

MEETING MINUTES
BOARD OF SUPERVISORS, TOWNSHIP OF DERRY
Tuesday, July 23, 2013
600 Clearwater Road, Hershey, Pennsylvania 17033

REGULAR MEETING

CALL TO ORDER

The July 23, 2013 Township of Derry Board of Supervisors meeting was called to order at 7:05 p.m. by Chairman E. Christopher Abruzzo.

ROLL CALL

Supervisors Present

E. Christopher Abruzzo, Chairman
Sandy A. Ballard
Kelly C. Fedeli, Vice-Chairman
John Foley, Jr.
Marc A. Moyer, Secretary

Also Present

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

Public Present: Rob Martin, Matt Weir, Elvira Ebling, Anne Newman, Charleton Zimmerman, Phyllis Ingold, Susan Newkam, Susan Souders, Tom Scott, Justin Engle, Rich Gamble, Jon Sheppard, Brian Shiflett, Elizabeth Carter

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

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

OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD

Rich Gamble, Hockersville Road – Mr. Gamble commented on the Hershey Company putting up a billboard to advertise their new project. What is the difference putting their information in

the downtown as opposed to supporting businesses like the current billboard. You only see the current billboard as you are coming into town. The Hershey's billboard will be in the downtown for over two years. We are trying to encourage the development of the downtown business to stimulate the economy.

Anne Newman, 533 Elm Avenue – Ms. Newman said she understands there is a request for a variance on the design of the existing billboard. She also understands that billboards are not permitted within the town of Hershey except those that are grandfathered. However, no variances should be made to those that are already grandfathered. She believes the Zoning Board has given us zoning regulations to protect the safety, integrity, and character of the community and anytime that we ask for variances we are defeating the purpose of zoning.

Rich Gamble said he agreed with Ms. Newman, but when Hershey asked for a variance to put their billboard up, it was approved.

Chairman Abruzzo said for point of clarification this Board is not granting any variances. A request was made to the Zoning Hearing Board and they made a decision. The Design Review Board made a separate decision denying the request. That matter was appealed to the Board of Supervisors by the applicant. The decision the Board is making now is a legal decision based on the decision made by the Zoning Hearing Board and the decision made by the Design Review Board.

Supervisor Ballard said the Zoning Hearing Board ruled and the Design Review Board ruled and those two things are not necessarily inconsistent. One was approving the addition of a sign face and the other was looking at the design and appropriateness of the billboard. Supervisor Moyer added that the size of the billboard is not increasing nor is the orientation changing.

APPROVAL OF MINUTES

Chairman Abruzzo called for a motion to approve the Minutes of the June 25, 2013, Public Hearing. Supervisor Foley made a motion to approve the Minutes as written. Vice-Chairman Fedeli seconded. ***The motion carried, 5-Yes 0-No.***

Chairman Abruzzo called for a motion to approve the Minutes of the June 25, 2013, Board of Supervisors Meeting. Supervisor Ballard made a motion to approve the Minutes as written. Supervisor Moyer seconded. ***The motion carried, 5-Yes 0-No.***

Chairman Abruzzo called for a motion to approve the Minutes of the July 9, 2013, Public Hearing. Supervisor Ballard made a motion to approve the Minutes as written. Vice-Chairman Fedeli seconded. Supervisor Moyer abstained as he was absent from the meeting. ***The motion carried, 4-Yes 0-No 1-Abstention.***

Chairman Abruzzo called for a motion to approve the Minutes of the July 9, 2013, Board of Supervisors Meeting. Supervisor Foley made a motion to approve the Minutes as written. Supervisor Ballard seconded. Supervisor Moyer abstained as he was absent from the meeting. ***The motion carried, 4-Yes 0-No 1-Abstention.***

NEW BUSINESS

A1 Presentation of awards to employees of the Police Department whose actions from January 2012 through December 2012 have brought distinction upon themselves.

Patrick O'Rourke, Chief of Police recognized and commended the following employees of the Police Department:

Life Saving Award: On October 21, 2012, Officer Rebecca Kessler and Township Resident, Maureen Papapietro conducted life saving measures on a person at The Giant Center. He commended them for their quick and decisive intervention into a life-threatening situation which prevented the loss of life.

