

## MINUTES

APRIL 20, 2011

### LOWER SWATARA TOWNSHIP BOARD OF COMMISSIONERS

The regular monthly meeting of the Lower Swatara Township Board of Commissioners, held at the Lower Swatara Township Municipal Building, was called to order at 7:00 P.M. by President Frank Linn, Sr. President Linn called for the pledge of allegiance and moment of silence.

Roll call was taken with the following officials in attendance:

- Frank Linn, Sr., President
- Thomas R. Clark, Commissioner
- Robert L. Loych, Commissioner
- Thomas L. Mehaffie III, Commissioner
- Ronald J. Paul, Manager/Secretary
- Peter R. Henninger, Township Solicitor
- Jean R. Arroyo, Recording Secretary

Excused:

- William L. Leonard Jr., Vice President
- Chris Bauer, HRG, Township Engineer

Residents and visitors in attendance:

- Scott Strohecker (1375 Pheasant Run Rd.)
- Steve Hickoff (102 Bradford Ave.)
- Jon & Julie Wilt (1257 Longview Dr.)
- Theresa Fink (99 Bradford Ave.)
- Phyllis Zimmerman (Patriot-News)
- Jarred Neal (1470 Heritage Sq.)
- Mark LaVia (2080 Powderhorn Rd.)

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

PUBLIC COMMENTS:

Steve Hickoff, 102 Bradford Avenue, reminded the Board that last year it had received a commitment from the Airport to clean out the silt in the retention pond, and also a promise from Penn DOT that it would look into cleaning out the silt in the connector area. He stated there has been no word on this yet, only word from irate neighbors in the Jednota Flats area who continue to get flooded. Mr. Hickoff noted that he realizes the last rainfall was significant, and many other areas of the Township also got flooded. He stated that the flooding in the Jednota Flats area was almost up to Locust Avenue, and many residents had water in their basements. Mr. Hickoff remarked that he did a lot of legwork to get to the point of receiving commitments for the work. He asked the Board if it had followed up on these commitments.

Commissioner Mehaffie stated that he hadn't received any updates. He agreed that the Township had been informed that Penn DOT would be addressing clean-up of the interchange this spring. However, there is a new administration in place and this will need to be pursued with these individuals, as money and budgets are always an issue. He added that his contact at Penn DOT retired, and inquired if the staff had heard anything from Tucker Ferguson at Penn DOT. Mr. Paul responded that Penn DOT has indicated it is still looking into it. Mr. Hickoff stated that money was an issue with the last administration; this seems to be the standard excuse for not getting anything done.

Commissioner Mehaffie added that prior to this last storm, the recent rains had not resulted in flooding to the Jednota Flats area. He stated that this was attributed to the work done in conjunction with the Meade Avenue project. He noted that this last rain, which came down at a rate of 5 inches a day, was unusually severe and many homeowners experienced flooding in their basements, some for the first time ever. Commissioner Mehaffie stated that he understands the turmoil of the residents. Mr. Hickoff responded that he realizes that these rains were heavy and unique, but surmised that if the dirt/silt in the retention pond and interchange had been cleaned out, there would have still been water in the street but not as much water in the yards and homes.

Commissioner Mehaffie stated that as far as HIA goes, he had just spoken to Fred Sembach, Township Representative to SARAA. It is definitely a budgetary issue with the Airport. Mr. Hickoff stated that the last time he had heard, the Airport was pursuing a grant to get this work done. President Linn explained that Mr. Sembach had previously conveyed the Airport's commitment to spend a maximum of \$3500 towards this clean up work. No additional money

would be spent unless a grant could be secured. President Linn added that he was uncertain whether a grant had been applied for or not. Mr. Paul reported that he would bet that the Airport will indeed clean out the pond this year. He explained the Airport has been working through the planning and permitting stage that was holding up the work last year. He agreed, however, that the staff can place some phone calls to confirm this.

