

LOWER PAXTON TOWNSHIP
BOARD OF SUPERVISORS

Minutes of Workshop Meeting held August 28, 2012

A workshop meeting of the Board of Supervisors of Lower Paxton Township was called to order at 5:45 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, and David B. Blain.

Also in attendance were George Wolfe, Township Manager; Brett Mashchak and Trudy Blakeman, Darden Restaurants; and Watson Fisher and Ted Robinson, SWAN.

Pledge of Allegiance

Mr. Seeds led in the recitation of the Pledge of Allegiance.

Public Comment

No public comment was presented.

Resolution 12-28; authorizing the submission of an application for Dauphin County Local Share Grant funds proposed by the Heroes Grove Committee

Mr. Wolfe noted that the Heroes Grove Committee has submitted a request for the Board of Supervisors to approve their application for \$650,000 for Dauphin County Local Share Grant funds. He noted that the Board must pass a resolution authorizing the submission of the application.

Mr. Seeds questioned if Mr. Wolfe just received the request and application today. Mr. Wolfe answered yes. Mr. Seeds noted that he told Mr. Minsker today, when he met with him, that the Board already ranked the previous authorized projects and that he was not aware that it was on the agenda. Mr. Hawk noted that it was added to the agenda this morning.

Mr. Hornung made a motion to approve Resolution 12-28, authorizing the submission of an application for Dauphin County Local Share Grant funds for the Heroes Grove Committee. Mr. Seeds seconded the motion. Mr. Hawk called for a voice vote and a unanimous vote followed.

Ranking of Dauphin County Local Share Grant applications
being submitted by entities from the Township

Mr. Wolfe noted that, previously, the Board ranked the Colonial Park Fire Company debt reduction grant application first and the Police Department's in-car video request second. He explained, now the Board has a third application. Mr. Hornung recommended that the Board rank the Heroes Grove application third. Mr. Blain seconded the motion. Mr. Hawk called for a voice vote and a unanimous vote followed.

Continued discussion regarding the process to be used in the
Evaluation of emergency medical service providers

Mr. Wolfe noted that during last week's special workshop session, two providers for Emergency Medical Services (EMS) were interviewed. He noted that they were South Central Emergency Medical Services (SCEMS) and Life Team from Pinnacle Health (PH). He noted that there was very little time for the Board to discuss how it would proceed in making a decision to choose the EMS provider. He noted that staff made a suggestion to review the financial statements for both organizations. He suggested that PH would have an audit that the Township could request, however SCEMS does not have an audit, only having compiled financial statements, completed by Brown Schultz. He noted that it would not be an even comparison for financial statements.

Mr. Hawk suggested that it would be appropriate to review the financial statements and PH would have a complete audit. He noted that it would be appropriate to have a financial review. Mr. Wolfe questioned if that is what you want or do you want an audit from both. Mr. Hawk answered that he would prefer to have an audit from both organizations as it would be more accurate as opposed to a financial review.

Mr. Hornung noted that due to the huge turnaround at SCEMS, and because of the crucial nature of the service they provide, the Township cannot miss even an hour of that service without having a major disruption for the Township. He noted if the Board is going to move forward it is incumbent to have verifiable proof of their financial status. He noted if all of a sudden they can't meet their bills and they have to close their doors, it could be catastrophic to the citizens of the Township. He noted that he would hate to make SCEMS go through the audit process if the Board members are not seriously considering them as a service provider. He noted

if that is the case then it should be decided up front. He noted if SCEMS provides a good audit, it is important to know that the Board would consider using their services.

Mr. Hawk noted that this is a major decision and the most important factor in making the decision is service to the community; who can provide the best service and be around for some time in order to provide the service. He noted that all entities have financial difficulties and both companies have had some financial ups and downs in the past.

Mr. Hornung questioned if this Board would seriously consider SCEMS as a contender. He questioned how important the financial information is for making the decision. He noted if it is not that important, and it is more important to have a larger, ongoing organization that the Board feels can provide a better service for the same price, then we switch. He noted, in that instance, it would not matter what SCEMS's financial statements are and how accurate they are and if a audit is necessary. He noted that it would not make sense to put them through a \$7,000 expenditure if it will not make a difference in the decision making process.

