

MINUTES

NON-LEGISLATIVE MEETING

MAY 5, 2010

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, Township Solicitor
- Chris Bauer, HRG, Township Engineer
- Richard T. Wiley, Police Chief
- Jean R. Arroyo, Recording Secretary

Absent:

- Robert S. Grauel, Public Works Director

Residents and visitors in attendance:

- Mike Williams
- John Gaiki (107 Bradford Avenue)
- Chris DeHart (LST Fire Dept.)

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

PUBLIC COMMENTS:

John Gaiski, 107 Bradford Avenue, distributed photos from his neighborhood which had been taken during this week's heavy rains. He stated that while he is aware that state agencies move slowly, if Penn Dot had done the work around the interchange and the Airport had cleaned out the holding ponds last year, the water from these rains would have ended up in the retention ponds instead of the residents' yards. Mr. Gaiski observed that nothing came from Route 230; the water was flowing upstream and coming from the swamp area behind the homes. President Linn noted that the Airport had indicated that it would start work on the holding ponds in June. Mr. Gaiski reminded the Board that the initial correspondence stated this work would be started in the spring; June is pushing into the summer months. Again, Mr. Gaiski stated that this is routine maintenance work that is the responsibility of these agencies; this should not be put off, but should be done on an annual basis. He asked that the Board do all it can to expedite things with Penn Dot and SARAA.

POLICE DEPARTMENT REPORT:

Chief Wiley reminded the Board that the Department's accreditation assessment is scheduled for June 23 – 24. All necessary paperwork has been submitted, and the Department feels confident that it is ready to proceed.

Chief Wiley reported that he had recently attended a meeting at the Central Dauphin School District. The police departments in Dauphin County had been invited by the Central Dauphin Superintendent Dr. Gonzalez to attend this meeting. Discussion focused on a company by the name of Interquest Detection Canine. This national company provides K-9 drug searches in schools and has been very successful. Dr. Gonzalez came to Pennsylvania from another state that utilized the services of this particular company; he would like to initiate the program here in Dauphin County. The more school districts in the county that use the service, the cheaper the rates to those participating. The search process is fairly non-intrusive. One canine is utilized to target particular areas of the school -- lockers, classrooms, cars. This is done several times a month. Chief Wiley will be meeting with Dr. Weinstein, Superintendent of the Middletown Area School District, tomorrow to discuss the program with him. It will be the decision of the School District on whether or not to participate in this program. Chief Wiley added that he likes the fact that it will take law enforcement out of the picture. The police department will only be called in if drugs are actually

found. In addition, Chief Wiley noted this program serves as a prevention program – the students are made aware of the program, and never know when the canine will show up.

The recent scores of the police testing were reviewed, and additional names have been added to the police list. The list is up to 53 candidates who are either Act 120 trained or Act 120 certified. Chief Wiley stated that this is the cream of the crop. President Linn asked how many of these individuals are military. Chief Wiley responded that there are four military personnel in the top 20, and six more on the remainder of the list. President Linn expressed his satisfaction that the three Townships who joined together to participate in this joint testing actually were able to get a better list than the Dauphin County Chiefs of Police list. Chief Wiley agreed, and added that many of these individuals found the notice to test through the various websites it was posted on.

Chief Wiley reported that he had received a call yesterday from Steve Libhart, who is the Criminal Justice Coordinator for District Attorney Ed Marsico. The call regarded a grant that is available through the PCCD (Pennsylvania Commission on Crime and Delinquency). This grant, in the amount of \$10,000, is earmarked for technology sharing. Chief Wiley reported that it is his understanding that the grant monies will go towards the cost of the records management system for Dauphin County. District Attorney Marsico had asked Mr. Libhart to look at all available grants and start applying for them, since this project will be extremely expensive. Lower Swatara Township Police Department is being asked to sponsor the grant, since the PCCD has a list of police departments which are eligible for the grant, and Lower Swatara is one of them. Chief Wiley reported that he and Mr. Paul will be meeting with Mr. Libhart to discuss how the grant will be structured and how the monies will be funneled. Mr. Libhart did stress that there are no matching funds required, no audit requirements, and no cost to the Township. Deadline for submission of the grant application is May 18; Mr. Libhart will do all the administration of the grant application. President Linn stated there are a lot of questions with this grant that need to be worked out before proceeding. Chief Wiley agreed that this is the purpose of the meeting. He asked the Board to keep an eye out for further updates from him, which will be sent via email.

