

# TOWNSHIP OF DERRY

## BOARD OF SUPERVISORS MEETING

Tuesday, November 24, 2009  
600 Clearwater Road, Hershey, Pennsylvania 17033

### **CALL TO ORDER**

The November 24, 2009 Township of Derry Board of Supervisors meeting was called to order at 7:15 p.m. by Chairman, Michael H. W. Pries.

### **ROLL CALL**

E. Christopher Abruzzo, Vice-Chairman  
Kelly C. Fedeli, Township Secretary  
August (Skip) T. Memmi, Jr.  
George W. Porter  
Michael H. W. Pries, Chairman

### **Also Present:**

Thomas Clark – Director of Public Works  
Matt Bonanno - HRG  
Jill E. Horner – Assistant Township Manager  
Cheryl L. Lontz - Manager Payroll/Employee Benefits  
Matthew J. Mandia – Director of Parks and Recreation  
James N. Negley - Township Manager/Township Treasurer  
Edward L. Small – Director of Community Development  
Rita Smith - Hershey Public Library  
William D. Smith – Chief of Police  
Jon A. Yost - Township Solicitor  
Brenda Van Deursen - Recorder

**Public Present:** Elvira Ebling, Dennis Maloskey, Sandy Ballard, M. Moyer, Joseph Furjanic, John McDonald, Suzanne Hoffer, Karen Green

**Press Present:** Drew Wiedman, The Sun

### **Executive Session:**

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

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

### **VISITOR/PUBLIC COMMENT:**

Dennis Maloskey, 1645 Palm Street – Mr. Maloskey presented to the Board an opportunity for an FOA Funding. This would allow the Township to create a Center for Sustainability within the Township of Derry to serve the residents and businesses, and to function as a business incubator for economic development within the community. This

funding opportunity is through the Department of Energy (DOE). It is a competitive grant process for grants from anywhere from \$1-\$5 million dollars. The Township can either be the applicant, appoint an applicant, or designate someone to be the applicant on their behalf. This funding could create the economic incubator to encourage residential, commercial, municipal, and school efficient energy conservation and resource conservation programs. This funding is under the Recovery Act and will be available only a very short time for these funds. This is a unique opportunity in that it does not require a match from the community; however, it would be very advantageous and favorable for the community to be able to put up something as an in-kind match. Whether that be man-hours and labor, the old Township Building, or some in-kind contribution so that the grant application would be viewed more favorably by the DOE. Mr. Maloskey brought this opportunity to the Board on behalf of the Environmental Action Committee (EAC) within Derry Township.

Dennis Maloskey shared that he works for the Governor's Government Council, is Director of Sustainable Engineering Development, and also serves on the Board of Directors for the US Green Building Council. He was a former Board Member and Vice-Chairman of the Sustainable Energy Fund, PPLs energy outreach program.

They are looking for something that is groundbreaking and changes the way we do things. This is an opportunity for Derry Township to become a leader in sustainability and a magnet for green collar jobs and green collar workforce development. The application has to be in by December 14<sup>th</sup>.

Chairman Pries asked if it was even possible to submit an application that is presentable by December 14<sup>th</sup>. Mr. Maloskey said the initial proposal is 10 pages max. They are not looking for a comprehensive business plan. They are just asking for municipalities that have an interest to put something into their review stream. If they feel the initial submission is favorable, then they would give a notice to proceed.

Chairman Pries asked if this would impact the School District. Mr. Maloskey said this would be money coming into the Township and would not adversely affect any of the entities within the Township.

Supervisor Fedeli expressed concern with the compressed timeline. She asked Mr. Maloskey when he first heard of this opportunity. Mr. Maloskey said he just found out about it within the past two weeks. One of the weeks he was away.

Chairman Pries asked if he had information for the Board to look over. Mr. Maloskey said he did and would send it electronic immediately.

Supervisor Memmi asked Mr. Maloskey if he has had any conversations with Kelly Lewis at the Tech Council. Mr. Maloskey said he has not. This particular funding opportunity is only for those municipalities that have not previously received ARA funds. Dauphin County would not be eligible, but some of the municipalities within Dauphin County would be. Supervisor Memmi said the Tech Council is not a direct entity of the County so they may be doing some of this already for some of the other municipalities. He was wondering that if they are, maybe there is a way we could join them which might save some time.

