

## MINUTES

### LEGISLATIVE MEETING – MARCH 20, 2013

The March 20, 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
- Jon G. Wilt, Commissioner
- Harry N. Krot, Township Manager
- Brenda K. Wick, Planning and Zoning Director
- Peter R. Henninger, Solicitor
- Jean R. Arroyo, Recording Secretary

Absent:

- Michael J. Davies, 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:

Ruth Helwig, 341 West High Street, informed the Board that GreenWorks is having its trash removed between the hours of 4:30 A.M. and 5:30 A.M. She noted that the noise is awful that early, and questioned whether this is even permitted in a residential area. Commissioner Mehaffie inquired if she had contacted GreenWorks about this concern. Ms. Helwig responded that she had not.

APPROVAL OF MINUTES:

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

A motion was made by Commissioner Mehaffie, seconded by Commissioner Wilt, to approve the Minutes of the March 6, 2013 Workshop Meeting. The motion was unanimously approved.

APPROVAL OF BILLS:

A motion was made by Vice President Leonard, seconded by Commissioner Wilt, to approve the payment of bills as presented on Warrant No. 2013-2. The motion was unanimously approved.

APPROVAL OF TREASURER'S REPORT:

A motion was made by Commissioner Wilt, seconded by Vice President Leonard, to approve the Treasurer's Report for February 2013. The motion was unanimously approved.

ENGINEER'S REPORT: None

SOLICITOR'S REPORT:

Solicitor Henninger reminded the Board of the April 3 Public Hearing, beginning at 6:00 P.M., on the zoning map amendment request. He noted that he has been working with Mr. Krot and Ms. Wick on various issues, and will address these as they appear on the agenda.

MANAGER'S REPORT:

Mr. Krot reported that the phone system software upgrade has been completed. Some minor bugs are still being worked out. He also advised the Board that on March 7, Alan Knoche received word of a vehicle fire on Lumber Street. The vehicle was parked alongside a garage. Mr. Knoche and Officer Jason Heckendorn went to the fire scene to see if they could provide assistance prior to the arrival of the Fire Department. They used water from a nearby pond on

the property to put out the fire, saving the structure from catching fire. He commended both gentlemen for their assistance.

President Linn advised the Board and public that the Lions Club will be holding its annual Easter Egg Hunt on March 30, at 9:00 A.M. sharp. Commissioner Mehaffie asked Ms. Arroyo to add this event to the Township's website.

#### COMMITTEE REPORTS:

Police Committee – Vice President Leonard – reported that Chief Brandt had attended the March 8 swearing-in ceremony for the new Middletown Police Chief. Chief Brandt also attended the American Legion Annual Birthday and Recognition Banquet, at which time Jason Brown was recognized as the Township's Firefighter of the Year and Bob Appleby was recognized as the Township's Police Officer of the Year. Chief Brandt explained that Bob Appleby was selected for many reasons, including the fact that he handled the criminal investigation division himself during the majority of 2012. Detective Appleby led the investigation in the Snyder homicide, and his diligent work resulted in the arrest of a suspect in the case. He also handled the church kidnapping case, and a phone harassment situation that resulted in the arrest of a child predator. Vice President Leonard stated that he and Commissioner Wilt had also attended this very nice banquet/award ceremony. Vice President Leonard reminded the Board that gaming grants have been received from time to time. As a member of the Penn State Advisory Board, he was able to participate and assist in Penn State's presentation for a grant request through the gaming commission. A letter was received from Penn State stating that it had been awarded \$104,000 through this municipal grant program, and thanking Vice President Leonard and the Board for their assistance and support. Vice President Leonard also referenced the rescue truck, and reminded the Board that over two years ago, the Township and Fire Department approached the gaming commission to present its request for a grant of \$585,000 for this purchase. They were successful in obtaining \$400,000. Combining both of these grants totals about ½ million dollars. Vice President Leonard also called the Board's attention to the budget reports, and the SARAA patron parking tax line item. This was added about seven years ago. The Township averages about \$180,000 worth of revenue yearly through this tax. Multiplying this \$180,000 by seven years totals about 1.2 million dollars that is gained through effective negotiating with some outside interests. Combining these 1.2 million

dollars to the ½ million dollars in gaming grants reflects upwards of 1.7 million dollars gained from working with outside agencies. Vice President Leonard thanked President Linn for giving him the opportunity to participate in those three programs.