Chief Wiley informed the Board that officer Mark Sallada was going on a radio assignment last week, when another call came in regarding a resident suffering a stroke or heart attack. Officer Sallada canceled the radio assignment and responded to that call instead. When he got there, the individual was deceased. He began administering CPR, Chief Wiley joined him minutes afterwards, and the two worked together as a team to try to revive the individual. They were

successful, and the patient was transported by the EMS. Chief Wiley stated that this is just one of the many situations where Officer Sallada has proven himself to be a great asset to the Department.

FIRE DEPARTMENT REPORT:

Chief DeHart distributed the monthly report, and stated that calls for the month of April totaled 42, with a year to date total of 172. He referenced the recent double fatal accident on Route 283 west, and thanked the Police Department and EMA Coordinator Alan Knoche for their support during the incident.

Chief DeHart reported that the Summer Breakfast Series Biker Breakfasts will start in May, and the Auxiliary is having a dinner show/fundraiser with Elvis. He informed the Board that the grant for a new engine was turned down. The Department will be submitting applications for two federal fire grants: a SCBA (self contained breathing apparatus) grant and an engine grant (for 2011 consideration).

Two graphs were presented: one showing alarm data by day of week, and another showing alarm data by district. Chief DeHart pointed out that the calls are overwhelmingly coming from Lower Swatara Township. Vice President Leonard inquired if the Fire Department has responded to any calls at the Airport so far this year. Chief DeHart responded that he doesn't believe so. Vice President Leonard referenced the fact that the Lower Swatara Fire Department no longer responds to calls on the Turnpike. There are buildings in the Township that the Lower Swatara Township Fire Department responds to; however, the Turnpike Administration has "at times" also influenced concurrent dispatching of Cumberland County apparatus (i.e., Fairview Township) by initiating their Turnpike right of way response scenario. Vice President Leonard stated that this procedure is complicated and borderline inappropriate.

Chief DeHart questioned the Fire Department's responsibilities as far as right to know requirements. He explained that the County hosts the Fire Department's data relative to emergency dispatches. The question arose on what would happen if somebody comes to the Fire Department requesting a call report and is denied that information. Could they then solicit the County for the information, and would the County be required to provide this? He inquired if the Right to Know Officer would have to make this determination. Solicitor Henninger stated that this exact issue is being litigated right now. The question is whether volunteer fire departments are subject to the

Right to Know Act. He stated that the Right to Know Office is taking the position that they are, but this is being appealed.

President Linn asked to get back to the issue of the potential problems with the fact that the Lower Swatara Fire Department is not being called to respond to incidents at the Turnpike and the Airport. He stated the Township may be responsible and should be concerned about liability. If the Township's Fire Department is closer to the response area, it just makes sense for it to respond. Solicitor Henninger stated that the Turnpike Commission has taken a position that it absolutely controls its own right of way. This doesn't negate the fact that the Township could contact Representative Payne and Senator Piccola and schedule a meeting with the head official at the Turnpike Commission. Solicitor Henninger added that it is ridiculous for west shore fire departments to respond to calls at the Turnpike Administration Building. He added that under the First Class Township Code, the Board has the responsibility to protect the safety and welfare of its residents and businesses. He added, however, that he sees no potential liability attachment to the Township or Fire Department if the Township is not called out to respond.

