

LOWER PAXTON TOWNSHIP
BOARD OF SUPERVISORS

Minutes of Board Meeting held April 1, 2008

A business meeting of the Board of Supervisors of Lower Paxton Township was called to order at 7:45 p.m. by Chairman William B. Hawk on the above date in the Lower Paxton Township Municipal Center, 425 Prince Street, Harrisburg, Pennsylvania.

Supervisors present in addition to Mr. Hawk were: William C. Seeds, Sr., William L. Hornung, Gary A. Crissman, and David B. Blain.

Also in attendance were George Wolfe, Township Manager; Steven Stine, Township Solicitor; Lori Wissler, Community Development Manager; Dianne Moran, Planning and Zoning Officer; Tom Smida, Mette, Evans, and Woodside; Charles Zwally, Mette, Evans and Woodside; Mr. David Fonash; Mr. Paul Kendeffy; and Evan Pappas, Schumacher Williams, P.C.

Pledge of Allegiance

Mr. Hawk suspended the recitation of the Pledge of Allegiance and it was previously recited at the start of the Authority meeting.

Approval of Minutes

Mr. Seeds noted a correction to the March 4, 2008 business meeting minutes. He noted on page 16, in the first paragraph, the minutes stated that Mr. Seeds voted nay for the motion, and it should state that he voted aye. With that correction, Mr. Seeds made a motion to approve the minutes from the March 4, 2008 business meeting. Mr. Crissman seconded the motion, and the motion was approved unanimously.

Public Comment

Mr. Kenneth Parmer, 4292 South Carolina Drive, wanted to compliment the Township in that the agenda was listed on the web site for this week's meeting. He stated that he also visited the newly revised Compost Facility and noted that it was in much better shape, and that he didn't get his tires all muddy since they have reconstructed the site.

Mr. Parmer noted that he reviewed his notes from the 2002 Comprehensive Planning Unit Meetings that he attended, and found that Mr. Seeds was the only Board member in attendance. In addition, there was a meeting held in Linglestown for the Linglestown CPU, and under policies and strategies for natural and cultural resources, it was determined to preserve large contiguous tracts of the land, and to protect Blue Mountain and environmentally sensitive areas of steep slopes. He noted that he did not know if there were any additional issues discussed as a result of this meeting up to the time the Comprehensive Plan was adopted.

Mr. Parmer noted that as a result of the changes, the Township developed a new zoning district of Conservation (CO), which was partially created to preserve Blue Mountain. He noted that a month ago, he became aware that the area behind Centennial Acres, which was previously zoned A-1 and P-1, was rezoned to R-1. He noted that Mr. McNaughton's company did not take advantage of that change since their plan called for the development of lots of 1.77 acre rather than two units per acre which is the current zoning requirement. He noted that the entire area is nothing but woodland, wetland, and springs, and should be considered part of Blue Mountain. He noted that he learned over the past several weeks that the rezoning was done without the knowledge of the landowners. He noted that he sent a letter to Mr. Wolfe, and Ms. Wissler replied on Mr. Wolfe's behalf, stating that notification of the adjoining land owners is not required when a new zoning map is proposed. He noted that all this was done in the darkness of the rest of the citizens of the Township.

Mr. Parmer noted that there is a request to rezone the area behind the Sportsman's Golf Course to Institutional. He stated that his topographical map shows the area behind the golf course rises 200 feet and the average slope is 16%, noting that 15%, by Township definition, is considered to be a precautionary slope. He noted that the change to IN permits eight units per acre, which means there would be no trees left or a rock unturned. He implored the Board to be serious if they are thinking about rezoning that area to IN, noting that the entire area should be zoned Conservation.

Mr. Seeds noted that the McNaughton tract, off of Patton Road, was rezoned in 1992 to Residential Cluster, RC. He noted that none of the current members were sitting on the Board at that time, and the tract has not been rezoned.

Ms. Wissler noted that the overall map that was revised in 2006 changed some of that area. She noted that the reason notices were not sent out was because it was advertised as a whole zoning map change and there were more changes than just that ground. She noted that notices were not required for this type of rezoning. Mr. Seeds suggested that the land was previously A-1 and P-1 and rezoned to R-1.

Chairman and Board Member's Comments

None was provided.

Manager's Report

Mr. Wolfe noted that PENNDOT has announced that it will begin the repair work for two bridges over I-81, one which is Mountain Road that is located in the Township. He noted that PENNDOT resumed work on a construction contract that began last June to make repairs to seven bridges in Dauphin County as they span I-81. He noted that, of the five bridges that have been repair, two are located in Lower Paxton Township, one at Lockwillow Avenue and the other at Blue Ribbon Avenue. He noted that starting April 1, 2008, the traffic over I-81 on

Mountain Road will be restricted to a single lane in both directions. He noted that this single lane construction will continue for a little more than three months. He explained that PENNDOT will also undertake significant repairs to the Bow Creek Bridge located in East Hanover Township. He noted that once the seven bridges are completed, it will result in over \$5 million dollars worth of maintenance work that PENNDOT has completed for the I-81 bridges.

Mr. Wolfe noted that the work completed by PENNDOT for the Lockwillow and Blue Ribbon Avenues bridges greatly improved both structures and surfaces.

Mr. Wolfe noted that “Pick Up PA Day”, an ambitious state-wide effort to remove litter and trash from the roadways will be held between April 19, 2008 and May 3, 2008. He noted that several organizations are organizing the project, and more information can be obtained by visiting the website at www.greatpacleanup.org.

Mr. Wolfe noted that Dauphin County is sponsoring a Community Clean up for recyclables on Saturday, May 17, 2008, at the Harrisburg Area Community College from 9 a.m. to 1 p.m. He explained that electronic recyclables are accepted as well as ten passenger tires per person. He noted that there is a fee for certain items such as large appliances, but noted that these items may be recycled as part of the Township’s weekly bulk curbside collection.