Supervisor Porter thanked Mr. Maloskey for the information. He asked Matt Bonanno if he has had any experience with this grant. Mr. Bonanno said he has not.

Chairman Pries asked Mr. Bonanno what the normal timeline is in preparing this type of grant. Mr. Bonanno said for the stormwater grant it took close to a month's worth of time to get all the information ready and packaged to make the proposal attractive.

Chairman Pries asked Mr. Maloskey for further explanation. Mr. Maloskey said this funding would be used to develop a sustainability center within the Township. The mission statement would be to reduce the Township of Derry's economic energy carbon and environmental footprint through implementation of conservation, efficiency, and sustainability measures. It would be a sustainable business incubator, education, and resource center with a funding vehicle for project implementation. The initial money would be used as seed money only and then we would develop partnerships with other entities such as utilities, government agencies, large and small businesses with like-minded result oriented missions, i.e, Hershey Trust, PPL, Pa American Water. Before we make all of these introductory calls on behalf of the EAC and the Township we would have to have permission from the Township to do this.

Vice-Chairman Abruzzo asked if there were requirements in return for the money. Mr. Maloskey said the responsibility is the documentation and verification of the program measures and what the money has been used for.

Chairman Pries commented that the former Township building is being marketed to get the most profitability from it and would not be used to contribute to this funding opportunity.

Vice-Chairman Abruzzo said he is supportive of green measures, but the timeline is short. He said he does not know how this will impact our community and would need more information. He asked who the EAC would be responsible to. Mr. Maloskey said to the Township. Solicitor Yost said the EAC duties were assigned to the Solid Waste Group some years ago. At that time it ceased to exist.

Vice-Chairman Abruzzo said this is an awful lot to digest and act on it within the timeline. He asked Mr. Maloskey that if we miss the deadline, is it finished. Mr. Maloskey said he believes it is a once and done deal. There is no guarantee there will be a second round.

Supervisor Fedeli asked if it has to be a shovel ready project when we submit the application. Mr. Maloskey said it would be advantageous.

Supervisor Memmi thought it would be prudent to work to educate the Board and have a shovel ready project, an application prepared, and all criteria that would be required for submittal for a "second round of funding" if it came available. He asked about the auditing requirements. Mr. Maloskey said he is submitting an application on behalf of the Commonwealth of Pennsylvania and also knows of three others already in the process.

**NEW BUSINESS:**

**A1-6 Consideration of the Sketch Plan for the Realignment of Stoverdale Road, Plat No. 1186.**

Edward L. Small – Director of Community Development

The area under consideration is the intersection of Middletown and Stoverdale Roads. The 22.3 acre lot was approved for a subdivision. A zoning amendment in 2008 changed a portion of Lot 1. Lot 1 was partially zoned to Neighborhood Commercial and also included in an amendment were tracts that include the Stoverdale United Methodist Church and cemetery. The Latter Day Church (LDS) has filed a land development plan (Lot 2). It is currently active, but has been under continuances for sometime. They will reactivate their interest later. LDS Church received zoning approval for a church on this parcel and variances to the use (as it was agricultural and remains agricultural) and for the steeple height.

The development of Lot 1 has some issues to deal with that would impact it.

The first issue is the right-of-way line on the north side and the right-of-way line on the south side contain only 33 feet of record right-of-way. The developer, Stover Community Partners, presented by Dan Sheffey, has volunteered previously that he will improve the intersection with an added turn lane. It would take some additional right-of-way and some extra paving. The 33 feet will not sustain this and still be able to get the extra lanes.

The second issue is the stream running all the way past Lot 1 on the south side and down the entire Lot #2. Its position is in conflict with the road widening mentioned above and the third issue below.

The third issue is the public sewer and water easement. It will sit right on the proposed right-of-way line.

The concept being sought is to enlarge the width of the right-of-way to the south. They will re-merge the right-of-way line that will be necessary for the widening at the intersection back to the edge of the 16 foot wide right-of-way. We are dealing with a 49 foot right-of-way, 32 ½ feet north of center and 16 ½ feet south of center. The stream would not have to be relocated.

