

## **MINUTES**

### **NON-LEGISLATIVE MEETING**

**JULY 6, 2011**

The Non-Legislative 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
- Peter R. Henninger, Solicitor
- Richard T. Wiley, Police Chief
- Jean R. Arroyo, Recording Secretary

Excused:

- HRG, Township Engineer
- Steve Anderson, Public Works Director

Residents and visitors in attendance:

- Chris DeHart (LST Fire Dept.)
- Jon & Julie Wilt (1257 Longview Drive)
- Matt Genesio & Tim Sipe (KGH Properties)
- Blaine Deyle (MX Energy)

President Linn reminded the public that the Board's workshop meetings have been advertised to allow for formal vote on items, when necessary. Several items require action tonight. He asked that the Board consider these items at this time.

A motion was made by Commissioner Loych, seconded by Commissioner Clark, to approve the Proposal for Engineering Services, Supplement No. 3, in the amount of \$5,000.00 to HRG, Inc. for construction phase services relative to the Meade Avenue Project. The motion was unanimously approved.

A motion was made by Commissioner Mehaffie, seconded by Vice President Leonard, to approve the Application for Payment #13 in the amount of \$503,971.23 to Leon E. Wintermeyer, for construction phase services related 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 Application for Payment #2 in the amount of \$41,910.32 to Leon E. Wintermeyer, for utility relocation services related to the Meade Avenue Project, and to be reimbursed through the Township's Utility Grant. The motion was unanimously approved.

A motion was made by Commissioner Clark, seconded by Commissioner Mehaffie, to approve a Cooperative Agreement authorizing the Capital Area Regional Police Testing Consortium to act as the testing agent for Lower Swatara Township for the purposes of preliminary eligibility examinations for the position of Police Officer in accordance with the terms of this Cooperative Agreement enacted by the Capital Area Regional Testing Consortium June 22, 2011. President Linn stated his understanding that this will not cost the Township any additional money, and will eliminate the need for the joint testing group that had been formed between Lower Swatara Township, Swatara Township, and Susquehanna Township. Chief Wiley verified that this is correct. The motion was unanimously approved.

A motion was made by Vice President Leonard, seconded by Commissioner Clark, to approve authorization of payment for the Middletown Borough Authority Waste Water Treatment Plan BNR construction upgrades, Requisition No.16-A, in the amount of \$81,485.27 to the Middletown Borough Authority. The motion was unanimously approved.

Mr. Paul noted that Solicitor Henninger also has a matter to discuss with the Board this evening, and it will require formal action. It pertains to the Eagle Heights Subdivision. The Township now has the opportunity to close out this project. Solicitor Henninger explained that

Clean Properties, the original developer of this project, had gone into bankruptcy. A subsequent developer, 2002 Real Estate Corporation, came in and both parties split up the remaining work. There is an existing letter of credit, and authorization has come from both parties to draw upon that letter of credit in order to finish up the storm water work and wearing course. Solicitor Henninger added that these roads and stormwater facilities will remain private, not public. After reviewing legal requirements of this process, Solicitor Henninger is recommending the Board act on two items. The first would be action on a draft letter from Lower Swatara Township to Mid-Penn Bank to draw on the letter of credit in the amount of \$19,522.56. The second action would be to approve an indemnity bond with 2002 Real Estate Corporation whereby the Township will either pay the respective contractors or reimburse 2002 Real Estate Corporation to complete the work, as listed. The indemnity agreement also contains language stating that should the amount exceed the \$19,522.56, 2002 Real Estate Corporation will pay the overage. Solicitor Henninger explained that the Township will not be drawing on the entire amount of the letter of credit. There will still be some existing funds – approximately \$8,000 - \$9,000, available on the letter of credit. Both he and Mr. Paul feel that this amount is sufficient to protect the Township's interests. Solicitor Henninger recommended the Board take action on authorizing the submission of the letter to Mid Penn Bank to drawn down the \$19,522.56 and also take action to approve the indemnity bond from 2002 Real Estate Corporation to Lower Swatara Township to protect the Township against any additional, but unanticipated, costs on finalizing this work. Solicitor Henninger stated the good news is that this will finally get the project completed. A motion was made by Commissioner Mehaffie, seconded by Commissioner Loych, to authorize the submission of a letter to Mid Penn Bank to drawn down \$19,522.56 on the letter of credit from Clean Properties, Inc. and approve the indemnity bond from 2002 Real Estate Corporation to Lower Swatara Township to protect the Township against any additional costs on finalizing this work. The motion was unanimously approved.

