

## MINUTES

MARCH 16, 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 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
- Chris Bauer, HRG, Township Engineer
- Jean R. Arroyo, Recording Secretary

Residents and visitors in attendance:

- Bobbie Van Boskirk (GreenWorks Development)
- Timothy Przyłowski (Century Engineering)
- Matt Tunnell (GreenWorks Development)
- Matt Genesio (KGH Properties)
- Tim Sipe (KGH Properties)
- Jon and Julie Wilt (1257 Longview Drive)
- Phyllis Zimmerman (Patriot-News)
- Don Holtzman (Penn State Harrisburg)
- Michelle Keeney (310 Dauphin St.)

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

PUBLIC COMMENTS: None

DEVELOPMENT UPDATE:

Mr. Paul reported that both developers who have plans for student housing projects in the Eagle Heights area are here this evening. He introduced Matt Tunnell from GreenWorks Development and Matt Genesio from KGH Properties. Mr. Paul noted that GreenWorks Development is scheduled to appear before the Zoning Hearing Board on March 30 to submit its request for a Special Exception for student housing in this Commercial-Neighborhood District.

Matt Tunnell, representing GreenWorks Development, stated that last time he was before the Board, he basically expressed what the initial plans were. The developer is now starting to put plans on paper and begin the process, which includes tight coordination between his firm and KGH Properties to make sure both projects come together well. Mr. Tunnell presented the Board with the site concept and vicinity map. He stressed that GreenWorks is looking to fully comply with all Township codes, and is only asking for a Special Exception which is provided for in the codes. The proposed project is a 5 ½ acre site, and will have 264 beds spread out over three different buildings.

Access into the site is the most significant issue of the project. Plans are to vacate Lawrence Street and add a new road into the property. This new street, which would be dedicated to the Township, would be centered on the property line between the GreenWorks and KGH projects and serve both properties. This “new” Lawrence Street would stay away from the private alley (High Street) that is already in this development and used by the existing homeowners. The new road would also have a better grade (10% rather than the current 14%). Mr. Tunnell stated that plans are also to put in a private road that would ultimately connect onto the Penn State campus. GreenWorks hosted a community meeting last Thursday, and many of the concerns that were previously presented have been addressed in this plan.

Another significant part of road access is connection across the street. The Westport Plan, while located in the Borough of Middletown, will impact this project. The plan that Westport just submitted to the Borough of Middletown shows its proposed entrance way comes within a couple feet of lining up on the centerline with the GreenWorks’ property line. Obviously, all three developers will need to work with PennDOT to make sure this is a perfect intersection. GreenWorks does have its traffic impact study scoping letter in with Penn Dot and is waiting a response; the letter indicates that traffic counts do not exceed the numbers that are necessary to do a full traffic impact study.

President Linn referenced the comment about 264 beds and inquired if there would be 264 parking spaces provided. Mr. Tunnell verified that this is correct. Commissioner Loych asked the purpose of the 90 degree corner of the project. Mr. Tunnell explained that this is still a work in progress; details regarding traffic movement will need to be worked out by the engineers. He agreed that there will be trees and landscaping provided for both safety and aesthetic purposes. In response to a question from Vice President Leonard regarding the use of the private access road, Mr. Tunnell explained that they are working with KGH to do some type of easement so that its students could also access the project via GreenWork's private road. Vice President Leonard asked the developers to keep in mind that sometimes thru streets, with the right kind of traffic control, are better for vehicles that have to service the property (snow plows, emergency equipment, etc.). President Linn agreed that the Township must also make sure the existing residential neighborhood is properly serviced, without being burdened by additional traffic from the student housing projects. In addition, he stated that he wanted to ascertain that there will not be any potential entrapment issues for the existing neighborhood. President Linn stated that while he is pleased to see both developers working together, he is disappointed that Mr. Nardo is not present this evening since he will also be involved.

Vice President Leonard suggested that it would be very helpful if the Board could see, in the immediate future, both project plans side-by-side in order to get a better vision of the entire student housing project as well as intersections, street alignments, etc. Mr. Tunnell agreed this could be done. He also informed the Board that GreenWorks hopes to have a Land Development Plan before the Township sometime this summer.

Commissioner Clark inquired where stormwater controls would be located. Mr. Tunnell explained that stormwater is the second most significant issue with the site. Work is still being done on this issue; full calculations haven't been obtained yet so everything is speculation at this time.

