

**TOWNSHIP OF DERRY
BOARD OF SUPERVISORS MEETING**

Tuesday, NOVEMBER 25, 2014
600 Clearwater Road, Hershey, Pennsylvania 17033

CALL TO ORDER

The November 25, 2014 Township of Derry Board of Supervisors meeting was called to order at 7:05 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
Bob DiLello, Fire Company
Charles Emerick, Director of Community Development
Jill E. Henry, Assistant Township Manager
Cheryl L. Lontz, Manager of Payroll and Employee Benefits
Matt J. Mandia, Director of Parks and Recreation
James Negley, Township Manager/Treasurer
Patrick O'Rourke, Chief of Police
Jon Yost, Solicitor
Brenda Van Deursen, Recorder

Public Present: Elvira Ebling, John D. Payne, Barb Myers, Harold Myers, George Haverstraw, Timothy Probylowski, Greg Koussis, Dara O'Neill, Rich Gamble, Ed Urvic, Robert Stoak

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

Rep. John D. Payne – Rep. Payne presented a flag that was flown over the capital to Chairman Foley on behalf of Derry Township. He offered to answer any questions related to state or local government.

Mr. Greg Koussis – Mr. Koussis reported that the fund raising for the new fire station has officially kicked off and the mailing has gone out. The civil design is progressing and the engineer is addressing comments. In January, the land development plan should be ready to present. The architecture part is progressing and the documents should be ready by the end of the year. The

contractor has taken the design development portion and completed their interim budget. At this point we are still on budget.

Ed Uravic, 333 Cedar Avenue, - Mr. Uravic is the chair of the Downtown Hershey Association. He wanted to address the Board's upcoming vote on a budget item to create and fund the position of an Economic Development Manager. The people of Derry Township told us their number one priority is to fix the downtown. The representatives on the diverse Downtown Hershey Association Board voted unanimously to endorse the Township's creation and funding of an Economic Development Manager to implement the downtown plan. The cost for professional support to implement the plan is very small, only 0.6 % of the Township budget without increasing taxes. The potential return of millions of dollars of government grants and tax revenue is at stake. He urged the Board to approve the funding of this position as proposed by staff.

Rich Gamble, Hockersville Road – Mr. Gamble thinks it is a great idea to hire a manager. He asked if there would be consideration of sharing the costs for this position with the entities and the businesses downtown versus the Township paying for everything. It will benefit the businesses downtown. The selection of the person is important. Is the criteria going to mean somebody that is not on the committee and someone from the outside. If approved, would it be necessary to have any elected official sitting on that committee anymore because that person could report directly to the Board.

APPROVAL OF MINUTES

Chairman Foley called for a motion to approve the Minutes of the October 28, 2014 Public Hearing. Supervisor Engle made a motion to approve the Minutes. Supervisor Weir seconded. *The motion carried, 5-yes 0-no.*

Chairman Foley called for a motion to approve the Minutes of the October 28, 2014 Board of Supervisors meeting. Supervisor Ballard made a motion to approve the Minutes. Vice-Chairman Moyer seconded. *The motion carried, 5-yes 0-no.*

Chairman Foley called for a motion to approve the Minutes of the November 11, 2014 Board of Supervisors meeting. Supervisor Weir made a motion to approve the Minutes. Supervisor Ballard abstained as she was not present. Supervisor Engle seconded. *The motion carried, 4-yes 0-no.*

NEW BUSINESS

A1-10 The Preliminary/Final Land Development Plan for the Hershey Lodge Natatorium Replacement, Plat No. 1242.

Charles Emerick, Director of Community Development – This plan represents the replacement of the existing natatorium at the Hershey Lodge. The plan proposes the creation of a leisure pool, whirlpool area, children's pool area, and exterior spray pad area replacing facilities that are older and in need of replacement. These facilities will be limited to the guests at the Lodge and no public memberships will be sold.

While the Township engineer was on the property reviewing the project, Mr. Bonanno noticed that around the Swan Lake area there was some erosion at the outfall. The applicant has been asked to correct this and their plan now shows corrections of this area.

Waivers have been requested of the Subdivision and Land Development Ordinance. Items A-F are standard waivers. The original request that came in with this plan included curbs and sidewalks. As a result of this plan being tabled and conversations with the applicant, they altered the waiver requests which is appropriate.

