

MINUTES

LEGISLATIVE MEETING – SEPTEMBER 18, 2013

The September 18, 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
- Michael J. Davies, Secretary
- Thomas L. Mehaffie III, Commissioner
- Jon G. Wilt, Commissioner
- Brenda K. Wick, Planning and Zoning Director
- Peter R. Henninger, Solicitor
- Jean R. Arroyo, Recording Secretary

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

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

PUBLIC COMMENTS:

Jeannie Dunaway, 279 Selma Avenue, expressed concern with the constant parties, noise, and vulgarity coming from the student housing project at 277 W. Main Street, especially Thursdays through Saturday evenings. She added that the noise can be heard through her closed windows and with the air conditioner on, and is impacting her sleep and general health. The last incident was this past weekend, and the noise was coming from across 290 West High Street, which is diagonal from her home. Ms. Dunaway stated that she did call the police about 2:55 A.M. Sunday morning, but it took about twenty minutes for them to respond. She suggested the police department patrol this area more frequently. She also suggested that sending notices to the student housing projects about this problem might be helpful. Ms. Dunaway reminded the Board that the developers had promised to provide on-site security to control this type of behavior. There is no security, just a free-for-all for these students to party. President Linn stated that he would not tolerate foul language and noise in his

neighborhood, and agreed these residents should not have to either. He turned the matter over to the Police Committee.

Deena Rishar, 510 N. Wood Street, stated that she is also experiencing issues with the noise from a privately owned home on Wood Street and at a property on High Street owned by GreenWorks Development. She stated that she realizes these are college kids, so she has tried to be understanding. Last weekend, however, was very bad at the home on Wood Street. She added that many of the students from the student housing projects congregate at these parties, and many also live outside the development and drive to the parties. As a result, traffic in the neighborhood has greatly increased. President Linn again directed the Police Committee to meet with Chief Brandt to discuss this problem. Vice President Leonard stated that the Police Committee will meet tomorrow to discuss this.

Peggy Guinovan, 535 N. Lawrence Street, questioned how many students are permitted to live in a private home. She stated that two of the homes up there are privately owned and not zoned for student housing. President Linn stated that he is uncertain about this. Ms. Guinovan also reported that GreenWorks put in two charcoal grills for the students; the students are using them as fire pits. Ms. Guinovan expressed concern about a potential fire when they leave at night. She added that she is also concerned with the students drinking and driving, especially with the sharp corners in her neighborhood.

Pastor JoAnn Darrow, New Thing – A United Methodist Community, stated that they are now located at 2285 West Harrisburg Pike in the Yankee Plaza and are thrilled to finally be part of the community. She thanked staff members Brenda Wick and Don Fure, as well as the Township's Code Appeals Board and Zoning Hearing Board, all of which were instrumental in getting them to where they are now. President Linn welcomed them to the Township.

ROUTE 230 UPDATE:

Commissioner Mehaffie reminded the Board that Matt Genesio had indicated he would not be at tonight's meeting, but would submit an update. According to this email update, everything is on schedule. Stormwater work is being addressed right now. Mr. Genesio does plan to be in attendance of the October workshop meeting. Deena Rishar referenced the road work on Route 230, and stated that the location of the flagman is creating a dangerous situation. She suggested someone may want to speak to the developer about changing his location.

APPROVAL OF MINUTES:

A motion was made by Commissioner Wilt, seconded by Vice President Leonard, to approve the Minutes of the August 21, 2013 Legislative Meeting.

A motion was made by Vice President Leonard, seconded by Commissioner Wilt, to approve the Minutes of the September 4, 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. 2013-8. The motion was unanimously approved.

APPROVAL OF TREASURER'S REPORT:

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

ENGINEER'S REPORT: None

SOLICITOR'S REPORT:

Solicitor Henninger reminded the Board that it had authorized moving forward with an amendment to the articles of incorporation of the Municipal Authority to include stormwater management in its potential duties. Rhoads & Sinon, special counsel, has prepared the proposed amendment along with the resolutions that need approval by the Municipal Authority and the Board. Procedurally, approval of the Municipal Authority's resolution would come first, followed by approval of the Board of Commissioner's resolution. After both resolutions are approved, the articles of amendment can be filed and will go into effect the day of the filing. The Municipal Authority will be considering its resolution for approval at its Monday meeting. Solicitor Henninger suggested that the Board place authorization to approve its resolution on the agenda of the October 2 workshop meeting.

