

LOWER PAXTON TOWNSHIP
BOARD OF SUPERVISORS

Minutes of Board Meeting held August 20, 2013

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, David B. Blain, and Gary A. Crissman.

Also in attendance were George Wolfe, Township Manager; Steve Stine, Township Solicitor; Mark DiSanto, Triple Crown Corporation; Ron Lucas, Stevens and Lee; Brett Mashchak, Longhorn Steak House; Eric Epstein, Watson Fisher and Ted Robertson, SWAN.

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 from the July 9, 2013 workshop meeting. Mr. Blain seconded the motion, and a unanimous vote followed.

Public Comment

No public comments were provided.

Chairman and Board Member's Comments

No comments were provided.

Manager's Report

Mr. Wolfe noted that the annual maintenance shutdown for the Friendship Center will occur Sunday, August 25th through September 1, 2013 for overall maintenance and repairs.

Mr. Wolfe noted that the Linglestown Fire Company will have a basket bingo on September 15. He noted that the doors open at 11 a.m. with bingo starting at 1 p.m. He explained that the cost per seat is \$25 in advance or \$30 at the door.

Mr. Wolfe noted that the Linglestown Fire Company Ladies Auxiliary will sponsor a chicken barbeque on September 7, 2013, starting at 10 a.m. until the food is sold out. He noted the price for a meal is \$8, which includes half a chicken, baked potato, roll and applesauce.

Mr. Wolfe noted that Trick or Treat will be observed on Thursday, October 31, 2013 from 6 p.m. to 8 p.m.

OLD BUSINESS

Resolution 13-12; amending the Comprehensive Plan, Future Land Use and Transportation Map, to change the land use designation of a 44-acre parcel of land on the north side of Union Deposit Road, west of Page Road extended, from Institutional Campus to Low/Medium Density Residential

Mr. Wolfe noted that prior to the creation of the Comprehensive Plan in 2003, this parcel of land which is now the site of an approved development plan for the Montrail subdivision was zoned as institutional because at the time of the preparation of the Comprehensive Plan, the land was owned by the Central Dauphin School District.

Mr. Wolfe noted that the tract of land has been in private ownership for over ten years and the use was approved by the Board as residential in nature. He noted that the Comprehensive Plan amendment changed the designation of the tract from Institutional to Low/Medium Density Residential which complies with the current Township zoning ordinance. He noted that staff recommends that the Board act in favor of this resolution at this time.

Mr. Terrance James, 5520 Union Deposit Road explained that he has been a resident of the Township since July 1969. He noted in May of 2005 this item was brought before the Board and he questioned if the change was taken care of at that time. Mr. Wolfe answered that it was not, noting that it is not a zoning amendment. He explained that it is changing the

Comprehensive Plan. He noted that the zoning amendment that Mr. James was referring to from May of 2005 is related to the next item on the agenda. He noted that that item, Ordinance 13-02 will be continued to another meeting. He explained that the designation of the parcel was not changed in the Comprehensive Plan back in May of 2005 when the parcel was rezoned.

Mr. Eric Epstein explained that he was speaking on behalf of SWAN. He noted that he circulated SWAN's comments to the Board members earlier. He explained that he was under the impression that both the resolution and ordinance were linked as they were in the Planning Commission process and that no action would be taken until the September 3rd business meeting. He stated that he wanted clarification as he met with Mr. Ron Lucas and it was agreed that he would meet with SWAN next week to reconcile the differences. He noted that these items have been bundled consistently throughout the Planning Commission process and he was under the impression that both items would not be acted upon until September 3rd. He stated that he was at a loss.

Mr. Wolfe noted that he is not speaking for the Board as to why or why not they desire to act, but whether or not the Board would act on the proposed ordinance to change the zoning designation of the parcel, this resolution is not tied to it. He noted that the land is approved for residential development by an existing subdivision plan, the land is zoned residential R-1 at this time; however, the comprehensive plan currently designates the land as institutional. He explained that the Board is discussing the redesignating of the land use map in the Comprehensive Plan to designate this land residential to comply with the 2006 Zoning Ordinance and the existing plan. He noted whether or not the Board acts to approve any other rezoning are not tied any further than the fact that the land would be designated residential.

Mr. Epstein noted if you track the process it has always been bundled and now it is being separated which is confusing to him. He noted that he was under the impression that both items

would be delayed. He noted that he did not know if there is a harm to postpone this and handle both at the same time on September 3rd to have a better understanding of what is happening. He noted if Mr. Lucas or the Township does not want to do that then it is okay, but he was under the impression that both issues would be postponed. He noted that the hearing was postponed and he was a bit confused.

Mr. Hawk noted that this action would not impact the conversations with SWAN and Mr. Lucas based on what Mr. Wolfe just explained. He noted that it is another issue. Mr. Epstein questioned why they had been bundled throughout the process, and why are we now dealing with them separating. He noted if you look at the minutes from the meeting for the Planning Commission, when they were proposed to move forward, they always came one after the other. He noted that they were never addressed separately and he was trying to understand why it is different from all other nights.

