

MINUTES

JUNE 16, 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)
- Chad Zimmerman, Chris DeHart (LST Fire Dept.)
- Marlin Biesecker (24 Conway Drive)
- Ed Ward (Penn Waste)
- Spencer Bevins (1027 Hickory Lane)
- 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:

Marlin Biesecker, 24 Conway Drive, stated that he had been before the Board last month to request signage prohibiting jake breaks on Route 283. He asked the Board what progress has made with getting this done. President Linn reminded Mr. Biesecker that due to Penn DOT regulations, signage prohibiting jake brakes cannot be legally enforced. Mr. Biesecker questioned this law and why such signage cannot be put up and enforced. Solicitor Henninger again referenced July 2009 correspondence from Penn DOT which lists six criteria that roadways must meet in order to enforce such signage. Route 283 simply does not meet the six criteria. Mr. Paul added that Mr. Biesecker should also have a copy of this letter. Mr. Biesecker confirmed that he does, but stated the criteria listed is ridiculous and doesn't make sense. He stated he cannot understand why this Board accepts it as gospel. President Linn stressed that the problem is that the law is the law. Mr. Biesecker stated there is probably also a legal document saying where sound barriers can and can't be built, yet the west shore has them all over the place, protecting the woods. Mr. Biesecker also inquired as to the accepted decibels of noise in a school zone. Since Route 283 goes right by a school, there must be some noise regulation that can be enforced. Mr. Biesecker added that the entire area along the turnpike entrance is turning into a disaster area, since high speed highways intersect at that point. He cautioned the Board that it cannot keep ignoring this issue. He also reminded the Board that his development existed long before the roadway was put in, and stated there has to be something that can be done to protect the rights of the taxpayers. Mr. Biesecker noted that he has been pursuing this issue for almost twelve years now, with no movement at all. If the Board will not represent him, he asked where he should go next.

President Linn reminded Mr. Biesecker that the residents also elect a senator and legislator. The roads in question are state roads, so residents should pursue this issue with state officials. Mr. Biesecker confirmed that he has been in contact with Senator Piccola and Representative Payne, but thought this Board was the body representing him on this issue. Commissioner Mehaffie reported that he had met with Chris Ramsey, Senator Piccola's Chief of Staff, about this issue. They are also concerned about the noise problem, but it will take time to figure out what can be done. Mr. Biesecker suggested that during the next meeting with Senator Piccola, the Board bring up the issue of the noise level at the school, as well as the ridiculous state document they are relying on to make these rules.

Mike Williams, Fulling Mill Road, stated that Penn DOT's highway inspections do include the inspection of muffling devices on jake breaks. However, the fines are so minimal that truckers simply pay the fines and go on their way. This turns out to be a money maker for the state. Mr. Williams stated that the squeaky wheel gets the grease, and suggested the residents pursue this with the legislators who set these fines.

Spencer Bevins, 1027 Hickory Lane, reported that he had spoken to Representative Payne about this issue, and was told that he couldn't do anything about it. He stated that it makes no sense that a state representative cannot do anything about a state road. Mr. Bevins added that Representative Payne had suggested the Township meet with the Borough of Highspire and the Middletown Area School District to draft a comprehensive letter for submission to federal representatives, since this is a federal issue. Mr. Bevins asked why federal representatives would be involved in an issue involving state roads. Solicitor Henninger explained that due to federal funding and the fact that trucks are involved in interstate commerce, there are federal DOT regulations involved. Mr. Bevins agreed with Mr. Biesecker that these regulations need to be changed. He suggested the Township contact other area municipalities to see what complaints they are getting. The municipalities could then jointly pursue this with federal representatives. President Linn agreed that the Board would be open to such discussions.

APPROVAL OF MINUTES:

A motion was made by Commissioner Loych, seconded by Commissioner Clark, to approve the Minutes of the May 19, 2010 Legislative Meeting. The motion was unanimously approved.

A motion was made by Commissioner Mehaffie, seconded by Commissioner Loych, to approve the Minutes of the June 2, 2010 Non-Legislative Meeting. The motion was unanimously approved.

APPROVAL OF BILLS:

A motion was made by Vice President Leonard, seconded by Commissioner Mehaffie, to approve Payment of Bills as presented on Warrant No. 2010-5. The motion was unanimously approved.

APPROVAL OF TREASURER’S REPORT:

A motion was made by Vice President Leonard, seconded by Commissioner Loych, to approve the Treasurer’s Report for May 2010. The motion was unanimously approved.

SOLICITOR’S REPORT: no report

MANAGER’S REPORT:

Mr. Paul referenced the list of future meetings and called the Board’s attention to an email from Jim Brokenshire announcing his resignation from the Township’s Municipal Authority. A motion was made by Commissioner Loych, seconded by Commissioner Mehaffie, to accept, with regret, the resignation of Jim Brokenshire from the Lower Swatara Township Municipal Authority. The motion was unanimously approved. President Linn stated that the Municipal Authority is an extremely important body, and asked that the Commissioners search for a qualified resident to fill this vacancy.

