

## MINUTES

### LEGISLATIVE MEETING – APRIL 17, 2013

The April 17, 2013 Legislative Meeting of the Lower Swatara Township Board of Commissioners 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, Jr., Vice President
- Thomas L. Mehaffie III, Commissioner
- Michael J. Davies, Secretary
- Brenda K. Wick, Planning and Zoning Director
- Peter R. Henninger, Solicitor
- Jean R. Arroyo, Recording Secretary

Absent:

- Jon G. Wilt, Commissioner

Residents and visitors in attendance:

- Bruce Harter (1134 Strites Road)
- Ron Burkholder (Old Reliance Partnership)
- Mike Williams (Bryn Gweled)
- Peggy Ginnovan (535 N. Lawrence Street)
- Donald & Vicki Canham (860 Evergreen Drive)
- Bill Hockenberry (871 Evergreen Drive)
- Phyllis Zimmerman (Patriot-News)
- Donald Walmer (Press & Journal)

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

#### PUBLIC COMMENTS:

Donald Canham, 860 Evergreen Drive, reported that on March 26, he went to court to present his case against Messick Construction pertinent to issues with a building project across

the street from his home. Throughout 2012, that building project leached silt into his backyard. Mr. Canham passed around photos of how this impacted four of the backyards in his neighborhood, as well as how his yard looked in 2006 versus how it looked in 2012. He explained that the judge would not hear his case, but instead questioned why he was trying to litigate something that should be litigated by the Township or by the Dauphin County Water Conservation District. Mr. Canham noted that he had actually brought this to the attention of the staff and Board prior to taking it to court. During the November 2012 Board meeting he attended, he once again expressed concern about this issue. During the same meeting, there was a lot of focus on the Chesapeake Bay issue. Mr. Canham stated that it seems there are problems that could impact the Chesapeake Bay that are right in front of the Township's nose and should be tended to first, and not ignored.

Mr. Canham also addressed another problem on the same street. He showed the Board photos of a malfunctioning grate. This drain does connect to the stormwater system that the Township maintains. There was a study done on the pipe, and it was concluded that the pipe is corroded to the point where the earth over top of it will eventually collapse. This pipe is in very poor condition and also poses a risk to the public, since it is about 40 inches deep at its low point.

Mr. Canham explained that he drove around to look at other construction projects in the Township, and observed that every other project has a silt stop around it. He noted that he did try to resolve this problem before pursuing it in court. Taking the builder to court was not his first option. He first approached the builder, and then approached the Dauphin County Water Conservation District, which in six years has failed that same site nine times. The builder, however, basically received a slap on the hand and a written report. If there is no incentive to change a behavior, the behavior will not be changed. Mr. Canham stated that it has been a frustrating six years for him and his neighbor Bill Hockenberry, 871 Evergreen Drive, who is also in attendance tonight. The silt that comes through the area acts like a sandpaper. The yard to the right of his property has eroded to the point where the water that puddles here after a rain is deep enough for ducks to land in. The homeowner is still expected to mow and maintain that area.

In addition to the silt problem, there is a swimming pool in the detention area. The pool remains in place, even after complaints to Alan Knoche, Code Enforcement Officer, and the

Dauphin County Conservation District. Mr. Canham noted that during Irene and Sandy, he was extremely concerned that the tarp on the pool would come off, cap the concrete inlet, and flood his home. After seeing what they just saw in these pictures, how many of the Board members would tolerate this if it were in their own backyard? Mr. Canham informed the Board that after mowing his yard, he looks like he has spray tan. This is all preventable with one of those fences around the construction area.

Commissioner Davies asked Ms. Wick if there are different standards for the remediation of construction sites versus residential construction areas. Ms. Wick responded that there is not. It is all managed by DEP and the Conservation District. Mr. Canham added that DEP is also aware of this problem, but is avoiding the issue. He stressed that something needs to be done to prevent this from happening the next time this builder comes in and asks for a permit. Mr. Canham stated that he has patiently brought this to the attention of the Board and staff several occasions now, and is asking for assistance.

Solicitor Henninger explained that part of the problem is that this whole stormwater system is private, and is not owned or maintained by the Township. The silt runoff from the construction is a whole other issue. The Dauphin County Soil and Water Conservation District is in charge of that type of runoff. Perhaps Ms. Wick could pursue this with the Conservation District and/or DEP to make sure that their standards are being followed by those doing construction in the Township.