Mr. Wolfe noted that the Township’s Leaf Waste Collection Program started the first of April. He explained that the Township’s Compost facility is open on Tuesdays, Thursdays and Saturdays from 7 a.m. to 5 p.m. He noted that tree branches, and leaf and shrub waste are accepted, but grass clippings are not. He explained that grass clippings are part of the regular weekly trash collection. He noted that the curbside leaf waste collection program is under way, with an annual fee of \$72, and interested residents may sign up by contacting the Municipal Center.

OLD BUSINESS

Ordinance 08-05; Authorizing the issuance of general obligation bonds once certain parameters have been met in the bond market

Mr. Tom Smida explained that this Ordinance authorizes the Township to move forward with a funding product of the outstanding series 2002 bonds. He noted that the Ordinance is required by the Local Government Unit Debt Act, and a summary of the Ordinance had been advertised in The Patriot-News. He noted that assuming certain parameters have been met; the Board members would authorize him to execute a bond purchase that would provide for interest and value savings of a minimum 2.5% in connection with the retirement of the outstanding series 2002 General Obligation Bonds. He noted that the remainder of the Ordinance lists the terms of the purchase agreement and provides for the specific interest rates, and redemption provisions. He noted that it authorizes the call of the series 2002 Bonds which are callable at anytime after May 1, 2008. He noted that there is no sunset restriction for this Ordinance as the market may go away from the Township, and this would keep the window open to take advantage of the market. He noted that the market has been very volatile, and as a result he is trying to be in a position to take advantage of the market when the improvements become available. He noted that there are certain formalities of the Local Government Unit Debt Act that must be filed with the Department of Community and Economic Development (DCED) in order to take action on this purchase. He noted that this Ordinance concerns the bond purchase that would be forthcoming in the event the net minimum target of 2.5 % is met.

Mr. Smida explained that this is a little different from the traditional procedures for a bond purchase. He noted that he has met the advertising requirements for the Ordinance, but would not be filing anything with the DCED until such time as the target rate is met.

Mr. Crissman made a motion to approve Ordinance 2008-05, authorizing the issuance of General Obligation Bonds for the Series 2002 Bonds with a minimum 2.5% net savings in the bond market. Mr. Blain seconded the motion. Mr. Hawk called for a roll call vote: Mr. Blain, aye; Mr. Crissman, aye; Mr. Hornung, aye; Mr. Seeds, aye; and Mr. Hawk, aye.

Ordinance 08-03; Amending the zoning ordinance as it pertains to building height, setbacks, buffer yards, and density in the IN zone

Ms. Wissler explained that Ordinance 08-03 proposes changes to the Institutional District Section 307.B.2, that will decrease the maximum building heights from 70 feet to 60 feet except for residential retirement development buildings which shall be governed by Section 319.G.5.

Ms. Wissler noted that Section 319.G.5 pertains to building heights and setbacks in the Institutional District and proposes to increase the height to 60 feet provided the minimum yard setback is increased five feet for every foot that the building exceeds 40 feet height.

Ms. Wissler noted that Section 319.G.17 amends the maximum overall density in the Institutional District to ten dwelling units per acre.

Ms. Wissler noted that Section 803.D pertains to Buffer Yards in the Institutional District which establishes a 30-foot buffer along rear and side lot lines for single family dwellings adjacent to residential lots or dwellings, and increases the buffer to 60 feet along rear and side line lots for purposes other than single family dwellings when it is adjacent to a single family dwelling or residentially zoned lot.

Ms. Wissler noted that the Dauphin County Planning Commission reviewed this matter on March 3, 2008 and was in favor of increasing the building heights, and the density, however, they were not in favor of the five-foot incremental increase in setbacks for buildings over 40-foot or the buffer requirement.

Ms. Wissler noted that the Lower Paxton Township Planning Commission reviewed the matter on March 12, 2008 and approved the Ordinance as is.

Ms. Wissler noted that the Ordinance was advertised in The Paxton Herald on March 12, 2008 and March 19, 2008.

Ms. Wissler noted that it would be appropriate for Mr. Stine to conduct a Public Hearing at this time.

Mr. Stine noted that this was the time and date set to conduct a public hearing on Ordinance 2008-03, amending the Zoning Ordinances as pertains to building heights, setbacks, buffer yards and density in the Institutional Zone. He questioned if anyone in the audience wished to be heard on this Ordinance.

Mr. Charles Zwally of Mette, Evans, and Woodside, explained that Ordinance 2008-03 is an outgrowth of the matter that would be considered by the Board in public hearing on the next agenda item, which is the zoning map change for the Sportsmen's Golf Course.

Mr. Zwally noted that the reduction in the density requirements from twelve units to ten units per acre, and the expansion of the buffer requirements for the Institutional zone of 30 feet or 60 feet dependant on the adjoining uses are proposals made by his client, Boyd Mahoney Partnership, also known as Union Deposit Properties. He noted that his client proposes to develop under the Residential Retirement (R-R) provisions of the zoning ordinance the areas that include the Sportsmen's Golf Course which are now zoned Institutional and Agricultural-Residential.

Mr. Zwally noted that the building height proposal originated with the Board members; however, he has no objection to that change. He clearly supports the decrease in density and the expansion of the buffer yards because they are proposed by the client as a result of discussions held with members of the adjoining community. He noted that his support for these text changes is based on the assumption that the map change would be approved by the Board as a result of the subsequent hearing.

Mr. Zwally noted that the Dauphin County Planning Commission did object to the change in height reduction restrictions and the increase in the buffer yards, calling them onerous. He explained that they place a higher burden on the developer, but in the case of the buffer yard, Boyd Mahoney Partnership made the offer and will stand by that offer. He noted that his client has no objection to the building height requirement.

Mr. Richard Pleasants, 2348 Timber Line Court, noted that he and his wife have a house that is adjacent to the property. He noted that he talked to a number of neighbors and was under the impression that this application had been tabled. Mr. Stine noted that this hearing is to amend the zoning ordinance, and does not pertain to the zoning request. Mr. Pleasants questioned if the ordinance is a byproduct of the rezoning application. Mr. Stine answered that it was brought up at the same time. Mr. Pleasants noted that he would reserve his comments for the next public hearing.

