

LOWER PAXTON TOWNSHIP  
BOARD OF SUPERVISORS

Minutes of Board Meeting held October 20, 2009

A business meeting of the Board of Supervisors of Lower Paxton Township was called to order at 7:30 p.m. by Vice-Chairman William C. Seeds, Sr., on the above date in the Lower Paxton Township Municipal Center, 425 Prince Street, Harrisburg, Pennsylvania.

Supervisors present in addition to Mr. Seeds were: William L. Hornung, Gary A. Crissman, and David B. Blain. (Chairman Hawk joined the meeting later as he had to attend a meeting at Dauphin County.)

Also in attendance were George Wolfe, Township Manager; Steven Stine, Township Solicitor; Lori Wissler, Community Development Manager; Steven Fleming, HRG, Inc.; Bud Grove, Grove Associates; Doctor Rex Herbert; Brett Musser, Hartman and Associates, Inc., Dr. Donald Dinello; Mark Kurowski, Kurowski and Wilson Associates; and Dr. Bennett Chotiner.

**Pledge of Allegiance**

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

**Approval of Minutes**

Mr. Crissman made a motion to approve the minutes of the September 15, 2009 business meeting. Mr. Blain seconded the motion, and a unanimous vote followed.

**Public Comment**

Mr. Larry Gaiski, 4501 Elwill Drive, distributed the minutes from the March 17, 2009 Board of Supervisors meeting to the Board members. He explained that he would like to review some of the comments made during that meeting. He noted that he continues to have problems with the developer, on the grading work, noting that he cannot mow the grass between the

sidewalk and the curb. He explained that the developer pulled some of the rocks which resulted in very large holes.

Mr. Gaiski noted, on page three of the minutes, the third paragraph states, “Mr. Wolfe noted in the grading of a lot that is not in accordance with the plan, that it is a violation of the land development regulations. He noted that Mr. Miller was instructed to contact Bottom Line Construction, to determine their intention in regards to completion of grading activities, but the Township is at the mercy of the phasing for the plan.” Mr. Gaiski noted that he contacted his attorney and was told that since he was an existing property that he is not at the mercy of the phasing, only for the area between the curb and the sidewalk, but not for where his land falls, or his mother’s, or the neighbors. He noted that a grading problem still exists and his attorney suggested that he attend the meeting, and his attorney would be sending the Township a letter as to what process they would be following against Bottom Line Construction. He explained that his attorney told him to secure a price from an engineer to install property pins. He noted that he does not have the ratio that he needs for the grade of his property. He explained that he had installed his driveway at a cost of over \$12,000, and if the grade would have been fixed in the first place, it would not have resulted in his having to replace the driveway and moved or extended a pipe out to put in another storm drain. He noted that since Bottom Line had all the time in the world to fix the project, and if they would have fixed the grade properly, he would not have had to change his driveway.

Mr. Gaiski questioned how the Board could help him with his problem. He noted that Mr. Hornung stated, during the March meeting, on page five of the minutes, that he was willing to come out and do anything that he could to help him. He requested Mr. Hornung to come out and

meet with him, to do a walk-around with him, and report back to the Board, or the entire Board could come out to view the area.

Mr. Seeds noted that Mr. Gaiski mentioned a few minutes ago, that he retained legal counsel, noting that the problems are between him and the developer, and by his contacting a attorney, the Township's position should be that it not get involved in the situation. He noted that there are no problems between the Township and the developer. Mr. Gaiski noted that he is not responsible for the land between the sidewalk and the curb, since it is still owned by Bottom Line Construction; however, once the Township takes ownership of the roads, then it would be his responsibility to maintain that area. He noted that that area is in very poor shape.

Mr. Gaiski explained that he had another meeting with Bottom Line Construction, Ms. Wissler, Mr. Miller, and Mr. Fleming, the end of July, and he was told that the contractor would take care of the problems. He noted that he and the contractor played phone tag, and Ms. Wissler told him that Bottom Line was trying to contact him, and that he was not returning their phone calls. He noted that he would not call the contractor a liar, but he stated that he has tried to work with the contractor for four years and nothing has come out of it. He noted that Ms. Wissler, Mr. Miller, and Mr. Fleming met from 5 p.m. to 7:30 p.m., trying to work out a solution. He noted that his attorney was asked to leave the room because Bottom Line did not have legal representation, and his attorney complied. He noted that he has no issues with the Township; he only wants the Township to be aware of what is going on. He noted that he still has issues with the property located between the sidewalk and the curb, which is a Township issue. He noted that when the Township accepts Phase One, he would like someone to view the problem and decide if they would be willing to accept a strip of land that is unable to be maintained or mowed.