Supervisor Porter asked why Township relief is needed for this. Mr. Small said the waivers in this discussion are actually being imposed by the Subdivision/Land Development Ordinance. There is a turning radius for the improvement of the road that will be asked to be relieved to some extent and the shoulder width which is under the Authority because it is an adjoining road to the development.

Chairman Pries asked who the current owner is. Mr. Small said it is owned by the Garber's.

Dan Sheffey – Mr. Sheffey represents the Stover Community Partners. They are looking to develop that parcel, but do not have an eminent plan yet. The complication with this

project is that Stoverdale Road has some significant issues. As soon as you are through the intersection. Stoverdale has a hard bend to the left. Any widening of that road will be done on their side of the road. We would be exasperating the problem by making the improvements on the north side of the road. There is a guardrail right on the edge of the cartways and it immediately falls off on the banks going down the stream. There was a large head wall installed as part of the improvements to Middletown Road. One of our waivers is the position of the large head wall. They are asking for the Board's view on the best way to improve Stoverdale Road.

Chairman Pries asked if they received feedback from the Planning Commission. Mr. Sheffey said it seems they just want them to meet the ordinance. Mr. Small added that in concept they had no difficulty with widening the road to the south. They agreed that there are difficulties with the placement of the stream and the guard rail. Mr. Small was not sure the Planning Commission was comfortable with how many waivers the applicant needed. At the end of the meeting, the Planning Commission asked for a list of the waivers and explanation.

Mr. Sheffey said in making the alignment to that intersection, they will add a turn lane to better handle the traffic. If you try to align the intersection more on a 90 degree, there is very little you can do to stay within the current right-of-way on the south side of the road without going on Garber's property.

Supervisor Fedeli asked what waivers he was requesting. Mr. Sheffey said there are two waivers. The first waiver is for the headwall. There is 35 foot returning radius required. We cannot fit a 35 foot radius without relocating the headwall. We have run the engineering analysis on whether emergency vehicles, trucks, etc. can make the turn and they still can make it at 30 feet. The second waiver is the parking lane. Presently, the cartways are 10 feet wide and we intend to bring them up to the ordinance of 12 feet wide on both sides. There is no shoulder on either side of the road. The ordinance would require an 8 foot shoulder on each side and we are proposing a 4 foot shoulder on each side.

Supervisor Fedeli wondered if an emergency vehicle can get through with what they are proposing if the road is filled with traffic. Mr. Sheffey said they could make that turn and can even come in from Middletown.

Supervisor Memmi asked if they had any discussion with PennDOT since they would be abutting a state roadway. Suzanne said they have not had any discussion regarding this particular project. Her experience in the past is that if you can show PennDOT that all the vehicles that need to get in and out of an intersection can make it, they generally will go along with what you are providing.

Supervisor Memmi said he understands all the issues, but thinks they need to know what the department will require as part of the HOP process before discussing waivers and realignment, etc. He said they will alleviate a great deal of issues by going in the southerly direction to get the capacity you might need. He said they will negotiate with the Garber family, but the right-of-ways are usually split on each side of the roadway. If a future Board has to look at a project on the Garber property and we require additional right-of-way to get that road to the width of right-of-way that we require for a

collector's street, what does that do with our ability to adjust the street and its width. He is looking to Mr. Small for that question, and to Matt relevant to the HOP issues on the radius.

Supervisor Porter said it is important to maintain sight of the driving force to accommodate the flow of the creek.

Chairman Pries asked Mr. Sheffey what his plans are for a pathway for walking to and from that area. Mr. Sheffey said they are expecting some sort of walking area along both fronts. We haven't made a decision yet. Given the location of this, there is probably going to be more traffic to bicycles rather than getting from one place to another.

Supervisor Porter asked if the walkway Hershey Hotel designed has been installed. Mr. Small said it has been installed and runs along Hotel Road on private property.

Mr. Small said the concept of the plan is good and offered further explanation using the map.

Mr. Sheffey said if we jointly purchase land on the southern side of the road, we could continue the road in a straight fashion all the way down to the end of the LDS property.

