

LOWER PAXTON TOWNSHIP
BOARD OF SUPERVISORS

Minutes of Board Meeting held May 3, 2011

The business meeting of the Board of Supervisors of Lower Paxton Township was called to order at 7:35 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; Public Safety Director David Johnson, Lieutenant Mark Zerbe, Sergeant Stephen Paoletti, and Officer John Stoner, Police Department; Joel McNaughton, The McNaughton Company; and Ted Robertson and Watson Fisher, SWAN.

Pledge of Allegiance

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

Approval of Minutes

Mr. Crissman made a motion to approve the minutes of the April 19, 2011 business meeting. Mr. Blain seconded the motion, and a unanimous vote followed.

Citizens Police Academy Graduation

Mr. Hawk explained that he was moving some items on the agenda to accommodate the large group of people who are present for the various presentations. He requested Public Safety Director (PSD) David Johnson to come to the podium to make the Citizen's Police Academy presentations.

PSD Johnson noted on behalf of Lt. Zerbe, Sgt. Paoletti, and Officer Stoner, to thank the Board for allowing him to make the presentation to the graduates of the 10th Citizens Police Academy at a televised meeting. He noted that this program is one-of-a-kind in Dauphin County, and since its inception, Officer John Stoner has overseen the program. He explained that this is

the last class for Officer Stoner as he has announced his plans to retire this summer. He noted that he has done an outstanding job with this program and the citizens have benefited greatly from his efforts.

Officer Stoner noted that this Citizens Police Academy had 19 students who committed their Tuesdays, and sometimes Mondays and Wednesdays nights to learn more about the Police Department as well as the numerous County agencies that the Township relies upon to provide quality protection to its citizens. He explained, during the past ten weeks, the students have received presentations on all divisions of the Police Department, as well as a tour of the Dauphin County Prison, Dauphin County Coroner's Office, Magisterial Judge Joseph Lindsey's Office, Dauphin County 911 Center, and Dauphin County Courthouse. He noted that the participants have also undergone simulated firearms training at Harrisburg Area Community College Shumaker's Public Safety Training Center, have witnessed two separate canine demonstrations, and a presentation on local gang activity by the Dauphin County Adult Probation Office. He noted that this has been an exceptional class and they are committed to returning to their neighborhoods to make them safer places with their newly acquired knowledge.

Officer Stoner requested the Board members to assist in the distribution of the certificates to the following candidates: Aleksandar Angelov, Angel Barton, Kimberly Bowman, Angela Goodhart, Destinee Gunther, Thomas Gunther, Christine Harwell, Mark Harwell, Kendra Horanic, Patty Kingsbury, Carol Kreiner, William Kreiner Sr., Brandon Lenig, Elizabeth Miller, Ava Newsome, Avis Newsome-Rivera, Andrew Spier, Laura Theurer, and Marianne Theurer.

Ms. Angela Goodhart noted that coming to the Citizens' Police Academy has been educational as well as enjoyable. She noted that she came to the Academy to accompany her daughter Angel, who was trying to discern career choice. She noted that it was very interesting and she learned so much. She noted that attending the classes will help her to be a better citizen as well as providing a new perspective for law enforcement. She noted that it was a very valuable

experience and more people should attend the Academy. She thanked Officer Stoner for his hard work.

Ms. Kimberly Bowman wanted to thank Officer John Stoner, on behalf of the entire class, for all the hard work that he did. She noted that each week, she kept thinking that nothing would top this week, and the next week the feeling was the same. She noted that she learned all the different aspects of law enforcement and how they tie into each other, from the 911 call center to the local police force, to the Magisterial Judge, to the correctional officers at the Dauphin County Prison, to the members of the Sheriff's Department, to the Work Release Force, to the Crisis Response Team (CRT), and Dauphin County Coroners' Office. She noted that each group is made up of a special group of people who have a thankless job with a huge work load. She wanted to thank all those who were involved with the Academy, and noted that each and every person who spoke to the class truly loved their job. She noted that the citizens of Lower Paxton Township are truly blessed to have these men and women who service their community.

Officer Stoner noted, on behalf of Lt. Zerbe, Sgt. Paoletti and all who instructed the participants, he was very appreciative of their dedication and attention to the Academy.

Ms. Elizabeth Dibert, noted that eight years ago she requested to assist Officer Stoner with this program. She noted that she has enjoyed working with Officer Stoner immensely as well as the other officers. Ms. Dibert made a presentation of a gift to Officer Stoner in thanksgiving for all the delightful years that he has given to the program.

PSD Johnson noted that he wished to thank Officer Stoner for all his years of dedication to the Academy and to his job. He noted if it were not for all the men and women of the Lower Paxton Township Police Department this would not be possible, as well as all the other agencies that are involved. He thanked Lt. Zerbe and especially Sgt. Paoletti who also will be retiring this summer.