Mr. Fleming questioned if the issue between the sidewalk and the curb involved the berm where it is mounded up. Mr. Gaiski answered yes. Mr. Fleming noted that he toured the area earlier in the day and noticed that it has not been modified since the meeting. He noted, during the meeting, it was discussed that the berm was there to allow water to pond up at that location to ensure that the water would flow into the inlet. Mr. Gaiski noted that he is talking about the grassy area between the curb and the sidewalk, the four foot width area. He noted that he would be willing to meet with Mr. Fleming or Mr. Hornung to look at the area. He noted that there are areas where you can still view the stones under the sidewalk, and he questioned if that is an example of a finished job.

Mr. Crissman questioned if the issues have been reduced to writing as opposed to verbal conversation and telephone calls. Mr. Gaiski explained that he did that when he met with Ms. Wissler, Mr. Fleming, Mr. Miller, and the contractor. Mr. Crissman questioned if the specific requests have been put in writing for the developer. Mr. Gaiski answered that he thought the Township was representing him at the meeting to address his concerns. Mr. Crissman noted that the Township cannot represent Mr. Gaiski if there is a disagreement between him and the developer. He noted that he can only request staff to ensure that there is compliance by the builder in what he or she is doing in that development. Ms. Wissler noted, as part of the meeting with the contractor, Bottom Line had asked that the two parties get together and he asked that Mr. Gaiski put in writing what he had agreed to do and what he wanted him to do.

Mr. Crissman questioned if Mr. Gaiski reduced to writing what his issues are with Bottom Line Construction. Mr. Gaiski noted that his attorney sent a copy of the letter to Bottom Line Construction. Mr. Crissman noted if Mr. Gaiski's attorney is involved, then this would put the Township and the developer in a different situation since Bottom Line would be receiving a

letter from counsel and would probably give the letter to his counsel. He noted that the Township should not get involved in this issue since it now involves attorneys.

Mr. Gaiski noted that the issue between the sidewalk and curb remains, noting that he has had a problem for four years with the contractor. He noted that since he had no results from the meetings held with the contractor, he has had to hire an attorney. He noted that his property has eroded for four years, he had to fight with the contractor to install the sidewalks, and that it took a year and a half to get the sidewalks installed with the help of the Township; however, he had to wait to install a driveway. He questioned what the Township could do for him at this time. Mr. Seeds noted that Mr. Fleming viewed the site earlier today and found no problems. He questioned Ms. Wissler if the developer was in compliance with the land development agreement and improvement guarantee with the Township. Mr. Fleming noted that the development is still under construction and there is security with the Township for several things that they are required to bond. He noted that the Township has a bond for some improvements, so until those improvements are finished, the bond would not be released. He noted that several items discussed during the meeting with the contractor in the remainder of the development have been addressed; however, some of the private property issues have not been addressed. Mr. Seeds noted that the Township cannot get involved in private matters, only in what is covered by the improvement guarantees. Mr. Gaiski noted that he is unable to provide the area for the curb cut for the additional lot he deeded to his daughter since the property pins were not installed. He questioned if the property pins are installed in the beginning of a project. Mr. Wolfe noted that the developer is not required, by the ordinance, to install property pins, he is required to install concrete monuments, and they are not installed until the end of the project since construction activities could disturb them. He noted that the Township would not require them to be installed

until the contractor releases or finishes a phase. He noted, if he needs to have property pins installed to locate boundaries and a possible driveway location that would be a private matter between the developer and Mr. Gaiski. Mr. Gaiski noted that Mr. Black, another developer, has already installed the concrete monuments for his properties.

Mr. Gaiski thanked the Board for their time.

### **Chairman & Board Members' Comments**

No comments were presented.

### **Manager's Report**

Mr. Wolfe noted that Trick-or-Treat would be held in Lower Paxton Township on Thursday, October 29, 2009, from 6 p.m. to 8 p.m. He noted that most municipalities observed Trick-or-Treat on the same night in Dauphin County. He noted that members of the Police Department, in coordination with the Parks and Recreation Department, would be out that night overseeing the protection of small children.

Mr. Wolfe noted that the Township's leaf waste program is continuing and that residents have the opportunity, on a bi-weekly basis, to place leaf waste at the curb. He noted that it must be placed in a Kraft recyclable bag or in a trash can for collection by Waste Management. He noted that an unlimited amount can be placed curbside on a bi-weekly basis.

