

# TOWNSHIP OF DERRY

## BOARD OF SUPERVISORS MEETING

Tuesday, May 10, 2011  
600 Clearwater Road, Hershey, Pennsylvania 17033

### **CALL TO ORDER**

The May 10, 2011 Township of Derry Board of Supervisors meeting was called to order at 7:10 p.m. by Chairman E. Christopher Abruzzo.

### **ROLL CALL**

E. Christopher Abruzzo, Chairman  
Sandy A. Ballard  
Kelly C. Fedeli, Vice-Chairman  
Marc A. Moyer, Secretary  
Todd Pagliarulo

### **Also Present:**

Matt Bonanno – HRG, Township Engineer  
Thomas Clark – Assistant Director of Public Works  
Barbara S. Ellis – Director of Hershey Public Library  
Jill Horner – Assistant Township Manager  
Matthew J. Mandia – Director of Parks and Recreation  
James N. Negley - Township Manager/Township Treasurer  
Patrick O'Rourke – Chief of Police  
Edward L. Small – Director of Community Development  
Terry M. Weinhold – Manager of Accounts Payable & Accounts Receivable  
Jon A. Yost - Township Solicitor  
Brenda Van Deursen - Recorder

**Public Present:** Elvira Ebling, John Foley, Timothy Billow, Charles Nichols, Ken Condran, T. Medina, Richard Gamble

**Press Present:** Drew Weidman, The Sun and Elizabeth Krotz, Patriot News

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

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

**VISITOR/PUBLIC COMMENT:** No one came forward.

### **APPROVAL OF MINUTES:**

Chairman Abruzzo called for a motion to approve the Minutes of the April 26, 2011, Public Hearing of the Board of Supervisors. Supervisor Pagliarulo made a motion to approve the Minutes as written. Vice-Chairman Fedeli seconded. ***The motion carried, 5-0.***

Chairman Abruzzo called for a motion to approve the Minutes of the April 26, 2011, Board of Supervisors Meeting. Vice-Chairman Fedeli made a motion to approve the Minutes as written. Supervisor Ballard seconded. ***The motion carried, 5-0.***

**NEW BUSINESS:**

**A1 The presentation of awards to those employees of the Police Department whose actions from June 2010 through May 2011 have brought distinction upon them.**

Patrick O'Rourke – Chief of Police – Chief O'Rourke read the following commendations for several police officers and citizens.

**Officers Kenneth W. Condran, Timothy C. Roche, R. Matthew Dotts, Kenneth M. Shank, David E. Rode, and Rian B. Bell**, received Distinguished Unit Citations for their team effort in an arrest of two dangerous and malicious felony suspects on July 2, 2010 without injury to the officers, suspects, or members of the general public.

**Sergeant Eric T. Singiser** was presented a Letter of Commendation for his efforts for going above and beyond to secure additional life saving resources that not only enhance the public welfare of the residents of Derry Township, but for the millions of tourists who visit Derry Township each year.

**Officer Jason T. Rode and Deputy U.S. Marshall Gary Duncan** were each presented a Letter of Commendation for their part in an arrest of one individual in June 28, 2010, who committed a burglary at the Indian Echo Caverns.

**Officer Timothy C. Roche** was presented an award for Outstanding Arrest because of his diligence and perseverance resulting in an arrest of two dangerous criminals involved in a robbery at Rite Aid in August/September 2010.

**Detective Gregory R. Day** was presented a Letter of Commendation for his high level of diligence and perseverance during the investigation and arrest of an individual for two robberies at the CVS Pharmacy in August 2010.

**Charles Nichols, Kelly Becker, Amber Baxter** received a Letter of Appreciation for their assistance in the investigation of robberies at the CVS Pharmacy in August 2010.

**Officer Bryan C. Walters** received a Letter of Commendation for his actions on September 24, 2010 preventing an actual burglary from taking place and resulted in an arrest of a dangerous felony suspect. **Joshua Myers** received a Letter of Appreciation for his assistance in this arrest.