MANAGER'S REPORT:

Commissioner Mehaffie informed the Board and public that the Township is experiencing some issues with its phone system. Hopefully this will be resolved by Friday.

COMMITTEE REPORTS:

Police Committee – Vice President Leonard -- reported that two of the five newly hired police officers are now out on their own, and the other three should be by the end of the year. The Chief and the Fire Department presented a safety update to the staff of the Springwood Glen Apartments. Vice President Leonard will be attending a meeting of the Penn State Advisory Board this week. PennDOT is addressing the Township's request for improvements to the south side of Fulling Mill Road, across from the Lottery Building. The two-lane road that sometimes prevents access to the fire station coming from the east to the west due to bottlenecking is being expanded to three lanes, which should eliminate this problem. Vice President Leonard thanked PennDOT and also thanked Representative Payne for moving this along.

Public Safety – Commissioner Wilt – requested an executive session immediately upon conclusion of this evening's meeting in order to discuss a personnel issue.

Public Works – Commissioner Mehaffie – reported that the paving of Nissley Drive, Scarlett Lane, Melanie Lane, and O'Hara Lane is complete. Line painting was finished today. Paving of other portions of the Township is being done now and should be completed by Friday. The Greenfield soccer fields have been seeded and aerated. Renewal of the Township's EMS contract with Life Lion EMS becomes effective October 1, 2013.

Budget and Finance – Commissioner Davies – reported that cash receipts for the month of August totaled \$378,241.20. The major sources of revenues were from Act 511 Taxes—most significant of which were the receipts for the distributions of the Earned Income and Local Services Taxes; the quarterly remittances for franchise fees from Comcast and Verizon; Real Estate Taxes; and other miscellaneous receipts. Cash expenditures totaled \$433,056.73 and were comprised of the two transfers to the payroll account, invoices related to the road project in the Twelve Oaks area (which will be reimbursed by the Highway Aid Fund), the transfers to the miscellaneous funds for taxes collected, the quarterly payment to the Hershey for EMS services, and all invoices due and payable. Investments totaled \$821,810.35 with an average annual yield of 0.5%. Commissioner Davies reported that he had met with Commissioner Mehaffie to

discuss the upcoming budget. All budget requests are in from the department heads. In October, the Budget and Finance Committee will meet with committees and department heads to review these requests.

Community and Economic Development – President Linn – reported that the Turnpike Commission is on target for the Nissley Drive bridge replacement project.

UNFINISHED BUSINESS:

The Board tabled 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 BW 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, February 16, 2011, May 18, 2011, August 17, 2011, October 19, 2011, and January 18, 2012. A one-year time extension was granted by the Board on April 4, 2012, and additional 90-day extensions were granted by the Board on March 20, 2013, and July 2, 2013. The plan is due to expire on October 14, 2013.

The Board tabled 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 and July 17, 2013. The plan will expire on October 15, 2013.

A motion was made by Commissioner Wilt, seconded by Commissioner Mehaffie, to approve the acceptance of a 90-day time extension, as requested by the developer, on the Revised Land Development Plan for KGH Properties – Campus Heights Village Wood Street

Access, prepared by Forino, Inc. and submitted by Campus Heights Associates I, LP. The initial Plan submittal was due to expire on December 26, 2012. A 90-day extension was approved by the Township on December 19, 2012. Additional 90-day time extensions were approved by the Township on March 20, 2013 and June 19, 2013. The plan is due to expire on September 22, 2013. This plan remains tabled by the Planning Commission. With acceptance of the 90-day time extension, the plan will expire on December 21, 2013. The motion was unanimously approved.

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 and August 21, 2013. The plan is due to expire on November 25, 2013. The plan remains tabled by the Planning Commission.