Vice President Leonard agreed that Fairview Township runs from an access point on the west shore over to the interchange, because it is closest to an access gate. Lower Swatara probably can't debate right of way response, but it can debate that from a building standpoint. Commissioner Clark stated that he can see debating the issue of response to the building, but doesn't see why the Board should waste time or money questioning the decision as far as it pertains to the Turnpike right-of-way; it is their right of way and their decision. Vice President Leonard concurred that many would agree with this. However, the Fire Department is looking for some clarification and guidance on this issue. The Turnpike is only one situation. Can SARAA and the Airport do the same thing? Could the Turnpike Industrial Park also adopt this policy? The question is what kind of agencies have the ability to set such policies, and where do their responsibilities and authorities end and where do the municipalities pick up.

Vice President Leonard asked if the Board desired Solicitor Henninger to proceed with legal research regarding this issue. Solicitor Henninger again stated that legal responsibility sets in when the Fire Department gets notified. He stated that he can't foresee any legal liability falling back on the Township or Fire Department for not responding to something that they weren't called about. The Turnpike, being a commission, feels that it doesn't require highway occupancy permits for emergency entrance and exists, building permits, or anything else from the local municipality. The

Turnpike Administration Building, however, is not within its right of way and is a whole other ballgame. Solicitor Henninger again recommended that the Township work with Senator Piccola and Representative Payne to arrange a meeting with the head official of the Turnpike Commission and let that individual know that the Township is concerned about the protection of its residents and businesses. He suggested Mr. Paul and Vice President Leonard, as liaison to the Fire Department, also attend. There were no objections stated by the Board to this suggestion. Solicitor Henninger explained that as far as the Airport, it is federal and also a Pennsylvania Authority, so it has certain obligations and powers for its own policing and fire and emergency services. President Linn suggested the Board ask Fred Sembach, the Board's liaison to SARAA, to bring this concern to the Airport's attention.

In response to a question from Vice President Leonard, Solicitor Henninger stated that his estimate to proceed with the research regarding the Township's and Fire Department's liability with the Airport, Turnpike Commission, and Penn State Harrisburg would not exceed \$1250. He noted that it would be less if he doesn't have to address the federal aspect of the Airport, since this is where it gets time consuming. Commissioner Clark inquired who will be responsible for paying for these legal research fees. Vice President Leonard stated that his personal opinion is that this is not just a fire department issue, but an emergency services issue which encompasses the ambulance and police services. He stated that since the Township itself would benefit by knowing what the responsibility of these agencies are, he does not feel the Fire Department should be asked to contribute at all. President Linn suggested the Township pursue the meetings first, and deal with the money issue if and when necessary. To summarize, Vice President Leonard asked the Board if there were any objections to him planning and coordinating a meeting with an executive level manager of the Turnpike Commission, Representative Payne, Township Manager Ron Paul and himself. Hearing no objection, Vice President Leonard stated he would proceed accordingly.

Vice President Leonard referenced a memo from Glenn Snavelly, Township Building Code Administrator, which also relates to the issue. He inquired what right an agency like the Airport or Turnpike has to say that while the Township must go by BOCA codes, it is going by another standard. Solicitor Henninger explained that the building code issue is a direct result of the recent Hershey Medical Center case. The Medical Center took the position that it is a state related entity, and therefore didn't have to comply with Derry Township building codes, only L&I (Labor & Industry) regulations. The Medical Center lost the case, because it is not a state owned building.

Now there is a Senate bill being proposed that would change this to state owned or state affiliated agencies (which would include the Turnpike Commission and Penn State University). Solicitor Henninger reported that he had contacted the State Association, and they are already pursuing the opposition of this bill. President Linn added that Senator Piccola had his town meeting here at the Township Building last Saturday, and he has promised to do all he can do to stop the bill from passing, or at least attempt to amend it. John Payne is also working to oppose the bill.

ENGINEER'S REPORT:

Chris Bauer, HRG, reviewed the enhancement checklist for the Meade Avenue project. Letting of the project is scheduled for June 4; everything is in place and the final package is at Penn Dot for review and final clearance. The Township will be receiving, before the next meeting, a proposal from HRG to do the complete construction administration. The construction administration actually comes out of the federal funds. The reimbursement agreement allows the Township to pass on those charges to the project. It was noted that the executed reimbursement agreement was received on April 26. Mr. Paul stated that federal funds take care of all construction, inspections, and construction administration costs. The grant from the County will take care of utility relocation and legal costs associated with this. Mr. Bauer added that utility reimbursement agreements need to be completed by the Lower Swatara Township Municipal Authority, UGI and PPL.

