

MINUTES

AUGUST 17, 2011

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. President Linn called for the pledge of allegiance and moment of silence.

Roll call was then taken with the following officials in attendance:

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

Absent:

- Thomas R. Clark, Commissioner

Residents and visitors in attendance:

- Bobbie Van Buskirk (GreenWorks Development)
- John Tiernay (GreenWorks Development)
- Matt Tunnell (GreenWorks Development)
- Timothy Przybylowski (Century Engineering)
- Jon Wilt (1257 Longview Drive)
- Tim Sipe (KGH Properties)
- Matt Genesio (KGH Properties)
- Phyllis Zimmerman (Patriot-News)
- Peg Stoops, Tom Williams, Mike Williams (Bryn Gweled Subdivision)
- John R. Huff (Fulling Road LLC)
- Mark Will (Fulling Road LLC)
- Jim Lewis (Press & Journal)

President Linn opened the floor for public comments.

PUBLIC COMMENTS: None

APPROVAL OF MINUTES:

A motion was made by Commissioner Loych, seconded by Commissioner Mehaffie, to approve the Minutes of the July 20, 2011 Legislative Meeting. The motion was unanimously approved.

A motion was made by Commissioner Loych, seconded by Commissioner Mehaffie, to approve the Minutes of the August 3, 2011 Workshop Meeting. The motion was unanimously approved.

APPROVAL OF BILLS:

A motion was made by Commissioner Leonard, seconded by Commissioner Mehaffie, to approve the Payment of Bills as presented on Warrant No. 2011-7. The motion was unanimously approved.

APPROVAL OF TREASURER'S REPORT:

A motion was made by Commissioner Leonard, seconded by Commissioner Loych, to approve the Treasurer's Report for July 2011. The motion was unanimously approved.

ENGINEER'S REPORT:

Ryan Hostetter, HRG, provided a status update on the Meade Avenue construction project which is close to completion. The signal on Meade Avenue is now on flash mode, and will be operational on Tuesday, pending the final inspection from Penn DOT. Mr. Hostetter stated that Meade Avenue is scheduled to be open to traffic on September 2.

Vice President Leonard questioned the new signal, and asked if the signal that is presently there will be shut off when the new one becomes functional. Mr. Hostetter confirmed that when the new signal is turned on, the existing signal will be simultaneously terminated. Vice President Leonard also asked if the existing entrance into the CVS area will be closed. Mr. Hostetter responded that it will be, and explained that vehicles will now access CVS through the new Meade Avenue and that driveway.

SOLICITOR'S REPORT: None

MANAGER'S REPORT: None

COMMITTEE REPORTS:

Public Safety – Commissioner Mehaffie – stated that fortunately, the recent amount of heavy rainfall did not result in any real flooding in the Township.

Public Works – Commissioner Loych – no report

Budget and Finance – Vice President Leonard --- reported that cash receipts for the month of July totaled \$979,528.52. Major sources of revenue included miscellaneous grants, including the ongoing Meade Avenue project and the recycling grant, franchise fees (i.e., Comcast), various Act 511 taxes, and other miscellaneous receipts. Cash expenditures totaled \$1,256,304.89 and were comprised of the two transfers for the payroll account, the expenses associated with the Meade Avenue project, the quarterly payment for EMS services, and all invoices due and payable. Investments totaled \$521,514.88 with an average annual yield of 0.5%. Vice President Leonard also reported that the Fire Department is going through the contract processes and spec development for both the rescue truck and the engine. Solicitor Henninger stated that he had reviewed the documentation for the pumper truck and everything appears to be in order. He is now awaiting copies of the signed documents from the Fire Company. After these are received, he will be able to provide the Department with the required opinion letter from counsel. He anticipated this should be wrapped up by the end of the week. Vice President Leonard also reminded the Board and public of the August 28 Motorcycle Breakfast. There will also be a breast cancer benefit ride to raise awareness and funds for breast cancer. Commissioner Mehaffie asked if there was a time line on the Fire Department's grant from the County. Vice President Leonard agreed to look into this question.

Community and Economic Development – President Linn -- – stated that as mentioned during the engineer's report, groundbreaking for the Meade Avenue Project is expected to occur on September 2. He also reported that the Penn State Advisory Board is scheduled to meet next month.

