

LOWER PAXTON TOWNSHIP  
BOARD OF SUPERVISORS

Minutes of Business Meeting held October 17, 2006

A regular business meeting of the Lower Paxton Township Board of Supervisors was called to order at 7:38 p.m. by Chairman William B. Hawk on the above date in the Lower Paxton Township Municipal Center, 425 Prince Street, Harrisburg, Pennsylvania.

Supervisors present in addition to Mr. Hawk were William C. Seeds, Sr., William L. Hornung, Gary A. Crissman, and David B. Blain.

Also in attendance were George Wolfe, Township Manager; Steve Stine, Township Solicitor; Lori Wissler, Planning and Zoning Officer; James Snyder, Herbert, Rowland and Grubic, Inc.; Mark Levine; Joseph A. Grappone, Esq., Grappone Law Offices; Marcel Mileo, Dawood Engineering;

**Pledge of Allegiance**

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

**Approval of Minutes**

Mr. Crissman made a motion to approve the minutes of the September 12, 2006 workshop meeting, and the September 19, 2006 business meeting. Mr. Blain seconded the motion, and a unanimous vote followed.

**Public Comment**

Mr. Jeff Robinson, 6229 Nassau Road, explained that he has lived at his home for approximately 18 years and noted that the ordinance that prohibits the parking of tractor trailers on the street has created a hardship for him. He noted that his trucking firm recently received a written warning issued by the Police Department. He acknowledged that the ordinance was created 12 years ago as a result of a problem that was occurring elsewhere in the Township. He noted that the tractor is his company vehicle that he brings home, and is his main source of

income for his family. He requested an amendment to the ordinance to allow him to park his tractor in front of his house. He explained that his neighbors have no problems with his parking the tractor in the cul-de-sac, and that he moves the vehicle into his driveway during snow events, and he never idles the vehicle in cold weather. He suggested that an amendment could be made to the ordinance to prohibit the idling of these types of vehicles. He explained that the vehicle is only parked at his home on weekends.

Mr. Hawk explained that once an amendment is made to an ordinance, it would apply to all residents in the Township, and it could create a problem for other neighborhoods. Mr. Robinson noted that his neighbor is permitted to park his recreational vehicle on the street, but he is not allowed to park his company vehicle. He noted that his neighbor parks his boat on the road as well.

Mr. Hornung questioned the specific reason for the enactment of the ordinance. Mr. Wolfe explained that various complaints were received in regards to people parking tractors and/or trailers on residential streets. He noted that the Board determined that it was not appropriate for the parking of tractors or trailers in R-1 or R-2 residential areas as designated on the zoning map.

Mr. Robinson explained that he never brings the trailer home. He noted that other people park their tractors on their property but he does not have the room to do so. He noted that the previous situation concerned a resident who parked his refrigerated tractor and trailer in front of his home and idled the truck all night. Mr. Seeds questioned if the ordinance prohibits the parking of the tractor or trailer. Mr. Wolfe answered that it prohibits the parking of both. Mr. Seeds requested Mr. Wolfe to provide the Board members with copies of the ordinance for their review. Mr. Hawk explained to Mr. Robinson that the Board members would take a look at the ordinance.

### **Chairman and Board Member's Comments**

No comments were presented by Board members.

### **Manager's Report**

Mr. Wolfe noted Trick or Treat will be celebrated on Thursday, October 26<sup>th</sup> from 6 p.m. to 8 p.m. He noted that most municipalities observe Trick or Treat on the last Thursday of the month in October. He requested that motorists be particularly alert when driving to provide for the children's safety.

Mr. Wolfe explained that open burning is not permitted in the Township. He noted that it is illegal to burn leaves as they are defined as a recyclable material and may not be burned. He noted that the Township provides for residents to drop leaves and yard waste at the Township's compost facility on Conway Road, or they can rake their leaves to curbside, and the leaves will be picked up. He noted that a copy of the Leaf Collection Schedule is available at the Township Municipal Center or by viewing the Township's website. In addition, residents are afforded the opportunity to participate in the Township's bi-weekly yard waste curbside collection program at a cost of \$66 per year.

