

MINUTES

APRIL 21, 2010 LEGISLATIVE MEETING

LOWER SWATARA TOWNSHIP BOARD OF COMMISSIONERS

The regular monthly meeting of the Lower Swatara Township Board of Commissioners, held at the Lower Swatara Township Municipal Building, was called to order at 7:00 P.M. by President Frank Linn, Sr.,

Roll call was taken with the following officials in attendance:

- Frank Linn Sr., President
- William L. Leonard, Vice President
- Thomas R. Clark, Commissioner
- Robert L. Loych, Commissioner
- Thomas L. Mehaffie III, Commissioner
- Ronald J. Paul, Manager/Secretary
- Peter R. Henninger, Township Solicitor
- Jean R. Arroyo, Recording Secretary

Excused:

- Christopher K. Bauer, P.E., HRG, Township Engineer

Residents and visitors in attendance:

- Mike Williams (Bryn Gweled Subdivision)
- Ron Burkholder (ORP)
- Phyllis Zimmerman (Patriot News)
- Jim Lewis (Press & Journal)

President Linn welcomed the visitors to the meeting and opened the floor for public comments.

PUBLIC COMMENTS: None

PRESENTATION BY TOWER ONE:

President Linn reported that several Board members had the opportunity to hear a presentation by Tower One Partners at a recent conference, and Commissioner Mehaffie had suggested the company come in and offer a similar presentation to the entire Board.

Larry Romanowski, Principal of Tower One Partners, introduced himself to the Board and explained that his firm is a tower development company based out of Doylestown, PA. The firm specializes in working with municipal entities to develop cell phone towers on municipally owned or controlled properties. The firm is not affiliated with any of the wireless carriers, but is rather a third party developer whose clients are the actual municipalities. Mr. Romanowski explained that with the new technology, massive amounts of data are being placed on the wireless networks; each site has a finite amount of data it can handle, and carriers simply need more sites. Carriers of the tower companies focus on private property, because it is cheaper and there is simply more of it. This puts the municipality in the position of having to react to the applications for the development of these towers to ascertain they are in appropriate locations, conform to zoning, etc. Tower One Partners, on the other hand, develops on municipally owned property. From day one, it bears all costs associated with the site – evaluation, marketing, engineering, construction, long term maintenance, etc. In addition, Tower One gives the municipality 40% of all revenue derived from the pole. Mr. Romanowski added that a typical investment into a tower development project is about a quarter of a million dollars. Currently, Tower One is working with about twenty municipalities throughout eastern and southeastern Pennsylvania.

Commissioner Loych inquired how many carriers would be on a pole. Mr. Romanowski responded that there are various designs that can be used. The typical monopole is presently being used throughout Lower Swatara Township. The two other less common poles, the flagpole and the tree pole, are used to try to hide the tower. A flagpole can accommodate about three carriers, while a tree pole can accommodate four to five carriers. Tower One Partners focuses on properties that are suitable for monopoles, which are hidden out of the way. The monopole yields the most carriers. Tower One's standard monopole design is approximately 120 feet high and can accommodate six carriers. Commissioner Loych inquired if the carriers front any of the costs of the construction. Mr. Romanowski stated they do not.

President Linn noted that the Township does not presently have an ordinance that regulates cell towers, so contracting with Tower One would allow the Township control over where they can

go. Solicitor Henninger clarified that this is not entirely correct because of federal preemption. Under the Federal Telecommunication Act, any cell tower company showing the need to have a cell tower at a specific location, even in a residential zone, can be granted permission. The Township can, however, make it difficult for the tower companies to prove this need if Tower One has already installed towers on nearby municipally owned locations. The possibility of cell towers being built on private properties still exists though. Again, this is due to federal laws that preempt state and local laws. Mr. Romanowski added that his firm always encourages municipalities to establish, in its zoning ordinance, a pecking order that carriers or tower developers have to follow. For example, they would have to look at municipality owned or controlled properties first. Also, he suggested that towers on municipal properties be an approved use. Mr. Romanowski explained that in the case of most of his municipal clients, towers on municipal property are permitted by rights, while towers on private development usually require a conditional use.