**James Ingle and Nicholas Morrison** received a Letter of Appreciation for their quick and decisive intervention into a life threatening situation at the Hershey Lodge and Convention Center on February 19, 2011.

**Detectives Gregory R. Day and Keith A. Ocker** received an award for Outstanding Arrest for their diligence and perseverance throughout the investigation of stolen property and drugs in May 2010. This resulted in the recovery of thousands of dollars in stolen property and the arrest of fifteen suspects for stolen property and the arrest of thirteen suspects for drug dealing.

**Detective Keith A. Ocker** received an award for Outstanding Arrest. He was a member of the Dauphin County Drug Taskforce from 2002 through 2009. During this time period, Det. Ocker conducted hundreds of narcotics investigations including the death of an 18 year old from Derry Township. During the investigation, three more individuals died of an overdose. This investigation led to the largest seizure of Fentanyl in the history of the Northeastern United States and resulted in the Federal Indictments of multiple suspects who ultimately received prison sentences.

**Detective Keith A. Ocker** received a Letter of Commendation for eight years of outstanding commitment, dedication, and perseverance in the delivery of undercover drug enforcement and providing a major contribution to the Nation's ongoing "War on Drugs."

**Officer Kenneth M. Shank** received a Letter of Commendation for his commitment, dedication, and continued delivery of excellence in meeting the Traffic Safety Mission for Derry Township in planning and executing a safe sporting event in 2010.

**Officers Dennis A. Eckenrode and Dennis J. Shearer** received a Life Saving Award for their quick and decisive intervention into a life-threatening situation, which prevented the loss of human life on April 13, 2011.

Life Saving Awards were presented to **Corporals Wade Crimbring and Michael Funk, Sergeants Jeffrey Zapach, Eric T. Singiser, and Brian K. Grubb, Troopers Bradley Zook, Christopher Grudi, and Richard Paden, and Officers Garth W. Warner, Michael L. Henry, Robert F. Demmel, Darren C. Cotton, and Wendy A. Burgwald** for their quick and decisive intervention in a life-threatening situation on October 3, 2010 regarding a very weak and frail patient leaving the hospital against medical advice. The subject had been receiving treatment associated with a pending double organ transplant.

**Joseph Dominick, Jr.**, a four year old, received a Letter of Appreciation for his quick thinking, action, and bravery involving his father who was unconscious and suffering from a medical emergency.

**B1-2 The introduction of three new police officers and announcement of two officers promoted to the rank of Sergeant.**

Chief O'Rourke introduced three new officers who fill vacancies created by recent retirements: Andrew Condran, Jana Bimler, and Andrew Herr. Officer Condran is currently in the 99<sup>th</sup> Municipal Police Academy class and graduates June 2<sup>nd</sup>. Officer Bimler is a graduate of the 98<sup>th</sup> Municipal Police Academy and has been employed previously by Derry Township as one of our Community Service Officers. Officer Herr is

also a graduate of the 98<sup>th</sup> Municipal Police Academy and was employed part-time by the Highspire Police Department.

Chairman Abruzzo gave the Oath of Office to Officers Timothy C. Roche and Robert Demmel to the rank of Sergeant. Sgt. Roche has been assigned to supervise the Community Services Platoon, the Mountain Bike Officers, and various other areas. Sgt. Demmel has been assigned to supervise the Criminal Investigation Section.