Public Safety – Commissioner Wilt – referenced Vice President Leonard’s remarks about the Legion’s appreciation ceremony, and agreed that it was a very nice program and an enjoyable afternoon.

Public Works – Commissioner Mehaffie – no report

Budget and Finance – in the absence of Commissioner Davies – Vice President Leonard presented the monthly finance report. Cash receipts for the month of February totaled \$746,579.73. The major sources of revenues were from accounts receivable, real estate taxes, and a temporary transfer from the Capital Improvements Fund. Cash expenditures totaled \$378,915.55 and were comprised of the two transfers to the payroll account, the tax transfers to the miscellaneous funds, the quarterly payment for the EMS service, and all invoices due and payable. Investments totaled \$521,735.00 with an average annual yield of 0.50%.

Community and Economic Development – President Linn – stated that he is pleased to see the proposed Sheetz plan on tonight’s agenda , and hopes everything is in line for a ground breaking in the very near future.

#### UNFINISHED BUSINESS:

Mr. Krot stated that the first plan on the agenda is the Final Subdivision Plan of 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. The plan is due to expire on April 18, 2013. Mr. Krot reported that earlier this evening, Mike Williams had presented him with two different time extension requests, one for a 90-day extension and one for a one-year extension. Mr. Williams is asking that the Board consider one of these two options. The

Board's standard practice is to grant extensions in 90-day increments, although it has granted some plans, including this one, one-year extensions in the past. President Linn suggested the Board consider the 90-day option. A motion was made by Commissioner Wilt, seconded by Vice President Leonard, to grant a 90-day time extension on the Final Subdivision Plan of Bryn Gweled East (26 lots), located along Lumber Street, immediately south of PA 283. The motion was unanimously approved.

Mr. Krot stated that no action is required on the remaining items under Unfinished Business (items B, C and D). A motion was made by Commissioner Wilt, seconded by Commissioner Mehaffie, to table the Final Land Development Plan of Residential Retirement Community Phase 1, the Final Subdivision Plan of Old Reliance Farms (Section 18-B) and the Revised Five Oaks Village (Mobile Home Park) Plans. The motion was unanimously approved.

#### NEW BUSINESS:

Mr. Krot reported that the first plan under New Business is the Final Land Development Plan for Sheetz, Inc., as prepared and submitted by K&W Engineers & Consultants. The Planning Commission conditionally approved the plan and five waiver requests on December 20, 2012 and January 24, 2013. The approvals were conditioned on the stipulation that all comments from HRG and the staff must be addressed. A 90-day time extension was granted by the Board on January 16, 2013. The plan is due to expire on April 23, 2013. Prior to taking action on the plan, the Board needs to consider five waiver requests, all of which are being recommended by the Planning Commission.

Attorney Charlie Suhr, Stevens & Lee, explained that this is a 2.8 acre site owned by SARAA. Since it is a leased site, no subdivision is being proposed. The lease is for a 6,478 square foot Sheetz convenience store, which will have seven pumps and a drive through car wash. The Planning Commission did recommend the plan, as well as several waiver requests, for approval. Mr. Suhr noted that the waiver requests had been reviewed with the Board in detail during the March workshop meeting. He stated that he would be happy to answer any questions on the waivers as they appear for action.

A motion was made by Vice President Leonard, seconded by Commissioner Wilt, to grant a request for a waiver of the requirement to submit a preliminary plan as required by Section 403.1. The motion was unanimously approved.

A motion was made by Commissioner Wilt, seconded by Vice President Leonard, to grant a request for a waiver from the requirement to provide private streets (streets not offered for dedication) that meet the design standards of the Township as required by Section 22-502.1.H. The motion was unanimously approved.

A motion was made by Vice President Leonard, seconded by Commissioner Wilt, to grant a request for a waiver from the requirement to provide a Subdivision Plan for the proposed lease area as required by Sections 22-406. and 22-407. Solicitor Henninger added that he is okay with this waiver requests, based on past precedent set by the Township on a similar SARAA property. The motion was unanimously approved.