Mr. Hawk noted that judging from all the smiles on the participants faces they obviously had a very rewarding experience. He noted that the Board appreciates when citizens get involved in programs like this.

Eagle Scout Presentation

Mr. Hawk noted that it is the privilege of the Board to present to Patrick Doyle his Eagle Scout Award. He noted that Mr. Doyle is from Troop 302 associated with St. Mark's Lutheran Church located on Londonderry Road.

Mr. Crissman noted that it was his great privilege to be asked to make the presentation of the Eagle Scout Award to Patrick Doyle. He noted that Mr. Doyle was unable to attend the dinner where his award would have normally been presented to him. Mr. Crissman read from a letter from the Board of Supervisors that he presented to Mr. Doyle. He then presented Mr. Doyle with a Certificate of Appreciation from the Board of Supervisors as well as his Eagle Scout medal.

Mr. Hawk noted that there is a high percentage of United States Presidents who have received the Eagle Scout Award.

Mr. Crissman asked Mr. Doyle to introduce his parents to those in attendance.

Chairman & Board Members' Comments

Mr. Hawk noted that it was his privilege, on behalf of the Board of Supervisors, to present a proclamation for years of service to a member of the Planning Commission who has served since 1981. He noted that Ernie (Ernest) Gingrich is a licensed engineer and land surveyor in the Commonwealth of Pennsylvania. He noted that he is very active on the Planning Commission, having served almost 30 years, and this past weekend he celebrated a milestone. He noted on April 27th, Mr. Gingrich celebrated his 80th birthday, and he had the privilege to present a proclamation to him on Sunday evening. He requested the Board members to assist him in the signing of The Birthday Song to Mr. Gingrich.

Public Comment

Mr. Richard Wonderlick, 517 Clermont Drive, noted on April 26th when he woke up he had 53 feet of water in his backyard. He explained that he called the Public Works Office at 8 a.m., 10:30 a.m., 1:30 p.m., and around 3:30 p.m. with no one returning his phone calls. He noted that he was told that Public Works employees leave at 2:30 p.m. and at that time he asked who was in charge and was told to contact Mr. Wolfe. He noted that he spoke to Mr. Wolfe and told him that he had a problem and wanted something done, and if nothing was done he would go somewhere else, at which time Mr. Wolfe asked him if he was threatening him. He noted that he did not think too much about it, but the next day he called Mr. Wolfe back and stated if he thought he was making a threat, he apologized. He noted that this is a serious problem.

Mr. Wonderlick noted that now it is Tuesday, and still, no one has called him. He noted the problem goes back to 2004 at which time he had to come to a Board of Supervisors meeting. He noted that Township staff lowered the drain in his backyard at that time and it solved some of the problems. He noted in 2005, 2006, July 6, 2007, January 25, 2008, March 4, 2008, January 2010, March 2011, and April 2011 he had water in his backyard. He noted that the problem started when they built the homes in back of him as all the water comes down into a bucket. He noted that the drain is up in the extreme end of his yard and the water from the bucket does not reach the drain. He noted that he needs someone to do something about it. He noted that he does not understand why no one can return a call; he is a taxpayer who is asking for help. He noted that he made three copies of his phone calls logs and distributed them to the Board members. . Mr. Seeds asked if he came to Mr. Wonderlick's home. Mr. Wonderlick answered that he came to his home in 2004. Mr. Seeds noted that he recalled that visit. Mr. Wonderlick explained that the Township lowered the drain at that time.

Mr. Hornung questioned Mr. Wonderlick what he meant by 53 feet of water in his backyard. Mr. Wonderlick answered that it is 53 feet of water from the backyard to the porch. He noted that the entire backyard was submerged.

Mr. Seeds noted that he would come over to look at the situation. Mr. Wonderlick noted when they built the homes behind him it put him into a bucket. He noted that the Township did lower the drain. He questioned if something can be done to fix the problem. Mr. Hawk noted that he will have staff take a look at the situation. Mr. Wonderlick noted that in the past four days, no one returned a phone call to him. Mr. Hawk noted that this has been an unusual year for rain. Mr. Wonderlick noted that it is not good that no one called him back since last Thursday. He noted that he is pumping the water from the bucket into the drain and the drain is able to handle the water.

Mr. John Trish, 600 Prince Street, noted that he was present to discuss the same topic. He noted on Thursday morning, at 5 a.m. there was three foot of water in front of his house. He noted that the problem was that it was trash day and all the trash was blown into the street and washed into the drain. He noted on Houcks Road at Queen Street there were bags of trash, weeds, cans, etc. and it was still there as of yesterday afternoon. He noted that it looks like someone picked up some of the trash, but he questioned if someone from staff drives around to check on the drains. He noted that they are calling for a big storm tonight and throughout the next couple weeks. He noted that we pay for guys to drive up and down the streets in Township trucks to check the drains, and if they pass a drain that is clogged, shouldn't they stop to unclog it. He noted that they should have a radio to call their boss and tell him that they found a drain that is clogged and they will stop to clean it up to prevent future flooding. He noted that his drains were clogged because cardboard was on top of them, and why people drive through it... he was getting ready to call Mr. Seeds at five in the morning since he was not going into the water again. He noted, once the water level dropped, he removed the cardboard and his drain

cleared the water. He noted that he is not walking up to Houcks Road and Prince Street to clean the drains, or anywhere else.