**C1-14 Consideration of the adoption of the Memorandum of Understanding as suggested by the Tri-County Planning Commission and the Regional Connections Grant.**

Edward L. Small – Director of Community Development – The Tri-County Planning Commission has two significant documents: 1) the Regional Growth Management Plan (The Plan) and 2) the Regional Transportation Plan (RTP). They have asked the member municipalities within their service areas to use these principles in their future decisions. As an incentive to participate, they created a Memorandum of Understanding to be executed by both the Planning Commission and local municipalities to follow those principles and a Grant Program called the Regional Connections Grant Program. The grant comes from federal transportation funds channeled through PennDOT and would be administered by the Tri-County Planning Commission. The total of this funding is \$80,000 and is intended to encourage participation first by the execution of the Memorandum of Understanding and secondly by creating projects using primary emphasizes on transportation issues, studies, and work of the studies. The deadline is July 15<sup>th</sup>. It calls for an 80/20 match (20 from local sources). The two areas of interest for the grants are the Comprehensive Committee for work that relates to transportation and the other is regarding the intersection at Walton and Rt. 39.

**Motion:** A motion made by Supervisor Ballard and seconded by Supervisor Pagliarulo that the Board directs staff to proceed with preparation of scoping and estimates for the procurement of a grant of funds following the guidelines, is hereby approved. ***Motion carried, 5-0.***

**D1-9 The Preliminary/Final Subdivision/Land Development Plan for 515 East Chocolate Avenue, Plat No. 1204.**

Edward L. Small – Director of Community Development – The plan proposes a 120-room hotel on the 4 westernmost tracts of the 6 adjoining tracts of land. The 4 in question are now vacant of improvements. The two remaining tracts contain an office building at 555 East Chocolate Avenue and a vacant tract addressed as 565 East Chocolate Avenue, which has been approved for an office building, but has not yet been constructed.

Plat #1204 is submitted to fully supersede the previous plan for the hotel, which used the combination of the 6 tracts. Plat #1179 has been approved by the Board, but has not been recorded. Plat #1204 is a complete substitution. Some of the work done from Plat #1179 is transferable because it has not been required to be changed. Also an agreement that was created by the Township and Township Solicitor for a \$27,540 contribution for stormwater upgrades both along and beneath Chocolate Avenue will be reassigned.

The proposed hotel has remained largely unchanged from its first presentation with the exception of a 4 foot high extension of a parapet wall as an architectural feature. It raised the overall height of the building from 40 to 44 feet.

Mr. Small is suggesting withdrawing the approval of Plat#1179, so that there are not two plans approved for the same project, but with different numbers.

Since the plan for Plat #1204 went to the Zoning Hearing Board as a new plan, it changes the record that renders Plat # 1179 not to be used any further. Two waivers were requested during the preliminary stage of the first plan and are requested and listed in the new Plan #1204. At the Planning Commission meeting on April 5<sup>th</sup>, they recommended approval of the plan and the waivers.

**Discussion:**

Supervisor Ballard referred to page D2 of the Agenda where it mentions impervious coverage. She questioned why the impervious coverage is higher in the new plan, what our ordinance states, and proof of approval from the Zoning Hearing Board regarding the increase in impervious coverage.

Mr. Small said the land size is smaller and so the same size of the improvements has a bigger result. He said the Zoning Hearing Board took formal notice. Mr. Small said the existing improvements prior to this project had a nonconforming relationship to the land for the impervious coverage. The applicant was able to show that they reduced it and have a valid nonconformity on the property. It was also noted that the ordinance requirement for impervious coverage is 60% and the new plan is requesting 92% which is lower than the original plan of 95%.

Supervisor Ballard thought the Zoning Hearing Board would have to officially grant a waiver. The applicant said the waiver they got from the Zoning Hearing Board indicates that if you are lessening the nonconformity that currently exists on the property, which this qualifies because they have gone down from 95%. He added that most properties on Chocolate Avenue are in excess of 60% impervious coverage.

Supervisor Ballard asked the Board to vote on this contingent on documentation indicating the Zoning Hearing Board issued a variance on the impervious coverage. Mr. Small said they didn't need to. What they had to do was recognize the rights that were carried from the prior use because those are valid, nonconforming rights. Mr. Small will provide a copy of the Zoning Hearing Board decision to Ms. Ballard. Supervisor Ballard asked Mr. Small to e-mail her our ordinance.

Supervisor Ballard wanted to assure there would be sidewalks and the applicant stated there would be.