University Drive presently has an existing slant curb. While it is not what the ordinance today calls for, it does provide adequate edge protection for the road and direction for stormwater. For sidewalks, they are no longer requesting a waiver of sidewalks along the University Drive portion, they are requesting a waiver from the location of the sidewalk.

Route 422 is a state road and does not need shoulder improvements. Curbs would be only required in this case for safety if a public sidewalk is installed along the roadside; therefore the waiver is requested. Staff supports the waiver based on what happens with the sidewalk. If sidewalk is installed close to the road, then staff would withdraw their support of that waiver.

In order to install sidewalks along Route 422 within the public street right-of-way as required by ordinance, it would be necessary to perform substantial earth and rock moving activities at a prohibitive cost. Also, there is not an east-west sidewalk along 422 to extend or supplement; therefore, the applicants offer a monetary contribution to the Township toward community mobility and connectivity in lieu of construction and the staff supports this waiver.

Sipe Avenue – The curbing is a companion portion to providing sidewalks similar to the 422 situation. Sidewalks presently exist on the western side of Sipe Avenue which moves pedestrians in that area as well as north and south. The east side does not have pedestrian generators or destinations; therefore, the applicants offer a monetary contribution to the Township toward community mobility and connectivity in lieu of construction and the staff supports this waiver.

Vice-Chairman Moyer asked Mr. Emerick if that would be a fee in lieu of a sidewalk deferment. Mr. Emerick said that is correct. In the event the property owners make a payment for the deferment and the Township later decides to call that deferment and asks them to install a sidewalk, does the contributing entity get a refund. Mr. Emerick said they are working on a draft ordinance for a fee in lieu of. He found four other municipalities in the state that have a fee in lieu of and in each case they offer a waiver for the fee and not a deferment. He has trouble collecting money and only having a deferment.

Supervisor Ballard said if Lower Allen accepts a fee in lieu of one of their options is to have the property owner get a written estimate of actual cost to build the pathway on the particular land and that estimate is reviewed by the Township engineer. That money is then collected. Should at a future date, Lower Allen want a sidewalk, the tax payers would have to pay the money to install because the money collected is put in a fund and used to improve crosswalks, better signage, etc. Ms. Ballard referred to what Mr. Emerick said in his memo, 'any motion to accept a fee in lieu should include an agreement that is entered into between the parties identifying future conditions resulting from the acceptance of the fee'.

If a waiver was granted at this time with no payment, we would still reserve the right to require replacement of it, but would that property still be subject to a later developed payment in lieu of plan. Mr. Emerick said the payment in lieu of would be an offer of contribution by the person mandated to put in a sidewalk. Derry Township has rarely ever granted a sidewalk waiver without it being a deferment. It would be up to the Board to accept the contribution.

Solicitor Yost said the Board always has the option to offer fee in lieu of or require the property owner to put sidewalks in.

Supervisor Ballard said if we accept a fee in lieu and later the Board decides the sidewalk needs to go in, does the fee in lieu get refunded or do we keep it. Mr. Emerick said he believes if we accept the fee in lieu of a sidewalk, you have bought that sidewalk if you ever want it in the future.

Supervisor Ballard suggested the Board vote on two waivers and the plan and let HE&R continue on with their plan without any further delay. Mr. Emerick said we would have to grant the deferment with the understanding that we may be making a call very shortly. 422 needs addressed as part of the plan.

Supervisor Engle said what he likes about this is if we look at walkability throughout the Township and rank all the different priorities, we would start with Middletown Road crossing, create a list of priorities for great connections and somewhere you would come up with the Lodge – it would fall within the sequence. You could possibly fund the first few priorities without doing the lodge right now.

Supervisor Ballard asked HE&R if there will be the four foot of grass buffer with the new sidewalk being added at University so we are not building the sidewalk right next to the travel lane.

The representative from HE&R responded yes.

Supervisor Ballard referred to Agenda A6 where it says the fee in lieu of construction is paid prior to the plan recording. The HE&R representative said they have not talked about it, but certainly would work with the Township to move the efforts forward.

Supervisor Ballard said the sidewalk along University Drive is constructed prior to the applicant seeking a certificate of occupancy. The goal is to make sure they have completed that project. Until the University sidewalk is put in, security is basically held for that improvement and released once it is put in.

Mr. Emerick said as it is written now, we would not be holding security but would hold the occupancy permit from the new facility. Supervisor Ballard asked what the usual amount of that security? Mr. Emerick said it varies depends on size and complexity of the project.

