

**TOWNSHIP OF DERRY**  
**BOARD OF SUPERVISORS MEETING**  
**Tuesday, September 27, 2011**  
600 Clearwater Road, Hershey, Pennsylvania 17033

**CALL TO ORDER**

The September 27, 2011 Township of Derry Board of Supervisors meeting was called to order at 7:26 p.m. by Vice-Chairman Kelly C. Fedeli.

**ROLL CALL**

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

Chairman Abruzzo was excused from the Board of Supervisors meeting. All other members were present.

**Also Present:**

Matt Bonanno – HRG, Township Engineer  
Thomas Clark – Director of Public Works  
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  
Jon Yost – Township Solicitor  
Brenda Van Deursen - Recorder

**Public Present:** Dennis Trout, Matt Weir, Elvira Ebling, John Foley, Linda M., Ron F., Pat Leonard, Bill Landis, Rich Gamble

***Vice-Chairman Fedeli advised that all public meetings are recorded for providing accurate minutes.***

**Executive Session:**

Vice-Chairman Fedeli announced the Board of Supervisors met in executive session prior to the Public Hearing to discuss land, legal, and personnel issues.

**VISITOR/PUBLIC COMMENT:**

Charleton Zimmerman, 115 N. Roosevelt Avenue, Hershey PA – Mr. Zimmerman mentioned two e-mails he received on Saturday regarding his property. He asked when Mr. Small is coming back. The Board said they did not know.

Rich Gamble, Hockersville Road – Our community has suffered greatly these past few weeks. This County alone lost \$150 million for property and possessions as a result of this past storm. We need to take a look at how we are developing this community. We are covering our natural protection.

He requested the Board oversee the variances passed and realize what we do today will have a big affect on our community in the future. Vice-Chairman Fedeli noted that since the flooding event has occurred they have heard comments about the nature of development in our community. They have been subject to ideas from inside and outside of the community, which they will take into consideration.

Ronald Hand, 30 Glasgow Court, Hershey – Mr. Hand said that five of the units in his development at Cambridge Commons were flooded. He said it is important that the Township have Giant correct their retention ponds. He explained the water from his area's three retention ponds flows to Giant's first retention pond, to their second pond, and then to the stream, but it has not done that. Giant finally checked and found there is a pipe broken from the first pond to the second pond causing their water to backwash into the three retention ponds. He is requesting reimbursement for their development's costs. They did not have insurance.

Chuck Emerick said that he has been in contact with a representative from Giant. Giant had a contractor come in and clean out the basin. While doing that, they found a pipe that had collapsed. They will fix the pipe and contract with a firm to constantly monitor their basin.

Vice-Chairman Fedeli asked what Giant's obligations are. Mr. Emerick said water is going to flow to the lowest point. Their basin drains to Giant's basin which is to go to Giant's second basin and then onto the stream.

Diane McCloskey, 24 Glasgow Court – Ms. McCloskey said that she did purchase flood insurance but is told she has coverage for her contents, but not her walls. FEMA told her she is not eligible for funds because she has flood insurance. She is getting no where with her insurance company or FEMA. She is glad there are letters on record to Giant, but it hasn't helped. She said anything that can be done to prevent it from happening again would be greatly appreciated.

Vice-Chairman Fedeli said the retention pond issue has been brought to the Board's attention and they will take a new look at these ponds and how they are functioning.

Mr. Hand asked Solicitor Yost if we can go after Giant. Solicitor Yost said they would need to seek independent counsel.

Pat Leonard – Pat Leonard, Chief of the Derry Township Volunteer Fire Department expressed that he supports the Township in their endeavor to receive gaming monies for fire apparatus and he also supports the Dauphin County Chiefs Associations endeavors in their quest for funding the software program. He requested that if the Board needs to discuss any issues that they contact him directly.

Chuck Emerick announced that Mr. Gilbert Petrina is having problems getting his contractor to complete the work on his property that was to be done in 60 days which would be October 7<sup>th</sup>. Mr. Petrina followed the recommendations and found a contractor. The contractor told him he could not do his property as scheduled because of all the events of the flood. He asked Mr. Petrina for a 30-day extension. Mr. Petrina is requesting a 30 day extension from the Board.

Vice-Chairman Fedeli asked if the 30 days means the contractor can't start until 30 days. Mr. Petrina said the extension is for 30 days from October 7<sup>th</sup>. The contractor was to have a dumpster in place today, but he couldn't get one due to the flooding.