Commissioner Clark suggested a letter be sent to Penn DOT pertinent to this issue. This will help the Township maintain a trail of what is happening. He stated that Penn DOT doesn't really need money, so the money argument isn't valid. Penn DOT only needs to provide manpower and truck time. Commissioner Mehaffie stated that after last year's conference call with Penn DOT, this work seemed like a done deal. Commissioner Loych agreed that this was his impression too. Mr. Hickoff added that Penn DOT's District 8 office told him the work could easily be done – it has the tools and manpower to perform the clean-out. All that is missing is the authorization for the work to proceed.

Commissioner Clark inquired if Mr. Hickoff had observed any noticeable difference in where the actual flooding was this time. Mr. Hickoff stated that prior to this last storm, he did see a difference. When the Sharp Shopper was flooded last time, there was no water on the street; normally there would have been. His assumption is that some type of retention ponds, new tunnel-ways to carry water, etc., were put in during the construction in that area. He stated that he feels that during this past rain, however, the water didn't have time to dissipate down there since the ponds already had water in them. Commissioner Loych also inquired if Mr. Hickoff noticed if the water had drained faster this time. Mr. Hickoff agreed that the water went down considerably overnight. However, the water has always seemed to come up quickly and go down just as quickly. President Linn noted that he drove down to check out the situation, and the water seemed to drain very quickly. He stated that the rain just came down so very hard and fast.

President Linn informed Mr. Hickoff that the Township will follow up with Penn DOT and the Airport and get back to him. Commissioner Mehaffie asked that the residents not feel as if the Board is not concerned about them. He apologized for the agitation they are dealing with, but stated that the Board's hands are tied too.

Theresa Fink, 99 Bradford Avenue, stated that she had 7 ½ feet of water in her basement as a result of the rains, and asked if the residents can get federal assistance. Alan Knoche, EMA Coordinator, explained that they cannot, since an emergency was not declared. Mr. Knoche added

that the flooding was a result of surface water. Ms. Fink clarified that her flooding was not surface runoff water. She stated that the Township needs to help the residents with this problem. The Board has been “checking into” these improvements for two years now, but nothing has been done. She has spent thousands of her own dollars on new furnaces and getting the basement cleaned as a result of these flooding problems.

President Linn asked Ms. Fink if she would be willing to sell her home, should money become available. Ms. Fink stated that this option would not be offered to her, since the water never hit the first floor of her home. She added that several years ago, after the floods in 2004, the residents were told they couldn't protect their homes with flood gates. During a Board meeting, the residents had asked about constructing a berm or dirt dike, and were told that would not be permitted, since it could result in liability to them if their neighbors would be flooded as a result. Ms. Fink stated that since the state and Township can't seem to get their acts together, she will do what she needs to do to protect her home.

President Linn again asked Ms. Fink if she would be willing to sell her home if a buy-out was presented. Ms. Fink responded she wouldn't, and asked why President Linn was asking this since she keeps hearing there isn't any federal, state or Township money available anyway. She remarked that a few years ago, there was money out there and nothing happened. President Linn clarified that two properties were actually bought out. Ms. Fink agreed, but stated they only received \$50,000 for these homes. She stated that her own home is assessed at \$120,000, and asked if she would be offered \$120,000 for her home. Alan Knoche, EMA Coordinator, explained that during that last flood mitigation process, the Township applied for eight properties. Only four of these actually met the criteria, and only two of the homeowners accepted the offer to sell their homes. Again, Ms. Fink stated the water must reach the first floor, and this doesn't happen at her home. She expressed frustration with the entire process and the lack of help from the Township. She asked where all the tax money is going. President Linn explained that the tax money is used to operate the Township and pay for Township services. He added that comments about the Township having money available for recreation fields are inaccurate. He explained that when the Township receives money from the state for recreation purposes, the money must be spent on just that – recreation. He again informed Ms. Fink and Mr. Hickoff that the Township will make the necessary contacts with Penn DOT and HIA and try to obtain further information as to when the work will be completed.