Letter of Recognition: On November 28, 2012, Officer Rebecca Kessler, Officer Dennis Shearer, and Officer Sean Sargen, prevented a fire from spreading and turning into a potential tragedy. He commended them for their quick thinking, swift actions, and dedicated teamwork.

Letter of Commendation: Detective Tom Pavone was commended for his alertness and perseverance in an arrest in a series of burglaries that occurred during the summer of 2012.

Distinguished Unit Citation: Detective Sergeant Gregory Day, Detective Matthew Dotts, Officer Rian Bell, and Officer Michael McCormick were commended for making an arrest to bring closure not only to the drug related arrests in relation to the Clifton Heights robbery investigation, but also in a narcotics investigation being conducted by neighboring jurisdictions.

Letter of Commendation: Detective Sergeant Gregory Day was commended for his outstanding courage and nobility of purpose while in action against a barricaded gunman on December 17, 2012. Sgt. Day's outstanding courage, bold exploits and nobility of purpose was instrumental in the tactical success of the operation.

Distinguished Service Award: Detective Tom Pavone and Officer Dennis Eckenrode were commended for their outstanding courage, feats of gallantry and nobility of purpose while in action against a barricade gunman on December 17, 2012. Their outstanding courage, bold exploits and nobility of purpose was instrumental in the tactical success of the operation.

Award for Valor: Officer Robert Bennett received the Award for Valor for outstanding courage, feats of gallantry and nobility of purpose while in action against a barricade gunman and providing cover for his fellow team members on December 17, 2012. The Award of Valor is the highest award someone can receive.

The outstanding courage, bold exploits and nobility of purpose from Detective Day, Detective Pavone, Officer Eckenrode and Officer Bennett was instrumental in the tactical success of the operation; reflecting great credit upon themselves and the Dauphin County Crisis Response Team. They upheld the highest traditions of the Derry Township Police Department.

Officer Robert Bennett was selected by the VFW to receive the Officer of Year award based on performance.

Chief Martin, Susquehanna Township – Chief Martin commented on the 9-hour standoff that took place December 17. This was the largest police gun battle in Dauphin County. Throughout this event, these four officers (Day, Eckenrode, Bennett, Pavone) were brave and we could not have gotten through it without them. They showed exemplary bravery.

Chief Abruzzo thanked Chief Martin for all his help. He also commented that the Board could not be more proud of these four officers, the chief, and all of the other officers who protect this community.

B1-4 Determination of the disposition of ABBCO Real Properties Corporation's appeal of the Design Review Board's denial of a Certificate of Appropriateness.

Charles W. Emerick, Director of Community Development - On May 20, 2013 ABBCO Real Properties Corporation presented an application to the Chocolate Avenue Preservation Overlay District Design Review Board (DRB) to put a second face on an existing billboard located at 818 Reese Avenue. The DRB denied issuing a Certificate of Appropriateness for the alteration to the existing sign. The Zoning Ordinance allows parties that have not been issued a Certificate of Appropriateness to appeal the matter before the Board of Supervisors. That appeal was heard by the Board of Supervisors on July 9, 2013. The Ordinance also notes that a decision must be made within 20 days of that public meeting.

Chairman Abruzzo asked if what the Zoning Hearing Board granted was just the completion of the back of the current billboard without an extension or relocation of a post. Mr. Emerick said there is no alteration or angle from the front of the sign. He believes what the Zoning Hearing Board granted was just permission to apply a sign face to the back and whatever materials are necessary to do that.

Chairman Abruzzo asked Mr. Emerick if the relief from the Zoning Hearing Board in 2004 is essentially the same relief that was ultimately granted in 2012. Mr. Emerick said that was correct. The only substantial difference between the relief in 2004 and 2012 was a condition to add shrubbery to the base of the billboard. This was not included in the 2012 request. Chairman Abruzzo asked Mr. Emerick if the Board of Supervisors could add the shrubbery component as part of their decision today. Mr. Emerick said he would consider that a reasonable condition.