Michelle Keeney, 310 Dauphin Street, explained that she had attended the community meeting. She stated that the GreenWorks' plan actually makes more sense than the KGH plan, since it diverts traffic from the residential area that is already there. Also, this plan provides more trees and green space. Ms. Keeney stated that while she is still opposed to the entire concept of any student housing projects in this area, she does like that GreenWorks is proposing more of a division between the student housing project and the existing residential neighborhood. President Linn

assured Ms. Keeney that this is still very early in the process. When plans are submitted, there will be an intensive review process. He encouraged her to also attend Planning Commission meetings.

Matt Genesio, representing KGH Properties, explained that a few weeks ago, he had met with GreenWorks, Mr. Paul, and HRG. KGH was shown this vicinity map, and now its engineers have it and are redesigning their own site to be able to better tie into this new proposed Lawrence Street. They are also building some flexibility into the site, depending on where it lines up with Westport across the street. Mr. Genesio stated that KGH will be able to present the Board with a vicinity map very shortly. He also noted that plans are to tie in the second and fourth parking lots to line up with wherever the new entrances are. They are not planning to stagger anything – there will be “t” intersections off of the new proposed Lawrence Street to make traffic flow a lot better internally as well.

Commissioner Loych stated that he is very pleased to see both developers working together. The Board thanked the developers for their attendance this evening.

Vice President Leonard stated that the agenda indicates that an update from the developer of the Linden Centre was also supposed to be provided this evening. He expressed concern that the Board has not gotten any updates or communication from the developer. Once again, the developer is not here this evening to report on the status of the project.

#### APPROVAL OF MINUTES:

A motion was made by Commissioner Loych, seconded by Commissioner Clark, to approve the Minutes of the February 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 March 2, 2011 Workshop Meeting. The motion was unanimously approved.

#### APPROVAL OF BILLS:

A motion was made by Vice President Leonard, seconded by Commissioner Mehaffie, to approve the Payment of Bills as presented on Warrant No. 2011-2. The motion was unanimously approved.

APPROVAL OF TREASURER'S REPORT:

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

ENGINEER'S REPORT:

Chris Bauer, HRG, updated the Board on the Meade Avenue project. Although weather conditions hampered construction activities over the past few weeks, conditions have now improved and the project is moving ahead. Photos of the site were circulated to the Board showing some of the recent progress. Mr. Bauer noted that a lot of the drainage facilities have been installed. One of the major pluses is that with the coordination between the two projects – the Meade Avenue project and the Linden Centre project – the creek flow is now being diverted through the Linden Centre via temporary stormwater pipes, thus eliminating bypass pumping operations. A revised schedule has been requested from the contractor several times, and is expected to be received by the end of this week. The contract completion date is still set at June 24.

Mr. Bauer noted there are several issues, one being the fact that the contractor had submitted a time extension request. The request was declined based on Penn DOT requirements and the requirements of the project funding sources. Denial was based on the following Penn DOT criteria: (1) the time extension request exceeded the 30-day allowable time frame from incurrence of applicable delay. They were basing the delay on some of the issues experienced with the insurance. Time expired on November 19, 2010 for applicable incurrence of delay; (2) the request by the contractor for weather delays do not qualify for time extensions with the exception of an emergency declaration by the government; (3) multiple schedules had been provided showing work to be complete according to the project completion date. Of the submitted schedules, the Township provided concurrence on December 3, 2010 to the schedule submitted on November 3, 2010. The accepted schedule showed an early project completion date; therefore, concurrence was provided with the option for the contractor to reply within 10 days for confirmation or revision of the completion date. The Township was provided an email on December 6, 2010 with the contractor's intent to finish the project on the contract completion date of June 24, 2011.

Upcoming events include box culvert construction and construction of the sanitary force main following the completion of the SARAA and Meade Avenue wing walls. This construction will occur in conjunction with other work essential to opening the roadway and intersection to the

adjacent development. Roadway construction will begin on Rosedale Avenue following the drainage construction.

