

LOWER PAXTON TOWNSHIP
BOARD OF SUPERVISORS

Minutes of Board Meeting held September 8, 2009

A workshop meeting of the Board of Supervisors of Lower Paxton Township was called to order at 7:40 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. and David B. Blain.

Also in attendance were George Wolfe, Township Manager, and Steve Stine, Township Solicitor.

Public Comment

No public comment was provided.

Discussion with Ken Shuttf regarding the condition of Township streets in the Huntfield development

Mr. Ken Shuttf, 6430 Huntsmen Drive, noted that he and several of the Board of Directors of the Huntfield Neighborhood Association are present to represent the 81 residences in Huntfield, Phases One and Two. He explained that he spoke with Mr. Blain, over a year ago, in regard to the condition of the roads in their development. He noted that Mr. Blain and Mr. Robbins looked at the road and informed him that the road would be resurfaced in 2009. He noted that the resurfacing is for two streets in the development; Phase One, Huntsmen Drive, to include the two small cul-de-sacs; and Phase Two, Gallop Road, that is a circular road.

Mr. Shuttf noted that the roads in the development were dedicated to the Township in 1986, and since that time, no maintenance has occurred to the roadways. He noted that the roads are in very bad shape, and if something is not done now, they will have to be completely rebuilt. He noted that he has a concern with the oversight by the Township, and their lack of maintenance for the road. He proceeded to show the Board members pictures of the roadways that were taken the day before. He noted that weeds and grass are growing up through the road surface, there are various states of deterioration on the roadbed surface, and the roads are hazardous to walk on. Mr. Hawk questioned if the road deterioration is occurring in the center of

the roadway. Mr. Shuttf answered that it is in the center of the right traffic lane. He noted that if the roads are not addressed now, it would cost the Township more money to repair the roads later.

Mr. Blain explained that he met with Mr. Shuttf and Mr. Wix, last year, to look at the roads. He noted that the roads are in very bad shape and are extremely wide, wider than any other road in the Township. He noted that the deterioration shown in the pictures is widespread throughout the development. He noted that Mr. Robbins performed bore testing of the subsurface of the roads and he determined, at that time, that the roads were lacking a good base, and for Phase One, full depth reclamation would be needed. He noted that it was planned to reduce the width of the road, fill in the side of the roadway with dirt, leaving less surface to pave and to maintain. He noted that it would also provide for more yard space for the residents. He noted that it was planned to do full-dept reclamation, for Phase One, in the 2009 paving season, and in 2010, Phase Two would be patched and overlaid. He noted, due to the critical budget situation, this project has been delayed.

Mr. Blain noted that he spoke with Mr. Shuttf, and asked him to come to the meeting to discuss the road situation with the Board members. He noted that he spoke to Mr. Wolfe about this and was informed that Mr. Robbins was looking at an alternate means to repair the road surface. He noted that nothing would occur this year, due to budget constraints, and also due to the PENNDOT deadline for paving of October 15th.

Mr. Wolfe explained, repairs for Phase Two, may occur by using a fabric substance; rolls of a material that can be applied over the surface, prior to paving, that would stem reflective cracking from coming through the road. He noted that base repair would need to be done in certain locations, but he and Mr. Robbins are investigating the fabric method as a means to repair Phase Two. He noted that the streets are beyond the point of resurfacing, and they would need either full depth reclamation or repaired with the use of fabrics. He noted that the fabric process is far more expensive, and Mr. Robbins was planning to do something more substantial than just a paving job. He suggested that this project would be on the top of the list for 2010.

Mr. Wolfe explained that the only full depth reclamation work that was done this year was the Briarsdale Road project from Union Deposit Road into the Industrial Park.

Ms. Wix questioned if Phases One and Two would be completed in 2010. Mr. Wolfe answered that he did not know at this time.