Vice-Chairman Abruzzo said under this sketch plan, the existing right-of-way on the north side of Stoverdale Road will stay the same. There would be room between the creek and the existing right-of-way to put a walking path. He wants to make sure it is accessible to the public. Mr. Sheffey said if we don't move the stream and everything goes to the south, there would be plenty of room to fit in a path.

Supervisor Memmi said we ran into the same issue with the Med Center. We have a offset roadway with the right-of-way on the Med Center side, but we couldn't expand the right-of-way on the other side of the roadway because there was not enough room due to the existing buildings and construction.

Mr. Sheffey said there is probably one other waiver they will be looking for. They would like not to have to submit a subdivision plan for the Garber Farm that shows they are taking just some small piece of right-of-way.

Chairman Pries directed Mr. Sheffey to move ahead and bring back a formal proposal.

**B1-3 Consideration of the change of the form of the performance security supplied for the Preliminary/Final Subdivision Plan for the Enclave in Derry, Plat No. 1158.**

Edward L. Small – Director of Community Development

This is a change of securities which must come before the Board. The amount of performance security that is currently active is over \$74,000. The developer is looking at getting this switched over to cash rather than the insurance bond whose renewal is eminent.

**Motion:** A motion made by Supervisor Porter and seconded by Supervisor Fedeli that the Township releases performance security of \$74,590.73 in the form of Insurance bond No. 1027343 provided by Lexon Insurance Co. and accepts the same amount in cash to serve as performance security, and releases \$15,000 plus interest, held as cash under separate agreement to supplement the said insurance bond for the Preliminary/Final Subdivision Plan for The Enclave in Derry, Pat #1158 is hereby approved. ***The motion carried, 5-0***

**C1-3 Consideration of a release of the performance security for the Preliminary/Final Land Development Plan for the Evangelical Free Church of Hershey, Plat No. 1059.**

Edward L. Small – Director of Community Development

All of the improvements have been completed and the inspections have been carried out. The \$56,766.88 is eligible for release. There are no publicly owned improvements; therefore there is no need for maintenance security.

**Motion:** A motion made by Supervisor Fedeli and seconded by Supervisor Porter that the Township hereby releases all remaining performance security held as Letter of Credit No. 1805068861 in the amount of \$56,766.88, from Northwest Savings Bank, for the Preliminary/Final Land Development Plan for the Evangelical Free Church of Hershey, Plat #1059 is hereby approved. ***The motion carried, 5-0***

**D1-4 Consideration of the release of a portion of the performance security for the Preliminary/Final Land Development Plan for West Chocolate Avenue Medical Park, Plat No. 1168.**

Edward L. Small – Director of Community Development

This is a sizeable release of performance security from the initial \$504,842.40 we were holding. Recent inspections have let to their certifications that improvements at \$318,580.76 have been satisfactorily installed and the amount is eligible to be released.

Supervisor Porter abstained from voting.

Supervisor Memmi referred to intersection improvements at Hersheypark Drive and all of Chocolate Avenue and the potential for signalization. Have we ever calculated what might be required as part of the security bond for that intersection improvement and are we reducing this in excess of what we would be required to have on hand to do that signal. Mr. Small said the agreement had Select Medical putting in the entire cost of the signal at their own expense should the warrants be satisfied. The \$40,000 contribution in the agreement is what they would offer for the future. But we are hoping not to get to that. The response has been filed by Trans over to PennDOT saying that they believe the warrants have been satisfied. We will make sure that they understand it is important to put a signal in place.

**Motion:** A motion made by Vice-Chairman Abruzzo and seconded by Chairman Pries that the Township hereby releases \$318,580.76 from Letter of Credit TPTS-762850 supplied by JPMorgan Chase Bank for the Preliminary/Final Land Development Plan for West Chocolate Avenue Medical Park, Plat #1168, leaving a balance of \$186,261.64 is hereby approved. ***The motion carried, 4-0-1.***

**E1-5 Consideration of entering into a Municipal Planning Advisory Service Agreement with the Dauphin County Planning Commission.**

Edward L. Small – Director of Community Development

This is a routine matter. At the end of each year we engage in this agreement. There is no cost to the Township. We use the Dauphin County Planning as advisors in our subdivision and land development plan reviews.