Mr. Hornung noted that he saw Township employees cleaning drains when he was driving around, but his pet peeve is that everyone thinks that government is here to solve all their problems. He noted that we can do that but then it would take a lot more in taxes to do so. He noted, in the old days, people would take responsibility for the things in their neighborhood, whether it would be cleaning the gutters or the grates. He noted that is what we have to get back to, with everyone pitching in and trying to solve the problems, otherwise, we will have to raise the taxes. Mr. Trish answered that he understands that. Mr. Hornung noted that Mr. Trish cleaned the drain, but everyone needs to do that. Mr. Trish noted on the opposite side of his drain is a business, and he knows that they are not going to do down the street to collect their trash that blew away. He noted that it is right along the thoroughfare where Township vehicles come and go. He noted that the Fire Department goes up through that area and it all goes back to safety. He noted that there was over 2.5 feet to 3 feet of water by his house that people were driving through. Mr. Hornung noted that he does not doubt that. He noted that he stopped to clean up trash, and if everyone did it we would not have these problems. He noted that government cannot solve all the problems. Mr. Trish answered that he understands that. Mr. Trish noted that some Township employees are driving around sitting on their thumbs. Mr. Hornung noted that we have a great bunch of employees. Mr. Trish noted that he agrees, but he is asking for a little more, they got a raise.

Mr. Crissman explained that he was out last Thursday morning around 6 a.m. trying to travel along Houcks Road to the hospital, noting that normally it would have only taken ten minutes, but it took him almost an hour. He noted that a person decided to drive through the flooded waters on Houcks Road and ended up stalling his car. He noted that it was an

exceptional rain and flooding event, and people had water in their basements that never had water during Hurricane Agnes. He noted that he was one of them.

Mr. Crissman wanted to thank the Township staff since they did a wonderful job during this unusual set of circumstances. He noted that he wanted to thank the Fire Company as they purchased three additional sump pumps to try to help people. He noted that he would like to thank the citizens that were cleaning out a storm drain, noting that the person stated if this continues more basements will get water and he wanted to do his part to be a good citizen. He noted that the Township has issues, Palmyra and other communities faced their own issues, but we were fortunate that we didn't experience the problems that the State of Alabama had, and we didn't lose any lives, so we can all be very thankful for what we do have.

Mr. Anthony Bertoni, 5343 Windsor Road, noted that he has two issues that he would like to discuss in regards to water. He noted that due to the contours of Windsor Road, the water flows down at a rapid speed, washing out the gutter where stones and cinders are pushed 30 to 40 feet into his driveway up to his house. He noted that they are also deposited into his lawn. He noted that Jeff Kline was at his home and he agreed that there is a condition that needs to be addressed. He noted that he has Stephen Frey of Dauphin County Conservation District come to his home and he also stated that it is a condition that needs to be addressed. He noted that the water is coming into his basement from the roadway and it lifted up the tiles. He noted that water is coming through the paneled wall, and an additional storage room has mold growing on the walls. He noted that he called an individual he told him that it is a health hazard. He noted that he spoke to a person from a termite control business and was told that he may, at some point, have termites due to the moisture in the walls. He noted that he spoke to Mr. Kline and Mr. Frey and had a pleasant conversation with both and questioned what they are going to do about the problem. He noted that he would like to have the Township Engineer come to his home to see his basement, and to see what is causing the water to enter his home. He noted that the east side

of the road has a 20 foot elevation, but the west side is lower by three feet, and apparently the water is not running where it is supposed to. He noted that it needs to be addressed. He noted that it could very easily be solved by connecting the curb at Hampton Court Road to the curb at Wilshire Road. He explained, in the meantime, the road is eroding away. He noted that he was told that the Township had no money to fix the road. He noted that he and his neighbor have a problem with water, and it is an ongoing problem that occurs whenever it rains. He noted that he can't afford to take the water out of his basement, to replace the floor tiles, and replace the walls and remove the mold. He noted all the Township needs to do is to tap into those two curbs or put an inch of elevated concrete from there to Hampton Court Road and that will solve the problem. He provided pictures for the Board members to review of his basement.

