

MINUTES

LEGISLATIVE MEETING – APRIL 16, 2014

The April 16, 2014 Legislative Meeting of the Lower Swatara Township Board of Commissioners was called to order at 7:00 P.M. by President Thomas L. Mehaffie III. President Mehaffie called for the pledge of allegiance followed by a moment of silence. Roll call was then taken.

The following officials were in attendance:

- Thomas L. Mehaffie III, President
- Jon G. Wilt, Vice President
- Michael J. Davies, Commissioner
- Samuel D. Monticello, Manager
- Erin Letavic, HRG, Engineer
- Jean R. Arroyo, Recording Secretary

Excused:

- Laddie J. Springer, Secretary
- Dominic D. DiFrancesco, Commissioner
- Peter R. Henninger, Solicitor

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

President Mehaffie welcomed everyone to the meeting, and opened the floor for public comment.

PUBLIC COMMENTS:

Matt Genesio, College Town Communities, stated that he is not asking for any formal action tonight, but rather an indication from the Board on whether it is agreeable to a procedure he would like to request. He explained that during the drafting of the Developer's Agreement for the construction of Lawrence Street in conjunction with Campus Heights Phase II, it was agreed that the developer would waive the right to request a reduction in the letter of credit guaranteeing those improvements. It was also agreed to increase that posted amount to 125%. Both of these things were done to alleviate the Township's concern because of the delay of the completion of the first portion of Lawrence Street, in conjunction with Phase I of Campus

Heights. Obviously back in the fall, no properties were purchased, no financing was in place, and no construction was done. There was a 100% risk. Now, five or six months later, the road is 95% complete in between the curb line. The construction work is far along and therefore most, if not all, the risk is mitigated. Mr. Genesio explained that he would like to request a reduction, fully understanding that this right was waived in the Developer's Agreement. Since the majority of the risk is gone, he inquired if the Commissioners would be agreeable to reducing the amount of the security. Mr. Genesio stated that his desire is to ask for an approximately \$160,000 reduction in the letter of credit. Since \$240,000 is posted, this would still leave around \$80,000. If this idea is acceptable to the Board, he will proceed with submitting the formal request for HRG to perform the necessary inspections and provide an opinion to the Board for subsequent approval.

Commissioner Davies asked if this is something that has been considered in the past. President Mehaffie explained that reductions in letters of credit are customary. The waiver of the right to ask for a reduction in this particular case was done in order to encourage the work to be done as quickly as possible. Vice President Wilt stated that since the Solicitor is not in attendance tonight, he would ask Ms. Letavic's opinion on the request. Ms. Letavic agreed that this is a standard procedure, and concurred that there is little risk involved with the project at this point in time.

President Mehaffie asked if there is any further information on the possibility of the Gina Lane connection. Mr. Genesio stated that there is a meeting scheduled next week with Nittany Town Homes. It appears that this will move forward in a timely manner, so the connection should be able to be tied-in pretty seamlessly. Mr. Genesio added that he would also like to formalize his commitment to patch/repair the damage to Wood Street and Dauphin Street from the heavy construction equipment during the Lawrence Street construction. He would be agreeable to drawing up an agreement with the Township which could be part of the conditions of receipt of the Certificate of Occupancy.

The Board directed Mr. Genesio to proceed with submission of the requested reduction to the letter of credit. President Mehaffie also thanked Mr. Genesio for the hustle involved in getting this work completed.

APPROVAL OF MINUTES:

A motion was made by Commissioner Davies, seconded by Vice President Wilt, to approve the Minutes of the March 19, 2014 Legislative Meeting. The motion was unanimously approved.

A motion was made by Vice President Wilt, seconded by Commissioner Davies, to approve the Minutes of the April 2, 2014 Public Hearing. The motion was unanimously approved.

A motion was made by Commissioner Davies, seconded by Vice President Wilt, to approve the Minutes of the April 2, 2014 Workshop Meeting. The motion was unanimously approved.

APPROVAL OF BILLS:

A motion was made by Vice President Wilt, seconded by Commissioner Davies, to approve the payment of bills as presented on Warrant No. 2014-3. The motion was unanimously approved.

APPROVAL OF TREASURER'S REPORT:

A motion was made by Commissioner Davies, seconded by Vice President Wilt, to approve the Treasurer's Report for March 2014. The motion was unanimously approved.

PLANNING & ZONING/ENGINEER'S REPORT:

Ms. Letavic reported that many of the items she has been working with appear on tonight's agenda. She noted that there is a new Zoning Hearing scheduled for April 30. The request is from a resident wishing to purchase a property on Colony Drive and have a hair salon there. Two variances are being requested relative to parking.

Ms. Letavic also stated that she is pleased to report that the Greenfield well is being tested this week. The 24-hour pumping test started today and will be finished tomorrow morning.

