

TOWNSHIP OF DERRY

BOARD OF SUPERVISORS MEETING

Tuesday, June 24, 2008
600 Clearwater Road, Hershey, Pennsylvania 17033

CALL TO ORDER

The June 24, 2008 Township of Derry Board of Supervisors was called to order at 7:20 p.m. by Chairman, Michael H. W. Pries.

ROLL CALL

Supervisors Present:

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

Also Present:

Thomas Clark - Public Works
Barbara S. Ellis – Director of Hershey Public Library
Jill E. Horner – Assistant Township Manager
Cheryl L. Lontz – Manager of Payroll and Employee Benefits
Matthew J. Mandia – Director of Parks and Recreation
Edward L. Small – Director of Community Development
William D. Smith – Chief of Police
Scott Stein – President, Hershey Fire Company
Jon A. Yost - Township Solicitor
Brenda Van Deursen, Stenographer

Public Present:

Kevin Parrey, Ben Curry, Tyler Parrey, Alex Fuller, Iwoma Laszkiewicz, Mark Curry, Garrett Frey, Sandy Ballard, Nate Pfeifer, Kendra Pfeifer, Andrew Hoover, Tom Hoover, Matt Bonanno, Dennis Trout, Lindsey Derenyi, Andy Smith, Matt Weir, Janet Weir, Charles Conz, Rebecca Lengerich, Matt McElwee, Elvira Ebling, Dori Durborow, Jake Durborow, Colin Durborow, Fred Decock, Cameron Decock, Sandy Cappelli, Rich Cappelli, Jan Waybright, Don W., Dennis Maloskey, Garrett Frey, Anne Searer, Belinda Svirbely, Matt Svirbely, Daniel Williams

Press Present:

Jeff Werner, Hershey Chronicle
Daniel Victor, The Patriot
Drew Weidman, The Sun

Chairman Pries welcomed the Boy Scouts from Troop #203 in Hershey.

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

Executive Session:

Chairman Pries announced the Board of Supervisors met in executive session to discuss Land, legal, and personnel issues.

Visitor/Public Comment:

David J. Tshudy, Reilly, Wolfson, Sheffey, Schrum and Lundberg – Mr. Tshudy thanked the Board for the opportunity to present at the Public Hearing and urges the adoption of the Ordinance for rezoning. He stated they have been working with the Board and the Township on this since September of 2007.

Chairman Pries said looking at 10 months this has been before the Township, it has already gone through the Planning Commission twice. He said Mr. Williams did speak to the Board in January. This has had ample media coverage with at least three times in the newspaper. We are working on the web site to have better communication to the residents.

Sandra Ballard, 650 Cocoa Avenue – Ms. Ballard asked the Supervisors to take notice of those who came to the Public Hearing and to this meeting because they did have concerns regarding the rezoning of agriculture conservation land.

Mark Curry, 954 Kingsway East, Hummelstown – Mr. Curry thanked the Board for welcoming him and the boy scouts. He opposes the plan based on many of the comments made this evening. He said there are no sidewalks to get across Middletown Road. The reality for people from Deer Run walking over to this new area is not a reality.

Mark Jonas, Eastburg & Gray – Mr. Jonas stated he is co-counsel with Mr. Tshudy and counsel for the Morman Church. He said he is in support of this plan. He referred to Section 225.3 – that says one of the other goals for the Township is to provide opportunities for a variety of non-residential uses. We believe these new services will be a benefit to the Township at-large.

APPROVAL OF MINUTES:

Chairman Pries called for a motion to approve the Minutes of the June 10, 2008 Board of Supervisors meeting. Vice-Chairman Porter made a motion to approve the Minutes as written. Supervisor Fedeli seconded. ***The motion carried, 5-0.***

Vice-Chairman Porter called to Elvira Ebling's attention that at the last meeting Supervisor Memmi recognized the fact that Elvira was an instrumental part in the beginning of the recycling project. He said he appreciated her efforts in what has developed into a wonderful asset for our community.

NEW BUSINESS:

A1-8 Consideration of adoption of Ordinance No. 573 amending the Code of the Township of Derry to change the classification of several parcels of land, wholly or in part, located generally at the corner of Wood Road and Middletown Road, from an Agricultural Conservation zoning classification to a Neighborhood Commercial zoning classification.