Mr. Seeds noted that this action should have been taken when the land was sold and rezoned. He noted that the Township is not in compliance with its Comprehensive Plan and in violation of it according to the Municipal Planning Code. He noted that it brings the Township into conformance to where it should be regardless with what happens with Ordinance 13-02 on September 3rd. He noted that it should have been done in the past. He noted that it makes no difference if we do it tonight or wait until September 3rd. He noted that it is a housekeeping item.

Mr. Epstein questioned how this could be out of compliance for ten years and no one acted upon it. He noted that is troubling to him if a portion of the Comprehensive Plan has been out of whack for ten years, why wasn't it corrected earlier. He questioned what else is out of whack. Mr. Seeds noted that somehow it was not caught. Mr. Seeds suggested that there may be other tracts that have been changed and have not been brought up to date. Mr. Epstein noted that

is not reassuring, but he does not know what was caught and Mr. Lucas must have caught it or the developer caught it or otherwise it would still be out of compliance. Mr. Crissman noted that it was an issue that was raised that needed to be reviewed. He noted that there may be other properties with the same issue. He noted that he does not know if that is true, but it makes no difference to him if we pass this tonight, it has to be done. Mr. Epstein noted that he understands what Mr. Crissman is saying but he is still befuddled how we can have properties out of whack for ten years.

Mr. Seeds questioned if we want this to go another couple of weeks; he stated he did not know. Mr. Epstein noted if you are tracking the process, they were bundled. He noted that he is getting that at some point this will be handled and it doesn't matter if it is tonight or two weeks from now. He noted that it has been presented as a bundle packet over the last year. Mr. Crissman noted that it has to be addressed and action has to be taken. Mr. Epstein noted that it is not reassuring to know that there may be other properties that we have not identified. Mr. Crissman noted that it only proves one thing, we are human. Mr. Epstein noted that he gets we are all human, but we also put a lot of time in the Comprehensive Plan. Mr. Crissman noted that he prides what the Township does.

Mr. Ron Lucas, attorney with Stevens and Lee, and representing the applicant for the land to be rezoned stated that he wanted to be clear on behalf of the developer that he requested that the hearing be opened, and continued to a later date and time. He explained that he did not request the resolution for the Comprehensive Plan be acted on this evening. He noted that it was a surprise to him as well so it is clear to Mr. Epstein that he did not know this resolution would be acted upon this evening as he thought it would also be tabled until September 3rd. He noted as far as his client is concerned, the resolution could be tabled until the September 3rd meeting as he did not request that action be taken on this tonight. He requested the continuance on the hearing

for the rezoning and he thought that the Township would wait on the resolution as well. He noted that it was a surprise to him as well. He noted that it does not matter to him but for the record, he did not request that action be taken on the resolution tonight.

Mr. Seeds questioned if Mr. Lucas is asking that the Board not take action this evening. Mr. Hawk noted that Mr. Lucas is saying that he did not ask that this be adopted tonight. Mr. Lucas noted that he indicated to Mr. Wolfe and Mr. Stine that the hearing be open and continued to September 3rd at the regular meeting held at 7:30 p.m. He explained did not request the Board to take action on the resolution. He noted that it was a surprise to him and he is fine if the resolution is tabled until September 3rd.

Mr. Seeds questioned Mr. Lucas if he would prefer that the Board do that. Mr. Lucas answered that it may be better so there is no misunderstanding of his client's intent. Mr. Seeds noted that it does not make a difference as it has to be done. Mr. Lucas noted that he agreed with Mr. Seeds as it needs to be adopted regardless of the rezoning request. He noted that the Board rezoned the land to residential and approved a subdivision plan for it in 2006. He noted that it should have been done but he doesn't want any confusion to cloud the issue for the ordinance.

Mr. Hawk noted that the resolution needs to be done, but there are not objections to postponing action until September 3rd. Mr. Blain noted that we should postpone action on the resolution to the next meeting.

Mr. Crissman made a motion that Resolution 13-32 be removed from the agenda. Mr. Blain seconded the motion. Mr. Lucas requested that this be put on the agenda for the next meeting. Mr. Crissman answered yes that it would be.

Mr. Terrance James explained that it was caught at the March Dauphin County Planning Commission meeting, and they found that the Comprehensive Plan needed to be amended to reflect the change.

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

Ordinance 13-02; amending the Zoning Ordinance designation of a 44-acre parcel of land on the north side of Union Deposit Road, west of Page Road extended, from R-1 to R-2, and also amending the zoning district requirements

Mr. Stine noted that this is the time and date set for the public hearing for Ordinance 13-02; amending the amending the Zoning Ordinance designation of a 44-acre parcel of land on the north side of Union Deposit Road, west of Page Road extended, from R-1 to R-2, and also amending the zoning district requirements. He noted that the applicant has requested that this hearing be continued until September 3, 2013, at 7:30 p.m.

Mr. Ron Lucas questioned if this is considered to be the opening of the hearing. Mr. Stine answered yes. Mr. Lucas noted that it will be continued so it will not have to be advertised again. Mr. Stine answered that is correct.

Mr. Crissman questioned Mr. Lucas if it is his request to continue the public hearing. Mr. Lucas answered yes. He noted that it was his request to open the hearing and to continue it until September 3, 2013 at 7:30 p.m.

