

LOWER PAXTON TOWNSHIP  
BOARD OF SUPERVISORS

Minutes of Board Meeting held July 7, 2009

A business meeting of the Board of Supervisors of Lower Paxton Township was called to order at 7:38 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; Dianne Moran, Planning and Zoning Officer; and Jeff Staub, Dauphin Engineering Co.

**Pledge of Allegiance**

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

**Approval of Minutes**

Mr. Crissman made a motion to approve the minutes of the May 12, 2009 workshop meeting, and the June 2, 2009 business meeting. Mr. Blain seconded the motion, and a unanimous vote followed.

**Public Comment**

No comments presented

**Chairman & Board Members' Comments**

Mr. Blain explained that, prior to this meeting, the Audit Committee met with members from the Central Dauphin School District and Swatara Township, in regards to an issue that had developed with the prior Earned Income Tax (EIT) collector, Capital Tax Collection Bureau (CTCB). He noted that the CTCB recently withheld substantial amounts of monies from the municipalities and School District in its May distribution. He noted that there has been much

discussion in the community as to why the Township and School District changed tax collectors, and the fact that the amount of monies that were withheld by CTCB because of an error that they identified from 2001, is clear justification as to why it was so important to make the change. He noted that the Township is reviewing its 2009 budget as well as the 2010 budget and how it would continue to balance the budget. He noted that some of the EIT that should have been distributed to the municipalities has now been withheld due to errors in the reconciliation process that occurred seven years ago. He noted that this is alarming and very disturbing, and wanted to make sure the public was aware of this mistake.

Mr. Blain noted that the Township made the change to Berkheimer Tax Collector because of Berkheimer's due diligence to ensure the Township that it would receive the amount of EIT collected from the employers and from the citizens.

Mr. Seeds noted that, looking at the budget with the current economy, and especially for the Central Dauphin School District, the huge amount of money that was taken back by CTCB, which results in less funds, would result in further budget cuts, noting that the School District would have to make further cuts in teaching staff and elsewhere in their budget. He noted that it is extremely important that both entities have the right kind of tax collector who performs accurate reconciliations on the funds received in order to make accurate distributions.

### **Manager's Report**

Mr. Wolfe explained that, prior to this meeting, the Board of Supervisors took part in the dedication of the Thomas B. George Jr. Park, located west of Nyes Road and south of Paxtonia Elementary School. He explained that the park is the largest Township regional park and it has been developed over a period of three to four years, however, planning occurred two to three years prior to that. He noted that there was a long process to purchase the parcels of land to make

up the park. He explained that TYCO, (previously known as AMP), donated 27 acres of land to the Township, and the Township purchased an additional 11 acres from AMP. He noted that the Township purchased the Ranger Soccer fields from the Lower Paxton Soccer Association, and entered into a lease agreement with the Central Dauphin School District for the use of the Paxtonia baseball fields. He noted that these tracks combined with the Lamp Light/Meadowbrook Park form a 62-acre park called the Thomas B. George Jr. Park.

Mr. Wolfe explained that the park contains a paved driveway and parking lot, a large pavilion and bathrooms; inline hockey skate court, baseball and soccer fields, and Possibility Place. He noted that continued park development is ongoing with access improvements occurring at the park entrance at Nyes Road, and a realignment of M Street at Nyes Road. He noted that this project should be completed within the next several weeks.

Mr. Wolfe noted that the Board of Supervisors is attempting to obtain funds for a skate park, roughly 15,000 square feet in area that would accommodate skate boarders and inline skaters for various skill levels. He noted that The Freedom Group, a local non-profit organization of skateboarders, has been formed to shepherd the project along.

Mr. Wolfe noted that the Parks and Recreation Department would be sponsoring the Summer Concert Series at Brightbill Park. He explained that the first concert featuring the Lower Paxton Township Variety Band, would be held Friday, July 10, 2009, starting at 7 p.m. Additional concerts will be held on Friday, July 17th with Stephen Courtney, and Friday, July 31<sup>st</sup> with Howard and the Islanders.

## OLD BUSINESS

### Resolution 09-23; Setting a schedule of attorney fees to be applied to municipal claims

Mr. Hawk noted that the purpose of the resolution is to set attorney fees for municipal claims that need to be collected, noting that the cost of recovery far out ways the money received. He noted that the Municipal Claims Act provides the Township the means to recover costs incurred in various claims.