Mr. Blain noted that the Board would need to discuss this in light of the 2010 budget preparations. He noted that he would speak with Mr. Robbins to determine what roadwork he has prioritized for 2010, noting that this project has to get done. He noted that the 2009 budget has experienced a shortfall, and the same is anticipated for 2010. He noted that the Board members are working to complete the 2010 budget. Mr. Wolfe explained that the Township is experiencing a deficit of \$1.5 million on an overall budget of \$18 million. He noted that he is trying to make up the shortfall from within the operations without having to raise taxes.

Mr. Shuttf noted that it is his intent to ensure the Board addresses the road conditions. He noted that he understands that there are budgetary constraints, but each year that goes by will make it more expensive for the taxpayers to pay for the road repairs. He noted that there are 81 residences that contribute a lot of money in taxes to the Township. He noted that some residents took pictures of other roads that were paved this year that were not in as bad a shape.

Mr. Wolfe noted that those roads were repaired due to sanitary sewer work. He noted that the roads were torn up as new laterals and sewer pipes were installed. As a result, the roads have to be paved, and the costs for this paving come from the Authority budget, not the Township's. Mr. Shuttf noted that the residents' perception is that the other neighborhoods are getting attention, but their's are not. Mr. Wolfe noted that most of the neighborhood street paving that looks as good as what was shown in the picture is the result of sanitary sewer work and not roadway conditions.

Mr. Hawk noted that the Board knows what it needs to do, but it is unfortunate that the current economic situation has had an impact on how the Township schedules its work. He noted that he would put it on the 2010 schedule. Mr. Blain noted that he would make sure it is included in the 2010 budget. Mr. Shuttf noted that he would be very happy to know that the roads would be repaired in 2010. He explained that the Board of Directors for the Huntfield Neighbors Association has encouraged the residents to kill the grass growing up through the roadway.

Mr. Seeds noted that the roadway was installed in 1986, and none of the existing Board members were on the Board at that time. He noted that the road paving requirements were much different then, and current road paving standards have greatly improved, and, as a result, using today's standards, that would not have occurred. He noted that part of the issue with the road is the drainage of water from the road, noting that proper drainage was not installed when the road was built.

Mr. Shuttf explained that there are storm sewers but no curbs in their development. Mr. Seeds suggested that swales should be installed or drainage and curbing should be installed to get the water off the roadway. He noted that Pennsylvania has a problem with the freeze/thaw cycle as it has more of these cycles than any other state in the United States. He noted, for the states north of Pennsylvania, the precipitation remains frozen and does not thaw as much. He noted that the freeze/thaw situation is very hard on a roadway that does not have good drainage.

Mr. Shuttf expressed his appreciation to the Board for putting this issue on tonight's agenda and allowing time to discuss it further. Mr. Hawk noted that the Board is working through some budget issues and would try to get to that project as quick as it can.

Mr. Blain explained, once the Board reviews the final 2010 budget, it would determine what the paving program would be for 2010. He noted that it is subject to change, depending on the revenue shortfalls, noting that it is an expensive project and the Township is conserving its outflows to manage the budget for this year and next year. He noted that the Board does not want to implement a tax increase for next year. He noted that the Township hopes to have more income from building permits and reality transfer taxes. Mr. Wolfe noted that by June of 2009, the Township had roughly 30 building permits as compared to 185 building permits for 2008. Mr. Blain noted that the Township is not receiving the income from the sale of homes since homes are not being sold.

Mr. Shuttf questioned if he could tell the home association members that Huntfield Drive would be first on the paving list for next year. Mr. Hawk noted that it would all depend on the budget, but the Township will get the road done.

