

**TOWNSHIP OF DERRY**  
**BOARD OF SUPERVISORS MEETING**  
Tuesday, June 22, 2010  
600 Clearwater Road, Hershey, Pennsylvania 17033

**CALL TO ORDER**

The June 22, 2010 Township of Derry Board of Supervisors meeting was called to order at 7:10 p.m. by Chairman Michael H. W. Pries.

**ROLL CALL –**

E. Christopher Abruzzo, Vice-Chairman - *Present*  
Sandy A. Ballard - *Present*  
Kelly C. Fedeli, Secretary - *Present*  
Marc A. Moyer - *Absent at roll call – attended meeting at 7:20*  
Michael H. W. Pries, Chairman - *Present*

**Also Present:**

Matt Bonanno – HRG, Township Engineer  
Thomas R. Clark –Director, Public Works  
Barbara S. Ellis – Director, Hershey Public Library  
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  
William D. Smith – Chief of Police Department  
Jon A. Yost - Township Solicitor  
Brenda Van Deursen - Recorder

**Public Present:** Jim Ingalzo, Elvira Ebling, Bob Larson, Matt Weir, Brian Evans, Rich Gamble

**Press Present:** Drew Weidman, The Sun and Sheri Melnick for the Patriot News

**Executive Session:**

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

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

**VISITOR/PUBLIC COMMENT**

No one came forward.

**APPROVAL OF MINUTES:**

Chairman Pries called for a motion to approve the Minutes of the June 8, 2010 Board of Supervisors Public Hearing and the Minutes of the June 8, 2010 Board of Supervisors Meeting. Supervisor Fedeli made a motion to approve the Minutes as written.

Supervisor Ballard seconded. Vice-Chairman Abruzzo abstained as he was not present at the entire meeting. ***The motion carried, 3-0-1.***

**NEW BUSINESS:**

**A1-24 Adoption of Ordinance No. 596, authorizing the Township of Derry to enter into a Basis Swap for outstanding General Obligation Notes, Series 2006 and ICDA Guaranteed Revenue Bonds, Series 2005.**

James N. Negley - Township Manager/Township Treasurer

The Board of Supervisors must approve Ordinance No. 596 in order to enter into a Basis Swap agreement. If the Board approves the Swap, they must set a target level for execution. This transaction has the potential to significantly lower the Township's annual debt service as it did in 2009.

Lou Verdelli, Managing Director, RBC Capital Markets

Mr. Verdelli explained the mechanics, benefits and risks of the Swap. This transaction is identical to the 2009 Swap and is designed to create additional cash flow for the Township.

Currently, the pricing is approaching the levels as seen in 2009 due mainly to the European financial concerns. Due to the crisis, the international investors are purchasing more US Treasuries causing the relationship between tax exempt and taxable rates to go very high.

The Swap is an actual exchange of two cash flows. The two rates being exchanged are a tax exempt rate and a taxable rate. The tax exempt rate is the Securities Industries and Financial Markets Association (SIFMA) rate and the taxable rate which is the one used all around the world to represent taxable debt is LIBOR. Historically, there has always been a difference between a tax exempt rate (don't have to pay taxes on the interest) and a taxable rate (where you do have to pay taxes). With everyone buying taxable securities, it has caused those two rates to come together.

The biggest risk in this transaction is a tax risk meaning something will happen to the tax system at the federal level. Taxes would be decreased to a flat tax where the value of tax exempt income will no longer have the value it has today.

As long as the tax exempt rate that the Township pays is greater than the taxable rate they receive; they are making a cash flow. Higher taxes will increase the tax flow because it will make the tax exempt income even more valuable to people. If taxes are going up at the federal level, this couldn't be a better opportunity.

The suggested target would be 70% plus 45 basis points. Due to the low interest rate environment, a more conservative transaction is recommended to build in the 45 basis points to compensate even if the tax exempt and taxable rate become the same. For there to even be a payment, the tax exempt rate would have to be more than 45 basis points higher than the rate you are receiving.

Mr. Verdelli advised the Board to be very prudent with the earnings from the transaction in case there is a bad period and you would owe money.

John Frey, from Public Financial Management, the Township's Independent Swap Advisor

Mr. Frey presented an Interest Rate Management Plan that is required under the state law for these types of transactions. The Plan has been reviewed by the Township solicitor and Swap counsel for their approval. The Plan is an overview of the Swap with a notional amount of \$14,125,000. The counterparty would be with the Royal Bank of Canada (RBC), a very highly rated counterparty in the world.

There are no outstanding Swaps related to the Township's direct debt, but the Township guarantees one outstanding Swap on the debt related to the Intermodal facility. That Swap is on a variable rate bank loan that funded the facility.