#### KGH PROPERTY UPDATE ON STUDENT HOUSING PROJECT:

Matt Genesio, KGH Properties, stated that almost a year ago, he first came before this Board to introduce himself and discuss the intentions of KGH Properties to construct a student housing development in the Eagle Heights area. He is pleased that the Planning Commission recently recommended its Final Land Development Plan, with several stipulations, for approval by the Board. Mr. Genesio noted that it is hoped that everything will be buttoned up and the plan will be in

a position for approval at the Board's July 20 legislative meeting. He also informed the Board that two agreements have been executed with GreenWorks Development. One is a developer's agreement, and the other is a roadway improvements agreement. The Township should have these, and hopefully has forwarded them to Solicitor Henninger for review. KGH is also in the process of reviewing an easement which will be privately held until such time as it is completed and dedicated to the Township. This easement has been reviewed and revised multiple times, and should be completed within a week or so.

Mr. Genesio reminded the Board that he had previously discussed with the Commissioners the idea of some potential relief from the payment of recreation fees. He explained that this housing project is unique in the fact that it will be occupied solely by student tenants. This is rare situation where the developer knows 100% who the user will be. These students will have access to the recreation facilities at Penn State Harrisburg, and the plans for a lighted foot path from the development to the campus will make access to these recreation facilities convenient. Therefore, the students are unlikely to use the Township's recreational areas. Mr. Genesio explained that KGH is asking for a 50% reduction on the recreation fees required by Township ordinance. He added that the deed could contain language or a covenant stating that if at any time this is not student housing, the 50% would be due and payable to Lower Swatara Township.

Mr. Genesio also addressed comments made by Vice President Leonard at the June workshop meeting regarding the fact that the student housing development will utilize police services, emergency response services, etc. He agreed that this is true, but stated that KGH is only asking for relief from recreation fees, which are used only towards recreation. The development will still be responsible for paying the other taxes which support the use of Township infrastructure. He added that any costs saved by KGH for a reduction in the recreation fees will allow it to better afford and enhance its own on-site security system. This will also benefit the Township, since it will alleviate the student housing from being a potential drain on the emergency services of the Township. In response to a question from Vice President Leonard, Mr. Genesio stated that the 50% reduction in the required recreation fees would equate to approximately \$49,500.

Commissioner Loych inquired if KGH can guarantee that these units will be occupied strictly by students. Mr. Genesio responded that the way the ordinance is worded requires the tenants to be enrolled in that school, and also requires one bedroom per occupant. For example, a husband and wife with one child would be required to be enrolled in the school, have three separate

bedrooms and pay the equivalent of a three bedroom fee. He agreed that anything can be challenged, but legal counsel feels the restrictions will hold up in court.

Vice President Leonard again expressed concern that there are 55+ gated developments planned for construction in the Township, and these developers could also ask for a reduction in recreation fees for similar reasons. The Board needs to be fair and equitable to everybody. Commissioner Clark recalled that one of those developers already did make this request, and was turned down by the Board. Vice President Leonard also recalled that a developer who was subdividing a family property asked to be exonerated from the payment of the recreation fees for the subdivided property and was also turned down. Mr. Genesio explained that his argument still focuses on the fact that his site is strictly for student housing; the 55+ developments he has seen still have a lot of active recreation users, since there are often families involved. Again, these students will have use of the nearby Penn State Harrisburg facilities. Commissioner Clark observed that some of the biggest users of the ballfields at Shank Park in Derry Township are actually the medical students from Penn State. He observed that the student housing project will mean an even bigger stress on Penn State's recreation facilities, which will result in more use of the Township's own facilities. President Linn agreed, and stated that while the Board sympathizes with the reasoning, it simply cannot make exceptions to developers when it comes to the payment of required recreation fees.