On the advice of Solicitor Yost, Supervisor Memmi abstained as he sits on the Tri County Planning Commission Board.

**Motion:** A motion made by Supervisor Fedeli and seconded by Vice-Chairman Abruzzo that the Township of Derry enter into an agreement with the Dauphin County Planning Commission to participate in the Municipal Planning Advisory Services for the calendar year 2010 is hereby approved. ***The motion carried, 4-0-1.***

**F1-3 Adoption of Resolution No. 1241, establishing the Board of Supervisors' regular meeting dates for the year 2010.**

Jill E. Horner – Assistant Township Manager

The dates for 2010 have been set. If you are in agreement, they will be advertised in next week's paper and posted on the web site.

Chairman Pries asked about the first meeting of the year being on Monday. Asst. Mgr. Horner said it is required by the Second Class Township Code.

**Motion:** A motion made by Vice-Chairman Abruzzo and seconded by Supervisor Fedeli that Resolution No. 1241, establishing the Board of Supervisor's meeting dates for the year 2010 is hereby approved. ***The motion carried, 5-0.***

**G1 Permission to hold fireworks display for the Fifth Annual New Year Eve Celebration.**

James N. Negley - Township Manager/Township Treasurer

The Community Celebration Committee requested permission to hold a fireworks display for the 5<sup>th</sup> year. We will be named as an additional insured.

**Motion:** A motion made by Supervisor Memmi and seconded by Chairman Pries that the Community Celebration Committee is granted permission to stage a fireworks display at 12:01 AM, January 1, 2010, is hereby approved. ***The motion carried, 5-0***

**H1 Request by Supervisor-Elect Sandy Ballard to allow the Board of Supervisors to participate in meetings via speakerphone.**

Supervisor Porter thinks that the Board members should personally be in attendance at the meetings. There are things to see and above all there is formality and the importance of being here is significant. It is a great honor to be on the Board. He referred to a policy that requires attendance.



Chairman Pries said that since it is in policy to be here, there is no need to have a motion.

Supervisor Fedeli agrees with Supervisor Porter. It adds so much to your experience as a local elected official to be here, to participate in the votes, and to see the speakers.

Supervisor Memmi is not aware of any Townships within Central Pennsylvania that allows participation in a public meeting via speaker phone. He supports the continuation of the existing policy.

### **CORRESPONDENCE**

There was no correspondence.

### **BOARD/COMMITTEE INFORMATION**

Vice-Chairman Abruzzo shared that the Parks & Rec Board has been discussing holding a Memorial Day Parade this year. We have been engaged in the process of putting together a Committee to work and organize this parade. It will be in addition to our Memorial Day Observance ceremony. Matt Mandia will be chairing the Committee.

### **REPORTS**

#### Thomas Clark – Director of Public Works

Mr. Clark reported that the week of November 9<sup>th</sup> was the heaviest week all season for leaf collection and for the past few years. He also reported that 43% of 2008 leaves were collected the week of November 11<sup>th</sup>.

#### Rita Smith - Hershey Public Library

Ms. Smith shared that they received their annual box of books from Royers. They do bouquets for books where children who bring a gently used or brand new book receive a bouquet from Royers. They are working with Hersheypark to do a "Read your way to Candy Lane" for children 3 to 8 years. If they read 7 books with categories chosen by representatives of Hersheypark and the Library, they receive a free ticket to Hershey Park.

#### Cheryl L. Lontz - Manager Payroll/Employee Benefits

Ms. Lontz reported that they renewed their Health Insurance contract with the Loomis Company. This marks the 10<sup>th</sup> year that we have been with them serving as our third party administrator. We are very happy with them. Their fees per employee did not change from last year to this year. The fix cost to our stop loss coverage did go up a little bit, but we have had an excellent claims year. Overall, our liability for health insurance dropped about 10½% from last year.

Mgr. Negley said they checked out Benecon and they would have cost an additional \$400,000-\$500,000.

Chairman Pries would like to have a report on the costs and notification of this information prior to renewing the contract. Mgr. Negley said it is in his manager's report, but will also provide a specific report to the Board.