Mr. Hornung noted that he receives many inquiries regarding the burn ordinance, and, in the past, he also received many complaints from residents regarding their neighbors burning leaves. He requested Mr. Wolfe to explain to the public why the Township enacted the no-burning requirement. Mr. Wolfe explained that Pennsylvania Act 101 does not permit the burning of any recyclable material, which includes leaf waste, tree trimmings, and anything that grows in your garden except for grass. He noted that Pennsylvania Department of Environmental Protection (PA-DEP) put the Township on notice that they were not in compliance with the regulations with the State act, and if the Township did not come into compliance with the State

act, it would lose its ability to participate in the State grant recycling programs which generate roughly \$100,000 per year.

Mr. Seeds noted that there was a voice mail from a resident who complained that Waste Management would not take his yard waste. Mr. Wolfe noted that Waste Management will only take grass and not yard waste.

Mr. Wolfe noted that the Parks and Recreation Department will be hosting a pumpkin carving contest at Koons Park on Sunday October 8<sup>th</sup> and October 15<sup>th</sup> from 6 p.m. to 8 p.m.; a Great Pumpkin Hunt by flashlight on Sunday, October 29<sup>th</sup> at 6 p.m.; and hayrides in Koons Park from 6 p.m. to 8 p.m., beginning October 6<sup>th</sup>. He noted that the Hay Rides will be conducted on various days of the week up to October 22<sup>nd</sup>, and information on exact dates for Hay Rides are available by calling the Parks and Recreation Department. He noted that there is a \$2 charge for this event. Mr. Wolfe noted that more information is available by calling the Parks and Recreation Department.

### **Old Business**

#### Amendment of the consent agreement between the Township and Kevin Ricker for corrective actions required for the Old Iron Estates subdivision plan

Mr. Stine explained that two documents were distributed to Board members, the first, an extension to the consent agreement that he prepared setting forth a sixty-day extension to the deadline date as set forth in the agreement, and the second document was an agreement that Mr. Ricker's attorney prepared. He noted that both documents are essentially the same, with one major difference in that Mr. Ricker's attorney inserted language that no party would be waiving any rights that they may have under the agreement, or raise to issue any parts with the agreement. Mr. Hawk noted that that language is found in number three of the document prepared by Mr. Ricker's attorney.

Mr. Crissman noted that this amendment had been discussed with Mr. Ricker at a workshop meeting, therefore, he would move to accept the first amendment to the consent agreement between Lower Paxton Township and Kevin Ricker for the corrective actions required for the Old Iron Estates subdivision plan, and further, that this consent agreement must be signed by Mr. Ricker and returned within 48 hours of receiving the documents. Mr. Hawk noted that Mr. Crissman's motion did not approve inserting section three as prepared by Mr. Ricker's attorney. Mr. Crissman noted that it is not necessary to include this in the verbiage of the actual agreement. Mr. Blain seconded the motion.

Mr. Hornung questioned Mr. Stine in his response to Mr. Ricker's attorney, if there was any implied agreement that the Township should insert that clause into the agreement. Mr. Stine answered that he reviewed the amendment and told Mr. Ricker's attorney that he had no issues with the clause. Mr. Stine noted that that is what the intent was in the first place.

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

#### Loan agreement between the Township and the Colonial Park Fire Company

Mr. Stine explained that this mortgage is intended to replace the existing mortgage that the Colonial Park Fire Company currently has with the Township, at the same interest rate as the current mortgage. He noted that the outstanding dollar amount is different since the fire company has paid down the mortgage through the sale of a second fire station. He noted that Board action would approve the concept of the mortgage and the note, but he did not know when the settlement would occur. Mr. Blain noted that the intent is to lower the fire company's annual mortgage payment by the Township's receipt of the proceeds of the sale of the old fire station.

Mr. Blain made a motion to approve the loan agreement between the Township and the Colonial Park Fire Company in the amount of \$766,455. Mr. Crissman seconded the motion, and

a roll call vote followed: Mr. Blain, aye; Mr. Crissman, aye; Mr. Hornung, aye; Mr. Seeds, aye; and Mr. Hawk, aye.

