

**TOWNSHIP OF DERRY  
BOARD OF SUPERVISORS MEETING**

**Tuesday, October 28, 2014**  
600 Clearwater Road, Hershey, Pennsylvania 17033

**CALL TO ORDER**

The October 28, 2014 Township of Derry Board of Supervisors meeting was called to order at 7:20 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  
Barbara S. Ellis, Director of Hershey Public Library  
Charles Emerick, Director of Community Development  
Jill E. Henry, Assistant Township Manager  
Matt J. Mandia, Director of Parks and Recreation  
James Negley, Township Manager/Treasurer  
Patrick O'Rourke, Chief of Police  
Cheryl Lontz, Manager of Payroll and Employee Benefits  
Jon Yost, Solicitor  
Brenda Van Deursen, Recorder

***Public Present:*** Audrie Schaller, Genya Schaller, Richard D., Charles Huth, Craig Smith, Jan Huddy, Jason Taylor, Lynn Lyons, Robert Lyons, George Haverstraw, Elvira Ebling, Debbie Treger, Rich Gamble, Pat Leonard, Scott Stein, Dennis Thorpe, Julie Waldron, Richard Suminski, Greg Koussis, Ray Brace, Marilyn Carter, Amy Hallock, J. Huddy, Kevin Huddy, Barbara M., James Chestnut, Rich Gamble, Anne Newman, Scott Stein, Dennis Thompson, Dean Hooper, Doug Beatty, John M., Ed. S., Braeden Stein, Gordon Peters

***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.***

Chairman Foley announced that the Board will hear public comment regarding sidewalks when the agenda item comes up.

**OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD** - No one came forward.

## **NEW BUSINESS**

### **A1-10 Approval of Ordinance No. 653 to execute a Guaranty Agreement in regard to the Township of Derry Industrial and Commercial Development Authority Guaranteed Revenue Notes for the Hershey Fire Station Project.**

**Raymond Brace, Hershey Volunteer Fire Company** –To-date, the HVFC has committed either in-hand or letters of commitment for \$5,150,000 against their goal of \$7 million, leaving \$1,850,000 to raise. A capital campaign has not been launched yet, but tomorrow, Mr. Brace and Rodney Sonderman will be meeting the printer regarding a brochure to mail out to the community. Before the brochure is mailed out they will meet with another 10 to 15 medium size businesses to seek larger contributions in hopes to raise another half a million dollars. In about two to three weeks, around 13,000 brochures will be mailed to the general public. The brochures offer a lot of naming opportunities for a brick path. A post office box has been secured to receive funds. The post office box will be jointly opened with the ICDA and the funds will be accounted for and put in an ICDA account.

Supervisor Engle and Chairman Foley commended Mr. Brace for what they have achieved with the commitments. Mr. Brace said it was a team effort with Rodney Sonderman, Scott Stein, and others that we were able to meet with all those businesses and secure their letters of commitment.

Supervisor Ballard said the Board talked about guaranteeing a debt up to the amount of the written commitments. There are three letters of commitment, but do we have anything in writing for the state funding. Chairman Foley said yes for the \$2 million dollar RCAP.

Supervisor Ballard asked if the other money coming from the County or gaming funds is in writing that we are going to receive it. Chairman Foley said we have already made application and it is going through the process. Supervisor Ballard said she just didn't know if it was in writing.

Supervisor Ballard said when we talk about the \$5 million, if some of it is coming from the fire department itself, and that money has already been spent, how is that accessible to us should there be a default if it has already been spent.

**Rodney Sonderman, Deputy Chief of the HVFC** – Mr. Sonderman explained that months ago, the HVFC asked the Board and received their commitment for \$3 million for the project. The construction part of that project is \$5.5 million and the overall project is \$7 million. The understanding the HVFC had at the time is they were using \$3 million from the Township, an additional \$2 million from the state to get to \$5 million and the Fire Company is also securing, in addition to the cash that they already spent, a line of credit for a half a million dollars.

Supervisor Ballard said just to be clear on the record, the Township was not giving \$3 million dollars. Chief Sonderman said the Township was guaranteeing the loan for \$3 million. The state would provide \$2 million dollars and the Fire Company would provide a half a million dollars so we would get to the \$5.5 million. Our understanding after meeting with the RCAP administrator is that the entire \$5.5 million needs to be up front as far as being on paper. We can't use the \$2 million from the state as part of the \$5.5 million. It will be 8 or 9 months into the project before we actually start receiving monies back from the state in a reimbursement mode.