MANAGER'S REPORT:

Mr. Monticello reported that the personnel changes incorporated in the Public Works Department over the past weeks have proven to be extremely beneficial as far as employee job satisfaction as demonstrated by a more positive perspective of the department overall.

Mr. Monticello noted that this reflects strongly on the management and the Board.

Mr. Monticello informed the Board that he prepared and submitted to the Dauphin County Gaming Advisory Board the close-out report for the Township's gaming grant agreement for the Fire Department rescue vehicle. He thanked Chief DeHart for bringing this matter to his attention.

President Mehaffie reviewed the list of upcoming meetings and events and noted that Opening Day for baseball is April 26. He stated that he will be out of town on that date. Both Vice President Wilt and Commissioner Davies plan to be in attendance. Ms. Letavic added that the Planning Commission meeting for April 24 will be cancelled due to lack of interest.

COMMITTEE REPORTS:

Police Committee – Vice President Wilt – reported that insurance payment has been received for both of the police vehicles that were totaled in accidents. The replacement vehicles are now being equipped and outfitted. The other two new vehicles requisitioned for this year are at the dealer and will be outfitted next. Vice President Wilt reported on an incident at Reid Elementary School yesterday resulting from a domestic problem. The school resource officer and Borough police handled the situation and got things under control. Vice President Wilt noted that this is currently under investigation, so he can afford no further details.

Budget and Finance – Commissioner Davies – reported that cash receipts for March totaled \$2,376,413.47. The major sources of revenues were from real estate taxes—current and delinquent, Act 511 taxes, accounts receivable from 2013 and other miscellaneous receipts. Cash expenditures totaled \$665,895.81 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), and all invoices due and payable. Investments totaled \$921,899.07 with an average annual yield of 0.25%. Commissioner Davies noted that both the Police Pension Board and Non-Uniformed Pension Board met earlier this evening with their investment advisor. Overall, things seem to be going well.

Public Works – President Mehaffie – reported that the crew has been very busy and is focusing right now on getting the parks and recreation areas ready for opening day of baseball and softball. Things are going very well in the Department. The Township dumpster will be available to residents on May 3, from 8:00 A.M. to noon.

UNFINISHED BUSINESS:

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, July 17, 2013, October 16, 2013, December 18, 2013 and March 19, 2014. The plan is due to expire on July 12, 2014.

The Board tabled 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, June 19, 2013, September 18, 2013, December 18, 2013 and March 19, 2014. The plan is due to expire on June 19, 2014. This plan remains tabled by the Planning Commission

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, and February 19, 2014. The plan is due to expire on May 24, 2014. The plan remains tabled by the Planning Commission.

A motion was made by Commissioner Davies, seconded by Vice President Wilt, to grant a 90-day time extension, as requested by the Susquehanna Area Regional Airport Authority (SARAA), on the 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 statutes. 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. The plan is due to expire on April 23, 2014. Upon acceptance of the 90-day time extension, the plan will expire on July 23, 2014. Ms. Letavic stated that there was a meeting held last week with representatives of SARAA, Lower Swatara Township and Township Authority and Middletown Borough and Borough Authority relative to this planning module and the need to connect to the location on the CVS lot next to the Sheetz project. They are likely to move forward now, which means this planning module will need to be acted on shortly. President Mehaffie added that the next meeting, scheduled for April 24, will also include representatives from Sheetz. The motion to grant the 90-day time extension was unanimously approved.

NEW BUSINESS:

The first item under New Business was the Preliminary/Final Subdivision and Land Development Plan for 140 Fulling Mill Road, prepared by Evans Engineering, Inc. (EEI) Consulting Engineers and submitted by MRPI Fulling Mill, L.P. The plan was recommended for approval by the Planning Commission on March 27, 2014 with stipulations. The plan is due to expire on June 25, 2014. President Mehaffie acknowledged representatives for the plan. Jim Clymer, Key Development Group, explained that they had previously presented the sketch plan to the Board. There was an application for five dimensional variances filed with the Zoning Hearing Board, and three of these were approved at the April 9 hearing. The remaining two will

be presented at the April 30 meeting; one pertains to the radius of the driveway and the other pertains to the lot width of the residual access lot. Mr. Clymer reported that as encouraged by President Mehaffie, they also met with Derry Township Manager Jim Negly as a courtesy to their neighbor on the other side of the creek. He added that this consideration was very much appreciated by Mr. Negly. What is being requested tonight is final approval of the plan, conditioned on addressing the engineer's comments on administrative matters, receipt of the required permits, completion of the security agreement, zoning board variance approvals, Municipal Authority approval, and E&S approval. He then turned the floor over to Brian Evans, Evans Engineering.