Supervisor Ballard said the 2004 decision stated that the face added to the sign shall be no larger than the existing face. Tom Scott, attorney for the applicant, said the new frame work will be 9 x13, the same size as the current sign.

Vice-Chairman Fedeli commented that the Board of Supervisors did not take this decision lightly. They reviewed the minutes and decisions from the 2004 and 2012 requests. They took into consideration the comments from the community, the legal counsel, and also the decision of the Zoning Review Board. The Board is in agreement that the Zoning Hearing Board spoke and we need to respect their decision to grant that variance. We also respect the decision of

the Design Review Board in which case they acted responsibly in what they were charged with. We took all this into consideration before making a decision.

Motion: A motion made by Vice-Chairman Fedeli and seconded by Supervisor Foley to grant the appeal of the applicant subject to limiting the colors as set forth in Section 225-142 C (colors of the billboard) and to the side of the sign expansion as approved by the Zoning Hearing Board and to use materials substantially similar to those on the face of the existing sign; and furthermore, that the applicant will plant shrubs and other screening vegetation at the base of the sign in accordance with the requirements of the Ordinance, is hereby approved. Supervisor Ballard abstained as she is a member of the Design Review Board. ***Motion carried, 4-Yes 0-No 1-Absention.***

Chairman Abruzzo said it is very important for the Board to follow rule of law and in this instance they feel they are applying the law correctly to the given set of facts and circumstances. Two separate Zoning Hearing Boards ruled on this issue over 8 years apart and came up with the same decision. Chairman Abruzzo feels fairly certain that with respect to this particular billboard this is the right action to take, but it does not suggest the Board would do this in other instances as it relates to billboards in the community.

C1-2 Adoption of Resolution No. 1367 providing authorization to file an application with the Dauphin County Infrastructure Bank Loan Program (DCIB) for \$233,600 to fund the installation of a traffic signal at the intersection of Fishburn and Homestead Roads.

Jill E. Henry, Assistant Township Manager – Assistant Manager Henry said they would like to apply for funding through the Dauphin County Infrastructure Bank Loan program for the installation of a traffic signal. This resolution is a requirement for the Board to provide their authorization.

Motion: A motion made by Supervisor Foley and seconded by Supervisor Ballard that Resolution No. 1367 providing authorization to file an application with the Dauphin County Infrastructure Bank Loan Program (DCIB) for \$233,600 to fund the installation of a traffic signal at the intersection of Fishburn and Homestead Roads, is hereby approved. ***Motion carried, 5-Yes 0-No.***

D1-2 Award of a bid for the re-grouting of the upper pool at the Hershey Recreation Center.

Matthew J. Mandia, Director of Parks & Recreation –The scope of the project includes re-grouting the interior floor, walls and gutter system of the upper pool. The work will be done between August 19 and August 30. Two bids were received. The first one is from Aquality Pool Service in the amount of \$27,400 and the second bid was received from Wilcoxon Construction, Inc. in the amount of \$29,400. \$20,000 was budgeted in the 2013 Capital Project Budget. Due to the substantial increase in materials in both bids, the balance will be taken from the Parks general fund budget which would not impact the Township reserve. Parks & Rec will work with Public Works in tailoring their grounds maintenance budget to offset this unexpected expense.

Motion: A motion made by Supervisor Ballard and seconded by Vice-Chairman Fedeli that the bid for the re-grouting of the upper pool at the Hershey Recreation Center be awarded to Aquality Pool Service in the amount of \$27,400.00, is hereby approved. **Motion carried, 5-Yes 0-No.**

E1-5 Authorization to accept a proposal from Herbert, Rowland & Grubic, Inc. for Supplement No. 4 to continue to provide Full-Time Construction Observation Services as it relates to the Township' Stormwater Management Program Development.

James N. Negley, Township Manager/Township Treasurer – The original contract was for a 17-month construction duration period with completion by August 1, 2013. Because of progress schedule delays, the project is expected to last until November 2013. In order to continue the full-time construction observation services, the additional estimated costs for the scope of continuing services are \$109,000. The \$109,000 will be paid from the existing funds in the H20 and the PIB loan grants.