Vice-Chairman Moyer said we have to spend the state's \$2 million dollars first and then they will reimburse us that amount of money. The only risk would be that the state would back out of reimbursing for the \$2 million. Mr. Sonderman said that is one of the reasons they are using the entire construction project of \$5.5 million to cover anything that would be disallowed under the state program.

**Mr. Greg Koussis, Project Manager/Capital Construction Management on behalf of the ICDA and the Fire Company** – Mr. Koussis provided the Board with a cash flow document that included a cash flow projection column. There is one number that is not included in those projections and that is any amount of money that would be collected as part of the upcoming capital campaign. The other column is the reimbursement portion of the RCAP funds that have been committed from the state. It is a rolling reimbursement.

Supervisor Engle asked what is the construction period. Mr. Koussis said 12 to 14 months. The debt service numbers in the report are carried out for a full 24 months. Some of the contributions are a 2-5 year commitment.

**Lou Verdelli, RBC Capital Markets** – Mr. Verdelli has worked with the entire team to put together a financing that would minimize the interest expense of the project to the ICDA as the owner of the project, and provide the most flexibility when contributions come in to repay the funds quickly. He is proposing and discussed with the ICDA, a structure that is basically a drawdown bank loan line of credit structure with a variable interest rate to keep the interest rate as low as possible, is prepayable at any time, and we are only getting charged interest on the money that is actually drawn. When the team met with the RCAP consultant, it was brought to the team's attention that you needed to illustrate that the project was fully funded and that is what drove the need to change the size of the line of credit from \$3 million to \$5 million. You just pay interest on the money you are using.

Mr. Verdelli presented a guarantee agreement for guaranteeing the ICDA's \$5 million dollar of total financing. Based on a discussion he had with the ICDA a few weeks ago, they received approval to move forward on just the first piece and do it in two phases. A \$1 million line of credit now to cover land costs and other initial startup costs for the project and then as we are ready to go to construction then we can go forward with the balance of the funds needed. That way we are minimizing the exposure to both the ICDA and to the Township when we do the first million. Late last week, they sent out a request for a proposal for bank loans that are due back in about 10 days for the \$1 million dollar draw down line of credit and will be before the ICDA Board on November 20<sup>th</sup> for their final consideration.

Vice-Chairman Moyer asked Mr. Verdelli how long they anticipated our debt service to last on any draw. Mr. Verdelli said based on the feedback they received from the contributions committee that money is going to be committed and coming in over time. He does not think all the debt will be paid off within the construction period, but it is expected to be coming back over 2 to 4 years on some of the commitments. As it is coming back, the loan would be repaid and the amount outstanding would be going down.

Vice-Chairman Moyer asked if we would be permitted to repay principal without penalty. Mr. Verdelli said yes. Vice-Chairman Moyer asked if it is an anticipated 10/15 year type debt service.

Mr. Verdelli said the RCAP requirement requires that the loan to be considered as permanent financing and not just a temporary interim line of credit. The RCAP program administrator requires that it is a 20-year amortization with the ability to pay it down much sooner. Mr. Verdelli said the proposal they sent out shows the amortization over 20 years, which we need to do in order for it to be considered permanent financing for RCAP purposes. Mr. Verdelli said they wrote the proposal to have a maximum interest rate of 6%.

**MOTION:** A motion made by Chairman Foley and seconded by Supervisor Engle that Ordinance No. 653, consideration to execute a Guaranty Agreement in regards to the Township of Derry Industrial and Commercial Development Authority Guaranteed Revenue Notes for the Hershey Fire Station Project, is hereby approved. *The motion carried, 5-0.*

Chairman Foley recognized and thanked the members from the HVFC for attending tonight and for all their work.

### **B1-2 The Preliminary/Final Land Development Plan for the Hershey Lodge Natatorium Replacement, Plat No. 1242.**

Chairman Foley said unfortunately, over the past few weeks, some of the information out in the community regarding bike and pedestrian paths has not necessarily been very accurate. Over the course of the last week or so, each of the Board members has reached out and spoken with representatives of the Hershey Entertainment & Resort Company. It is important to point out that today, prior to any vote with this, there is already an agreement in place that should we need HE&R to install sidewalks, walking paths, bike paths, etc., that we can request they do that. We haven't done this because there hasn't been a plan. One of the successes that we have had has been the engaging of professionals to guide us as we look to grow downtown. Chairman Foley proposes that we engage a professional to look at our connectivity and come up with a plan to prevent just installing sidewalks and bike paths where there is no need.