Edward L. Small – Director of Community Development – Mr. Small said this will allow an opportunity for the adoption based upon information presented during the Public Hearing before this meeting. He summarized by saying four parcels of land are affected. Three in their entirety and the fourth parcel of land is approximately 6.4 acres of the 12.4 acre tract. This area is proposed to be developed for neighborhood commercial permitted uses to serve the nearby residential neighborhoods. The applicants have presented certain improvements to offsite traffic mitigation which deal with the approach primarily to the traffic signal at Stoverdale Road and Middletown Road.

Vice-Chairman Porter asked Mr. Small if the land at the southeast corner of Stoverdale Road and Middletown Road is now zoned agricultural. Mr. Small indicated it was. Vice-Chairman Porter asked if on the Comprehensive Plan it was identified for residential development. Mr. Small said it was.

Vice-Chairman Porter asked if the developer promised as part of its submission if there was anything to be created for the safety of pedestrians who attempt to cross Middletown Road in order to get to the intersection of Stoverdale and Middletown. Mr. Small said among those items on the list is a pedestrian crossing that would afford safety to those crossing Middletown Road.

Mr. Tshudy said the items related to traffic improvements are in the May 6th letter to the Board. With regard to the pedestrian crossing, they are proposing it as part of the land and development plan for the safety of the pedestrians.

Chairman Pries asked Mr. Tshudy if he was in support of developing a pedestrian crosswalk if this gets approved. Mr. Tshudy said yes.

Vice-Chairman Porter asked Mr. Small, if as part of our Subdivision and Land Development Ordinance, is there a provision which makes mandatory a requirement that a developer incorporate into its development a bike path if we deem it necessary. Mr. Small said he believes there is.

Vice-Chairman asked Mr. Mandia if this property comes near any bike path. Mr. Mandia said the trail would potentially cross at the entrance to Hershey Heights. There is nothing that would preclude us from continuing it down to this area in the future.

Supervisor Abruzzo acknowledged valid traffic concerns that have been raised, but acknowledged that sometimes it is a product of the Township growing. The stretch of Middletown Road from Deer Run to Wood Road is a difficult area and people have to be cautious.

Supervisor Porter said he is very proud and honored of his experience as a Supervisor of Derry Township. He said he takes this job very serious. He informed everyone that he has worked very hard on this issue spending several nights looking at the zoning map, reading the zoning book, and thinking about this.

Supervisor Porter said he does think rezoning is a green initiative. He mentioned he was part of a group to evaluate the Chesapeake Bay. He said he was one of the few people in the municipal government who actually support the idea of the local sewer municipalities being upgraded.

Supervisor Porter shared his farming experience stating it is dirty, loud, and it pollutes. He mentioned that one of the leading causes of pollution in the Chesapeake Bay is farming. While this may not be the preferred spot for commercial development, no one has come forward to purchase an ideal location for commercial development in this area. Commercial development is needed to promote pedestrianism. Even if people do drive, they will drive a shorter distance. As part of our Subdivision and Land Development Ordinance, we do have the ability to require the developer, if we find it necessary, to install a bike path. Vice-Chairman Porter stated he would find it necessary. He said he would ask others to support him on this.

Our Comprehensive Plan called for what is now known as Stone Creek which wasn't originally designated as residential. A zoning change did happen and as a result we have a great number of people residing in this area. Mr. Trout's farm was originally zoned AC, but is now village residential. The net effect is more residents who need services without traveling a great distance.

Supervisor Porter stated he thinks church/synagogue are good for a community. People who go to Church tend to be better citizens and have a positive effect on the community. Pertaining to the Stoverdale Church, they need to increase their pervious coverage and to obtain public sewer. They are not going to be able to afford to have public sewer without this property being rezoned. He asked Mr. Tshudy if Dan Sheffey is able to develop this, will they bring the sewer to them. Mr. Tshudy agreed.

Any development on any of this property, the applicants will have to comply with our Subdivision and Land Development Ordinance and also our Stormwater Management Ordinance which has rigorous stormwater requirements.

Vice-Chairman Porter commented on Dan Sheffey being a well-educated, broad minded, competent and an honest individual. He feels Mr. Sheffey will come forward with something that is user friendly, that will be good for the area, nice to look at, and comparatively green.

Vice-Chairman Porter notes that our zoning ordinances do not have a zoning classification called traditional residential development which allows for a mixture of residential and commercial development which is a modern trend in zoning. The zoning that is being requested is the least expansive or permissive type of commercial zoning when compared to our other zoning classifications. It would be a development of a commercial nature that is consistent with neighborhood use.

Vice-Chairman Porter to his knowledge opposed every residential development of more than 2 or 3 houses that have come before the Board mainly because of the burden on the school district. He said if this plan, if approved, will have a positive impact on the

school district. It will raise tax revenues, will give us more school tax, and it will not increase the number of students we are trying to put in our schools.

