

MINUTES

LEGISLATIVE MEETING – APRIL 18, 2012

LOWER SWATARA TOWNSHIP BOARD OF COMMISSIONERS

The April 18, 2012 Legislative Meeting of the Lower Swatara Township Board of Commissioners was called to order at 7:00 P.M. by President Linn.

Roll call was then 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
- Harry N. Krot, Township Manager
- Peter R. Henninger, Solicitor
- Jean R. Arroyo, Recording Secretary

Residents and visitors in attendance:

- Phyllis Zimmerman (Patriot-News)
- Pastor Al Nydes (DaySpring Ministries)
- Wendy & Carl Adkins (DaySpring Ministries and Township residents)
- Peter Brooks (DaySpring Ministries)
- Stephanie & James Lyles (DaySpring Ministries and Township residents)
- Kimberly Johnson (DaySpring Ministries)

DAYSRING MINISTRIES REQUEST:

President Linn stated that there are representatives here tonight from DaySpring Ministries (located at 1600 Spring Garden Drive). The church recently submitted a written request to prohibit parking in front of the church, and representative from the church are here tonight to further expand upon this request.

Carl Adkins, a Township resident and member of DaySpring Ministries, explained that he also serves in the church's gatekeeper ministry. In this capacity, he opens gates in the morning and closes them at night, so he is at this location five to six times a week. He noted that he is here this evening to support DaySpring's request to prohibit parking on the side of the road

adjacent to the church property. Mr. Adkins stated that parking along this area actually creates somewhat of a safety hazard, especially at night when the intersection is dark. He has observed a couple of close calls here. There is a fair amount of traffic in this area, and on Sunday there are well over 100 cars in the parking lot. Mr. Atkins added that it is difficult when coming into the intersection to go around the cars parked there, and then pull up to the stop sign. He expressed hope that the Board will agree to change the ordinance to prohibit parking on that side of the street.

Peter Brooks, also a member of DaySpring Ministries, stated that he is a security specialist at Belco Credit Union and also a retired Chief of Police for the City of Harrisburg. During his time at the church, he has seen it grow from 90 families to over 300 families. He agreed that parking in this particular spot creates a traffic hazard. He noted, however, that he is also concerned about this on another angle. The individual who is parking vehicles in this spot already has parking in his own elongated driveway. He stated it is more than just a parking issue. He questioned why someone would go out of his way to park extra feet from available parking just to park in front of the church, by its sign. Mr. Brooks stated that as a security specialist, this concerns him. He thanked Mr. Krot and Chief Wiley for all their assistance, but again stated that he is concerned about what will happen if this condition is not addressed. He asked the Board to consider changing the ordinance so that the church can be free to worship without any implied intimidation.

Alan Nydes, Assistant Pastor of DaySpring Ministries as well as the Director of Facilities and Land Development, stated that this is DaySpring Ministries' twelfth year at the property on Spring Garden Drive. He reminded the Board that DaySpring had initially approached the Township about building at another location in Lower Swatara, but was not permitted to do so. It was instead given the alternative to look at this particular property. Pastor Nydes added that the church takes great pride in its property and maintains the corner as if it were home. Having vehicles parked in front of their "home", especially when there is other parking available, is disturbing. It is also an eyesore considering the investment the church puts in its property and landscaping. As mentioned earlier, there is no street light at this corner. The church is not requesting a street light, but is just asking that parking be prohibited on this one side of the road. There is no parking on this side of the street as it goes up the hill, so it would just be a

continuation. Pastor Nydes stated that DaySpring appreciates being part of this community and feels it is their community as well.

Commissioner Davies asked Police Chief Wiley if there was a notable amount of accidents at this corner caused by obstruction of vehicles. Chief Wiley reported that he had done some research after being approached about this issue. As everyone is aware, the intersection is a three-way stop with two stops on Spring Garden Drive and one on Nissley Drive on the side of the church. There have been accidents at this intersection, but the contributing factor is that there is no stop sign coming down the hill on Nissley Drive, and some drivers pull out assuming the other driver also has a stop. Chief Wiley stated there is nothing specific on record about accidents caused by obstruction. Commissioner Davies also asked if there are any other institutions of worship in the Township which have no parking areas in the street in front of or adjacent to their properties. Chief Wiley responded that he could not think of any.

