

## MINUTES

### LEGISLATIVE MEETING – SEPTEMBER 17, 2014

The September 17, 2014 Legislative Meeting of the Lower Swatara Township Board of Commissioners was called to order at 7:00 P.M. by Vice President Jon G. Wilt. Vice President Wilt noted that President Mehaffie will be arriving a few minutes late this evening. He then called for the pledge of allegiance followed by a moment of silence.

Roll call was taken with the following officials in attendance:

- Jon G. Wilt, Vice President
- Laddie J. Springer, Secretary
- Michael J. Davies, Commissioner
- Dominic D. DiFrancesco II, Commissioner
- Samuel D. Monticello, Manager
- Robert S. Greene, Planning and Zoning Coordinator
- Peter R. Henninger, Solicitor
- Erin G. Letavic, HRG, Engineer
- Jean R. Arroyo, Recording Secretary

(President Thomas L. Mehaffie III arrived at approximately 7:20 P.M.)

Residents and visitors in attendance: (PLEASE SEE ATTACHED SIGN-IN SHEET)

Vice President Wilt opened the floor for public comment.

PUBLIC COMMENTS: None

#### APPROVAL OF MINUTES:

A motion was made by Commissioner Davies, seconded by Commissioner Springer, to approve the Minutes of the August 20, 2014 Legislative Meeting. The motion was unanimously approved.

A motion was made by Commissioner Springer, seconded by Commissioner Davies, to approve the Minutes of the September 3, 2014 Workshop Meeting. The motion was unanimously approved.

APPROVAL OF BILLS:

A motion was made by Commissioner Davies, seconded by Commissioner DiFrancesco, to approve the payment of bills as presented on Warrant No. 2014-8. The motion was unanimously approved.

APPROVAL OF TREASURER'S REPORT:

A motion was made by Commissioner Springer, seconded by Commissioner Davies, to approve the Treasurer's Report for August 2014. The motion was unanimously approved.

MONTHLY FINANCIAL STATEMENTS:

Vice President Wilt stated that the Board had received copies of the monthly financial statements. He asked if Commissioner Davies had anything to add. Commissioner Davies reported that cash receipts for the month totaled \$390,187.77 and cash expenditures totaled \$431,450.87. Investments totaled \$1,033,201.26 with an average annual yield of .30%.

ENGINEER'S REPORT:

Erin Letavic, HRG, reported that the Greenfield Park Well Irrigation Project continues through the bid process, with intent to award set for October 1.

Ms. Letavic updated the Board on the Richardson Road Bridge Funding. The income survey results were sent to Dauphin County on August 29, 2014 for the Community Development Block Grant (CDBG) application. The County's HUD representative has indicated that the survey results do not meet HUD's CDBG requirements for funding. Therefore the application will not proceed any further. Ms. Letavic noted that the requirements are based on percentages, the number of surveys returned, and the number of sampling points. There were not enough responses to justify the percentage. The Township will, however, still have the potential for funding through the gaming grant application which has been submitted.

The Riverview Drive Drainage Project is also going through the bidding process with award scheduled for October.

## SOLICITOR'S REPORT:

Solicitor Henninger reported on a proposed Stipulation with regards to the Assessment Appeal of Shri Sai Middletown, LLC for property located at 815 Eisenhower Boulevard, Best Western Harrisburg Airport (Parcel 36-007-081). He stated that the Board had been given a copy of the proposed Stipulation and Joint Motion, which would be effective January 1, 2014. The proposal as agreed upon by the Board of Assessment Appeals, Shri Sai Middletown, LLC and also the County and School District would lower the tax assessment from \$4,236,000 to \$3,815,000 which is a reduction of approximately \$421,000. This would lock them in for three years. Since they have already paid the 2014 taxes, a refund would be due them. Solicitor Henninger noted that the County and School District have already approved this Stipulation, and he suggested this Board also do so. He also informed the Board that when a tax assessment appeal is filed and taxes already paid based on the current assessment, the Township accounting department has always taken the worst case scenario and segregated those funds. Therefore, those funds were segregated out and not included in the General Fund budget; the refund is readily available. He estimated the refund would be in the range of \$1,200 to \$1,400.

A motion was made by Commissioner Davies, seconded by Commissioner DiFrancesco, to approve the Stipulation and Joint Motion relative to the Assessment Appeal of Shri Sai Middletown, LLC for property located at 815 Eisenhower Boulevard, Best Western Harrisburg Airport (Parcel 36-007-081). The motion was unanimously approved.