There are several other issues/concerns. The actual location of the existing force main has created the need for additional work in order to complete the construction of the proposed force main. The change order for this work will be approximately \$38,500 and will be funded through the gaming grant. Several weeks ago the Board had discussed upgrading the signal at Route 230 to video detection. Through a reduction of contract items, this change order to upgrade the signal at Route 230 and Meade Avenue from loop to video detection will be approximately \$4,320 and will be completed as Authorization 009, if approved by the Board. This would be paid through federal funds. Also, as part of the utility coordination for construction, UGI had anticipated to replace/lower 270' of its gas main within the reconstruction area of University Drive. During construction and as a result of UGI conversing with the contractor, UGI extended the replacement/lowering of the gas main by an additional 700' in an effort to avoid potential conflicts with the new roadway construction and more specifically the construction of the pavement base drain item. Unknowingly to UGI, this extension passed through the reconstruction limit and into the widening/overlay area by 500'. As a result, an additional 2' of pavement rehabilitation will be required in this area to repair University Drive during the construction of the widening and overlay. This work will be completed as Authorization 11 at an estimated cost of \$4,300 and would be paid through federal funds. In response to a question from Mr. Paul, Mr. Bauer suggested the Board authorize all three change orders this evening in order to keep the project moving. A motion was made by Commissioner Clark, seconded by Commissioner Mehaffie, to approve the following change orders: Change Order No. 009 in the amount of \$4,320.00, Change Order No. 10 in the amount of \$38,500, and Change Order No. 11 in the amount of \$4,300. The motion was unanimously approved.

President Linn stated that he is pleased with the progress of the Meade Avenue project, and is also pleased that it appears some of the work in this area prevented the Jednota Flats area from flooding during the recent heavy rains.

#### SOLICITOR'S REPORT:

Solicitor Henninger reported that the Berkheimer Agreement pertaining to occupation and per capita tax collection is still being reviewed. The Township just received a revised proposed

agreement later this afternoon, and Marylou Rittner, Financial Administrator, is in the process of reviewing and confirming some numbers. This will need to be completed before the Board can take action on the agreement, hopefully by the next meeting.

#### MANAGER'S REPORT:

Mr. Paul reminded the Board that the salary of the tax collector is set by ordinance; since the previous tax collector was in office so long, it had been set at \$10,000 for a number of years, which is the maximum. Mr. Paul explained that it is a sliding scale based on increments of years of service in that position. He added that he has not found anything in the municipal code that actually addresses the salary of the tax collector. Solicitor Henninger noted that there has been a lot of discussion and even some litigation over the last several years with regards to the compensation of tax collectors. He recommended the Township speak to neighboring municipalities which have similar types of tax collection requirements to see if this salary is in-line with area standards.

#### COMMITTEE REPORTS:

Police Committee – Chairman Clark – stated that he had emailed each Commissioner, along with Mr. Paul and Chief Wiley, information on a county grant program that reimburses up to 50% of costs of a number of things, one of these being some police activity, and the majority of it being intergovernmental or cooperative efforts between municipalities. He also reported that the COG meets this coming Monday.

Public Safety – Commissioner Mehaffie – thanked Alan Knoche, EMA Coordinator, for his work during the recent heavy rains. Thankfully, the Jednota Flats area did not experience flooding this time. Commissioner Mehaffie also thanked the new Director at HIA for monitoring the valve. He agreed with President Linn that the work in conjunction with the Meade Avenue project definitely seems to be helping out the Flats area.

Public Works – Commissioner Loych – reported that the Department is working on the baseball fields, preparing them for opening day in early April. Repairs are being made to the roof of the large concession stand at Memorial field. The team benches are being secured at Shopes Gardens and Memorial fields. Weather permitting, work will begin on the infield and Diamond Tex will be added as necessary. The batting nets are up, the recycling and trash cans are in place, and the port-a-johns were delivered to all of the parks. All parks have been inspected and repairs are being made

to the playground equipment as necessary. The Department is cleaning up sod along the roadways, sweeping and patching roadways throughout the Township, cleaning drains and culvert pipes, and working on drainage issues. In addition, work is being done on the sign maintenance program. The dumpster will be available to the Township residents on Saturday, April 2, from 8:00 A.M. to Noon. Commissioner Loych noted that he had attended the recent Recreation Board Meeting, and the Middletown public pool is still scheduled to reopen in May.

Budget and Finance – Vice President Leonard – reported that cash receipts for the month of February totaled \$1,645,841.73. The major source of revenues, \$912,550.03, was from the Commonwealth for the ongoing project at Meade Avenue. Receipts for the month totaled \$260,714.61 and included the fourth quarter of 2010 for the EIT and LST (both of which were recorded against the 2010 budget), a transfer of \$200,000 from PLGIT, and other miscellaneous receipts. Cash expenditures totaled \$1,269,423.94 and were comprised of the two transfers to the payroll account, invoices associated with the Meade Avenue Project (\$912,550.03), and all invoices due and payable. Investments totaled \$588,981.91 with an average annual yield of 0.5%. Vice President Leonard reported that the Fire Department received the contact from Dauphin County for the \$400,000 grant for the new rescue truck. There are stipulations and requirements in there, including execution within 30 days of receipt of the letter, which is dated March 8. President Linn referenced a letter from the American Legion regarding the firefighter of the year award, and asked Vice President Leonard to forward this to Assistant Fire Chief DeHart.