UNFINISHED BUSINESS:

Mr. Paul referenced the first two plans under Unfinished Business, the Bryn Gweled Subdivision and the Residential Retirement Community Plan, both of which are scheduled to expire this evening. He noted that representatives from these plans are here this evening. Mark Will introduced himself to the Board, and explained that he and John Huff represent Fulling Road LLC and are here tonight to request another 90 time extension on the residential retirement community plan. He explained that a lot of work and effort has been put into the proposed residential retirement community over the past four years. Initially, there was a buyer for the residential section of this project. However, due to the economic climate, the buyer lost its financing. As a development company, Fulling Road LLC is now exploring the possibility of building the project out itself. It is also exploring 55+ and over rental opportunities since the rental market is expanding, while the new home market is not. Mr. Will noted that most of the conditions of the final plan have been met. The big issue is upgrade to the Lumber Street interceptor. Fulling Road LLC is working with Attorney Kent Patterson of the Highspire Borough Authority to finalize the required agreement. He explained that they are prepared to sign the necessary agreement and BW Partnership has already signed it. Tom Flynn, who is also involved in the agreement, has not agreed to sign it. Before Mr. Flynn signs it, he is requesting all parties sign a cost sharing agreement. Mr. Will explained that while they have signed it, BW Partnership has not. This cost sharing agreement needs to be signed by all parties before the Highspire Agreement can be signed.

Mr. Paul stated that the signature of Mr. Flynn is irrelevant to the Highspire Agreement, since the parties involved in that particular agreement are Fulling Road LLC and BW Partnership. Mr. Will clarified that Mr. Flynn is actually also part of this agreement. Mr. Paul stated that he did not recall Mr. Flynn being part of the original agreement. Solicitor Henninger agreed that he didn't remember Mr. Flynn being part of the Highspire Agreement. He remarked, however, that he had spoken to Attorney Patterson, who informed him that he had not had contact from Fulling Road LLC since February. There seems to be a real lack of communication. Mr. Paul agreed, and noted that it has been four years, so he will have to go back and review his records. Solicitor Henninger explained that the bottom line is that in order for this plan to move forward, Fulling Road LLC must have a signed agreement with Highspire Authority and also post the necessary improvement guarantees, etc. The condition for the Bryn Gweled Subdivision is that this agreement must be in

place. Solicitor Henninger added that neither plan approvals were conditioned upon Mr. Flynn being part of the agreement with Highspire.

Vice President Leonard questioned the extension request, and asked how much time would be needed to do the necessary research and obtain the necessary signatures. Mr. Wills responded that enough time would be needed for the Williams' (BW Partnership) to be comfortable with the cost sharing agreement. Mr. Flynn will then sign the Highspire Agreement, which will be taken back to Attorney Patterson for acceptance and subsequent signature by the Highspire Borough Authority. Commissioner Loych stated the name "Tom Flynn" is being thrown around, and asked who this individual is representing. Mr. Paul explained that Tom Flynn represents ACT (Advanced Conversion Technology) on Fulling Mill Road. Mr. Flynn was responsible for a number of e.d.u.'s when the addition was put on the ACT building. Commissioner Loych stated that after four years, he has a tough time granting yet another 90 day time extension. Mr. Paul added that what even prompted this discussion was receipt of a letter from the Dauphin County Conservation District stating that the E & S plan was going to be withdrawn. This made the Township question whether there was a good faith effort being shown by the developers to pursue movement on these plans. Mr. Paul explained that the Township isn't trying to place blame on anyone, but there simply hasn't been movement on these plans. He stated that he doesn't understand why some of these items can't get to the completion point so that the proper bonding can be placed.