Mr. Crissman made a motion to continue the hearing on Ordinance 13-02 until September 3, 2013 at 7:30 p.m. 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.

Presentation of the 2nd Quarter 2013 Key Indicator Report

Mr. Wolfe noted that his visual ad for the presentation does not seem to be working this evening. He noted that he would briefly summarize for the Board where we are in Lower Paxton Township at this point financially. He noted that the Key Indicator Report is provided quarterly to the Board of Supervisors, noting that the midyear report is very important in that it shows how the Township will end up the fiscal year, and so far, the year is looking pretty good.

Mr. Wolfe noted that the Township started the year in 2013 with a General Fund (GF) budget of \$18,340,073, in addition to State Aid revenues of \$1,014,787 against \$1,453,955 of expenditures with the remainder being made up from the fund balance.

Mr. Wolfe noted that the GF balance at the beginning of 2013 was \$5,998,255 and is used by the Board to fund long-term capital projects, and to serve as a rainy day fund which was used significantly over the past five years in the severe economic conditions.

Mr. Wolfe noted that there is a Fire Equipment Capital Fund which began the year with a fund balance of \$787,298 and a Length of Service Awards Program (LOSAP) with a beginning balance of \$295,874.

Mr. Wolfe noted that the Friendship Center (FC) budget was balanced at \$2,128,023 and the Lower Paxton Township Authority possessed a budget with revenues of \$13,324,262 against expenditures of \$11,064,544, and capital expenditures for the year budgeted at \$13,023,300. He noted at the beginning of the year, the Authority had funds on account of \$35,742,061. He noted that the Township manages two employee pension funds, noting that the Police Pension Fund had a beginning balance of \$16,615,194 and the Non-Uniformed Employee Pension began the year with a balance of \$10,665,651.

Mr. Wolfe noted that the historical trends for the last five years have not been good to the Township, our community or our national economy. He noted that the Township has worked hard to survive and in 2008 until 2012, the GF expenditures decrease almost 1% per year He noted that revenues in that time period averaged an increase of 1.95%. He noted that the Board and staff worked to address the financial conditions due to severe recessionary trends by reducing the overall scope of the municipal operations everywhere possible. He noted that the Board is aware of the laundry list of activities that have been accomplished over the last five years to right-size the operations based upon the revenues that were received.

Mr. Wolfe explained that he started to see a turnaround in economic trends last year, noting that the 2012 year ended with a surplus of 7% in regards to revenues over expenditures. He noted that was the first surplus experienced in several years. He noted that the Board has a policy that it will maintain 25% of annual expenditures on account in its General Improvement Fund (GIF) and at the beginning of this year the GF Balance finally increased above the 25% figure for the first time since the recession and the current fund balance in January was \$5,998,255, about \$1.5 million above the Board's 25% minimum threshold.

Mr. Wolfe noted for the General Fund midyear, the Township has revenues of \$9,766,049 against expenditures of \$7,935,546, producing a fund balance for the year of \$1,830,503. He noted that 93% of the revenues from real estate taxes have been received to date. He noted that it typically comes in from March until June. He explained that the Township survives on fund balance for the first three months and then becomes cash flush to make it through the rest of the year from the real estate tax receipts that were received in the second quarter of the year.

Mr. Wolfe noted that for the most part, the large revenue items are at the halfway mark for the fiscal year. He noted that overall the GF revenues are 5% higher in the second quarter of 2013 as compared to 2012 even though the Earned Income Tax (EIT) receipts are slightly lower than they were this time last year. He noted that EIT is the single largest source of revenue in the Township, accounting for nearly one third of all receipts.

Mr. Wolfe noted for expenditures, there are no significant items to report as most departmental expenditures are at 50% below budget. He noted that the trend for the overall year as compared to last year is only 1% higher in the second quarter as compared to 2012. He noted if expenditures are 1% higher and revenues are 7% higher and 2012 was not a bad year, we are doing better this year.

Mr. Wolfe noted at this point in time the GF balance at midyear is \$7,828,758.

Mr. Wolfe noted that the Liquid Fuels State Aid Fund for roadway maintenance in conjunction with the GF started the year with a surplus of \$220,898 with revenues from the State allocation of \$1,045,934 spending only \$450,464 to date. He noted that this fund is typically zeroed out by the end of the year.

Mr. Wolfe noted that the Fire Equipment Capital Fund at the beginning of the year was \$787,298 with revenues deposited from the GF in the amount of \$200,000 providing a fund balance of \$987,580. He noted since the inception of this fund in 1996, the BOS has bought nearly \$4 million worth of fire fighting apparatus for its volunteer fire companies during three phases of the plan. He noted that the fire companies are working on Phase 4 with pricing coming in on new fire equipment to be presented to the Board in the near future.

Mr. Wolfe noted that the Township has a Length Of Service Awards Program (LOSAP) for volunteer firefighters and fire police officers. He noted that it provides for a stipend to be paid to any firefighter who has provided 25 years of service to one of the fire companies and has reached the age of 65. He explained that this year was the first year that payments were provided to qualified volunteers and expenditures from the fund to date have been \$15,660. He noted that the fund balance for this program in the beginning of the year was \$295,874 with a contribution from of the Township of \$76,198 providing a fund balance of \$356,412.