Supervisor Ballard said HE&R could write the check based on the estimate, the Township would deposit it and then it is a question whether we would keep it and waive the sidewalks forever or keep it until they put the sidewalks in.

Chairman Foley said the Board is in agreement with University and Sipe and looking to advance the land development plan to enable the construction to begin. The question at this point is limited to 422. If we approve and defer would we lose any rights to come back in time and compel them to install a sidewalk or we would be open to a fee in lieu with the following formula.

Mr. Emerick said knowing how HE&R has been negotiated with he thinks he would have to add that. With that being said, if we were to defer it now and require it to be installed, it would open up negotiations for where, how, and what material.

HE&R wanted to clarify that the University sidewalk addition would be included, the Sipe payment in lieu of would be included, and there would be a deferment on any decision as it relates to 422 until more understanding of what the new ordinance wants to look like and more understanding of the priorities for the Township come into play to see whether there needs to any sidewalk on 422 at all.

Supervisor Engle asked why not just defer both Sipe and 422. Are we agreeing on a dollar amount for fee in lieu for Sipe Avenue? Supervisor Ballard said she would like to accept the fee in lieu of for Sipe because it would be a good example that we are actually using it and HE&R is stepping up to being part of this new initiative and making a contribution towards that.

Mr. Emerick said not to forget that we are now committed to doing a comprehensive sidewalk plan throughout the Township which is a guiding factor for future choices.

MOTION: A motion made by Supervisor Ballard and seconded by Supervisor Engle that the Preliminary/Final Land Development Plan for the Hershey Lodge Natatorium Replacement, Plat No. 1242, is hereby approved with the conditions that sidewalks be installed on University on the north side, defer action on sidewalk for 422 and Sipe Avenue and we will revisit this no later than 90 days with regard to either implementation of sidewalks or a fee in lieu of.

It is further moved, subject to the following:

- a. That the applicant reimburse the Township for costs incurred in reviewing the plan no later than December 25, 2014.
- b. That performance security is provided to guarantee the completion of required improvements, and the accompanying agreement is signed no later than May 25, 2015.
- c. That the Stormwater Best Management Practices Operation and Maintenance agreement and a revised deed or Declaration, listing the stormwater BMPs as a restrictive covenant, are recorded concurrently with the plan.

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

- a. From Sections 185-12.D.(3).(a).[9] regarding locating all existing structures, wooded areas, watercourses, rock outcrops, culverts, utilities above or below ground, fire hydrants, streets and their established grade and width, all within 200 feet or 50 feet of the tract of land, respectively, for those areas outside of the project area and limit of disturbance.
- b. From Sections 185-12.D.(3).(a).[21] and 185-13.E.(4).(a).[19] regarding showing plans and profiles of existing stormwater sewer or conveyance systems located outside of the project area and limit of disturbance.
- c. From Sections 185-12.D.(3).(a).[22] and 185-13.E.(4).(a).[20] regarding showing plans and profiles of existing sanitary sewer systems located outside of the project area and limit of disturbance.
- d. From Sections 185-12.D.(3).(a).[23] and 185-13.E.(4).(a).[21] regarding showing plans and profiles of existing gas and water systems located outside of the project area and limit of disturbance.
- e. From Sections 185-12.D.(3).(a).[33] regarding providing a registered surveyor boundary certification.
- f. From Section 185-13.E.(3) regarding scale.
- g. 1. From Section 185-22.E.(5) to not be required to install curbing along University Drive.

The motion carried, 5-0.

B1-2 Continuance of consideration of adoption of Ordinance No. 651, amending Chapter 225 (Zoning) of the Code of the Township of Derry to define terms for 'Automotive Car Wash Facility', 'Automotive Lubrication Facility', Motor Vehicular Repair Garages', and 'Motor Vehicular Sales and Service', and to allow road tests as part of Pennsylvania state inspection services.

MOTION: A motion made by Supervisor Ballard and seconded by Vice-Chairman Moyer to continue this agenda item until January 27, 2015 at the Board of Supervisor's meeting, is hereby approved. **The motion carried, 5-0.**

C1-3 Award of bid for the signalization of Fishburn Road (Rte. 743) and Homestead Road.

James Negley, Township Manager/Treasurer – On November 14, 2014 a bid opening was held and a total of four bids was received for this project. The Township engineering firm was here to accept and review the bids. They recommended that the Township accept the low bid submitted by Herr Signal and Lighting Company in the amount of \$106,640.75. HRG budgeted \$130,000 for this work and this bid was \$23,359.25 under budget.