Mr. Wolfe noted that Ordinance 09-05 was adopted earlier this year, which authorized the levying of attorney fees as part of the municipal claims process for its activities necessary to enforce municipal codes. He noted that the Ordinance provides that the Township, by resolution, would establish its attorney fee. He noted that this resolution sets the fees, and he explained that these fees are exactly the same set by the Township Authority for its municipal claims. He noted that this action took place during an Authority meeting by the same Board members present tonight.

Mr. Wolfe noted that the resolution is complete for Board action at this time.

Mr. Crissman made a motion to approve Resolution 2009-23, setting the schedule of attorney fees to be applied to municipal claims. Mr. Blain seconded the motion. Mr. Hawk called for a voice vote and a unanimous vote followed.

### Ordinance 09-09; Accepting Blackberry Alley between North Mountain Road and Blue Mountain Parkway as a public road

Mr. Wolfe noted that the Board would be taking action on this road acceptance based upon a petition that has been submitted to the Township by citizens within the community, asking the Township to accept Blackberry Alley between North Mountain Road and Blue Mountain Parkway as a public road. He noted that notices were sent to all affected property owners that about the alley, and the ordinance has been duly advertised for a public hearing. He

noted for Blackberry Alley to become a public right-of-way or road, the Board would have to act affirmatively on the Ordinance.

Mr. Stine noted that this is the time and date set for the public hearing on Ordinance 2009-09, accepting Blackberry Alley between North Mountain Road and Blue Mountain Parkway as a public road. He questioned if anyone in the audience wished to be heard on the Ordinance.

Ms. Patricia Dietrich, 1405 Blue Mountain Parkway, questioned if the road would be one-way only, and what the posted speed limit would be. Mr. Wolfe answered that he did not know the answer to the questions since the discussion for this evening only involves accepting the alley as a public right-of-way. He noted that the speed limit would be set by the Township, and questioned if the Township has ever set a speed limit on an alley. He noted that there have been discussions on whether the alley should be one-way eastbound or westbound, but that has not been discussed by staff in any detail. He noted, if the Township becomes the Authority to regulate the alley, a traffic study would need to be conducted by the Police Department.

Mr. Seeds noted that the Village of Linglestown Committee would probably make a recommendation for the direction of the alley. He noted that the police would also determine the speed limit.

Mr. Kevin Freedman, 5922 Linglestown Road, noted that he would object to the proposal, only if there is an issue with the property line as shown on the map. He noted that the property line is very close to a stairway that provides access to the second floor from the rear of his building. He noted, if there is a cause to alter or move the stairway, then he would object to making the road public. He noted, if it is not an issue, then he would have no problem with it.

Mr. Wolfe explained that he met with Mr. Freedman, and at his request, he had the perspective right-of-way line staked out, and it appears that two of the support posts for the stairway extend by two to six inches into the right-of-way. He noted, if the Township was to take over the right-of-way, the entire width would not be paved. He suggested that the paved width would only be 16 feet to 18 feet, but the issue would still be that the two support posts would be located in the right-of-way.

Mr. Seeds suggested that there should be a way to work around this problem. Mr. Wolfe noted that the point of contention is that the posts are in the right-of-way and the Township would have the right to make Mr. Freedman move his posts. He noted that Mr. Freedman needs to know that if he would be giving up that right.

Mr. Wolfe explained that he requested Mr. Stine to research the issue further, and he has provided an option. Mr. Stine explained that the right-of-way could be changed at that point, to take everything out of the right-of-way. He noted that an alley must be a minimum width of 15 feet, and he noted that Blackberry Alley is 20 feet in width and well beyond the minimum width requirement. He noted, if the right-of-way was reduced at that property to 19 feet, then the posts would be located outside of the right-of-way, and still allow for substantial room to pave the alley. Mr. Freedman noted if that was the option, he would have no objection.

