

MINUTES

DECEMBER 21, 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
- Thomas R. Clark, Commissioner
- Robert L. Loych, Commissioner
- Thomas L. Mehaffie III, Commissioner
- Ronald J. Paul, Manager/Secretary
- Harry N. Krot, Manager
- Peter R. Henninger, Township Solicitor
- Alan Knoche, EMA Coordinator
- Marylou Rittner, Financial Administrator
- Jean R. Arroyo, Recording Secretary

Excused:

- HRG, Township Engineer

Residents and visitors in attendance:

(PLEASE SEE ATTACHED SIGN-IN SHEET)

President Linn welcomed the visitors to the meeting, and reported that the Board had convened in executive session at 6:00 P.M. this evening in order to discuss a personnel issue. He then opened the floor for public comments.

PUBLIC COMMENTS:

Osman Kamara, 413 Edinburgh Road, stated that he and some of his neighbors in the Colonel Burd Estates are here tonight to express concern over building going on in the neighborhood. He explained that he had questioned the construction, and was told by the contractor that a manufactured mobile home was being brought in. President Linn clarified that this is not a mobile home, but a manufactured home. Mr. Kamara then distributed to the Board copies of a "Declaration" for Colonel James Burd Estates, Phase II, Section 1 and highlighted items which all other homeowners here were required to do to build a home in this neighborhood, such as have a garage. This home will not adhere to these requirements. Solicitor Henninger explained that just prior to the meeting tonight, he had explained to one of the residents in attendance, Mr. LeHew, that Declarations such as this are private agreements between the property owners; the Township can't enforce private agreements. The Township, however, does have zoning regulations which must be adhered to, and the Zoning Officer oversees these regulations. Mr. Paul, Zoning Officer, explained that the zoning ordinance sets up minimum requirements. Garages and carports aren't mandated by the zoning ordinance; what is mandated are two off street parking spaces. The home in question must meet the same building codes that a stick built home must meet. He added that in many cases, industrialized housing units are built even better than stick built houses. Mr. Paul noted that there are four industrialized housing units in Old Reliance Farms, and it would be difficult to differentiate these modular homes from the "stick built" homes.

Alan Knoche, Residential Code Enforcement Officer, stated the point of confusion here seems to be in differentiating mobile homes from industrialized housing. Industrialized housing (modular homes) is put together on site, and is every bit as sturdy as stick built homes. Mobile homes are not modular homes. He agreed that in a Residential Multi-Family District such as this, manufactured mobile homes are prohibited. Mr. Knoche offered to meet with the neighborhood residents to answer any other questions they may have about this issue.

APPROVAL OF MINUTES:

A motion was made by Commissioner Loych, seconded by Vice President Leonard, to approve the Minutes of the November 16, 2011 Legislative Meeting. The motion was unanimously approved.

A motion was made by Commissioner Loych, seconded by Commissioner Clark, to approve the Minutes of the November 22, 2011 Special Meeting. The motion was unanimously approved.

A motion was made by Commissioner Loych, seconded by Commissioner Mehaffie, to approve the Minutes of the December 7, 2011 Workshop Meeting. The motion was unanimously approved.

APPROVAL OF BILLS:

A motion was made by Vice President Leonard, seconded by Commissioner Loych, to approve the Payment of Bills as presented on Warrant No. 2011-11. The motion was unanimously approved.

APPROVAL OF TREASURER'S REPORT:

A motion was made by Vice President Leonard, seconded by Commissioner Mehaffie, to approve the Treasurer's Report for November 2011. The motion was unanimously approved.

ENGINEER'S REPORT: No report

SOLICITOR'S REPORT: No report

MANAGER'S REPORT:

Mr. Paul informed the public that the Township Office will be closed on December 26 and January 2; the Board will hold its Reorganization Meeting on Tuesday, January 3, at 7:00 P.M.