Vice-Chairman Porter moved that this ordinance be approved. Supervisor Fedeli seconded.

Discussion:

Supervisor Memmi stated that Middletown Road and the section of Wood Road are supervised by PennDOT. He told the applicants they would have to get permission from PennDOT for a highway occupancy permit to make any of the changes they are proposing. Mr. Tshudy agreed. Supervisor Memmi said he would be in favor of amending our zoning ordinance to include traditional residential development (TRD). He mentioned the County having a model ordinance on TRD and suggested Mr. Small look into it. Supervisor Memmi said he is in support of this amendment to the plan.

Supervisor Fedeli thanked those who researched this project and reported tonight. She said she was on the Planning Commission when this project began. She had some reservations at first, but took the time since to learn more and reach out. She contacted people she knew that lived on the other side of Middletown Road and asked for their opinion. They did not have an adverse reaction to this plan. In fact, they welcomed the additional services that would be provided. She mentioned she lived on a farm for the first 18 years of her life. She shared that she did not find this the most attractive piece of land to farm. Supervisor Fedeli assured that she does not take this decision lightly given her background. She supports this plan and believes it makes sense for this piece of property.

Supervisor Abruzzo stated that Vice-Chairman Porter's comments brought out very important points that they have struggled with and he explained them very well. He thinks it is important for people to understand the issues that were raised tonight. He said a lot of the issues presented to the Board have been talked about for the past 4-5 months among others. He spoke to Dan Sheffey about this project expressing a number of the concerns that were mentioned such as, traffic, safety, development, availability of other land in the area, etc. The project has shrunk since Mr. Sheffey first brought this project to us possibly because of the resistance the Board has to this sort of sprawling development. Supervisor Abruzzo also shared his thoughts on additional residential development in this Township. He said beyond a few homes, no one is comfortable with 50 + developments because we recognize how precious the land is in the Township. He stated, there is only 25% of land in this Township they have control over to use in a productive way, to raise money to pay for our schools, and to raise money to pay for all the services the Township provides outside of the schools. He said he was all for growing green and environmentally friendly projects in the Township, but he also is a fiscal conservative and does not want to see us have to place more of the burden on residents in the Township to pay for the school system and to pay for our services. He stated he supports this project. A lot of these decisions are very, very difficult and require everyone to reach down very deep to analyze these matters on behalf of our residents. This decision was not made lightly. He thanked everyone for coming and speaking tonight.

The motion carried, 5-0.

B1-4 Consideration of the adoption of Resolution No. 1199 to amend the Derry Township Comprehensive Plan.

Mr. Small said this is the companion to the prior item. It deals with the amendment to the Comprehensive Plan which is required by resolution to make the place on the future land map parallel with the ordinance that has been adopted.

Chairman Pries called for a motion. Vice-Chairman Porter moved to approve the adoption of Resolution No. 1199 to amend the Derry Township Comprehensive Plan. Supervisor Abruzzo seconded. ***The motion carried, 5-0.***

C1-11 The Preliminary/Final Land Development Plan for the Hershey Finished Goods Facility Phase II Plant Expansion, Plat No. 1149.

Mr. Small said the Plan proposes a revision to a 2002 approval. That was the first action that followed the 1992 construction of the original West Hershey Finished Goods Facility. In 2002, under the approval of Plat #954, the Hershey Company proposed a two phase expansion of the Plan. The first phase was completed and the second phase was not. The effect of this plan is to alter the Phase II expansion from its original 35,000 sq. ft. down to 21,000 sq. ft. building. There will be a net increase of impervious cover of 800 square feet beyond what was planned and designed in 2002. The original plan, Plat #954 will remain in effect except for the sheets which are marked as replacement sheets to supersede the plan of record. Waivers have been requested and have been reviewed by Planning Commission and staff and have been approved. The Planning Commission stated when the items listed in the Agenda are corrected, they recommend approval.

Supervisor Porter recused himself from this vote as his wife is employed by Hershey Company.

Supervisor Memmi questioned if this encroaches into the cover-up garbage dump that was somewhere near that site. Mr. Small said to the best of his knowledge it was not.

Joe Witters, Ebson Engineering – He said the quarry is to the west near West Chocolate and Hershey Park Blvd. Far enough away not to disturb this.

