

TOWNSHIP OF DERRY
BOARD OF SUPERVISORS MEETING

Tuesday, January 22, 2008
600 Clearwater Road, Hershey, Pennsylvania 17033

CALL TO ORDER

The January 22, 2008 meeting of the Township of Derry Board of Supervisors was called to order at 7:15 p.m. by Chairman, Michael H. W. Pries.

PLEDGE OF ALLEGIENCE:

All present stood for the Pledge of Allegiance.

ROLL CALL

Supervisors Present:

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

Supervisors Absent:

Kelly C. Fedeli

Also Present:

Thomas R. Clark - Director of Public Works
Barbara S. Ellis – Director of Hershey Public Library
Jill E. Horner – Assistant Township Manager
Cheryl Lontz – Manager of Accounts Payables and Receivables
Matthew J. Mandia – Director of Parks and Recreation
James N. Negley - Township Manager/Township Treasurer
Edward L. Small –Asst. Director of Community Development
William D. Smith – Chief of Police
Scott Stein – President, Hershey Fire Company
Jon A. Yost - Township Solicitor

Public Present:

Elvira Ebling, Scot Snoke, Susan Sinclair, Judi Hummel, Brady Hummel, Seth Beaver, Tim Przybylowski, Steve Todd, Al Brulo, Paul Clak

Press Present:

Jeff Werner - Hershey Chronicle
Daniel Victor – Patriot News
Drew Weidman – The Sun

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

EXECUTIVE SESSION

Chairman Pries announced the Board of Supervisors met prior in executive session to discuss legal and land issues.

VISITOR/PUBLIC COMMENT:

Edward Coyle, Attorney for Busgon Davis Law Offices, 525 S. 8th St., Lebanon – Mr. Coyle referenced a letter that was sent to the Board of Supervisors regarding Gloria and Donald Thiel. He said Mr. and Mrs. Thiel own a property located at 531 East Derry Road in Derry Township. The Thiel's have lived there for many years. On Derry Road, a sewer pipe was installed in 1997 in front of their home, A dip has developed in the road since that installation occurred and there is extensive truck traffic on the road. He explained that over the last 10 years, the Thiel's have developed extensive damage to their home. He said he advised the Thiel's to hire a structural engineer to do testing on site and give an opinion as to whether or not that dip and the truck traffic are causing the damage to their home. They did hire an engineer, Bruce Ensor at BE Structural PC. The Thiel's paid about \$10,000 to have him do extensive testing at their home. Mr. Ensor came to the conclusion that the extensive structural damage to their home, separation of members, cracking of their home, have in fact been caused by settling that has occurred as a result of the dip in the road and the truck traffic. Mr. Coyle suggested the Thiel's hire a contractor to determine what the damage to their home would cost to repair. They did hire a contractor who indicated the cost of repair of their home is over \$57,000. He also recommended they hire an appraiser to give an opinion as to the decrease in value of their property because of this having occurred. The appraiser indicated their property, without the dip and the vibration which is occurring, would be valued at \$155,000. The appraiser indicated their property has decreased in value \$90,000 because of the damage. He stated the Thiel's neighbors are having the same problem. He asked the Board how this can be handled other than through legal channels.

Chairman Pries thanked Mr. Coyle for this comments. He indicated the Board had just received this information and will have to take more consideration into this matter before they can publicly comment. Chairman Pries asked the Township staff to gather all the information and address it with the Board of Supervisors in the very near future.

Mr. Coyle asked how soon they would hear something. Solicitor Yost said the staff should look at some of the issues that are raised and report back to the Board of Supervisors by the next meeting and probably get back to Mr. Coyle and his clients by the second meeting of February.

APPROVAL OF MINUTES:

Motion: Supervisor Memmi moved and was seconded by Supervisor Abruzzo to approve the Minutes from the January 7, 2008 Board of Supervisors meeting.

Motion carried, 4-0.