Mr. Canham stated that he does realize that this system is private. The Township does have some skin in the game though. There is one box consistently checked on the site inspection reports stating that the site has the potential to pollute the rivers and streams of the Commonwealth. One of those cited is Lower Swatara Township, which then contributes to the Susquehanna which in turn contributes to the Chesapeake Bay. This all goes back to the Chesapeake Bay watershed issue. Mr. Canham also agreed that by the declaration of covenants, the homeowners' association is responsible after the completion of the development for taking care of the maintenance of the stormwater drains that are on the easement. What he is addressing is the quality of the water that goes into that area. Mr. Canham explained that he is not asking the Township to write a new law, but is asking that it enforce the ones that already exist.

Commissioner Mehaffie asked the reasoning for the situation in the neighbor's yard, and why the water is not going into the culvert. Mr. Canham explained that the reason is that the pipe has corroded. The recommendation from the study was to have a polypropylene pipe put in there to connect to the existing Township pipe. Commissioner Mehaffie recalled that when he and Mr. Paul had looked at this area some years ago, it was not nearly as bad as the photo shows it be now. He asked Solicitor Henninger if nothing can be done to remedy this. Solicitor Henninger responded that the Township does not own that inlet or pipe, so the corrections would be the responsibility of the homeowners or the homeowners association. Commissioner Mehaffie also recalled that Mr. Messick had promised to correct this situation when construction slowed down. Mr. Canham agreed that Mr. Hockenberry does have a letter from Mr. Messick agreeing to fix the pipe. Again, Mr. Canham stated that he realizes the pipe itself is not the Township's responsibility. The pipe is, however, connected to what the Township maintains, so it is in the best interest of the Township to force the correction to be made. President Linn asked that a copy of this letter be forwarded to the Township.

Solicitor Henninger added that the issue with the pool needs to be addressed with Mr. Knoche. Commissioner Mehaffie asked Ms. Wick if a pool can even be placed in a drainage facility. Ms. Wick explained that she does not think a permit for this pool was issued by the Township. In addition, the homeowners' association in Woodridge generally does not allow pools. Solicitor Henninger added that even if the homeowners' association would permit pools in the development, he would be surprised if the Township's codes allow placement of a swimming pool in a stormwater easement. The homeowners' association cannot override Township regulations in regards to safety and placement of the pool. This needs to be addressed. Mr. Canham noted that Mr. Knoche has already told him that there was not a permit issued for the pool; this was captured in the Board's November meeting minutes of last year. Mr. Canham stressed that the Township cannot have it both ways. It cannot discover that there was no permit issued for the pool, yet know the pool is there. The owner needs to either seek a permit for the pool or the pool needs to be removed. Should the pool be removed, that area is going to require some dirt to be brought in because it is so torn up from water going around it. Again, Mr. Canham stated that he realizes the Township is not responsible for this work. Solicitor Henninger suggested that there is information on the plan or in the covenants deeming who is responsible to maintain that area.

Commissioner Mehaffie asked that these three issues be addressed with Messick Construction in attempts to provide some resolution. Solicitor Henninger agreed that if there is a letter from the builder promising to fix the pipe, this should be addressed since the Township does have a responsibility to protect the health, safety and welfare of the residents, and this pipe may have some impact on the Township's own stormwater system. He again recommended that Ms. Wick speak to the Conservation District to make sure its requirements are being followed. Mr. Knoche should be asked to follow up on the location of the pool. Commissioner Mehaffie stated that all three issues could impact the MS4. If the silt is not screened correctly, that is a problem. If there is a pool illegally positioned in a water basin, that is a problem. If the culvert is not draining correctly, that is a problem. Ms. Wick was asked to pursue these three recommendations and report back to the Board at the May workshop meeting.

#### APPROVAL OF MINUTES:

A motion was made by Vice President Leonard, seconded by Commissioner Davies, to approve the Minutes of the March 20, 2013 Legislative Meeting. The motion was unanimously approved.

A motion was made by Commissioner Mehaffie, seconded by Vice President Leonard, to approve the Minutes of the April 3, 2013 Public Hearing. The motion was unanimously approved.

A motion was made by Vice President Leonard, seconded by Commissioner Mehaffie, to approve the Minutes of the April 3, 2013 Workshop Meeting. The motion was unanimously approved.