Mr. Wolfe noted that the Public Works Department would begin the vacuum collection of leaves along Township roadways in the near future. He noted that leaves must be raked to the curb or behind the curb, or off the road surface if no curb exists. He noted that leaves should not include heavy items such as stones or large sticks as they would damage the equipment. He noted, if the leaves are covered by a tarp, the tarp must be removed for staff to collect the leaves. He noted that a leaf collection schedule would be available on the Township's website.

Mr. Wolfe noted that the contract for construction activities for the Village Of Linglestown Project has been awarded by PENNDOT to Leon E. Wintermyer, Inc., for a contract in excess of \$4 million. He noted that work is scheduled to begin possibly this month as soon as PENNDOT issues a notice to proceed to the contractor. He noted, in advance of the construction, United Water PA will be installing a waterline in Linglestown Road providing public water service to as many as 78 properties, should they desire to connect to the waterline. He noted that property owners who desire public water should contact United Water PA. He noted that the Township would send a final letter to the property owners providing updated information on project costs. He noted that the construction process would be an inconvenience to the community, but the significant inconvenience won't begin until next spring. He noted that no detours would occur during Phase One of the construction process that runs from now until next spring. He noted, a significant traffic detour would go into effect, and information regarding that detour would be available by way of the Township as it gets closer to that date.

### **OLD BUSINESS**

#### **Ordinance 09-10; Adopting Chapter 170 of the Codified Ordinances, Stormwater Management**

Ms. Wissler noted that Board members received a copy of Ordinance 09-10; which amends Chapter 170, the Stormwater Management Ordinance. She noted that the necessary arrangements have been made to allow the Board to conduct a public hearing. She noted that the Dauphin County Planning Commission reviewed the Ordinance at their August 3, 2009 meeting; however, they stated that the Ordinance is of a technical engineering nature and they are not in a position to make a recommendation on the Ordinance.

Ms. Wissler noted that the Lower Paxton Township Planning Commission reviewed the Ordinance at their September 9, 2009 meeting, and recommended approval of the Ordinance with the correction that the exemption be increased from 2,000 square feet to 5,000 square feet.

Ms. Wissler noted that the necessary public notice appeared in The Paxton Herald on October 7, 2009. She noted that Mr. Steve Fleming, from HRG, Inc., is present to answer any technical questions.

Ms. Wissler noted that it would be appropriate for Mr. Stine to conduct a public hearing at this time.

Mr. Stine noted that this is the time and date set for a public hearing on Ordinance 2009-10, which would adopt Chapter 170 of the codified ordinances for Stormwater Management. Mr. Stine questioned if anyone in the audience wished to be heard on this topic. Seeing no other responses, Mr. Stine noted that it would be good to conclude the public hearing.

Mr. Hawk thanked Mr. Stine, and questioned if the Board members had any questions or comments. Mr. Hornung questioned if Mr. Fleming would clarify the recommendation made by the Planning Commission for the increase in the exemption to 5,000 square feet. Mr. Fleming answered that it refers to the amount of disturbed land, noting that the intent of the provision was to make it comply with NPDES regulations for the Conservation District. Mr. Hornung questioned if the Township could make the regulations more stringent, but not less stringent. Mr. Fleming answered that the Township could make it more or less, but the developer would still be required to meet the requirements of the Conservation District and the Department of Environmental Protection (DEP). Mr. Hornung questioned if the recommendation is for 5,000 square feet. Mr. Fleming answered yes.

Mr. Seeds noted that the prior requirement was 2,000 square feet, but the Planning Commission requested that it be changed to 5,000 square feet. Mr. Fleming answered that Mr. Seeds was correct, and the reason behind that is the cost of the stormwater requirements as well as the efficiency that one would get by addressing the stormwater management on a small lot by lot basis. Mr. Seeds questioned Mr. Fleming if he was in agreement with the 5,000 square foot requirement. Mr. Fleming answered yes.

Mr. Hornung questioned if there were any other areas of the Ordinance where it was more stringent than DEP's requirement. Mr. Fleming answered, not for DEP, however, it is more stringent than the current ordinance, and it complies with the Act 167 regulations that the Township has participated in, as well as MS4 regulations that the State requires the Township to comply with, and it now takes into consideration infiltration requirements and water quality recharge volume requirements that are in Act 167 regulations that would require a higher level of management and minimize the affect of development on existing infrastructures.

Mr. Crissman made a motion to approve Ordinance 09-10; amending Chapter 170 of the Codified Ordinances, Stormwater Management. Mr. Blain seconded the motion. Mr. Seeds called for a roll call vote: Mr. Blain, aye; Mr. Crissman, aye; Mr. Hornung, aye; and Mr. Seeds, aye.