Motion: A motion made by Vice-Chairman Moyer and seconded by Supervisor Ballard that the bid submitted by Herr Signal and Lighting Company, in the amount of \$106,640.75 for the signalization of Fishburn Road (Rte. 743) and Homestead Road, is hereby approved, contingent upon the receipt of properly executed Agreements and Bonds from the contractor. **The motion carried, 5-yes 0-no.**

D1-4 Consideration of the release of a portion of the performance security for the Preliminary/Final Land Development Plan for Jay Maruti, Inc. – Proposed Hotel, Plat No. 1196.

MOTION: A motion made by Supervisor Ballard and seconded by Vice-Chairman Moyer that the Township release \$27,148.54 from the performance security held as Members 1st Federal Credit Union Letter of Credit No. 442167-0001 for the Preliminary/Final Land Development Plan for Jay Maruti, Inc. – Proposed Hotel, Plat No. 1196, resulting in a new balance of \$15,271.97, is hereby approved. **The motion carried, 5-0.**

E1-4 Consideration of the release of a portion of the performance security for the Preliminary/Final Subdivision and Land Development Plan for Curry Mill, Plat No. 1239.

MOTION: A motion made by Supervisor Ballard and seconded by Vice-Chairman Moyer that the Township release \$297,081.00 from the performance security held as Susquehanna Bank Letter of Credit No. 10012155932 for the Preliminary/Final Subdivision and Land Development Plan for Curry Mill, Plat No. 1239, resulting in a new balance of \$33,009.00, is hereby approved. **The motion carried, 5-0.**

F1-5 Consideration of releasing the remaining performance security and entering the maintenance security period for the Preliminary/Final Land Development Plan of Lot A-2 for William Fisher and Soraya Samii, Plat No. 1181.

Supervisor Ballard referred to HRG's letter about an additional building. Mr. Emerick said HRG's inspector discovered it and Mr. Emerick asked Mr. Bonanno to put it on the letter, but we are pursuing that through our normal channels when we find buildings that were placed without a permit.

Motion: A motion made by Supervisor Ballard and seconded Supervisor Engle that the Board of Supervisors authorize release of the remaining balance of \$8,873.98 of the performance security supplied as BELCO Community Credit Union Letter of Credit No. 405300 L6, provided that maintenance security in the amount of \$126.00 is supplied in acceptable form and the standard Maintenance Security Agreement is executed for the Preliminary/Final Land Development Plan of Lot A-2 for William Fisher and Soraya Samii, Plat No. 1181, is hereby approved. ***The motion carried, 5-yes 0-no.***

G1-8 Consideration to enter into a contract for professional municipal planning services relative to the completion of the Township Comprehensive plan and Zoning Ordinance updates.

Charles Emerick, Director of Community Development – At the September 23, 2014 meeting the Board authorized Mr. Emerick to seek the assistance of Derck & Edson Associates in completing the comprehensive plan. Derck & Edson have partnered with Environmental Planning & Design (EPD) who was one of the leading firms for consideration when we looked at the plan in 2013. Their budget numbers are what was introduced during our budget hearings.

Motion: A motion made by Supervisor Weir and seconded by Supervisor Engle that the Township accepts the agreement with Derck & Edson Associates, LLP, as Derry Township's professional planning firm for services relative to the completion of the Township Comprehensive Plan and Zoning Ordinance updates at a cost not to exceed \$71,000 plus reimbursable expenses; and that James Negley, Assistant Secretary, is authorized to execute the agreement, is hereby approved. ***The motion carried, 5-yes 0-no.***

H1-3 Adoption of resolution No. 1408, establishing the Board of Supervisors' regular meeting dates for the year 2015.

Jill E. Henry, Assistant Township Manager – If the dates are accepted by the Board, they will be advertised next week.

Motion: A motion made by Vice-Chairman Moyer and seconded by Supervisor Ballard that Resolution No. 1408, establishing the Board of Supervisors' regular meeting dates for the year 2015, is hereby approved. ***The motion carried, 5-yes 0-no.***

I1-1 Authorization to utilize the Hershey Special Fire Police, the Lebanon Auxiliary Patrol, Inc., and, on special occasions, other Special Fire Police from surrounding municipal fire companies, for traffic control and direction during various months in 2015.