Review of a draft letter proposed to be sent to residents with
basketball goals in public right-of-ways

Mr. Wolfe noted that he was directed to draft a letter to the residents who have installed basketball hoops in the Township right-of-way. He noted that over 400 basketball hoops have been found, by Public Works Employees, to be in the public right-of-way. He noted that they are permanently or temporarily installed in the road right-of-way, and the Board authorized staff to prepare a draft letter for review. He noted that a basketball hoop creates overhead issues for both street sweepers and plowing, as drivers must swerve around hoops to avoid damaging the equipment or the goals. He noted that it encourages children to play in the street, creating

conflicts with vehicles. He noted that it increases costs for the Township and utilities when access is required to maintain public services such as cable, water, natural gas, etc., and, many residents fail to follow the “Call before you dig” protocols that could result in damage to a utility line. He noted that there is a potential for damage and injury due to these types of actions. Lastly, he noted that the zoning ordinance does not permit items to be placed within the road right-of-way.

Mr. Wolfe noted that staff proposes to send the draft letter, but before it does, he wanted to review the letter with the Board. He explained that there are over 400 violations, and suggested that there would be many responses to the letters. He noted that residents would attend meetings to voice a complaint, and it would result in forcing the Township to take enforcement action in front of a magistrate. He noted that all of this could involve a significant amount of staff time. He explained that Mr. Robbins is prepared to tackle this issue since he believes the basketball hoops do not belong in the road right-of-way.

Mr. Blain questioned how much of an issue this is with other Townships. Mr. Wolfe answered that he did not know, nothing that he has not heard discussion on this matter with other managers. He noted that he did not know if other Townships permit this use. He questioned Mr. Stine if he ever had any dealings with this issue in other Townships. Mr. Stine answered that he never had the issue come up.

Mr. Seeds suggested that Mr. Hawk could check with PSATS to determine if they are aware of this being an issue with other Townships. He noted that basketball hoops are located in the neighboring Townships’ right-of-ways too. He questioned if Lower Paxton Township is going to be the only ones enforcing their ordinance in this regard. He noted that once the Board agrees to send the letter, it must follow up on it. Mr. Wolfe noted that he had the same concern also.

Mr. Blain questioned if there are any documented traffic accidents as a result of a child being hit by a car, or someone hitting the hoops. Mr. Wolfe answered, if an accident occurred, there would be documentation of it occurring. Mr. Blain questioned if the Township has a documented instance of a person hitting a utility when digging to install a basketball pole. Mr. Wolfe answered that the Township would not have that information. He noted that Mr. Stine has told the Board that if the Township takes a position on it, discusses it, and allows it, the Board is allowing residents to play in a road right-of-way knowingly which could affect the municipal tort

liability. He noted, in the past, the Township has taken the position of “not knowing that they are in the road right-of-way”, however, there have been instances in the past where the Township conducted enforcement efforts when neighbors called to complain.

Mr. Blain questioned how many hoops are mobile basketball standards, and how many are permanently installed in the right-of-way. Mr. Wolfe answered that he does not have that information as it was not included in the survey conducted by the Public Works Department. He noted that it is estimated that 35% would be cemented in place, and 65% would be portable. Mr. Blain noted that 65% of the people would not lose access to their basketball hoop since they would be able to move it and not have to take it down or dig it out.

Mr. Wolfe noted that he would survey the area Townships to see what they are doing in this regard. Mr. Seeds questioned if this topic ever came up in any discussions that Mr. Wolfe has had with other Township managers. Mr. Wolfe answered no, and suggested that many other Townships have the practice of “Don’t ask, don’t tell”.

Mr. Hawk noted that he would be at PSATS tomorrow and would inquire if they have information on this topic. Mr. Wolfe noted that he would check with the area municipalities and report back to the Board members at a future meeting. Mr. Seeds suggested that all five Board members should be present to discuss this issue.

Mr. Seeds noted that the Township has the ability to enforce its ordinances. Mr. Stine noted that a similar issue is the installation of the large masonry mailboxes, as they would be considered to be obstructions in the right-of-way. He noted if someone would hit one of those mailboxes with a vehicle and die, the Township and property owner would be sued for allowing those types of mailboxes. He noted that the Township must allow a post and mailbox in the right-of-way. He noted that there have been issues in other municipalities in regard to mailboxes.