#### Action on bids for the sale of a vehicle

Mr. Wolfe noted, two weeks ago, the Board acted on bids for the sale of vehicles and equipment, however, on the bid form there was a discrepancy for a price submitted for a 1999 Ford Crown Victoria. He noted that staff was directed to review the information submitted and report back. He noted that the Township received one bid for the 1999 Ford Crown Victoria from

Sulli Motors for \$429.00. He noted that staff recommends a reward to Sulli Motors in that amount.

Mr. Crissman made a motion to award the bid for the 1999 Ford Crown Victoria to Sulli Motors in the amount of \$429.00. Mr. Blain seconded the motion. Mr. Seeds called for a voice vote, and a unanimous vote followed.

Action on engagement letter provided by BSSF, LLP to perform the audit of the Township and Authority for the 2009 fiscal year

Mr. Wolfe noted that this proposal is for a one-year engagement provided by Brown, Schultz, Sheridan and Fritz to audit the Township and Authority, and also to include the Friendship Center which is a separate enterprise fund. He noted that the costs for services represent an increase of 4% over last year's costs for services. He stated that the proposed fees to audit the Township are \$25,120 of which \$3,120 are the fees to audit the Friendship Center, and \$13,520 to audit the Township Authority. Mr. Wolfe noted that the proposal is for a one-year period, and it is staff's recommendation that the Board accept the proposal at this time.

Mr. Blain made a motion to approve the audit contract with Brown, Shultz, Sheridan and Fritz for the amount of \$25,120 for Lower Paxton Township of which \$3,120 of that amount is for the Friendship Center, and \$13,520 in fees to audit the Lower Paxton Township Authority. Mr. Crissman seconded the motion. Mr. Seeds called for a voice vote, and a unanimous vote followed.

Mr. Hawk noted that he had to attend a meeting at Dauphin County in regards to the Earned Income Tax County-wide Committee. He noted that the meeting concluded around 7:30 p.m and that is why he was late for the Supervisor's meeting.

## **NEW BUSINESS**

### **Resolution 09-45; Authorizing submission of a grant application to the PA Commonwealth Financing Authority requesting funds for development of a solar farm on the closed municipal landfill**

Mr. Hawk noted that this resolution would authorize the submission of a grant application to the Commonwealth Financing Authority (CFA) requesting funds in support of the development of a solar farm on the closed municipal landfill. He noted that it is an economic and environmental sound approach to supply energy and it is a request for a grant to help fund the project.

Mr. Wolfe explained that the Township is requesting a large grant to provide a large portion of the total cost for developing the solar farm on the closed municipal landfill. He noted that this is the first step in the process.

Mr. Blain made a motion to approve the grant application to the Pennsylvania Commonwealth Financing Authority, in the amount of \$3 million, for development of a solar farm at the closed municipal landfill. Mr. Crissman 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.

### **Change Orders 10 & 11 to the contract with Handwerk Site Contractors For George Park Roadway Improvements**

Mr. Wolfe explained that the Township is under contract with Handwerk Site Contractors for improvements to the entrance of George Park at Nyes Road, and the relocation of M Street at Nyes Road. He noted that the contract totals approximately \$1 million, and during construction, the contractor uncovered hydric soils underneath Nyes Road, and also the location of the new M Street. He noted that hydric soils represent wetlands, and are not suitable for building a road on.

He explained that the hydric soils had to be removed and replaced with suitable stone. He noted, for the M Street relocation, the cost for the replacement was \$12,410.90 and for Nyes Road right-of-way, the additional costs were \$30,261.94. He noted that the soils were inspected by HRG, Inc., the Township's Engineer, as well as personnel from PENNDOT and both parties determined it necessary to replace the soils in accordance with PENNDOT design regulations.

Mr. Hornung questioned if Mr. Fleming determined that the amount of soil removal was proper for the project. Mr. Fleming answered yes.

Mr. Crissman made a motion to approve Change Order Number 10 with Handwerk Site Contractors in the amount of \$12,410.90, and Change Order Number 11 with Handwerk Site Contractors in the amount of. \$30,261.94. Mr. Blain seconded the motion. Mr. Hawk called for a voice vote and a unanimous vote followed.

Action on agreement between the Township, PPL, and PENNDOT for  
electrical facilities within Linglestown Road Right-of Way

Mr. Wolfe explained that although the agreement is required by PENNDOT that provides for the relocation of PPL utility poles that are located in or outside the road right-of-way in the Linglestown Road project, the actual agreement is with PPL. He noted that the utilities that are located within the road right-of-way would be replaced by PPL at cost; however, those poles that are located outside the public right-of-way, the Township must pay for. He noted that the project costs are part of the overall \$4 million that would be spent to reconstruct Linglestown Road within the Village. He noted that the total amount of facilities that are to be relocated are in excess of \$100,000, and of those costs, \$96,018.90 could be charged to the project with the remainder paid by the Township. He noted that the affected utility poles are itemized within the agreement.

