

MEETING MINUTES
BOARD OF SUPERVISORS, TOWNSHIP OF DERRY
Monday, October 24, 2011
600 Clearwater Road, Hershey, Pennsylvania 17033

REGULAR MEETING

CALL TO ORDER

The October 24, 2011 Township of Derry Board of Supervisors meeting was called to order at 7:00 p.m. by Chairman E. Christopher Abruzzo.

ROLL CALL – All present.

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
Barbara Ellis, Director, Hershey Public Library
Charles Emerick, Assistant Director of Community Development
Jill Horner, Assistant Township Manager
Cheryl L. Lontz, Manager of Payroll & Employee Benefits
Matthew Mandia, Director of Parks & Recreation
James N. Negley, Township Manager/Township Treasurer
Patrick O'Rourke, Chief of Police
Robert Piccolo, Assistant Director of Public Works
Jon Yost, Township Solicitor
Brenda Van Deursen, Recorder

Public Present: Elvira Ebling, Wayne Schutz, John Foley, Charleton Zimmerman, Kristopher Storey and employees of Servpro, Joe Burger, Jr. Mike LaCesa, Amanda Kahl, Patel Meeta

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.

OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD

Chairman Abruzzo remembered Frank O'Connell with a moment of silence. Frank was a valued member of the Board of Supervisors. He will not only be missed as a supervisor, but also as an outstanding member of this community.

Charleton Zimmerman, Palmdale – Mr. Zimmerman reported that property values in Palmdale for the last year have decreased 50%. Three bedroom homes are now going for under \$100,000. He found out from his neighbors that "landlords" are moving in from Lebanon. He believes the reason for this is that Lebanon has a landlord licensing program,

but Derry Township does not. Palmdale is an old existing neighborhood and it is becoming a mess. His neighbors told him that there are tri-axles running all night along East Derry Road and the houses that are for sale including his are not selling.

Mr. Zimmerman heard that Hershey Entertainment Resort (HE&R) won their law suit against the Harrisburg Radisson regarding the property name of Hershey for the address. He noticed in the paper that the realty companies are now saying Derry Township instead of Hershey if it is not in the downtown section of Hershey. He understands that the judge ruled that HE&R has to give permission for the use of address of Hershey unless you are in the downtown zoning.

APPROVAL OF MINUTES

Chairman Abruzzo called for a motion to approve the Minutes of the October 11, 2011, Board of Supervisors Meeting. Supervisor Ballard made a motion to approve the Minutes as written. Vice Chairman Fedeli seconded. ***The motion carried, 5-Yes 0-No.***

NEW BUSINESS

A1-21 Approval of Ordinance No. 617 authorizing and directing the incurring of non-electoral debt through the issuance of a General Obligation Note of the Township of Derry in the aggregate principal amount of \$6,000,000.00 for the Derry Township Municipal Authority to undertake flood related repairs and reconstruction at the Municipal Authority.

James N. Negley, Township Manager/Township Treasurer – Mgr. Negley explained that this financing is for the catastrophic loss in the Municipal Authority's vital operations due to the recent flooding in the Township. Similar to the recent bond financing, the Authority will be able to receive the lowest interest rates and most favorable terms if the Township completes the borrowing on their behalf. The amount of the Note will be \$6,000,000.00 and will be structured for a draw down line of credit. The Authority will make payments on this Note under an amendment to the Subsidy Agreement that is currently in place between the Authority and the Township. The new debt will not impact the Township's borrowing capacity. At the last Board meeting on October 11th, the Board authorized the township to seek RFPs for this Note. Four banks submitted bids and the most favorable bid was submitted by Fulton Bank.

Lou Verdelli, RBC Capital Markets – A request for proposal was sent to all the banks that received a proposal back in February for the Township's loan for the fire equipment. Some of those banks did not respond this time. The Municipal Authority wanted to have a 15 year term whereas the Township's loan earlier this year had a 10 year term. Many of the banks were uncomfortable going beyond 10 years in this low interest rate environment and that could be the reason some did not submit a proposal.

A proposal offering two different options was received from Centric Bank. One option was for a variable rate loan and the other one was for a fixed rate loan.