Vice-Chairman Fedeli asked Mr. Emerick for his opinion. Mr. Emerick stated there has been no activity on the property. He is not in a position to grant the 30 day extension on the October 7<sup>th</sup> deadline. He mentioned the engineering report stated that the front and back porches are unstable. Mr. Emerick said if we proceed to the next steps it will most likely take 30 days for any action to be taken.

Mr. Emerick said he took a look at the second property and Mr. Petrina will be getting a letter on that property giving him 30 days.

Supervisor Pagliarulo said if we proceed with our next steps and if Mr. Petrina gets a contractor to do the work within that time, we could cease the filing at the DJ office. Vice-Chairman Fedeli said she would like to have the opportunity to talk to the Board first and then they would get back to Mr. Petrina this week.

Rich Gamble – Mr. Gamble said Mr. Petrina's property was not caused due to the flood. This is repeated history and we just finally go the second property involved. Mr. Petrina has been notified numerous years before and has made no attempt to clean up his properties. We should proceed with the next step. When do we stop giving him another chance?

**APPROVAL OF MINUTES:**

Vice-Chairman Fedeli called for a motion to approve the Minutes of the September 13, 2011, Board of Supervisors Meeting. Supervisor Pagliarulo made a motion to approve the Minutes as written. Supervisor Moyer seconded. ***The motion carried, 4-0.***

**NEW BUSINESS:**

**A1-20 The Preliminary/Final Subdivision Plan for Woodland Hills, Plat No. 1203.**

Charles Emerick – Assistant Director of Community Development - Mr. Emerick explained that this plan began as a sketch plan in 2010 to both the Planning Commission and the Board of Supervisors. No action was required by either. Public comment was limited to one neighbor at the Planning Commission meeting.

Mr. Emerick reviewed the timelines of the plan, which consisted of four submissions and then a conditional approval of the plan recommended by the Planning Commission on June 7, 2011.

The main area is a parcel of 16.65 acres and a portion of the Douglas Miller property. The plan proposes five new lots using the lot area exception criteria of the zoning regulations. The procedure allows that lots in the Agricultural/Conservation (A/C) District may be subdivided to lot sizes less than the 5-acre requirement of the A/C zoning district if their description has not been altered since December 1978. All lots in this plan are required to be 40,000 feet or more due to existing slopes of 8% or more covering over 50% of the lot area.

The design of the plan includes a short extension of Hillside Road, which will terminate in a cul-de-sac of conforming dimensions and slopes. The present design withdraws waiver requests for cul-de-sac slopes.

The developer requests to pay a fee-in-lieu of dedication of park, recreation, and open space area to the Township because of the size of the plan. It proposes to extend public sewer and water

service for all of the lots. Mr. Emerick reviewed all 11 waivers which were recommended to be approved by the Planning Commission.

Supervisor Ballard stated when you develop land and cut down trees you have to replace one for one. Jon Sheppard said they would replace every tree they cut down.

Supervisor Ballard mentioned the laws in term of sensitive environmental areas. Jon Sheppard said the ordinance allows entrance to homes in a slope area. The rest of the sight they are not disturbing.

Mr. Sheppard said they will significantly improve the stormwater by capturing water from above in a head wall that naturally flows down to the Medical Center. The head wall will slow down the water, which currently runs rampant down the hills. He explained their three lines of defense to prevent water going down from Woodland Avenue. They have worked with HRG and spent a lot of time to get this right.

David Phelps – Mr. Phelps shared that he experienced extensive damage of 6 ½ feet of water. Mr. Sheppard has explained in detail his stormwater management measures, but how are they going to monitor it in the future to assure they are functioning. If they turn out to be inadequate, what recourse do we have? Chuck Emerick referred to the stormwater ordinance adopted in December 2010. It requires the developer and homeowner to enter into an agreement with the Township laying out the responsibilities of all parties. He added that the plan will be reviewed under the stormwater ordinance and should work properly. Solicitor Yost added that nothing is designed to take care of extraordinary events. A lot of things that happened are not always the fault of the stormwater.