COMMITTEE REPORTS:

Police Committee – Commissioner Clark -- no report

Public Safety – Commissioner Mehaffie – stated that he had nothing to report, but acknowledged Alan Knoche, EMA Coordinator. Mr. Knoche updated the Board and public on the hazard mitigation grant program, and added that he is looking for guidance from the Board. There are two separate projects being applied for: the first is to acquire the Farr apartment building in Swatara Park, and the second is to acquire sixteen single family dwellings. Total cost of both projects is \$2,200,401. The federal government will pay 75% of this figure. The state, however, has still not

made a decision on how much of the 25% local share it will cover. Mr. Knoche stated that the state mitigation officer indicated that it will probably be between 20% – 22% of the project cost. That means the Township will still need to cover 3% -- 5%, or \$66,012.03 -- \$110,020.05. This is where guidance is needed. Mr. Knoche asked the Board's direction if the state decides on a 20% - 22% share. Does the Board wish to proceed or walk away from the program. President Linn stated his personal feeling is that the Township must come up with the money. If it doesn't, it will continue to deal with flooding in this area. Commissioner Clark stated it would be appropriate for the Township to proceed as if it plans to follow through. Mr. Knoche verified that he can submit the paperwork and still withdrawal from the program at any time. A motion was made by Commissioner Clark, seconded by Commissioner Loych, to proceed with submission of paperwork for the hazard mitigation grant program. The motion was unanimously approved. Mr. Knoche added that he frankly doesn't know what will happen if the Township does not follow through with this program. Most of these home owners have already been stretched to capacity and have used all their money to buy other homes. The majority have no money to demolish these homes. If they can't afford money to demolish the funds, they obviously can't afford to pay citations issued by the Township either.

Public Works – Commissioner Loych — reported that the Olmsted Recreation Board does not meet this month.

Budget and Finance –Vice President Leonard --- reported that cash receipts for November totaled \$496,313.03. The major sources of revenues were the distribution from the state for the Meade Avenue project (208,648.90), a reimbursement to the General Fund from the Highway Aid Fund for road work (\$143,058.90), permits—all types (\$32,410.00), and other miscellaneous receipts. Cash expenditures totaled \$618,653.00 and were comprised of the two transfers to the payroll account, the expenses for the Meade Avenue project (paid by the funds mentioned above), the quarterly payment to Hershey Med for EMS services, and all invoices due and payable. Investments totaled \$521,565.74 with an average annual yield of 0.5%. Vice President Leonard reported that since the Fire Department receives public money from the Township, the Township is required to meet with the Fire Department to review its budget. This will most likely occur in January.

Community and Economic Development – President Linn -- -- reported that the student housing projects are moving ahead. He added that there is also a new partner at the Linden Centre and movement should be occurring there soon.

UNFINISHED BUSINESS:

A motion was made by Vice President Leonard, seconded by Commissioner Loych, 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 BW 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, February 17, 2010, May 19, 2010, July 21, 2010, and November 17, 2010, February 16, 2011, and May 18, 2011. The Board granted an additional time extension on August 17, 2011, with an expiration date of October 20, 2011. The Board granted an additional 90-day time extension on October 19, 2011. The plan is due to expire on January 18, 2012. The motion was unanimously approved.

A motion was made by Vice President Leonard, seconded by Commissioner Loych, 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, February 17, 2010, May 19, 2010, August 18, 2010, and November 17, 2010, February 16, 2011, and May 18, 2011. The Board granted an additional time extension on August 17, 2011, with an expiration date of October 20, 2011. The Board granted an additional 90-day time extension on October 19, 2011. The plan is due to expire on January 18, 2012. The motion was unanimously approved.

A motion was made by Vice President Leonard, seconded by Commissioner Loych, 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, and one-year time extension was granted by the Board on July 21, 2010. Additional 90-day time extensions were granted by the Board on July 20, 2011 and again on

October 19, 2011. The plan is due to expire on February 21, 2012. 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:

A motion was made by Vice President Leonard, seconded by President Linn, to approve Ordinance No. 536. This ordinance appropriates specific sums estimated to be required for the specific purposes of the municipal government, hereinafter set forth, during fiscal year 2012. A roll call vote was taken with the following ballot tabulation: Commissioner Mehaffie – nay, Commissioner Loych – nay, Commissioner Clark – nay, Vice President Leonard – aye, President Linn – aye. With a 2 – 3 margin, the motion to approve Ordinance No. 536 failed to carry and was rejected.