Mr. Wolfe noted that the General Improvement Fund for capital projects had a beginning balance of \$1,144,195 spending \$219,498 leaving a balance of \$956,634. He noted that the primary expenditures in this fund are construction related and a significant draw down will occur in the third quarter of the year.

Mr. Wolfe noted that the FC had a balance budget of a little over \$2 million at midyear with revenues being \$1,032,317 and expenditures of \$1,027,400. He noted that the fund is in the

black at \$4,917, noting that the capital fund and operating fund have a balance of \$104,122 and \$85,389.

Mr. Wolfe noted that the Lower Paxton Township Authority operates the sanitary sewer system and undertake sewer related projects. He noted that the revenues to date are \$6,642,789 with expenditures of \$4,747,626, and for capital expenditures the amount is \$3,643,261. He noted that the Board is aware that five projects are ongoing in the Township and the five projects under bid total \$18 million over a two year period of time.

Mr. Wolfe noted that both pension funds have year to date earnings on an annualized basis between 10% and 11%.

Mr. Blain questioned when the Board started doing the Key Indicator Report, ten years ago. Mr. Wolfe suggested that it could be longer. Mr. Blain noted that it provides information to the Board in a summarized manner quarterly to be able to make the right decisions.

Action on a proposal from HRG, Inc. for engineering services
for earth moving and the placement of fill at the Wolfersberger Tract

Mr. Steve Fleming, Township Engineer from HRG, Inc., noted that the fill issue was discussed in detail during last week's workshop session when he presented a proposal to prepare a Erosion and Sedimentation permit for the Wolfersberger Tract which the Township recently purchased with plans to construct a park in the future at that location.

Mr. Fleming noted that the purpose of the proposal is to acquire the permits so the Township can take advantage of construction projects which are ongoing in the Township for the Sewer Authority and Public Works Department that are anticipated for the next 15 years. He noted that the plan would be to generate a rough grading plan for the fill provided by those projects thereby lowering the future construction costs for the park project. He noted that it is hoped to lower the current construction costs for the ongoing projects.

Mr. Hornung questioned if this is the price only to set up the operation but does not include funds to monitor the fill. Mr. Fleming answered that it is for the monitoring of the Best Management Practices that he proposes. He noted that there are ongoing permit requirements as part of the NPDES permit. Mr. Hornung questioned if monitoring would be outside this price. Mr. Fleming answered yes. He noted that this proposal would take the Township up to the point where it could open the site for construction.

Mr. Hornung noted that the fee is listed as time and materials but there is no clause for a “not to exceed” amount. He noted that he is confused as to what the amount is, and if it is time and materials or it is not. Mr. Fleming answered that it is his anticipated level of effort based on other projects of similar size and scale. He noted if it is less involved then it might be less, unless there is an unforeseen part of the project then the cost could increase. He noted that he would always come back to the Township to discuss that before he moved ahead to seek permission. Mr. Hornung noted if something was not perceived Mr. Fleming would come back with a request for that amount. Mr. Fleming answered that he was comfortable making the proposal for time and materials with a “not to exceed” amount of \$43,900. Mr. Hornung noted that he was surprised that the “not to exceed” language was missing from the proposal. He questioned if the proposal could be amended to add that language. Mr. Fleming answered yes.

Mr. Hornung made a motion to approve the proposal from HRG, Inc. for engineering services for earth moving and the placement of fill at the Wolfersberger Tract in the amount of \$43,900. Mr. Crissman noted that the “not to exceed” language should be included. Mr. Hornung added that language to his proposal. Mr. Blain seconded the motion.

Mr. Seeds noted that the proposal mentions the customary reimbursable expenses are estimated to be 5% to 10% of the fee. He questioned if that should have been included in the motion. Mr. Hornung noted that he did not agree as he made a motion to approve all of it but if

you want me to amend the motion he could amend it to include the customary reimbursable expenses that are estimated to be between 5% and 10% of the fee. Mr. Seeds noted if Mr. Fleming is comfortable with the “not to exceed” \$43,900, he is fine with that. Mr. Fleming noted that the proposal for the “not to exceed” amount would be for the scope of services but reimbursable expenses that he would incur would be an additional amount. Mr. Hornung amended his motion to include the customary reimbursable expenses that are estimated to be between 5% and 10%. Mr. Crissman moved to second the amendment to the motion. Mr. Hawk called for a vote for the amendment to the motion; a unanimous vote followed.

Mr. Hawk called for a vote on the motion and a unanimous vote followed.

NEW BUSINESS

Action on bids for replacement of the roof on the Municipal Center

Mr. Hawk noted that this item will be removed from tonight’s agenda.

Resolution 13-32; authorizing the submission of a Dauphin County Local Share Grant application in support of the Heroes Grove Amphitheater project

Mr. Hawk noted that the Heroes Grove Committee wants to apply for a Dauphin County Local Share grant application for an amphitheater to be built in the proposed Heroes Grove Park.