**Motion:** A motion made by Supervisor Pagliarulo and seconded by Supervisor Ballard that the Preliminary/Final Subdivision Plan for Woodland Hills, Plat #1203, is approved subject to the following:

- a. That the applicant reimburse the Township for costs incurred in reviewing the plan no later than October 27, 2011.
- b. That performance security be provided no later than March 27, 2012 to guarantee the completion of required improvements.
- c. That the fee in-lieu of dedication of park and recreation land be provided no later than March 27, 2012.
- d. That a Pennsylvania American Water Company statement be submitted no later than March 27, 2012 regarding the proposed hydrant and its capacity to meet the requirements of Section 185-36 regarding among others, the flow capabilities of the hydrant during an actual draw-down event.
- e. That a digital file of the plan be provided no later than March 27, 2012 as required by Section 185-13.E.(2).
- f. That a letter from the Dauphin County Conservation District approving the erosion and sedimentation control plan be provided no later than March 27, 2012.
- g. That a copy of the NPDES permit be provided no later than March 27, 2012.
- h. That a deed of dedication be provided for the Hillside Road right-of-way no later than March 27, 2012.

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

- a. From Section 185-12 to allow the plan to be a combination preliminary/final plan submission.
- b. From Section 185-22.C.(3) regarding the maximum percentage of dwelling units to be served by a cul-de-sac. One hundred percent of the lots are to be served by a cul-de-sac.
- c. From Section 185-33.C. regarding lighting along public streets, to not be required to install street lights in favor of monument lights at the end of each proposed lot's driveway.
- d. From Section 185-44 regarding dedication of park lands to allow the payment of a fee in-lieu of land dedication.
- e. From Section 185-13.E.(3) regarding plan scale requirement to allow the sensitive environmental areas, lot addition, re-grading, and erosion and sedimentation control plan to be shown at 1" = 60'.
- f. From Section 185-12.D.(3).(a).[23] regarding the depiction of pans and profiles of existing and proposed gas systems.
- g. From Section 185-12.D.(3).(a).[31] regarding providing information as to how the minimum sight distance criteria will be achieved for the driveways for Lots 2, 3, 4, and 5.
- h. From Section 185—30.F to allow the property line separating Lots 4 and 5 to not be radial to the Woodland Avenue cul-de-sac.
- i. From Section 185-25.B regarding driveway grades exceeding 7% within 20 feet of the cart way for Lots 4 and 5.
- j. From Section 185-22.C.(5) regarding dead-end streets being terminated in a permanent cul-de-sac.
- k. From Section 185-27.B and Section 174.27.D regarding easement location and width.

***The motion carried, 4-0.***

**B1-6 Presentation of the 2012 Minimum Municipal Obligation (MMO) for the Non-Uniformed and Police Pension Plans and adoption of Resolution No. 1312, a resolution electing to utilize the 75% amortization option as allowed by Act 44 of 2009 for the Derry Township Police Pension Plan.**

Cheryl L. Lontz – Manager of Payroll & Employee Benefits - Act 204 requires that each public pension plan inform the governing board of the municipality of the plan's expected financial obligation for the following year by the last business day in September. During 2012, the projected Minimum Municipal Obligation for the non-uniformed and the Police Pension Plans total \$1,009,479. Although the Township is required to do this without consideration of the State Casualty Insurance Reimbursement, the offset is estimated at \$435,000. If received, this reimbursement will make the cost of funding both pensions equal to approximately \$574,479. The total payment is due to the pension plans by December 31, 2012.

In 2008, The Township Police Pension Plan suffered an investment loss. The January 2009 valuation for the plan was prepared and the minimum municipal obligation for 2012 was estimated to be \$866,541. Act 44 allows Pennsylvania municipalities to defer much of the pension cost generated by the poor 2008 investment results. If the Board chooses to utilize the 75% amortization option, the MMO for 2012 would decrease to \$768,943, a difference of \$97,598. This difference would be paid back to the fund over the next two to four years.

**Motion:** A motion made by Supervisor Ballard and seconded by Supervisor Moyer that Resolution No. 1312, a resolution of the Township of Derry, electing to utilize the 75% amortization option as allowed by Act 44 of 2009 for the Derry Township Police Pension Plan, is hereby approved. ***The motion carried, 4-0.***

**C1-4 Consideration of the release of a portion of the performance security for the Preliminary/Final Subdivision Plan for Hill Church Glen, Plat No. 1175.**

Charles Emerick – Assistant Director of Community Development - The Township is holding a letter of credit in the amount of \$303,185.08. The developer is requesting release of a portion of the letter of credit. HRG inspected the work and has recommended releasing \$54,812.45 for work completed.