Costs that would be included in the Basis Swap Transaction include advisory fees and interest rate management plan, legal fees, and the counterparty spread which would be paid to the Royal Bank of Canada (RBC). These fees are lower than last year. After negotiations, the counterparty spread to RBC would be 8 basis points.

Mr. Frey explained what the cash flows would look like if we had the historical average continue on for the life of the Township's bond issue. He also explained what the maximum payments would be if the SIFMA rate which is about .3% went up to 25% which it has never done. He also explained the possible risks of the swap emphasizing the tax risk is the most serious.

This Plan will become an appendix to the Ordinance that is proposed.

Vice-Chairman Abruzzo asked Mgr. Negley if we currently have any bonds or obligations that are in a Swap status. Mgr. Negley said no, but we are guaranteeing an ICDA Swap.

Supervisor Moyer asked what the target ratio would be to execute this transaction. Mr. Frey said the Township would pay SIFMA and receive 70% of 3-month LIBOR plus 45 basis points. That translates to a ratio of approximately 86 -87%. We are currently around 84%.

Chairman Pries confirmed with Mgr. Negley that the last Swap terminated in 2009 resulted in a net cash flow of \$525,000.

Supervisor Fedeli said one of the biggest risks is the changes in laws at the federal level. She asked if there is any concern at the state level with the changes in the legislation. Mr. Frey said the proposed amendments to the legislation provides protections and limitations and also limits how many Swaps you can have outstanding.

Donna Kreiser, Swap Counsel

Ms. Kreiser said this Ordinance complies with the requirements of the local government. The Township would authorize:

- the appointment of PFM as their independent advisor.
- the approval of the Interest Rate Management Plan.

- the Township Manager to act on behalf of the Board with the advice of a financial advisor, the Township Solicitor, and the Swap Counsel to approve the final terms and conditions of the Swap when the pricing targets are achieved.

Mr. Verdelli said if we never achieve the target, we will not execute the transaction. There is no way to determine when we will meet the target, but there are no risks while waiting.

Supervisor Ballard referred to in the Plan where Derry Township provided guarantee for two Swaps of the ICDA. One which has been executed for about \$9 million and the second one is in a limbo period waiting to be executed.

Mr. Verdelli explained the 2004 note was the first \$10,000,000 financing for the Intermodal facility. All of that money was used to build the Intermodal. It was a variable rate and the people involved with the payments wanted protection so it was converted to a fixed rate.

The second loan was in the amount of \$5,000,000 to finish the project. Only about \$3 million of that loan was ever used. At the time, ICDA and HE&R had put in place the authorization to convert it to a fixed rate. When they never drew it down, all the parties said they were comfortable with \$3 million at a variable rate. It is still on the books, but there is no intention of it being enacted. The variable rate on the loan is less than one percent. Supervisor Ballard asked if we should terminate it. Mr. Verdelli said it is a possibility and can be looked into.

**Motion:** A motion made by Vice-Chairman Abruzzo and seconded by Supervisor Fedeli that Ordinance No. 596, authorizing the Township to enter into a Basis Swap is hereby approved.

**Discussion:** Supervisor Ballard voted against adopting Ordinance No. 596. She does not feel comfortable voting in favor given the risks, but will relook at this in the future when the proposed legislation comes out.

Supervisor Moyer suggested deferring the decision tonight and wondered what the ramifications would be. He does not have a firm grasp on all the information and feels somewhat uncomfortable making a decision tonight until he can further review it. Mr. Verdelli said if you authorize the transaction and in a few days the basis point has been met or exceeded, you would be able to execute it. The downside is if there is not an official authorization to do that, we could possibly miss the opportunity.

***The motion carried, 3-2.***

**B1-6 Consideration of entering into an agreement with Derry Township School District, regarding stormwater management facilities proposed on lands represented by the Preliminary/Final Land Development Plan for Site Improvements at Derry Township School District Campus, Plat No. 1191.**

Edward L. Small - Director of Community Development

This is a Best Management Practice Agreement mandated by our Ordinance and the language in the Agreement is consistent with our Ordinance. HRG has reviewed the plan and found it to be compliant with our regulations.

**Motion:** A motion made by Supervisor Ballard and seconded by Vice-Chairman Abruzzo that the Township enter into the proposed Stormwater Best Management Practices Operations and Maintenance Agreement with Derry Township School District, dated April 21, 2010, is hereby approved. *The motion carried, 5-0.*

**C1-6 Consideration of entering into an agreement with The Hershey Company regarding stormwater management facilities proposed for the West Hershey Facility New Access Drive, Phase 1.**

Edward L. Small - Director of Community Development

This is a Best Management Practice (BMP) Agreement regarding the access drive which will line up with Clearwater Road intersection with Hersheypark Drive. It will be a rather long private driveway also affected by the signal that will eventually lead to the construction activities and the new plant addition that West Hershey will be constructing. They just want to make sure with the disturbances of earth they are following our procedures.