Supervisor Memmi moved to approve the Preliminary/Final Land Development Plan for the Hershey Finished Goods Facility Phase II Plant Expansion, Plat No. 1149 with the standard conditions of reimbursement for costs incurred in the review, the performance security be provided as required, and also the waivers be granted as outlined under the explanation section of the report. Supervisor Fedeli seconded. ***The motion carried, 4-0-1.***

D1-4 Consideration of a release of a portion of the performance security for the Preliminary/Final Land Development Plan for the Evangelical Free Church of Hershey, Plat No. 1059.

Mr. Small said this plan was approved for a number of projects on the campus of the Evangelical Free Church of Hershey. Among the projects were the demolition of two classroom buildings for future parking areas, two additions to the main church building, one for classrooms and one for an activity room, and a new playground area adjacent to the main building. There was no impervious coverage as a result of all the projects and none of the projects generated additional traffic. We now hold performance security over \$121,000 to guarantee the required improvements. Based on HRG inspection, the amount of \$65,053.89 is eligible for release.

Vice-Chairman Porter moved to approve the release of \$65,053.89 from the performance security for the Preliminary/Final Land Development Plan for the Evangelical Free Church of Hershey, Plat No. 1059. Chairman Pries seconded. ***The motion carried, 5-0.***

E1-2 Ordinance No. 575 authorizing the Filing of Declarations of Taking for all temporary construction easements, permanent easements, and rights-of-way necessary for intersection improvements including widening and related improvements for a portion of the north and south sides of East Chocolate Avenue and portions of the East and West sides of North and South Lingle Avenue-Route 422 Intersection Improvement project.

Solicitor Yost said there is land acquisition that needs to be made to do this project. Some settlements have occurred, and all remaining properties are presently being negotiated. In order to move this project along, it is necessary to engage in a Declarations of Taking for those properties where negotiations fail.

Discussion: Supervisor Memmi said the majority of the properties have been acquired through negotiations. Even with this Ordinance in place, the acquisition firm will continue to negotiate and hopefully the Township won't have to go to Court and file a Declaration of Taking, but we need to be prepared.

Vice-Chairman Porter thanked Supervisor Memmi for his hard work and effort on this. He said it will be a big improvement for those who use this access and egress on the eastern part of the Township.

Supervisor Memmi moved to approve Ordinance # 575 authorizing the Filing of Declarations of Taking for all temporary construction easements, permanent easements, and rights-of-way necessary for intersection improvements including widening and related improvements for a portion of the north and south sides of East Chocolate Avenue and portions of the East and West sides of North and South Lingle Avenue-Route 422 Intersection Improvement project. Supervisor Abruzzo seconded. ***The motion carried, 5-0.***

F1-2 Voluntary sidewalk and curb reconstruction project bid letting.

Mr. Clark said the Public Works Department is offering their voluntary curb and sidewalk replacement program. He reported that 70 people are participating this year which is

doubled from years past. On April 19th they opened bid. Seven packages were sent out and 4 were received. He reported that Diversified Construction is the low bidder in the amount of \$79,905 for the entire 70 sites.

Discussion: Vice-Chairman Porter asked Mr. Clark to give a brief overview of this project. Mr. Clark explained in the spring they advertise to give the residents an opportunity to have their sidewalks or curbs replaced where they have sunk, cracked, etc. They also can put handicap ramps in at certain locations. They take call-ins during the months of April – June. He said we can get a better price by combining all those quantities than if the homeowner would go out individually. Public Works pays the invoice and then bills each resident who participates.

Supervisor Memmi asked Mr. Clark to make sure that what is being done in the Township meets the new standards of ADA.

Vice-Chairman Porter moved to approve to award the sidewalk and curb replacement project bid to Diversified Construction in the amount of \$79,905. Supervisor Fedeli seconded. ***The motion carried, 5-0.***

G1 Award of contract for cold in-place recycling of Stauffers Church Road, Wood Road, and Laurel Drive.

Mr. Clark said a bid was opened for the cold in-place recycling of Stauffers Church Road, Wood Road, and Laurel Drive. Two bids were received for this work. E. J. Brenneman in the amount of \$245,836.20 and Asphalt Paving Systems in the amount of \$187,152.72. He is recommending the award be given to Asphalt Paving Systems. They have worked for us before. This is consistent with the road projects that were provided to the Board back in April.

Discussion: Supervisor Fedeli asked what cold in-place recycling was. Mr. Clark said it is a process that allows you to take the existing road, grind it up, mix with an emulsion, and put back in place. The project should begin in the next 3-4 weeks with a completion date at the end of August. Supervisor Memmi asked Jill Horner, Asst. Manager if there is any way to use the new system CodeRED to inform the residents along those roads that they will be encountering road maintenance. Asst. Mgr. agreed. Mr. Clark made note to the \$187,152.72 being \$1500 below his construction estimate.