NEW BUSINESS:

Solicitor Henninger referenced a draft ordinance which would amend the zoning ordinance to address front yards for corner lots. He explained that the Board will need to advertise this ordinance twice, and also schedule a Public Hearing to receive public comment on it. He anticipated that the Public Hearing will be brief, and can perhaps be scheduled prior to the Board's October 16 legislative meeting. This proposed ordinance has already been reviewed by the County Planning Commission, and will be reviewed by the Township Planning Commission next week. The ordinance can be adopted the same evening, October 16. A motion was made by Commissioner Wilt, seconded by Vice President Leonard, to authorize advertisement of an ordinance amending the zoning ordinance to address front yards for corner lots, and to schedule a Public Hearing to receive comment on said ordinance on October 16, 2013, at 6:45 P.M. The motion was unanimously approved.

The Board acknowledged receipt of the 2014 Minimum Municipal Obligation.

The Board acknowledged the hiring of Shirley A. Meyers, effective September 16, 2013, as a part-time Receptionist for Lower Swatara Township.

The Board acknowledged the hiring of Brandt D. Coyne, effective September 23, 2013, as a Systems Operator for the Lower Swatara Township Municipal Authority.

RESIGNATION OF FRANK LINN, SR.

President Linn submitted a letter of resignation to Vice President Leonard, and asked that Vice President Leonard read it aloud to the Board. Vice President Leonard stated the letter is dated September 18, 2013 and states:

“I, Franklin D. Linn, Sr., regretfully resign from my position as Lower Swatara Township Commissioner. I love this job and this township, but can no longer maintain the position due to health reasons. Thank you for all your dedication and support over these many years”. – Franklin D. Linn, Sr..

Vice President Leonard suggested that prior to accepting the resignation, the Board turn over the floor to President Linn, his family, and anyone else wishing to speak.

President Linn stated that he truly loves the township, and was surprised to discover that he served as President of the Board for 27 years during his term. He added that he is proud of his accomplishments over the years, and has always fought for the Township. He is proud of the interchange that he fought so long to get through, and is proud for fighting for a retirement plan for the employees, one that politicians could not fool around with or use to balance a budget. He stated that he is making the decision to resign after speaking to his physician, and is doing what he feels is in the best interest of the Township. President Linn stated that the first friend he talked to about his plan to resign was Nick DiFrancesco. Nick had informed him that he would love to fill out this term. President Linn stated that he would like to pass on the name of Nick DiFrancesco as a candidate to fill his unexpired term. President Linn continued that he has loved serving the community and would urge more residents to become involved in organizations such as Meals on Wheels and the Lions Club. He also urged neighbors to talk it out prior to coming to the Township with complaints about each other. He thanked the public for allowing him to serve on the Board.

President Linn then asked his family members to stand up. He noted that they are his back up now. Several of President Linn’s family members – son Frank, daughter Tammy, and granddaughter Abby – paid tribute to their father/grandfather. Frank Linn Jr. stated that he is honored to share his name and cannot express how proud he is of his father for all that he has done for his family and the community he loves so much. Daughter Tammy agreed that she is very proud of her dad, and added that Frank Linn is the heart of Lower Swatara Township and, whether he is on the Board or not, will always be the heart of Lower Swatara Township.

Granddaughter Abby remarked that her grandfather always said if you want to see a change happen, you need to make it happen yourself.

Former Lower Swatara Police Chief Richard Malwitz, employee Steve Severin, Police Chief Richard Brandt, District Justice Mike Smith, Fire Chief Chris DeHart, Solicitor Peter Henninger, and President Linn's fellow Board members recounted some of their personal and professional experiences with President Linn, thanked him for his support and service, and wished him good luck and good health. President Linn added that he lives at 1415 Candlewycke Drive in a small apartment behind his son's house. He invited everyone to come and visit.

Vice President Leonard stated that not going through this resignation situation before, he had contacted the Dauphin County Bureau of Elections and Voters Registration to find out how these cases are handled. Obviously, it is important to fill this position as soon as possible. The process as conveyed to him involves timing. The general election is in November. If the vacancy would have occurred 50 days prior to the general election and there would have been interested candidates, then names would have been put on the November ballot. The 50 day deadline, however, was on Monday. The Township is now within 48 days so, according to the election code, it must appoint an individual to fill this position at its earliest opportunity. The Board is not required to advertise for nominees. Solicitor Henninger added that once the Board approves President Linn's resignation, it has 30 days to appoint his replacement. If the Board cannot come to a majority consensus on his successor within those 30 days, it will go before the Vacancy Board. The Vacancy Board consists of the four remaining Board members and the Vacancy Board member, which is Rita Nagy. The Vacancy Board would then have ten days in which to appoint someone to fill the vacancy. If the Vacancy Board is unable to make an appointment, the matter goes to the Court of Common Pleas. Solicitor Henninger added that the appointment is to fill the remainder of President Linn's term, which runs through December 31, 2015.