**Motion:** A motion made by Supervisor Ballard and seconded by Supervisor Pagliarulo that the Township releases \$54,812.45 from the performance security, held as Susquehanna Bank Letter of Credit #10009310961 with an original amount of \$303,185.08, which was provided for the Preliminary/Final Subdivision Plan for Hill Church Glen, Plat #1175, leaving a remaining balance of \$248,372.63, is hereby approved. ***The motion carried, 4-0.***

**D1-3 Adoption of Ordinance No 614, an ordinance amending the Code of the Township of Derry (Ordinance No. 553) Chapter 210, Section 210-20 – Right Lane to turn right: other movements prohibited – by establishing a right turn only restriction on JoAnn Avenue at Middletown Road.**

Patrick O'Rourke – Chief of Police - All ordinance amendments must be approved by the Board of Supervisors. On August 23, 2011, the Board authorized the advertisement of this ordinance. The advertisement appeared in The Hummelstown Sun on September 8, 2011.

**Motion:** A motion made by Supervisor Pagliarulo and seconded by Supervisor Moyer that Ordinance No. 614, amending the Code of the Township of Derry (Ordinance No. 553), Chapter 210 **§210-20 Right lane to turn right; other movements prohibited**, by establishing a right turn only restriction on JoAnn Avenue at Middletown Road, is hereby approved. ***The motion carried, 4-0.***

**E1-3 Adoption of Ordinance No 615, an ordinance amending the Code of the Township of Derry (Ordinance No. 553) Chapter 210, Section 210-24 – Stop intersections established - by establishing stop sign controls on Alyshia Lane at Locust Lane and Alyshia Lane at JoAnn Avenue.**

Patrick O'Rourke – Chief of Police - All ordinance amendments must be approved by the Board of Supervisors. On August 23, 2011, the Board authorized the advertisement of this ordinance. The advertisement appeared in The Hummelstown Sun on September 8, 2011.

**Motion:** A motion made by Supervisor Moyer and seconded by Supervisor Ballard that Ordinance No. 615, amending the Code of the Township of Derry (Ordinance No. 553), Chapter 210 **§210-24 Stop intersections established**, by establishing stop sign controls on Alyshia Lane at Locust Lane and Alyshia Lane at JoAnn Avenue, is hereby approved. ***The motion carried, 4-0.***

**F1 Request to conduct the Chocolate Tour 6-mile Run scheduled for Saturday, October 1, 2011 starting at 9:00 a.m. on Township Roadways.**

Patrick O'Rourke – Chief of Police - The Penn State Hershey Medical Cancer Institute has requested permission to conduct a 6-mile run to benefit the Cancer institute. This is the first year for this event, but should easily be managed. Most assigned posts will be manned by on duty police and

community service officers, but there may be a need for a limited amount of overtime. The event organizers are aware of their responsibility for reimbursement to the Township.

**Motion:** A motion made by Supervisor Moyer and seconded by Supervisor Ballard that the request to conduct the Penn State Hershey Medical Center Cancer Institute's Chocolate Tour 6-mile run scheduled for Saturday, October 1, 2011 starting at 9:00 a.m. on Township roadways, is hereby approved. *The motion carried, 4-0.*

**G1-3 Adoption of Ordinance No. 616, an ordinance amending the Code of the Township of Derry (Ordinance No. 553) Chapter 210, Section 210-38 – Parking prohibited at all times in certain locations – by establishing “no parking” restrictions on Parkside Avenue from S. Hanover Street to Royal Street on the west side and also amending Section 210-41 – Parking time limited in certain locations and certain days and hours – by deleting the currently ordained 2-hour parking limitation on Parkside Avenue.**

Patrick O'Rourke – Chief of Police - All ordinance amendments must be approved by the Board of Supervisors. On August 23, 2011, the Board authorized the advertisement of this ordinance. The advertisement appeared in The Hummelstown Sun on September 8, 2011.