Mr. Hawk noted that he does not disagree with what Mr. Hornung said, but his main concern is who can provide the best and most meaningful service to the residents of Lower Paxton Township. Mr. Wolfe noted that has not been determined yet. He noted if you are convinced to go one way already then he agrees with Mr. Hornung that it does not make sense to have SCEMS do an audit. He noted, in previous discussions with the Board, it has never been so much a service issue as a financial issue. He noted that given the knowledge of how crucial that has been to the Board in the past he thinks an audit is well worthwhile.

Mr. Blain noted that in regards to Mr. Hawk's comment about making sure that SCEMS is viable, it does not hurt to have an audit. He stated if the Board makes the decision to go with SCEMS only to find out that they have financial issues, are laying off people and impacting the service, it would not be good. He noted that it would not be a bad idea to have an audit whether the Board decides to use them or not. He noted that it must be part of the decision making process and criteria for making a decision. He noted that the Board needs to know if SCEMS can sustain its operations financially. He noted that the financial statements provided to the Board looks good now, however, what about the future. He explained that he has first hand knowledge of what is needed for an audit, and at this time the Board is relying on Mr. Campbell to provide SCEMS's information to it.

Mr. Hornung noted that, if he was going to stay with SCEMS, and he has no allegiance to do that, an audit would be essential. He noted that it is a given, but his question is, is the Board still considering SCEMS as a choice. He noted that he had not decided whether SCEMS or PH would provide the best service. He noted that he has reviewed both providers' numbers and they are very close; however, he has since spoken to PSD Johnson who has looked at the response times and he feels that it is not that good. He noted that before he makes a decision and informs SCEMS to do an audit, he needs to know how good they are and how accurate are their numbers. He suggested that he would like PSD Johnson and Mr. Campbell to hone in on all the numbers for performance levels. He noted if we feel that PH would provide a better service for the dollar then we switch.

Mr. Blain noted that we are focused on SCEMS who is the current provider and now we have another company who wants the work. He questioned why we would not focus on them to ensure that what they are providing to other communities is consistent with what they are disclosing to the Board. He noted that we know what the service level is for SCEMS; and he questioned how you could mess with those numbers. He suggested that we should be more focused on PH as the company who wants the service. Mr. Hornung noted that it is a point well taken and suggested that the Board should focus on both, comparing them to see what they can do. He noted that no determination has been made as to who can provide the better service. Mr. Blain noted that he is not in a position to make a decision one way or the other. He noted that having SCEMS perform an audit would provide a better comfort level for the Board in regards to their financial stability and besides, they should have an audit. He noted that it is a big organization and they receive a lot of funds from other municipalities and they do Medicare and Medicaid billing. He noted for their own sake they should have an audit and not compiled financial statements. Mr. Hornung noted that he can't argue that point, but he would not want to force them to do it if the Board knew that they did not intend to use their service.

Mr. Seeds stated that he agrees because if we have already made up our minds, then why put them through that. Mr. Blain noted that he has not made up his mind yet. Mr. Hornung noted that he has not. Mr. Hawk noted that he had not made a decision either. Mr. Hornung noted that he needs to get more information from both providers. He noted that he would not want to fix something that is not broken but PSD Johnson suggested that it is broken; however, one or two instances do not justify the numbers.

Mr. Wolfe noted that we are mixing operations with finances and he suggested that they should be discussed separately. He noted that an entity the size of SCEMS serving five municipalities and having 80 employees and using municipal funds should have an audit. Mr. Blain noted that they know they have competition from PH for this work in the Township and PH has to have an audit.

Mr. Seeds questioned what would be the difference between the audits that they already do. Mr. Blain answered that SCEMS does not do an audit; it is only a compiled financial statement. He noted that their finance person provides the accounting firm the general ledger and the accounting firm takes those numbers and puts them in a financial statement format to provide to someone. He noted that they have no responsibility to review any numbers, to ensure the accuracy of any numbers, only that the presentation is set up correctly. Mr. Seeds questioned if it should be a forensic audit. Mr. Blain answered that it is not necessary; noting that a forensic audit is used in the case of suspected fraud and this is not the issue here. He noted that we want the accounting firm to do an audit insuring that it will review the numbers, ensure they are correct, sample test numbers, and sample test results.