In response to a question from Vice President Leonard, Mr. Romanowski explained that it is always easier for his company, due to planning purposes, to work in abutting municipalities. What usually happens is that the lands of the neighboring municipalities end up complimenting each other. Also, this is more compelling to the carriers, because it gives them a larger footprint to capitalize on. Vice President Leonard asked what the next logical step would be. Mr. Romanowski explained that he would basically drive around the Township and take a look at the sites the Board would propose for the towers. These sites would be evaluated, and he would give his opinion to the Board. The Board would provide the final direction on whether it would want him to market these sites to the carriers. As far as contractual requirements, Mr. Romanowski stated that when they actually have a project, the sites would need to be secured with a site lease agreement. He would also ask for a letter agreement between Tower One Partners and the Board authorizing them to be able to market the properties. Vice President Leonard inquired if this job would be sub-contracted out down the road. Mr. Romanowski verified that it would not; the Township would be working with him and his firm.

Solicitor Henninger asked for verification that there would be no commitment from the Township by having Tower One Partners do the preliminary site evaluation. Mr. Romanowski confirmed that this is correct; the commitment doesn't happen until both sides agree to pursue marketing of the site(s).

President Linn asked if the cell towers would be fenced. Mr. Romanowski responded that all towers are secured with 8' security fences. The type of fence will be selected based on the individual site. For example, chain link fence with barb wire on top may be used in remote locations, while decorate vinyl fence may be used in park locations. President Linn thanked Mr. Romanowski for his informative presentation.

APPROVAL OF MINUTES:

A motion was made by Commissioner Loych, seconded by Commissioner Clark, to approve the Minutes of the March 17, 2010 Legislative Meeting. The motion was unanimously approved.

A motion was made by Commissioner Loych, seconded by Commissioner Mehaffie, to approve the Minutes of the April 7, 2010 Non-Legislative Meeting. The motion was unanimously approved.

APPROVAL OF BILLS:

A motion was made by Vice President Leonard, seconded by Commissioner Loych, to approve Payment of Bills as presented on Warrant No. 2010-3. The motion was unanimously approved.

APPROVAL OF TREASURER'S REPORT:

A motion was made by Vice President Leonard, seconded by Commissioner Clark, to approve the Treasurer's Report for March 2010. The motion was unanimously approved.

ENGINEER'S REPORT: None

SOLICITOR'S REPORT:

Solicitor Henninger reported that he has been attempting to tie up the loose ends to get the Meade Avenue Project out to bid. He is still waiting for Prologis, who owns property in this area, to sign the temporary construction easement. He explained that the difficulty with Prologis is that there is a process: documents must be sent to Mechanicsburg first, which then sends them to Wilmington, Delaware, which then sends them off to the home office in Denver, Colorado. Solicitor Henninger stated that it has been three months, but there is not much he can do to make the

individuals sign a very basic temporary construction easement agreement. Everything else is ready to go. Vice President Leonard suggested the staff contact Representative Payne and ask that he contact the Denver office of Prologis. Commissioner Loych suggested Senator Piccola also be involved. Vice President Leonard agreed that the Township needs to get all the state agencies involved, since this project is very important to economic development. Commissioner Mehaffie further suggested that Representative Holden be asked to intervene; he may be able to contact someone in Colorado to move this ahead. Solicitor Henninger agreed that since federal money is involved in this project, Representative Holden would be an excellent individual to contact. Solicitor Henninger will pursue this.

