**CALL TO ORDER**

Chairman John W. Foley, Jr., called the October 13, 2015 Regular Meeting of the Township of Derry Board of Supervisors to order at 7:00 p.m. in the meeting room of the Township of Derry Municipal Complex, 600 Clearwater Road, Hershey, PA. He advised that all public meetings are recorded for the purpose of providing accurate notes.

Chairman Foley announced the Board of Supervisors met in executive session to discuss land, legal, and personnel issues before the meeting. After the pledge of Allegiance, a roll call was conducted.

**The following were in ATTENDANCE:**

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| **SUPERVISORS** | **ALSO PRESENT:** |
| John W. Foley, Jr., Chairman | James N. Negley, Township Manager and Treasurer |
| Marc A. Moyer, Vice Chairman | Jill Henry, Assistant Township Manager |
| Justin C. Engle, Secretary | Chuck Emerick, Director of Community Development |
| Sandy A. Ballard | Tom Clark, Director of Public Works |
| Matthew A. Weir | Garth Warner, Lieutenant, Police Department |
|  | Bob Dilello, Hershey Fire Company |
|  | Matthew Mandia, Director of Parks and Recreation |
|  | Terry Weinhold, Manager of Accounts Payable & Receivables |
|  | Barbara Ellis, Director of Hershey Public Library |
|  | Matt Bonanno, HRG Engineer |
|  | Chris Brown, Derck & Edson |
|  | Jon A. Yost, Township Solicitor |
|  | Julie Echterling, Recorder |

Public in Attendance:

The following were in attendance: Elvira Ebling, Dale Holte, Edward Weiss, Jack Wacburt, Sue Kellner, Phil Jurus, Craig Smith, Ty Eby, Trish Foster, Dennis Trout, Susan Casa, Massimo Rizzotlo, and J Pascolti.

**VISITOR/PUBLIC COMMENTS:**

Trish Foster, Southpoint Meadows, discussed her concerns about the proposed development near Middletown Road. She spoke about the valuable oak trees and requested that as many as can be kept be preserved. She asked to see the construction plans and know which trees will be kept. She asked that construction of homes and townhomes be around the trees versus cutting them down.

Dennis Trout spoke about an email he sent containing his suggestions and ideas for the mapping. He thanked the Police for working on Middletown Road with enforcing DUI and speeding. He spoke about stormwater runoff. He believes Wood Road and Grove Street should never have been rezoned to economic growth area versus agriculture. He spoke about his two suggestions of a zoning map and a map overlay showing Hershey’s properties that weren’t in the plan.

Dale Holte, Middletown Road, spoke about the terrible tragic event with a school child and the great job the Police Department is doing. He stated he agrees with Mrs. Foster’s concerns and believes more work needs to be done. He stated home values increase with older trees by 12%.

Ed Weiss asked the Board if the three roads in his development could be plowed for the winter. He stated it cost $12,000 last year for the development.

**APPROVAL OF REGULAR MEETING MINUTES:**

Supervisor Ballard notes a change needed on page 3 for the year to be changed to 2014.

Supervisor Ballard made a motion to approve the amended minutes from the September 22, 2015 Board of Supervisors meeting. Vice Chairman Moyer seconded the motion. **Motion carried 5-0**.

**NEW BUSINESS:**

**PRELIMINARY SUBDIVISION AND LAND DEVELOPMENT PLAN FOR THE POINT, PLAT NO. 1225**

Chairman Foley stated this plan has been tabled.

**THE FINAL SUBDIVISION AND LAND DEVELOPMENT PLAN FOR THE POINT, PLAT NO. 1256**

Chairman Foley stated this plan has been tabled.

**ORDINANCE NO. 669- SIDEWALKS**

Mr. Emerick discussed the ordinance and the clarifications made in it. He spoke about the public hearing and that the Derry Planning Commission and Dauphin County Planning approved this action. Supervisor Ballard asked about public input. Mr. Emerick stated a concern was expressed about larger properties and he believes the ordinance addressed them with waivers that can be granted by the Board. Chairman Foley discussed the Milton Hershey School and the sidewalks and walking paths that are open to the public and used by residents.