Supervisor Engle mentioned that the Board received a lot of emails from residents regarding this. Just to clarify that what was proposed by this plan is a sidewalk waiver with a stipulation that the owner/developer enter into an agreement with the Township no later than April. The agreement would allow the Township to require the installation of sidewalks in the future if deemed necessary. Mr. Emerick said that is a standard way we accept sidewalk waivers. Supervisor Engle said he thinks many people on the Board believe that the time has come to look at some of these waivers that have been granted in prior years. Mr. Emerick said for this property it has been granted three other times.

Supervisor Ballard said she is a little concerned that there is no representation from HE&R. Supervisor Weir said he would be in favor of fee in lieu of sidewalks and wishes it was in place today but it is not. The plan submitted tonight is a sidewalk that shows a lot of connectivity and makes a lot of sense. He was looking forward to HE&R to present.

Mr. Emerick said he received an extension request from HE&R to continue this to November 25<sup>th</sup>. Chairman Foley said their extension gives us a window to fix some of this.

Solicitor Yost said the plan has already been submitted and you cannot adopt a fee in lieu for this plan since it is already in place. Chairman Foley said we do have an agreement in place now that

will compel them should we deem it necessary to install sidewalks. Vice-Chairman Moyer asked if the fee in lieu would apply to all those outstanding deferments. Mr. Emerick said for all of the projects that have already come through, it would be tough to go back.

Vice-Chairman Moyer asked how the fee in lieu will fit into the big picture of the network of paths and trails that a planner is going to advise us on. Chairman Foley said we can be more strategic with how we deploy those resources and assure connectivity.

**MOTION:** A motion made by Chairman Foley and seconded by Supervisor Ballard to table this agenda item until the November 25 meeting, is hereby approved. *The motion carried, 5-0.*

Mr. Emerick explained that we would have a plan that would lay out the sidewalks and bike trails as a master plan. We would then need to amend our Subdivision and Land Development Ordinance to grasp the fee in lieu of in accordance with the plan. It would be a two-step process.

**Rich Gamble, Hockersville Road** – There are sidewalks in place that connect the Medical Center to the Motor Lodge, but no connection for the people on the north side. He looked at the new hotels that have been built and there are sidewalks to nowhere. If there was a sidewalk from the north side it would eliminate the risk of pedestrian accidents. If you build a sidewalk, people will use it and come to that area of the Township and it will be safer.

**Amy Hallock** – Ms. Hallock said if she could she would retract anything she posted or wrote on email because of not checking all the information as it was coming out. In the community it is felt we have to make sure this waiver does not go through because of past experiences, but now you are bringing up a whole new terminology, fee in lieu of, she wondered if the planner can get involved and actually make a difference.

**Tyson Brown, 218 Elm** – Mr. Brown looks forward to learning more on how a planner can be engaged and how a fee in lieu can happen. We are responding this way to a big corporation and considering allowing them to obtain a waiver, which makes him concerned how we will approach all of the other corporations and all the other businesses that have been given waivers in the past. Are we going to require a sidewalk or allow them to pay a fee in lieu of doing a project? He also is concerned how it would affect the citizens who have cracked sidewalks in front of their houses. It is complicated and we are layering on a lot of activity that will not really apply to this one project.

Supervisor Weir said this spring some residents on Jill Drive had to cut their trees down and replace their sidewalks, at great expense. That happened four months ago and we had all this time to have this discussion. They put in a sidewalk that is going nowhere and we didn't do anything about it.

Mr. Emerick said there are two different ordinances. Tonight's project Natatorium comes under the Subdivision and Land Development and the action taken on Jill Drive came under our sidewalk ordinance, which is more of a maintenance ordinance. The two would have never intertwined anyway.

Supervisor Weir asked Mr. Emerick if there were 300 sidewalk waivers granted over the years. Mr. Emerick said he would have to go through each file to check. The reason there are three

waivers on the Lodge today is because they have done three projects since they built and each time it is treated as a new project under our ordinance.