Mr. Stine noted that having the posts in the right-of-way could cause an obstruction, and if someone hit the posts, then they would have a cause of action against the Township. He suggested that people would not speed in the alley, and it would be a remote chance that it would occur. Mr. Hawk noted that it would make sense to modify the right-of-way now. Mr. Wolfe questioned, if a change was made, what affect would that change have on tonight's proceedings. Mr. Stine answered that a new right-of-way plan must be drawn, along with a matching

description, and Mr. Wolfe would have to go through the process again to send letters, and advertise the public hearing. Mr. Stine noted that you could table action on this Ordinance. Mr. Crissman questioned if it could be withdrawn from the agenda. Mr. Stine answered that the Ordinance could also be withdrawn.

Mr. Crissman made a motion to withdraw the ordinance from the meeting.

### **NEW BUSINESS**

#### **Resolution 09-27; Adopting the December 16, 2008 schedule and procedures for the disposition of records as set forth in the Municipal Records Manual**

Mr. Hawk noted that Resolution 09-27 would adopt the December 16, 2008 schedule and procedures for the disposition of records as set forth in the Municipal Records Manual. Mr. Wolfe noted that he had nothing more to add to this resolution.

Mr. Crissman made a motion to adopt Resolution 09-27, adopting the December 16, 2008 schedule and procedures for the disposition of records as set forth in the Municipal Records Manual. Mr. Blain seconded the motion. Mr. Hawk called for a voice vote and a unanimous vote followed.

#### **Resolution 09-28; Authorizing the submission of a CDBG application to Dauphin County for the Winfield Street storm sewer project**

Mr. Hawk noted that this resolution calls for a submission of a Community Development Block Grant (CDBG) application to Dauphin County for the Winfield Street storm sewer project.

Mr. Wolfe explained that this program provides funds to Dauphin County which it can distribute to its non-entitlement communities to benefit low and moderate income individuals. He noted that there are small areas of the community that qualify for funding under this program, and he suggested that this is a potential qualifying project, and that would be a storm sewer project. He noted that staff would like to submit a grant application in the amount of

\$185,540,000 to Dauphin County. He noted that the grant application would be matched by Township forces and equipment installing materials purchased by the grant funds to pay for the storm sewer improvements. He noted that this application has been previously submitted in 2008 and 2009, and was turned down since it had not been competitive to the needs for Dauphin County. He requested the Board to authorize the submission of the grant application.

Mr. Seeds noted on page two, the bottom of the first paragraph, the year should be listed as 2009 instead of 2008. Mr. Wolfe noted the correction and stated that he hoped to start the project this year if the grant is funded.

Mr. Crissman made a motion to approve Resolution 09-28, authorizing the submission of a CDBG application to Dauphin County for the Winfield Street storm sewer project. Mr. Blain seconded the motion. Mr. Hawk called for a voice vote, and a unanimous vote followed.

Resolution 09-30; Authorizing the submission of a CDBG application to Dauphin County for ADA Improvements at Union Deposit/Scenery/East Park Drive

Mr. Hawk noted that this is a second application request for a CDBG application to Dauphin County for ADA Improvements at Union Deposit/Scenery/East Park Drive. Mr. Seeds noted that the Board has discussed during land development planning what was needed for this intersection.

Mr. Crissman made a motion to approve Resolution 09-30, authorizing the submission of a CDBG application to Dauphin County for ADA Improvements at Union Deposit/Scenery/East Park Drive. Mr. Blain seconded the motion.

Mr. Seeds questioned if there was an income level for this application. Mr. Wolfe answered that the ADA applications are an automatic qualification and do not need to meet the income levels. Mr. Wolfe noted that the Township received funding for the Friendship Senior

Center from this grant, noting that projects for the elderly also qualify without meeting the income level requirements.

Mr. Hawk called for a voice vote, and a unanimous vote followed.

Resolution 09-29; Action on a proposal to purchase electricity from Constellation Energy in accordance with pricing from the PLMC Municipal Utility Alliance

Mr. Hawk noted that the Board must decide if it desires to take action on a proposal to purchase electricity from Constellation Energy with pricing through the Pennsylvania League of Municipalities and Cities (PLMC) Municipal Utility Alliance (MUA). Mr. Wolfe explained that the Board approved participation in the MUA several months ago. He noted that information provided to Board members in their packet was preliminary, and he has since received a new rate offer. He explained that the pricing of electricity is very time sensitive and it is based upon the materials to produce the electricity. He noted, in Pennsylvania, the costs are primarily based upon the price of natural gas.

