

## MINUTES

### MAY 19, 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
- Thomas R. Clark, Commissioner
- Robert L. Loych, Commissioner
- Thomas L. Mehaffie III, Commissioner
- Ronald J. Paul, Manager/Secretary
- Peter R. Henninger, Township Solicitor
- Christopher K. Bauer, P.E., HRG, Township Engineer
- Jean R. Arroyo, Recording Secretary

Absent:

- William L. Leonard, Vice President

Residents and visitors in attendance:

- Mike Williams (Bryn Gweled Subdivision)
- Mark Will
- Marlin Biesecker (24 Conway Drive)
- Donald Canham (860 Evergreen Drive)
- Spencer Bevins (1027 Hickory Lane)
- Ben Blinds (1081 Woodridge Drive)
- Jon Wilt
- Phyllis Zimmerman (Patriot News)
- Paul Navarro (Navarro & Wright)
- 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 back in 1998, he had first brought to the Board's attention the need for sound barriers along Route 283, near the Bryn Gweled development. To date, nothing has been done and the noise levels continue to increase. Mr. Biesecker stated that he has come to accept the fact that sound barriers being built here doesn't seem very likely, at least in his lifetime. He stated, however, that the bulk of the noise is actually from trucks traveling Route 283 from Lancaster, towards the turnpike intersection. These trucks are using their jake brakes to slow down. He stated that the noise from these brakes is absolutely ridiculous. Mr. Biesecker added that numerous letters have been sent by this Board, Representative Payne, and Senator Piccola pertinent to this request. Penn Dot's responses have been ridiculous. In November, Representative Payne held a meeting here at the Township Building with representatives from Penn Dot. At that meeting, Mr. Biesecker presented a request for signage prohibiting jake brakes on this section of highway. He was told someone would look into it and get back to him. After six months and no response back, Mr. Biesecker contacted Representative Payne's office. Six days later, he received a phone call and a document from Penn Dot. This document basically states that in order for the signage to be approved, the Board must send the request to Penn Dot for its review and approval. Mr. Biesecker stated this latest request is simply to have some signage coming from Lancaster that indicates that jake brakes are prohibited. He noted that there is no incline on the roadway, and absolutely no reason for truckers to use the jake brakes. Mr. Biesecker stated that he and his neighbors are taxpaying, law-abiding citizens and are asking for the Board's assistance with this noise problem.

Donald Canham, 860 Evergreen Drive, stated he is having the same problem in his area with the noise from these jake breaks. He agreed that there is simply no need for truckers to even use them. Mr. Canham added that he had spoken to Senator Piccola about this at the recent town meeting and was informed that sound barriers could be a possibility when Route 283 is rebuilt. He noted, however, that the sound from the brakes vibrates, and barriers might not alleviate this problem anyway. The best way to prevent it would be to prohibit it from happening at all. He stated that there needs to be signage prohibiting use of the jake brakes, and then this signage needs to be enforced.

In response to a question from Commissioner Loych, Mr. Biesecker explained that his first request for signage in lieu of the sound barriers was presented to Penn Dot via a letter sent in June of 2009. Commissioner Mehaffie inquired if this type of signage has been placed on other interstates. Mr. Biesecker confirmed that it has been done in other locations. President Linn noted that it is his understanding that the Township would have to make application for such signage, and the municipality would also be responsible for the cost of the signs.

Mike Williams, who resides near the Bryn Gweled development and also experiences this noise problem, stated that he had talked to Roger Mason Jr. of RL Mason's Garage about this situation. Mr. Mason indicated that there is already a law prohibiting noisy jake breaks. Solicitor Henninger noted that in looking at the Penn Dot regulations, it appears that one of the criteria to allow the prohibition of jake brakes is that the highway must not be a limited access facility. This could be a problem, since Route 283 is a limited access facility. Mr. Biesecker stated that if this is the case, his question would be at what point the rights of citizens have precedent over regulations.

President Linn suggested the Board set up a committee, including Representative Payne and Senator Piccola, to review the Penn Dot correspondence and discuss how to resolve this issue. Mr. Williams referenced comments about upcoming improvements to Route 283, and suggested it is a good time for the Township to get its foot in the door as far as the actual sound barriers.