MANAGER'S REPORT:

Mr. Paul referenced the list of future meetings. He called attention to an email from the staff basically confirming information on the Middletown woody waste program, as reported to the Board by resident Tom Fisher at the April workshop meeting. Also referenced was a notice from PPL regarding the upgrading of some of the street lamps to more efficient models. An update from Glenn Snavely and a copy of minutes taken by resident Tony Guerrieri on the recent meeting with United Water Company regarding the water pressure problem was discussed. United Water is acknowledging that there is a problem, and is continuing to look into it. Commissioner Mehaffie reported that he had spoken to a plumber about this situation. If it doesn't get corrected, the plumber indicated that there are whole house pumps that will increase the water pressure. This could be a last resort if there is no other solution. President Linn noted this may be an option, but shouldn't be necessary. United Water has acknowledged the problem and needs to correct it. Commissioner Loych agreed, and added that the Spring Garden Chapel, located in this area, must be able to have the correct pressure for its sprinkler system.

President Linn referenced the issue with the hours of the Middletown woody waste site. As reported last meeting by resident Tom Fisher, the center is only open Monday thru Friday, from 8:00 A.M. to 3:00 P.M., which is not convenient to most residents. President Linn requested two Commissioners and the highway superintendent meet with the Borough's highway superintendent to discuss the possibility of offering Saturday hours. Commissioner Loych suggested that before a meeting is held, a letter from the Board be sent to the Borough stating the concern. Perhaps an employee can work Tuesday through Saturday so the site can be open and available. Vice President

Leonard stated that if residents are able to use the facility on Saturdays, more permit fees will be collected, which will offset the cost of Saturday manpower hours. Commissioner Loych reminded the Board that Lower Swatara Township was part of the grant application for this site, so it should have rights too. Commissioner Clark agreed with sending a letter to Borough Council. He noted that meeting with the highway superintendent might not be the best option, since that individual probably does not have the authority to make the changes. Vice President Leonard suggested that a phone call be made in the meantime. Prior to sending out a letter, Mr. Paul agreed to make the contact with the Borough's Public Works Department to ask who the Township should talk to in order to improve this situation.

COMMITTEE REPORTS:

Police Committee – Commissioner Clark – reported that Chief Wiley had emailed the Board the results of the recent testing. The Chief had met with the members of the Civil Service Commission this week. Commissioner Clark reported that the COG met Monday, and heard a nice presentation that offers a program on identify theft protection to municipal employees through a monthly payroll deduction. This information will be forwarded to Mr. Paul.

Public Safety – Commissioner Mehaffie – no report

Public Works – Commissioner Loych – reported the Department is getting the baseball fields ready for opening day, which is this Saturday, April 24. Wood carpet has been placed around all of the playground equipment and mulch has been placed around the trees at all of the parks. The Department is also working at the Greenfield Park Soccer Fields. The line painters were here last Thursday, and everything is complete with the exception of the roads that will be overlaid this year. The Department also painted several lines for speed enforcement for the Police Department. Commissioner Loych reminded the Board and residents that the dumpster will be open Saturday, May 1, from 8:00 A.M. to Noon. Commissioner Loych also reported that the Recreation Board will be meeting tomorrow.

Budget and Finance – Vice President Leonard – reported that cash receipts for March totaled \$1,023,491.49. The major sources of revenues were from real estate taxes, the SARAA patron parking fees, and other miscellaneous receipts. Cash expenditures totaled \$597,215.14 and were comprised of the two payrolls, transfers to the various miscellaneous funds, expenses associated with this season's snow storms, and all invoices due and payable. Investments totaled \$586,377.17

with an average annual yield of .5%. Vice President Leonard stated that with three months of the year elapsed, receipts are slightly ahead of budgeted amounts. He referenced the expenses associated with snow removal already this year, and noted the Township has already paid more this far into the year than it did for the entire 2009 season. Hopefully the second half of the year will be milder, but mother nature still controls some types of spending. Mr. Paul added that the Township does have an opportunity to possibly recoup some of this money through a federal disaster application. He called attention to draft Resolution No. 2010-R-8, for the declaration of a snow emergency on February 9, 10, and 11 of 2010. This resolution authorizes Alan Knoche, Lower Swatara EMA Coordinator, to execute for and behalf of the Township all required forms and documents for the purpose of obtaining financial assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act. A motion was made by Commissioner Clark, seconded by Commissioner Mehaffie, to approve Resolution No. 2010-R-8. The motion was unanimously approved.