Motion: A motion made by Vice-Chairman Fedeli and seconded by Supervisor Foley that the Township Manager is authorized to execute an agreement proposal from Herbert, Rowland & Grubic, Inc. for Supplement No. 4 to continue to provide Full-Time Construction Observation Services as it relates to the Township' Stormwater Management Program Development, is hereby approved. **Motion carried, 5-Yes 0-No.**

F1-11 Authorization to accept a proposal from Herbert, Rowland & Grubic, Inc. to provide additional services for the Relocation of Park Boulevard and the Replacement of Derry Township Bridge over Spring Creek, Supplement No. 1.

James N. Negley, Township Manager/Township Treasurer – This agreement engages Herbert, Rowland & Grubic to add a noise study work scope to the previously approved proposal for preliminary engineering for the Park Boulevard and the Bridge carrying Park Boulevard over Spring Creek project. The original scope of services approved was for \$650,000 and the Township was lucky to receive a grant for that from the Dauphin County Liquid Fuels. A request for the additional sum of \$32,454.83 will be submitted to the Dauphin County Liquid Fuels for their approval for payment. At the time HRG submitted the original proposal that was approved, PennDOT did not require the study. It was only upon their review they decided they needed a noise study.

Supervisor Ballard asked if we felt this additional amount would be approved. Manager Negley said the County was very supportive of this project and should approve this addition.

Motion: A motion made by Supervisor Foley and seconded by Supervisor Ballard that, the Township Manager may execute an agreement with Herbert, Rowland & Grubic, Inc. to provide additional preliminary engineering services identified as Supplement #1 for a Noise Study Analysis for the Relocation of Park Boulevard and the Replacement of Derry Township Bridge Number 1 over Spring Creek Project, is hereby approved. **Motion carried, 5-Yes 0-No.**

G1-3 Consideration of the release of the performance security for the Preliminary/Final Land Development Plan for the Milton Hershey School Health Center, Plat No. 1088.

Motion: A motion made by Supervisor Foley and seconded by Vice-Chairman Fedeli that the Township releases performance security in the amount of \$183,466.75, provided as Hershey Trust Company Letter of Credit No. 206 for the Preliminary/Final Land Development Plan for the Milton Hershey School Health Center, Plat No. 1088, is hereby approved. ***Motion carried, 5-Yes 0-No.***

H1-5 Authorization for a civic banner to be located along SR322 in the area of the “Welcome to Hershey” billboard.

Charles W. Emerick, Director of Community Development – The Zoning Ordinance allows banners advertising civic events in two ways. One way is Section 225-126.M allows civic and charitable signs by right with limited provisions. The other way is Section 225-126.H allows banners advertising civic events as a sign permitted in all sign districts, but requires authorization by the Board. In this case the Hershey Harrisburg Visitors Bureau is promoting a national tournament called the 2013 State Games of America, a national sports competition. They would like to place a banner near the Welcome to Hershey billboard from July 30 to August 5.

Motion: A motion made by Supervisor Ballard and seconded by Supervisor Foley that the Hershey Harrisburg Visitors Bureau place a 5’ x 8’ banner promoting the 2013 State Games of America, a national sports competition, near the “Welcome to Hershey” billboard located along 322, is hereby approved. ***Motion carried, 5-Yes 0-No.***

CORRESPONDENCE – Chairman Abruzzo recognized Mr. and Mrs. Judge for their involvement in our budget process last year. During that process, they asked to take a look at the Township’s finances and tax issues. They did this and recently submitted a draft of a report. The report was very thorough and written in a way to be understood. The Board would like to talk to them further about it and possibly post it on the Township’s website.

BOARD/COMMITTEE INFORMATION – Supervisor Foley continues to meet with the contractor regarding the stormwater project and he is seeing progress.