Mr. Hornung noted that he has not determined that PH has a better product than SCEMS. Mr. Wolfe noted if you are not sure, then you need to have audited financials from both firms. He noted that the last thing you want to do is to enter into an agreement at this point... Mr. Hornung noted for the operational side, he is not sure that PH gives a better product than SCEMS and he is not ready to make SCEMS do an audit if he feels PH is a better product for the money. He noted at this point he would not ask SCEMS for an audit until he feels that they have a shot at getting it, and part of the final decision, once he feels that the product that they are providing on an operational side is equivalent or better than PH, would be to ask for an audit to make the final decision. He noted that he wants to see a lot more numbers before he can make the decision regarding response time, what equipment they have, and how many units they will put on the road. He noted that PH said they would put ten units on the road, but is that for the entire area or just for the Township. He noted that he suspects it is for the entire area but when he asked he said it would be for the Township only but he is not sure that is accurate. He noted that he has more questions and he is not sure he trusts all their responses. He noted that he needs to know more specifics as to what we are getting for our money and from that he will determine if SCEMS still has a chance to get a yea vote.

Mr. Wolfe questioned if he should set up additional meetings. Mr. Hornung answered, for him, it is a yes.

Mr. Hawk noted that after hearing what Mr. Hornung stated, a second meeting is essential. He noted that no one has made up their mind yet so it would be good to have a second meeting, and prior to that meeting, make a reasonable comparison between what SCEMS and PH have submitted, and then draw up the necessary questions to be asked to both for the second interview. He noted if the correct questions are asked the Board members should be able to narrow down the selection. Mr. Hornung noted that he would definitely need an audit to make a decision.

Mr. Blain noted that the Board should have done a Request for Proposals (RFP). Mr. Hornung agreed. Mr. Blain noted that a RPF would have requested specific information for call rates, time responses, etc. He noted that they should provide references from other areas that we can contact to find out about their services. He noted that we would get apples to apples information. Mr. Hawk noted that he wants to know response times, number of calls they make in the course of any given time, what is their busy time and what will they do from 8 a.m. to 5 p.m. and those kind of things. Mr. Hornung noted that the more information we can nail down ahead of time, the easier it will be for the Board to compare the two.

Mr. Blain noted, if you want to, we could include in the RFP that we want historical financial results, broken out in a certain way.

Mr. Seeds questioned if we should request the RFP first or the audit. Mr. Blain answered that you would do that RFP first and they would respond with identical information, and at that point, if the Board feels that SCEMS is the better service provider, then it could request the audit. Mr. Hornung noted that the FPF should state that before a final decision is made an audit will be requested. He noted that SCEMS may chose to get one done on their own. He noted by stating this in the RPF, SCEMS would know that the request is coming. Mr. Blain suggested that an audit for SCEMS would take six to eight weeks. He noted that it would not be an overnight item.

Mr. Wolfe suggested that he could put together a RFP for the Board to review. Mr. Hornung noted that it should include that an audit report will be requested. Mr. Wolfe noted that he could include that audited financials would be required from the selected provider.

Continued review of a request for waivers for the preliminary land
development plan for Longhorn Steakhouse

Mr. Wolfe noted that Mr. Brett Mashchak, Site Development Manager for Darden Restaurants, is present to discuss the Longhorn Steakhouse proposal for development. He noted that it is described as an outparcel to Sears. He noted that the issue before the Board is whether or not it would be willing to waive the improvements to the access road or entrance drive into the mall at this location as part of the land development plan process. He noted that the Board has a copy of a letter from Darden Restaurants as well as a review of the previous information provided by Darden from HRG, the Township Engineer.

Mr. Mashchak explained that he went back, after the last meeting with the Board, and talked to the Senior Vice-President who in turn talked to some of their attorneys in regards to the agreement that they have with Sears and what they would like to do on that parcel. He noted that it was brought to his attention that Darden does not have rights to work outside the boundaries of the plan. He noted that he was told that the costs implications are outside the realm of thinking. He noted that it is broken down to what Darden is allowed to do as part of this plan. He explained that he is asking the Board if they could waive the requirement of upgrading the driveway entrance as part of their development since it is outside of their leased area.

Mr. Hawk noted that there are Longhorn Steakhouses in other areas, and that he recently drove by one in Erie, Pennsylvania. He questioned what the process was for that location. Mr. Mashchak answered that he could not answer to that particular project since it was built before he came to work for the company. He noted that every site is different. Mr. Hawk questioned if Mr. Mashchak had made a similar waiver request before. Mr. Mashchak answered that the company has made requests before in regards to this, noting that he worked on a site a couple years ago in Virginia, where Darden was an outparcel to a larger development and the municipality wanted the entrance drive upgraded to improve the stacking distance. He noted that the company did not have the rights to do that and the requirement was waived as part of the development. He noted that every site is different. He noted if it is on their property, they have the ability to do that work, however when it is off the property they have no ability to do this.