Vice President Leonard reported that earlier this month, he and Mr. Knoche had met with the three chiefs at the Fire station. The Fire Department takes a look at its operating procedures pretty much on an annual basis to make sure it has the right equipment, responds in the right areas, etc. The Township is unique in that it has the Airport, the PA Turnpike, and Penn State University in its jurisdiction. Each of these has some unique emergency and fire and rescue service requirements. The Fire Company is aware of the fact that there have been some resolutions passed at the state level that outline what municipal responsibilities are from an emergency services standpoint. It is not sure, however, what legal requirements this places on the Township and Fire Department. Vice President Leonard asked that the Board direct Solicitor Henninger to do some research, on behalf of the Township and Fire Department, on these requirements as they relate to emergency services that are requested or should be provided to facilities such as Penn State, HIA, and the Turnpike. Mr. Paul asked if Solicitor Henninger had a ballpark figure for this review. Solicitor Henninger responded he did not, but would take a look at it and get back to the Board. Vice President Leonard agreed that while this needs to get done, it doesn't have to be approved this evening. Solicitor Henninger will work up a figure and bring it back to the Board for formal action.

Community and Economic Development – President Linn --- reported the Provost at Penn State Harrisburg will be leaving, and he will be attending a reception for her.

UNFINISHED BUSINESS:

A motion was made by Commissioner Loych, seconded by Commissioner Mehaffie, to table the Final Subdivision Plan for Bryn Gweled East (26 lots), located along Lumber Street, immediately south of PA 283, prepared by Dauphin Engineering Co. and submitted by B W Partnership. The plan was recommended for approval by the Planning Commission on May 24, 2007. 90-day time extensions were granted by the Board on July 18, 2007, November 21, 2007, February 20, 2008, May 21, 2008, August 20, 2008, November 19, 2008, February 18, 2009, May 20, 2009, August 19, 2009, November 18, 2009 and February 17, 2010. The plan is due to expire on May 19, 2010. The motion to table was unanimously approved.

A motion was made by Commissioner Loych, seconded by Commissioner Mehaffie, to table the Final Land Development Plan of Residential Retirement Community, Phase 1, located along Fulling Mill Road at the intersection of Nissley Drive, prepared by Navarro & Wright, Inc. and submitted by Fulling Road LLC. The plan was recommended for approval by the Planning Commission on November 15, 2007 with stipulations. The plan was due to expire on February 20, 2008. 90-day time extensions were granted by the Board on February 20, 2008, May 21, 2008, August 20, 2008, November 19, 2008, February 18, 2009, May 20, 2009, August 19, 2009, November 18, 2009 and February 17, 2010. The plan is due to expire on May 19, 2010. The motion to table was unanimously approved.

NEW BUSINESS:

Mr. Paul explained the first agenda item pertains to the Final Subdivision Plan for Old Reliance Farms, Section 18B (9 lots), prepared by Dauphin Engineering Co. and submitted by Old Reliance Farms Partnership. The plan is due to expire on May 16, 2010. The plan is before the Planning Commission, not the Board. Mr. Paul explained the engineer from HRG who has been reviewing the plan has some personal issues and has been out of the office for over a month. Therefore, the developer is requesting a 90-day time extension on the plan. A motion was made by Commissioner Loych, seconded by Commissioner Clark, to grant a 90-day time extension, as requested by the developer, on the Final Subdivision Plan for Old Reliance Farms, Section 18B (9 lots), prepared by Dauphin Engineering Co. and submitted by Old Reliance Farms Partnership. The motion to grant a time extension was unanimously approved.

Mr. Paul explained the next three resolutions pertain to member contributions to the Police Pension Plans for years 2008, 2009, and 2010. As the Board is aware, these numbers are established by the MMO done at the end of each year. During a recent pension audit, it was suggested that the Board enact a resolution to follow up on this when the percentage contributed is less than 5%.