#### APPROVAL OF BILLS:

A motion was made by Commissioner Davies, seconded by Vice President Leonard, to approve the payment of bills as presented on Warrant No. 2013-3. The motion was unanimously approved.

#### APPROVAL OF TREASURER'S REPORT:

A motion was made by Commissioner Davies, seconded by Commissioner Mehaffie, to approve the Treasurer's Report for March 2013. The motion was unanimously approved.

ENGINEER'S REPORT: None

SOLICITOR'S REPORT: None

COMMITTEE REPORTS:

Police Committee – Vice President Leonard – reported on the recent incident of hand-guns being stolen from unlocked vehicles in the Market Street Extended Area. Detective Appleby and the rest of the Police Department once again did an excellent job in recovering the stolen guns and identifying suspects. Vice President Leonard also referenced a list from the Civil Service Commission identifying seven candidates for the police officer position. The Board plans to fill five of these positions, and will need to conduct interviews of the candidates and provide a recommendation to Chief Brandt. President Linn suggested the Board schedule a special meeting for this, since it will take significant time to do that number of interviews. The Board agreed to tentatively schedule the interviews for May 14, at 5:00 P.M. Commissioner Mehaffie suggested the Board also agree on an alternate date. It was agreed that May 13 would be established as an alternate date. Vice President Leonard added that it might not be a bad idea to start on May 13, and transition into May 14 if necessary.

Public Works – Commissioner Mehaffie – reported that the crew has removed the plows from the trucks, and it is now busy street sweeping. The purchase of the Freightliner is in the works, and advertisement for proposals for paving projects is on tonight's agenda. The Lower Swatara Township Athletic Association will hold Opening Day for baseball/softball on April 27, and the Public Works Department has been working on the fields in preparation for this event. The new ballfield groomer is being used on the fields, and the Athletic Association is pleased with the condition of the fields. The dumpster will be available to residents on May 4, from 8:00 A.M. to noon. President Linn stated that he and Mr. Anderson had toured the ballfields as well as the areas of the upcoming road projects. He noted that the fields are in excellent condition.

Budget and Finance – Commissioner Davies -- reported that cash receipts for the month of March totaled \$1,017,761.03, with major sources of revenues from real estate taxes (current and delinquent), the receipt from the state for the Meade Avenue project, and other miscellaneous receipts. Cash expenditures totaled \$932,849.01 and were comprised of the two transfers to the payroll account, the transfer of tax monies to the miscellaneous funds (i.e., street light, hydrant,

fire department and capital improvement), the payment from the state receipt listed above to Leon Wintermeyer for the Meade Avenue Project, the repayment of \$100,000 to the Capital Improvements Fund for the temporary transfer from last month, and all invoices due and payable. Investments totaled \$521,746.03 with an average annual yield of 0.25%. With three months, or 25% of the fiscal year having elapsed, the revenues are showing as 26.35% of budgeted projections, while the expenditures are at 27.35% of budgeted projections. Solicitor Henninger added that expenses for the Meade Avenue project should finally be closed out. The last invoices for the project were due to flood damages, and took some time to resolve.

Community and Economic Development – President Linn – reported that Sheetz will be breaking ground upon receipt of the required permits. The PA Turnpike had attended the Board’s last meeting to update the Township on the Nissley Drive bridge replacement project. In response to a question from President Linn, Ms. Wick stated that the FedEx plans for the Pickel Farm property are moving through the Planning Commission. Commissioner Mehaffie inquired as to the status of development of the Shope Farm by Delta Development. President Linn stated that he has not heard anything and feels that the project may be off the table.

UNFINISHED BUSINESS:

President Linn asked that Vice President Leonard address the agenda items.

Vice President Leonard noted that the staff is recommending the first three items be tabled. A motion was made by Commissioner Mehaffie, seconded by Commissioner Davies, to table the following agenda items: the Final Subdivision Plan for Bryn Gweled East (26 lots) located along Lumber Street immediately south of PA 283, the Final Land Development Plan of Residential Retirement Community (Phase 1) located along Fulling Mill Road at the intersection of Nissley Drive, and the Final Subdivision Plan of Old Reliance Farms, Section 18-B (9 lots). The motion was unanimously approved.

Vice President Leonard suggested the next item, the Revised Five Oaks Village (Mobile Home Park) Plans located on Swatara Park Road, be removed from the agenda. The plan has been on the agenda for some time now, and the Board does not need to take any formal action on it. Should Mr. Farr decided he wishes to proceed with this plan, it can be added for reconsideration. No objections were noted from the Board.