Mr. Hornung questioned how long the problem has existed. Mr. Bertoni answered that it has been going on for a year. Mr. Hornung questioned what caused this problem to start within the past year. Mr. Bertoni answered that it started over a period of a year, noting when water gets into the driveway and lawn, it wears out over time. He noted that it washes a hole under the sidewalk and does damage to his basement. Mr. Bertoni questioned if anyone will call to address this issue. Mr. Seeds requested Mr. Bertoni to provide his phone number to the secretary.

Mr. Zachary Bradshaw, 1448 Karen Drive, noted that he has taken some videos of a water problem in his backyard, and he requested information on who he could call for help. He noted he lives in the cul-de-sac on Karen Drive at the back of the Sierra Glen storage units. He noted that all the water is coming down into his lawn, and he can fix the issue but he wants to know who he needs to get the permission from to do the work. He noted that he needs to know who to get a hold of and what permits are needed. Mr. Wolfe answered that he would need the Dauphin County Soil Conservation service phone number, and he can make the arrangements for him if he provides his phone number to the secretary. Mr. Bradshaw noted that he needs help

since his entire backyard is washing out. Mr. Wolfe suggested that he would have the Township Engineer take a look at it as well.

Mr. Jody Fausnight, 1609 Churchill Road, explained that he is a new homeowner and moved to this development nine years ago. He noted that his issue is with the developer, but more so with the builder of his home, due to faulty workmanship to his home. He noted that it could have resulted in thousands of dollars of water damage to his home. He explained, in the front of his home he has three bay windows that are incased with a trim. He noted that the home was built by Penn Harris Construction, and the developer for the neighborhood is Chuck Gilmore. He noted that he hopes that Chuck is watching and that he tries to do to me what he did to a neighbor when he failed to take responsibility for faulty work at that time. He noted that he brings this out as a public issue because the Board's job is to get the Township developed in an orderly manner. He noted that it is the tax base. He noted when someone does not function in an honest manner then they need to be called out on it. He noted that he has the casing, a board with deterioration with him. He noted on page three of his handout letter, you can see the pictures that show the shoddy work. He noted that he is looking for a consideration in the change of building code requirements.

Mr. Fausnight explained that the home was built in late 2001 and he moved in the summer of 2002. He noted that he had an issue with the quality of top soil that was left on his property, noting that it is the second layer of topsoil and that this is an issue that is common to many developers. He noted that he had a person who was working on his home notice the deterioration of the wood who stated that it shouldn't be that way. He noted that they should have installed an all-weather surface that is treated and designed for outdoor use. He noted that Mr. Gilmore was not even willing to concede that there was an issue. He noted that Mr. Gilmore's people installed an all-weather board around the outside of the three windows; however, for the area in between the windows they installed a painted white wood board. He

noted that it was bad enough that you could view the issue from the ground level. He noted at the time he wrote the letter, he did not know if the problem had already advanced beyond rotting wood that would have allow water to impact the interior walls and insulation. He noted that Mr. Gilmore would not take any responsibility even after his own workman had come out to look at it and stated that you should expect maintenance on the house. He noted that he has replaced various items in the house, but to say that, and that he has a value responsibility for it...He noted that the people that Mr. Gilmore hired did not do the job right and he took zero responsibility for it. He noted that because he caught the problem when he did it only cost him about \$500 to fix the problem. He noted that there was no other damage beneath the surface, however there was not much caulking found, and there were limitations on what was originally done. There was no flashing.

Mr. Fausnight stated that he spoke to Mr. Slatt, the Township's building inspector about this. He explained that Mr. Slatt told him when someone installs wood they should have flashing to ensure there is run off to prevent seeping.

Mr. Fausnight noted that he was well within his rights to bring this to the Mr. Gilmore's attention to take care of it, and he promised Mr. Gilmore that if he chose not to be responsible for the incomplete work that he would use every public channel available to him to call him out. He noted that he would be well within his rights to put a sign up in front of his home with pictures of the boards stating, Penn Harris Construction, see me before you buy. He noted that he is not saying that he is going to do it but he would be well within his rights to do it. He noted many of his neighbors have had problems with him and they have been in front of this Board. He noted that he got his chops busted because he was in the middle of moving in and Mr. Gilmore felt that he had the upper hand and attorney's letter and all of this nonsense. He noted if he wants to come after me, fine, come after me, but he had the proof right here that what was done was negligent. He noted that he has a contractor that will attest to that fact. He noted that he wants to call out

Mr. Gilmore and Penn Harris Construction for poor work, noting that he is a developer that needs to do a better job. He noted if they are going to say on their website that they represent quality workmanship and material, and go on to say vinyl and siding and that kind of thing, and they install wood in two sections of my house and it rots, noting that he could have had a much bigger issue. He noted that he is counting his blessings that he didn't have a bigger issue. He noted that he should have never had to spend the \$500, but he hopes that it costs Mr. Gilmore a lot more than \$500 for not having done the right thing.