Mr. Randell Holmes, 4107 Continental Drive, noted that he owns additional properties located at Gale Drive, and Linglestown Road. He stated that he appreciated the time the Board members took to review and enact the changes, and he noted that they are well in keeping with the discussions that were held with the developer and Board members at the Workshop meetings.

Mr. Stine questioned if anyone wished to make further comments. Seeing none, he noted that it would be appropriate to close the public hearing for Ordinance 2008-03 at this time, and the Board could take action if it so desires.

Mr. Blain made a motion to approve Ordinance 08-03; amending certain sections of the zoning ordinance as it pertains to building height, setbacks, buffer yards, and density in the Institutional District. Mr. Crissman seconded the motion.

Mr. Seeds explained that he would support the motion because he feels that it is a plus since it lowers the height restrictions from 70 feet to 60 feet and also lowers the density from 12

units per acre to ten units per acre, however, he requests staff to make some additional corrective language as there are conflicts and redundancies in the total ordinance in relation to setbacks.

Mr. Hawk noted that most, if not all of the corrections, were made as a cooperative effort on behalf of the developer and the residents.

Mr. Hawk called for a roll call vote: Mr. Blain, aye; Mr. Crissman, aye; Mr. Hornung, aye; Mr. Seeds, aye; and Mr. Hawk, aye.

Ordinance 07-14; Amending the zoning designation of property commonly known as Sportsmen's Golf Course changing existing Conservation, Institutional, and Agricultural Residential Districts to Institutional and Conservation Districts

Ms. Wissler pointed to the map displaying the existing Conservation, Institutional, and Agricultural Districts. She noted the location of the movement for the proposed change in the Conservation and Institutional lines that result in the elimination of the Agricultural Residential District.

Ms. Wissler explained that the Lower Paxton Township Planning Commission met on March 12, 2008, and recommended approval of the rezoning. She explained that the parcel abuts the Conservation District to the north, Commercial Neighborhood and Agricultural Residential Districts to the south, and R-1 District to the east. She noted that the 2004 Comprehensive Plan's Future Land Use Map shows the area to be Rural-Residential, and the current use of the property is the Sportsmen's Golf Course and two vacant parcels.

Ms. Wissler noted that the Dauphin County Planning Commission recommended approval of the plan at its March 3, 2008 meeting. She noted that notices appeared in The Paxton Herald on March 12, 2008 and March 19, 2008, and on February 25, 2008 notices were mailed to the surrounding property owners. She noted that the parcel was posted on March 24, 2008.

Ms. Wissler noted that it would be appropriate for Mr. Stine to conduct a public hearing at this time.

Mr. Stine noted that this was the time and date set for the public hearing on Ordinance 2007-14, which would amend the zoning designation of property commonly known as the Sportsmen's Golf Course changing the existing Conservation, Institutional (IN) and Agricultural-Residential (AR) Districts to Institutional and Conservation (CO). He questioned if anyone in the audience wished to be heard.

Mr. Charles Zwally, explained that he represents the property owners, Boyd Mahoney Partnership, otherwise known as the Union Deposit Corporation. He noted that he is only requesting to rezone 50 acres of the property from AR to IN zoning. He noted that prior to the year 2006, when the Township adopted its new zoning ordinance, the Sportsman's Golf Course was zoned R-2. He explained north of the Golf Course, the land was zoned Park Residence District (P-1). He noted that the new zoning ordinance resulted in the rezoning of the tract of 153 acres as IN, 14 acres as CO, and 50 acres as A-R. He noted that the land owner has proposed the development of senior housing using the Residential-Retirement (R-R) provision. He noted that R-R is only permitted in the IN. He noted that there is some difficulty with the small strip of AR zoning, as it would not be compatible for the R-R development, nor would it be permitted. In addition, he explained that a certain amount of land needs to be devoted to the construction of Continental Drive.

Mr. Zwally noted that the developer commissioned a topographical map at two foot intervals. He noted that the only previous maps available were the United States Geological Service maps at five or ten foot intervals. He noted that it is the Township's desire to connect Continental Drive from Forest Hills to Susquehanna Township. He noted that Continental Drive could have been built in the current AR District, but he would prefer to have the flexibility to place the road lower on the tract of land. He noted that the Boyd Mahoney Partnership made a commitment to the Board of Supervisors, during a workshop meeting, that it would not locate

Continental Drive in a preliminary or final plan, without first consulting with the Board of Supervisors if the zoning change was approved.

Mr. Zwally noted that during the discussions held for the revision to the zoning ordinance during joint Board/Planning Commission workshop sessions, the developer proposed that the AR zone be eliminated and the IN and CO zones be increased, resulting in 190 acres of land in the Township, with 27 acres of CO. He noted that it would increase the IN zone by 37 acres and CO by 13 acres. He explained that in the fall of 2007, this map change was recommended by the Dauphin County Planning Commission. He noted that the Township's Planning Commission also recommended the map change, but the Board did not act within the required 60 days, and the plan was tabled. He noted that, at that time, the Board encouraged him to meet with the adjoining property owners. He explained that he met with adjoining property owners from Forest Hills and the Stone Gate Communities in December 2007. He noted that 17 persons attended the meeting, and the developer made an offer to reduce the density and expand the buffer area along the border area to a 30-foot or 60-foot buffer. He noted that the original offer by the developer was only a 30-foot buffer, but upon further discussion, it was determined that the 30-foot or 60-foot buffer would be appropriate depending on whether the adjoining development in the IN would be residential or non-residential. He stated that he guaranteed a minimum 30-foot buffer.

Mr. Zwally noted that during the January 2008 Board of Supervisors Workshop meeting, the Board members requested more input on a height restriction. He noted that the text changes have been adopted and he requests that the zoning map changes be made also.