Mr. Paul also reported that Glenn Snavely, Code Administrator/Fire Marshal, has set up a meeting with United Water Company pertinent to the ongoing water pressure problems in the Colonel Burd Estates.

Mr. Paul advised the Board that the subcommittee has reviewed the applications for the position of Public Works Superintendent. The list was narrowed down to a core list of nine applicants that will be offered interviews. Mr. Paul added that three of these individuals are from within the department. He suggested the Board check their calendars and come up with two dates for these nine interviews. President Linn asked Mr. Paul to provide the Board with a list of the nine candidates. Commissioner Clark suggested that this list be emailed to the Board, and the Board could then look at their calendars and come up with dates.

COMMITTEE REPORTS:

Police Committee – Commissioner Clark – reported that Chief Wiley is busy with the accreditation process. He reminded the Board that the Police Department will be looking to fill a vacancy in the Department in the not so distance future. The COG will be meeting next Monday.

Public Safety – Commissioner Mehaffie – stated that as reported earlier, Jim Brokenshire has resigned from his position on the Municipal Authority, and the Board will be looking to fill this vacancy as soon as possible.

Public Works – Commissioner Loych – reported the Department has been busy cutting grass, working on the fields, and beginning roadway construction projects.

Budget and Finance – Vice President Leonard – reported that cash receipts for the month of May totaled \$445,949.84. Major sources of revenues were from Act 511 Taxes, Real Estate Taxes, franchise fees, and other miscellaneous receipts. Cash expenditures totaled \$594,379.42 and were comprised of the two transfers to the payroll account, the transfers to the various miscellaneous funds, the quarterly payment to Hershey EMS for services, the final repayment to the Recreation Fund, and all invoices due and payable. Investments totaled \$586,435.67 with an average annual yield of 0.5%. Vice President Leonard referenced the previous discussion on the sound barriers, and stated that some of the Board members will be attending the PA State Association of Township Commissioners’ convention next week. He suggested this might be the ideal time to see if other municipalities are experiencing similar problems.

Community and Economic Development – President Linn --- no report

UNFINISHED BUSINESS:

Mr. Paul stated that neither of the two plans under Unfinished Business are in a position for approval tonight; the staff is recommending both be tabled.

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, February 17, 2010, and May 19, 2010. The plan is due to expire on August 18, 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, February 17, 2010, and May 19, 2010. The plan is due to expire on August 18, 2010. The motion to table was unanimously approved.

NEW BUSINESS:

Mr. Paul reported the first item under New Business is 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. The plan is due to expire on August 25, 2010. Mr. Paul noted there is a delay on this plan, since the wetlands in this area are being reevaluated. This issue will need to be resolved prior to acting on the plan itself.

Mr. Burkholder, representing the Old Reliance Partnership, stated that they have been working on Section 18B for more than five years. There have been ongoing issues with this plan and he is extremely frustrated at this point. Last Thursday, they had a visit from the Army Corp of Engineers. This is the third time the Army Corp has visited the site. When this last meeting was requested with the landowners and engineer, the Corp indicated that there were no issues with the plan – the engineer from the Corp of Engineers simply wanted to acquaint himself with the project. However, during his visit to the site, the engineer stated there was a problem – he informed Mr. Burkholder that this was all wetlands. Mr. Burkholder stated that he had made up his mind sometime back that if they hit one more stumbling block on this project, it would be done – the plan would be withdrawn. When he told this to the engineer last Thursday afternoon, it was suggested that these wetlands could possibly be mitigated. Mr. Burkholder had informed that engineer that mitigation would result in the loss of a lot, so it wouldn't pay to do this section. After hearing this, the engineer stated that perhaps the engineer who initially performed the delineation had made a mistake. That engineer was then contacted and showed up on the site about a half hour later. The result was that these two engineers disagreed, and a third engineer will be called in to make the final determination. This individual, however, won't be available for about three weeks. Mr. Burkholder again expressed his extreme frustration. This is supposed to be an exact science, yet two engineers

can't agree. He asked if the Board of Commissioners would be willing to step in and go a few rounds with the Army Corp of Engineers.

President Linn stated withdrawal of the plan would be a disappointment, since the Township would like to see Powderhorn Road extended to Strites Road. Mr. Burkholder agreed, but explained that further changes to the plan would mean additional engineering, surveying, etc. Mr. Burkholder again stated that he is not doing this. The only way the project will go ahead is if the engineer who was here last week indicates that he was mistaken and there are not wetlands involved. He added that the residents see the equipment, piles of dirt, etc. sitting out there and assume the developer is not doing anything. In reality, his hands are tied.

Vice President Leonard noted that the Board had a previous conversation about the Airport Connector Road and the fact that the Army Corp of Engineers was slowing down that process. The Board had talked about trying to get back with the Corp of Engineers about this subject. This may be an opportunity to speak to them about multiple issues.