Mr. Hawk questioned if some of the basketball hoops are secured to the street. Mr. Wolfe answered yes, noting that they have installed lighting and painted the streets. Mr. Hawk noted that he would never dream of installing a basketball hoop in the street.

Mr. Blain noted that he does not want to open a huge can of worms until more research is completed. Mr. Wolfe noted that he would report back to the Board with the information. Mr. Hawk noted that the Board must remember that these actions are in violation of the ordinance. Mr. Wolfe noted that the large issue, in regards to the basketball hoops in the streets, is the noise created by the children or their bouncing the basketball near neighbor’s cars.

Review of Ordinance 09-12; which provides a retirement incentive
for employees in the non-uniformed employees pension plan

Mr. Wolfe explained that it is the Board's desire to implement a retirement incentive plan for employees. He explained that he has not shared this document with the AFSCME union, but, after receiving authorization from the Board, he would do so. He explained that he emailed the proposed language for the draft ordinance, which includes the paragraph starting with "Participants retiring," to the plan actuary who made comments and modifications.

Mr. Wolfe noted that the retirement incentive plan provides for employees, age 55 or older in 2009, to retire by the end of the year and receive a pension that is not reduced for early retirement. He noted that employees that turn 55 in 2010 can retire in the month of their birthday and not receive a pension that is reduced for early retirement. He noted that other than these two listed window opportunities, the pension plan for employees remains unchanged. He noted, if an employee would miss the window of opportunity in which they must make an indication to the Township on or before October 15, 2009, this benefit would not be available to them, unless the Board would act upon another ordinance.

Mr. Seeds questioned if the date of October 15, 2009 is wrong for the employees that will be 55 in 2010. Mr. Wolfe answered that the date is correct as they must notify the Township of their intent to retire in 2010 in 2009. Mr. Blain noted that the Township would need to know this now in order to plan the budget for 2010. Mr. Wolfe explained if someone turned 55 in March of 2010, they would need to retire in March of 2010, but they would need to notify the Township by October 15, 2009.

Mr. Wolfe explained that he was in discussions with the AFSCME union and this language is what was discussed and he thinks that they will find it to be acceptable. He noted, if the Board approves the draft, he would share this document with the AFSCME union, and if it meets their approval, he would advertise the ordinance.

Mr. Blain questioned Mr. Wolfe if he reviewed this with Mr. Crissman and Mr. Hornung. Mr. Wolfe answered that he reviewed the ordinance with both Board members and they were fine with the Ordinance as it was written.

Mr. Hawk noted, if an employee misses the window of opportunity, why would the Board not extend the deadline. Mr. Wolfe noted that the Township needs to have employees commit to an early retirement by a certain time. He noted that the fear that he would have,

especially with extending it into next year, someone may say they would retire and not fulfill their commitment. He noted that this needs to be a binding commitment in order to plan for the next year.

Mr. Blain noted that he was fine with the ordinance. Mr. Hawk and Mr. Seeds also stated that they were in agreement.

Discussion regarding a recommended appointment
to the Parks and Recreation Board

Mr. Wolfe noted that the Parks and Recreation Board have made a recommendation to appoint Linda Laub to fill the vacancy created by the resignation of Kathy Stone.

Mr. Blain noted that Linda Laub used to be his neighbor, and he stated that she is a real go-getter. He noted that she is a strong willed and good person.

Mr. Wolfe questioned if he should put the appointment on the agenda for the September 15th meeting. Mr. Hawk answered yes.

Review of a proposal from Northwestern Mutual Financial Network to
provide group life and long-term disability insurances

Mr. Wolfe noted that he received a proposal from Thad Baker, Northwestern Mutual Financial Network, for group life and long-term disability insurances. He explained that he receives proposals, all the time from agents who want to do business with the Township. He explained that he provides the agents with the Township roster of employees, and usually, does not hear anything back from them.