Mr. Randell Holmes noted that the 30-foot buffer related to single-family residential use and the 60-foot buffer is related to other than single-family residential. He noted that the people who are interested in the development of this property are also very interested in the placement,

configuration, and design for Continental Drive. He requested the Board of Supervisors to include the residents when the discussions are held for the design of Continental Drive. Mr. Hawk noted that it has been the history of the Board of Supervisors to involve the citizens as much as possible. Mr. Holmes noted that he is in support of the rezoning of the parcel by eliminating the AR zoning and increasing the CO and IN. He noted that it is a logical conclusion.

Jennifer Starsinic, 4077 Rosewall Court, requested Mr. Zwally to explain the buffer concept. Mr. Zwally explained that the boundary line for the property is also the zoning line. He noted that along the eastern line, there will be a buffer of either 30 feet or 60 feet. He noted that the 30-foot buffer will apply only if the IN development is single-family. If it is anything other than single-family, it will provide for a 60-foot buffer.

Ms. Starsinic questioned what the definition of a buffer is. Mr. Zwally answered it is an area which cannot be developed and, under the zoning ordinances, is required to be landscaped. He noted for this instance, since it is a wooded area, the language provided that a developer may substitute existing wooded areas for landscaping.

Ms. Starsinic questioned if from her rear property line, there would be 30 feet before any development could occur. Mr. Zwally noted that it would be at least 30 feet. Ms. Starsinic questioned if some type of landscaped buffer would be provided within the 30-foot area. Mr. Zwally noted that the landscaping would have to have some visual barrier, possibly using the current tree line. Ms. Starsinic questioned at whose discretion the buffer would be designed. Mr. Zwally answered that it would be at the developer's discretion and the details would need to be approved by the Board of Supervisors.

Jeff Starsinic, 4077 Rosewall Court, noted that the Township already requires a 25-foot setback, and the buffer would only add an additional five feet to the next structure. Mr. Zwally noted that this would be for a single-family residential structure. Mr. Starsinic suggested that

many people did not understand it correctly, thinking that the 30 buffer was in addition to the 25-foot setback. Mr. Zwally noted that not all setbacks are 25 feet, some are less than that.

Richard Pleasants, 2348 Timber Line Court, noted that he lives in the area above Continental Drive, which abuts the current AR zoning. He noted that he lives in a RLD, which requires a 50-foot setback. He questioned if the new plan would be consistent with his zoning. Ms. Wissler answered that she was not aware of an RLD zoning. Mr. Pleasants explained that he and his five neighbors abut the land in question to be rezoned from A-R to IN. He noted that a 30-foot buffer is required, whereas, his property has a more restrictive setback of 50 feet for a one-acre lot. He noted that he and his five neighbors' issues have not been addressed. He noted that the meetings with the developer occurred with the neighbors who live further down the mountain, and he stated that he would like to be provided with the same opportunity to meet with the developer before the Board makes a decision. He noted that it does not make sense that he has to have a 50-foot setback and the developer only has to have a 30-foot setback with a higher intensity use. Mr. Zwally noted that the 30-foot setback is for a single-family unit per lot. He noted that he did not know of any 50-foot setback requirement in the ordinance, noting that there is a 70-foot setback for Industrial zoning. Ms. Wissler noted that there used to be a 50-foot setback in the Park Residence District that no longer exists. Mr. Stine noted that Mr. Pleasants' setback would be what it is for the R-1 District. Mr. Zwally noted that Mr. Pleasants' setback would afford him a setback of 80 feet to 110 feet.

Mr. Wolfe noted that buffers and setbacks are not the same thing. He noted that a buffer area is a strip of land that is reserved and planted for landscaping and visual appearance, whereas, a setback is the distance a building has to be from a property line. He noted that they can overlap, but they are not the same distance. Ms. Wissler noted that the building setbacks for the IN District is 25 feet for the rear and side yards.

Mr. Pleasants noted that Mr. Zwally could build up to 30 feet from the property line. Mr. Stine noted that 30-foot is a buffer area; therefore, someone would not build a home against a buffer. Mr. Stine told Mr. Pleasants' that his setbacks are no longer 50 feet. Mr. Wolfe noted that for the R-1 District the front setback is 25 feet, 30 for the rear setback, and a total of 25 feet per side, one must be a minimum of ten feet.

Mr. Pleasants questioned when this change occurred as he had applied for a variance for his setbacks a few years ago. Ms. Wissler answered that it was changed in July of 2006.

Mr. Wolfe noted that the setbacks for the CO District's rear yard are 50 feet, and the side yard is 30 feet. He noted that a portion of the CO District is proposed to move south, and the IN is proposed to move north. He noted that the IN setbacks are similar to the R-1 District.

Mr. Hornung questioned what the setbacks are for the AR District. Ms. Wissler answered that the setbacks are 50 feet to the rear and 20 feet to the side. Mr. Hornung noted that it is not as strict as the CO, but stricter than the IN.

Mr. Pleasants noted that the proposed change for the IN District would affect all of his neighbors except for one. He noted that the five neighbors would not deviate from the restrictions that were placed at the time the homes were built. He requested an opportunity to meet with the developer before a decision is made.

Mr. Blain questioned if Dr. Guise was his neighbor. Mr. Pleasants answered that he resides at the bottom of the lane at Continental Drive. Mr. Blain noted that Dr. Guise was in attendance at numerous meetings when this was discussed. Mr. Pleasants noted that his five neighbors will be directly affected by this rezoning.

Mr. Wolfe questioned if those neighbors received notices for the meetings. Ms. Wissler answered that over 200 notices were sent. Mr. Hornung noted that a notice was sent to 2354 and 2356 Timber Line Court. Mr. Pleasants noted that he received two mailings from the Township,

but thought that the request was withdrawn since no action was taken within 60-days. He noted that in the interest of fairness to his neighbors that are directly impacted, knowing that they own one-acre lots with 50-foot setbacks, they request an opportunity to meet with the developer.