President Linn referenced discussion at the last meeting about the Prologis easement holdup. Solicitor Henninger explained that he had phoned the local representative the morning after the Board meeting and informed that individual that he would be contacting Congressman's Holden's office as a result of the displeasure of the Board. By the end of that morning, the Denver office had emailed him an executed copy of the document.

Vice President Leonard inquired when the start date for construction could be expected. Mr. Bauer anticipated a mid to late summer ground breaking.

PLANNING AND ZONING/MANAGER'S REPORT:

Mr. Paul referenced a proposal from Concord Public Finance. Solicitor Henninger explained that in connection with the bond issues for the improvements to the Highspire and Middletown sewage treatment plants, there are new continuing disclosure requirements with the

FCC, which means annual reporting is required. Concord Public Finance, which was the Township's financial advisor on the bond issue, has proposed to provide these disclosure services on an annual basis for a fee of \$2,000 plus costs (estimated to be less than \$100). It would lock this price for five years, with a 90-day notice to opt out. This proposal was actually made back in January, and the Authority had asked the Township to take a look at it. The staff's recommendation to the Authority is that the Board accept this proposal. Mr. Paul added that the Township may be able to handle this reporting in-house in the future, but it is a new requirement and it makes sense to let the experts handle it initially. He also noted that the Municipal Authority should be responsible for payment of this expense. Solicitor Henninger stated that the Authority did acknowledge this. President Linn directed that this item be placed on the May 19 agenda.

Mr. Paul reminded the Board that the bid opening for the Market Street Extended road recycling project is scheduled for May 17. Formal action on the bids will be on the May 19 agenda. Also appearing on the agenda will be previously tabled plans. Mike Williams, Bryn Gweled Subdivision, submitted to the Board a letter for a time extension. He added that he doesn't like time extensions either, but is encouraged that there is a party interested.

The position for a Public Works Superintendent has been advertised in the Patriot News and the League of Cities. Several responses have been received to date. Mr. Paul recommended a committee, comprised of the two Public Works commissioners, Mr. Grauel, and himself, review the applications. At the recommendation of the committee, the Board can interview as many candidates as it would like. It is anticipated that this can all be done in June.

FINAL COMMENTS:

President Linn reported that the finance committee has requested an executive session immediately after this evening's meeting in order to discuss personnel issues.

Commissioner Loych referenced discussions about the Middletown woody waste center, and inquired if Mr. Paul had made contact with the Borough. Mr. Paul stated that he plans to contact the Borough's Public Works Director to discuss ways to make the site more usable on the weekends to Township residents. He suggested, however, that the Township be in a position to answer questions such as its willingness to help man the site. He stated that from day one, Middletown's concern has always been a manpower issue on the weekends. Commissioner Loych,

Commissioner Clark, and Mr. Grauel will meet to discuss this and come back to the Board at the next meeting with a recommendation.

Solicitor Henninger reported that the proposed ordinance which would adopt the 2009 International Property Maintenance Code Edition has been advertised after revisions by Mr. Paul and Mr. Snavely. This item will appear on the Board's May 19 agenda for action. Solicitor Henninger also reported that work at both sewage treatment plants is moving forward and within budgeted amounts.

President Linn reported that he had attended Opening Day of baseball, and was impressed with the tremendous turn out. He added that he was extremely proud of the Public Works Department and the Athletic Association for all their work on the fields.

ADJOURN AND CONVENE INTO EXECUTIVE SESSION:

Hearing no other business, a motion was made by Commissioner Mehaffie, seconded by Commissioner Clark, to adjourn the meeting and convene into executive session. The motion was unanimously approved, and the meeting adjourned at 8:07 P.M.

ATTEST:

Ronald J. Paul,
Manager/Secretary