NEW BUSINESS:

A1-17 THE PRELIMINARY/FINAL SUBDIVISION AND LAND DEVELOPMENT PLAN FOR COTTAGES AT THE HOTEL HERSHEY, PLAT NO. 1139

Edward L. Small –Asst. Director of Community Development – Mr. Small said this is a combination subdivision and land development plan involving land, which is the site of Hotel Hershey. Mr. Small said the project is the construction of new guest rooms north of the main hotel augmented by the upgrade of on-site recreational facilities. The total rooms offered at the cottages are 98. A small change to the Guest House which houses 1 rented facility right now would be a renovation to change the 1 to 3 rooms, adding 2 to the 98 for a total of 100 brand new guest rooms. He further explained the recreational facilities will be relocated to the back of the Hotel known as the “Backyard” which will house a plaza as a gathering spot for guests. A new front entrance is proposed. All existing parking will be reconfigured. This project does not require a traffic study. It includes the recommendation to eliminate a stop sign on Hotel Road and place that sign on the driveway. A number of waivers have been requested. The staff and Planning Commission have recommended the Board consider granting the waivers as listed in the Explanation section of the report.

Vice-Chairman Porter stated in the fall when this was first discussed with the Planning Department, he met with a few of the residents of the neighborhood adjacent to Hotel Road. When this plan was delivered to his house on Friday night, he read it and called one of those neighbors to alert him to the fact that the hearing was going to be held so he and his neighbors knew about it. Vice-Chairman Porter stated he is very pleased with the plan and HE&R and the Hotel are great entities. But he is concerned about the impact that this will have on that neighborhood especially the parking lot for the employees. On behalf of the Board, he thought they could ask the applicant if they would install a walking path at the point where the sidewalk from Senior Hall ends and take it all the way to Sand Beach Road. It would provide the residents at Pat Hill a way to walk all the way to Hershey Park. He thinks this is an improvement that is called for and mandated by our Subdivision and Land Development Ordinance and we have been asked to waive it.

He also shared that he visited the Community Development Department and told them he thought a walking path would be a good idea. They suggested he make a courtesy call to the engineers for this project. Vice-Chairman Porter said he has confidence in the applicant, they are trustworthy developer and he does not want to delay this project, but he would like them to promise they will design a walk-way that has the least environmental impact possible. He asked that we modify our waiver for the sidewalk requirement and work with HE&R for a way to allow pedestrian traffic between those two points. The other concern is dirt and debris on the roadway during construction.

Supervisor Memmi suggested HE&R look at doing something that more resembles our bike/pedestrian trail instead of a tradition 4 foot path. He asked that they check with Public Works or Parks & Rec to see what our existing trails are like.

Supervisor Memmi asked Mr. Small if the new construction for the cottages in particular were all sprinklered facilities. Mr. Small acknowledged that they were. Supervisor Memmi asked if there was access for emergency services to get back into the area. Mr. Small said the cul de sacs are generous enough to allow a complete circle by emergency vehicles even large ones.

Motion: Vice-Chairman Porter moved and was seconded by Supervisor Memmi that the suggested Motion found on page A-10 of our materials be approved with the modification to paragraph L, which would be as follows: We still would enter into the agreement with HE&R that they have to install sidewalks in the future if that is deemed necessary. But in the immediate future, HE&R would construct a path wide enough for pedestrian and bicycle travel, which would begin at a point on the West where the sidewalk from Senior Hall ends and extend to the East at Sand Beach Road, and HE&R be allowed flexibility in the exact location and composition of that path.

Garrett Gallia, Director of Corporate Relations for HE&R 835 Old Trail Road Hummelstown – Mr. Gallia thanked the Chairman of the Board for allowing them to discuss this plan. It is his understanding working with the people at Pat's Hill; the project is going to be of mutual benefit for not only townspeople, but also the guests.

Motion carried, 4-0.

B1-6 CONSIDERATION OF ENTERING INTO AN AGREEMENT WITH THE PENNSYLVANIA STATE UNIVERSITY MILTON S. HERSHEY MEDICAL CENTER REGARDING STORMWATER MANAGEMENT FACILITIES PROPOSED FOR THE HERSHEY MEDICAL CENTER SATELLITE PLANT PROJECT.