A motion was made by Commissioner Loych, seconded by Commissioner Clark, to approve Resolution No. 2010-R-5. This resolution reduces member contributions to the Police Pension Plan for year 2008. The motion was unanimously approved.

A motion was made by Commissioner Loych, seconded by Commissioner Clark, to approve Resolution No. 2010-R-6. This resolution reduces member contributions to the Police Pension Plan for year 2009. The motion was unanimously approved.

A motion was made by Commissioner Loych, seconded by Commissioner Clark, to approve Resolution No. 2010-R-7. This resolution reduces member contributions to the Police Pension Plan for year 2010. The motion was unanimously approved.

A motion was made by Commissioner Clark, seconded by Vice President Leonard, to approve authorization of payment for the Highspire Waste Water Treatment Plant BNR construction upgrades, Requisition No. 6, in the amount of \$34,807.07 to Highspire Borough Authority. The motion was unanimously approved.

A motion was made by Commissioner Clark, seconded by Commissioner Loych, to approve authorization of payment for the Highspire Waste Water Treatment Plant BNR construction upgrades, Requisition No. 7, in the amount of \$762,371.61 to Highspire Borough Authority. The motion was unanimously approved.

A motion was made by Commissioner Loych, seconded by Commissioner Mehaffie, to approve authorization of payment for the Middletown Waste Water Treatment Plant BNR construction upgrades, Requisition No. 2-A, in the amount of \$73,183.78 to Middletown Borough Authority. The motion was unanimously approved.

A motion was made by Vice President Leonard, seconded by Commissioner Loych, to approve preparation and advertisement of an ordinance that would adopt the "2009 International Property Maintenance Code, First Printing", as published by the International Code Council, Inc., with certain deletions, amendments and additions. Mr. Paul added that the Board has been provided a draft of the ordinance for review and comment. The staff does have questions about

Sections 302.81 and 302.82, which is new language; comments about the draft ordinance, particularly these sections, should be submitted to Mr. Paul within the next week or so. The motion was unanimously approved.

Mr. Paul stated that he had one additional item for Board consideration tonight. An additional request for payment for the Highspire Wastewater Treatment Plant BNR construction upgrade, in the amount of \$640,948.85 was just received and is in the process of being reviewed by the Township Engineer. Mr. Paul asked that the Board consider conditional approval on this item, based on concurrence of the staff and verification by the Township Engineer. A motion was made by Commissioner Clark, seconded by Commissioner Mehaffie, to conditionally approve authorization of payment for the Highspire Waste Water Treatment Plant BNR construction upgrades, Requisition No. 8, in the amount of \$640, 948.85 to Highspire Borough Authority. Said conditional approval is based on concurrence by the staff and engineer. The motion was unanimously approved.

FINAL COMMENTS:

President Linn reminded the Board and public that Senator Piccola will be conducting a Town Meeting here at the Township Building on May 1, from 11:00 A.M. to Noon.

Commissioner Loych inquired if the Board would be taking action tonight on the presentation by Tower One Partners. Solicitor Henninger agreed that the Board should make a motion in order for Mr. Romanowski to do his preliminary review of the Township facilities. A motion was made by Commissioner Mehaffie, seconded by Commissioner Loych, to authorize Tower One Partners to conduct its preliminary investigation of possible Township sites that may be used for construction of cell towers. The motion was unanimously approved. Commissioner Clark noted that he would be interested in seeing a copy of the cell tower ordinance that Solicitor Henninger is drafting for Londonderry Township. Solicitor Henninger agreed that he will distribute copies, although it has not been conformed to Lower Swatara Township yet. Commissioner Clark added that he has read that the federal government is pushing municipalities to approve these cell tower applications much faster than they had been approved in the past. Solicitor Henninger agreed that this is correct.

ADJOURN:

Hearing no other business, a motion was made by Commissioner Loych, seconded by Vice President Leonard, to adjourn the meeting. The motion was unanimously approved, and the meeting adjourned at 8:17 P.M.

ATTEST:

Ronald J. Paul
Township Secretary