REPORTS

Patrick O’Rourke, Chief of Police – Chief O’Rourke thanked the members of HVFD for their assistance with the gas leak a few weeks ago. It was the largest gas leak he ever responded to. There was a coordinated effort to provide evacuations including the American Red Cross and HE&R who assisted with the evacuees. Chairman Abruzzo said there are 25,000 people in the Township and he is not sure they know how serious this was. He asked the Chief to coordinate a public meeting with Manager Negley, the Fire Department, Emergency Operation, and HE&R. The purpose of the meeting is to discuss clearly what happened and how dangerous it was and to recognize all those who assisted.

Robert Piccolo, Assistant Director of Public Works – Mr. Piccolo reported that Public Works crews are paving Areba Avenue. They started at Linden Road today and made it to Ridge. They will continue to work their way to St. Joan of Arc by Friday.

Barbara Ellis, Hershey Public Library – Mrs. Ellis reported this week is the presale for the Friends of Library Book Sale. August 2nd is the preview night for the big book sale and will last thru the 8th. The Hershey Room, which holds the PA collection and serves as a board room, has been repainted and the woodwork is nearly finished. On November 9nd, a Murder Mystery dinner will be held at the library. Vice-Chairman Fedeli said the Hershey Room is being done with funds from the Lescanec Legacy and the Friends of the Library

Cheryl L. Lontz, Manager of Payroll & Employee Benefits – Ms. Lontz reported the actual revenues and expenses are where we expect them to be. She started formatting the 2014 budget files for the departments to start the process.

Matthew J. Mandia, Director of Parks and Recreation – Mr. Mandia reported that it is a busy summer season. Attendance was down in June due to the rain, but in July they are on target with last year in July.

Matt Bonanno, Township Engineer – Mr. Bonanno reported paving was completed on Old West Chocolate and on Mill Street a few weeks ago. One crew is working on storm sewer in the Hillcrest area and another crew is working on storm sewer in the Rosedale Apartment area. Part of a crew is working near Staples on Mill Street bringing the inlets and manholes up to grade and will do some curb and sidewalk repairs. In the next few weeks they will start to pave Mill Street.

James Negley, Township Manager – Manager Negley reported they recently received \$160,000 from the Dauphin County Gaming Funds. It was applied to the debt service for the fire apparatus. We started with \$1.3 million and our balance now is \$155,000. We intend to have the Fire Company submit a follow up grant requesting completion of the debt service for this amount and would like the Board to make this their number one priority.

APPROVAL OF ACCOUNTS PAYABLE (\$1,156,536.58) AND PAYROLL (\$363,176.89).

Motion: Supervisor Foley moved to approve accounts payable in the amount of \$1,156,536.58 and payroll in the amount of \$363,176.89. Supervisor Ballard seconded. ***The motion carried, 5-Yes 0-No.***

OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD

Jon Shepperd, 243 Clark Road – Mr. Shepperd expressed his disappointment in the Board's decision regarding the billboard but appreciates their time reviewing all the information they were given. He hopes this does not set precedence based on the Board's decision. The Ordinance was very clear in this case. The Community Development director was on the zoning hearing board as voting member in 2004. In 2004, there was not a Design Review Board. In Mr. Shepperd's opinion the director of Community Development was in a difficult position. How could he go against what he voted for in 2004 in presenting the same information in 2012? As a

developer, Mr. Shepperd knows you have to get approval from several Boards and if you don't then you can't proceed. Now, people may think you just have to file an appeal. He added that Mr. Hershey cared about the town and how it looks.

Rich Gamble, Hockersville Road – Mr. Gamble reminded the developer that the property he has for sale needs cleaned up as well as the growth on Reese Avenue.

Charleton Zimmerman, 119 N. Roosevelt Avenue, Palmdale – Mr. Zimmerman said in 2008 he asked why certain businessmen get special privileges and he is still asking that question. He mentioned a situation with a developer.

ADJOURNMENT

Supervisor Foley moved to adjourn the meeting at 8:30 p.m. Supervisor Ballard seconded. ***The motion carried, 5-Yes 0-No.***

SUBMITTED BY:

Marc A. Moyer
Township Secretary

Brenda Van Deursen
Recording Secretary