Motion: Supervisor Memmi moved and was seconded by Vice-Chairman Porter that the consideration of entering into an agreement with the Pennsylvania State University Milton S. Hershey Medical Center regarding stormwater management facilities proposed for the Hershey Medical Center Satellite Plant project is hereby approved.

Motion carried, 4-0.

C1-6 CONSIDERATION OF ENTERING INTO AN AGREEMENT WITH GRACE UNITED METHODIST CHURCH REGARDING STORMWATER MANAGEMENT FACILITIES PROPOSED ON LANDS REPRESENTED BY THE PRELIMINARY/FINAL LAND DEVELOPMENT PLAN FOR ADDITIONS TO GRACE UNITED METHODIST CHURCH, PLAT NO. 1126.

Motion: Vice-Chairman Porter moved and was seconded by Supervisor Abruzzo that the consideration of entering into an Agreement with Grace United Methodist Church

regarding Stormwater Management Facilities proposed on lands represented by the Preliminary/Final Land Development Plan for additions to Grace United Methodist Church, Plat No. 1126 is hereby approved.

Motion carried, 4-0.

D1-4 CONSIDERATION OF THE RELEASE OF THE REMAINDER OF THE PERFORMANCE SECURITY FOR THE PRELIMINARY/FINAL SUBDIVISION PLAN FOR THE DERRY TOWNSHIP INTERMODAL FACILITY.

Edward L. Small –Asst. Director of Community Development – Mr. Small reported on the remaining security being held for monuments and markers for Plat #1030 which is the subdivision plan, not the land development plan for the Intermodal Facility. At the meeting of Oct. 9th, the Board released the component of the security related to the demolition of an existing building, but retained slightly over \$10,000 for the purpose of waiting for the markers and monuments to be installed.

Motion: Vice-Chairman Porter moved and was seconded by Supervisor Abruzzo that the release of the remainder of the performance security for the Preliminary/Final Subdivision Plan for the Derry Township Intermodal Facility is hereby approved.

Motion carried, 4-0

E1-6 CONSIDERATION OF THE EXTENSION OF THE TERM OF THE PERFORMANCE SECURITY FOR THE PRELIMINARY/FINAL SUBDIVISION PLAN FOR LOT 251 OF DEER RUN, PLAT NO. 952.

Edward L. Small –Asst. Director of Community Development – Mr. Small said this item is only the extension of the bond, but there is work going on now in the background and discussions which may lead to an appearance by the developer to the Board to seek advice on where the remainder of monies that were not already expended for bike path installations might be best used. The Board is holding security in the amount of \$110,550 representing 10% more than the actual amount for the sale of lands back to him from the area that he dedicated to the Township for recreation purposes. All that money was not expended by installation of bike paths and will have an accounting available to the Board. There will be approximately \$85,000 remaining of the original amount yet to be used for installations.

Motion: Supervisor Memmi moved and was seconded by Supervisor Abruzzo to accept a renewal not to exceed one year of the Bond No. 103 752 628 in the amount of \$110,550 for the Preliminary/Final Subdivision Plan for Lot 251 of Deer Run, Plat #952, provided that the security extension is received no later than February 8, 2008, or, in the alternative, that staff is authorized to draw the balance to hold pending completion of the required improvements is hereby approved.

Motion carried, 4-0.

F1-4 AUTHORIZATION TO CONTRACT SERVICES OF A CONSULTANT TO REVIEW, ANALYZE, AND REPORT ANY OR ALL OF THE TOWNSHIP'S LAN/WAN AND TELEPHONY INFRASTRUCTURE, ASSOCIATED DESIGNS AND IMPLEMENTATIONS, AND BUSINESS CONTINUANCE PLANS.

James N. Negley - Township Manager/Township Treasurer – Mgr. Negley said during the 2008 budget hearings, the staff promised the Board and the community they would undertake a complete review of their telephone system, local network, and wiring network as it pertains to cost. Mgr. Negley contacted Dan Cohen from the Cohen Telecommunications Law Group. He is special counsel for cable matters and he recommended COMBEST. They began the process with COMBEST by providing them with our data. After review, they gave a cost not to exceed \$9,500 and they guarantee a probable savings of at least \$2,500/month.