Supervisor Ballard asked if we would be reviewing their plan for the construction of the driveway. Mr. Small said the plans are triggered by floor area expansion and that is coming, but this is merely the driveway. The only thing affecting the driveway's review is the BMP.

**Motion:** A motion made by Supervisor Ballard and seconded by Vice-Chairman Abruzzo that the Township enter into the proposed Stormwater Best Management Practices Operations and Maintenance Agreement with The Hershey Company dated June 16, 2010, is hereby approved. *The motion carried, 5-0.*

**D1-2 Authorization to approve voluntary sidewalk and curb reconstruction project bid letting.**

Thomas R. Clark –Director, Public Works

Public Works advertised a voluntary curb and sidewalk replacement program for residents to participate. 40 property owners expressed an interest this year. Six bid packets were sent out and three packets were received back. The low bid was Red Rock Construction in the amount of \$35,770.37. This is the same contractor who completed last year's project and the pricing is just a few cents higher than last year.

Funds for this project are paid through the general fund and residents reimburse the Township when the work is inspected and completed properly. Upon approval of the project, they will send the residents a letter including what it will cost them and asking if they agree to do this.

Supervisor Ballard asked if all the people who agree to pay actually pay. Mr. Clark said on a few occasions they have set up payment programs. This project has been in place 17-18 years and they have had only one or two difficulties during that time.

**Motion:** A motion made by Vice-Chairman Abruzzo and seconded by Supervisor Ballard that the Township Staff is authorized to award the sidewalk and curb replacement project bid to Red Rock Construction in the amount of \$35,770.37, is hereby approved.  
***The motion carried, 5-0.***

**E1-5 Award of contract for Architectural/Design Professional Services at Hershey Public Library.**

Barbara S. Ellis – Director, Hershey Public Library

A re-design proposal was developed by a Staff Committee and reviewed by the Library Board. It was sent out to five different companies. This re-design plan will provide renewal and updating to all areas of the library to be accomplished in phases over the next 2-3 years. In 2010, they hope to accomplish Phase 1 which will focus on creating a planning document that will guide the library into the changes and adjustments. It will result in changes to the library's entry area, computer banks, study areas, and the removal of the large reference desk that is centrally located.

The Library has approved and recommended the expenditure up to \$100,000 to improve the library's efficiency and décor by hiring Joyce Seno of the Larson Design Group to consult, advise, design, and oversee the described project.

Evaluation of the proposals was based on the criteria, the firm's history and capability to complete the project, relevant project experience, qualifications of the project team, familiarity with the area and project, project approach and schedule selected, references, and estimated costs of professional services. Nine staff members and five of the Library Board members were given a matrix listing each of the evaluation criteria. They were asked to rate these and to make comments on the ratings. Of the 14 people who participated, only 3 did not have their first choice as Larson Design Group. After reviewing the proposals and discussing it at the Library Board meeting, the Library Board agreed to select Larson Design Group based on the numerical ratings and comments.

Supervisor Ballard pointed out this money is not coming from taxpayer dollars, but from a legacy donation. Ms. Ellis concurred. Supervisor Fedeli asked if this was the first expenditure from the legacy donation. Ms. Ellis said it is the second. Computers were purchased late last year.

Solicitor Yost asked if we are approving a contract tonight or just selecting the design professional. Ms. Ellis said we are just selecting the design professional and then a contract will be drafted, reviewed by Solicitor Yost, and brought back to the Board for final approval.

Chairman Pries asked for the costs submitted by each of the three proposals. Ms. Ellis said the estimated base line for Larson Design Group was \$8,500, \$7,500 for Chris Dawson Architect, and \$20,500 for NuTec Design Associates, Inc.

Chairman Pries asked why we didn't go with the less expensive proposal from Chris Dawson Architect and noted they were also closer in location than the Larson Design Group. Ms. Ellis said Larson has worked with 12 libraries in their recent history. Their consultant, Joyce Seno, has actually re-designed 7 libraries...from re-designing new

buildings to interior re-design and on limited budgets she has created a whole new efficiency in library usage. Ms. Ellis has checked her references and received excellent recommendations.

Chairman Pries asked if Chris Dawson Architect has done work like this in the past. Ms. Ellis said he has done two libraries.

Chairman Pries asked about the \$20,500 proposal from NuTec. Ms. Ellis said the original submission was higher. She had conversation with them and they resubmitted their proposal, but it still came in much higher.

Supervisor Fedeli said the proposals were evaluated on a wide-scope of issues. The decision was not taken lightly. The review went much beyond local location and cost. The \$1,000 difference in cost was minimal compared to the scope of experience that the Larson group was exhibiting.