Vice Chairman Moyer made a motion to adopt **Ordinance 669**. Supervisor Ballard seconded the motion. **Motion carried 5-0.**

**AWARDING BID FOR LOCUST AND JAVA AVENUE STORM SEWER IMPROVEMENTS:**

Mr. Negley stated a bid opening was conducted on October 5th at the HRG Corporate Offices. Eleven bid were received ranging from $643,813 to $1,322,525.70. HRG recommends the lowest bid from Ebersole Excavating for $643,813.

Vice Chairman Moyer made a motion to accept the bid from Ebersole Excavating in the amount of $643,815 for the Locust and Java Avenue Storm Sewer Improvements contingent upon the receipt of the properly executed Agreements and Bonds from the contractor. Supervisor Weir seconded the motion. **Motion carried 5-0.**

**FRIENDS OF THE HERSHEY PUBLIC LIBRARY WEEK – OCTOBER 18-24TH:**

Mrs. Ellis stated the Friends of the Hershey Public Library are a vital organization having served the needs of our community by supporting the library for over 50 years. During the week designated by the American Library Association, Library Friends’ groups are being honored nationally.

Chairman Foley presented Susan Kreider a proclamation from the Township of Derry proclaiming October 18-24, 2015 as Friends of the Hershey Library Week.

**FIREWORKS DISPLAY FOR ANNUAL NEW YEAR EVE CELEBRATION:**

Vice Chairman Moyer made a motion granting permission for the Community Celebration Committee to stage a fireworks display at 12:01AM on January 1, 2016. Supervisor Ballard seconded the motion. **Motion carried 5-0.**

**PERFORMANCE SECURITY RELASE FOR LEGACY LANDING:**

Supervisor Ballard made a motion to release $23,263.35 from the performance security held as Fulton Bank Letter of Credit No. D004342 for Preliminary/Final Subdivision Plan for Legacy Landing, Plat #1110, resulting in a new balance of $166,998.98. Vice Chairman Moyer seconded the motion. **Motion carried 5-0.**

**PERFORMANCE SECURITY RELEASE FOR PA STATE POLICE HISTORICAL, EDUCATIONAL AND MEMORIAL CENTER**

Supervisor Weir made a motion to release $4,543.45 from the performance security held as Members 1st Federal Credit Union Letter of Credit No. 455655-0001 for the Preliminary/Final Land Development Plan for the Pennsylvania State Police Historical, Educational, and Memorial Center, Plat #1241, resulting in a new balance of $149,004.35. Supervisor Ballard seconded the motion. **Motion carried 5-0.**

**PERFORMANCE SECURITY RELEASE FOR SOUTHPOINT MEADOWS 2, PHASE 2:**

Vice Chairman Moyer made a motion to release the remaining balance of $67,180.89 of the performance security held as United States Surety Company Bond No. 100088067 for the Final Land Development Plan for Southpoint Meadows 2, Phase 2, Plat #1197. Supervisor Ballard seconded the motion. **Motion carried 5-0.**

**PERFORMANCE SECURITY RELASE FOR COMMUNITY BANKS:**

Vice Chairman Moyer made a motion to release the performance security in the amount of $14,748.32 supplied as Community Banks Letter of Credit No. 99-2005-089-0, for the Final Land Development Plan for Community Banks, Plat #1062, and does not require maintenance security to be provided. Supervisor Ballard seconded the motion. **Motion carried 5-0.**

**CORRESPONDENCE BOARD/COMMITTEE INFORMATION:**

Supervisor Engle thanked Mr. Clark for the work done on the pedestrian crosswalk.

Supervisor Ballard thanked the Police and Mrs. Henry for a successful walk to school day. She asked about the Hockersville crossing. Supervisor Engle stated they have obtained a verbal agreement with a neighbor for the easement. Mr. Bonanno stated he hasn’t heard back from PennDOT on the speed study. She asked about the light at Fishburn. Chairman Foley spoke about the light and stated in the spring they will look at accidents and speeding for the recently installed light.

Chairman Foley stated the Fire Station is on schedule and budget. He spoke about Choctoberfest this weekend. Today is the 70th anniversary of the passing Milton S. Hershey, the founder of our town.