Fulton Bank's rate formula was very similar to the one provided back in February. It is 60% of the current prime rate which would be 1.95% today. Like the loan in February, they have a floor that the rate cannot go below 2%. They were able to extend the 2% for two years and it has a rate cap of 6.75%. They noted on their proposal that the rate formula is good for 10 years and at that point they would like the ability to renegotiate the rate formula. However, it is not intended for the loan to be outstanding for the full 10 years.

The other two proposals received were from Mid Penn Bank and Susquehanna.

Mr. Verdelli shared the breakdown of the issuance costs of the loan. The Authority filed for and received a waiver from the state to not go through the normal approval process so we will be able to settle this loan on November 1, 2011.

Mr. Verdelli and Donna Kreiser will review the information with the Authority on Thursday along with the subsidy agreement. Vice-Chairman Fedeli added that the Municipal Authority is hoping to get a good bit of funding from FEMA. But the process takes time and this Note is a way to get us going. We are hoping the funding comes in so we don't have to draw down completely on this loan.

Motion: A motion made by Vice-Chairman Fedeli and seconded by Supervisor Ballard that Ordinance No. 617 authorizing and directing the incurring of non-electoral debt through the issuance of a General Obligation Note of the Township of Derry in the aggregate principal amount of \$6,000,000.00 for the Derry Township Municipal Authority to undertake flood related repairs and reconstruction at the Municipal Authority, is hereby approved.

Motion carried, 5-Yes 0-No.

B1-2 Presentation of the 2010 Township of Derry Basic Financial Statements and Required Supplementary Information for the year ended December 30, 2010.

Cheryl L. Lontz, Manager of Payroll & Employee Benefits – Ms. Lontz gave each Board member a copy of the final audit for December 31, 2010. The Township is required by the second class Township code to have an audit of our financial records each year. Because the Township does not include financial data for the Township's Municipal Authority, which is a legally separate component unit, the financial statements do not present fairly, in conformity with generally accepted accounting principles. However, the good news is there were no findings.

James Krimmel, Partner and William Ashman, Audit Manager, from Hamilton Musser are the CPAs who did the audit for the Township.

James Krimmel, Partner, and Hamilton Musser – Mr. Krimmel explained that the Municipal Authority is a component unit of Derry Township and they should be included in the financial statement, but the Township elected not to include them. It is reported as a separate audit. It is a clean opinion as far as the findings of the audit.

Chairman Abruzzo asked if they were satisfied with all the internal controls. Mr. Krimmel said they were. Chairman Abruzzo asked if this audit is made available to the public. Manager Negley said it is made available to the community and has already been posted on the web site.

Supervisor Ballard referenced a negative change of net assets of \$2.5 million for both years, but she thought we had a deficit closer to \$1.5 million. Mr. Kimmel explained the two sets of financial statements. The first is a funds statement that is very similar to the records of the Township and the second is government-wide financial statements. The government-wide financial statements include capitalized assets and the debt of the Township where the funds statement does not include some of those things. Therefore, the numbers are a little bit different. There is reconciliation between the two sets of financial statements. The difference of the two numbers is simply the two ways of reporting.

Supervisor Ballard asked if the deficit was \$1.1 or \$2.5. Mr. Kimmel said the records that we maintain as Township on a day to day basis would report it as \$1.1. The \$1.1 does not have depreciation expense and other things like that.

C1-8 Consideration of the adoption of a decision in the case of Conditional Use Request No. 2011-01 as filed by Southside Community Partners, LP, and Sheetz, Inc.

Chuck Emerick, Assistant Community Development – The Conditional Use application had been submitted on behalf of Southside Community partners, L.P., owner and developer; and Sheetz, the lessee and operator as co-applicants regarding development of Lot No. 1 of the Preliminary/Final Subdivision Plan of 777 Middletown Road. The property is 12.39 acres. The applicant proposes to subdivide the property into two lots. Lot 1 will contain 2.701 acres and is located entirely in the Neighborhood Commercial zoning district. It is this lot that proposes the car wash. A public hearing was conducted on September 27, 2011. Mr. Emerick drafted a decision which if adopted would grant a Conditional Use authorization to establish an automotive car wash facility on Lot #1 of the Plan with a few conditions.

Chairman Abruzzo provided time for the Board and public to offer any comments, but none were offered.