Mr. Wolfe explained that the Heroes Grove Organization is asking for a grant of \$230,000 from Dauphin County from the Local Share Program which is supported by gaming funds. He noted that the Board must authorize the submission of the grant.

Mr. Blain made a motion to authorize Resolution 2013-32, for the submission of a grant application to the Dauphin County Local Share Grant program in the amount of \$230,000 in support of the Heroes Grove Amphitheater project. Mr. Crissman seconded the motion. Mr. Hawk called for a voice vote and a unanimous vote followed.

Resolution 13-34; supporting a Pennsylvania Redevelopment Assistance Grant to Bishop McDevitt High School for the Spring Creek Road Project

Mr. Wolfe noted that the Board had approved a similar resolution in the past for Bishop McDevitt High School to the Pennsylvania Redevelopment Assistance Grant Program. He noted for private entities to receive funding in PA, in accordance with the program, the municipality in which they reside must also act as a conduit. He noted that the Board has done this in the past and it is being asked to do it again.

Mr. Crissman made a motion to approve Resolution 13-34; supporting a Pennsylvania Redevelopment Assistance Grant to Bishop McDevitt High School for the Spring Creek Road Project. Mr. Blain seconded the motion. Mr. Hawk called for a voice vote and a unanimous vote followed.

Amendment of the phasing plan and schedule as part of the Preliminary subdivision plan for Stray Winds Farm

Mr. Wolfe noted that the Board reviewed the request for a rephrasing plan at its recent workshop session, noting that the purpose of this phasing plan is to amend the preliminary plan construction schedule. He noted that the approved subdivision plan for Stray Winds Farm (SWF) and its current zoning designation for density do not comply based upon ongoing litigation. He noted as a result the developer desires to set aside the units that would be effected by any adverse court proceedings in a final phase. He noted that the developer understands that he may not be able to build that phase should he not prevail in the density issue through the court proceedings.

Mr. Wolfe noted that other than the change of the phasing schedule there are no other changes to the preliminary plan as approved or the final approved subdivision plan for Phase 1 for this development. He noted that the phasing plan is before the Board and it is staff's recommendation that the Board act favorably to approve it.

Ms. Helen Gemmill explained that she is present representing Andrew Snyder 3975 Paxton Church Road, June Ulsh, 4203 McIntosh Road, and James Blatt, 1605 Woodcrest Road. She noted, on behalf of her clients, she objects to this request and approval. She noted that it makes no sense to amend a phasing plan on a preliminary subdivision plan that is no longer valid because the courts have ruled that the variances that it was based upon are no longer valid. She noted that the Board is allowing an amendment to an invalid plan and it does not make any sense. She noted even, if it was a valid plan, although she had not been provided a copy of what they are doing, there was no actual phase that you could cut off that would eliminate the 75 units where they were over the density limitations. She noted to consider this, what they are doing is really a new plan submission. She noted that it is appropriate with a new plan submission to go back and redo the plan and follow the process, and in order to do that, they would have to go to the planning agencies that are appropriate to review the plan, see what ordinances now apply to the plan, now that we are six or seven years later and what changes have been made to the ordinances. She suggested that it would be appropriate to look at those as well.

Ms. Gemmill questioned if the financial security for phase one of the plan had been taken aside as TCC was allowed to remove the financial security as part of an agreement that stated that TCC could not come in again for any more approvals with respect to this plan until the financial security was reinstated. She stated that she was not aware that it had been reinstated and if it has been, she has no reason to object on that basis, but if it has not been, according to the reported agreement that you have with TCC, they should not be asking for any approval whatsoever for this project. She noted, at a minimum, the financial security would have to be reinstated. She objected to the approval that was indicated for this evening.

Mr. Mark DiSanto, TCC explained to Ms. Gemmill that the preliminary plan has not been adjudicated invalid. He noted that litigation is still pending and staff recommended revising

the phase of the plan that clearly allows him to meet the requirements of the ordinance. He noted that Ms. Gemmill is inaccurate on the financial security as he was permitted in that agreement to bring the financial security back to proceed with Phase 1. He noted that Mr. Wolfe has stated that staff has reviewed and recommended this and he would request that the Board act favorably on this action this evening.

Mr. Seeds questioned if Mr. DiSanto prevailed in court would he build the proposed Phase 9. Mr. DiSanto answered that Phase 9 would be the very last phase of the plan and if the courts finally adjudicates that he cannot have the additional 75 units, that phase would have to be modified.

Mr. Seeds noted if Mr. DiSanto does prevail would it bring back into the picture the improvements for Colonial and McIntosh Roads. Mr. DiSanto answered yes. Mr. Seeds noted that it would legitimize the Zoning Hearing Boards actions. Mr. DiSanto answered yes.

Mr. Hawk noted, as of now, McIntosh and Crums Mill Roads improvements are still part of the plan. Mr. DiSanto answered yes to include the other over-vertical on Crums Mill Road.

Mr. Seeds questioned Mr. Stine what his thoughts were about Ms. Gemmill's comments. Mr. Stine answered that he does not agree with it. Mr. Seeds questioned Mr. Stine if the Board could take action on this item. Mr. Stine answered yes.