**Motion:** A motion made by Vice-Chairman Fedeli and seconded by Supervisor Pagliarulo that the Preliminary/Final Subdivision/Land Development Plan for 515 East Chocolate Avenue, Plat #1204, is approved subject to the following:

- a. That the applicant reimburses the Township for costs incurred in reviewing the plan no later than June 20, 2011.

- b. That performance security be provided no later than November 10, 2011 to guarantee the completion of required improvements.
- c. That the approval of Plat #1179 is declared to be rescinded, with the exception that approvals, or pertinent information, from other agencies for Plat #1179 that are not affected by the design changes of Plat #1204 are herewith transferred to Plat #1204, namely, the DEPT Planning Module exemption, PennDOT Highway Occupancy permit, NPDES permit, and PA American Water hydrant flow information.
- d. That the Township receives a Letter of Credit in the amount of \$27,540 for the purpose of drawing funds as needed for the stormwater improvements along and beneath Chocolate Avenue, and an executed agreement detailing the understandings associated with the project, subject to review and approval by the Township Solicitor. This is to be addressed no later than November 10, 2011.

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

- a. From Section 185-12.D(3)(a)[23] regarding profiles of existing and proposed gas and water systems.
- b. From Section 185-34.A(1) regarding the location of proposed sidewalks so that where new sidewalk installations are necessary and will connect with existing sidewalks at each end, they may gradually transition from any connection with existing nonconforming sidewalk to a conforming location over the entire run of the new installation.

The Motion is hereby approved. ***Motion carried, 5-0.***

**E1-3 Approving the 2011 Annual CPI Increase in tipping fees in regard to the Township's contract with our Solid Waste Provider, York Waste.**

James N. Negley - Township Manager/Township Treasurer – Effective June 2011, the tipping fees at the Harrisburg Incinerator will be \$74.29 an increase of \$1.69 per ton. Dauphin County requires that all municipal solid waste collected in Dauphin County must be delivered to the Harrisburg Incinerator. Our contract with York Waste provides for these increases. York Waste calculations indicate a \$.12 cents a month for residential customers, \$.02 cents increase per bag for pay as you throw customers, and \$.11 cent increase per cubic yard for commercial customers. This will raise the residential quarterly billing from \$57.91 to \$58.27 for basic service, a quarterly increase from \$49.33 to \$49.69 for one bag customers, and the cost per bag for pay as you throw will remain the same at \$3.50. York Waste voluntarily waived the \$.02 increase for the pay as you throw bag.

**Motion:** A motion made by Supervisor Moyer and seconded by Supervisor Ballard that the 2011 Annual CPI Increase in tipping fees in regards to the Township's contract with our Solid Waste Provider, York Waste, is hereby approved. ***Motion carried, 5-0.***

**F1 Award of contract for cold in-place recycling of West Caracas Avenue from Ridge Road to Hillcrest Road.**

Thomas Clark –Director of Public Works – On April 28, 2011, bids were opened for the cold-in place recycling of West Caracas Avenue from Ridge Road to Hillcrest Road. Two bids were received. One was from E.J. Brenneman in the amount of \$106,544.90 and the other one was from Recon Construction Services in the amount of \$83,136.13. All of this money will be expended from Liquid Fuels funding. This is the site of sinkhole and waterline reconstruction several years ago which have been repaired at this point. The curb and sidewalk program is currently replacing the curb and sidewalk in the area of the waterline break. Handicap ramps are being installed at all intersections ahead of this project. Our specification calls out for five years of experience in cold-in place recycling which Recon Construction Services does not have. They do quite a bit of work in cement stabilization, lime stabilization and other processes which are a great deal more involved than the cold-in place process. They have done two cold-in place recycling projects in the state and one in Northern Maryland. Mr. Clark contacted both the municipalities in Pennsylvania and they had nothing but good things to say about them.