President Linn agreed that he is frustrated with these time extensions, and the blame being placed on other parties. He suggested the Board grant a 50-day time extension on the plans. If the conditions are not met at that time, the plans would be rejected and from here on out, there would be no extensions on the plans. Mr. Wills stated that everyone would lose if that happens. Mr. Paul agreed, but again stated that some movement must occur on these plans. He suggested a 60-day, rather than 50-day, time extension in order to fall into sequence with the monthly meeting dates. Solicitor Henninger explained a 60-day extension would fall short of the Board's October 19 meeting. He suggested that if this is the Board's direction, it would make sense to grant the time extension until October 20. A motion was made by Vice President Leonard, seconded by Commissioner Loych, to grant a time extension until October 20, 2011, on 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 also grant a time extension until October 20, 2011 on 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. Solicitor Henninger interjected that since both developers had submitted requests for 90-day time extensions, they would need to amend their requests and ask for a time extension until October 20, 2011. He asked Mr. Wills if he was in agreement with this amended request. Mr. Wills confirmed that he was. He then asked BW Partnership if it was in agreement with this amended request. Tom Williams, representing BW Partnership, asked about the possibility of the Municipal Authority taking over the project. It could in turn sell the e.d.u.'s to the residents. Mr. Paul explained this would probably be more expensive, but stated this is something Mr. Williams would have to take up with the Municipal Authority. Solicitor Henninger again asked BW Partnership if it was agreeable to amending its request for a time extension from the original 90-day request to the date of October 20. BW Partnership agreed that it was. Commissioner Mehaffie suggested the motion to grant the time extension until October 20 also include the provision that the developers provide the Board with updates on the progression of the plans/agreements at each of the meetings up to the October 19 meeting.

Mike Williams stated that having a plan just about ready and then having the Township reject it would not be good for the Township, and he would question this type of thinking. Vice President Leonard agreed, and added that is why the Board is granting yet another time extension. He added that if there has been communication with the Township before now, tonight's debate may not have gotten to this level. With the motion on the floor and seconded to grant a time extension on both plans to October 20, the motion was unanimously approved.

A motion was made by Commissioner Loych, seconded by Vice President Leonard, to table the Final Subdivision Plan of Old Reliance Farms, Section 18-B (9 lots) prepared by Dauphin Engineering, Inc. and submitted by Old Reliance Partnership. The plan was recommended for approval by the Planning Commission on May 27, 2010. A 90-day time extension was granted by the Board on April 21, 2010. A one-year time extension was granted by the Board on July 21, 2010. The plan is due to expire on August 25, 2011. An additional 90-day time extension was granted by the Board on July 20, 2011. The plan is due to expire on November 23, 2011. The motion was unanimously approved.

A motion was made by Vice President Leonard, seconded by Commissioner Loych, to table the Revised Five Oaks Village (Mobile Home Park) Plans located on Swatara Park Road, prepared by Dauphin Engineering Co. and submitted by Thomas A. Farr on behalf of Shirley J. Farr, owner. The plan was recommended for approval by the Planning Commission on June 23, 2011 with stipulations. The motion was unanimously approved.

NEW BUSINESS:

Mr. Paul stated the first plan under New Business is the Final Lot Consolidation Plan for Lawrence Street Student Housing (19 Lots; 6.010 Acs.), located north of S.R. 0230 (West Main Street) immediately adjacent to Lawrence Street, prepared by Century Engineering and submitted by Lawrence Street Partners, L.P. The plan was recommended for approval by the Planning Commission on July 28, 2011 with stipulations. The plan is due to expire on October 26, 2011. The stipulations have been addressed, with the exception of the posting of the improvement guarantees for the property corners, which will be addressed as part of the Land Development Plan. Before acting on the plan, Mr. Paul suggested the Board act on the waiver request associated with the plan. A motion was made by Vice President Leonard, seconded by Commissioner Loych, to grant a request for an "Alteration of Requirement" for a waiver of the Preliminary Plan as required by Section 403 of the Code of Ordinances, Chapter 22, Subdivision and Land Development (Planning Commission recommending granting said waiver). The motion was unanimously approved. A motion was then made by Vice President Leonard, seconded by Commissioner Mehaffie, to approve the Final Lot Consolidation Plan for Lawrence Street Student Housing (19 Lots; 6.010 Acs.), located north of S.R. 0230 (West Main Street) immediately adjacent to Lawrence Street, prepared by Century Engineering and submitted by Lawrence Street Partners, L.P. The motion was unanimously approved.