Commissioner Wilt asked if adding a stop sign in at the other corner of Nissley Drive would help. Chief Wiley explained that a traffic study had previously been done, and there was no justification for a four-way stop at this location. The study would have to show there is a high volume of traffic accidents at that location. Commissioner Mehaffie asked if this situation has changed since the study was done, with the addition of the church at this location. President Linn explained that part of the state's rationale for not having a stop sign on that hill is the fear of drivers coming down that hill and sliding and not being able to stop. Chief Wiley noted that it goes back to the statistics – four way stops are extremely difficult to justify. Solicitor Henninger agreed that a significant amount of traffic and/or accidents is necessary to justify approval of a four-way stop intersection.

Commissioner Mehaffie asked the representatives of DaySpring Ministries if this parking issue has been present the entire twelve years at this location, or has just started recently. Pastor Nydes explained that in July of 2010, the individual started parking there on a sporadic basis. By July of 2011, it had increased greatly and has been habitual from then on.

President Linn stated that he had spoken to Pastor Ash about this request, and was upfront with him that he would not support this change. He noted there is the possibility that the church, or its neighboring church, may eventually need this extra on-street parking. He suggested that representatives from the church speak to the individual and try to work things out. He added that this individual is not violating any law by parking here; his vehicles are properly

inspected and legally parked. President Linn agreed that DaySpring Ministries has a beautiful church and landscaping and is doing a tremendous job, but noted that he cannot justify the cost of advertising a proposed ordinance change that is not necessary.

Commissioner Davies referenced the previous remark about “intimidation” and asked if there has been an act or instance of intimidation surrounding this and if so, had it been reported to the police. Mr. Brooks explained that he would say yes there has. During the investigation of this request, uniformed officers did approach the door of the individual who is parking here, and left their cards. Chief Wiley went there himself to speak to the gentleman and asked for a return call. No return calls were made. Mr. Brooks stated that something is just wrong here. Commissioner Davies stated that he is not a legal expert, but noted this doesn’t sound like an act of intimidation. Mr. Brooks stated that the Board should be proactive in preventing a possible problem, and reiterated that he does believe that without an alternative, things won’t get any better.

Pastor Nydes thanked President Linn for his candor, and stated DaySpring does want to be a good neighbor. He referenced President Linn’s comment about the possible need for increased parking, and stated the church can add more paved parking. DaySpring Ministries has a good working relationship with the Open Door Bible Church, and has offered to allow this church to use DaySpring parking facilities if needed. If the Star Barn would ever be converted to a commercial type of use, DaySpring has already agreed to allow these businesses to use space in the church’s parking lot. Pastor Nydes stated that DaySpring will always be the good neighbor. The church wants to do what is right, and is only asking to prohibit parking on one side of the road, which will reduce parking by about a dozen spaces. He agreed with Mr. Brooks that the individual involved is resisting making contact with the church, which is why the Board is being approached for an ordinance change. He referenced the cost to revise the ordinance, and stated that DaySpring Ministries would be open to the idea of offsetting some of this cost. He inquired if President Linn would or would not request a vote tonight. President Linn explained that the Board would only be able to vote tonight to advertise an ordinance. This ordinance would then be voted on at a future meeting. His personal opinion is that he cannot justify the cost to advertise the ordinance. He noted, however, that he is only one vote of five.

Vice President Leonard stated that he was here when DaySpring looked at the other property and was glad that the church was able to find this piece of land. As a member of the

Fire Department and during his active driving days, he would drive the fire truck throughout the Township to see where new development was planned and ascertain these vehicles had enough space to get through. He had driven through the area in question and can say he never experienced problems here. He asked Chief DeHart his experience in this area. Chief DeHart agreed that the Fire Department has not had issues with operating an emergency vehicle in the area of question.

Commissioner Mehaffie asked if this individual has made any contact yet with the Police Department. Chief Wiley stated that attempts have been made about six times, with no response. President Linn surmised this is because the individual knows his rights, and is well aware that he is legally parked.