Mr. Hornung noted that the new facility is very impressive, and it is remarkable for the Colonial Park Fire Company to take on this burden, and it is incumbent on the residents to help support the fire company.

### **New Business**

#### Settlement agreement between the Township and Steven Kessler as it applies to Conditional Use 02-01 for 4411 Locust Lane

Mr. Hawk explained that Mr. Kessler was required to limit the number of vehicles to eight that are permitted to be sold at his business. Mr. Stine explained that this is a consent agreement to settle an outstanding enforcement action, between the Township and Mr. Kessler, concerning the number of vehicles parked for sale on the property at Locust Lane. Mr. Hawk noted that this would put forth penalties and fines that were not included in the ordinance. Mr. Stine noted that this agreement would be in-lieu of proceeding further with the prosecution of the matter before the District Justice.

Mr. Crissman questioned if this alters the original agreement. Mr. Stine explained that the original agreement provides for the parking of eight vehicles on the property, but the issue was if the eight vehicles included the employee and customer parking. He noted that this was the impetus behind the agreement.

Mr. Seeds made a motion to approve the settlement agreement between Lower Paxton Township and Steven Kessler of 4411 Locust Lane. Mr. Hornung seconded the motion. Mr. Hornung questioned what would be the best way for staff to rectify the violations and to provide a tool to bring the business into compliance. Mr. Hornung noted that Mr. Wolfe stated that it would be better to have a settlement agreement in place, although his inclination would be to revoke the Conditional Use permit. Mr. Crissman agreed that he was more inclined to revoke the

Conditional Use since Mr. Kessler stated that he understood the terms of his Conditional Use. Mr. Wolfe noted that he was indifferent one way or the other, but he would pick the Consent Agreement since Mr. Kessler has provided the Township with additional details that were not included in the Conditional Use approval. He noted that the approval provides for the sale of up to eight vehicles and there were no terms in regards to employees or customers' vehicles listed in the agreement. He noted if additional requirements were set for the number of customer and employees, then the total number of vehicles that would be permitted to be parked on the site would total twelve. He noted that the agreement could not be made any clearer than that, and that this would further clarify the parking situation. Mr. Hawk noted that the number of vehicles permitted on the lot is more significant than the fines.

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

Resolution 06-42; Authorizing a procedure for the issuance of permits and calculations of tapping fees for commercial sanitary sewer connections in Paxton Creek

Mr. Wolfe stated that this was explained to the Board members at the last workshop meeting. He noted that this Resolution would allow the Township to calculate certain sanitary sewer flows on 250-gallon per day, and other calculations of sanitary sewer flows on a 180-gallon per day, depending upon what would be issued. He noted that one calculation would be for the development of planning modules issued by PA DEP, the other the issuance of sanitary sewer permits. He explained that this procedure has been utilized by Susquehanna Township and found to be acceptable by PA-DEP. Mr. Wolfe noted that this resolution is complete for Board action this evening.

Mr. Crissman made a motion to approve Resolution 2006-42, authorizing a procedure for the issuance of permits and calculations of tapping fees for commercial sanitary sewer

connections in Paxton Creek. Mr. Blain seconded the motion, and a roll call vote followed: Mr. Blain, aye; Mr. Crissman, aye; Mr. Hornung, aye; Mr. Seeds, aye; and Mr. Hawk, aye.

Resolution 06-39; Authorizing the transfer of a liquor license to the proposed Hoss's Restaurant to be located on Colonial Road at Linglestown Road

Mr. Stine noted that this was the time and date set to conduct a public hearing on Resolution 06-30 which would transfer the liquor license R-13793 to Hoss's Steak and Sea House at Colonial Road at Linglestown Road.

Mr. Joseph A. Grappone, Esq., Grappone Law Offices, of Hollidaysburg, Pennsylvania stated that he would provide an oversight of the project, for the owner, Mr. Elliott, and provide answers to any questions that anyone may have.

Mr. Grappone noted that he had attached a courtesy ordinance that has been used by another municipality which included a mistake as to who owned the holdings. He noted that the holdings are owned by Pathway Holdings, LLC, and the sole member of that liability company is Hoss's Steak and Sea House, Inc. Mr. Stine noted that the Township prepared this request as a resolution and not an ordinance. Mr. Grappone noted that he was not aware of that. Mr. Stine noted that the Township prepared its own Resolution.