Solicitor Henninger stated that the Board cannot move on to the next agenda item which sets tax rates. A budget must first be in place. While the Board must have a budget in place by December 31, it does have the ability, under First Class Township codes, to modify this advertised budget as long as the changes do not increase expenditures by more than 10% in aggregate or 25% in any particular category. Commissioner Loych said he would like to balance the budget by utilizing the \$116,000 from Benacon, the Township's health insurance broker, that the Board became aware of today, and take the remainder out of the Capital Reserve. Commissioner Loych asked for a recall to open up the vote on Ordinance 536. A motion was made by Commissioner Loych, seconded by Commissioner Clark, to approve Ordinance No. 536 with the revision that the \$116,000 from Benacon be utilized, with the remaining shortfall to be taken from reserves. Solicitor Henninger stated that the advertised budget shows taxes at a specific amount, with a .6 mill increase. The budget Commissioner Loych is proposing has no tax increase. Therefore, several line items in this ordinance need to be adjusted accordingly. He stated that the motion includes adding in \$116,000 in from Benacon funds and taking the remainder from Capital Reserves. He asked if the Board also wants to include FEMA money (\$100,000) and funds from delinquent taxes

(\$70,000). Commissioner Clark confirmed this is the intent. Mr. Paul noted that Marylou Rittner, Financial Administrator, is in attendance. He suggested Ms. Rittner and Solicitor Henninger take a few minutes to look at these numbers and plug in the accurate figures. Ms. Rittner questioned the accuracy of the refund figure from Benacon, since the year is not over. Commissioner Loych stated this is the figure as of the end of September. Ms. Rittner also reminded the Board that some of this refund goes back to the Municipal Authority. Mr. Paul stated that the Board will skip the next agenda item, setting of the tax rate, until Ms. Rittner and Solicitor Henninger come back with the revised figures.

A motion was made by Commissioner Loych, seconded by Vice President Leonard, to approve Ordinance No. 538. This ordinance amends the Code of Ordinances of the Township of Lower Swatara No. 448, as amended, Chapter 18, Sewers and Sewage Disposal, Part 5, User Charges, Setting the user charges at \$44.75 per EDU per month effective February 1, 2012. A roll call vote was taken with the following ballot tabulation: Commissioner Mehaffie – aye, Commissioner Loych – aye, Commissioner Clark – aye, Vice President Leonard – aye, President Linn – aye. Ordinance No. 538 was approved by a 5 – 0 margin.

A motion was made by Commissioner Clark, seconded by Commissioner Mehaffie, to approve Resolution No. 2011-R-15. This resolution amends, changes, and modifies the Code of Ordinances of the Township of Lower Swatara, Ordinance No. 448, Fee Resolution, as same pertains to Stormwater Management Plan Review and Solid Waste and Recycling Program Administration. The motion was unanimously approved.

A motion was made by Vice President Leonard, seconded by Commissioner Clark, to approve Resolution No. 2011-R-16. This resolution dedicates a portion of Meade Avenue (SR 230 to Hunter Lane) for use as a public road. The motion was unanimously approved.

A motion was made by Commissioner Mehaffie, seconded by Commissioner Loych, to approve Resolution No. 2011-R-17. This resolution authorizes the establishment of an Employee Benefit Opt Out Program. The motion was unanimously approved.

Mr. Paul noted the next agenda item is to act on the Agreement by and between the Township of Lower Swatara and Lower Swatara Township Non-Uniformed Employees (specifically, the Public Works Department). The Agreement is effective January 1, 2012 to December 31, 2014. Mr. Paul added that yesterday the Department's negotiating committee presented a letter stating that upon stabilization of the budget, the Department would like the

opportunity to negotiate pay increases for 2012 to assist in the rising cost of living. He noted this wording is not contained in the Agreement before the Board tonight. President Linn suggested that this request be put on record. A motion was made by Commissioner Loych, seconded by Commissioner Mehaffie, to approve the Agreement by and between the Township of Lower Swatara and Lower Swatara Township Non-Uniformed Employees. Agreement is effective January 1, 2012 to December 31, 2014. The motion was unanimously approved.

A motion was made by Commissioner Clark, seconded by Commissioner Mehaffie, to approve the payment of \$7,069.22 to HRG, Inc. for construction phase services relative to the Meade Avenue Project for the period October 3, 2011 through November 27, 2011 (final invoice for the project). The motion was unanimously approved. In response to question from Commissioner Clark, Mr. Paul verified that this project should still be under the budgeted amount.

