by Chairman Pries and seconded by Vice-Chairman Abruzzo that Conditional Use Request No. 2009-01 is hereby approved. ***The motion carried, 5-0.***

D1-7 Consideration of renewing the approval of the Preliminary/Final Subdivision Plan for George Cvijic, Plat No. 1163.

Edward L. Small – Director of Community Development

This was brought to the Board six months ago for reapproval of the plan. Mr. Cvijic received his first approval in February 2009. After six months expired without satisfying the conditions of the motion, it required the Board to reapprove, which they did in August 2009. They are asking for a renewal of the approval because the weather has not been good and his contractor is willing but not able to install the infiltration beds that are required for the new dwellings. It is Mr. Cvijic's preference to install the improvements without having to give performance security.

Motion: A motion made by Vice-Chairman Abruzzo and seconded by Supervisor Moyer that the approval for the Preliminary /Final Subdivision Plan for George Cvijic, Plat #1163 is renewed subject to the following occurring no later than the date indicated and prior to the recording of the plan:

- a. That the applicant complete the required improvements or provide performance security in acceptable form for the required improvements in the amount of \$47,229.53, no later than August 25, 2010, as required by Section 185-13.D. of the Subdivision and Land Development regulations.

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

- a. From Section 185.13.E.(4).(a).[19] regarding profiles of existing storm sewer system.
- b. From Section 185-22.D.(3).(c) regarding road widening of Bachmanville and Felty Mill Roads.
- c. From Section 185-22.E.(1) regarding curb along Bachmanville and Felty Mill Roads.
- d. From Section 185-30.F. regarding side lot lines being perpendicular to the street/center line.
- e. From Section 185-34.A.(1) regarding sidewalk along Bachmanville and Felty Mill Roads.
- f. From Section 185-44 regarding open space dedication.

The motion carried, 5-0.

E1-4 Resolution No. 1258, application for permit to install and operate traffic signals on Campus Drive at Centerview Drive on the Penn State Milton S. Hershey Medical Center Campus.

Motion: Chairman Pries made a motion to table Resolution No. 1258 for two weeks until the next Board of Supervisors' meeting to allow the Board time to further research and take into consideration some items involving this Resolution. Seconded by Supervisor Fedeli. ***The motion carried, 5-0.***

F1-2 Resolution No. 1259, appointing an Alternate Delegate to the Dauphin Countywide Tax Committee.

Motion: A motion made by Vice-Chairman Abruzzo and seconded by Supervisor Moyer that Resolution No. 1259 appointing Sandy Ballard as Alternate Delegate for the Dauphin County-Wide Tax Committee is hereby approved. ***The motion carried, 5-0.***

G1 Act 167

Supervisor Moyer referred to the discussion at the last meeting about the appointment and creation of an Act 167 Advisory Panel.

Motion: A motion made by Supervisor Moyer and seconded by Supervisor Ballard to appoint Matthew Weir, Steve Todd, John Sheppard, Chuck Emerick, a Township Engineer Liaison as needed, and Board Member Kelly Fedeli as members to the Act 167 Advisory Panel is hereby approved. ***The motion carried, 5-0.***

Chairman Pries thanked each resident appointed and Supervisor Fedeli for agreeing to serve on this panel.

CORRESPONDENCE

No correspondence to report.

BOARD/COMMITTEE INFORMATION

Vice-Chairman Abruzzo reported that the Municipal Authority refinanced a 2003 Bond over the last two weeks, which resulted in a savings of about \$212,000 in this budget year and will result in a savings of \$87,000 in next year's budget. He commended the Municipal Authority's staff and Lou Verdelli, representative of RPC Capital, for getting

this done in a timely manner. The target was to save \$200,000 from the budget and ultimately we will have saved over \$300,000.

Chairman Pries said that the Board has put aside political partisanship and listened to the voice of the community when there are certain topics or agenda items that come up to create a committee of residents such as the Act 167 Advisory Panel. The Board has made a commitment and they are continuing to fulfill that commitment to work on behalf of our residents.

REPORTS

William D. Smith – Chief of Police

Chief Smith reported that on February 13th, four employees of the Police Department and a sworn-in civilian participated in the Polar Plunge that was held at City Island. They took 1st place in the Law Enforcement Division for making the most money for the Special Olympics.

Chief Smith recommended for everyone to keep their eye on the storm tracking. He just received an update that this storm could track up to 10 inches. We are on the fringe of the storm with winds up to 30-60 miles an hour.

Thomas Clark – Director of Public Works

Mr. Clark reported that their fleet has been serviced and any repairs needed were done. He also reported that the salt building is half full.

Chairman Pries asked Tom if the right turn off of Chocolate Avenue onto Lingle Road is Derry Township's Road or Palmyra Borough's road. Mr. Clark said it is a state road in Lebanon County. Chairman Pries had noticed a large pot hole on that road.

Barbara Ellis - Director of Hershey Public Library

Barbara Ellis announced that registration is open for a new round of computer classes and children's story times. She shared that Cathi Alloway, her predecessor at the Library, has recently been hired as the Director of the Public Library in State College. Within our district there will be some changes to fill her position.

Matt Bonanno, HRG Engineer

Mr. Bonanno updated the Board on the 167 Plan. The next step is a Public Hearing on Thursday at 10:00 at the Dauphin County Conservation District. Once the hearing is over, the plan will be moved to the County Board for approval and then to DEP.

James N. Negley - Township Manager/Township Treasurer

Manager Negley will be meeting with York Waste next week to prepare and implement the new contract extension.

APPROVAL OF ACCOUNTS PAYABLE (\$206,229.87) AND PAYROLL (\$303,525.14).

Supervisor Fedeli moved to approve accounts payable in the amount of \$206,229.87 and payroll in the amount of \$303,525.14. Vice-Chairman Abruzzo seconded. ***The motion carried, 5-0.***

VISITOR/PUBLIC COMMENTS

Nate Pfeifer, a boy scout, introduced himself and said he is working on his Communication Merit Badge.

ADJOURNMENT

Supervisor Ballard moved to adjourn the meeting at 8:10 p.m. Vice-Chairman Abruzzo seconded. ***The motion carried, 5-0.***

SUBMITTED BY:

Kelly C. Fedeli
Township Secretary

Brenda Van Deursen
Recording Secretary