The Board discussed the next waiver request, a waiver from the requirement to provide a sidewalk along SR 230 as required by Section 22-607 (sidewalk already exists along the Meade Avenue frontage). Ms. Wick stated that she would have liked to see sidewalk here in order to keep pedestrians off Route 230, but safety issues and the existing culvert built with Meade Avenue make it not feasible. Vice President Leonard stated that while sidewalk at this location is not feasible now, it may be at a later time as development of this area, in particular properties to the east, occurs. He asked if the Township would be able to revisit the issue should this happen. Solicitor Henninger explained that the Township does have the ability to come back and require property owner to install sidewalks. However, many rural municipalities, instead of waiving sidewalks, grant a deferral of sidewalks under such circumstances. Attorney Suhr stated that placing sidewalks at this location, even if the site is further developed, will probably remain a problem due to the logistics of the culvert and stream. Commissioner Mehaffie agreed that this may be true, but added that SARAA could make adjustments on its land, and possibly re-work the entire drainage area. He agreed with Vice President Leonard that a deferral would be the best option. Attorney Suhr asked if this deferral should be part of the developer's agreement. Solicitor Henninger recommended that it also be reflected as a note on the plan. A motion was made by Vice President Leonard, seconded by Commissioner Wilt, to grant a deferral of the requirement to provide a sidewalk along SR 230 as required by Section 22-607 (sidewalk already exists along the Meade Avenue frontage). The motion was unanimously approved.

A motion was made by Commissioner Mehaffie, seconded by Commissioner Wilt, to grant a waiver from the requirement to provide a concrete or other inlet box (structure) where a

proposed storm sewer pipe will connect to an existing 5' diameter storm pipe as required by Section 26.126.3.P. A (a detail has been provided on the plan). The motion was unanimously approved.

With the five waiver requests granted, the Board then discussed the Final Land Development Plan for Sheetz. Attorney Suhr referenced a memo from Ms. Wick regarding outstanding issues. He noted that item 6 on the memo, the requirement to provide responses to the comments from the Township Engineer HGR, had already been addressed. Items 7 through 12 are still outstanding: (7) §22-403.1.A.(1) – Provide evidence of an approved NPDES permit from the Dauphin County Conservation District prior to final plan approval; (8) An improvement guarantee for any work in the Township right-of way, the stormwater conveyance and management facilities, and the erosion controls must be provided prior to final plan approval. The applicant has indicated that this will be provided prior to Final Plan approval; (9) All plan sheets will be recorded. The Dauphin County Courthouse recording fees will be determined prior to recording. A check from the applicant will be requested and required prior to the Township recording the plan. The applicant has acknowledged this comment; (10) §26-116.6.C.11. – A Water Obstruction and Encroachment Permit is required for the proposed sanitary sewer line proposed under the stream. The applicant shall perform all work necessary to obtain the permit. The applicant has indicated that the permit will be provided to the Township upon receipt; (11) §26-116.6.C.11. – A Water Obstruction and Encroachment permit from the DEP is expected to be required for the retaining wall along the stream, as well as the tanks and other construction within 50 feet of the top of the stream bank. Coordination with DEP is ongoing by the applicant; (12) The Stormwater O&M Agreement and the Security Agreement will need to be reviewed by the Solicitor prior to action on the agreements by the Board of Commissioners. When all stormwater management comments from the Township Engineer are resolved, please provide the draft agreements to the Township for review. The Township standard language for the agreements will be provided to the applicant.

Attorney Suhr stated that he would ask the Board for a conditional approval on the plan, contingent upon these stipulations being met. Ms. Wick stated that the Stormwater O&M Agreement and the Security Agreement will need to be acted on by Board after review by the Solicitor. These documents have not yet been submitted. Also any changes to the plan may need to be re-reviewed if Dauphin County has additional comments on the stormwater. A

motion was made by Vice President Leonard, seconded by Commissioner Wilt, to conditionally approve the Final Land Development Plan for Sheetz, Inc., as prepared and submitted by K&W Engineers & Consultants, with the stipulations that items 7 through 12 in the memorandum provided by Ms. Wick, be met. The motion was unanimously approved. Solicitor Henninger asked Attorney Suhr to provide the two aforesaid agreements for his review as soon as possible.

A motion was made by Commissioner Wilt, seconded by Commissioner Mehaffie, to acknowledge a 90-day time extension 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. Said plan is due to expire on March 26, 2013. The extension allows a new expiration date of June 24, 2013. The motion was unanimously approved.

Vice President Leonard referenced a letter of resignation from Township Manager Harry N. Krot, and made a motion to reluctantly approve the resignation, effective April 12, 2013. The motion was seconded by Commissioner Wilt, and approved by a 3 – 1 margin, with President Linn dissenting. President Linn stated that he is rejecting the motion, because he feels Mr. Krot has proven himself, and is getting the Township on the right track. He stated, however, that this is Mr. Krot's decision to make, and wished him well.