Scott Strohecker, 1375 Pheasant Run Road, stated that he had provided the Township with a written request for his soccer team, which is not affiliated with the Olmsted Regional Soccer Association (ORSA), to use two of the soccer fields at Greenwood Park for home games (Saturday mornings), as well as practices (usually twice a week) for the fall 2011 – spring 2012 season (July through the first weekend in November). This is a group of thirteen young men, ten of which live in Lower Swatara Township. The Board expressed no objection to this request. President Linn stated that the Township likes to see the fields utilized and wants to work with everyone. He suggested, however, that Mr. Strohecker also meet with ORSA to work out the scheduling.

APPROVAL OF MINUTES:

A motion was made by Commissioner Loych, seconded by Commissioner Mehaffie, to approve the Minutes of the March 16, 2011 Legislative Meeting. The motion was unanimously approved.

A motion was made by Commissioner Mehaffie, seconded by Commissioner Clark, to approve the Minutes of the April 6, 2011 Workshop Meeting. The motion was unanimously approved.

APPROVAL OF BILLS:

A motion was made by Commissioner Loych, seconded by Commissioner Clark, to approve the Payment of Bills as presented on Warrant No. 2011-3. The motion was unanimously approved.

APPROVAL OF TREASURER'S REPORT:

A motion was made by Commissioner Mehaffie, seconded by Commissioner Loych, to approve the Treasurer's Report for March 2011. The motion was unanimously approved.

SOLICITOR'S REPORT:

Solicitor Henninger reminded the Board of the Public Hearing scheduled for May 4, 2011, beginning at 7:00 P.M., to receive public comment on two proposed ordinances: one pertinent to cell towers and one pertinent to an Airport Overlay District. Solicitor Henninger noted that he will address the tax assessment issues as they appear on this evening's agenda.

## MANAGER'S REPORT:

Mr. Paul referenced the list of future meeting dates, and added that there will be a personnel meeting on May 4, at 6:00 P.M., prior to the 7:00 Public Hearing that evening.

## COMMITTEE REPORTS:

Police Committee – Chairman Clark – no report

Public Safety – Commissioner Mehaffie – expressed kudos to those involved with the TMI drill, especially Alan Knoche, EMA Coordinator. It was another successful drill, and the Township received a good recommendation from the state evaluator.

Public Works – Commissioner Loych – thanked the Public Works Department for all its efforts during the recent storm events.

Budget and Finance – in the absence of Vice President Leonard, Mr. Paul reported that cash receipts totaled \$847,099.12 for the month of March 2011. The major sources of revenues were from Real Estate Taxes (current and delinquent), grant reimbursements for the Meade Avenue project, and other miscellaneous receipts. Cash expenditures totaled \$972,614.36 and were comprised of the three transfers to the payroll account, the transfers to the various miscellaneous funds (such as the street light and hydrant funds), expenses related to the Meade Avenue project, and all invoices due and payable. Investments totaled \$588,995.29 with an average annual yield of 0.5%. With three months of the fiscal year having elapsed, the Township's statement for the first quarter is showing revenues at 42.36% of budgeted projections while the expenditures are at 44%. These percentages taken alone can be very misleading as the Township had not budgeted for the inflows and outflows concerning the Meade Avenue project. Excluding this project, the current year revenues are at 19% of projections while the expenses are at 23%. In response to a statement from President Linn, Mr. Paul verified that Penn State is involved in the design costs for the Meade Avenue Project, while the federal and state governments are the funding sources for the actual construction of the project. Lower Swatara Township is responsible for the utilities.

Community and Economic Development – President Linn – reported that he attended a meeting last Wednesday for the Mead Avenue Project. The contractor did get the message loud and clear that the Township wants the job schedules on a timely basis – the schedule was received that Friday. President Linn reminded everyone of the Lions Club Easter Egg Hunt, which will be held Saturday at 10:00 A.M.