Mr. Hawk noted that Mr. Mashchak is stating that it is not his responsibility but he also knows that it is part of the overall land development plan for the shopping center. He noted that it puts the Township in the middle. Mr. Wolfe noted that it is his understanding that the lease of

premises under the Municipalities Planning Code would include the site if it is a subdivision within that site for both the remainder and the premises being leased. He noted that Mr. Fleming is correct in making the comment that this would be party to the land development plan or could be if the Board requires it.

Mr. Seeds questioned if this would be between them and the company they are leasing the land from. Mr. Wolfe explained that it would be between them. Mr. Mashchak questioned if the Township could force the entire mall to be redeveloped. Mr. Wolfe answered no as it would only be Sears because it is their track.

Ms. Trudy Blakeman noted that the mall entrance is not part of the Sears track. She noted that it is part of the entire mall and Darden cannot control that as they would have to get the approval of all the existing tenets which would be next to impossible and would raise the costs again for the project. She noted that we have no rights to do anything. Mr. Wolfe suggested if Darden is making that type of a legal argument, then it would be a good idea for their counsel to put it in writing and discuss it with our council.

Mr. Seeds noted that Mr. Mashchak stated that he would like to waive all the improvements. Mr. Mashchak noted that he is only discussing the improvement to the entrance driveway as he is leasing the area from Sears for the development of the restaurant. He noted, as part of that, Darden would improve that area around the restaurant and bring it up to the current codes and ordinances for the State, County, and Township. He noted that he is asking that the area outside their leased premises be waived from having to be redeveloped as a part of his development. Mr. Seeds questioned if that would include the guide rails on both sides of the entranceway. Mr. Mashchak answered that it would include the removal of the railing, adding the curbs along that area, and redoing the pavement and stripping. Mr. Seeds questioned if it would remain the same as it is today. Mr. Mashchak answered that he would improve a small section along the restaurant and the other areas shown on the plan.

Mr. Hawk noted that the egress is adjacent to the Sears Tire Center. Mr. Mashchak noted that there is also an entrance by the Mountz jewelers, which would mainly be used by a customer who drove past the entrance. He noted that they could also turn in closer to the Red Lobster Restaurant.

Mr. Seeds questioned if Mr. Mashchak has worked with HRG. Mr. Wolfe answered that only an initial review was done. He noted that this is all that was submitted to the Township. He

explained that it is not a land development plan. Mr. Seeds questioned Mr. Mashchak has met with Steve Fleming. Mr. Mashchak answered that he has meet with Mr. Fleming. Mr. Seeds questioned if he has discussed the costs with him. Mr. Mashchak noted that he has meet with Mr. Fleming and Ms. Moran to discuss the development process and plan and that is when they came up with improvements to the entrance driveway. He noted that Ms. Moran stated that she could not waive that requirement and suggested that he discuss this with the Board of Supervisors.

Mr. Seeds suggested that we can't waive something before we have a plan. Mr. Wolfe noted that it would be a question to ask the solicitor, but the Board has never been asked this question before. He noted that the Board could provide a gentlemen's commitment but that would not have any legal implications.

Mr. Hawk questioned how this came up as a request for a waiver. Mr. Mashchak answered, as part of the process when Darden looks at sites, they have people meet with the various entities to determine the fees that go into developing a site, sitting with the planners, and traffic, sewer and water departments to gather information for what goes into the development, its costs, and timing. He noted that the initial feedback information came from the meeting with Ms. Moran and Mr. Fleming. He noted that he followed up with a second meeting to discuss the entrance driveway with Ms. Moran and she stated that Mr. Mashchak would have to speak to the Board of Supervisors. Mr. Hawk questioned if Ms. Moran felt that the driveway should be widened. Mr. Mashchak answered that she felt that it should be redone as part of the Darden development plan.

Mr. Seeds noted that staff would not recommend waiving something that is in the ordinance. He noted that it would be the Board's decision to make. He noted that the Board pays the engineer to make those recommendations. He questioned if Mr. Mashchak should meet with Mr. Fleming. Mr. Wolfe noted that it would not answer the question as he can't tell Mr. Mashchak not to do the improvements. Mr. Seeds noted that there are differences in the estimated costs for improvements. Mr. Wolfe answered that was correct, but given that there is no design at this point everything is theoretical.