Commissioner Clark showed the Board his very thick file folder on this issue, and stated he is very frustrated with the constant run-around from Penn Dot. He added that the west shore seems to have no problem getting sound barriers installed along its highways. He stated the Township may need more representation to get these approvals.

Spencer Bevins, 1037 Hickory Lane, stressed that the Board represents the citizens. Penn Dot reacts to the squeaky wheel – the Township must continue pushing for the sound barriers and/or signage.

Commissioner Clark stated that in addition to Representative Payne and Senator Piccola, the Board should also send copies of the correspondence regarding this issue to Jim Symborski at the Tri-County Regional Planning Commission and also to the Dauphin County Commissioners. President Linn directed that this be done, and informed the residents that he hopes to have a response back to them as soon as possible.

Ben Blinds, 1081 Woodridge Drive, expressed his extreme displeasure with the billing collection procedure of Penn Waste, the Township's trash/recycling hauler. He stated that his residence and 520 Colony Drive are both owned by his son. His son did not pay the bill, and the amount escalated to \$158.00. His son was taken to the district justice, and additional fees ending up costing him \$450.00. Mr. Blinds stated that he also refused to pay his \$158.00 bill and was requested to appear before the district justice, but didn't go. A judgment is now being held against him for nonpayment of his bill. Mr. Blinds informed the Board that the Fair Debt Collection Act states that if a bill doesn't clearly indicate what late charges will be assessed, the company cannot assess them. Penn Waste is breaking all kinds of laws. He stated that at this point, it is not the money but the principle. President Linn asked Mr. Blinds why he did not pay the initial bill. Mr. Blinds stated it was not paid because they were away from home. However, he now refuses to pay the late charges associated with the bill. Mr. Blinds confirmed that he did not attend the hearing before the district justice, nor did he appeal the decision. President Linn stated it is hard to support Mr. Blinds on this issue when he admits that he didn't pay the bill nor did he show up in court to defend his position. Mr. Blinds again stated that Penn Waste is not following the law or proper legal procedures. He informed the company that unless they reverse the fees, he will not pay the bill. Commissioner Mehaffie suggested that he and Mr. Paul review the trash/recycling contract's billing collection policy and get back to Mr. Blinds. Solicitor Henninger stated the staff can take a look at the contract; however, if Mr. Blinds felt there was an issue with the late fees, he should have addressed this at the district justice level. In addition, if he feels Penn Waste is violating the Fair Debt Collection Act, this federal issue should be taken up with the Attorney General. Mr. Paul agreed to take a look at the contract and get back to Mr. Blinds with further information.

Donald Canham stated that he wanted to address a few other items. First of all, he thanked Mr. Paul for the work he did with the water retention basin in his backyard. He then informed the Board that the home across the street from his has a grate in its yard. The pipe around it has a hole in it. He suggested it be repaired before somebody gets hurt. Mr. Canham also informed the Board that he is having a problem with the lighting from the two signs at the Lottery Building which are on at night and shine directly into his bedroom window. He asked if the staff could contact the Lottery Building and ask about the possibility of the lights being placed on a timer. Mr. Paul agreed to pursue these two items.

Mr. Biesecker also expressed concern with campers, boats, RV's, etc. parked on residential properties (between homes, in front of homes, etc.). He stated this is very unattractive, and suggested the Board look into regulating this.

APPROVAL OF MINUTES:

A motion was made by Commissioner Loych, seconded by Commissioner Clark, to approve the Minutes of the April 21, 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 May 5, 2010 Non-Legislative Meeting. The motion was unanimously approved.

APPROVAL OF BILLS:

A motion was made by Commissioner Loych, seconded by Commissioner Mehaffie, to approve Payment of Bills as presented on Warrant No. 2010-4. The motion was unanimously approved.

APPROVAL OF TREASURER'S REPORT:

A motion was made by Commissioner Mehaffie, seconded by Commissioner Loych, to approve the Treasurer's Report for April 2010. The motion was unanimously approved.