Commissioner Davies suggested that the Public Safety Committee look into this request and come back to the Board with a recommendation. President Linn stated that Chief Wiley did already investigate the request and came back with his recommendation. Commissioner Wilt questioned if it would be worthwhile to again attempt to contact this individual and ask for his cooperation since there is other parking available. He added that he also had an idea that he would like to present to the Board, but he is not prepared to discuss it right now. Commissioner Mehaffie agreed with Commissioner Wilt, and suggested he would like to give the opportunity to the other individuals and residents to come forward before the Board makes any type of ordinance change. He also agreed with Commissioner Davies that that he would like to discuss this with the Police Committee; he is not ready to vote on this tonight without more information. Commissioner Wilt and Commissioner Davies both stated they would like more information prior to voting. Vice President Leonard stated that he is not prepared to formally vote yet either, but would like to hear Commissioner Wilt's input. He agreed that the church property does look fabulous, and he understands its concern about the aesthetics of parking in front of the property. The Township may, however, be bound by Commonwealth law. He agreed that he likes the committee approach, and suggested that both the Public Safety Committee and Police Committee meet to discuss this request. President Linn directed the two committees schedule a joint meeting and come back to the Board with a recommendation.

PUBLIC COMMENTS: None

APPROVAL OF MINUTES:

A motion was made by Commissioner Davies, seconded by Vice President Leonard, to approve the Minutes of the March 21, 2012 Legislative Meeting. The motion was unanimously approved.

A motion was made by Vice President Leonard, seconded by Commissioner Wilt, to approve the Minutes of the April 4, 2012 Non-Legislative Meeting. The motion was unanimously approved.

APPROVAL OF BILLS:

A motion was made by Commissioner Davies, seconded by Commissioner Wilt, to approve the payment of bills as presented on Warrant No. 2012-3. The motion was unanimously approved.

APPROVAL OF TREASURER'S REPORT:

A motion was made by Commissioner Davies, seconded by Vice President Leonard, to approve the Treasurer's Report for March 2012. The motion was unanimously approved.

ENGINEER'S REPORT: None

SOLICITOR'S REPORT:

Solicitor Henninger reported that he had sent a letter to Mr. Nardo regarding outstanding fees, but has not yet heard back from him at this point. In response to a question from Vice President Leonard, Solicitor Henninger stated that the twenty day deadline would be on May 1.

MANAGER'S REPORT:

Mr. Krot referenced the list of future meetings/events and noted that he had received an update from Daryl Peck of Concord Public Finance regarding the potential refinance of sewer bonds. Things are holding steady right now, and Mr. Peck will stay in touch.

President Linn reminded the public that Senator Piccola will be hosting a town meeting here at the Township Building on Saturday, April 21, from 9:00 A.M. to 10:00 A.M. He also

reported that all five Commissioners and the Manager had attended a ceremony last evening at which Lower Swatara Township received a Governor's Award for Local Government Excellence for Building Community Partnerships for the Meade Avenue Project.

COMMITTEE REPORTS:

Police Committee – Vice President Leonard -- reported that he had attended the Non-Uniform Pension Advisory Board meeting earlier this evening; a recommendation from the financial advisor will be forthcoming. Vice President Leonard asked Chief Wiley if he had anything to report this evening. Chief Wiley stated the Police Department's budget is on track. Recent activities of the Department include investigation of equipment thefts from the Eagle Heights construction project totaling around \$2,000. There is also an investigation ongoing involving a motorcycle fatality that occurred on Eisenhower Boulevard yesterday; this fatality involved an individual who was testing driving a motorcycle.

Public Safety - Commissioner Wilt --- stated that he had also attending this evening's meeting of the Non-Uniform Pension Advisory Board; it appears that things are on course.

Public Works – Commissioner Mehaffie – reported that the Public Works Department continues to work in the parks and playground areas. The Market Street park was totally redone and looks great. The Shopes Gardens project is ongoing, and should be completed by the end of the summer. Commissioner Davies and he attended a meeting of the Lower Swatara Township Recreation Board, and the main concern discussed was the water situation at the soccer fields. Commissioner Mehaffie stated that he would like the Commissioners to allow Mr. Anderson to move forward on obtaining pricing for a well and irrigation system to try to take care of the water needs at the park. President Linn confirmed that Mr. Anderson was supposed to get prices for the well, and added that the money for this would be allocated from the recreation fund. Commissioner Mehaffie added that it was nice working with the Township's Recreation Board, and stated that the group will be evaluating the needs of the parks, and putting together a comprehensive plan to address the future needs of the parks. The next meeting of the Lower Swatara Township Recreation Board is May 2, an hour before the Board's workshop meeting. President Linn expressed concern that parents should monitor their children while in the parks. The Public Works Department is dealing with the kids tearing the work fencing down, which just creates more work for the Department. Commissioner Davies added that at the last meeting