UNFINISHED BUSINESS:

A motion was made by Commissioner Clark, seconded by Commissioner Mehaffie, to table 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, and November 17, 2010, and February 16, 2011. The plan is due to expire on May 18, 2011. The motion was unanimously approved.

A motion was made by Commissioner Clark, seconded by Commissioner Mehaffie, to table 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, and November 17, 2010., and February 16, 2011. The plan is due to expire on May 18, 2011. The motion was unanimously approved.

A motion was made by Commissioner Clark, seconded by Commissioner Mehaffie, to table 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. The plan is due to expire on August 25, 2011. The motion was unanimously approved.

Mr. Paul stated that the developer of the Land Development Plan for William O. and Emily R. Botterbusch is requesting a 90-day time extension on the plan. He explained that as a result of the new stormwater management ordinance that is in effect, on-site perc tests need to be done, and these can't be done until the weather is dry. A motion was made by Commissioner Loych, seconded by Commissioner Mehaffie, to table the Land Development Plan for William O. and

Emily R. Botterbusch for a proposed dog kennel use at 880 Oberlin Road, prepared by Act One Consultants, Inc., and submitted by William and Emily Botterbusch. The plan was recommended for approval by the Planning Commission on February 24, 2011. The plan is due to expire on April 27, 2011. The motion was unanimously approved. Solicitor Henninger stated that the Board should also take action on the time extension request. A motion was made by Commissioner Loych, seconded by Commissioner Clark, to approve a 90-day time extension, as requested by the developer, on the Land Development Plan for William O. and Emily R. Botterbusch for a proposed dog kennel use at 880 Oberlin Road. The motion was unanimously approved.

A motion was made by Commissioner Mehaffie, seconded by Commissioner Loych, to table and grant a 90-day time extension, as requested by the developer, on the Land Development Plan of Noah W. Kreider and Sons, LLP for a proposed poultry expansion of the Middletown Facility located at 301 Longview Drive, prepared and submitted by TeamAg Inc. The plan was recommended for approval by the Planning Commission on February 24, 2011. The plan is due to expire on April 27, 2011. The motion was unanimously approved.

#### NEW BUSINESS:

A motion was made by Commissioner Mehaffie, seconded by Commissioner Clark, to approve authorization of payment for the Middletown Borough Authority Waste Water Treatment Plant BNR construction upgrades, Requisition No. 13-A, in the amount of \$219,238.11 to Middletown Borough Authority. The motion was unanimously approved.

A motion was made by Commissioner Mehaffie, seconded by Commissioner Loych, to approve a Stipulation and Joint Motion for Agreed Upon Order between Shri Sai Middletown, LLC, Appellants, and Dauphin County Board of Assessment Appeals, Appellee, and the affected taxing bodies (Middletown Area School District, Lower Swatara Township, and the County of Dauphin) regarding the parcel of real estate which is subject of the instant appeal (Parcel 36-007-081) known as 815 Eisenhower Boulevard, more commonly known as "Best Western Harrisburg Airport". Solicitor Henninger explained that this is in regards to a tax assessment appeal in 2009. He estimated a \$3500 reduction in tax revenues for 2011 and also a refund of \$3500 due for 2010. This will result in an approximately \$7000 reduction in Township tax revenues. Solicitor Henninger noted this Stipulation is being recommended by the Board of Assessment Appeals and will also be recommended by the School District and County. He recommended that the Board also approve

this Stipulation. President Linn stated that a reduction in taxes will also mean a reduction in the Township budget. The motion was unanimously approved.

Mr. Paul reported stated that the next agenda item is to act on a Stipulation and Joint Motion for Agreed Upon Order between Tyco International, LTD, Plaintiff/Appellant, and Dauphin County Board of Assessment Appeals, Defendant/Appellee, and the affected taxing bodies (Middletown Area School District, Lower Swatara Township, and the County of Dauphin) regarding the parcel of real estate which is subject of the instant appeal (Parcel 36-007-015), known as 2801 Fulling Mill Road. He added that there is also action required on another Stipulation for a parcel owned by Tyco, although it doesn't appear on the agenda. He turned the floor over to Solicitor Henninger.