Mr. Fausnight noted that the other issue related to this is soil, noting that common practice doesn't make it right, to sell of top tier top soil to landscapers and leave whatever is left for the person moving in. He noted that he did not know any better, it was his first home, he got him, so he spent \$4,000 over seven to eight years to try to grow a lawn.

Mr. Fausnight noted that on page two of the letter, that he would like the Township to consider, as a codes issue, when you install a garbage disposal in a sink there should be no way that there is a code that allows that plumbing to be PVC pipe. He noted that it is a nightmare waiting to happen. He noted that most of the neighbors had to spend the money to correct the problem. He noted that it is not specific to Mr. Gilmore; it is a Township code issue. He noted that it should be steel plumbing or aluminum pipe or something down there with proper joints. He explained that the problem is the vibrations from the garbage disposal, and no one with common sense would expect that to hold up. He noted that he had leaks four or five times within the past years and he finally paid a plumber \$500 to fix it. He noted that he didn't know why that would ever pass as acceptable in a newly built home. He noted that it would add more to the costs and everyone is sensitive to costs, but if you are going to advertise quality workmanship in materials that you use, it should be in the visible and not so visible spots. He noted that he would ask the Board's consideration if that code could be changed for the installation of plumbing in a kitchen sink with a garbage disposal. He thanked the Board for

their time and distributed a copy of the letter to the Board members. He noted that the Board members could see the rot in the board, and he noted that it would have been very easy not to have had that problem at all if Mr. Gilmore would have used Azak or a synthetic material. He noted that residents have found wrappers in the duct work put there by workers. He noted that he does not want other people to get snookered by this gentleman who states that he does quality work.

Ms. Diane Dugan, 2231 Earl View Drive, explained that she lives on the mountain and she got lots of water on her property and in her house. She noted that she called 911, and wanted to thank the Fire Company, and especially Chuck, for coming to help her with a sump pump and dig out her back yard to divert the water. She noted that she is at the bottom of the mountain and there are piles of homes all the way to the top. She noted that the water came down and diverted into her basement where her furnace and hot water heater are located. She noted that she cleaned out as much as she could in her bare feet until the Fire Company came. She noted that Wayne Weidig accompanied her to the meeting to help her explain what occurred. She noted that she needs to find out how to take care of this since the neighbors have diverted the soil and rocks to let the water flow to her place and flood it. She noted that she will have to gut her basement as she can't have mold in the house. She stated that she needs to know how to get her neighbors to correct the situation that they made since they are very responsible for what occurred.

Mr. Wayne Weidig noted that he purchased the house in December 1997 and Diane and he were married shortly after. He explained when he moved into the house there was never a water problem, except for the west side of the house. He noted that the house is located on an acre of land, a nice contemporary house, the lowest house on the street. He noted on the west side of the property, in the back, there was always a little bit of water that seemed to be coming from the neighbor's property. He noted that the neighbor above had a sand mound and he found out later that for years, the owner put all of his leaves on top of the sand mound. He noted after a

rain he would continually get water running down from that location. He noted that the eastern side of the property, towards Marion View Drive, never experienced a water problem at all. He noted after being in the house for three years he decided to resculpture the acre of land, brought in contractor who did a great job, dumped 25 truck loads of dirt, and took all the bad trees down. He noted while they were doing that work, they notice the water coming from the neighbor's sand mound, and as it turned out, the Health Inspector from the Township came out and he ascertained that the sand mound was leaching water into his property. He explained that he had the water tested and it was found to have levels of E. coli. He noted that the sand mound problem was corrected in 2005. He explained that the Township instructed the neighbor to dig a 19-foot by 3-foot by 6-foot deep trench, and he had to install limestone and a curtain to keep the water from coming onto his property.

Mr. Weidig noted what Diane is talking about with the recent water trouble had never occurred before. He noted that it was a horrible amount of rain noting that he had another such event in April 2004. He explained that the neighbor above his home on the east side, the Danes, resculptured their yard, and if you stood in the middle of his yard and looked up to the right, you would see their drain pipe. He noted the way they put the rocks and created a sculptured turn or crescent now faces Diane's property. He noted that when this rain occurred and Diane called him to come look at it, the way the yard was sculptured above her on the east side, it was just a disaster waiting to happen. He noted that it didn't need a huge rainfall for all this water to come down and land in her yard. He noted that Diane has pictures to show the Board what happened. He noted that he had never seen water on the east side of that property, it was high but it literally came down from the Dane's drain. He requested help from the Township in this regard.

Ms. Dugan noted that Mr. Robbins came out to look at the problem and he said that she needed to deal with the two neighbors since they have been irresponsible in diverting the water down onto her property. She noted that it would have been so easy for them to take care of it.