of the Olmsted Regional Recreation Board, it was noted that contact had been made with Jednota about shifting some of the games from the Township's soccer fields to the fields at Jednota. This will allow the Township fields some time to recover. Commissioner Davies added that he would also like to visit Middletown water authority and ask if it might consider letting the Township use public water at this park. President Linn agreed this would be ideal, but noted that he had approached Middletown several times about this possibility, and was rejected. He stated there is money in the recreation fund, and suggested the Township pursue drilling the well. Commissioner Davies agreed that the Township needs to get water to these fields as soon as possible, but added that public water would allow the Township the future option of putting facilities in this park such as bathrooms, water fountains, concession stands, etc. Commissioner Mehaffie stated that Mr. Anderson is putting a lot of time into this park, and also thanked the soccer association for moving its games off these fields in order to let growth happen. Commissioner Mehaffie also reported that he and Commissioner Davies had attended this evening's meeting of the Police Pension Advisory Board. He noted that he could not be in attendance of the last meeting of the Olmsted Regional Recreation Board and deferred this report to Commissioner Davies.

Budget and Finance – Commissioner Davies – reported that the notable item of discussion at the meeting of the Olmsted Recreation Board was the temporarily shifting of games from the new fields. As mentioned by Commissioner Mehaffie, he had attended tonight's meeting of the Police Pension Advisory Board. Commissioner Davies then presented the monthly finance report. Cash receipts for the month of March totaled \$1,126,770.99. The major sources of revenues were from real estate taxes (current and delinquent), the fourth quarterly allocation (2011) for Earned Income Tax and Local Services Tax, accounts receivable from 2011, and other miscellaneous receipts. Cash expenditures totaled \$887,683.95. With 3 months, or 25% of the fiscal year having elapsed, the revenues are at 24% of budgeted projections, while the expenditures are at 28% of budgeted projections. Commissioner Davies noted that he had talked to the Financial Administrator about this, and she had indicated this is not unexpected.

Community and Economic Development – President Linn ---reported that there are two sample student housing apartments completed if the Board wishes to take a look at them. He stated that this project is shaping up nicely.

UNFINISHED BUSINESS:

Mr. Krot stated that no action is necessary on the first plan under Unfinished Business, 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. The plan was due to expire on April 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 a request for a 90-day time extension has been submitted for 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, and January 18, 2012. The plan is due to expire tonight, April 18, 2012. A motion was made by Commissioner Mehaffie, seconded by Vice President Leonard, to approve the 90-day time extension. The motion was unanimously approved. President Linn stated that the Board needs to take a serious look at its practice of granting continuous time extensions, especially ones such as this which span as much as five years. The developers should either get their plans together or pull them.

Mr. Krot stated there is no action required on the next plan, the Final Subdivision Plan of Old Reliance Farms, Section 18-B (9 lots) prepared by Dauphin Engineering, Inc. and submitted by Old Reliance Partnership. The plan was recommended for approval by the Planning Commission on May 27, 2010. A 90-day time extension was granted by the Board on April 21, 2010. A one-year time extension was granted by the Board on July 21, 2010. Additional 90-day