Solicitor Henninger explained these Stipulations actually pertain to appeals filed in 2005 – 2006. He thought they had been settled back in 2008, but found this was not so. Therefore, it impacts taxes back to year 2006. Solicitor Henninger explained that at that time, the proposed settlement with Tyco was rejected by the School District, which has the most tax revenues to lose due to its millage rate. The reality of the situation is that the net effect of the Stipulation for 2801 Fulling Mill Road is a \$19,000 refund due to Tyco. The second parcel, 2900 Fulling Mill Road (36-007-086), is due a \$24,000 refund. This is almost \$45,000 in tax refunds which Tyco would be requesting this year. Solicitor Henninger stated that he had made a phone call to Counsel for the Board of Assessment Appeals and informed them that that Lower Swatara Township does not have \$45,000 to give back to property owners this year. He inquired if the refund could be done as a credit against the 2012 taxes. This would allow the Township to address the shortage in the next budget process. Tyco agreed to this arrangement. Solicitor Henninger stated that he must reluctantly recommend approval of these Stipulations. President Linn expressed concern that this issue was put in the hands of the attorneys years ago and should have already been settled. Solicitor Henninger explained that the attorney for the Board of Assessment appeals passed away shortly around the time that the School District rejected the original proposal. Tyco didn't push the issue, and nothing was resolved. He noted that this deal is actually better than what was on the table in 2008. The bottom line is that with the downturn in the economy, these appraisals are coming in at amounts under what these property owners are being taxed at.

A motion was made by Commissioner Loych, seconded by Commissioner Clark, to approve a Stipulation and Joint Motion for Agreed Upon Order between Tyco International, LTD, Plaintiff/Appellant, and Dauphin County Board of Assessment Appeals, Defendant/Appellee, and the affected taxing bodies (Middletown Area School District, Lower Swatara Township, and the County of Dauphin) regarding the parcel of real estate which is subject of the instant appeal Parcel 36-007-015, known as 2801 Fulling Mill Road and a Stipulation and Joint Motion for Agreed Upon Order between Tyco International, LTD, Plaintiff/Appellant, and Dauphin County Board of Assessment Appeals, Defendant/Appellee, and the affected taxing bodies (Middletown Area School District, Lower Swatara Township, and the County of Dauphin) regarding the parcel of real estate which is subject to the instant appeal Parcel 36-007-086, known as 2900 Fulling Mill Road. The motion was unanimously approved.

A motion was made by Commissioner Mehaffie, seconded by Commissioner Clark, to approve the payment of \$7,570.56 to HRG, Inc. for services rendered for the period February 28, 2011 through March 27, 2011, for construction phase services related to the Meade Avenue Project. The motion was unanimously approved.

Mr. Paul noted that there are several other items not on the agenda which need to be addressed under New Business.

A motion was made by Commissioner Loych, seconded by Commissioner Mehaffie, to approve Resolution No. 2011-R-8. This resolution designates Mid Penn Bank as a depository for Township funds. The motion was unanimously approved.

A motion was made by Commissioner Mehaffie, seconded by Commissioner Clark, to approve the payment of Application for Payment #8 in the amount of \$95,603.02 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 Loych, seconded by Commissioner Clark, to approve the payment of Estimate No. 8 in the amount of \$13,881.30 to Navarro & Wright Consulting Engineers 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 Loych, to approve authorization of payment for the Middletown Borough Authority Waste Water Treatment Plant BNR construction upgrades, Requisition No.14-A, in the amount of \$45,729.22 to Middletown Borough Authority. The motion was unanimously approved.

ADJOURN:

Hearing no other business, a motion was made by Commissioner Loych, seconded by Commissioner Mehaffie, to adjourn the meeting. The motion was unanimously approved, and the meeting adjourned at 8:00 P.M.

ATTEST:

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Ronald J. Paul  
Manager/Secretary