Mr. Hornung questioned if a land development restriction could be made as part of the rezoning. Mr. Stine noted that it would not be possible. Mr. Pleasants questioned if it could be redrafted to have the AR zone behind their properties in order to meet the same requirements. Mr. Stine answered that it would be hard to speak in the abstract as to what could be done. Mr. Pleasants noted that his neighbors will not miss the meetings from this point forward.

Mr. Hornung noted that it would be very difficult to build a house against a buffer zone; therefore, Mr. Pleasants would probably have a 40-foot setback. He questioned Mr. Zwally if he could commit to a 50-foot buffer in that AR zone. Mr. Zwally answered that he made a commitment that he would meet again with the citizen's group during the design of the subdivision plan. He noted that he has a list of all the people who attended the meeting, and the people who have acted as mediators. He noted that he could not make that type of commitment at this time; not knowing what type of plan would be designed.

Mr. Sam Cooper, 4078 Rosewall Court, noted that he lives in the first cul-de-sac off of Forest Hills Drive to the west of the property. He noted that he is having a disconnect in that he does not recall a discussion including setbacks and buffer zones in one sentence. He noted that many people were under the impression that the buffer was in addition to the setback. He noted that having the buffer zone overlap the setbacks only provides for an additional five feet. He noted that he understands that most likely a person would not build against the buffer zone, however, in moving forward it makes sense to have everyone on the same page. He suggested that this issue needs to be discussed further. He noted that there will be more opportunities to discuss these issues when the land development plans are submitted, but he suggested that it

would be better to resolve the issues now as opposed to coming back to these issues during the land development process. He noted that the purpose in adding the buffer zones was due to the nature of the one-acre lots and the nature of the housing.

Mr. Tim Ritty, 2409 Melbourne Drive, explained that he spoke against the rezoning at the November Board meeting. He noted that he would like to mention the reasons he is against the rezoning. He noted that Mr. Zwally is only speaking about a difference of 37 acres, although the minutes stated at the December meeting that it was listed as 41 acres. He noted that it would be an impact of 37 high density acres and questioned what impact it would have to the area. He suggested that it is not a huge overwhelming thing. He noted that he attended the Planning Commission meeting and noted that no discussions were held that discussed the pros and cons of the rezoning. He noted that it was discussed as a zoning discussion and not what affect it would have in a planning sense to the area. He noted that he was concerned by this.

Mr. Ritty wanted to remind the Board of comments made at the November meeting when the Dauphin County Planning Commission comments were discussed. He noted that the Planning Commission approved the plan, however, they pointed out that the area had been identified in the Comprehensive Plan and Dauphin County's Daft Comprehensive Plan as being rural residential and rural reserve conservation. He suggested that the development goes against the spirit of what was envisioned for this space.

Mr. Ritty noted that there is a huge concern with the traffic flow on Linglestown Road. He noted that Map 4 in the Comprehensive Plan identifies four streets in the Township that have a traffic pattern that is between 15,000 and 30,000 cars per day. He noted that three of those roads are four lane roads, with Linglestown Road being a two lane road. He noted that the Comprehensive Plan was commissioned over eight years ago.

Mr. Ritty questioned if the land development plan meets the zoning, then does the Board have to approve the plan. Mr. Stine answered, not exactly. He noted that it must meet zoning requirements and also must meet all the subdivision and land development ordinance requirements. Mr. Ritty questioned if something would be developed that the neighborhood would be strongly against, for instance, a hospital, is there any mechanism for the citizens of the Township to express their concerns and prevent something that they don't want. Mr. Stine answered that the citizens would be able to express their concerns in the subdivision and land development process as well. However, if the plan submitted complies with all the ordinance requirements, then the Board is duty bound to approve the plan. Mr. Stine noted that in Pennsylvania, a plan cannot be disapproved because people don't like it.

Mr. Ritty noted that a number of his neighbors have not had an opportunity to comment on the rezoning, and at the November meeting he placed his business card with Mr. Zwally and he was not contacted. He noted that a member of the Planning Commission who lives in the area stated that he was not contacted about the residents' meeting. He noted that there are a number of neighbors who have not had a chance to comment on the rezoning.

Mr. Ritty noted that he lived in St. Louis, Missouri and Houston, Texas. He noted that Houston was built as a boom town after World War II with no zoning controls. However, St. Louis is a very old city and the area near the Mississippi River is the earliest developed section. He noted that the city has done a very good job of protecting the various neighborhoods, and the difference between the two cities is the ability of the citizens to have input on what is developed. He noted that this leads to a very different quality of life. He noted that there is no mechanism in place in this State to do this, and he suggested that the developer is a very responsible person, but he could build ten units on one acre. He suggested that it would be great for the citizens to have more binding input on how the city grows. Mr. Stine noted that the Township must adopt zoning

and ordinances in compliance with the Pennsylvania Municipalities Planning Code (MPC) which is the State legislation that authorizes the Township to do so. He noted that no where in the MPC would the Township be authorized to adopt an ordinance that the adoption of a plan would be binding on comments received by the Board from the neighbors. He noted that it would be an unlawful ordinance.

Mr. Ritty questioned if a citizen's advisory board could be established. Mr. Stine noted that that is what the Planning Commission is. Mr. Ritty noted that he heard no planning from the Planning Commission, no discussion of pros and cons, and the long-term affect on the community. He suggested that the minutes would reflect that. He noted that the October 10, 2007 Planning Commission Meeting minutes noted that Mr. Lighty, who chairs the Planning Commission, noted that several citizens raised concerns about the land use and Mr. Lighty redirects and tells them that it is not about land use, rather only if the zoning changes would be lawful. He questioned where is the mechanism. Mr. Stine answered that Mr. Ritty is in part of the mechanism, and the mechanism is set up by State Statutes. He noted that the Township cannot use a different mechanism that is not authorized by the State Statutes. Mr. Ritty questioned if the Township could have a non-binding board. Mr. Stine answered that the Township could have many committees and boards, but the MPC provides the mechanism. He explained that the plans must be approved by the Township and County Planning Commissions before they come to the Board. He noted that citizens can comment on the plans.