Mr. Hornung noted that Phase 9 would have changes and he questioned what type of housing Mr. DiSanto would be putting in. Mr. DiSanto answered, if the variance is adjudicated and the final form if found not to be valid, then he would reduce it by the 75 units and probably end up with more single family lots.

Ms. Gemmill questioned where Phase 9 is located on the plan. She noted that she printed the recorded subdivision land development plan for Phase 1 today, looking at the phasing schedules of one through eight. She questioned where it was on her plan. Mr. DiSanto showed it

on the plan. Ms. Gimmel noted, if she understood it correctly, it would designate a new area as Phase 9 that is different from the recorded plan.

Mr. Eric Epstein distributed the data transfer between SWAN and TCC for the questions that SWAN had and the responses provided by TCC. He noted that SWAN strongly supports the plan as it is the best of both worlds. He noted that there is a limit to the number of units and he is getting all the other assets that SWAN negotiated. He noted that TCC will be fixing Crums Mill Road and McIntosh Roads which has been a hazardous intersection forever and was not created by the developers. He noted that TCC is fixing two over-verticals on Crums Mill Road, and the developer has proposed to increase the buffers, all in excess of what they were mandated to be. He noted that it is a plan that was reconfigured with SWAN's input so that everyone who was contiguous to the development would get buffers. He noted that there are a number of components in the plan that were negotiated that will continue to be available including the park and walkway to get people off of McIntosh Road when they walk. He noted, when you look at the plan in its total, assuming that the variance is not granted, it is a win-win situation for most of the community because TCC will build to the density yield yet get additional assets that were presumed to be conditioned on a variance. He noted that the only thing being taken out is the McIntosh and Colonial Roads improvements. He noted that the developer did not create that hardship either. He noted that he is not an attorney and not sure where things stand but the plan as SWAN negotiated is substantially in place with 75 less units. He noted for the people who live around there, except for the three residents, it is a very attractive plan.

Mr. Hawk noted that the Board received SWAN's comments earlier. Mr. Epstein noted that it was TCC's response to SWAN's concerns.

Mr. Crissman noted that believing that the Board has a valid plan he made a motion to approve the amendment of the phasing plan and schedule as part of the Preliminary subdivision

plan for Stray Winds Farm, 2006-42. 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 land development plan for Longhorn Steakhouse

Mr. Wolfe noted that the Township received a plan for the development of a new Longhorn Steakhouse Restaurant. The restaurant will be located in the Sears parking lot at the Colonial Park Mall between the Mountz Jewelry Store and the Sears Tire Center on the west side of the driveway entrance to Sears. He noted that the property is zoned CG, Commercial General, consists of 12.459 acres and is served by public sewer and public water. He noted that the plan proposes a 6,275 square foot restaurant on a leased area of 0.3470 acre, and a reduction of 4,683 square feet in impervious coverage is shown on the plan. He noted that the plan also proposes a sidewalk and street trees along the new development frontage as well as interior landscaping, and is located north of U.S. Route 22 just east of Colonial Road.

Mr. Wolfe noted that this plan was reviewed at the June 5, 2013 Planning Commission meeting when it recommended approval of the plan and waiver request for preliminary plan submission. He noted that the Planning Commission further recommended that the applicant address the landscaped islands of waiver #2 within the entrance access way and address HRG's comment #19.

Mr. Wolfe noted that there are two waivers: Waiver of the requirement to provide a preliminary plan which staff supports and a waiver of the requirement to provide landscaping within all landscaped islands throughout the 12.4597 acre site. He noted that staff does not support this waiver. He explained that this will be discussed in greater detail with the representative from Longhorn Steakhouse. He noted that there is one site specific condition,

eight general conditions and two staff comments. He noted that Brett Mashchak is present to represent the plan.

Mr. Brett Mashchak explained that he has gone back to Glimcher and Mountz Jewelers to discuss the driveway issues and both have expressed their great pleasure in having Longhorn Steakhouse come to this location, but they both articulated that they don't want to the driveway entrances closed that are currently there. He noted that they have sent letters to Mr. Wolfe expressing this opinion.

Mr. Mashchak explained that the drive entrance that enters into the Mountz Jewelers projects further out into Route 22 due to the fact that the one lane leading up to the first driveway is a bus lane; therefore people driving into the mall would be more inclined to lean into the bus lane to access the entrance driveway. He noted to access the Mountz driveway, the vehicle must stay in the driving lane.

Mr. Mashchak noted that he would like to improve the areas around the proposed building and the leasable areas with landscaping but not improve the entrance drive to Sears.

Mr. Crissman noted that the Board received two letters, one from Mountz and one from Glimcher who owns the majority of land at the mall, both opposing any driveway changes. He noted that he would prefer not to take action on this because what he would recommend as was done so many times before to ask Mr. Mashchak to sit down with both agencies to work out the differences before he would have to vote. He noted that he is only one Board member but he would like to have the best for the community and the three of you need to be good neighbors. He stated that he would prefer not to start out in a negative approach in solving this issue.

Mr. Mashchak explained that he has discussed the driveway issues with both parties and looked at alternatives with them but that is their stance and it is also Longhorn's stance as well.