Motion: Vice-Chairman Porter moved and was seconded by Supervisor Abruzzo that the authorization to contract services of a consultant to review, analyze, and report any or all of the Township's LAN/WAN and telephony infrastructure, associated designs and implementations, and business continuance plans is hereby approved.

Vice-Chairman Porter thanked Manager Negley for following through with this. Supervisor Abruzzo said in an effort to try to streamline technology in this building and to create as much efficiency as possible, Manager Negley and his staff have done a terrific job in identifying an area that needs to be rectified so money is not spent inefficiently. Chairman Pries concurred.

Motion carried, 4-0.

G1 MAINTENANCE AGREEMENT WITH PENNDOT FOR THE PROPOSED TRAFFIC ISLAND AT THE INTERSECTION OF SR 322 (GOVERNOR ROAD) AND SR 743 (COCOA AVENUE).

Thomas R. Clark - Director of Public Works – Mr. Clark explained that Resolution #1188 is a resolution for the Township to accept responsibility for maintenance of traffic signal as well as the traffic island that will be installed as a result of the relocation of Cocoa Avenue at Governor Road. This is typical of what is required when they redo intersections.

Motion: Supervisor Memmi moved and was seconded by Vice-Chairman Porter that the Board adopt Resolution #1188 and execute the agreement indicating their acceptance of the conditions for maintenance of the proposed traffic island at the intersection of SR322 (Governor Road) and SR743 (Cocoa Avenue) is hereby approved.

Motion carried, 4-0.

H1-2 ADOPTION OF RESOLUTION NO. 1189 AUTHORIZING THE TOWNSHIP TO ENTER INTO A TRANSPORTATION ENHANCEMENTS FEDERAL AID REIMBURSEMENT AGREEMENT FOR THE CONSTRUCTION OF PHASE 2B OF THE JONATHAN ESHENOUR BICYCLE AND PEDESTRIAN TRAIL.

Matthew J. Mandia – Director of Parks and Recreation – Mr. Mandia explained District 8 PennDOT has requested a new resolution identifying who from the Board specifically should be authorized to sign this resolution. The resolution authorizes the Chairman and Secretary specifically to execute that agreement.

Supervisor Memmi asked when the construction was going to begin. Mr. Mandia said they are waiting for comments from the Conservation District on their current permit that has been submitted. Hopefully, by mid to late March it will be out to bid.

Motion: Supervisor Memmi moved and was seconded by Vice-Chairman Porter to adopt Resolution No. 1189 authorizing the Township to enter into a Transportation Enhancements Federal Aid reimbursement Agreement for the construction of Phase 2B of the Jonathan Eshenour Bicycle and Pedestrian Trail is hereby approved.

Motion carried, 4-0.

I1-2 AWARD OF A BID FOR THE PAINTING OF THE RETRACTABLE DOME AT THE HERSHEY RECREATION CENTER.

Matthew J. Mandia – Director of Parks and Recreation – Mr. Mandia said a bid opening was held and two bids were received. The first from D.M. Coatings Inc. in the amount of \$28,000 and the second from Ralph E. Jones, Inc. in the amount of \$32,345. He anticipates once the weather breaks they can get this done before the Dome is open for the summer season. He asked that D.M. Coatings Inc. be awarded the bid.

Supervisor Abruzzo asked when the painting would occur. Mr. Mandia anticipates late April. Supervisor Memmi asked if it was going to be a change of color. Mr. Mandia said it would be a change in color in order to blend in more with the campus areas. Supervisor Abruzzo expressed concern when they sand down the outer structure, chipped paint that has to come off, that we be aware of other activities that are held in the area at that time. Mr. Mandia said this would be addressed with the successful bidder.

Motion: Supervisor Abruzzo moved and was seconded by Chairman Pries that the painting of the Dome at the Hershey Recreation Center be awarded to D.M. Coatings, Inc. in the amount of \$28,000 is hereby approved.