Solicitor Henninger added that there is also an assessment appeal outstanding relative to the Capital Business Center I. In addition, he just received a petition for appeal on the Capital Business Center II. In a few months, the Board may be advised that the County anticipates hiring an appraiser relative to this appeal, and the Township will be asked to make a contribution towards this, based on its tax rate. Solicitor Henninger explained that these assessment appeals are a result of the reduced value of real estate due to the 2008/2009 economic slump. Commissioner DiFrancesco stated that while residents balk at the idea of a county-wide reassessment, most of the homeowners actually benefited under the last Dauphin County reassessment. In reality, the reassessments keep the taxes pretty honest. Solicitor Henninger agreed, and noted that residents also have the right to appeal their assessments every year. However, the process is costly and the return may not be worth it.

### MANAGER'S REPORT:

Mr. Monticello reported that he had several acknowledgements to present this evening.

The Board acknowledged the hiring of Thomas D. Etzle, effective September 19, 2014, as a Laborer for the Public Works Department.

The Board also acknowledged the hiring of Edward Finsterbush, effective September 15, 2014, as a part-time Laborer for the Public Works Department.

Public Works employee Carl F. Fricchione II, who has been employed with the Township for twenty-nine years, has submitted his letter of retirement effective October 1, 2014. The Board acknowledged the retirement of Carl F. Fricchione II and wished him well.

Frank Waple, Jr., who has been a member of the Lower Swatara Township Recreation Board for over twenty-five years, has submitted his resignation effective immediately. The Board acknowledged the resignation of Frank R. Waple, Jr. from the Recreation Board and wished him well.

Mr. Monticello requested the Board convene in executive session immediately upon conclusion of this meeting in order to discuss a personnel matter.

### COMMITTEE REPORTS:

Police Committee – Vice President Wilt – stated that he had nothing new to report, other than to report that Sergeant Young is serving as Acting Police Chief while Chief Brandt is on vacation.

Public Safety – Commissioner Springer – no report

Budget and Finance – Commissioner Davies – reported that the Township will be taking a hard look at budget numbers in the very near future.

Community and Economic Development – Commissioner DiFrancesco – no report

### UNFINISHED BUSINESS:

The first item under Unfinished Business was 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, January 16, 2013, April 17, 2013, July 17, 2013, October 16, 2013, December 18, 2013, March 19, 2014 and June 18, 2014. The plan is due to expire on October 10, 2014. The developer has submitted a request for a 90-day time extension. The Board expressed concern that the developer was not in attendance to provide an update, as requested, since this plan dates back to 2007. Mr. Greene added that he had contacted Paul Navarro about providing an update, and it was anticipated that he would be here tonight. Since the plan does not expire prior to the Board's October 1 workshop meeting, the Board tabled action on the plan and the time extension request with the hope that the developer is present at the workshop meeting. Mr. Greene agreed to make the necessary contact.

The Board tabled the Final Land Development Plan for Middletown Home Access Driveway/Parking Revisions, prepared by Schlouch, Inc. and submitted by the Middletown Home. The initial Plan submitted was due to expire on May 29, 2013. 90-day time extensions were granted by the Board of Commissioners on May 15, 2013, August 21, 2013, November 20, 2013, February 19, 2014, May 21, 2014 and August 20, 2014. The plan is due to expire on November 18, 2014.

The Board tabled the Susquehanna Area Regional Airport Authority (SARAA) sewage planning module for the North 29 Area (land where Sheetz and other commercial properties are planned to be built) requesting that the sewage be sent to SARAA's treatment plant instead of Middletown Borough Authority as would be required according to their location within the sewage area. Lower Swatara Township Authority's agreement with the Middletown Borough Authority reads that sewage in the designated area shall be exclusively treated at Middletown Borough's treatment plan. The Planning Commission approved the planning module, conditioned upon SARAA getting Middletown Borough to agree that the exclusivity can be waived in this instance or upon proof that the exclusivity portion of the agreement does not apply to SARAA because of established Authority statuses. The burden of proof is on SARAA at this point. The planning module was due to expire on January 23, 2014. The Board of Commissioners granted a 90-day time extension on January 15, 2014, April 16, 2014 and July 2, 2014. The plan is due to expire on October 20, 2014.