A motion was made by Commissioner Loych, seconded by Commissioner Clark, to approve the acceptance of the low bid for the Spring Garden Drive Flood Repair Project as submitted by Mainline Excavating in the amount of \$31,353.50. The motion was unanimously approved.

Mr. Knoche referenced comments made about adding the FEMA money into the 2012 budget. He asked if this was for the public assistance program and noted the Township has not even gotten the figures together for that yet. Commissioner Clark stated that the Board is well aware of this.

President Linn informed the public that the Board's Reorganization Meeting will be held Tuesday, January 3 at 7:00 P.M. The workshop will follow the reorganization.

Ms. Rittner and Solicitor Henninger came back into the meeting with amended Ordinance No. 536 (budget summary) and Ordinance No. 537 (setting of the tax rates). The amendments reflect the addition of the anticipated FEMA reimbursement (\$100,000; 357.16), the anticipated Benacon refund (\$116,000; 380.00), and the addition of \$70,000 from anticipated delinquent tax revenue which is expected to come in prior to the end of the year along with an increase from the amount transferred from Capital Reserve Fund (\$74,770; 392.30). Solicitor Henninger explained that the motion to approve Ordinance No. 536, as amended, has already been made and seconded. This ordinance appropriates specific sums estimated to be required for the specific purposes of the municipal government, hereinafter set forth, during fiscal year 2012. A roll call vote was taken with the following ballot tabulation: Commissioner Mehaffie – aye, Commissioner Loych – aye, Commissioner Clark – aye. Vice President Leonard asked to address this ordinance prior to his

vote. He thanked the staff and Board for their time and input. Passing the presented ordinance gives the Township a budget, keeps operations going, maintains staffing levels and services, etc. He noted, though, that he is concerned about managing some accounts on too fine a level and counting on some revenues that aren't necessarily solid. If 2012 turns out to be anything like 2011, this Board will have put an undue burden on the new Board, because it is uncertain where the money will come from. Vice President Leonard stated that he thinks a tax increase is inevitable, if not this year. He doesn't agree with this budget, but will support it. Therefore, Vice President Leonard stated that he will abstain. President Linn commented that he is opposed to cutting everything out of the budget. He added that he believes in reserves, because it is important to be prepared. He added that those who don't think the Township needs a tax increase – shame on them. The Board will definitely need to come back next year for a tax increase. President Linn stated that he is sad, and votes nay. Ordinance No. 536 was approved by a 3 – 1 margin with President Linn dissenting and Vice President Leonard abstaining.

Solicitor Henninger explained that Ordinance No. 537, as advertised, has also been amended based on the budget just now passed. It has been amended to maintain the 2.5 mills tax rate, with no tax increase. A motion was made by Commissioner Clark, seconded by Commissioner Loych, to approve Ordinance No. 537 as amended. This ordinance fixes applicable tax rates for the year 2012. A roll call vote was taken with the following ballot tabulation: Commissioner Mehaffie – aye, Commissioner Loych – aye, Commissioner Clark – aye, Vice President Leonard – abstain, President Linn – nay, Ordinance No. 537 was approved by a 3 – 1 margin, with President Linn dissenting and Vice President Leonard abstaining.

FINAL COMMENTS:

Commissioner Loych thanked the Board for the opportunity to work together. He noted that this is his last meeting as a Commissioner, and stated this budget was an eye opener.

Solicitor Henninger stated it was an honor to serve Commissioner Clark and Commissioner Loych.

Vice President Leonard also thanked Commissioner Clark and Commissioner Loych for their service.

Mr. Krot stated it was a pleasure getting to know both Commissioner Clark and Commissioner Loych, if only for a short time. He wished both the best of luck.

President Linn stated that he also hates tax increases, but they are sometimes necessary. The Board short changed the Township tonight. He expressed hopes that next year is better.

ADJOURN:

Hearing no other business, a motion was made by Commissioner Loych, seconded by Commissioner Clark, to adjourn the meeting. The motion was unanimously approved, and the meeting adjourned at 8:05 P.M.

ATTEST:

Ronald J. Paul,
Manager/Secretary