Mr. Blain noted that there is an overall comprehensive land development plan for the Township. Mr. Ritty noted that the Comprehensive Plan was adopted in the past, but he is trying to propose a mechanism when a specific project is proposed that meets zoning, but does not meet the will of the people, that there be a way it can be addressed.

Mr. Cooper suggested that Mr. Ritty is asking for some guidance and from his understanding of the MPC and the laws of the Commonwealth, it provides a mechanism to address these types of things. He noted that the remedy would be an appeal of the decision of the Board within 30 days that it is made in the courts. He noted that this can be onerous due to the costs involved. He noted that the first line of defense would be on the municipal level with the Planning Commission and the Board of Supervisors since the project does not meet the existing zoning. He noted that the Board of Supervisors does not have to grant the request, which is different from a plan that meets the ordinance.

Mr. Pleasants noted that in the interest of avoiding such a process, especially in the change of the requirement of one dwelling per acre to ten dwellings per acre in the area behind his home, he urged the Board to table this Ordinance to the next meeting in order to provide time for the neighbors to meet with the developer. He noted that if the Board approves the rezoning, it would take away the single layer of protection that he and his neighbors have. He noted that he would want to avoid the process that Mr. Cooper just described.

Mr. Charles Sproule, 4045 Greystone Drive, noted that he and his neighbor Martin Finkelstein are members of the Executive Board of the Stone Gate Community, and he was asked by the Home Owner's Association (HOA) to represent them at this meeting. He noted that the Stone Gate Community has 32 units that are adjacent to the property line. He noted that he attended Mr. Zwally's meeting in December and he wanted to reiterate his comments and concerns and did so by putting them in writing to the Board of Supervisors in a letter dated January 16, 2008.

Mr. Sproule noted that his HOA is not making any specific recommendation to the Board of Supervisors, but they have four major areas of concern. He noted that the first concern was the distance of the setback/buffer zone. He noted that he wanted to know what the space would be

for the new buildings from the property line. He noted that the HOA did not oppose the 30/60 foot buffer zone, but asked the developer to do his best to provide a similar amount of space between the property line and homes. He noted that the properties in his development are between 75 feet and 100 feet from the property line, except for one unit that is closer. He requested a similar amount of space be provided on the other side of the property line.

Mr. Sproule noted that the second concern is in regards to the type of buildings that are planned. He noted that his complex units are duplexes and requested that they be in the same price range of \$300,000 to \$400,000. He requested that single-family homes or duplex units be built adjacent to their development, and not high rise units or townhouses in order for his people to maintain their property values. He noted that the people who bought along the property line paid more to be adjacent to the golf course and open space.

Mr. Sproule requested the developer to address the surface water drainage issue. He noted that much of the golf course drains water onto their property noting that there is an underground culvert that goes under the road to handle the drainage. He noted that a large drainage area runs through the center of their property, and he requested that the developer make arrangements to carry the water away from their development.

Mr. Sproule noted that the fourth area of concern is access for walking and biking trails. He noted that there is no way to access the areas east of Dover and Tilden Roads to the west, other than Linglestown Road. He suggested that Continental Drive be extended in an area that the active seniors can access by walking or biking. He requested that the Township work with the developer to make access for people to go to the west without having to use Linglestown Road.

Mr. Matthew Dankman, 4075 Deer Run Court, noted that the Board is doing a great job, and he noted that he has worked with Mr. Holmes on this project since last July. He noted that

people should come to the Planning Commission meetings, noting that it could be years until the plan comes to be finalized. He noted that there is time to continue to work this project through.

Seeing no further comments, Mr. Stine noted that it would be in order to close the public hearing on Ordinance 2007-14, and the Board may take action if it so desires.

Mr. Hornung noted that it was odd that a resident would be upset that his setback standard of 50 feet would not be met, when he applied for a variance to reduce that setback. He noted that it is important that the developer maintain what the adjoining residents have. He questioned Mr. Zwally if he would be willing to maintain the 50-foot setback in the area of Mr. Pleasants property. Mr. Zwally noted that he could not speak for the property owner on this at this time. Mr. Hornung noted that it is important for the Township not to give up a setback, and it would be important for him that the setback remains at least 50 feet on the property abutting line. He noted that he would like to see this resolved, noting that it cannot be tied into the rezoning. He noted that he would not want to go through another ordinance rezoning to get to this point. He noted that he would need some verbal compliance that there would be some type of setback maintained, and that the Township would not be giving it away.

Mr. Crissman questioned if and when the Township received the plan, if Mr. Zwally could be told that that 50-foot setback would need to be added to the plan. Mr. Blain noted that it would be part of the land development plan. He noted that the Township could only put conditions on a plan that are part of the ordinance. He noted that the Township could not require a 50-foot setback when the ordinance only requires a 30-foot setback. Mr. Hornung noted that there is no legal binding provision to allow the developer to make a commitment that would require him to maintain the setback once the rezoning is approved.

Mr. Zwally noted that there are four properties in question that adjoin the AR and would adjoin the IN under the proposed change. He noted that the topography is rough and appears to

be wooded; therefore, he stated that he would commit to an attempt to maintain a 50-foot buffer for those four properties. Mr. Hornung noted that he wanted a 30-foot buffer and a 50-foot setback. Mr. Zwally noted if he could keep a 50-foot strip of trees, he would do that. Mr. Crissman noted that where the properties are located, the topography does not lend itself to building that close to the buffer. Mr. Zwally noted that that was his point; he noted that in some areas he would not be able to develop up to 30 feet. He noted that he would do his best to maintain a setback in this area. Mr. Hornung noted that he wanted a definite yes from Mr. Zwally. Mr. Zwally noted that he could not speak for what the property owner would do. Mr. Hornung noted that he may not be able to vote on this and would have to have it tabled.