Mr. Wolfe noted that the Township experienced this same issue with the George Park entrance project at Nyes Road, and it is part of the project that adds additional costs or time to a project.

Mr. Crissman made a motion to approve the agreement between the Township and PPL for electrical facilities for the PENNDOT Linglestown Road right-of-way project. Mr. Blain seconded the motion. Mr. Hawk called for a roll call vote: Mr. Blain, aye; Mr. Crissman, aye, Mr. Hornung, aye; Mr. Seeds, aye; and Mr. Hawk, aye.

Preliminary/final subdivision plan for Pine Hill Road

Ms. Wissler noted that the purpose of this plan is to subdivide Tax Parcel 35-076-059 into two (2) residential lots. The existing lot is 16 acres and contains a single-family dwelling with access off of Pine Hill Road. The applicant is proposing to subdivide the property into two (2) lots, a 10.05 acre tract (Lot #1) with frontage on Spring Creek Road and a 5.05 acre tract (Lot #2) with frontage on Hawthorn Road. The property is located north of Spring Creek Road and east of the Twin Lakes Development and will be served by public water and public sewer.

Ms. Wissler noted that a variance from minimum lot width for Lot #2 was approved by the Lower Paxton Township Zoning Hearing Board on July 23, 2009.

Ms. Wissler explained that the Planning Commission, at their meeting of August 12, 2009, recommended approval of the plan subject to addressing the comments. The Planning Commission also recommended approval of the following waivers: 1) Waiver of the requirement to provide a Preliminary Plan; 2) Waiver of the requirement to provide curbing on Hawthorne Road and Spring Creek Road; 3) Waiver of the requirement to provide a Stormwater

Management Plan. She noted that there is also one site specific condition and six general conditions.

Ms. Wissler noted that Mr. Bud Grove, Grove Associates, and Doctor Rex Herbert are present to represent the plan.

Mr. Hawk questioned Ms. Wissler if the comments and conditions have been resolved by the applicant. Ms. Wissler answered yes.

Mr. Hornung questioned what the variance was for. Ms. Wissler answered, on Hawthorne Road, the lot width required a variance. Mr. Hornung suggested that it is like a flag lot. Mr. Hornung questioned why the developer did not use another means for an access. Mr. Grove answered that they chose not to use Hawthorne as the access, and the leg is part of the pre-existing land. He noted that it is a remnant of the original Twin Lakes Development, and originally, a street was planned for that location.

Mr. Seeds questioned if Dr. Herbert had an easement through the area or if he owned the property. Mr. Grove answered that Dr. Herbert is working on an easement agreement with his brother. He noted that he would have that easement before the plan is recorded.

Mr. Seeds questioned Mr. Fleming what he meant in his comment regarding the clear site triangle. Mr. Fleming answered that Pine Hill Road has two entrances off of Hawthorne Road, noting that the property owner exiting to the right would take the right fork, and if they are exiting to the left, they would take the left fork, and the same for entering the property. He noted that typically, there is only a single driveway entrance to the property with a 75-foot clear site triangle at the entrance. He noted that this entrance does not meet design standards, however, it is an existing driveway, but he felt it was necessary to place the clear site triangle on the plan in the interest in notifying the property owner, that to meet the proper site distance, it may be necessary

to create a clear area near the trees, however, given the fact that it is existing, he did not want to recommend the unnecessary cutting down of trees in the area. He noted that he offered his comment as a resolution to put it on the property owner that if it becomes a safety hazard, the Township could then notify the property owner that they would have to address the trees in the clear site triangle.

Mr. Seeds questioned, by having the comment on the plan, would it put the liability on the property owners. Mr. Fleming answered yes. Mr. Seeds questioned if this would protect the Township. Mr. Fleming answered that it does, by notifying the property owner of the ordinance requirement and that a portion of the clear site triangle would have to be maintained by the property owners, and if they don't maintain it, then the Township would have the right to require them to maintain it. Mr. Seeds questioned if the Township could tell the property owners, at any time, that they need to take down the trees to improve the site distance. Mr. Fleming noted, if there would be a safety issue with traffic, the Township could require the property owner to create the clear site triangle to obtain proper site distance. Mr. Seeds noted that Hawthorne Road accesses Twin Lakes Drive.

Mr. Grove noted that there would be one more property located in the area. Mr. Seeds noted that it could be a problem for the people who use Twin Lakes Drive as someone from the property could pull out in front of them. Mr. Fleming noted that the safety concern could arise for the vehicles using Twin Lakes Drive or the driveway.