ENGINEER'S REPORT:

Chris Bauer, HRG, updated the Board on the Meade Avenue project. The project will be advertised tomorrow, with a letting date of June 24. A July 22 notice to proceed will be requested. During the construction phase of this project, the Township is responsible through the reimbursement agreement to hire both a consulting engineer to do the construction inspection and a consulting engineer to do the construction administration. Both fees are reimbursable under the federal grant. The Township has a technical proposal and a price proposal from the previously approved consultant, Navarro & Wright, in the amount of \$312,145.00. HRG has reviewed this on behalf of the Township, and is recommending approval of the proposal. The Township also has a proposal from HRG for the construction phase services which includes administration of the project (invoice review, monitoring of joint permit activities, review of payment requests, response to

change orders, etc.), in an amount not to exceed \$74,643. 00. Mr. Paul asked the Board to take action on these proposals. A motion was made by Commissioner Loych, seconded by Commissioner Clark, to approve a proposal for consultant construction inspection for the Meade Avenue Project, as submitted by Navarro & Wright, Inc., at a cost not to exceed \$312,145.00. The motion was unanimously approved. A motion was made by Commissioner Clark, seconded by Commissioner Loych, to approve a proposal for engineering services for construction administration for the Meade Avenue Project by HRG, Inc. at a cost not to exceed \$74,643.00. The motion was unanimously approved. President Linn added that he is very happy to see this project moving forward. This will be a great improvement to Route 230 and will transform the Jamesway Plaza.

SOLICITOR'S REPORT: no report

MANAGER'S REPORT:

Mr. Paul referenced the list of future meetings. He called attention to correspondence from Penn Waste regarding a rate increase request due to the situation at the Harrisburg Incinerator. A representative from Penn Waste will attend an upcoming meeting to further explain this request. Mr. Paul also provided the Board with an update regarding discussions with the Middletown Borough to make its woody waste facility more accessible to Township residents. After speaking to the Public Works Director, it was discovered that the Borough was recently approved to use a key card type system within the next two to three months. Residents paying for the yearly permit service will get a key card, and will then be able to access the center at reasonable hours, including the weekends.

COMMITTEE REPORTS:

Police Committee – Commissioner Clark – reminded the Board that the Police Department has completed its testing for police officers, and will be looking at one point to replace retired officer Tom Shank.

Public Safety – Commissioner Mehaffie – no report

Public Works – Commissioner Loych – reported the Department is busy trying to repair the water service line at the Township office building. Other jobs include mowing grass and constructing a small garage over the Township pump station located at the Middletown Area Middle School. Commissioner Loych reminded the Board and residents that the dumpster will be open Saturday, June 5, from 8:00 A.M. to noon.

Budget and Finance – in the absence of Vice President Leonard, Mr. Paul reported that cash receipts for the month of April totaled \$805,427.12. Cash expenditures totaled \$596,535.35, and investments totaled \$586,415.44 with an average annual yield of 0.5%.

Community and Economic Development – President Linn --- reported that he is on the Penn State Advisory Board, and will be meeting the new Provost. He added that he is pleased to see that the Township budget is right on target at present time.

UNFINISHED BUSINESS:

A motion was made by Commissioner Loych, seconded by Commissioner Mehaffie, to grant a 90-day time extension, as requested by the developer, on the Final Subdivision Plan for Bryn Gweled East (26 lots), located along Lumber Street, immediately south of PA 283, prepared by Dauphin Engineering Co. and 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 and February 17, 2010. The plan is due to expire on May 19, 2010. The motion was unanimously approved.

A motion was made by Commissioner Loych, seconded by Commissioner Mehaffie, to grant a 90-day time extension, as requested by the developer, on the 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 and February 17, 2010. The plan is due to expire on May 19, 2010. The motion was unanimously

approved. Mr. Paul added that representatives from this plan would like to discuss its status with the Board at the June workshop meeting.