**Tim Landenberger, Stafford Heights** – Mr. Landenberger said when he built his house on Hilltop Road and he wanted to take his kid biking, he put the bikes in the back of the truck and they went down to the flat land. He lives in Stafford Heights and they have no sidewalks, but everybody walks and bikes. He called the Township to get a rough price for a sidewalk and it was estimated at \$54 a linear foot. He measured his property and it would cost him \$12,906 to put in a sidewalk on just his property. He added that Hockersville Road is a very narrow road to put sidewalks and he avoids riding there. Mr. Landenberger has biked from the Village out to the Med. Center and rides all the time. Just because a person wants a direct route to go somewhere, doesn't mean it should be. He finds ways to get where he needs to go and it is safe.

**Dick Norford, President of Bicycles, South Central PA** – Mr. Norford said he is not sure how many waivers have been passed. What he heard from the back of the room is at some point you could go back and say to the person who was granted the waiver that they need to put a sidewalk in. How many times have you done that or have you ever done that? A bicycle master plan is not going to be put together by November 25<sup>th</sup>. When a community is more inviting for bicycle riding and walking, it is just a better place to live, work, play and shop.

**Scott Stein, 148 West Granada Avenue** – Mr. Stein thanked Supervisor Engle for his suggestion regarding a planner to look at the bicycle and sidewalk network. There was some foresight by the previous in looking at the waivers and being able to come back and add sidewalks where we need them. Before we rush to just add sidewalks, we need to look at where the best place to put them. You encourage people to come down 422, but then it stops. We need to be smart how we look at this and put the sidewalks where we need them and where they are going to be of benefit. He applauded the Board for looking forward to how we can modify and improve what we created.

**Steve Ballard, 650 Cocoa Avenue** – Mr. Ballard said as he rides his bike to the Med. Center, he notices a block where Don's Pier used to be that is not connected. If they could make a plan for closing the gap between the town and our largest employer in a safe and smart way, we would all benefit from that.

**Hans Garrett, 1350 Fishburn Road** – Mr. Garrett feels very fortunate to live in Hershey and for the work put in to build the bike paths we have. We have a great situation and we are talking about making it better. He is in favor of putting a plan together to address the issues.

**Rich Gamble, Hockersville Road** – Mr. Gamble said there used to be a connecting path on Hockersville Road that started before 422 ever existed at the corner of Swatara Street. It went all the way out to Erbs Corner, but the sidewalks at 203, 205, and 207 Hockersville Road were removed for the expansion of roadways.

**C1-3 Continuance to consider the adoption of Ordinance No. 651 to amend 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.**

**Charles Emerick, Director of Community Development** – There is a continuance request on this item.

**MOTION:** A motion made by Supervisor Ballard and seconded by Supervisor Weir for a continuance of this agenda item, is hereby approved. *The motion carried, 5-0.*

**D1-7 Waiver from filing a land development plan as requested by Derry Presbyterian Church.**

**Charles Emerick, Director of Community Development** – A recent zoning change put this property at 245 East Derry Road and other properties around it into the Neighborhood Commercial zoning district. The applicant proposes to demolish an existing dwelling and detached garage and construct a two-story office building and detached garage. The office building is proposed to be occupied by Love, Inc., a community ministry operated by the church.

Chairman Foley asked if anyone present was in opposition to this and no one responded.

**MOTION:** A motion made by Supervisor Ballard and seconded by Chairman Foley that a waiver be granted from Sections 185-5.A and 185-5.B of the Derry Township Subdivision and Land Development Ordinance to not require Derry Presbyterian Church to file a land development plan with Derry Township for the demolition of an existing dwelling and the construction of a two-story office building at 245 East Derry Road, is hereby approved. *The motion carried, 5-0.*

**E1-9 Appointment of one member to the Board of Library Directors for an unexpired term (unexpired term of Margaret Bradley, 12/31/15).**

**Jill E. Henry, Assistant Township Manager** – Margaret Bradley relocated and is no longer a resident of Derry Township. The opening on the Library Board was advertised and two residents expressed an interest in serving

Chairman Foley read the names of the applicants, Glennys Button and Marilyn Carter. Chairman Foley asked each member of the Board to write down the name of their selection.

**VOTE:** Manager Negley counted the votes and Glennys Button received the most votes and was appointed to the Board of Library Directors for a term that will expire on December 31, 2015.