Vice President Leonard stated that he routinely asks if KGH has been sharing and coordinating its plans with GreenWorks, since it is important that all plans come together to make an attractive parcel, and not just look like individual projects. Mr. Genesio explained the simple answer is that GreenWorks' engineer was always the one that provided the overall vicinity map. KGH then provided its site plan to them, and they superimposed it on the vicinity map. He agreed that the plans are being shared with GreenWorks, with Penn DOT, and with the Township.

#### MX ENERGY PROPOSAL:

Blaine Deyle, representing MX Energy, explained that he is here this evening to see if the Board has any questions or can provide an update about his June proposal to save the Township money by switching its electric accounts from PPL to MX Energy. Rates have recently fallen again; last month they were \$8.99 per kilowatt hour and now they are at \$8.75 per kilowatt hour. PPL is projecting a rate of \$11.02 effective September 1. He stated that up until May 20, PPL had

been projecting \$11.22 for the summer rates for commercial users, and these rates ended up at \$13.028. Mr. Deyle noted that after his June presentation, he was told someone would contact him; no contact has been made. He also added that the Board had inquired at that time if other municipalities had made the switch to MX Energy. One of the municipalities who is now with MX is Lower Paxton Township, and it should save about \$16,000 this year by making the switch. He also reported that one of the churches in Lower Swatara Township had budgeted \$10,000 this year for its electric service. It would have had to spend \$13,000 due to PPL increases. However, by switching to MX Energy, it will actually be able to shave another \$1,000 off its budgeted amount.

President Linn agreed that there is a lot of confusion over the deregulation of electric and the ability to shop around for other suppliers. The Board and staff will be looking into this and will contact Mr. Deyle in the near future.

#### FIRE DEPARTMENT REPORT:

Chief DeHart reported that calls for June totaled 51, with a year-to-date total of 327. The department will have another new live-in come fall. A Public Meeting was held, as required, for the new engine lease. Delivery of the new engine is expected in January. The recent Biker Breakfast had 255 in attendance. The next one is scheduled for July 24. A Roast Beef Dinner will be held on July 17.

Vice President Leonard referenced a letter from the Dauphin County Board of Commissioners relative to a comprehensive study of fire and emergency services in Dauphin County. The County recently commissioned Emergency Services Consulting International to conduct this review and assist the County to more effectively support the fire and public safety community. Since Dauphin County receives many applications for local share gaming funds relative to the equipment and/or facilities' needs of the municipal fire departments, this study will help prioritize the needs of the response system on a county-wide basis. Chief DeHart noted that the Fire Department is aware of this study, and will be meeting with a representative of the company in two weeks. He stated that he feels this should be done for all emergency services in order to make the best usage of County funds as a whole. Chief DeHart stated that he is confident that Lower Swatara Volunteer Fire Department is sitting exactly where it should be, and will come out fine in the study. He added that departments that fail to participate in this study will not get points towards their next grant applications.

POLICE DEPARTMENT REPORT:

Richard Wiley, Police Chief, reported that the information sharing grant is moving forward. A site visit is schedule for July 18, progress reports have been submitted, and funds have been dispersed to the CODY representatives for the initial start up fees. The County will be hosting the server. A subcommittee is involved in orchestrating the police departments involved in this process. It will still be some time before it comes to fruition, but it is moving in the right direction.

Chief Wiley reported on an attempted robbery of a motor vehicle which occurred on June 7. Immediately after the incident, the responding police officers canvassed the neighborhood and ran license plate numbers of cars in that vicinity. This action ultimately led to the suspect, who later confessed to the crime. Chief Wiley commended the department officers for their intelligent work on this case.

There have been relatively few traffic complaints, although the department has increased enforcement in areas of concern, including North Union Street. Commissioner Mehaffie added that he had received complaints about speeding on Donald Avenue. Chief Wiley agreed that he received complaints about this too, and has increased patrol on Donald Avenue with the purpose of educating the public rather than necessarily ticketing them.