The final plan under Unfinished Business, the Revised Land Development Plan for KGH Properties – Campus Heights Village Wood Street Access, can also be tabled. The plan is due to expire on June 24, 2013, and it remains tabled by the Planning Commission. A motion was made by Commissioner Mehaffie, seconded by Commissioner Davies, to table the Revised Land Development Plan for KGH Properties – Campus Heights Village Wood Street Access. The motion was unanimously approved.

NEW BUSINESS:

A motion was made by Commissioner Davies, seconded by Commissioner Mehaffie, to approve Resolution No. 2013-R-4. This resolution directs the submission of the Application for Traffic Signal approval to the Pennsylvania Department of Transportation. The Application includes the Eastbound Ramp signal and Westbound Ramp signal that will be installed on North Union Street at SR 283 as a part of the FedEx Ground Land Development Plan. The motion was unanimously approved.

A motion was made by Commissioner Mehaffie, seconded by Commissioner Davies, to approve Resolution No. 2013-R-5. This resolution authorizes the entering into an equipment lease purchase agreement with Real Lease, Inc. for the lease purchase of a new Public Works vehicle. The motion was unanimously approved.

A motion was made by Commissioner Mehaffie, seconded by Commissioner Davies, to approve an Operation and Maintenance (O&M) Agreement for Stormwater Management facilities for Bruce Harter. Mr. Harter has applied for a building permit for a garage/shed with a footprint larger than 1000 square feet. As required by the Stormwater Management Ordinance, an O&M Agreement is required. In response to a question from Commissioner Davies, Ms. Wick stated that the location is Mr. Harter's residence on Strites Road. The motion was unanimously approved.

The Board discussed a request from Penn State to accept the fee of \$50 for the zoning permit as an administrative fee per application. A Zoning Permit is required by the Fee Resolution when a building exceeds 1000 square feet. In the case of Penn State, the building permit is issued by L&I as their buildings are considered State-owned facilities. Ms. Wick added that she would also suggest the review of the fee schedule to make sure the things that are issued as zoning permits, are not actually associated with the review or inspection related to

building permits. If they are related to building permits, they should be billed as such. She and Don Fure would look into what fees are typical in surrounding municipalities as far as commercial and residential codes, and zoning permits. Ms. Wick stated that she feels the \$50.00 requested here tonight is adequate for an L&I issued building permit. Commissioner Davies asked if this has been standard practice in the past. Solicitor Henninger explained that a zoning permit usually requires review of a one or two page form. The \$50 fee seems fairly standard, and Ms. Wick's recommendation to look at that portion of the fee schedule is also a good idea. A motion was made by Commissioner Davies, seconded by Commissioner Mehaffie, to approve a request from Penn State to accept the fee of \$50 for the zoning permit as an administrative fee per application. The motion was unanimously approved.

A motion was made by Commissioner Mehaffie, seconded by Commissioner Davies, to approve the following 2012 Personal Tax Exonerations:

List 1, Full Bill (6/29/12 – 3/27/13)

Occupation     \$20,175.00

Per Capita     \$ 1,380.00

The motion was unanimously approved.

A motion was made by Commissioner Davies, seconded by Commissioner Mehaffie, to approve the advertisement of RFP's (Request for Proposals) for the Nissley Drive Cold In Place recycling & paving project as well as the Scarlett, O'Hara, and Melanie Lane, milling and paving project. Solicitor Henninger stated that he had reviewed the bid proposals. If the Board approves advertisement tonight, Mr. Anderson will prepare the ad and Solicitor Henninger will review it to make sure that it is in line with state law. The motion was unanimously approved.

The Board discussed a request for an individual to serve as Contact Person for communication with the Dauphin County Office of Tax Assessment. Vice President Leonard explained that although Harry Krot is listed as the Contact, Marylou Rittner, Township Financial Administrator, usually handles the communication with the Tax Assessment Office. Most of this communication deals with tax assessment changes. The recommendation is to appoint Ms. Rittner as the Contact Person. A motion was made by Commissioner Mehaffie, seconded by Commissioner Davies, to appoint Marylou Rittner as Contact Person for communication with the Dauphin County Office of Tax Assessment. The motion was unanimously approved.