Mr. Pleasants questioned if the CO could be wrapped down and around in the area behind their homes. Mr. Hornung answered that it would not be a good idea. Mr. Zwally noted that Dauphin County Planning Commission suggested that the buffer areas were too onerous. Mr. Seeds noted that a setback would be required for a two-story building. Mr. Zwally noted that he would recommend the 50 foot setback to the client.

Mr. Pleasants noted that he would still request to meet with the developer prior to the Board voting on the rezoning. Mr. Hawk questioned if he was looking for a 50-foot setback. Mr. Pleasants answered that he noted that it would be based upon use, noting that a single-family dwelling does not address the lot size. He noted that he would be losing his protection that was part of the AR zoning. Mr. Hornung questioned if the developer builds a two-story, single dwelling on the property, would the developer have to maintain a 50-foot setback from the house. Ms. Wissler answered that the ordinance calls for an increase to a 50-foot setback for a two-story building. Mr. Hawk noted that Mr. Pleasants was getting what he was asking for, the same 50-foot setback that he was required.

Mr. Seeds noted that the zoning goes with the land, and he stated that Mr. Zwally is an honorable man, and if he stated that he will do something he will do what is good for the community, but he explained that if someone else buys the land, there is no protection other than the ordinance requirements. He noted that he is against the increase in density.

Ms. Wissler noted that prior to the land being zoned IN, it was R-2; and the only setback required for R-2 would have been 25 feet or 30 feet. Mr. Seeds noted that the area that is currently zoned IN was originally zoned R-2. Mr. Hornung questioned what the density was for R-2 zoning. Ms. Wissler answered that it was five units per acre.

Mr. Hawk noted that the Dauphin County Planning Commission noted in its comments that the rezoning has left the AR zoning to be small and isolated from similar zoning areas and it would make more sense to eliminate the AR zoning and expand the adjacent IN and CO districts.

Mr. Hornung made a motion to table or postpone the rezoning to the next business meeting in April to allow the residents and the owners to meet to try to resolve some of the differences. Mr. Crissman seconded the motion, but he noted that if the motion passes, in all fairness to Mr. Zwally, he has met repeatedly with residents, noting that there have been multiple meetings with the Township, and although he felt badly for Mr. Pleasants, there have been numerous residents present for these discussions on a regular basis. He noted that he is torn, trying to lean toward the homeowners, but in fairness to Mr. Zwally and the developer, they did not have to participate in any resident's meetings. He noted that the Board is now asking Mr. Zwally to come back again, and he noted that he is willing to support the motion, but it would be the last one, since the citizens have been given more than ample time to meet to resolve the issues. Mr. Hawk called for a roll call vote: Mr. Blain, aye; Mr. Crissman, aye; Mr. Hornung, aye; Mr. Seeds, aye, and Mr. Hawk, aye.

Mr. Hawk noted that he feels that the zoning has been met with the 50-foot setback.

NEW BUSINESS

Authorization to the Solicitor and staff to pursue any and all available enforcement options against Stephen F. Kessler for violation of a Consent Agreement governing Conditional Use 02-01

Mr. Stine noted that this action would authorize staff to pursue enforcement actions against Mr. Kessler for violations of his Conditional Use.

Mr. Wolfe noted that it was staff's opinion that there were significant violations in the number and parking arrangement of vehicles at Mr. Kessler's property which is subject to Conditional Use 2002-01. He noted that Ms. Moran can speak to her recent inspections of the property and the number of vehicles parked at the property. He noted that the Consent Agreement was reached between Mr. Kessler and the Township due to a previous enforcement action taken by the Township in regards to too many vehicles parked on the property. He noted that Mr. Kessler has violated the terms of the Conditional Use and the Consent Agreement. He noted that staff recommends that significant enforcement action be taken by way of the Dauphin County Court of Common Pleas.

Ms. Moran noted that on the days that she has conducted inspections; there are four to twelve extra vehicles on the parking lot. She noted that Mr. Kessler has expanded his business to the adjacent property. She noted that the neighbors are complaining and asking that something be done.

Mr. Blain noted that Mr. Kessler is out of compliance, but questioned if the remedy is to go to the Court of Common Pleas to request the revocation of the Conditional Use. He noted that the Conditional Use was for eight vehicles, in addition to three customer vehicles, and one employee vehicle. Mr. Stine noted that there are a number of potential remedies. He noted that the reason for the general wording for the action is to allow the Township the latitude to pursue any number of different remedies without targeting any one. He noted that one remedy would be

to obtain an injunction against Mr. Kessler for violating the Consent Order and the Conditional Use. He noted that if Mr. Kessler continues to do this, he could be held in contempt of court. He noted that the Consent Agreement clearly provides that any day he is in violation; he must pay the Township \$500. He noted that by filing a court action, it would provide a means for the Township to recover the money owed from the number of days that Mr. Kessler has been in violation.

Mr. Blain questioned what the end result is for the Township. Mr. Wolfe noted that the Conditional Use exists and the Township needs to obtain compliance. Mr. Wolfe questioned if the Township has the ability to revoke the Conditional Use. Mr. Stine answered that he did not know if the Ordinance states that it is possible. Mr. Seeds suggested that violating a Conditional Use would null it. Mr. Hornung noted that Mr. Kessler would still have the Conditional Use. He noted that this came up once before, and he did not remember if the Township had the ability to revoke the Conditional Use.

Mr. Blain noted that the issue concerning Mr. Kessler is that if the Township is only looking for compliance, and Mr. Kessler would come into compliance, but go out of compliance again, then the Township would be back to square one. He suggested if the Township is to take action against Mr. Kessler it should be to revoke his Conditional Use. He noted that in the past, Mr. Kessler requested permission from the Board to use the property to sell cars. He noted that since it was previously a gasoline station, the Board allowed this based upon certain conditions being that not more than eight vehicles were permitted on the parking lot. He noted that within months Mr. Kessler had violated the Conditional Use. Mr. Kessler then came back to the Board requesting more parking spaces and was granted an additional three vehicles for customers and one for an employee. He suggested that the last time he drove by the location; Mr. Kessler had 30 vehicles on the lot.