Supervisor Moyer asked about the significant difference between the two quotes. Mr. Clark believes Recon is trying to get their foot in the door and get some experience. Mr. Clark added that several years ago Advance Paving System did our recycling and the same individual that was running their cold-in place recycling through has moved over to Recon and he is running their cold-in place recycling.

**Motion:** A motion made by Supervisor Ballard and seconded by Supervisor Pagliarulo that the Township staff is authorized to award the contract for cold-in place recycling to Recon Construction Services in the amount of \$83,136.13, is hereby approved. ***Motion carried, 5-0.***

**G1-3 Adoption of Ordinance No. 610 amending the Township’s Motor Vehicle and Traffic Ordinance No. 553, Chapter 210, Article III, Vehicle Restrictions, by adding a new section, Section 210-35.1, Engine Brake Retarder Prohibition and then by establishing restrictions for engine retarders under this new section on Cocoa Ave. from SR 422 to Fishburn Road and on Fishburn Road to Homestead Road.**

Patrick O’Rourke – Chief of Police – On April 12, 2011, the Board of Supervisors authorized the advertisement of this ordinance amendment. On April 21, 2011, the advertisement appeared in The Sun.

**Motion:** A motion made by Supervisor Ballard and seconded by Supervisor Pagliarulo that the adoption of Ordinance No. 610 amending the Township’s Motor Vehicle and Traffic Ordinance No. 553, Chapter 210, Article III, Vehicle Restrictions, by **1.** adding a new section, Section 210-35.1, **Engine Brake Retarder Prohibition** and then by **2.** establishing restrictions for engine retarders under this new section on **Cocoa Ave. from SR 422 to Fishburn Road and on Fishburn Road to Homestead Road**, is hereby approved. ***Motion carried, 5-0.***

**H1-4 Adoption of Resolution No. 1305, updating the Dauphin County Hazard Mitigation Plan.**

Patrick O’Rourke – Chief of Police – The updates to the Dauphin County Hazard Mitigation Plan meet the requirements of FEMA’s July 2008 Guidance, which includes re-

evaluating projects that municipalities may undertake to mitigate hazards to their community's municipal responsibilities, and re-evaluating the severity of hazards that can and often do impact Dauphin County. The updated plan has been reviewed and approved, pending adoption by both PEMA and FEMA. Final approval will be received once Dauphin County and the forty municipalities adopt the updated plan.

**Motion:** A motion made by Vice-Chairman Fedeli and seconded by Supervisor Ballard that adoption of Resolution No. 1305, updating the Dauphin County Hazard Mitigation Plan, is hereby approved. ***Motion carried, 5-0.***

**I1-2 Permission to hold a fireworks display at Hersheypark on Saturday evening, July 4, 2011.**

James N. Negley - Township Manager/Township Treasurer – This is done every year. The rain date is July 5, 2011. Hersheypark has provided a Certificate of Insurance to the Township.

**Motion:** A motion made by Supervisor Ballard and seconded by Supervisor Moyer that Hersheypark is authorized to display fireworks on July 4, 2011, rain date is July 5, 2011, is hereby approved. ***Motion carried, 5-0.***

**J1-2 Request for a donation to the Bowman Trust for the beautification of Hershey.**

Jill Horner – Assistant Township Manager – Each year we provide \$2,500 to the Bowman Trust for the hanging baskets on Chocolate Avenue and this donation was included in the 2011 Budget. Supervisor Ballard clarified that our contribution is in addition to the private money they raise.

**Motion:** A motion made by Supervisor Ballard and seconded by Supervisor Moyer to donate \$2,500 to the William S. Bowman Trust for the beautification of Hershey, is hereby approved. ***Motion carried, 5-0.***

**CORRESPONDENCE**

Supervisor Ballard thanked the Environmental Action Committee on a great job selling 30 plus rain barrels and planting 40 trees in the community. They are also planning a recycling discussion for the end of May.

Chairman Abruzzo also thanked the staff who volunteered their time to be part of this effort. It has been very productive.