Motion: A motion made by Supervisor Ballard and seconded by Vice-Chairman Moyer that the request to utilize the personnel of the Hershey Special Fire Police, the Lebanon Auxiliary Patrol, Inc., and, on special occasions, other Special Fire Police from surrounding municipal fire

companies, for traffic control and direction during various months in 2015, is hereby approved. ***The motion carried, 5-yes 0-no.***

CORRESPONDENCE/BOARD/COMMITTEE INFORMATION

Supervisor Ballard said the Board received a letter regarding the pipeline wherein it mentioned sharing the information with the public. Assistant Manager Henry will take care of putting it on the Township's website.

Vice-Chairman Moyer and Chairman Foley shared demographic information with the school district as we continuously do and the Township is encouraged to continue to do so.

REPORTS

Bob DiLello, Hershey Fire Company – The HVFC kicked off their capital campaign. In addition, they are teaming up with the Church of Nazarene to serve free Thanksgiving dinners.

Supervisor Ballard reminded everyone about the opportunity to buy a brick as part of the fundraiser for the HVFC.

Thomas Clark, Director of Public Works – Mr. Clark said they are prepared for the upcoming snow. They will be down a couple trucks due to two weeks left of leaf collecting.

Matt Bonanno, HRG Engineer – Mr. Bonanno received a draft final payment from Abbonzio today on the stormwater contract. They are looking to close that contract out shortly.

Supervisor Ballard asked Mr. Bonanno about the time frame on the Bob Evans pedestrian crossing. It was one of the regional connection grants we did with Hummelstown. Mr. Bonanno said it is not out to bid at this point and he does not know the schedule. Mr. Bonanno will check and send an email update to the Board.

Supervisor Ballard wanted to make sure that one option for the Middletown Crossing is an on road protective bike lane with a vertical divider. Mr. Bonanno said he is not sure if it was one of the five options in the scope. They are close to finishing up their draft report. Once the Board identifies which options they would like to look at there will be different alternatives for each option.

Jill Henry, Assistant Township Manager–Asst. Manager Henry completed a request for proposals for redesign of the website. She was in contact with five designers and hopes to have prices by the end of December.

James Negley, Township Manager/Treasurer – Since we are meeting next Tuesday, December 2 and our packet is being completed tomorrow, the report for the study of the crossing of Middletown Road will not be finalized by tomorrow morning even in draft stage. We will have it on the agenda for the second meeting, December 16.

APPROVAL OF ACCOUNTS PAYABLE (\$360,996.43) AND PAYROLL (\$312,123.65).

Vice-Chairman Moyer moved to approve accounts payable in the amount of \$360,996.43 and payroll in the amount of \$312,123.65. Supervisor Ballard seconded. ***The motion carried, 5-yes 0-no.***

OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD

Robert Stoak, III – Mr. Stoak asked what it would take to turn Hershey into a town, Hershey town, instead of a Township, like Middletown or Hummelstown. Manager Negley said years ago there was a proposal to create a Borough. The Borough would basically incorporate the Village. If you do that, the Borough could not support itself financially without the Township because it would not have the larger taxpayers which would be Hersheypark, the Giant Center. The people in the Village would suffer without the financial assistance that the Township would provide.

During the sale, there was a referendum, the second time a referendum to change the name of the Township of Derry to the Township of Hershey. It was defeated the first time by about 25% and it was closer the second time. The costs were actually minimal. It was noted that the Township of Derry has been here since 1729.

Rich Gamble, Hockersville Road – Mr. Gamble said he asked a question during the first public comments and nobody responded. The question was the appropriateness of elected officials sitting on the committee downtown that have an impact that might generate something that needs to come before this Board to vote and approve. He hopes the proposed manager position could be a representative just like the members of this Board.

Supervisor Engle said when they were setting up the Downtown Hershey Association, he had discussions with Solicitor Yost about whether or not it is appropriate and whether or not it represents a conflict. Because it is a nonprofit organization, we don't benefit personally. Our solicitor advised us that there is no issue.

Mr. Gamble said the impact would have some relation to improving your business or your participation in revitalizing downtown.

Ed Uravic – The Downtown Hershey Association is an advisory, organizing body and is not a decision making body, and it makes no decisions that are binding upon any government.

ADJOURNMENT

Vice-Chairman Moyer moved to adjourn the meeting at 8:25 p.m. Supervisor Ballard seconded.
The motion carried, 5-yes 0-no.

SUBMITTED BY:

Justin C. Engle
Township Secretary

Brenda Van Deursen
Recording Secretary