Mr. Paul reported that the Township has advertised the sale of a former police vehicle, a 2003 Crown Victoria. Sealed bids on the vehicle will be opened on July 18, and formal award of the high bid will be placed on the July 20 legislative agenda for Board action.

PUBLIC WORKS DEPARTMENT:

Commissioner Loych reported that the Department recently contacted UGI to fix the metal brackets on the bridge on Richardson Rd. The department will make some temporary repairs to the bridge until a permanent solution is completed. Overall, the parks are in good shape. Tree trimming is ongoing in an effort to enhance the aesthetics of the parks; Little Hollywood park has been completed. Paving on Rosedale Avenue is finished. Due to weather and personnel issues, the paving project had been moved to a start date of June 27, with an anticipated completion date of July 1. All of the finish work should be done by July 8.

The Department mowed the Township right of ways for the second time this year and has sprayed the guiderails and ball fields for seasonal weed control. There have been numerous sinkholes developing; the most serious one is 8 Greenwood Circle. The hole was filled with six

yards of flowable fill, the ground was allowed to stabilize, and the flowable fill was then covered with fill ground. Once the fill ground has settled, the Department will topsoil and seed that area.

Commissioner Loych noted that the dumpster will be open Saturday, July 9 from 8:00 A.M. to Noon for Township residents.

#### PLANNING AND ZONING/MANAGER'S REPORT:

Mr. Paul reported that the KGH student housing plan, which was recommended for approval by the Planning Commission, will appear on the July legislative agenda. Also recommended for approval by the Planning Commission is the Revision of the Frey Village Mobile Home Park. This was originally fifteen single wide mobile homes and many were placed inappropriately across the property lines. The new owner wants to transform this area with double wide mobile homes in order to make it appear more like a small residential community. The number would be reduced to nine. In addition, a long list of preexisting non-conformances has been drastically reduced to try to bring things into compliance for the most part. Mr. Paul noted that the Township is still looking at this as a mobile home park rather than land development.

Mr. Paul acknowledged a letter from employee Leslie La Via announcing her retirement effective January 1, 2012.

A written request for a time extension on Section 18B of Old Reliance Farms was submitted by Ron Burkholder. Mr. Paul explained that he had just drafted another letter to DEP trying to address DEP's latest concern which has to do with pushing the traffic from Powderhorn Road through the Colony of Old Reliance to get out to Longview Drive. He informed DEP that the Board's position has not changed: it still desires to see that road align with Strites Road as was originally intended twenty years ago. This issue is what is prompting yet another time extension request.

Mr. Paul noted that proposals will need to be drafted and advertised for traffic signal maintenance and also for the solid waste and recycling collection services.

A letter was received from the Conservation District, addressed to Highspire Borough Authority, regarding the Lumber Street Interceptor. This is the interceptor that is very important for the development of the retirement community and the Bryn Gweled Subdivision. Contact was made with the engineer, Mr. Navarro, and it was suggested that before the plans come back to the Board, Mr. Navarro provide the Board with an update on the project. Mr. Paul explained that if the

developers are not serious about upgrading the sewer line, there is no logical reason for the Board to continue granting time extensions on the plans.

FINAL COMMENTS:

Vice President Leonard reported the Manager will also be retiring next year, and the Board has started the interview process for his replacement. Approximately twenty-five applications were received, and five of the applicants were selected to interview. Two of the interviews were held last night, two will be held tomorrow, and there may be one or two more held in the near future. Vice President Leonard stated the process is going well.

President Linn asked that Vice President Leonard, Commissioner Mehaffie, and Mr. Paul meet to discuss and respond to the police negotiations.

Commissioner Loych requested an executive session immediately upon conclusion of this evening's meeting in order to discuss personnel issues.

ADJOURN AND CONVENE INTO EXECUTIVE SESSION:

Hearing no other business, a motion was made by Commissioner Loych, seconded by Commissioner Mehaffie, to adjourn the meeting and convene into executive session. The motion was unanimously approved, and the meeting adjourned at 7:50 P.M.

ATTEST:

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Ronald J. Paul,  
Manager/Secretary