Community and Economic Development – President Linn – reported on the recent meeting of the Penn State Advisory Board. At the meeting, he had the opportunity to update the Advisory Board on what is happening in Lower Swatara Township and what projects are being constructed. He suggested the Township needs a hotel, a bank, restaurants, etc. close to the campus. A gentleman at the meeting expressed interest in building a hotel as close to Penn State as possible. It appears there may also be interest in a bank relocating in this area. President Linn anticipated that this area will be booming in the near future. He will keep the Board updated on these leads.

UNFINISHED BUSINESS:

A motion was made by Commissioner Loych, seconded by Commissioner Clark, 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, May 19, 2010, July 21, 2010, November 17, 2010, and February 16, 2011. The plan is due to expire on May 18, 2011. The motion was unanimously approved.

A motion was made by Commissioner Loych, seconded by Commissioner Clark, 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, and August 18, 2010, November 17, 2010, and February 16, 2011. The plan is due to expire on May 18, 2011. The motion was unanimously approved.

A motion was made by Commissioner Loych, seconded by Commissioner Clark, 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. The motion was unanimously approved.

A motion was made by Commissioner Loych, seconded by Commissioner Clark, to table the Agreement with Berkheimer Tax Administrator for collection of the Township's per capita and occupation taxes for calendar year 2011. The motion was unanimously approved.

#### NEW BUSINESS:

A motion was made by Commissioner Mehaffie, seconded by Commissioner Loych, to table the Land Development Plan for William O. and Emily R. Botterbusch for a proposed dog kennel use at 880 Oberlin Road, prepared by Act One Consultants, Inc., and submitted by William and Emily Botterbusch. The plan was recommended for approval by the Planning Commission on

February 24, 2011. The plan is due to expire on April 27, 2011. The motion was unanimously approved.

A motion was made by Commissioner Mehaffie, seconded by Commissioner Loych, to table the Land Development Plan of Noah W. Kreider and Sons, LLP for a proposed poultry expansion of the Middletown Facility located at 301 Longview Drive, prepared and submitted by TeamAg Inc. The plan was recommended for approval by the Planning Commission on February 24, 2011. The plan is due to expire on April 27, 2011. The motion was unanimously approved.

A motion was made by Commissioner Clark, seconded by Vice President Leonard, to approve Ordinance No. 529. This ordinance amends the Code of Ordinances of the Township of Lower Swatara, Dauphin County, PA, No. 448, as amended and supplemented, Article I, Administration and Government, Part 2, Appointed Officials, Subpart A, Township Manager, Section 1-202 through 1-209, setting forth revised provisions for the Appointment, Resignation, Removal, Qualifications, Bond Requirements, Compensation, Chief Administrator Duties, Powers and Duties, and Performance of Duties During Manager's Absence. 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. 529 was approved by a 5 – 0 margin.

A motion was made by Commissioner Mehaffie, seconded by Commissioner Loych, to approve Ordinance No. 530. This ordinance amends the Code of Ordinances of the Township of Lower Swatara, Dauphin County, PA, No. 448, as amended and supplemented, Chapter 1, Administration and Government, Part 15. Recovery of Attorney Fees, in order to add provisions with regards to cost and interest chargeable and collectible on municipal liens. 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. 530 was approved by a 5 – 0 margin.

A motion was made by Commissioner Mehaffie, seconded by Commissioner Clark to approve authorization of payment for the Middletown Borough Authority Waste Water Treatment Plant BNR construction upgrades, Requisition No.12-A, in the amount of \$117,841.12 to Middletown Borough Authority. The motion was unanimously approved.

A motion was made by Commissioner Loych, seconded by Vice President Leonard, to approve authorization of payment for the Highspire Borough Authority Waste Water Treatment

Plant BNR construction upgrades, Requisition No. 16, in the amount of \$66,891.79 to Highspire Borough Authority. The motion was unanimously approved.