NEW BUSINESS:

The Board addressed the Subdivision/Annexation Plan for the Middletown Home, File #2014-04, 999 W. Harrisburg Pike, submitted by The Odd Fellows Home of Pennsylvania and prepared by Schlouch, Inc. Deadline for action is November 26, 2014. Rick Longacre of Schlouch, Inc. explained that the intent of the plan is to sell the back portion of the Middletown Home property to Penn State. The Penn State campus is now a horseshoe shape, and this will fill it in. The Middletown Home is keeping enough land to move forward with the land development plan that is currently submitted. President Mehaffie stated that it is a great plan, and will be good for Penn State and the corridor. Mr. Greene explained that the plan was recommended for approval by the Planning Commission on August 28, 2014 with conditions which include one waiver and three deferments: 1) Waiver, Section 22-403 preliminary plan to allow submission of Final Minor Plan. 2) Defer, Section 22-606 installation of curbing along West Harrisburg Pike until Land Development Plan. 3) Defer, Section 22-607 install sidewalk along West Harrisburg Pike until submission of Land Development Plan. 4) Defer, Section 22-508.B provide a maintenance and access easement to the existing stream on Lots 1 and 2 until submission of Land Development Plan on the respective lot.

In response to question from Commissioner Davies regarding the deferral of sidewalk, Mr. Longacre explained that rather than sidewalks along the front, there is a pedestrian path. It is wider in dimension and not directly out along the roadway. The intent is to continue that path back a bit further into the property. This is actually shown on the pending land development plan of the Middletown Home. Mr. Greene added that there are also standard administrative issues such as signatures and notarizations that will need to be completed before the plan can be recorded. The developer was also required to submit a Waiver Non-building Declaration form to DEP, which has been done. Solicitor Henninger suggested the Board first act on the waiver and deferments prior to acting on the plan itself.

A motion was made by Commissioner DiFrancesco, seconded by Vice President Wilt to grant the Waiver of Section 22-403 preliminary plan to allow submission of Final Minor Plan; grant the deferral of Section 22-606 installation of curbing along West Harrisburg Pike until Land Development Plan; grant the deferral of Section 22-607 install sidewalk along West Harrisburg Pike until submission of Land Development Plan; and grant the deferral of Section 22-508.B provide a maintenance and access easement to the existing stream on Lots 1 and 2

until submission of Land Development Plan on the respective lot. The motion was unanimously approved.

With the waiver and deferrals granted, a motion was then made by Commissioner DiFrancesco, seconded by Vice President Wilt, to approve the Subdivision/Annexation Plan for the Middletown Home, File #2014-04, 999 W. Harrisburg Pike, with the condition that all outstanding comments are addressed. The motion was unanimously approved.

The Board next addressed the Revised Land Development Plan for KGH Properties – Campus Heights Village, Wood Street Access, File #2012-05, prepared by Forino, Inc. and submitted by Campus Heights Associates I, LP. This plan was recommended for approval by the Planning Commission on August 28, 2014. Mr. Greene stated that he had anticipated that the developer for this plan was also going to be here tonight, but Matt Genesio was unable to attend. He explained that the following waivers were requested and recommended for approval by the Planning Commission on October 25, 2012: 1) Section 22-403.1. – preliminary plat to qualify as a Final Minor Plan. 2) Section 22- 606. – construct curbing. 3) Section 22-607. – construct sidewalks. Deadline for action is November 26, 2014. Ms. Letavic stated that no physical change will be seen. The traffic signal at Wood Street and Route 230 was operating out of compliance with its permit. That plan has since been updated, and the permit and the signal now match. The only thing that will be seen as a result of the approval of the plan tonight is that the emergency access signage on the east side of Campus Heights I will come down. This will now be a secondary access for the property.

Commissioner Davies referenced the waiver requests, and asked if this will inhibit the Township’s ability to require the developer to construct curbing on Wood Street. Solicitor Henninger explained that when the original plan was done, curbing and sidewalk were waived there. This is a revised land development plan specifically addressing the access and the affect on the traffic signal. Basically, the waiver requests being presented tonight are consistent with the original approved plan and would reconfirm the waivers that were previously granted. President Mehaffie stated that the original plan, however, did not have the access there; it was only an emergency access. If the upper part of that area gets developed into another area or “village”, would the Township lose the right to ask the developer to run that curbing and sidewalk the whole way down, if need be, by granting these waivers? Ms. Letavic confirmed that it would, unless a deferral is granted. Solicitor Henninger agreed that there are some

municipalities that never grant waivers, only deferments. The Board could defer the requirement for sidewalk and curbing until such time as it feels it is necessary. He noted that the question would be whether the developer of this plan would be willing to accept a deferment. Commissioner DiFrancesco agreed that this is a challenge for areas like Lower Swatara Township where there is still a lot of agriculture land around rapidly developing areas. It is extremely important for the Township to keep in mind the long vision. This area will likely be developed in the future, and it would seem shortsighted for the Board not to keep its options open. The Board agreed that it favored the concept of deferring the requirements, rather than waiving them. Solicitor Henninger suggested the Board act on the waiver and deferments prior to taking action on the plan itself.