She noted that two weeks ago, when this first occurred, the Dane's didn't do anything, they just watched the water coming into her property. They never checked to see if she was alright. She noted that she is from a tiny town where people reached out to help each other, and that is how she grew up, and no one came to help her except Wayne. Mr. Weidig noted that Diane's pictures show that the actions the neighbor's took as far as re-sculpturing their yard, funneled all the water to the inside of the property. He noted on the Marion View Drive side of the property there is a natural drainage ditch, and the Danes who live on that side used to funnel their water to go into the ditch and Diane's water went into the ditch as well. He noted, by changing the contours of their yard to face more to the west, with Diane's property in the middle, the water flows straight down the mountain and instead of going into the ditch, it flows onto her property.

Ms. Dugan noted that Jeff, her neighbor went to Hornung's on Thursday morning and got bulldozers and help as his property was a mess. He noted that he would have liked him to come to the meeting but he is at his house working like a dog, trying to divert the water from his property. She questioned if that work will create more of an issue and more water for her. She questioned where that water will go and would it come up to her second level this time. She provided the Board members with her pictures.

Mr. Hornung questioned what a neighbor's recourse is when another neighbor causes their runoff to go onto another's property. He noted that there are rules for building and developing lots, but once the lot has been developed, and the builders are gone, and a neighbor decides to redirect the water on to another's property, what is the recourse. Mr. Wolfe suggested that it would be a civil issue. Mr. Stine noted that it depends on the size of the disturbance. He noted that it could be a stormwater ordinance violation depending on the type of works that has been done. He noted that mostly it is a case of one neighbor engaging the other neighbor in a civil action. Mr. Hornung questioned how a person would know if it is an ordinance violation versus a civil suit. Mr. Stine noted that they would have to check with the Township to look at

the stormwater management ordinance. He noted the ordinance that would be in violation would be the stormwater ordinance. Mr. Wolfe noted if it is an ordinance violation, it does not provide for restitution, but the violation would go before a magistrate. Mr. Stine noted that it may possibly provide for the people to make corrections to what they did, but it would not result in compensation for damages to the property; that part would be a civil action. Mr. Weidig noted that the compensation would be future compensation to prevent it from happening again. He noted that the way the neighbor's drains are facing the property now; it would not take a huge rain for it to occur again and again.

Mr. Wolfe noted that Ms. Dugan indicated that Mr. Robbins was at the site and if he had seen a violation he would have taken action. Mr. Stine noted that it would also depend when the work was done. He noted if the work was done before the most recent update to the stormwater management ordinance, then it may not have been a violation at that time it was completed. Mr. Wolfe noted that the Township has had that issue in other locations, noting that the stormwater management regulations have changed twice in the last 18 months. He noted that most earth disturbing activities have occurred prior to the more stringent regulations we have now.

Ms. Dugan noted that Mr. Robbins stated that she would have to look into it since she was not sure where her property line was. Mr. Seeds noted that sometimes the cause can be something as simple as people changing their rain spouting and sending it somewhere else, or paving a parking lot, or adding a garage. Mr. Blain noted that he has never seen runoff coming off a property like before. He noted that it was like a river. Ms. Dugan noted that she is not an engineer but it could have easily been prevented.

Mr. Hornung questioned if there was a problem before this incident. Ms. Dugan answered no. Mr. Weidig noted that the east side of the property never had a problem and the drainage ditch worked fine. Mr. Hawk noted that the Township will look into it.

Manager's Report

Mr. Wolfe noted that the Township had far more than its share of rain in the past few weeks. He noted that Mr. Robbins and other members of the Public Works Department have responded to well over 100 complaints and they have not gotten through the entire list at this time. He noted that there were four road closures during the most recent event last Thursday morning. He noted that a portion of the bridge and guiderail on Goose Valley Road washed out exposing a natural gas line. He noted that portions of Parkway East, Compton Drive and Old Colonial Road were closed for periods of time. He noted that Parkway East is still closed at this time, noting that a wing wall holding down a 48 inch plastic pipe was moved a foot down stream. He noted that the Township lost three 20-foot sections of pipe on State Drive, a combination of three pipes side-by-side that are 62 inches in diameter. He explained that they were washed downstream. He noted that he has never seen stormwater impacts like this in Lower Paxton Township, so concentrated, so fast, causing street flooding, and roads to be closed. He noted that the event last week, with the high ground water table from the previous storms caused significant damage that the Township will be dealing with for weeks to come.

Mr. Wolfe noted that tomorrow is Arbor Day in Lower Paxton Township. He noted that the Board will make the official proclamation later in the meeting. He explained that the Shade Tree Commission, along with students from North Side Elementary School, will be conducting Arbor Day ceremonies at the Friendship Center tomorrow at 12:30 p.m. by planting a tree. He invited the community to attend the event.

Mr. Hawk noted that he was in the City of Harrisburg this past week and many streets were closed for a period of time to include City Island. He noted when you get 9.6 inches of water in that concentrated period of time it is very significant.