Motion carried, 4-0.

J1-2 CONSIDERATION OF A REQUEST FROM THE PENNSYLVANIA MUSIC EDUCATORS ASSOCIATION FOR EXONERATION FROM PAYING THE TOWNSHIP

AMUSEMENT TAX FOR STUDENT CONCERTS AT THE HERSHEY THEATRE ON APRIL 18 AND 19, 2008.

James N. Negley - Township Manager/Township Treasurer – Mgr. Negley said the Pennsylvania Educators Association is requesting this exoneration again. He said this is something we have done in the past and it falls within the outline of our Ordinance on Amusement Tax. Additionally, he checked with the Business Manager at the Derry Township School District. They intend to approve the same request at their School Board meeting.

Motion: Vice-Chairman Porter moved and was seconded by Supervisor Memmi that the Township of Derry exempt the Pennsylvania Music Educators Association from paying the Amusement Tax for musical concerts at Hershey Theatre on April 18 and 19, 2008 is hereby approved.

Motion carried, 4-0.

K1-3 PERMISSION TO HOLD FIREWORKS DISPLAYS AT HERSHEY PARK DURING THE 2008-OPERATING SEASON.

Motion: Chairman Pries moved and was seconded by Supervisor Memmi to hold fireworks displays at Hershey Park during the 2008-operating season are hereby approved.

Chairman Pries commended HE&R for the displays of fireworks for the townfolks as well as the tourists.

Motion carried, 4-0.

L1-2 ADOPTION OF RESOLUTION NO. 1190 DESIGNATING THE TOWNSHIP OF DERRY'S INTENT TO SUSPEND BANNERS ACROSS SR 0422 ANNOUNCING VARIOUS EVENTS.

Motion: Vice-Chairman Porter moved and was seconded by Supervisor Memmi to adopt Resolution No. 1190 designating the Township of Derry's intent to suspend banners across SR 0422 announcing various events are hereby approved.

Motion carried, 4-0.

CORRESPONDENCE

Supervisor Memmi commented on the 743 Bridge being posted. He reported it should not take more than two months to do the remedial work. Hopefully in 2009, they will start construction on the new bridge.

Supervisor Memmi requested and the Board agreed to allow the engineer to forward the necessary documentation to have the timing on the signal changed on Mae and Walton

Road intersections. PennDOT is accepting to expand the queuing lane further back on 322 so that more traffic can get off the road to make a left hand turn movement onto Main Street going into Hummelstown. They are going to do it as part of their Act 44 repaving of that roadway from North Hockersville Road to 322. PennDOT will do the construction if we provide them with the engineering design. He said they received a proposal from Buchart Horn for \$12,000 as a supplement to the contract as it had not been addressed.

Motion: Supervisor Memmi moved and was seconded by Vice-Chairman Porter to add a supplement to the current contract with Buchart Horn for the cost of \$12,000 to design the queuing lane further back on 322 is hereby approved.

Motion carried, 4-0.

Supervisor Memmi commented on correspondence received by Capital Region Council of Governments regarding retaining counsel to oppose some of the mandated Chesapeake Bay strategy initiatives which could cost the local municipal sewage treatment facilities in the Susquehanna corridor up to a billion dollars. This is one of the benefits of the Council of Governments. Counsel should be retained for those Townships and Boroughs who are impacted. He said because we are a municipality of over 10,000 residents, our participation would be at \$2,000 to help find alternate funding sources or convince the Governor to find some money possibly through DEP.

Motion: Supervisor Memmi moved and was seconded by Chairman Pries to approve the Manager to contact the Council of Governments with Derry Township's decision to participate and to contribute \$2,000.

Discussion: Vice-Chairman Porter said he thinks it is important to support our sister municipalities in this endeavor because it is an unfunded mandate albeit for a good cause. DTMA has already gone through the expense of making these upgrades and we have already gone through the great expense of doing these upgrades. Supervisor Memmi said that they have at the main plant, but have not addressed the southwest plant yet.