Mr. Wolfe noted that John Miller is the actual agent providing the Township with a proposal. He noted that Mr. Baker wanted to do investment work with the pension plan but he told him that he was not interested in making any changes to the pension plans at this time.

Mr. Wolfe noted that Mr. Miller provided a proposal for group life and long-term disability insurance that provides for a 14% reduction in costs, and could save the Township \$6,700 per year. He noted that Ms. Knoll reviewed the documents provided by Mr. Miller and found, in many cases, he was providing more benefits than what is already provided. He noted that those options would have to be removed from the proposal, and that may further reduce the costs of the plan.

Mr. Wolfe noted that currently, the Township provides for long-term disability benefits, after six months, 60% of the employees wage for a period up to five years. He noted for the life insurance benefit, the Township provides equal to an employee's salary up to a maximum of \$50,000. He noted that the proposal quoted those benefits in addition to side benefits that the Township does not need or want. He noted that he sent the document back for Mr. Miller to redo the benefit structure, and he came back with a better number from the first proposal.

Mr. Wolfe questioned if the Township should remain with the current provider, accept the proposal provided by Mr. Miller, or take steps to request additional proposals from other agents.

Mr. Seeds noted that it would be a good idea to secure other bids. Mr. Blain agreed that the Township may get a better price for services. Mr. Seeds questioned when the last time was the Township secured bids for insurance. Mr. Wolfe answered that it was three or four years ago. He noted that the Township regularly shops these types of services.

Mr. Wolfe noted that he was surprised to get the price that he did on an annual premium that is less than \$50,000. He noted that he was surprised to find that someone could save the Township \$6,700, and his gut reaction is to jump on the offer, but he would not mind getting other prices.

Mr. Hawk noted if the Township goes out for a general proposal, it may result in a lower proposal or confirm that Mr. Miller's proposal was a good price.

Mr. Blain suggested that it would be good to let a Request For Proposal (RFP) for insurance prices. Mr. Stine noted that the Township would not need to bid this service, and a RFP would be adequate.

Discussion regarding amendments recommended by staff
to building permit and occupancy fees

Mr. Wolfe noted that he received two proposals from the Community Development Department. He explained that they requested to set an occupancy fee for a change in use or change in occupancy. He noted, with the current building permit structure, the certificate of occupancy is issued as part of the building permit, however, when someone moves into a vacant storefront, and moves things around a little bit, they are required to secure a certificate of occupancy. He noted that an inspector could spend several hours inspecting the change without

having the capability to charge for those services. He noted that the Township has a right to charge for those services. He explained that staff recommends that the fee for a certificate of occupancy for a change of use or occupancy be set at \$100.

Mr. Wolfe explained that recently the Pepsi plant on Dana Drive proposed a significant building addition, and the plan was sent out for a third party review. He noted that the cost to do this review were well over several thousand dollars, and this is normally recouped when the applicant pays for the building permit. He noted that Pepsi decided not to build the addition, and the Township has to pay for those review fees. He noted that staff suggested to implement a plan review fee equal to 25% of the estimated costs of the building permit, and when the applicant picks up the building permit, the funds be deducted, so the Township would not be losing money for the cost to review a plan.

Mr. Wolfe questioned Mr. Stine if this would be legal. Mr. Stine answered yes.

Mr. Wolfe noted that the Township would require the building review fee up front, prior to sending it out for review. He noted that 25% of the total cost of the building permit would be required prior to the Township doing anything on the plan.

Mr. Hawk agreed that this should be done and the changes made. Mr. Blain agreed with Mr. Hawk.

“Otta Know” Presentation
The Science Advisory Board (SAB) review of the EPA
TMDLs, including the Paxton Creek TMDL

Mr. Wolfe explained that he has to testify tomorrow in Washington DC, for the review of the Environmental Protection Agency (EPA) Total Maximum Daily Load (TMDL) strategy and how it is applied to drainage basins in Pennsylvania, to include the Paxton Creek. He noted that Robert Fisher, a member of the Home Owner’s Association, would be accompanying him to provide testimony to the advisory board as well. He noted that he has a combined time of five minutes to make a presentation.