Mr. Hawk noted that he drove by the property on the way to the meeting this evening and he saw a sign for a landscaping business for lease, which is part of the parcel of land. He noted that there is now a for sale sign at the location, and he suggested that the number of cars had to number a minimum of 20 versus the eight permitted. He noted that Mr. Kessler has violated the Conditional Use time and time again.

Mr. Blain suggested that an end should be put to this problem. Mr. Blain made a suggestion that Mr. Kessler should come back into compliance and the Township should find a means to legally revoke the Conditional Use. Mr. Seeds noted that Mr. Stine will have to research what the Township can do legally. Mr. Stine noted that that is why the language was worded so broadly in order to take any enforcement action that is available to the Township.

Mr. Crissman made a motion to authorize the solicitor and staff to pursue any and all available enforcement options against Stephen Kessler for the violation of the Consent Agreement and Conditional Use. Mr. Blain seconded the motion, and a unanimous vote followed.

Resolution 2008-13; Approving the transfer of a liquor license (R-16009) into the Township for DaPa Internationals, Inc. for Mount Hill Tavern at 2120 Colonial Road

Ms. Moran noted the Township received a request from Shumaker Williams, P.C. to transfer Liquor License R-16009 from the Borough of Steelton into Lower Paxton Township. She explained that the license was issued to 451 Swatara Street, Steelton Borough, Dauphin County, Pennsylvania for use in the Borough of Steelton. She noted that the license will be transferred to Mount Hill Tavern, located at 2120 Colonial Road, Harrisburg, Pennsylvania.

Mr. Stine noted that this is the time and date set to conduct a public hearing on Resolution 2008-13, approving the transfer of a liquor license into the Township for DaPa Internationals, Inc. for Mount Hill Tavern at 2120 Colonial Road.

Mr. Seeds noted that the Resolution states in the first paragraph that the liquor license would be transferred from Swatara Township and suggested that it should state Steelton Borough. Ms. Moran noted that Mr. Seeds was correct, and stated that she would correct the Resolution.

Mr. Evan Pappas, Schumacher Williams, P.C., explained that he was present to represent the applicant, DaPa International, Inc., and wished to introduce the principals, Mr. David Fonash and Mr. Paul Kendeffy, both of State College, Pennsylvania.

Mr. Pappas noted that he is requesting, on behalf of his clients, to move a liquor license from the Borough of Steelton into Lower Paxton Township. He questioned if the Board members wanted to hear testimony from the applicants regarding the proposed restaurant. Mr. Hawk suggested that the Board members did not need to hear from the applicants.

Mr. Seeds noted that he was pleased with this use and hoped that the building would remain the same. He noted that the building is a big plus for the Township

Mr. Pappas noted that his clients plan to open a restaurant, and would restore the current structure.

Mr. Stine noted that since no one in the audience wished to be heard on Resolution 2008-13, it would be in order to close the public hearing on Resolution 2008-13, and the Board may take action if it so desires.

Mr. Blain made a motion to approve Resolution 2008-13, approving the transfer of a liquor license (R-16009) into the Township for DaPa Internationals, Inc. for Mount Hill Tavern at 2120 Colonial Road. Mr. Crissman seconded the motion. Mr. Hawk called for a roll call vote; Mr. Blain, aye; Mr. Crissman, aye; Mr. Hornung, aye; Mr. Seeds, aye; and Mr. Hawk, aye.

Resolution 08-16; Planning Module for Mount Hill Tavern

Mr. Blain made a motion to approve Resolution 2008-16, the Planning Module for Mount Hill Tavern. Mr. Crissman seconded the motion, and the motion passed unanimously.

Improvement Guarantees

Mr. Hawk noted that there were eight improvement guarantees for consideration.

Briarsdale Road – 4 Story, 30 Room Hotel

An extension and 10% increase in a letter of credit with Graystone Bank, in the amount of \$41,690.00 with an expiration date of May 2, 2009.

Bern6, LLC

A reduction in a letter of credit with Fulton Bank in the amount of \$7,692.00 with an expiration date of November 13, 2008.

Dauphin County Technical School

An extension and 10 % increase in a letter of credit with Commerce Bank in the amount of \$113,300.00 with an expiration date of May 11, 2009.

Old Iron Estates, Phases I and III

A consolidation of Phase I items into Phase III in a letter of credit with Fulton Bank in the amount of \$30,712.50 with an expiration date of July 14, 2008.

Community General Osteopathic Hospital (ExMod)

A reduction in a letter of credit with Wachovia Bank in the amount of \$6,050.00 with an expiration date of June 30, 2008.

Patton Place

An extension in a letter of credit with Integrity Bank in the amount of \$3,480.00 with an expiration date of May 15, 2009.

Harrisburg Foot and Ankle

A new letter of credit with Commerce Bank in the amount of \$336,700.00 with an expiration date of March 27, 2009.

Keystone Center

An extension and 10% increase in a letter of credit with Members 1st Federal Credit Union in the amount of \$18,700.00 with an expiration date of May 10, 2009.

Mr. Crissman made a motion to approve the eight listed improvement guarantees as presented. Mr. Blain seconded the motion. Mr. Hawk called for a voice vote, and the improvement guarantees were unanimously approved.

Payment of Bills

Mr. Blain made a motion to pay the bills of Lower Paxton Township and Lower Paxton Township Authority. Mr. Horning seconded the motion. Mr. Seeds noted that he had to abstain from voting as he was a party to compensation from the payment of the bills. Mr. Hawk called for a voice vote, and all parties voted aye, with one abstention.

Adjournment

There being no further business, Mr. Crissman made a motion to adjourn the meeting. Mr. Blain seconded the motion, and the meeting adjourned at 10:58 p.m.

Respectfully submitted,

Maureen Heberle
Recording Secretary

Approved by,

Gary A. Crissman
Township Secretary