Mr. Seeds suggested that the developer should address the issue.

Mr. Grove noted that he has no problem with the comment, however, he questioned if the clear site triangle would be located at the dual entrances to the driveways. He noted that Dr. Herbert does not control the area near the road as it belongs to someone else. Mr. Fleming

questioned if there was an easement for that area. Mr. Grove noted that there is an existing 20-foot easement. Mr. Fleming noted that the clear site triangle should be included in the easement agreement. Mr. Grove noted that a clear site triangle is akin to an easement, so he would be asking the owners to grant an easement because of the subdivision. He noted that his client has not approached the owner of that land, and could not provide an easement on someone else's property. Mr. Fleming noted that the plan is modifying the property. Dr. Herbert stated that he could not put the clear site triangle where Mr. Fleming mentioned as it is not his property since it is owned by his sister. He noted that the tract of land has been that way since 1953, and it is not his property. He suggested that he would not be able to ask the property owner to cut down their trees. He suggested that the clear site triangle was needed where the new driveway meets his brother's driveway. Mr. Fleming noted that the clear site triangle would be required where Dr. Herbert would access the public road. Dr. Herbert noted that Pine Hill Road and a few other roads come to a dead end. Mr. Fleming noted that there is no right-of-way shown for the road, and he did not think that it was a public road once it leaves Twin Lakes Drive. Dr. Herbert noted that the public road goes past that area. Mr. Fleming noted that he had a different understanding for the plan and the plan would need to be revised to show the right-of-way for Twin Lakes Drive. Dr. Herbert noted that he did not know if the existing right-of-way is defined anywhere.

Mr. Crissman noted that there are some issues that need to be resolved before action could be taken on this plan. Mr. Fleming noted that he was under the impression that Pine Hill Road is a private easement and a private driveway. Mr. Grove requested to have a moment to talk to his client.

Mr. Crissman suggested moving on to the next plan until Mr. Grove is done speaking with his client.

Preliminary/final land development plan for  
Mid-Penn Oral & Maxillofacial Surgery

Ms. Wissler noted that the purpose of this plan is to develop Lot 53, consisting of 0.567 acres, as a medical office for oral and maxillofacial surgery. The property is located north of Linglestown Road and east of Dover Road and will be served by public sewer and public water.

Ms. Wissler noted that the Planning Commission at their September 7, 2009 meeting, recommended approval of the plan subject to addressing the comments and that all ramps be compliant with all ADA and PENNDOT requirements. The Planning Commission also recommended approval of the preliminary plan waiver.

Ms. Wissler noted that there were five general conditions and three staff comments. She noted that Brett Musser, of Hartman and Associates, Inc., and Dr. Donald Dinello are present to represent the plan.

Mr. Musser noted that the plan proposes an oral surgery office building on a vacant lot, along with the associated parking, stormwater management, erosion and sedimentation control and all the items that go along with a land development plan. He noted that he only requested one waiver.

Mr. Seeds questioned what the address for the site was. Mr. Musser answered that the site is addressed as 4010 Dover Road, however, that address will change as part of the land development plan. He noted that Mr. Geiger owned lot 56 and this lot 53. Mr. Seeds noted that there is a building that exists now in that area and he questioned if the surgery would be located behind that building. Mr. Musser answered that it would be located on the adjoining lot, north of it.

Mr. Crissman questioned Mr. Musser if he was able to speak for the plan and developer. Mr. Musser answered yes. Mr. Crissman questioned if he was in agreement with the five general conditions, including comment five that includes the six comments from HRG, Inc., in their letter dated October 16, 2009. Mr. Musser answered yes. Mr. Crissman questioned if Mr. Musser was in agreement with the three staff comments. Mr. Musser answered yes.

Dr. Bennett Chotiner, Director of Memorial Eye Institute, explained that he owns the adjacent building that is located to the east of this project that fronts on Linglestown Road. He noted that he also owns two tracts of land north of the property that fronts on Dover Road. He explained that he became aware of the project only after the Planning Commission meeting, and was unable to attend the meeting. He noted that he received a phone call from Dr. Dinello, and subsequently from his engineer, Mr. Pecora, of Hartman and Associates, Inc., indicating that the project as designed would have a significant stormwater impact on his adjacent property along Dover Road. He noted that the property along Dover Road could become a wetland unless he allowed them to use his property for runoff from his property.