Mr. Grappone noted that the address for the premises is 4220 Linglestown Road, and that the restaurant concept is "Marzonie's", and provided the Board members with a copy of the floor plan. He noted a brick oven pizza family style restaurant will have a brewery located on-site. He explained that the Pennsylvania Liquor Control Board (LCB) would automatically issue a G-license since he meets the requirements for the brewery and will also require a bar license which is subject to the inter-municipal transfer. He explained that the license was previously owned by Soneez Place, Inc. located in the Borough of Steelton, in Dauphin County.

Mr. Grappone noted that there is a similar operation to be found in Duncansville, Pennsylvania, and he just received LCB approval for a third store in Allegheny County. He

noted that the restaurant would be open until midnight on Fridays and Saturdays, and close at 11 p.m. Sunday through Thursday. He noted that there are no zoning issues identified for this plan, and the LCB will be supervising all liquor operations on the premises. Mr. Grappone provided the Board members with a copy of a sample menu.

Mr. Seeds questioned if this would be a new building. Mr. Grappone answered that it would be.

Mr. Stine questioned if there was anyone in the audience that wished to be heard on Resolution 2006-39. Mr. Stine noted since there was no response that it would in order to close the public hearing for Resolution 2006-39. He noted that the Board may take action as this time, if it so desires.

Mr. Crissman made a motion to approve Resolution 2006-39, authorizing the transfer of a liquor license to the proposed Hoss's Steak and Sea House Restaurant to be located on 4229 Linglestown Road.

Mr. Blain seconded the motion, and a roll call vote followed: Mr. Blain, aye; Mr. Crissman, aye; Mr. Hornung, aye; Mr. Seeds, aye; and Mr. Hawk, aye.

Preliminary /final subdivision plan for Sir Thomas Court, Lots 5C & 5 D

Ms. Wissler explained that the purpose of the plan is to subdivide existing Lot 5-C and Lot 5-D into two new lots of a different area configuration (lot line adjustment). The parcels are zoned Business Campus District (BC), and are located north of Schoolhouse Lane and west of Interstate 83. Public water and sewer will serve the site.

Ms. Wissler noted that on September 13, 2006, the Planning Commission recommended approval of the plan subject to addressing the comments generated by Township Staff, Township Engineer and Dauphin County Planning Commission. The Commission also recommended approval of the three requested waivers.

Ms. Wissler noted that Marcel Mileo of Dawood Engineering was present on behalf of the plan.

Mr. Seeds questioned Ms. Wissler if all the comments from the Dauphin County Planning Commission and the Township Engineer have been addressed. Ms. Wissler answered that that was correct.

Mr. Seeds questioned who maintains the cul-de-sac road at this time. Ms. Wissler answered that the developer maintains the road. Mr. Seeds noted that only the wearing course is down, and the manholes are protruding four to five inches above the roadway. He noted that this would be an issue for snow plowing. Ms. Wissler noted that Mr. Miller from the Public Works Department is working with the developer to finalize the roadwork.

Mr. Marcel Mileo, 584 Britton Place, Mechanicsburg, PA, 17055, explained that he was representing CSPA Reality Group in regards to Lots 5-C and 5-D on Sir Thomas Court.

Mr. Crissman questioned why the property was being subdivided. Mr. Mileo answered that the owners wanted to make the frontage wider for Lot 5-C, the upper lot, which would permit for better development for that lot. He noted that he dog-legged the property line to be able to give Lot 5-C access to the detention basin that is located to the rear of those two lots. He noted that both lots would be responsible for maintaining the detention basin.

Mr. Hawk questioned if there was a proposal made for a building. Mr. Mileo answered that there was a proposal for Lot 5-C that was put on hold at the last moment. He noted that no one is interested in developing either lot at this time.