Mr. Wolfe explained that Constellation Energy, as the chosen provider for MUA, provided a revised quote today, which is time sensitive for a 24-hour period. He noted if the Board desires to accept this offer; it must do so by tomorrow morning. He noted that the pricing received today is better than what was offered on Friday, and represents an 8% decrease in the original price quotation. He noted that the prices are listed on a 12, 24, and 36 month basis and would take effect December of 2009 when the rate caps are removed from the PPL rate structure and competitive purchase of electricity becomes viable within Pennsylvania.

Mr. Wolfe noted that Constellation Energy was the lowest responsible bidder for the MUA, whose goal was to procure a provider that would supply electricity services at a rate below the estimated increase that PPL is going to provide as the provider of last resort. He noted

that PPL as the provider of last resort is going to have a rate that will in affect have an increase of 34% for the Township's largest account, the Friendship Center. He noted that he did not price the other 50 accounts that the Township has, noting that Constellation Energy's price is one price for all accounts.

Mr. Wolfe explained that the bid price beats the price that PPL will provide for its customers beginning December 2009, noting a 34% increase. He noted that the increase for the Friendship Center for a monthly bill, using Constellation Energy's rates would result in the following: the 12 month pricing represents a 12.8% increase, the 24-month pricing represents a 15.6% increase, and the 36-month price represents a 18.4% increase. He noted that Constellation Energy expects that the energy commodity is going to increase over time; therefore, they are estimating that the increase in the second year would be more than the 15.6% that they are offering.

Mr. Wolfe noted that the Board must choose if they want to select Constellation Energy as the energy provider beginning December, 2009. He noted that he would recommend that the Board choose Constellation Energy. He noted that the second decision the Board needs to make is to choose between a 1, 2 or 3 year contract at the given prices.

Mr. Hawk suggested that it may be good to gamble and select the 36-month pricing since there is not much of a difference between the 24-month price and the 36-month price. Mr. Blain questioned, for the 36-month proposal, would the Township be paying 12.8% in the first 12 months. Mr. Wolfe answered no, and explained that if the Board chose the 36-month pricing, it would pay the 18.4% rate starting at day one. He noted that it is not a progressive rate change. He noted if the Board chooses the 12.8% rate for year one, the pricing would be increased in year two, and the providers would have no means to predict what that rate would be. He noted if the

Township locks in for a 36-month period, the provider must build in some padding for what they expect the electric rate to increase over that time period. Mr. Crissman agreed that the Township should lock into the 36-month pricing.

Mr. Blain noted that Constellation Energy is assuming that the 24-month price of 15.6%, would be lower than the rate when the commodity is re-priced in the second year. Mr. Wolfe noted that the general assumption among electric producers is that the cost of electricity is going to continue to increase and electric pricing is primarily linked to the price of natural gas. He noted, as natural gas increases in price, the cost of electricity will also.

Mr. Blain noted that Pennsylvania has a huge reserve of natural gas in the Marcellus Shale, and he suggested that it would drive the price of natural gas down. He noted that Constellation Energy is trying to sell business and lock customers into a 36-month price, but he did not buy it. Mr. Hornung noted, if the Township locked in at the 12-month rate, in order to break even locking into the 24-month price, the rates would have to rise for the second year rate up to what it is for the 36-month price before the Township would start to lose money. He noted that he was not sure that locking into a 24-month or 36-month rate is a good idea. Mr. Blain agreed.

Mr. Wolfe suggested that a suitable compromise would be to take the 24-month rate. Mr. Hawk noted that whatever the Township chooses, it is a gamble. Mr. Wolfe noted that the Township has been working on its mid-year budget, as well as the 2010 budget, and for 2010, staff built in an increase of 15% for utilities.

Mr. Hornung noted that with any energy, as the price is raised, consumption drops, and he suggested that once the consumption drops, the suppliers drop the price to make consumption increase. He suggested that when electric consumption drops, the providers may lower their

prices to encourage more consumption. He suggested that there would be bidding wars since there would be an over abundance of supply. He suggested that the 12-month rate is the way to go.

Mr. Hawk noted that the State is looking to implement a surcharge for the Marcellus Shale extractors which would have an affect on the price of natural gas.