He noted that he needs to have action on this plan tonight, negative or positive, to move forward with this development.

Mr. Crissman explained that both letters helped him to understand the issue, the last paragraph for both letters states that Mountz and Glimcher are very supportive of the project and urge a continue effort in it, and that is why he would like to have the discussion continued. He noted he would prefer if the two representatives could meet with Mr. Mashchak and staff to bring it to closure in a positive manner for all three people. He suggested that the answer is no to his request as Mr. Mashchak wants the decision tonight regardless of the comments made by the two groups. He noted that Mountz is one single entity, but the entire mall owners are raising the issue as well. He noted that he has an issue with the comment raised by the Township Engineer as he is always supportive of our professional staff as that is the Board pays them for their expertise.

Mr. Hawk noted that he tried both exits and entrances and he did not have any problems getting in or out of either driveway. He noted to make a change would require moving curbing, adding blacktop, and moving a light standard and telephone pole. He questioned Mr. Wolfe if they could close off one entrance. Mr. Wolfe noted from a creative standpoint, they could do a lot there, but they have to be willing to do it. Mr. Crissman noted that is what he was hoping for.

Mr. Seeds questioned if Mountz leases the building from Glimcher. Mr. Wolfe suggested that is not correct as it is a free standing parcel. Mr. Blain stated that Mountz bought the building from the Fire Company. Mr. Seeds noted that he gets from the letter that Glimcher owns the land or building that Mountz is located on. Mr. Crissman noted that he read the letter to say that Mountz owns the property adjacent to the Sears property. Mr. Mashchak noted that Mountz stated on his letter that a change would reduce the value of his property. Mr. Blain noted that Mountz bought the property from the Colonial Park Fire Company.

Mr. Hawk noted that Mountz is unwilling to modify their driveway. Mr. Mashchak explained that their fear is that the parcel is their only legal access to the public right of way, therefore, they are hesitant to lose that driveway for fear of losing value for the property in the event they would chose to sell it in the future.

Mr. Seeds noted that Glimcher stated that they are not willing to close either of these access drives. He noted that it indicates to him that they own both. Mr. Mashchak suggested that Glimcher might have some say to put leverage on Mountz for the fact that Glimcher owns all the land around the Mountz store.

Mr. Crissman questioned Mr. Mashchak if he would be willing to give it one more shot. Mr. Mashchak questioned what would the Board want to see as neither one will allow closures of the driveways. He noted that driving the area and looking at it as an engineer, he does not feel that there will be any issues with the traffic flow. He noted, in his discussions, PennDOT did not have any issues either. He noted, in his opinion as an engineer, noting that it goes against the opinion of the Township's engineer who is following the Township's ordinances, Darden is doing a great deal of improvements for this development.

Mr. Crissman noted when he asked Mr. Mashchak if he could give it one more shot, he questioned if he would sit down with Mr. Fleming and if both of you could talk with the other two parties involved. Mr. Mashchak stated that he could do that. He questioned when the next meeting is. Mr. Crissman noted that he would like everyone to work together to come up with a product that is satisfactory to everyone and in every negotiations not everyone will be totally happy. Mr. Mashchak noted that the only hard part about this is that it is a leased parcel and there are certain economical stances that Darden takes. He noted if he would have to redo the drive, it would change the entire economical outlook of the parcel; however, he is sure that he would still look for a site in Lower Paxton Township but he does not think this site would survive. Mr.

Crissman stated that he would appreciate Mr. Mashchak's willingness to take one more shot.

Mr. Hornung noted that he does not see any motivation on the part of the land owners to try to accommodate the project, noting it would be more of a disadvantage, so at this point he is not sure what would motivate Longhorn Steakhouse to try to incentivize the mall or Mountz to comply. He questioned if the Board is asking for something that is possible. Mr. Crissman noted that is the purpose of sitting down one more time.

Mr. Hawk noted if Mr. Mashchak gives it one more shot and the answer is the same, then what do you do. Mr. Hornung noted that is what is going to happen. Mr. Crissman suggested that we should be optimistic and not pessimistic. Mr. Hornung questioned if Mr. Mashchak comes back with the same thing what do we do then.

Mr. Seeds noted that he is not completely happy with the plan either as he would like to see the guiderail gone and the entrance changed but again he must look at the plus side that there will be other improvements like landscaping, and sidewalk and the economic development to the site. He noted that we must look at the pluses, the improvement to the shopping center as a whole. He noted that obviously they do have something to gain, Glimcher as they are leasing the land to Longhorn. Mr. Mashchak answered that the land is leased from Sears. Mr. Seeds noted with that in mind, Glimcher does not benefit from the project.

Mr. Blain suggested that we discuss the landscape and guardrail and islands. Mr. Blain questioned Mr. Mashchak if he was asking for a waiver of the landscape and islands where the guardrail is located. Mr. Mashchak answered yes. Mr. Blain questioned if it would continue to be a hardship for Longhorn if it doesn't get the waiver. Mr. Mashchak answered yes.