time extensions were granted by the Board on July 20, 2011, October 19, 2011, and January 18, 2012. The plan is due to expire on May 21, 2012. President Linn asked if the Township had heard anything yet from DEP regarding extending the road at this location. Vice President Leonard explained that he had discussed this with Ron Burkholder. Mr. Burkholder has been pursuing multiple year discussions with DEP in attempts to get Powderhorn Road extended to Strites Road. Unfortunately, the contacts at DEP keep changing, and each new contact seems to declare the wetlands at a different location. About two months ago, Mr. Burkholder had contacted DEP and was told his written request is still on record but is on a non-priority pile. Since that input, he was again contacted and this time informed that his request was moved up and he should not do anything in addition to that for a two week period. This two week period has not elapsed yet. Vice President Leonard, Mr. Krot, and Mr. Burkholder will be meeting tomorrow morning with Representative Payne to update him on this situation, in the event his involvement becomes necessary. President Linn suggested that if DEP has not made contact within two weeks, the Township file a letter of complaint with the Governor and the Secretary of DEP. He stated this delay is causing the Township to lose potential new residents and tax dollars. Commissioner Mehaffie questioned whether the holdup is DEP or the Army Corp of Engineers. Vice President Leonard stated both, but the primary delay is due to DEP. Commissioner Mehaffie asked Vice President Leonard to inquire as to how Mr. Burkholder is making out with the Army Corp of Engineers. Mr. Krot advised the Board that the DEP staff had also reached out to him last week to revisit this issue. Dates will be coordinated with Brenda Wick, Planning & Zoning Director, for an upcoming meeting. Vice President Leonard stated that something appears to have happened in the last couple weeks to motivate DEP. Hopefully, something will come out of it.

Mr. Krot stated that no action is required on the Revised Five Oaks Village (Mobile Home Park) Plans located on Swatara Park Road, prepared by Dauphin Engineering Co. and submitted by Thomas A. Farr on behalf of Shirley J. Farr, owner. The plan was recommended for approval by the Planning Commission on June 23, 2011 with stipulations.

NEW BUSINESS:

A motion was made by Commissioner Davies, seconded by Vice President Leonard, to approve a policy relevant to the purchasing power of the Township Manager, as per the memo provided by Solicitor Henninger. The motion was unanimously approved.

A motion was made by Commissioner Mehaffie, seconded by Commissioner Wilt, to approve the following 2011 Personal Tax Exonerations:

List 1, Full Bill (5/23/11 – 2/28/12)

Occupation \$59,800.00

Per Capita \$15,320.00

The motion was unanimously approved.

Mr. Krot called the Board's attention to an addendum containing several items that should also be addressed this evening.

A motion was made by Commissioner Mehaffie, seconded by Commissioner Wilt, to approve Application for Payment No. 23 in the amount of \$100,912.78 to Leon E. Wintermeyer for construction phase services related to the Meade Avenue Project. The motion was unanimously approved.

Mr. Krot reported that there is also a request for Application for Payment No. 24 in the amount of \$18,555.72 to Leon E. Wintermeyer. According to the memo from HRG, there is one additional payment after this that will need to be approved. He noted that staff will be meeting with HRG, Penn DOT and Leon Wintermeyer to discuss the potential reimbursement for flood damages. This does not involve Township funds; Penn DOT will be considering using state money to reimburse for those expenses. Assuming some of these are deemed to be allowable, there may be one more requests for payment. President Linn stated that even though this is not Township money, and the Township is simply custodian for this project, he would like to see payments for this project come to an end and not drag on. He asked that the engineer be so advised. A motion was made by Commissioner Davies, seconded by Commissioner Mehaffie, to approve Application for Payment No. 24 in the amount of \$18,555.72 to Leon E. Wintermeyer for construction phase services related to the Meade Avenue Project. The motion was unanimously approved.

A motion was made by Commissioner Mehaffie, seconded by Commissioner Davies, to approve authorization of payment for the Middletown Borough Authority Waste Water

Treatment Plant BNR construction upgrades, Requisition 26-A, in the amount of \$3,078.21 to Middletown Borough Authority. In response to a question from President Linn, Solicitor Henninger stated that this is probably not the final payment. There may be more due to litigation involved with this project; the general contractor has sued the Middletown Borough Authority, requesting significant additional funds. This is being defended, but the Township Authority is responsible for 20% of the bill. The motion was unanimously approved.

A motion was made by Vice President Leonard, seconded by Commissioner Davies, to approve the appointment of Marylou M. Rittner as voting member and Harry N. Krot as alternate member to the Dauphin County Tax Collection Committee for year 2012. The motion was unanimously approved.

FINAL COMMENTS:

President Linn requested the Board convene into executive session.

ADJOURN AND CONVENE INTO EXECUTIVE SESSION:

With no further business to discuss, a motion was made by Vice President Leonard, seconded by Commissioner Davies, to adjourn the Legislative Meeting and convene into executive session. The motion was unanimously approved, and the meeting adjourned at 8:10 P.M.

ATTEST:

Harry N. Krot
Township Manager