Ms. Ellis said the \$7,500 and \$8,500 were estimates of what it would cost for these services. It could come in lower or a little bit higher. Chairman Pries asked if we would have language in the contract with a not to exceed number. Ms. Ellis said in their proposals it says they would not exceed their estimate, but it could be put in the contract.

**Motion:** A motion made by Supervisor Fedeli and seconded by Supervisor Ballard to designate the Larson Design Group as the design professional for the re-design services at the Hershey Public Library is hereby approved. *The motion carried, 5-0.*

#### **CORRESPONDENCE**

Supervisor Ballard received a letter from the Board of Directors at Southpoint of Hershey with concerns regarding property maintenance, streets, sidewalks, trees, etc. Mr. Small said he read the letter and the parts that pertain to his department would have to do with the stormwater detention facilities and how they are being maintained. However, the Association is the responsible party to notify and they will have to fix it within a time period. If they refuse, the Township would be obligated to create the repairs and then assess them.

Supervisor Ballard said that Southpoint and other people have raised concerns regarding why Derry Township hasn't responded sooner. She recommended we develop a one page informational sheet to post on the web to help residents understand what they should do if they have a property maintenance concern.

Vice-Chairman Abruzzo thought the informational sheet was a great idea. A lot of communities in the Township have Home Owners Associations, but a lot of people do not understand the rules of their Association. We should put something on the web site that is instructive so that people who don't have a Homeowners Association know who they should be contacting. For those that do will understand their complaints should initially be directed to their Homeowners Association who has primary responsibility.

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

Vice-Chairman Abruzzo thanked Chief Smith, Tom Clark, Matt Mandia, and their employees for the great work on the Memorial Day Parade in keeping it organized and

safe. Chairman Pries thanked Vice-Chairman Abruzzo for bringing the Memorial Day Parade back to Derry Township.

## **REPORTS**

### William D. Smith – Chief of Police Department

Chief Smith mentioned the storm we had this evening. He noted a couple of households without power, but it is under control. He also noted that Rt. 322 past Meadow was hit hard.

### Thomas R. Clark - Director, Public Works

Mr. Clark said he has two crews out currently to help with the after effects of the storm.

### Barbara Ellis – Director of Hershey Public Library

Ms. Ellis said the air condition installation in the server room was completed last week. She thanked Tom Clark for overseeing the installation as she was on vacation.

Registrations continue for the summer programs. Their theme for the summer reading program is...Make a Splash. At the end of the program, there is going to be a pool event for all the children who participated. She thanked Parks & Rec for partnering with the Library regarding this program.

Four of the six story times are completely full and the other two are almost full.

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

Ms. Lontz reported that as of June 30<sup>th</sup> actual to budget for expenditures and revenue look good.

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

Mr. Mandia reported that revenues for both daily admittance and memberships are up for the Hershey Rec Center.

### Edward Small - Director of Community Development

Mr. Small said at an earlier meeting a question was asked about posting of occupancy limits. The research has been done. Chairman Pries asked Mr. Small to report on it at the next meeting when Mr. Zimmerman is present.

### James N. Negley - Township Manager/Township Treasurer

Mgr. Negley thanked staff and others for their support while he was ill.

Chairman Pries asked Mr. Clark for the status of his response to Mr. Gamble regarding the paving and sidewalk at the end of Hockersville Road. Mr. Clark said he found the area Mr. Gamble was referring to, but within the last two weeks he has been unable to find the PennDOT inspector or the contractor.

Chairman Pries asked Mr. Clark if he would contact Rep. Payne on behalf of the Board since he secured the funding for this project regarding Mr. Gamble's concern. Mr. Clark agreed to contact Rep. Payne and report back to the Board at the next meeting.

## **APPROVAL OF ACCOUNTS PAYABLE (\$251,502.86) AND PAYROLL (\$312,948.96).**



Vice-Chairman Abruzzo moved to approve accounts payable in the amount of \$251,502.86 and payroll in the amount of \$312,948.96. Supervisor Ballard seconded. ***The motion carried, 5-0.***

**VISITOR / PUBLIC COMMENTS**

Rich Gamble

Mr. Gamble expressed three concerns:

- 1) Restrooms at the Rec Center were in bad shape this past Saturday.
- 2) Three lights are burned out at the "Swatara" Station. He was concerned with the safety for those walking. Supervisor Ballard said he should report that to PPL directly because by reporting it to the Township only delays it getting fixed.
- 3) The work on Hockersville Road started out good, but he hasn't seen the workers in a while. He is concerned about a handicap gentleman who has been unable to get out due to the work being done.

**ADJOURNMENT**

Supervisor Ballard moved to adjourn the meeting at 8:45 p.m. Supervisor Fedeli seconded. ***The motion carried, 5-0.***

SUBMITTED BY:

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Kelly C. Fedeli  
Secretary

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Brenda Van Deursen  
Recorder