**F1-2 Approval of Ordinance No. 654 to amend the Code of the Township of Derry (Ordinance No. 553) Chapter 210 Section 210-41 Parking time limited in certain locations, certain days and hours by rescinding the current 2-hour timed parking restrictions on Linden Road between W. Caracas Avenue and W. Granada Avenue.**

**MOTION:** A motion made by Supervisor Engle and seconded by Supervisor Ballard that Ordinance No. 654 to amend the Code of the Township of Derry (Ordinance No. 553) Chapter 210 Section 210-41 Parking time limited in certain locations, certain days and hours by rescinding the current 2-hour timed parking restrictions on Linden Road between W. Caracas Avenue and W. Granada Avenue, is hereby approved. *The motion carried, 5-0.*

**G1-2 Authorization to enter an agreement for the supply of electricity.**

**Jill E. Henry, Assistant Township Manager** – The Township is currently locked into an electric rate for a two year contract through the Municipal Utility Alliance Energy Program. Constellation Energy is the provider for the Alliance’s program. Constellation’s rates are more competitive because they do not include a broker fee. The most recent agreement was for two years at a rate of .066524 per kWh for the facilities and .053234 per kWh for the street lights. This current rate is actually less than what we were paying 2010. Ms. Henry recommended going with the 24-month term which will keep our rates stable for next two years.

**MOTION:** A motion made by Supervisor Ballard and seconded by Vice-Chairman Moyer that the Township enters into an agreement with Constellation New Energy for the purchase of electricity for a two year term for .07174 for the facilities and .05826 for the street lights, is hereby approved. *The motion carried, 5-0.*

#### **CORRESPONDENCE/BOARD/COMMITTEE INFORMATION**

No information to report.

#### **REPORTS**

**Patrick O’Rourke, Chief of Police** – The Derry Township Police Department is scheduled for an onsite assessment as part of a program to achieve reaccreditation by verifying it meets professional law enforcement standards. Administered by the Commission on Accreditation for law enforcement agencies otherwise known as CLEA – the accreditation program requires agencies to comply with state of the art standards in four basic areas: policies & procedures, administration, operations, and support services. As part of the onsite assessment, agency employees and members of the community are invited to offer comments at a public information session Tuesday, November 11, 2014 at 4:30 p.m. in the Derry Township public meeting room or by calling a number provided.

**Bob DiLello, Hershey Fire Company** – Mr. DiLello thanked the building committee for making their presentation and a special thanks to the Board of Supervisors for their continued support.

**Barbara S. Ellis, Director of Hershey Public Library** – Tomorrow at the Library, there will be a Trick or Treat story time for ages 3 to 6 years old beginning at 1:30. If you check the Library’s website, there is a link to several national information sources about Ebola.

**Matt Mandia, Director of Parks & Recreation** – Mr. Mandia thanked the police department and public works department as well as the fire company for their assistance in this year’s community Halloween parade.

**Matt Bonanno, HRG Engineer** – HRG continues to work with the utility companies to clear their lines ahead of the Locust and Java Project. An environmental assessment was submitted to the County and that will help trigger this second round of grant funding to fund the construction of the project.

The counts were completed on the Middletown Road crossing and they will look to do the field view and site distance measurements at the end of this week.

**Jill Henry, Assistant Township Manager** – The Township’s loss ratio for the workers’ compensation insurance is currently .676 and the Township will receive a return dividend of \$39,718.

**APPROVAL OF ACCOUNTS PAYABLE (\$924,432.47) AND PAYROLL (\$305,760.25).**

Supervisor Engle moved to approve accounts payable in the amount of \$924,432.47 and payroll in the amount of \$305,760.25. Vice-Chairman Moyer seconded. ***The motion carried, 5-yes 0-no.***

**OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD**

**Rich Gamble, Hockersville Road** – Mr. Gamble said it is hard for him to distinguish or understand when Chairman Foley says ‘we’ whether he is representing the Board or the Fire Company. He said Chairman Foley did not convince him when the question was asked about signed copies. Mr. Gamble said he is not sure who is going to get the copies signed, the Township or the Fire Company. Chairman Foley said the contracts were signed by the Township as the host municipality.

**ADJOURNMENT**

Vice-Chairman Moyer moved to adjourn the meeting at 8:50 p.m. Supervisor Ballard seconded. ***The motion carried, 5-yes 0-no.***

SUBMITTED BY:

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Justin C. Engle  
Township Secretary

\_\_\_\_\_  
Brenda Van Deursen  
Recording Secretary