A motion was made by Commissioner Clark, seconded by Commissioner Mehaffie, to reaffirm approval of the Final Land Development Plan for Eldorado Properties Corporation, located at 900 Eisenhower Boulevard, prepared by Rettew Associates, Inc. and submitted by Eldorado Properties Corporation. The plan was approved by the Board of Commissioners on June 15, 2005 and recorded in Plan Book “N”, Volume 9, Pages 85, 86 and 87. Mr. Paul explained this is a land development plan for an additional tank to be built. Although it hasn’t been built yet, the developer does plan to build it at some point in time. Solicitor Henninger added that land development plans are good for five years, and the five years on this plan are expiring. The only question would be if there are changes in the zoning ordinance that would affect the re-approval. In this case, there is not. The motion was unanimously approved.

NEW BUSINESS:

A motion was made by Commissioner Clark, seconded by Commissioner Mehaffie, to approve a Continuing Disclosure Service Agreement with Concord Public Financial Advisors, Inc. in the amount of \$2,000. Said Service will assist municipal bond users in complying with Securities and Exchange Commission’s Continuing Disclosure Rule 15C 2-12. The motion was unanimously approved.

A motion was made by Commissioner Mehaffie, seconded by Commissioner Loych, to approve authorization of payment for the Highspire Waste Water Treatment Plant BNR construction upgrades, Requisition No. 9, in the amount of \$28,647.78 to Highspire Borough Authority. The motion was unanimously approved.

A motion was made by Commissioner Loych, seconded by Commissioner Clark, to accept the low bid for Contract 2010-1: Cold in Place Recycling of Bituminous Surface Streets for Market Street Extended as submitted by E. J. Breneman in the amount of \$77,052.80. The motion was unanimously approved.

A motion was made by Commissioner Loych, seconded by Commissioner Mehaffie, to approve Ordinance No. 522. This ordinance adopts the “2009 International Property Maintenance Code, First Printing”, as published by the International Code Council, Inc., with certain deletions, amendments and additions. A roll call vote was taken with the following ballot tabulation:

Commissioner Mehaffie – aye, Commissioner Loych – aye, Commissioner Clark – aye, President Linn – aye. Ordinance No. 522 was approved by a 4 – 0 margin.

A motion was made by Commissioner Clark, seconded by Commissioner Loych, to approve a Stipulation and Joint Motion for Agreed Upon Order between Prologis/Keystone Capital, LP, Appellant, and Dauphin County Board of Assessment Appeals, Appellee, and the affected taxing bodies (Middletown Area School District, Lower Swatara Township, and the County of Dauphin) regarding the parcel of real estate which is subject of the instant appeal (Parcel 36-013-139), known as Capital Business Center, Middletown Distribution Centers #1 - #4. Solicitor Henninger remarked that throughout the county and state, there is a constant barrage of assessment appeals on the fair market values of facilities. Prologis filed an appeal on the Capital Business Center’s fair market value of \$31,000,000.00. The County hired an appraiser (the Township contributed its pro-rata share of the appraisal), and the appraisal came up with a fair market value of \$21,345,000.00. Dauphin County and Solicitor Henninger are recommending that the Board approve this Stipulation. The motion was unanimously approved.

A motion was made by Commissioner Clark, seconded by Commissioner Loych, to approve the application and submission for a BASLE (Better Automation Sharing By Law Enforcement) Grant being offered from the Pennsylvania Commission on Crime and Delinquency (PCCD). It was noted that this would entail the Township being the lead agency to apply for this grant funding. Solicitor Henninger reported that he had just received 21 pages of federal regulations associated with this grant; he suggested the Board approve the application and submission conditioned upon his review and approval. Commissioner Clark amended his motion to include “conditioned upon review and approval of the Solicitor.” Commissioner Loych seconded the motion, and the motion was unanimously approved.

FINAL COMMENTS:

Commissioner Loych inquired as to the status of having Tower One tour the Township to look at sites for possible cell tower locations. Mr. Paul responded that he had phoned the company, but has not yet heard back from them. Commissioner Loych remarked that the word is out, and residents are already expressing concern about the possibility of cell towers in their backyards.

Commissioner Clark congratulated Ms. Arroyo on the approval of the Act 101 Recycling Performance Grant.

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 8:20 P.M.

ATTEST:

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Ronald J. Paul  
Township Secretary