Mr. Wolfe’s prepared presentation is as follows:

Paxton Creek flows southwest from the top of Blue Mountain (to the north) and the Village of Linglestown (to the northeast) in Lower Paxton Township to the southern boundary of the watershed, roughly paralleling US Route 22; then westward into Harrisburg’s Wildwood Lake; and, finally, southward in a concrete-lined channel to the Susquehanna River.

Paxton Creek is a small watershed containing parts of five municipalities: Lower Paxton, Swatara, and Susquehanna Townships, Penbrook Borough, and the City of Harrisburg. Stormwater runoff from its 27 square mile area drains into the Susquehanna River and the Chesapeake Bay. Paxton Creek has 2 mouths and 7 tributaries.

Paxton Creek was a focus of Harrisburg's renaissance during the "City Beautiful Movement" in 1900-1915 as sewers, water filtration plants, asphalt roads, and parks were built. The creek's lower part was dammed and channelized.

The Paxton Creek watershed has greater biological resources than habitat conditions suggest. However, overall watershed conditions for wildlife are poor, because of adverse situations such as small and fragmented natural cover, poor quality of riparian vegetation, development on steep slopes, roads located close to creeks, and absence of interior forest.

The Paxton Creek River's Conservation Plan (RCP) prepared by the Paxton Creek Watershed and Education Association states that 288 animal species (amphibians, reptiles, turtles, mammals, birds, fish, and macroinvertebrates (commonly known as water bugs) have been observed or are listed in assessment reports. Plan studies found for the first time a rare animal species, a creek-bottom dwelling, blind water bug called *Stygobromus* in Wildwood Lake Sanctuary also listed on the Pennsylvania Natural Heritage Program.

Overall, Paxton Creek's surface water quality declines from the upper to lower creek reaches for major categories of parameters – chemistry, macroinvertebrates, bacteria, and habitat. Macroinvertebrate populations are generally richer where the creek is in cool, forested areas. The diversity decreases from upstream to downstream.

Low DO levels, high coliform bacteria counts, increased conductivity, and high ammonia, phosphorus, and lead concentrations are common in the channelized segment of Paxton Creek in Harrisburg. Along these channelized creek reaches hundreds of outfalls (pipes) exist, including combined sewer overflow outlets (CSOs). These reaches are less healthy than the rest of the watershed. Habitat and macroinvertebrate indices for the bottom dwelling bugs at these sites are typically one third to one half of those for the upstream watershed according to the RCP.

In short, the TMDL proposed for Paxton Creek by EPA has no empirical link to justify an 89% reduction in total phosphorus in support of the macroinvertebrate population. The impaired portion of Paxton Creek is a concrete lined channel with combined sewer overflow outlets. Reductions in phosphorus will do nothing to change this condition and improve habitat for macroinvertebrates. An EPA/DEP requirement to reduce total phosphorus by 89% will require significant outlays of public and private resources, deter or altogether stop land development activities, and provide no improvement in water quality in the Paxton Creek.

He noted that he would also provide slides showing the Paxton Creek as it traverses the area. He noted that all the exhibits provided to the Board members, as well as additional exhibits, will be presented as testimony. He noted that Mr. Hall would make a presentation on behalf of all the Pennsylvania municipalities. He noted that a decision is expected to be made this week and then the Township would know where it stands in this battle.

Adjournment

There being no further business, Mr. Blain made a motion to adjourn the meeting. Mr. Seeds seconded the motion, and the meeting adjourned at 8:42 p.m.

Respectfully submitted,

Maureen Heberle
Recording Secretary

Approved by,

Gary A. Crissman
Township Secretary