Motion: A motion made by Supervisor Pagliarulo and seconded by Vice-Chairman Fedeli that Conditional Use Decision No. 2011-01, is hereby adopted. ***Motion carried, 5-Yes 0-No.***

D1-8 The Preliminary/Final Land Development Plan for Jay Maruti, Inc. for Proposed Hotel, Plat No. 1196.

Chuck Emerick, Assistant Community Development – This is a request for a re-approval of a plan that dates back to 2010 when the Planning Commission and the Board of Supervisors approved it, but it has not been recorded. During that time, Hockersville Road had a paving overlay that affected the site distance for the driveway for this project. The applicant's resolution to the site distance obstacle was to negotiate a new driveway entrance partially on the adjacent property, the land of CCH Associates (the CVS store). The applicant successfully negotiated this relocation. Two additional waivers are required in addition to the eight that were granted. The former eight are still in affect; however, the waivers that are necessary from Section 185-12.D.(3).(a) and 185-13.E.(4).(a) regarding showing the land holdings of CHH Associates in a manner in which it would normally be shown under our Subdivision and Land Ordinance. This is the Red Carpet Hotel which presently has 30 rooms and will be improved with 37 rooms.

Motion: A motion made by Supervisor Ballard and seconded by Supervisor Pagliarulo that the Preliminary/Final Land Development Plan for Jay Maruti, Inc. for Proposed Hotel, Plat No. 1196, is hereby approved, subject to the following:

- a. That the applicant reimburses the Township for costs incurred in reviewing the plan no later than November 24, 2011.
- b. That a revised performance security cost estimate be provided for review and approval; that performance security is provided in acceptable form to guarantee the completion of required improvements; and that the accompanying agreement be signed no later than April 24, 2012.
- c. That a letter from the Dauphin County Conservation District approving the erosion and sedimentation control plan be provided no later than April 24, 2012.

- d. That a digital file of the plan be provided in a format compatible with Auto CAD or in a DXF no later than April 24, 2012.
- e. That an HOP application (Form M-945A) be provided for review and signature no later than April 24, 2012.
- f. That a revised set of Highway Occupancy Permit drawings be provided no later than April 24, 2012 per the revisions on the land development plan set dated October 10, 2011.

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

- a. From Sections 185-12.D.(3).(a) and 185-13.E.(4).(a) regarding showing the land holdings of C.H.H. Associates, LP in greater detail.

Motion carried, 5-Yes 0-No.

E1-2 Adoption of Resolution No. 1317, amending Resolution No. 1315, providing for the assessment of the cost and expense of the maintenance street lights within the Township of Derry, pursuant to Section 2003 (a) of the Second Class Township Code, as amended, and also providing for the collection thereof.

Jill Horner, Assistant Township Manager – Since the approval by the Board of the street light rates for 2011, Asst. Manager Horner was advised there were 13 lights on Chocolate Avenue that are not lit probably due to the construction project. Ms. Horner removed them from the formula and it reduced the rate for circuit by 3 cents for the per foot rate. It changed from \$1.80/foot to \$1.77/foot.

Motion: A motion made by Supervisor Ballard and seconded by Vice-Chairman Fedeli that adoption of Resolution No. 1317, amending Resolution No. 1315, providing for the assessment of the cost and expense of the maintenance street lights within the Township of Derry, pursuant to Section 2003 (a) of the Second Class Township Code, as amended, and also providing for the collection thereof, is hereby approved. ***Motion carried, 5-Yes 0-No.***

CORRESPONDENCE – No correspondence to report.

BOARD/COMMITTEE INFORMATION – No information to report.

REPORTS

Patrick O'Rourke – Chief of Police – The Derry Township Police Department was severely affected by the flood and sustained damage to the first two levels of the police station which compromised the integrity of the police communication system, destroying storage rooms, locker rooms, and eliminated our ability to process or detain prisoners in our holding facility. The restoration companies were stretched thin. We were fortunate to have the restoration company, Servpro respond from Ft. Worth Texas to specifically address the issues faced here. We are joined this evening by project manger, Chris Storey who headed up the restoration operations and his employees. They worked countless hours by rehabilitating our facility, removing damage portions of the structure and replacing these areas with new tile, carpet, dry wall, etc. They were very kind, very flexible and their performance can be chalked up to nothing but exemplary. They have been here for six weeks and will be leaving Friday. Chief O'Rourke recognized their efforts and publicly thanked them for their assistance and will present them with a plaque on Thursday.