A motion was made by Vice President Wilt, seconded by Commissioner DiFrancesco, to grant a waiver of Section 22-403.1. – preliminary plat to qualify as a Final Minor Plan. The motion was unanimously approved.

A motion was made by Vice President Wilt, seconded by Commissioner DiFrancesco, to grant deferral of Section 22- 606. – construct curbing, and Section 22-607. – construct sidewalks on Wood Street, subject to the concurrence of the developer. The motion was unanimously approved.

With the waiver and deferrals granted, a motion was then made by Commissioner Davies, seconded by Vice President Wilt, to approve the Revised Land Development Plan for KGH Properties – Campus Heights Village, Wood Street Access, subject to the addressing of all administrative comments and the developer’s concurrence on the deferrals (as opposed to waivers) of curbing and sidewalk. The motion was unanimously approved.

A motion was made by Vice President Wilt, seconded by Commissioner DiFrancesco, to approve Improvement Guarantee Reduction #1, in the additional amount of \$187,976.00 for site improvements to FedEx Ground East. This reduction from the current balance of \$620,562.80 will leave a remaining balance of \$432,586.80. Ms. Letavic explained that this is an adjustment to what was approved at the last meeting, since there was a typo in the spreadsheet. The motion was unanimously approved.

FINAL COMMENTS:

Greg Reeser, 1336 Butter Churn Road, referenced Section 18B of Old Reliance Farms. He observed that the roadway and culverts are in, but there is a stormwater retention pond that is still retaining water. He asked why a stormwater retention pond would retain water.

Mr. Reeser referenced another retention pond behind his home, and stated that he has heard that there will be a change to raise the drain on it so that it will retain water. He asked if this is truth or rumor. Another issue is that there are five different culverts now to take care of the stream water, and most of them do not have any water going through. The water still goes under. This could result in undermining and washouts. Mr. Reeser inquired if these issues will be corrected once the project is finished.

Ms. Letavic reported she is not aware of the concept of any other pond being amended to raise it or lower it. She is, however, aware that water is not flowing through the pipes. Some of the ponds out there are considered to be erosion and sedimentation control devices intended to hold water to settle the dirt out before it discharges. Ms. Letavic explained that what she does not know at this point is whether they are performing by design. There is actually a site meeting on Friday to discuss some of these issues. She will attend, along with Mr. Greene and Mr. Wagner. Mr. Reeser added that the lane behind him is sometimes a foot underwater. This also concerns him, since the lane will go away once the retirement community is developed. Ms. Letavic asked Mr. Reeser if they could exchange information, and perhaps walk this area together.

Mr. Greene added that the pond holding water is part of the stormwater management on a temporary basis to get through a certain phase of that construction. Granted, perhaps it should have been removed or displaced at this point in time. There are two different contractors involved in this area: the developer putting in the streets and the contractor that just installed the new storm drainage piping under the roadway. The Township is working with both, and will look into getting all those detention areas cleaned up. Mr. Reeser asked if the bottom line is that there will be no standing water once the project is finished. Mr. Greene confirmed that is correct. It is designed to operate that way. President Mehaffie thanked Mr. Reeser for bringing these concerns to the attention of the Board and staff.

Commissioner Davies noted that the Township had been contacted by Representative Payne about a Transportation Summit meeting next month. He will try to be available if the Board would like him to represent the Township. President Mehaffie stated that would be great, and asked him to let him know if he cannot attend so that another Commissioner can perhaps attend.

ADJOURN AND CONVENE INTO EXECUTIVE SESSION:

With no further business to discuss, a motion was made by Vice President Wilt, seconded by Commissioner Springer, to adjourn the meeting and convene into executive session. The motion was unanimously approved, and the meeting adjourned at 7:58 P.M.

ATTEST:

  
Jean R. Arroyo, Recording Secretary