**BOARD/COMMITTEE INFORMATION**

Supervisor Ballard reported the Comprehensive Planning Update Committee met last night. The Committee has representatives from The Trust, Medical Center, and Hershey Entertainment. They also have extended an invitation to The Hershey Company. Everyone is working well together. We need to encourage residents to sign up for the electronic news on our website. This will be very helpful for an upcoming survey in August. If the residents can complete the survey online, it will be easier than to have someone data entry the responses.

Supervisor Ballard also reported that Supervisor Pagliarulo and she met with some of the staff to go over the budget figures.

## **REPORTS**

Barbara Ellis, Hershey Public Library – Ms. Ellis and other staff will be attending the Pennsylvania Library Association South-Central Chapter for a workshop. This is an opportunity to get credits for their continuing education. Reading programs for the summer are well underway.

Terry M. Weinhold – Manager of Accounts Payable & Accounts Receivable – Ms. Weinhold reported the preliminary figures for revenues and expenses are coming in under budget through April 30<sup>th</sup>.

Matthew J. Mandia – Director of Parks and Recreation – Mr. Mandia reported this past Saturday was the annual Fishing Derby. Weather and attendance was great. He thanked Public Works and the Police Department for assisting in traffic control and setting up for the event. They are preparing for the opening day of the pool on Saturday, May 28<sup>th</sup>. The Summer Camp Program is full. More details at the next meeting regarding the Memorial Day Plan.

Matt Bonanno, Township Engineer – Mr. Bonanno reported there are 8 contractors that purchased bidding documents. He issued an Addendum No. 1 yesterday to all the plan holders. Bid opening is Monday, May 16<sup>th</sup> at 2:00.

Edward L. Small – Director of Community Development – On May 5<sup>th</sup>, the Planning Commission considered the first presentation of a zoning permit for Lingle Avenue to change some area of agriculture zoning to industrial zoning. He asked the Board to schedule a public hearing to receive comment on this.

Supervisor Pagliarulo asked who was requesting the change. Mr. Small said it was the LIT Palmyra Group. They are the successors to Hillwood and they have a 135 acre property on which the General Mills Warehouses are now sitting. This would be the portion of the property in Derry Township. Supervisor Pagliarulo asked if the building was going to be in Lebanon Township. Mr. Small said a building will be built in Derry Township. He added that about 25 acres of the entire property sits in Derry Township.

Supervisor Fedeli noted the Dauphin County Planning Commission sent a letter indicating they support the change. Mr. Small added the change is out on comments as the law requires and we have received only one.

Supervisor Ballard referred to a previous conversation where we emphasized to go beyond what is required and actually give notice to all the residents along Lingle Avenue. Mr. Small said we are going far beyond the requirement. Solicitor Yost wondered if we could update our comprehensive plan map at the same time. Mr. Small said that we could.

The Board instructed Mr. Small to proceed with a public hearing for June 14<sup>th</sup> at 6:30.

James N. Negley - Township Manager/Township Treasurer – Mr. Negley explained our revenues are under budget the first quarter because the bulk of the money comes in after April 1<sup>st</sup>. At the end of March our target for expenditures is 25%, but our expenditures are 19.6% - 6% under budget.

**APPROVAL OF ACCOUNTS PAYABLE (\$258,249.09) AND PAYROLL (\$313,379.79).**

Supervisor Ballard moved to approve accounts payable in the amount of \$258,249.09 and payroll in the amount of \$313,379.79. Vice-Chairman Fedeli seconded. ***The motion carried, 5-0.***

**VISITOR / PUBLIC COMMENTS** – No one came forward.

**ADJOURNMENT**

Supervisor Ballard moved to adjourn the meeting at 8:30 p.m. Supervisor Pagliarulo seconded. ***The motion carried, 5-0.***

SUBMITTED BY:

---

Marc A. Moyer  
Township Secretary

---

Brenda Van Deursen  
Recording Secretary