Robert Piccolo – Director of Public Works – Mr. Piccolo reported that the leaf trucks are out in full swing. They are trying to get the leaf routes done so they can continue the road work as the result of the floods.

Barbara Ellis, Hershey Public Library – On Wednesday, the Hershey Public Library was the recipient of a community service award along with two other libraries that we are partnered with, the Middletown Library and the small Health Library in Med Center. All new furniture is in place at the library and on November 6th, a celebration of Phase 1 of the redesign will be held.

Cheryl Lontz – Manager of Payroll Employee Benefits– The expenses for October are coming in a little high probably due to the tropical storm. Revenues are not quite where they should be. We just received in the last two weeks the money for the pension plans from the state which came in close to \$350,000.

Matthew J. Mandia – Director of Parks and Recreation – On October 15th, we had a volunteer clean-up day at Bullfrog Valley Park with over 40 volunteers. The Arts & Craft show had an attendance of over 3,000. Tomorrow is the Hershey Halloween parade at 7:00PM beginning in front of the Theater.

Matt Bonanno, Township Engineer – Mr. Bonanno reported that bridge repairs began on Mansion Road. They received a preliminary schedule from the contractor for the stormwater project. The contractor was not able to get their boring contractor on board for this coming month to work at the campground. Therefore, the first construction starts in January beginning in the Village and then they will move onto Cocoa Avenue.

Supervisor Ballard asked what they will do in January. Mr. Bonanno said as long as the weather cooperates they can install pipe.

Supervisor Pagliarulo asked if Mansion Road will be closed or can you do the construction without closing it down. Mr. Bonanno said Mansion Road will be closed and a detour planned.

Chairman Abruzzo asked for a general update on the Lingle Avenue project and on the 743 intersection project. Mr. Piccolo said he hopes they get some type of binder down for the winter time. At this point, they are trying to find out what is going on, but it will not be finished before winter. Manager Negley said they ran into an unexpected problem with the gas line. With putting the binder down, it will be opened for traffic. The asphalt will be down in the spring. Mr. Bonanno said they will update the Lingle Avenue project on the web once they get information from the contractor.

There was no update on the 743 Project. Chairman Abruzzo asked Mr. Bonanno to provide bimonthly updates to the Board on both the 743 project and the Lingle Avenue project.

Chuck Emerick, Assistant Director of Community Development – Mr. Emerick received prices for Mr. Petrina's property. PCS is looking at \$4,500 for the selective demolition and asbestos removal. BWB estimated \$5,500 but they don't do asbestos removal. Mr. Emerick believes \$7,500 would do it. Mr. Petrina told Mr. Emerick he is working at the property and has emptied one dumpster. Chairman Abruzzo said we have an obligation to move forward. If he shows substantial compliance, we would talk about it.

Supervisor Ballard noted a considerable hole in the roof. Mr. Emerick said we trying to resolve first the dangerous structure, which is the front and back porch. Once that is addressed, then we can look at the other areas. Mr. Petrina is permitted by our property maintenance code to board the building up and keep it in a safe sanitary manner.

Jill Horner – Assistant Township Manager – Asst. Manager Horner reported that the Township Safety Committee was recertified for the 17th year.

James N. Negley - Township Manager/Township Treasurer –Mr. Negley reported there were about 21 in attendance on October 17th, for a tax seminar for flood victims held by Dianna Reed.

APPROVAL OF ACCOUNTS PAYABLE (\$1,590,230.20) AND PAYROLL (\$277,469.45).

Motion: Supervisor Ballard moved to approve accounts payable in the amount of \$1,590,230.20 and payroll in the amount of \$277,469.45. Supervisor Moyer seconded. ***The motion carried, 5-Yes 0-No.***

OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD

Elvira Ebling, Areba Avenue - Ms. Ebling announced that the League of Women Voters are holding a Candidates' Night on Wednesday at 7:00 and invited all to attend. They will have a candidate for the Board of Supervisors and for the School Board.

ADJOURNMENT

Supervisor Ballard moved to adjourn the meeting at 8:00. Supervisor Pagliarulo seconded. ***The motion carried, 5-Yes 0-No.***

SUBMITTED BY:

Marc A. Moyer
Township Secretary

Brenda Van Deursen
Recording Secretary