Mr. Hornung questioned Mr. Mashchak when he had his discussions with Mountz and Glimcher, did you discuss the closure of one of the driveways or reducing it to one way. Mr. Mashchak answered that the discussion with them was a closure of the driveway. He noted that

he discussed the closure of the drive with Mountz and how to tie them back into the overall mall property and what their thoughts were on that. He noted that Mountz felt that their parking would be greatly impacted. Mr. Hornung noted if you were to make it an in only at the first opening, and let the second driveway be two ways, it would significantly reduce some of the confusion that results in two inlets and outlets at one spot. He questioned if that would be a possibility. Mr. Mashchak answered that the issue that Glimcher will have is the truck traffic for the loading docks located behind Mountz. He suggested that it is the easiest way for a truck to exit the mall to get to the highway. Mr. Hornung noted that the light wouldn't be the best way. Mr. Mashchak noted that it depends on what direction they are going when they leave the mall. He noted if they are going back to I-18 they will want to go left, whereas if they are going... Mr. Hornung stated that he does not buy it. He noted that the truck could be rerouted to use the main drive. Mr. Seeds suggested that a tractor trailer would have a hard time going back to the stop sign in front of Sears and turning into the driveway. Mr. Blain agreed. He suggested that the majority of trucks in the mall are larger trucks. Mr. Seeds noted that they need to access the Bon Ton and Boscov's stores. Mr. Blain noted that it is not to say that a tractor trailer could not make the turn at the stop sign but it would be difficult. Mr. Hornung noted that it would be safer for trucks to exit at the light. Mr. Hawk noted that tractor trailers come into Sears and Boscov's but he has never paid attention as to how they do it. Mr. Hornung noted that they can make the turn; they just have to drive into the other lane to do it. He noted that they do it at his store all the time. Mr. Crissman noted that it is not the Board's decision to tell the trucks how to come and go.

Mr. Crissman questioned Mr. Mashchak what he wanted to do. Mr. Mashchak answered that he was told to get a decision tonight.

Mr. Blain made a motion to approve the Preliminary/final land development plan for Longhorn Steakhouse with the following waivers and conditions: 1) Waiver of the requirement to provide a preliminary plan which staff supports; 2) Waiver of the requirement to provide landscaping within all landscaped islands throughout the 12.4597 acre site; 3) Provide a location map at 1" = 1,000 feet; 4) Plan approval shall be subject to providing original seals and signatures; 5) Plan approval shall be subject to the payment of engineering review fees; 6) Plan approval shall be subject to the establishment of an automatically renewable improvement guarantee for the proposed site improvements; 7) Plan approval shall be subject Dauphin County Conservation District's review of the Erosion and Sedimentation Control Plan; 8) Plan approval shall be subject to Lower Paxton Township Sewer Department's review and approval of the sanitary sewer design; 9) Plan approval shall be subject to DEP's approval of a sewage facilities planning module; 10) Pursuant to Section 420 of the Act of June 1, 1945 (P.L. 1242 No. 428) known as the state highway law, a highway occupancy permit is required for all construction within PennDOT right of way; 11) Plan approval shall be subject to addressing the comments of HRG's memorandum dated May 15, 2013; 12) A street/storm sewer construction permit is required and is to be obtained prior to earthmoving activities. A pre-construction meeting is to be held prior to starting the project. Contact Matt Miller at 657-5615 to schedule the meeting. This may be held in conjunction with the Conservation District meeting; and 13) All signage must meet the requirements of the Lower Paxton Township Zoning Ordinance. Sign permit review and approval is required prior to the erection of any signage. Mr. Hornung seconded the motion. Mr. Hawk called for a roll call vote: Mr. Blain, aye; Mr. Crissman, nay; Mr. Hornung, aye; Mr. Seeds, aye; and Mr. Hawk, aye.

Resolution 13-33; Planning Module for Longhorn Steakhouse

Mr. Wolfe noted that this resolution for Longhorn Steakhouse provides for sanitary sewer capacity in the Paxton Creek drainage basin and it is complete for action this evening.

Mr. Blain made a motion to approve Resolution 13-33 the planning module for Longhorn Steakhouse. Mr. Seeds seconded the motion. Mr. Hawk called for a roll call vote: Mr. Blain, aye; Mr. Crissman, nay; Mr. Hornung, aye; Mr. Seeds, aye; and Mr. Hawk, aye.

Improvement Guarantees

Linglestown Fire Company

An extension and 10% increase in a letter of credit with Centric Bank, in the amount of \$34,606.60, with an expiration date of August 20, 2014.

Mr. Blain made a motion to approve the one improvement guarantee. Mr. Hawk 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, Lower Paxton Township Authority, Lower Paxton Township Purchase Card and Lower Paxton Township Authority Purchase Cards. Mr. Blain seconded the motion. Mr. Hawk called for a voice vote, and a unanimous vote followed.

Announcement

Mr. Hawk noted that a gentleman that he has known for quite a few years by the name of Rusty Keiser has viewed the meetings for many years. He wished Mr. Keiser a warm hello and thanks for watching the meetings.

Adjournment

There being no further business, Mr. Blain made a motion to adjourn the meeting, and the meeting adjourned at 8:56 p.m.

Respectfully submitted,

Maureen Heberle
Recording Secretary

Approved by,

Gary A. Crissman
Township Secretary