President Linn suggested the Township set up a meeting with the Army Corp of Engineers and invite Representative Payne and Senator Piccola to see what can be done about this constant run-around. Commissioner Clark responded that he has a bit of an issue with the Board setting up a meeting and going to bat for a private developer over a situation that may or may not have been a preexisting condition. Mr. Paul stated that he plans to attend the site meeting with the third engineer. It would be best to see what comes out of that meeting and then go from there. President Linn stated he would like to hear the pleasure of the Board on holding a joint meeting with Senator Piccola and Representative Payne. He stated that he still feels very strongly that this needs to be held right away. He stressed that this is not just Ron Burkholder's problem – it is Lower Swatara Township's problem too.

Vice President Leonard stated that there is already a tentative meeting scheduled between Mr. Burkholder and the Army Corp of Engineers. He used the example of dealing with the Turnpike Commission on an emergency response issue, and surmised that he probably made more progress working one-on-one with a Turnpike official via a phone call than if the entire Board had a meeting and approached the subject in a hostile manner. He stated his preference would be to have Mr. Paul attend the on-site meeting and go from there. Commissioner Mehaffie also agreed it would be best to see how this meeting goes. Mr. Paul asked Mr. Burkholder if the on-site meeting would be open to other Board members wishing to attend. Mr. Burkholder agreed that would be

fine. He again stated, however, that if the meeting concludes with him being told that even 150 square feet of wetlands must be mitigated, he is done and will withdraw the plan from consideration.

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. The plan is due to expire on August 25, 2010. The motion to table was unanimously approved.

A motion was made by Commissioner Clark, seconded by Commissioner Loych, to table the Land Development Plan for Highspire Terminals Corporation, formerly Eldorado Properties Corporation, prepared by Rettew Associations, Inc. and submitted by Petroleum Products Corporation. The plan was recommended for approval by the Planning Commission on May 27, 2010 with stipulations. The plan is due to expire on August 25, 2010. Mr. Paul noted a Zoning Hearing pertinent to this plan is scheduled next Wednesday since this is a non-conforming building. The addition to the non-conforming building does meet all the setbacks. However, since the original part of the building is non-conforming, this must be granted by special exception. Therefore, the Board needs to await the decision of the Zoning Hearing Board. The motion to table was unanimously approved.

A motion was made by Commissioner Loych, seconded by Commissioner Mehaffie, to approve the increase of \$0.43 per quarter/per home, effective July 1, 2010, to Penn Waste, Inc. for residential trash/recycling services. The new quarterly rate would be \$54.81. Commissioner Clark added that this increase is the result of a CPI increase guaranteed via the county contract. The motion was unanimously approved.

A motion was made by Commissioner Leonard, seconded by Commissioner Clark, to approve a one-year extension of the current contract with Penn Waste, Inc. for Municipal Solid Waste and Recycling Collection, effective 1/1/2011, at the current rate of \$54.81 per quarter per residential household, with the stipulation that future disposal increases from the Harrisburg Authority be handled similar to past requests. The motion was unanimously approved. In response to question from resident Mike Williams, Mr. Ward confirmed that there would be no increase to the pay-per-bag option. Mr. Ward also thanked the Board for approving this contract extension.

A motion was made by Commissioner Mehaffie, seconded by Vice President Leonard, to approve submission of a letter of support from the Lower Swatara Township Board of Commissioners to the Dauphin County Chiefs' Association for a gaming grant for the Lower Swatara Volunteer Fire Department web project. The motion was unanimously approved.

A motion was made by Vice President Leonard, seconded by Commissioner Mehaffie, to approve the sponsoring of a casino grant application, as requested by the Lower Swatara Volunteer Fire Department, for purchase of a new Rescue vehicle. The motion was unanimously approved.

A motion was made by Commissioner Clark, seconded by Commissioner Mehaffie, to approve authorization of payment for the Highspire Waste Water Treatment Plant BNR construction upgrades, Requisition No. 10, in the amount of \$662,991.17 to Highspire Borough Authority. In response to a question from Commissioner Mehaffie, Mr. Paul noted the project is ahead of schedule and appears to be running smoothly. The motion was unanimously approved.

A motion was made by Commissioner Mehaffie, seconded by Commissioner Loych, to approve authorization of payment for the Middletown Waste Water Treatment Plant BNR construction upgrades, Requisition No. 3-A, in the amount of \$67,760.58 to Middletown Borough Authority. Mr. Paul noted he was not aware of any issues with this project. The motion was unanimously approved.

FINAL COMMENTS:

Commissioner Clark referenced the previous suggestion to bring up the issue of noise and sound barriers at this weekend's State Association convention. He noted that many of the first class townships are from the Philadelphia area. He suggested the Board members attending the convention ask these municipalities what part their MPOs (municipal planning organizations) played in acquiring any kind of barriers for them. Commissioner Clark explained that the MPO is the counterpart of Dauphin County's HATS; it is the organization that recommends all transportation projects.

Commissioner Mehaffie stated he would be willing to speak to Mayor Hoerner of the Borough of Highspire to determine if the Borough is experiencing similar complaints about noise problems.

ADJOURN:

Hearing no other business, a motion was made by Commissioner Loych, seconded by Commissioner Mehaffie, to adjourn the meeting. The motion was unanimously approved, and the meeting adjourned at 8:03 P.M.

ATTEST:

Ronald J. Paul
Township Secretary