**Motion:** A motion made by Supervisor Ballard and seconded by Supervisor Moyer that Ordinance No. 616, amending the Code of the Township of Derry (Ordinance No. 553), Chapter 210 **§210-38 Parking prohibited at all times in certain locations**, by establishing “no parking” restrictions on Parkside Avenue from S. Hanover Street to Royal Street on the west side and also amending **§210-41 Parking time limited in certain locations certain days and hours**, by deleting the currently ordained 2 hour parking limitation on Parkside Avenue from a point 175 feet north of Royal Street and a point 135 feet north thereof, is hereby approved. *The motion carried, 4-0.*

**Vice-Chairman Fedeli announced that the Board would be returning to executive session after this meeting to discuss possible legal issues.**

#### **H1 Establishing a Date for Trick or Treat**

**Motion:** A motion made by Supervisor Pagliarulo and seconded by Supervisor Ballard that Monday, October 31<sup>st</sup>, 2011 between the hours of 6:00 p.m. and 8:00 p.m. is established as the date and time for the Halloween Trick or Treat activities for Derry Township, is hereby approved. *The motion carried, 4-0.*

**CORRESPONDENCE** – There was no correspondence to report.

**BOARD/COMMITTEE INFORMATION** – There was no information to report.

#### **REPORTS**

Patrick O'Rourke – Chief of Police - Chief O'Rourke reported they are preparing for the upcoming antique auto event. He also mentioned the event with protesters this past Friday. It was handled professionally and ended well.

Thomas Clark – Director of Public Works – The work on shoulder stabilization of Bullfrog Valley Road was completed last week. They moved to Sand Hill Road for a second time and completed it today. At the end of last week, the debris at the recycle center was gone. They employed dumpsters at Caracas and by 2:00 all debris was cleaned up at Caracas. The removed debris at

Fiddlers Elbow Road and as of 9:00 this morning, the road was opened. They are now taking some debris at the recycle center that was not involved in the flood.

Supervisor Ballard inquired about the normal trash collection. Mr. Clark said everyone had their trash collected except two areas that had flood debris in the streets...Caracas and Fiddlers Elbow. But now normal trash collection should begin there as well.

Barbara Ellis – Director, Hershey Public Library – Ms. Ellis mentioned that the National “Banned” Book week is a way to get rid of all old books. On October 10<sup>th</sup>, they will have discussion of “The Help” which is a community book selected statewide.

Cheryl L. Lontz – Manager of Payroll & Employee Benefits – As of today, the expenditures and revenues for the year are coming in under budget. We expect state aid to come in for pension and fire.

Matthew Mandia –Director of Parks & Recreation – On October 8<sup>th</sup>, representatives from the Dauphin County Conservation District will meet regarding the Rec Center. The preliminary savings to-date since the UVC system was installed is about 30% use of chlorine.

Supervisor Moyer mentioned that many people of the community are willing and able to assist with clean up from the storm. Mr. Mandia said he is compiling a list and making plans.

Matt Bonanno – HRG, Township Engineer – Mr. Bonanno reported they have executed the agreement and bonds with the contractor, but are waiting for the revised certificate of insurance. On October 12<sup>th</sup>, they will hold a preconstruction meeting.

James N. Negley - Township Manager/Township Treasurer – Mgr. Negley reported he met with FEMA, PEMA, DEMA to tour the Township facility.

Chuck Emerick – Mr. Emerick gave an update on the properties as a result of the flooding. They had labeled 45 as dangerous and 19 condemned.

Jill Horner, Assistant Township Manager – Ms. Horner reported that our Workers Compensation is provided through a trust pulled with other municipalities. Based on premiums and losses we should receive back \$24,812. She also reported that she is working with three brokers and looking at options including solar to reduce electricity costs. She should have more information at the next meeting. Vice-Chairman Fedeli announced that Ms. Horner is the point person for FEMA, PEMA and DEMA.

**APPROVAL OF ACCOUNTS PAYABLE (\$835,845.29) AND PAYROLL (\$313,334.36).**

Supervisor Ballard moved to approve accounts payable in the amount of \$835,845.29 and payroll in the amount of \$313,334.36. Supervisor Moyer seconded. ***The motion carried, 4-0.***

**VISITOR/PUBLIC COMMENTS**

Dennis Trout – Mr. Trout referred to Agenda Item D regarding right turns. He wondered if there would be signage or a traffic island to prevent turning left. He does not believe the signage alone will work. Vice-Chairman Fedeli said they would consider his suggestions.

**ADJOURNMENT**



Supervisor Ballard moved to adjourn the meeting at 8:45 p.m. Supervisor Moyer seconded. ***The motion carried, 4-0.***

SUBMITTED BY:

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Marc A. Moyer  
Township Secretary

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Brenda Van Deursen  
Recording Secretary