Mr. Seeds questioned if these were the last two lots for that development. Mr. Mileo answered that he was not aware of how many lots are still available. Mr. Crissman questioned if both properties would egress on Sir. Thomas Court. Mr. Mileo answered that both properties would access Sir. Thomas Court, and suggested that any development for this site would be

handled by Dawood Associates. Mr. Mileo noted that a member of the Planning Commission suggested a common entrance onto Sir Thomas Court would be preferable, and he would try to accommodate this if both developers are agreeable to this, but currently, there are two entrances shown on the plan. Mr. Hawk noted that there are two entrances to the complex. Mr. Mileo noted that the two proposed entrances have the required site distance for both entrances. Mr. Seeds noted that there are curb cuts in the development for the properties. Mr. Crissman noted that he had a concern for problems that could arise in the future. Mr. Hornung noted that the two property owners would have to agree to this and the Township could not force the developer to do this at this time. Mr. Wolfe noted that the subdivision plan meets the Township's requirements for the ordinance. He noted that a traffic study would not be requested at this time, and he could not predict if there would be a problem. Ms. Wissler suggested, that since the lots are to be developed as a business campus zone, they recommend that one entrance be developed as a campus-type entrance.

Mr. Crissman questioned Mr. Mileo if he agreed with the three waiver requests, three site specific conditions, and the two general conditions. Mr. Mileo responded that he agreed with the three waiver requests, two general conditions, and three site specific conditions.

Mr. Crissman made a motion to accept the preliminary/final subdivision plan 2006-27 for Sir Thomas Court, Lot 5-C and Lot 5-D, with the following waiver requests and conditions: 1) Waiver of the preliminary plan requirement; 2) Waiver of the requirement that contour elevations refer to U.S. Coast & Geodetic Datum; 3) Waiver of the requirement to provide sidewalk on Sir Thomas Court. Subject to providing a note on the plan that construction of sidewalk will be deferred until such time when development of the lots occurs; 4) A statement shall be included on the plan indicating that all easements and right-of-ways have been shown on the plan, and that all utilities in the Township have been contacted; 5) Under "Zoning Data,"

change item #8 to comply with the Buffer Yard requirements in Article 803.D; 6) Change the Location Map to reflect a scale of 1,000 feet to the inch; 7) Plan approval shall be subject to providing original seals and signatures on the plan; and 8) Plan approval shall be subject to the payment of the engineering review fees.

Mr. Blain seconded the motion, and a roll call vote followed: Mr. Blain, aye; Mr. Crissman, aye; Mr. Hornung, aye; Mr. Seeds, aye; and Mr. Hawk, aye.

Preliminary/final subdivision and land development plan for Colonial Village

Ms. Wissler noted that the applicant has requested that the plan be tabled. Mr. Crissman suggested that the plan should be withdrawn from the agenda.

Resolution 06-43; Planning Module for Colonial Village

Ms. Wissler noted that the applicant has requested that the planning module be tabled as well. Mr. Crissman requested that this item be withdrawn from the agenda.

**IMPROVEMENT GUARANTEES**

Mr. Hawk noted that there were four Improvement Guarantees.

Victoria Abbey at Forest Hills, Phase 2

An extension and increase in a letter of credit with Integrity Bank in the amount of \$94,736.95 with an expiration date of November 5, 2007.

Harrisburg Intervention Pain Management Center

An extension and increase in an escrow account with Lower Paxton Township in the amount of \$1,306.80 with an expiration date of November 1, 2007.

Quail Hollow, Phase IV

An extension and increase in a bond with Lexon Insurance Company in the amount of \$408,222.43 with an expiration date of November 4, 2007.

Quail Hollow, Phase V

An extension and increase in a bond with Lexon Insurance Company in the amount of \$633,287.38 with an expiration date of November 4, 2007.

Mr. Crissman made a motion to approve the four listed Improvement Guarantees as presented. Mr. Blain seconded the motion, and a unanimous voice vote followed.

**Payment of Bills**

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

**Adjournment**

There being no further business, Mr. Crissman made a motion to adjourn the meeting. Mr. Blain seconded the motion and the meeting adjourned at 8:27 p.m.

Respectfully submitted,

Maureen Heberle  
Recording Secretary

Approved by:

Gary A. Crissman  
Township Secretary