#### Matthew J. Mandia – Director of Parks and Recreation

Mr. Mandia recognized the Jonathan Eshenour Foundation. We recently received nearly \$9,000 in benches to be placed along the trail. The Foundation continues to be very supportive and active. They are continuing to do more things in the spring and summer to enhance the trail system.

Vice-Chairman Abruzzo asked if the shade construction is completed at the corner of Grove and Middletown. Mr. Mandia said it is completed as far as the structure itself. That was funded through the Dept. of Dermatology at the HMC. Two of the benches will be going under that structure as well as some tree plantings.

Edward L. Small – Director of Community Development

Mr. Small requested a public hearing time. It is for a conditional use. We are in receipt of an application for a business office location for a beauty salon and spa services. In that district, it is provided for only by conditional use. **A public hearing has been scheduled for January 26, 2010 at 6:30 p.m.**

Chairman Pries asked about the Don's Pier property. Mr. Small said he received a call from the consultant weeks ago and was assured he is still interested.

Supervisor Memmi wanted to make the Board aware that when they look at that property, as a requirement of the zoning change, they were required to relocate Sand Hill Road to another point on Fishborn Road. The property that would be north of that intersection would then have the zoning classification of neighborhood commercial. The road needs to be moved before they choose to do anything on the site. The Med Center is required to put a traffic signal at that intersection once the road is relocated as part of the approvals given to the Med Center five or six years ago.

Supervisor Memmi shared that the Tax Collection Association's audit was completed and there were no findings. He announced that Scott Stephens will be retiring in February and the notice for filling his position will be in the newspaper. He recognized Scott for his service over the past 12-13 years he has been here. He has done a great job. The School District, the Board of Supervisors, and the community have been well served by the Tax Collection Association. Mr. Stephens has been an integral part of that process along with his staff.

Chairman Pries asked if we have always had a manager of the Tax Association. Mgr. Negley concurred that we have.

Jill E. Horner – Assistant Township Manager

Asst. Manager Horner commented on Dennis Maloskey's presentation. She has been watching the Pennsylvania Bulletin for funding opportunities for sustainable energy for about five months. Out of the three that she did see, every single one had the 2 to 2 ½ week turnaround, which seems almost impossible. She said it would be in our benefit in 2010 to prepare some projects so when those opportunities are found, we are ready to submit an application.

James N. Negley - Township Manager/Township Treasurer

Mgr. Negley reminded everyone that we are meeting the first Tuesday in December and then again December 15<sup>th</sup> for our last meeting of the year.

**APPROVAL OF ACCOUNTS PAYABLE (\$251,780.14) AND PAYROLL (\$291,676.24).**

Supervisor Porter moved to approve accounts payable in the amount of \$251,780.14 and payroll in the amount of \$291,676.24. Supervisor Memmi seconded. ***The motion carried, 5-0.***

**VISITOR/PUBLIC COMMENTS**

Sandy Ballard, 650 Cocoa – Ms. Ballard thanked the Board for considering allowing the Board of Supervisors to attend meetings via speaker phone. She wanted everyone to know it was so she could spend Christmas with her family that she was asking for a special one time only.

John McDonald, 2527 Raleigh Road – Mr. McDonald said that he went to Fennici's last Friday and parked on West Caracas Avenue. When he came out, he had a parking ticket for \$50 for parking in a handicap zone. West Caracas is not very well lit. If you live in that neighborhood you would know someone lives in the residence right at the corner and they have a handicap spot. He backed up to avoid his wife hitting the sign when opening the door. He found out from the Police Department it is from the handicap sign back to one and one and half car lengths. He is concerned that the signage or markings for handicap parking in that area is hard to see. He thinks they need better signs or blue markings on the curb.

Chairman Pries asked if the curb was painted blue, would you have seen it. Mr. McDonald said that he might have been able to, but the lighting is not great in that section.

Mr. Clark said there usually is at least one sign and a painted curb for handicap parking. He will check it out as well as checking other older handicap spots to assure proper markings.

**ADJOURNMENT**

Vice-Chairman Abruzzo moved to adjourn the meeting at 8:55 p.m. Supervisor Porter seconded. ***The motion carried, 5-0.***

SUBMITTED BY:

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Kelly C. Fedeli  
Township Secretary

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Brenda Van Deursen  
Recording Secretary