Commissioner Mehaffie asked if an Alternate Contact Person should also be provided. If so, he

suggested Tammy Blymire, Township Accountant, be appointed. The Board agreed that it would be beneficial to have both the Financial Administrator and Accountant listed as Contacts, and asked that both email addresses be provided to the Tax Assessment Office

Vice President Leonard reminded the Board that it had previously directed Ms. Arroyo to delay publication of the spring/summer newsletter so that details of the new sewer billing system could be included. Since it may be several more months before these details are known, the Board should determine how it wishes to proceed. The Board agreed that there are time sensitive issues that should be provided, such as Family Outdoor Movie Night and the upcoming road projects.

A motion was made by Commissioner Mehaffie, seconded by Vice President Leonard, to direct Ms. Arroyo to proceed with the newsletter with a May target date. The motion was unanimously approved.

Vice President Leonard reported that Alan Knoche, EMA Director, has been working on the hazard mitigation process. Although everything was thought to be in place, there is now a mountain of additional work to be done for the PEMA portion of this process. Mr. Knoche will be coming before the Board to provide an update on this process. The bottom line is that there will be a significant amount of work on his part for this process. Solicitor Henninger explained that once the Township makes acquisition of the project, it has to have the contract for demolition within 90 days of settlement. The demolition specs for this process are very complex and beyond the capabilities of the staff. Due to the complexity of this work, Londonderry Township retained HRG to do its demolition specs. He strongly encouraged the Board to also pursue and retain the services of an engineer for this work. Ms. Wick stated that she had requested a proposal from the same engineer at HRG who worked with Londonderry Township. President Linn asked that Ms. Wick present this proposal to the Board at the May workshop meeting. Ms. Wick agreed to do so, provided it is received by that time.

Solicitor Henninger stated that there is one more item that requires Board action tonight, which is to acknowledge a 90-day time extension, as submitted by the developer, on the Final Land Development Plan of Residential Retirement Community, Phase 1. He noted that the Board had tabled the plan earlier tonight. A motion was made by Vice President Leonard, seconded by Commissioner Mehaffie, to acknowledge a 90-day time extension, as submitted by the developer, on 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, August 18, 2010, November 17, 2010, February 16, 2011, May 18, 2011, August 17, 2011, October 19, 2011, January 18, 2012, April 18, 2012, July 18, 2012, October 17, 2012 and January 16, 2013. The plan is due to expire on April 18, 2013. The motion was unanimously approved.

RECESS AND CONVENE INTO EXECUTIVE SESSION:

President Linn announced that the Board would be recessing and going into a very short executive session in order to discuss personnel matters. The Board recessed at 8:03 P.M.

RECONVENE:

President Linn reconvened the meeting at 8:34 P.M. He turned the floor over to Solicitor Henninger. Solicitor Henninger explained that the executive session was to discuss personnel matters, specifically the situation in regards to the Township manager. One of the items discussed was a proposal for interim management services submitted by N.J. Hess Associates for an assessment with regards to preparation of candidate guidelines. The proposal is for \$6,000 plus necessary expenses to include travel and lodging for Raymond Rhodes, an associate of the firm. A motion was made by Commissioner Davies, seconded by Commissioner Mehaffie, to approve a proposal for interim management services submitted by NJ Hess Associates at the cost of \$6,000 plus expenses. The motion was unanimously approved.

The second item discussed during the executive session was the fact that there is a vacancy in the position of Township Manager. Based on these discussions, a motion was made by Commissioner Mehaffie, seconded by Commissioner Davies, to approve that Vice President Leonard be appointed as the uncompensated liaison between the department heads and the Board of Commissioners to act as follows until May 2, 2013: (1) all department heads shall report to the liaison between Board meetings, (2) the liaison will have the authority to resolve any issues and/or disputes between Board meetings, (3) the liaison shall have the ability to refer such matters to the solicitor or to the entire Board between meetings, and (4) the liaison shall report his actions to the

Board at each subsequent meeting of the Board of Commissioners. The motion was unanimously approved.

FINAL COMMENTS:

Commissioner Davies stated that he was able to stop by briefly at the Township's TMI drill this week, and was extremely impressed with the number of people involved, as well as the highly trained EMA staff. He noted that the NRC seemed well satisfied with the performance of the team.

ADJOURN:

Hearing no other business, a motion was made by Commissioner Mehaffie, seconded by Commissioner Davies, to adjourn the meeting. The motion was unanimously approved, and the meeting adjourned at 8:39 P.M.

ATTEST:

---

Jean R. Arroyo  
Recording Secretary