Motion carried, 4-0.

BOARD/COMMITTEE INFORMATION

Supervisor Memmi requested Scott Stephens, Manager of the Tax Association to provide a rebuttal to the article that was contained in the newspaper referencing that we should have one centralized tax collection repository for earned income tax specifically at the County level. He wanted to make the Board aware that the Association that we have in place in Derry Township does an outstanding job and all the issues out there about not knowing where the money is going, etc. has been addressed by the Association. He said we are audited annually and have done everything right. This may be one of the few municipalities in the state of Pennsylvania that may have done it right and to break up a well functioning mechanism to have our taxes split in two, makes no

sense to me relevant to the costs incurred. He went on to say we are going to pay somebody else to do something that we are going to have to keep the organization in place to do anyway. We have sent letters to our legislative delegation voicing our displeasure with the way the legislation is worded.

Vice-Chairman Porter said they had their first meeting of the year for the Library Board. At the reorganization meeting, two new members were elected to the Board, but one is unable to serve. He said he would like to appoint the third name that was on the list. He also mentioned he was pleased to see Barbara Ellis back after her accident

Motion: Vice-Chairman Porter moved and was seconded by Chairman Pries to nominate Dr. Edward Swartz for a three-year term to the Library Board is hereby approved.

Motion carried, 4-0.

Vice-Chairman Porter reported on the copy of the accident report involving the trash truck with the utility pole that occurred in front of the elementary school on December 17. The accident report indicated it was simply negligence and no alcohol or drug use was involved.

REPORTS:

Chairman Pries commended Mr. Stein, his staff and the police on the tremendous job last evening of putting out the fire at Lucy's. They should be commended for what they do for the community.

Scott Stein – President, Hershey Fire Company – Mr. Stein reported that last year the call volume number was 980 up about 10% from the previous year. He anticipates this year to be as busy of a year. A more complete report will be ready in a few weeks.

Thomas R. Clark - Director of Public Works – Mr. Clark said last Friday they completed cleanup from the December 17th storm. They have been in the process of trimming trees along the bike path, over roads, etc. It took them about 3 crews and 3-4 weeks to do it.

Barbara S. Ellis – Director of Hershey Public Library – Mrs. Ellis said they had their first Board meeting and thanked the Board for filling the vacant position on the Library Board.

Chairman Pries thanked Barbara for all she does and welcomed her back on behalf of the entire Board, the Township Administration and many of the residents of the Township.

Matthew J. Mandia – Director of Parks and Recreation – Mr. Mandia reported he is waiting for comments from the Dauphin County Conservation District for the permitting

of the bicycle and pedestrian trail. The Parks & Recreation Advisory Board is working on updating the master plan. He mentioned the next section they are working on is programming. He said the increase and the variety of programs that have occurred since 2001 is amazing.

APPROVAL OF ACCOUNTS PAYABLE (\$1,072,170.81) AND PAYROLL (\$267,367.79).

Motion: Vice-Chairman Porter moved and was seconded by Supervisor Abruzzo to approve Accounts Payable (\$1,072,170.81) and Payroll totaling (\$267,367.79).

Motion carried, 4-0.

VISITOR/PUBLIC COMMENT:

David J. Tshudy, Law Firm of Reilly, Wolfson, Sheffey, Schrum & Lundberg – Mr. Tshudy inquired if a formal action would be taken this evening to authorize the advertising of the adoption of the Ordinance and resolution to amend the comprehensive plan.

Supervisor Memmi said the Board just received testimony this evening and they would like to review the Minutes to evaluate it against the proposals and documents. He said they would consult with the solicitor and manager to take action at some future date yet to be determined.

Chairman Pries thanked the young people for participating and attending the meeting.

ADJOURNMENT:

Motion: Vice-Chairman Porter moved and was seconded by Supervisor Abruzzo to adjourn the meeting at 8:20 p.m.

Motion carried, 5-0.

SUBMITTED BY:

E. Christopher Abruzzo
Township Secretary

Brenda L. Van Deursen
Recording Secretary