OLD BUSINESS

Ordinance 11-05; Amending Ordinance 09-13; providing for the change of purposes for the use of 2009 Series D General Obligation Bonds

Mr. Tom Smida, Bond Attorney for the Authority, from Mette, Evans and Woodside, noted in 2002 the Township and Authority entered into an agreement with the Department of Environmental Protection (DEP) that was labeled a Second Consent Decree (SCD). He noted that the SCD meant that the Township and Authority had to undertake certain work, the most expensive of which is most relevant to this evening was the building of a Beaver Creek Wet Weather Treatment Plant (BCWWTP) and interceptor. He noted in 2002, the Township issued certain debt in the amount of \$42 million to undertake the project. He noted over the course of the decade the money was spent, and in 2009 the series 2002 Bonds were retired by Series C 2009 bonds. He noted at the same time, the economy was in a recession, and there was an opportunity for the Township to take advantage of what was known as the Build American Bonds (BAB). He noted that the Township did so by virtue of Ordinance 2009-13 and issued BABs in the amount of \$42,465,000. He noted that the projects identified with the spending for those bonds were a continuation of the SCD. He noted that the permitting for the BCWWTF did not go as planned and the ensuing litigation resulted in a court decision not to allow the permitting for the plant. He noted that the building of the BCWWTP became a non-viable project. He noted as of the end of April 2011, there was \$38,600,000 in funds attributed to the BABs that remained unexpended.

Mr. Smida noted that the sewer remediation project did not end with the inability to build the BCWWTP and interceptor, and as there is a myriad of other projects that must be addressed and contemplated by virtue of the SCD, especially that which is being referred to as the Revised Beaver Creek Corrective Action Plan, which envisions the replacement of sewer laterals throughout the Beaver Creek Mini-basin, flow meter readings, hydraulic modeling, pumping

facilities, conveying system improvements, and storage facilities. He noted that all these projects are identified in correspondence that he and Mr. Wendle from CET, worked diligently to list in a letter dated March 24th. Mr. Smida noted that there are Beaver Creek mini-basin issues in 6A, 6B, 6C and SC1E. He further explained that the Township was a recipient of PENNVEST funds, and as a result of the ongoing remediation, certain projects that were initially approved by PENNVEST were subsequently not approved by PENNVEST and determined to be ineligible for funding. He noted that those projects need to be accomplished and was envisioned by the SCD of 2002.

Mr. Smida noted that the Authority purchased additional sanitary sewer capacity from the Swatara Treatment Plant in the amount of 200,000 gallons at a cost of \$1,050,000.

Mr. Smida noted that Mr. Wendle recommended that certain Paxton Creek basin projects, the Oakhurst Interceptor and the demolition of the Gale Drive Pumping Station be completed with those funds. He noted, as of the end of April, \$38,600,000 of BAB have yet to be spent. He noted that those funds are now being invested in a non-restricted yield in excess of the yield that the bonds were issued for in 2009. He noted that Mr. Wendle delivered to him a certificate that finds, in his opinion, that it would be reasonable to assume that the project would not take more than three years to construct and he identified that it would be reasonable to conclude that the projects could be substantially concluded by 2014. He noted that has now proven to be impossible.

Mr. Smida noted that he is in the process of negotiating and finalizing an amendment to the SCD that is being addressed with DEP and the court, to confirm that the initial Beaver Creek Correctives Action Plan can no longer be implemented through construction of the BCWWTP and the interceptor. He noted that he is seeking approval and permission which he now believes to have given informally, for the projects that he previously identified.

Mr. Smida noted that the projects identified in 2009 have been thwarted, and the condition exists that the Authority has these unexpected proceeds. He noted that the Township has to take what is a corrective action in the form of an enactment of official declaration of intention of the change of purpose for the bonds. He noted that it is according to the Local Government Enabling Debt Act and Internal Revenue Code. He noted that accordingly, he has advertised this ordinance for this evening's consideration that would amend the purpose of the projects identified in the initial 2009 ordinance to the projects just identified, as set forth in the opinion letter from his firm and the letter from Mr. Wendle. He noted the projects will take decades to conclude, but through no action of the Township or Authority, certain projects been delayed unnecessarily, the Township has been thwarted by virtue of the legal challenges by South Hanover Township to the permitting of the BCWWTP, and now the Authority has a lot of money to spend and it has to be spent quickly.

Mr. Crissman questioned if the action to be taken tonight will provide Mr. Smida the opportunity to present this information for the new consent decree. Mr. Smida noted that they are not hand and glove related but it is more important for the purpose of the Local Governing Debt Act and the IRS Code is to go on the record to direct and correct what the funds are to be spent on. He noted that there was extensive explanation made to the securities market as to what the Authority wants to do, we are now changing the project, not intentionally, and we need to correct that action. Mr. Crissman noted that he understands the reason for doing it, but he wanted to know how this would play into the new consent decree. Mr. Smida noted that it will be of assistance, but the reasoning behind what we have identified as the projects is really a continuation and an acceleration of the projects that were initially contemplated in the 2002 consent decree. He noted that he has moved up the projects and as they have been accelerated, the result is that there are other projects have also been moved up on the list.