Mr. Mashchak explained, whether it is \$1 million or \$50,000 he does not have the rights to do it, so the discussion has gone beyond the cost price difference since they don't have the rights to do it and if we have to do it, there is nothing we can do. Mr. Seeds noted that they need

to determine if they can legally do it. He noted that Mr. Stine would have to answer that question for the Board.

Mr. Hawk noted if the decision is to make Darden improve the driveway would they pull the project. Mr. Mashchak answered that they will look for another site.

Mr. Hornung noted that he is accustomed to people in Mr. Mashchak's position wanting to develop in the Township and requesting that certain requirements be waived. He noted that they throw these estimates at the Board that are so over the cost and beyond reality in an effort to try to get the Board to waive the issue. He noted from the engineer's estimate they are less than half of what Darden came up with. He noted if they were close then he would think that it was a matter of opinion. He noted that although it is irrelevant at this point, he believes that for him to make a choice, he would need an opinion from the solicitor. He suggested that Darden's solicitor should speak to Mr. Stine about this issue to get it resolved. He noted that it could be put on the next workshop agenda to be discussed once that has happened. He noted that he would also have to get an opinion from the solicitor if the Board could waive something prior to receiving a plan. He stated that he is not so much interested in doing that as there would have to be a certain level of trust and he is not sure it is there because he looked at their numbers and Mr. Fleming's numbers and there is a vast difference between the two. He noted that he may ask Mr. Mashchak to trust him even though he may not trust his numbers. He explained that he is willing to have our solicitor talk with Darden's solicitor to get the issue resolved.

Mr. Horning noted that he would like to see the Longhorn Steakhouse go into that spot, however, he does not like being messed with on the numbers side. He noted that the Township could use development on that site as he is worried about that viability of the mall. He noted that he has been in the Sears store and it is empty and there is hardly anyone shopping there and it would help to bring business to their store. He noted that he is concerned about no improvements, noting that he could see Darden doing \$50,000 worth of improvements but not \$750,000. He noted that putting that high amount into improvements is ludicrous but he does not believe that that is the correct number. He noted if the attorneys can work out the issue then a reasonable amount of improvements for him would be under \$100,000. He noted that he understands Darden's financial position but they should make some improvements. He noted that it has to be reasonable and make sense for the Township. He explained that Sears has been in that mall for a long time and a lot of traffic goes in and out of that mall. He noted that it used to

be a busy community. He noted that the Longhorn Steakhouse will not bring Sears back to what it used to be, however, at some point it would be good if the entire mall becomes a busy community again. He noted for that to happen, the entry way will have to be changed.

Mr. Seeds noted that he agrees with Mr. Hornung and he would like to see the restaurant go in and he would be willing to work with Darden on some waivers but the numbers are not looking the same and we need to look at the legal issues.

Mr. Mashchak noted that he has not seen the numbers from Mr. Fleming yet. Mr. Hornung suggested that there could be a misunderstanding between the two sets of numbers and he suggested that Mr. Mashchak and Mr. Fleming should get together to come up with a number and then the Board would know that you are not trying to pull one over on the Board. He noted that he is so used to it that he can not expect to portray a certain level of trust with developers as a result of his past experience.

Ms. Blakeman noted that the money does not matter, if Darden does not have the right to do anything on that property, we cannot do it. Mr. Hornung answered that he understands that. He noted that he needs to hear that from our solicitor and he is not here at this time.

Mr. Hawk noted that he likes the Longhorn Steakhouse product and it would be a tremendous asset for the mall, but we need to have the two solicitors meet with each other. Mr. Hornung noted that time is money and the Board will try to fit Darden in as soon as possible. Mr. Wolfe noted that it is in Darden's court as far as getting something in writing to explain their legal position to Mr. Stine for him to review. He noted that this could be brought back to the September 11, 2012 workshop meeting.

Adjournment

There being no further business, Mr. Blain made a motion to adjourn the meeting. Mr. Hornung seconded the motion, and the meeting adjourned at 6:30 p.m.

Respectfully submitted,

Maureen Heberle
Recording Secretary

Approved by,

David B. Blain
Assistant Township Secretary