Chairman Foley opened a discussion about the transparency of the Board. He spoke about the complex issue that the Granada Gym was dealing with personnel and a legal contract which are required to be discussed in executive session. He spoke how the decision involved the Township, School District, Master Lease holder, and Parks and Recreation. He stated there are have been suggestions that the Board has had a lack of transparency. He knows it’s an election year, but the Board has been discussing this subject. He stated they sought a solution for the gym with the full knowledge of this Board. He stated the Board is very open about things and to say it isn’t is election year rhetoric.

Supervisor Weir stated there wasn’t a discussion about increasing memberships and stated some in the Township think the discussions with Granada Gym weren’t open.

Supervisor Ballard asked if the agenda and packet for the Board meetings could be provided a week before the meeting. She would like The Sun to receive a copy of the agenda so more of the public would know. Supervisor Engle believes progress will be slowed. Mr. Negley discussed concerns about items being added on after the agenda as the Board prefers not to have add-ons. She stated items could be added to the agenda up to the Friday before the meeting and if this doesn’t work, then we could go back to the old system. Vice Chairman Moyer stated there could be times after the agenda is provided that items will be removed and wants the public to realize this can happen. Supervisor Weir suggested a preview of the agenda the week before then receive the updated agenda and packet the next week. Chairman Foley stated we have a system that works now; however, adding things after the agenda is published may create concerns for the public about transparency. Chairman Foley spoke about an email Supervisor Ballard sends out as an advocate stating she wasn’t clear about the gym and he said that isn’t honest or transparent. Discussion ensued. Supervisor Engle would prefer to see what other Boards do and will reach out to other Boards and report back at the next meeting.

Supervisor Ballard expressed concern about what is discussed in executive session. She would like to only have executive session when there is a legal issue or personnel issues. Supervisor Engle agreed. Vice Chairman Moyer stated some of the items discussed in executive session can be discussed during the Board meeting.

Supervisor Engle suggested speaking about the right to know issue. Mr. Negley stated an invoice for approximately $9,000 was received for the month of September from outside counsel. Mrs. Henry stated there will be another invoice as they have provided them the required information. Supervisor Engle discussed the additional cost of the Township Solicitor and staff time which is costing taxpayers thousands of dollars. Chairman Foley stated the Township is in litigation with a donor.

Chairman Foley made a motion to return the money to the donor until the litigation is solved. Supervisor Engle seconded the motion. Supervisor Ballard stated she hates to return donated money to the Township and asked if there have been any other similar situations. Solicitor Yost stated he doesn’t recall. Supervisor Engle stated the monies were received for the Middletown Road study which is ongoing. Mr. Bonanno stated the initial study and extended scope is complete. The study cost was approximately $9,000 with approximately $20,000 being spent on the work. Solicitor Yost stated he needs to look at how the gift was given and the scope. Supervisor Engle suggested writing a letter to the donor with two options, send the money back, or transfer it to another account. Chairman Foley discussed the demand made by the donor. The Board agreed with the Solicitor preparing a letter and Mr. Negley signing it. Chairman Foley withdrew his motion.

Supervisor Ballard spoke about working with staff on getting answers on issues with reaching out to the Township manager versus department heads. Chairman Foley stated communication is one thing versus directives which need to go through the Board and Mr. Negley. Mr. Negley suggested if a Board member has a question to copy the whole Board so everyone receives the same answer. She asked about phone calls. Chairman Foley stated this seems like we are creating more work under the issue guise of transparency. Supervisor Engle stated some Supervisor work harder than others and documenting a phone call would burden. Supervisor Engle stated the Board needs to be in unison for directing staff.

Supervisor Weir spoke about being able to attend other Commissions and Board meetings in the Township. Chairman Foley spoke about a meeting being held hostage by a Supervisor which is a problem. He stated anytime a Board member shows up at a meeting, they are still Supervisors. He spoke about committee members coming up to him thinking they are in trouble because of interaction with Supervisors during their meeting. He stated if you go to a Planning meeting and voice opposition then it comes here for a vote, you should preclude yourself from voting. Solicitor Yost stated it is common sense. You can participate and attend but shouldn’t be arguing with the Board/Committee. He stated you are an elected official and can ask questions but not argue with them and it would seem like you are arguing with them as a Supervisor. Chairman Foley doesn’t believe we can go to a meeting and say I am here as a citizen.