Dr. Chotiner explained that he retained Mark Kurowski's engineering firm to look into the project. He stated that he has some issues with the project, with the amount of building that is being placed on a relatively small area, noting that much of the stormwater drainage would flow into an underground detention pond. He noted that he has concerns with water since 60% of the total project is impervious area. He noted that there is no open detention pond, as all the drainage is underneath the parking lot, in the small area adjacent to his property. He noted that Linglestown Road is becoming quite busy and his entrance on Linglestown Road is becoming more difficult for his patients to exit from. He noted that he would have to eventually build a road behind his property and utilize his other properties that he owns for a driveway for his

clients to exit his medical offices by way of Dover Road. He noted that he has great concerns that Dr. Dinello's project needs to be looked at in terms of the impact to his property and his ability to access Dover Road, noting that these are the main issues that he has.

Dr. Chotiner noted that a dumpster has been moved from its current site which is 30 feet from the property line to within eight feet of his property line, and that is very close to the main entrance where his patients come in and out of his property. He noted that the wind blows from west to east and he has major concerns regarding the dumpster and odors.

Dr. Chotiner questioned if the Township was willing to look at the impact that this project would have on his property. He noted that Ms. Wissler provided him with a copy of the plan that shows a storm drain, and he questioned if the storm drain would be located in the right-of-way in Dover Road, and if it would be below the area where the main sewer line goes into Dover Road.

Mr. Mark Kurowski, Kurowski and Wilson, Civil Engineers, wanted to follow up on Dr. Chotiner's comments. He noted that the largest concern regarded the stormwater discharge from the underground detention basin. He noted that previous plans had it shown with the water discharging to the surface, and he is happy to see that it has been changed to a pipe discharge down Dover Road within the right-of-way of Dover Road to an existing culvert that crosses underneath Dover Road. He noted that the pipe is shown to be adjacent to the right-of-way line with a fair amount of fill. He noted that it is shown to make the culvert work at a very shallow area, and he questioned what the grade would look like in that area in terms of Dr. Chotiner installing a driveway at that location. He noted that he would not want a hump off of Dover Road heading toward Dr. Chotiner's property. He suggested that a smaller pipe size or multiple barrels may be a better solution. He noted that he wanted to ensure this concern was addressed as part

of the review. He noted that he would like to see the grading plan for the project, and assumed that there would have to be an easement agreement or temporary construction to allow the grading to occur.

Mr. Hawk questioned if the location of the stormwater pipe is Dr. Chotiner's major concern. Mr. Kurowski answered that was correct. He noted that the pipe is very close to the right-of-way line, in that it may actually require grading onto Dr. Chotiner's property which would require some sort of permit or easement, and it also appears that it is shallow enough that he would want to see the final grade. He suggested that the plan may show something that would be adverse to future use of Dr. Chotiner's property. Mr. Crissman requested Mr. Musser to reply to that question. Mr. Musser noted, for the grade for the right-of-way corridor, the maximum elevation from the edge to the top of the berm is four tenths, and that is not enough of a slope to restrict any type of vehicle passage. He noted, if the area was going to be used for a driveway access, the entire area would need to be filled since it is a two-to-one bank going down. He noted that he is picking the grade up a little bit to inside the right-of-way line, and then maintaining or re-creating the existing soil that is present now. He noted that he is pushing the soil farther away, and if Dr. Chotiner would decide to install a driveway, he would probably have to do some kind of constructive fill to dig an access. He noted that the road embankment is what is trapping the water, and keeping it contained in the culvert.

Mr. Musser noted that the original subdivision plan for the area called for a conveyance swale, where it is located now; however, it does not show the road embankment to trap the water. He noted that it is supposed to be overland drainage to the discharge point; however, that is not how things were constructed over the years. He noted that it has taken a foot and a half of fill to get the one foot of cover over the pipe, which was thought to be enough for any future access. He

noted that a foot of cover may require digging it out and reconstructing some type of sub-base, but the grade would still be achievable.

Mr. Musser noted that he would be very happy to discuss the dumpster issue with Dr. Chotiner. He noted that he is using the existing vegetative screen, as well as a fence screen around the dumpster, noting that 30 feet is not a substantial distance. He noted, as far as the excess stormwater, the grading is devised to have the one stormwater drain overland and it is captured by two inlets and piped into the underground detention facility, and conveyed out of the street right-of-way at less than 95% of the pre-development rate. He noted that this design meets the ordinance, and also tries to get the water to the original design, conveyance swale.