Brian Evans discussed the highlights of this 250,000 square foot warehouse distribution center on Fulling Mill Road, across from the FedEx facility. The plan was before the Planning Commission along with seven design waivers, five of which were recommended. Five variance requests were also before the Zoning Hearing Board. Three of these were approved. They include the building height, deferring of installation of all the required parking spaces, and encroachment into the other zoning district up to 75 feet (50 feet is permitted by ordinance). Two other variance requests will be heard at the April 30 hearing. These include the radii of the entry drive that will not be fully within the right of way and the residual lot that will remain with Mr. Church to allow him access to his property on the south side of Route 283.

Vice President Wilt referenced deferment of the required parking, and asked what would trigger the requirement to put in the extra parking. Mr. Clymer explained that the building is being built on an estimated employee count of 80 people, and they will have way more parking spaces than what is needed. However, if parking is insufficient when the next tenant comes in, that tenant will demand the parking to be put in. Also, it is agreed that if the Township observes at any time that parking is insufficient, the developer will work with the Township to determine and install the correct amount of spaces. In response to a question from President Mehaffie, Ms. Letavic explained that this parking requirement variance was approved by the Zoning Hearing Board because it saw the benefit of not paving more than is necessary at this time.

Ms. Letavic then reviewed the seven waiver requests associated with the plan:

1. Separate preliminary plan (§22-404)
2. Township's minimum site distance (§22-502.8)
3. Curbs along Fulling Mill Road (§22-606)
4. Sidewalk along Fulling Mill Road (§22-607)
5. Proposed grade of driveway greater than one-foot below the 100-year floodplain elevation (§22-509.4)
6. Stormwater facilities' bottom elevations below 100-year floodplain elevation (§26-126.2.J)
7. Stormwater basin dewatering in less time period less than 24-hours (§26-126.2.H)

She noted that the Planning Commission recommended approval of waivers 1, 2, 5, 6, and 7. The Planning Commission, however, is recommending rejection of waivers 3 and 4 (waiver of curbing and sidewalk along Fulling Mill Road). The Planning Commission is taking this position to be consistent with the position it took on the same two waiver requests for the FedEx property across the street. Ms. Letavic noted, however, that the Board of Commissioners did not concur with the Planning Commission's recommendations on the FedEx waivers; it actually approved these two waiver requests (waiver of curb and sidewalk). She recommended that the Board also approve the curb and sidewalk waivers for this plan.

Ms. Letavic reported that due to some confusion, two of the requested variances were not included in the advertised notice for the Zoning Hearing. It was decided to proceed with the Zoning Hearing as advertised. To follow the proper procedure and ascertain the public has adequate opportunity to comment, however, it was decided to provide the testimony on all five variances but advertise these other two variance requests separately and schedule a continuance of the hearing. At this second hearing on April 30, there will be a decision made on the variance to permit the flare of the curb return radius for the western driveway outside of the right-of-way, and the variance to permit the lot width for the access lot to be less than 100-feet wide. Ms. Letavic explained that the Board can still conditionally approve the plan tonight, with one of the conditions being that these two variances are approved by the Zoning Hearing Board.

Ms. Letavic suggested that the Board first address the seven waiver requests. A motion was made by Commissioner Davies, seconded by Vice President Wilt, to grant a request for an "Alteration of Requirements" for the following seven waiver requests:

1. Separate preliminary plan (§22-404)
2. Township's minimum site distance (§22-502.8)
3. Curbs along Fulling Mill Road (§22-606)

4. Sidewalk along Fulling Mill Road (§22-607)
5. Proposed grade of driveway greater than one-foot below the 100-year floodplain elevation (§22-509.4)
6. Stormwater facilities' bottom elevations below 100-year floodplain elevation (§26-126.2.J)
7. Stormwater basin dewatering in less time period less than 24-hours (§26-126.2.H)

The motion to grant all seven waiver requests was unanimously approved.

Mr. Clymer stated that he would like to settle one other matter regarding the plan. During conversations with Chief DeHart and other Township officials, there was mention about the need for upgrades to the Fulling Mill Road/North Union Street traffic signal. Apparently FedEx was requested to study the traffic six months after the operations start. It was made clear that the Township feels strongly that some of those technology upgrades would be useful now. Therefore, Mr. Clymer stated that they are proposing to donate a sum of money to the Township which should cover the installation of the camera upgrades. Specifically, \$20,000 would be contributed to cover the hardware installation, and this monetary commitment would be handled in the developer's Security Agreement. President Mehaffie stated that this would be very much appreciated.