Supervisor Memmi moved to award the contract for cold in-place recycling of Stauffers Church Road, Wood Road, and Laurel Drive to Asphalt Paving Systems in the amount of \$187,152.72. Vice-Chairman Porter seconded. ***The motion carried, 5-0.***

CORRESPONDENCE

Supervisor Memmi recognized Roy Wells for his service of over 10 years serving as Chairman of the Board for the Zoning Hearing Board.

Supervisor Fedeli referred to a letter from Stan Ginder. His belongings were damaged in the recent explosion in Hummelstown. She asked Barbara Ellis to report on that.

Supervisor Fedeli mentioned the Youth Award program from PSATs. She asked Ms. Horner if this is something the Township has promoted. Ms. Horner said no. She explained for the benefit of the scouts present that this is a program sponsored by the State Association of Township Supervisors. There is funding available for scout troops, 4-H groups, and other youth groups that assists with Township projects.

Vice-Chairman Porter said he saw in the Building Permit correspondence from our Community Development Department that the Hershey Company applied for and received a building permit for \$4,290,000.00 expansion of the warehouse on Lingle Avenue. He said that is a positive sign for our Township and for the Hershey Company. They had to pay a \$22,414.00 building permit fee which increased our coffers to that extent. He reported a payment was also received from Hershey Trust Company in the amount of \$18,495 for a stop light at the intersection of Clearwater Road and Hershey Park Drive. This amount will help defray the cost.

Vice-Chairman Porter said he received correspondence via e-mail today from a citizen of Southpoint. The e-mail was regarding a property on Raleigh Road. He said that between the sidewalks and the road, there is a tree area. A man has cut down a few of these trees. Is it in violation of any ordinance? He asked to meet with Mr. Small after the meeting.

Supervisor Abruzzo shared that he and Supervisor Memmi were guests at a luncheon for People Movers sponsored by the Derry Township Senior Citizens Council. He recognized those volunteers who participate both at the Senior Citizens Council and People Movers for their hard work and the time they give to the people of this community.

BOARD/COMMITTEE INFORMATION

Supervisor Fedeli recognized Tom Clark for arranging meetings with PennDOT. PennDOT has agreed to meet in the near future to work out signal issues in Derry Township.

Chairman Pries asked Mr. Clark if the light at Linden next to the new museum is set up differently. Mr. Clark said it is being checked because it is not sensing vehicles. They are also checking the one at Ridge Road after receiving a number of complaints. Mr. Clark mentioned there will be a left turn lane at 743 and 322 going south.

REPORTS

Mr. Stein reported the Fire Department had the opportunity to attend a number of events in the community. One was the Police Department's community safety day. In addition, a number of the members attended the County Convention & Parade in Williamstown. The Fire Department was honored with two first-place awards. One was for most functional engine and the other as most functional fire police unit.

Ms. Ellis said Stan Ginder is the Library's service and maintenance employee. He lived just a few yards away from the explosion in Hummelstown and was affected. She made contacts with different Boards for their help. She said Vice-Chairman Porter was an excellent contact and now Stan has a place to live. In response to her appeal to the Boards, several people from the Library Board, the Friends of the Library Board, the Endowment Trust Board, and the Township Supervisors including Jim Negley, made it possible for contributions to be made to Stan to help him get through.

Ms. Ellis remarked on the incredible start with the summer reading program. Close to 1,000 registered. She said they are very busy at the library – checking out over 200 items per day.

Mr. Mandia said this is their busy season. Vice-Chairman Porter told Mr. Mandia he appreciated his note about the health of the Bull Frog Valley Creek.

Ms. Horner asked the media to note that the Township’s engineer, HRG will be making a presentation at the next Board Meeting, July 8th on the Stormwater study.

APPROVAL OF ACCOUNTS PAYABLE (\$310,907.32) AND PAYROLL (\$281,902.64).

Vice-Chairman Porter moved to approve account payable in the amount of (\$310,907.32) and payroll in the amount of \$281,902.64. Supervisor Fedeli seconded. ***The motion carried, 5-0.***

VISITOR/PUBLIC COMMENTS

No one came forward.

ADJOURNMENT

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

SUBMITTED BY:

E. Christopher Abruzzo
Township Secretary

Brenda Van Deursen
Recording Secretary