The next plan for consideration was the Final Land Development Plan for Lawrence Street Student Housing (3 Buildings, 66 Units), located north of S.R. 0230 (West Main Street), immediately adjacent to Lawrence Street, prepared by Century Engineering and submitted by Lawrence Street Partners, L.P. The plan was recommended for approval by the Planning Commission on July 28, 2011 with stipulations. The plan is due to expire on October 26, 2011. Mr. Paul explained that while all stipulations have been met, the Township is still awaiting E & S and NPDES approvals from the County. In addition, it is waiting for the actual letters of credit from

then bank. Mr. Paul also noted that the Township will be invoicing for final engineering costs, which are always over the review fees. He explained that this actually pertains to all plans, including the student housing plans. The staff is suggesting a conditional approval on the plan based on receipt of these items. Prior to acting on the plan itself, Mr. Paul suggested the Board act on the waiver request and the Operation and Maintenance Agreement, Stormwater Management Best Management Practices, for said plan. A motion was made by Commissioner Loych, seconded by Vice President Leonard, to grant the request for an "Alteration of Requirements" for waiver of the Preliminary Plan as required by Section 403 of the Code of Ordinances, Chapter 22, Subdivision and Land Development. (Planning Commission recommended granting said waiver). The motion was unanimously approved. A motion was made by Commissioner Loych, seconded by Commissioner Mehaffie, to approve the Operation and Maintenance Agreement, Stormwater Management Best Management Practices for said plan. The motion was unanimously approved. A motion was then made by Commissioner Mehaffie, seconded by Commissioner Loych, to conditionally approve the Final Land Development Plan for Lawrence Street Student Housing (3 Buildings, 66 Units), based on receipt of the E&S and NPDES approvals, the posting of improvement guarantees, and the payment of any outstanding engineering costs. The motion was unanimously approved.

Mr. Paul stated the staff is also recommending a conditional approval of the Construction Plans of Lawrence Street Relocation, prepared by Forino Company, L.P. and submitted by Kutztown Group Holdings and Lawrence Street Partners. The plan was recommended for approval by the Planning Commission on July 28, 2011 with stipulations. Again, the Township is awaiting E&S and NPDES concurrence from the County, the posting of the improvement guarantees, and payment of any outstanding engineering costs. A motion was made by Commissioner Loych, seconded by Commissioner Mehaffie, to conditionally approve the Construction Plans of Lawrence Street Relocation, based on receipt of E&S and NPDES approvals, the posting of improvement guarantees, and the payment of any outstanding engineering costs. The motion was unanimously approved. Vice President Leonard congratulated both developers on the progress of these student housing projects, and surmised they will add a lot to the southeast portion of the Township and the entry-way into Middletown. He thanked them for keeping communication open with the Board, and asked that they continue this dialogue.

A motion was made by Commissioner Mehaffie, seconded by Commissioner Loych, to approve the Proposal for Engineering Services, Supplement No. 4, in the amount of \$13,500.00 to HRG, Inc. for construction phase services relative to the Meade Avenue Project. The motion was unanimously approved.

A motion was made by Commissioner Loych, seconded by Vice President Leonard, to approve the payment of \$13,768.52 to HRG, Inc. for services rendered for the period June 27, 2011 through July 31, 2011 for construction phase services relative to the Meade Avenue Project. The motion was unanimously approved.

A motion was made by Commissioner Mehaffie, seconded by Vice President Leonard, to approve the payment of Estimate No. 12 in the amount of \$22,022.52 to Navarro & Wright Consulting Engineers for construction phase services relative to the Meade Avenue Project. The motion was unanimously approved.

A motion was made by Commissioner Mehaffie, seconded by Vice President Leonard, to approve Application for Payment #16 in the amount of \$286,230.40 to Leon E. Wintermeyer, for construction phase services relative to the Meade Avenue Project. The motion was unanimously approved.

A motion was made by Commissioner Mehaffie, seconded by Vice President Leonard, to approve the following 2011 Personal Tax Exonerations:

List 1, Full Bill

Per Capita	\$7,255.00
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Mr. Paul explained the Board did approve this same amount at the July meeting, but the numbers had been multiplied by \$5.00 instead of \$10.00. This action will correct that. The motion was unanimously approved.

A motion was made by Commissioner Loych, seconded by Vice President Leonard, to approve the Scope of Work for engineering services associated with the six Minimum Control Measures (MCMs) for Permit Year #9 of the NPDES Phase II, Stormwater Permit, as submitted by HRG, Inc. (estimated fee of \$8,000). The motion was unanimously approved.

ADJOURN AND CONVENE INTO EXECUTIVE SESSION:

President Linn asked that the Board convene into executive session in order to discuss personnel matters. Hearing no other business, a motion was made by Commissioner Loych, seconded by Vice President Leonard, to adjourn the meeting and convene into executive session. The motion was unanimously approved, and the meeting adjourned at 7:48 P.M.

ATTEST:

Ronald J. Paul
Manager/Secretary