With the waiver requests addressed, a motion was then made by Vice President Wilt, seconded by Commissioner Davies, to conditionally approve the Preliminary/Final Subdivision and Land Development Plan for 140 Fulling Mill Road, prepared by Evans Engineering, Inc. (EEI) Consulting Engineers and submitted by MRPI Fulling Mill, L.P., with the following conditions as outlined by Ms. Letavic: (1) resolving all of HRG's comments, (2) addressing any outstanding comments from the Fire Department, (3) addressing any comments from Dauphin County, (4) receipt of outstanding permits, including those from DEP, Dauphin County Conservation District, and PennDOT, (5) in lieu of the six-month operational traffic review, inclusion in the Developer's Agreement of a \$20,000 cash contribution to be used towards upgrades to the Fulling Mill Road/North Union Street traffic signal (this will be reviewed as staff goes through the Agreement to make certain this works in the Township's favor), (6) Zoning Hearing Board variance approvals for the last two remaining variance requests, and (7) Lower Swatara Township Municipal Authority approval. The motion was unanimously approved.

The Board tabled the Preliminary/Final Land Development Plan for Capital Valley Business Park – Building 'C', prepared by LSC Design submitted by Capital Valley, L.P. The

plan has been tabled by the Planning Commission. The plan is due to expire on June 9, 2014. The motion was unanimously approved.

A motion was made by Commissioner Davies, seconded by Vice President Wilt, to approve Ordinance No. 553. This ordinance amends the Code of Ordinances of Lower Swatara Township, Ordinance No. 448, as amended, Chapter 26, Water, Part 1, Stormwater Management, Part C, Stormwater Management Standards. Section 26-117. Exemptions/Modifications. Subsections 4, 5, and 10, to provide new minimum separation distance standards, multiple impervious area standards, discharge standards, separation area standards, setting forth requirements for additional stormwater management controls, the obligation to meet other requirements, setting forth municipal decision criteria and adopting a new appendix showing an example of a residential use exemption and appendix setting forth an example of an agricultural use exemption. A roll call vote was taken with the following balloting: Commissioner Davies – aye, Vice President Wilt – aye, President Mehaffie – aye. Ordinance No. 553 was approved by a 3 – 0 margin.

A motion was made by Vice President Wilt, seconded by Commissioner Davies, to approve, in conjunction with the Turnpike Bridge Replacement Project, the renaming of a portion of Nissley Drive between Rosedale Avenue and Donald Avenue to “Baker Avenue”. The motion was unanimously approved.

A motion was made by Commissioner Davies, seconded by Vice President Wilt, to approve Herbert, Rowland & Grubic’s scope of work, dated April 10, 2014, to provide funding assistance for the design and construction of the Richardson Road Bridge. The motion was unanimously approved. Ms. Letavic added that the fee for this application will also be reimbursable through the grant/loan funding process.

A motion was made by Vice President Wilt, seconded by Commissioner Davies, to approve authorization of payment for the Middletown Borough Authority Wastewater Treatment Plant Blatt & Myers, Inc. claim for: litigation fees from Wix, Wenger & Wiedner, in the amount of \$1,861.74; mediator fees from Venzie, Phillips & Warshawer, in the amount of \$1,530.00; and professional fees from The Rhodes Group, in the amount of \$9,403.23 to Middletown Borough Authority. President Mehaffie stated that this should be the final payment. The motion was unanimously approved.

The Board acknowledged the hiring of the following individuals:

- Tonya Bibb-Sakr as Administrative Assistant for the Code Department, effective April 3, 2014.
- Barbara A. Richards as Receptionist, effective April 7, 2014.
- Robert S. Greene as Planning and Zoning Coordinator, effective April 14, 2014.
- Rodger L. Mason, Jr. as Mechanic, effective May 5, 2014.

A motion was made by Vice President Wilt, seconded by Commissioner Davies to approve the appointment of Robert S. Greene as Sewage Enforcement Officer effective immediately. President Mehaffie explained that the Township presently subs out this position. Mr. Greene will assume the position, with the secondary staying in place. The motion was unanimously approved. President Mehaffie noted that Mr. Greene is in the audience this evening; he congratulated him on the appointment.

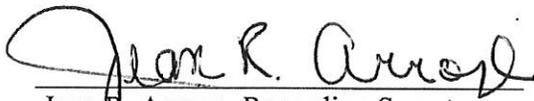
FINAL COMMENTS:

Vice President Wilt requested an executive session upon conclusion of tonight's meeting for personnel related matters. He also reminded the public of the Lion's Club Easter Egg Hunt this Saturday, at 10:00 A.M.

ADJOURN AND CONVENE INTO EXECUTIVE SESSION:

With no further business to discuss, a motion was made by Commissioner Davies, seconded by Vice President Wilt, to adjourn the meeting and convene into executive session. The motion was unanimously approved, and the meeting adjourned at 8:03 P.M.

ATTEST:


Jean R. Arroyo, Recording Secretary