Mr. Fleming noted that the discharge pipe that leaves the proposed property and runs down the existing Township right-of-way was a new revision of the submission and he also raised the comment regarding entering Dr. Chotiner's property with any fill or excavation activities. He noted that Mr. Musser emailed him; however, he was unable to return the message. He noted that a future submission would have to address that comment if an impact would be proposed with the way the pipe is placed on the plan now, noting he would have the option to offsetting it further into the Township right-of-way, and placing it there to remove the impact to Dr. Chotiner's property, or getting a temporary construction easement. Mr. Musser noted that he showed a five-foot manhole on the detailed plan, and it is not depicted on the plan as well as it should be, noting that he thought using a five-foot manhole, that provides a bigger base to push the pipe, even though he wants to center the railing in the center of the sidewalk, he would be able to push the pipe further into the right-of-way, however, on the plan view it showed up in the middle of a manhole, rather than farther out in the right-of-way giving more of an isolationist distance to Dr. Chotiner's property line.

Mr. Kurowski noted that Mr. Fleming indicated that it would be addressed as part of this review, and he wanted to be sure that there was no degrading on the property, as well as any kind of a hump due to the pipe installation next to Dover Road that would cause a problem for a driveway. He noted that four tenths of a foot does not sound like much of an issue for him, he just wanted to make sure it is shown appropriately on the plan.

Mr. Kurowski noted that he did not see a photometric plan for the site lighting plan, and he did not know if it was required or not. He questioned if the plan is in compliance with the requirement of no glare across the property line. Mr. Fleming noted that the developer has not yet submitted a photometric plan. Mr. Kurowski questioned if it was one of the conditions listed for the plan this evening. Mr. Fleming answered that he believed it was.

Mr. Kurowski suggested that he could meet with Mr. Musser after the meeting to adjust the location of the dumpster. Mr. Fleming noted that the dumpster location is part of the zoning ordinance and there are guidelines for the placement, and there was a note placed on the plan in regards to the lighting comment that there is minimal site lighting proposed, for two sides of the building facing into the existing and proposed parking lots to illuminate the parking spaces. He noted that the note states that the glare would not leave the property line. He recommended to Mr. Musser that when he does photometrics that he should ensure that the glare does not leave the property.

Mr. Kurowski questioned if the shared parking agreement had been executed or submitted for review. Mr. Fleming answered yes. Mr. Kurowski noted that it is also a condition and questioned if it would be reviewed and be required to be in place prior to the plan being recorded. Mr. Fleming answered yes.

Mr. Musser noted that Mr. Crissman questioned if the plan complied with the ordinance and he answered that the plan does comply with the ordinance requirements. Mr. Musser noted that he would discuss the issues with Mr. Kurowski after the meeting. Mr. Seeds noted that the plan does comply.

Mr. Crissman made a motion to approve the preliminary/final land development plan for Mid-Penn Oral and Maxillofacial Surgery with the following wavier request: 1) Waiver of the preliminary plan requirement; 2) Plan approval shall be subject to providing original seals and signatures; 3) Plan approval shall be subject to the establishment of an automatically renewable improvement guarantee for the proposed site improvements; 4) Plan approval shall be subject to the payment of the engineering review fees; 5) Plan approval shall be subject to Lower Paxton Township Sewer Department's review and approval of the sanitary sewer design; 6) Plan approval shall be subject to addressing the six (6) comments listed in HRG's letter dated October 16, 2009; 7) The new building is required to have fire protection as per Township requirements; 8) All proposed site signage, including construction signs, shall comply with Article 7 of the Lower Paxton Township Zoning Ordinance; and 9) A street/storm sewer construction permit is required for construction of stormwater facilities. 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.

Mr. Grove requested to table the Pine Hill Road plan at this time until it has been determined what is public and what is private land. He noted that he would be contacting staff to verify whether the land is public or private.

### **Improvement Guarantee**

Mr. Seeds noted that there was only one improvement guarantee.

#### Amber Fields, Phase III

An extension and increase in a letter of credit with Sovereign Bank, in the amount of \$17,742.10, with an expiration date of October 20, 2010.

Mr. Crissman made a motion to approve the one improvement guarantee as listed. Mr. Hornung seconded the motion. Mr. Blain noted that he is okay with the motion, but the items that need to be addressed are pretty simple. He question why they can't be completed. He noted that he is fine with 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. Blain seconded the motion. Mr. Hawk called for a voice vote, and a unanimous vote followed.

### **Announcements**

Mr. Wolfe noted that the next televised business meeting of the Board of Supervisors would be held on Monday, November 2, 2009. This is a change from the normal Tuesday night schedule due to Election Day falling on November 3, 2009.

### **Adjournment**

There being no further business, Mr. Blain made a motion to adjourn the meeting. Mr. Hornung seconded the motion, and the meeting adjourned at 8:44 p.m.

Respectfully submitted,

Approved by,

Maureen Heberle  
Recording Secretary

Gary A. Crissman  
Township Secretary