A motion was made by Commissioner Mehaffie, seconded by Vice President Leonard, to approve the payment of Application for Payment #6 in the amount of \$57,100.14 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 Commissioner Clark, to approve the payment of \$6,335.74 to HGR, Inc. for services rendered for the period January 31, 2011 through February 27, 2011, for construction phase services related to the Meade Avenue Project. The motion was unanimously approved.

A motion was made by Vice President Leonard, seconded by Commissioner Mehaffie, to approve the payment of Estimate No. 5 in the amount of \$17,399.12 to Navarro & Wright Consulting Engineers for construction phase services related to the Meade Avenue Project. The motion was unanimously approved.

Mr. Paul stated that the next two agenda items pertain to preparing draft ordinances: one to establish an Airport District Overlay and the other to regulate Wireless Telecommunications Towers and Antennas. He explained that these draft ordinances would be submitted to the Planning Commission this month, and would also be forwarded to the Dauphin County Planning Commission. In addition, the Board would need to schedule a Public Hearing on both ordinances before final adoption. A motion was made by Vice President Leonard, seconded by Commissioner Clark, to prepare and refer to the Planning Commission for further action a proposed ordinance amending the Code of Ordinances of the Township of Lower Swatara, Dauphin County, PA, Ordinance No. 448, as amended, Chapter 27, Zoning, Part 20, General Regulations, Section 2014 Airport Controls and Regulations, to establish an Airport District Overlay to include: Purposes of the District, Definitions, Airport Zones, Airport Zone Height Limitations, Permits Required, Use Restrictions; Nonconforming Uses, Variances, Conflicting Regulations; and Amending the Official Zoning Map by the adoption of an Official Supplementary Airport Overlay Zoning Map. The motion was unanimously approved.

A motion was made by Vice President Leonard, seconded by Commissioner Clark, to prepare and refer to the Planning Commission for further action a proposed ordinance amending the Code of Ordinances of the Township of Lower Swatara, Dauphin County, PA, Ordinance No. 448,

as amended, Chapter 27, Zoning, Part 20 General Regulations, to include Section 2016 entitled “Wireless Telecommunications Towers and Antennas”, providing Definitions; providing Requirements for Permitted Uses, Accessory Uses, and Conditional Uses; providing for Permits and Lease Agreements; providing for Severability, providing for Repealer; and providing for an Effective Date. The motion was unanimously approved.

Mr. Paul stated that he had emailed all Board members a rough draft of the ad for the Manager’s position. He pointed out that the ad, as per the job description, includes a minimum of a Bachelor’s Degree with at least seven years experience as a municipal manager, administrator, or comparable government experience. He asked if the Board would like to reduce the required years of job experience, since requiring seven years may eliminate some good candidates. President Linn agreed this concerned him for the very same reason, and suggested the Board reduce this requirement to four years of experience. Solicitor Henninger asked how this would impact the other wording in the draft ad, which states “a Master’s Degree is preferred with five years experience in a responsible Pennsylvania local government position.” Mr. Paul agreed that if the Board decides to change the required years of experience with a Bachelor’s Degree, it should also change the required years of experience with a Master’s Degree. Vice President Leonard noted that the phrase “or comparable governmental experience” is included in the wording, and would preclude the seven/five year experience requirement, if the Board desires to hire an individual with fewer years of experience. Mr. Paul suggested the Board members think about it and get back to him. He added that if the required years of experience are changed in the ad, the job description for the Manager should also be revised. President Linn stated that he would like to see the ad finalized next week, and asked that all Board members provide their input to Mr. Paul by next week.

#### FINAL COMMENTS:

Commissioner Mehaffie reported on the recent meeting with Schell Web Design, which will be re-designing the Township website. He stated that he is confident that the firm will do an outstanding job on this. Some type of initial design outlay will be provided in the near future for Board input. Commissioner Mehaffie also reported that he had spoken to Mayor Hoerner of Highspire, who informed him that funds for the Highspire Reservoir Park project were granted, and work on the project has started.

Commissioner Clark inquired if the Planning Commission had met in November or December of 2010, since the January 2011 meetings are on the website but no minutes from November or December are listed. Mr. Paul agreed to verify this.

President Linn reminded everyone to get their articles to Ms. Arroyo for inclusion in the spring/summer newsletter.

ADJOURN:

Hearing no other business, a motion was made by Vice President Leonard, seconded by Commissioner Clark, to adjourn the meeting. The motion was unanimously approved, and the meeting adjourned at 8:16 P.M.

ATTEST:

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Jean R. Arroyo  
Recording Secretary