Mr. Hawk questioned if there is a chance, that after 12-months, the contract could be renegotiated. Mr. Wolfe answered no. He noted that this is the current lowest responsible provider, noting that PPL is the provider of last resort, and their pricing is based on the bidding of the commodity in six allocations over a period of time, and they are currently looking at a 34% increase. He noted that the prices provided by Constellation Energy are the lowest prices available at this time.

Mr. Crissman questioned if the Board should compromise and contract for the 24-month rate. Mr. Hawk answered that he would go with that suggestion and take a chance that it is a good idea.

Mr. Crissman made a motion to approve Resolution 2009-29, to purchase electricity from Constellation Energy in accordance with pricing from the PLMC Municipal Utility Alliance, for the 24-month rate of \$.084825 /kWh. 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.

Preliminary/final subdivision plan for Robert and Bette Kaneda

Ms. Moran noted that the purpose of this plan is to subdivide the existing parcel at 2293 Forest Lane into two new lots. Lot 2 is proposed to be developed as a single-family dwelling. Lot 1 will consist of 4.0585 acres and Lot 2 will consist of 0.7439 acres. The property is zoned

R-2 Medium Density Residential District and is located east of Forest and Abbey Lanes. The newly created lot will be served by public sewer and public water.

Ms. Moran noted on June 10, 2009 the Planning Commission recommended approval of the plan with the following waivers: 1) Waiver of the requirement to provide a preliminary plan; and 2) Waiver of the requirement to provide a stormwater management plan. Ms. Moran noted that staff supports both waivers.

Ms. Moran noted that Jeff Staub, from Dauphin Engineering, is present to present the plan.

Mr. Staub noted that it is a very straight forward plan as Dr. and Mrs. Kaneda are proposing to subdivide a small parcel for their daughter and son-in-law. He noted that the new lot would be served by public water and public sewer. He explained that when the home is built, it will appear that it is part of the Estates of Forest Hills.

Mr. Crissman questioned if Mr. Staub was able to speak for the applicant. Mr. Staub answered yes.

Mr. Crissman questioned if Mr. Staub was in agreement with the seven general conditions to include the nine comments from the HRG, Inc. letter dated June 30, 2009. Mr. Staub answered that he received all the comments today, and he is in agreement with all of the Township's comments as well as HRG, Inc's comments.

Mr. Crissman questioned Ms. Moran if she agreed with Mr. Staub's statement. Ms. Moran answered yes.

Mr. Crissman made a motion to approve the Preliminary/final subdivision plan for Robert and Bette Kaneda with the following waivers and conditions: 1) Waiver of the requirement to provide a preliminary plan; and 2) Waiver of the requirement to provide a stormwater

management plan; 3) Plan approval shall be subject to providing original seals and signatures; 4) Plan approval shall be subject to the payment of engineering review fees; 5) Plan approval shall be subject to the establishment of an improvement guarantee for the proposed site improvements; 6) Plan approval shall be subject to DEP's approval of a sewage facilities planning module; 7) Plan approval shall be subject to Lower Paxton Township Sewer Department's review and approval of the sanitary sewer design; 8) Plan approval shall be subject to addressing all nine comments of HRG, Inc.'s memo dated June 30, 2009; and 9) Plan approval shall be subject to the payment of the \$2300 recreation fee for the creation of one new lot. 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.

### **IMPROVEMENT GUARANTEES**

Mr. Hawk noted that there were two Improvement Guarantees.

#### Wyndhurst Manor, Phase 3

A reduction in a bond with Developers Surety and Indemnity Company, in the amount of \$130,200.00, with an expiration date of June 2, 2010.

#### Dauphin County Technical School

A release in a letter of credit with Metro Bank.

Mr. Crissman made a motion to approve the two Improvement Guarantees as presented.

Mr. Blain seconded the motion. Mr. Hawk called for a voice vote, and a unanimous vote followed.

### **Payment of Bills**

Mr. Seeds made a motion to pay the bills of Lower Paxton Township and Lower Paxton Township Authority. Mr. Crissman seconded the motion, and a unanimous vote followed.

## **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 8:26 p.m.

Respectfully submitted,

Maureen Heberle  
Recording Secretary

Approved by,

Gary A. Crissman  
Township Secretary