Mr. Krot stated that Gregg Bogia, representing KGH, is in attendance tonight, and has asked to address the Board about the squash pipe for Route 230. Mr. Bogia stated that he would like to get this issue resolved as much as the Township would. Due to the fact that the pipe is so high to the road, the standard PennDOT boxes cannot be utilized. He is proposing a 19" x 30" squash pipe, which is an improvement over what is out there now, and will carry about 6% more volume. Solicitor Henninger asked what relation this is to the flow that was approved in the Highway Occupancy Permit. Mr. Bogia confirmed that it is less, but he did not say how much. However, he stated that this is mostly the pipe holding the water, not flowing the water. In response to a question from Commissioner Wilt, Mr. Bogia confirmed that the change does have PennDOT approval. Ms. Wick disagreed with this statement. She explained that there were no calculations provided showing the decrease in pipe size or any justification for this provided to PennDOT. Mr. Bogia stated that they did provide PennDOT with drainage calculations. Ms. Wick clarified that the description of the work that was proposed on the supplement said the

change of work was for a modification of shoulder upgrades, and that it was decided to use larger pipes to allow for better stormwater. What is being proposed is actually a smaller pipe and was not highlighted for the PennDOT reviewer. Furthermore, additional calculations were not provided with the supplement, only that plan was provided. The latest reviewer did not know about the pipe size change, since the text said the pipe was larger. Ms. Wick explained that it was not thoroughly reviewed by PennDOT. PennDOT and the Township's engineer need to review changes in stormwater construction before they are proposed as changes to the permit, which is in the Township's name. This did not happen either. Mr. Wick summarized that at this point in time, she does not believe a reduced pipe size is justified crossing 230, as it is a change to the approved HOP (Highway Occupancy Permit) that was done with PennDOT last August. Commissioner Wilt stated that if PennDOT is in approval of this pipe, he would not have any problem with it, and asked Ms. Wick if she concurred. Ms. Wick stated that if it was thoroughly reviewed, all calculations had been provided, and all parties that reviewed it in the past were on board, she would agree. However, this is not her understanding of what has happened. Mr. Bogia clarified that he did send it through the standard Penn DOT submission process.

In response to a question from Solicitor Henninger, Ms. Wick stated that the HOP is in the Township's name. He inquired if this submission to PennDOT had been made available to her and the Township Engineer. Ms. Wick explained that the supplement was uploaded by Mr. Bogia to PennDOT's electronic permitting system.

Commissioner Mehaffie asked why PennDOT would reject the plan. Ms. Wick explained that PennDOT did not thoroughly review the change in pipe size, and that the description on the supplement indicates that the pipe size is actually larger. PennDOT does not always have consistent reviewers who are familiar with the original plan. What is being proposed here is contrary to the description stating that the pipe size is larger. Mr. Bogia disagreed, and stated that the pipe size is larger than what is out there today. Ms. Wick noted this is not the issue. The proposed pipe is not larger than what was permitted last summer. In response to a question from Commissioner Mehaffie, Mr. Bogia explained that the pipe being proposed is 19" x 30". Ms. Wick stated that the pipe size permitted is 24" x 38". Solicitor Henninger asked Ms. Wick the consequences of having less flow. Ms. Wick stated that her understanding, after talking to reviewers who looked at the original HOP permit, is that there is an existing drainage problem at the bottom of Wood Street. They assessed the existing pipes to

be in ill repair. The existing inlets are old and brick and possibly original to the street. While they are in there, they should do the work right and make the improvements that are required to fix the surface issue at the bottom of Wood Street.

Vice President Leonard asked if the Board could look at this again in two weeks. In the meantime, Mr. Bogia agreed to meet with Forino to obtain the calculations. These will then be forwarded to the Township Engineer and PennDOT for review.

FINAL COMMENTS:

President Linn requested an executive session immediately upon conclusion of tonight's meeting in order to discuss a personnel matter.

Vice President Leonard called attention to lane work being done by PennDOT in front of the Lottery Building. This will help with access issues to the fire station. Vice President Leonard added that this work will probably provide about \$200,000 -- \$400,000 worth of benefit with no financial obligation to the Township.

ADJOURN AND CONVENE INTO EXECUTIVE SESSION:

Hearing no other business, a motion was made by Commissioner Wilt, seconded by Vice President Leonard, to adjourn the meeting and convene into executive session. The motion was unanimously approved, and the meeting adjourned at 7:55 P.M.

ATTEST:

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Harry N. Krot  
Township Manager