A motion was made by Commissioner Davies, seconded by Vice President Leonard, to regretfully accept the resignation of Frank D. Linn., Sr. as Township Commissioner, effective at the conclusion of this evening's executive session. The motion was approved by a 4 – 0 margin, with President Linn abstaining.

Commissioner Davies stated that he had personally spoken to Nick DiFrancesco just prior to tonight's meeting about this potential appointment. Mr. DiFrancesco is in Boston on

business right now, but is deeply interested in serving on the Board. Commissioner Davies noted that he cannot think of anyone who has a deeper skill set or experience for this job. Nick DiFrancesco has state government experience, lobbying experience, and has served as both a Lower Swatara Township Commissioner and a Dauphin County Commissioner. The Township is at a time when it is looking at some important issues, including passing of a budget and hiring of a Township Manager. Commissioner Davies made a motion that the vacancy created by the resignation of President Linn at the conclusion of tonight's executive session be filled with Nick DiFrancesco. Vice President Leonard seconded the motion. Commissioner Wilt stated that he agrees whole-heartedly with the appointment, but feels the Board should first discuss this in executive session. He also suggested that the appointment be considered at the proper time, which is after President Linn has formally resigned. He added that the appointment could be made at the Board's next meeting. Commissioner Davies agreed that he struggled with the same issue, but feels that Nick DiFrancesco is a well qualified candidate, and that approving his appointment now would allow the Board to put the matter to rest quickly.

Solicitor Henninger explained that the appointment can be made tonight, but should not be done until President Linn's resignation is effective. The Board can go into executive session and not end the meeting, but rather reconvene. However, if the Board adjourns the meeting and goes into executive session, it cannot vote on this since President Linn's resignation is not effective until the end of the executive session. Solicitor Henninger explained that the motion is untimely since the position is not vacant at the time the motion is on the floor. President Linn stated that he would be willing to make his resignation effective immediately. Solicitor Henninger agreed this would be one option. Another option would be for the Board to adjourn into executive session, take care of its business, and then reconvene. The motion to appoint Nick DiFrancesco would still be open and could be acted on when the meeting reconvenes.

RECESS INTO EXECUTIVE SESSION:

A motion was made by Commissioner Davies, seconded by Commissioner Wilt, to recess into executive session. The motion was unanimously approved, and the meeting recessed at 8:16 P.M.

RECONVENE AND APPOINTMENT OF NICK DIFRANCESCO:

The Board reconvened the legislative meeting at 8:24 P.M. Solicitor Henninger explained that prior to going into executive session, the question arose on whether it was proper for the Board to discuss the appointment of a commissioner during executive session. Not having a copy of the Sunshine Act at his fingertips, Solicitor Henninger stated that he is withholding any opinion on that question at this time, and therefore had instructed the Board not to discuss a possible appointment in the executive session. Commissioner Wilt had initially requested the executive session to discuss a separate personnel matter, and this matter was discussed during the executive session.

Vice President Leonard reported that there was a motion and second on the floor to appoint Nick DiFrancesco to fill the unexpired term of Frank Linn as soon as Mr. DiFrancesco is able to be sworn-in. A roll call vote was taken with the following ballot tabulation: Commissioner Mehaffie – aye, Commissioner Wilt – aye, Commissioner Davies – aye, Vice President Leonard – aye. The motion was unanimously approved.

ADJOURN:

With no further business to discuss, a motion was made by Commissioner Wilt, seconded by Commissioner Davies, to adjourn the meeting. The motion was unanimously approved, and the meeting adjourned at 8:28 P.M.

ATTEST:

Jean R. Arroyo, Recording Secretary