Supervisor Ballard stated she attends the zoning meetings and has spoken up repeatedly about concerns on issues and design elements. Supervisor Engle stated these committee members are asked to serve by us and then feel like they are in trouble by the people who appointed them. Chairman Foley spoke about the damage done with the school board and stated it is wrong to put the citizen’s hat on because we are always Supervisors. Supervisor Engle spoke about an email she read at a meeting that upset the School Board. Chairman Foley spoke about the damage that was done by that action. She discussed why she read the email during that meeting. Supervisor Ballard asked for a policy to better understand this and the rules as this is new to her. Vice Chairman Moyer stated the policy is we need to exercise professional sound judgement. He stated we must not put undue influence on a committee or decision or have the appearance we are doing it. He spoke about the balancing of being a citizen as a Supervisor attending a meeting with using sound judgement. Chairman Foley stated everything comes to this Board and we sit in judgement of the action and need to hear both sides and then effectively render a decision. Solicitor Yost stated they are elected officials and you shouldn’t be influencing any committee or Boards. He stated guidelines for this can’t be set for something like this.

Vice Chairman Moyer thanked Mr. Clark for the work on Locust Avenue. He thanked Mr. Mandia for his work with the Cocoa Castle committee and the starting of the capital campaign. He spoke about the Dauphin County meeting for regionalization report for the police department going on tonight.

Supervisor Weir spoke about the Municipality Authority changing their bylaws with stormwater management. He spoke about working session he attended on stormwater. He spoke about a stakeholders committee to help with stormwater. He spoke about the stormwater maintenance in front of the library. Chairman Foley spoke about the maintenance plan of this area from Mr. Hoffman and he will forward it to Mr. Clark.

**REPORTS:**

Police – Mr. Warner spoke about the half marathon coming up.

Fire- Mr. Dilello spoke about being in the schools for Fire Prevention Month.

Library – Mrs. Ellis spoke about the after school programs starting this week for math.

Parks and Recreation – Mr. Mandia reminded everyone of the parade next week.

Planner – Mr. Brown spoke about the first meeting of the zoning ordinance committee and working through the issues. He stated an update will be provided at the next meeting. He spoke about the TIFF meeting last week and spoke about the revisions and an upcoming meeting.

Engineer - Mr. Bonanno spoke about the timing of the Locust/Java project including required documentation and then the notice to proceed. He stated the contract expires in September, 2016.

Community Development – Mr. Emerick spoke about Derry Cares meeting. The antennas ordinance has been drafted and a public hearing is needed. The Board agreed November 10th at 6 p.m. for the public hearing for the ordinance. Chairman Foley discussed the ordinance which expands the cell phone coverage in the Township.

**ACCOUNTS PAYABLE and PAYROLL:**

Mr. Negley stated the Accounts Payable is high because of the required $1.1 million for the MMO and other $334,000 pension payments and $205,000 for the Fireman Fund. He stated payroll is high because it includes two payroll cycles.

Supervisor Weir made a motion to approve accounts payable in the amount of $2,010,235.36 and Payroll in the amount of $629,984.14. Vice Chairman Moyer seconded the motion. **Motion carried 5-0.**

**VISITOR/PUBLIC COMMENTS:**

Phil Jurus, Locust Avenue, spoke about reaching a milestone with the awarding of the contract for their road. He gave credit to his neighbors on the street for obtaining the required information to help with the grant. He gave credit to the Board for acting on the concern. He thanked HRG and Mr. Bonanno for his hard work along with Public Works and Mr. Clark.

Susan Cort, 111 Java, thanked the Board for their service. She suggested that in January with a new Board, they should sit and look at the health of the Board. Look at their strengths and weaknesses and work better together.

Susan Kreider thanked the Board, Public Works, and Mrs. Ellis for their work with the book sales. She asked residents to attend their programs.

**ADJOURNMENT:**

Vice Chairman Moyer made a motion to adjourn the meeting at 8:58 pm. Supervisor Engle seconded the motion. **Motion carried 5-0**.

**SUBMITTED BY:**

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Justin C. Engle Julie Echterling

Township Secretary Recorder