Mr. Smida noted that in light of the fact that the Authority has run into this unforeseen circumstance in the expenditure of the funds, he has drafted this as broadly as he possibly can to prevent from having to do it again, and also to bring within the scope building the BCWWTF.

Mr. Seeds questioned if this would cover most of the phases within Beaver Creek as far as replacement. Mr. Smida answered yes. He noted that there is a timeline in a series of projects that have been identified that were thwarted at one juncture, therefore, the Authority is accelerating and pushing the other projects forward. Mr. Seeds noted that the money will be used up by the projects that have been identified. Mr. Smida answered yes. He noted that the projects that were identified are in excess of \$44 million.

Mr. Crissman made a motion to approve Ordinance 2011-05, amending Ordinance 2009-13, providing for the change of purpose for the use of the 2009 Series D General Obligation Bonds as explained by Bond Counsel Tom Smida. 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.

NEW BUSINESS

Proclamation 11-01; Declaration of Arbor Day

Mr. Hawk noted Wednesday, May 4th has been designated Arbor Day in the Township.

Mr. Hawk proceeded to read the Proclamation declaring Wednesday, May 4, 2011, as Arbor Day in Lower Paxton Township. He noted that the local celebration will occur on the same date at the Friendship Center starting at 12:30 p.m.

Mr. Crissman made a motion to adopt Proclamation 11-01; designating May 4, 2011, Arbor Day in Lower Paxton Township. Mr. Blain seconded the motion, and a unanimous vote followed.

Resolution 11-07; Approving the destruction of specific records

Mr. Wolfe noted that staff has prepared a list of records that are ready to be destroyed in accordance with Township policy. He noted that prior to doing this the Board must provide permission by way of a resolution. He noted that the resolution includes an appendix that lists each of the records to be destroyed.

Mr. Crissman made a motion to approve Resolution 11-07, approving the destruction of specific records as noted in Appendix A. Mr. Blain seconded the motion. Mr. Hawk called for a voice vote, and a unanimous voted followed.

Final subdivision plan for Autumn Oaks, Phase I, Revised Silver Maple Drive

Mr. Wolfe noted that this plan has been reviewed in workshop session by the Board members. He noted that The McNaughton Company proposes to reduce the number of homes that are planned to be constructed on Silver Maple Drive from 23 townhouses to 12 single-family units. He noted all other terms and conditions of the plan are proposed to remain in effect. He noted that the subdivision is zoned Residential Cluster for Phase I, and it is serviced by public sewer and public water.

Mr. Wolfe noted that the Planning Commission reviewed the proposed revision to Phase I, and recommended approval at its April 13, 2011 meeting. He noted that staff listed the previous conditions under which the Board has approved this plan to include the waivers, site specific conditions, and the general conditions, and staff comments that were applicable at the time the overall plan was approval.

Mr. Joel McNaughton, The McNaughton Company, noted that he was accompanied by Tim Mellott, Mellott Engineering, Site Engineer for the plan. He noted that he has nothing further to add unless the Board had more questions. He noted that he would like to report that the Autumn Oaks development has been a huge success and he wants to thank the Board, Planning

Commission, Township staff and the consultants. He noted that much time was spent on the plan, and he believes that it is a community that the Board, developer, and the Township as a whole, can be proud of. He noted that the grand opening will be held on Saturday, May 21, 2011 from 12 noon to 5 p.m., and invited the Board and viewing audience to attend.

Mr. Seeds questioned if Patton Road was damaged with the recent storms, noting that a new pipe and new road direction will be constructed as part of the plan. Mr. McNaughton noted that it will occur as part of Phase 3.

Mr. Crissman questioned, since the subdivision plan was previously approved, what he is approving tonight. Mr. Wolfe answered that the Board will be approving the amendment which reduces the number of lots from the previously approved 23 units to the 12 that are listed on Silver Maple Drive, with all other terms and conditions of the original subdivision to remain in full force and effect.

Mr. Crissman made a motion to reduce the number of units on Silver Maple Drive from 23 townhomes to 12 single-family units with all the previous terms and conditions remaining as previously approved. 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. Mr Hawk called for a voice vote, and a unanimous vote followed.

Announcement

Mr. Hawk announced that the next Board of Supervisors televised meeting will be Monday, May 16, 2011 to accommodate Election Day which falls the next day. He noted that Arbor Day is tomorrow and Sunday is Mother's Day.

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 9:12 p.m.

Respectfully submitted,

Maureen Heberle
Recording Secretary

Approved by,

Gary A. Crissman
Township Secretary