

LOWER PAXTON TOWNSHIP
BOARD OF SUPERVISORS

Minutes of Workshop Meeting held January 11, 2011

A workshop meeting of the Board of Supervisors of Lower Paxton Township was called to order at 6:00 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., Gary A. Crissman, and David B. Blain.

Also in attendance were George Wolfe, Township Manager; Steven Stine, Township Solicitor; Stephen Fleming, Township Engineer, and Eric Stump, HRG, Inc.; William Weaver, Sewer Authority Director; Jeff Wendle and Kevin Shannon, CET Engineering; David Johnson, Public Safety Director; Tara Mead; and Eric Epstein, SWAN.

Pledge of Allegiance

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

Public Comment

No public comment was provided.

Presentation by HRG, Inc. regarding a proposal to construct a
“diverging diamond” intersection on Union Deposit Road at I-81

Mr. Wolfe noted that Mr. Fleming and Mr. Robbins have been having discussions in regard to a potential solution to the traffic congestion/accident history at the Union Deposit Road and I-83 interchange. He noted that HRG, Inc. has been researching the “diverging diamond” concept which they believe would work at that location. He noted that it would be a PENNDOT project, however, the Township could lobby PENNDOT for this work. He noted in terms of the interstate improvements, it would be a relatively a low cost alternative to greatly increase the interchange to handle traffic and reduce traffic accidents.

Mr. Steve Fleming introduced Eric Stump who is HRG's Traffic Engineer. He explained that Mr. Stump is present to discuss the diverging diamond concept for the Union Deposit Bridge over I-83. He noted that this solution would offer a cost sensitive option for a funding request to PENNDOT that could also be modified in the future if needed, as part of any other upgrade to the Interstate project.

Mr. Stump noted that the interchange of I-83 and Union Deposit Road has been a trouble spot in the Township for many years. He explained that he has worked for HRG, Inc. for ten years and this intersection has been the topic of discussion for that time period. He explained that Chris Bauer, Mr. Stump's Manager at HRG, had a recent conversation with a Township police officer who indicated the frequency of the calls for this intersection. He noted that he researched different options that could improve this interchange, noting that the first option was to install dual lefts turns and increase the ramps but it would be a very costly improvement.

Mr. Stump noted that the Diverging Diamond Interchange (DDI) is a relatively new concept for the United States. He explained that the traffic from the right side of the road would cross over and use the left lanes and then cross back over to the right after reaching the west side of the bridge. He noted that the traffic coming from the opposite direction would do the same thing. He explained that all turns would be un-signalized movements and none would cross lanes. He noted that all turns would be through movements directly to the ramps. He noted that there would be two traffic signals to control the flow of traffic but not the turns.

Mr. Seeds questioned if the DDI is used anywhere in the United States. Mr. Stump answered that the first DDI constructed in the United States was in 2009 in Springfield, Missouri. He showed an aerial view of the DDI that was installed in Missouri. Mr. Seeds questioned if a car entered into the DDI, how it would access the crossover turn to the ramp from the Interstate. Mr. Stump explained that once the vehicle crosses the road it would make an unobstructed turn onto the ramp.

Mr. Crissman questioned Public Safety Director (PSD) Johnson if this is the intersection experiencing the most accidents in the Township. PSD Johnson answered that it is one of the highest accident intersections. Mr. Crissman questioned what was the success rate for the DDI that was installed in Missouri. Mr. Stump explained that four additional DDI's have been installed in the United States, with another four under construction. Mr. Crissman questioned

what the empirical data was to support this project, especially concerning the reduction in accidents. Mr. Stump explained that the National Highway Safety Administration (NHSA) has noted that the DDI has increased the capacity for the interchange by 20%, and compared to a conventional diamond interchange, it has provided a 60% reduction in delays. Mr. Stump noted that there has not been enough time to do a comparison study for the DDI that was installed in Missouri in 2009, but the simulations show that it is much safer. He noted that there is a DDI that has been in use for over 25 years in Versailles, France.

Mr. Seeds questioned if the traffic coming off the ramp would be controlled by a signal. Mr. Stump answered no, however there would be a yield sign.

Mr. Crissman questioned if there are any studies to show a reduction in accidents. He noted, in theory he feels that the project will reduce the amount of accidents, but he wanted to know if there is anything to support it. Mr. Stump answered that a study was conducted in France for the DDI that has been in operation for over 20 years and it found that they only had 11 accidents at the interchange in five years, none of which were serious. He noted for a typical diamond interchange there were normally 25 accidents in that time period. He noted that most of the accidents only had minor injuries.

Mr. Seeds noted that people using the DDI would need to be in the correct lane before entering the interchange. Mr. Stump explained that there would be overhead signage providing directions for lane use.

Mr. Fleming noted that the curbing and other improvements would channel the traffic into the correct lanes. Mr. Stump noted where vehicles cross to the left side of the road, glazed screens have been installed along the right side of the road.

Mr. Seeds noted that intersection has the highest accident rate in the Township. PSD Johnson noted that every year it is in the top ten, and typically in the top three. Mr. Fleming noted that the key factors that led towards this type of geometry was the significant number of accidents as a result of conflicting traffic movements, left turns that cross other lanes. He noted that this geometry eliminates traffic conflicts resulting in a reduction in accidents. Mr. Hawk suggested that it is the highest traffic accident area in Dauphin County.

Mr. Stump noted that traffic for the southbound ramp for I-83 has backed up to Union Deposit Road. He noted that the new configuration would help to alleviate the back up and keep

the traffic more fluid. PSD Johnson noted that most accidents are a result of left turns or rear-end collisions. Mr. Fleming noted as traffic stacks on Union Deposit Road, other traffic uses the shoulder to access the ramps and by doing so they are blocked from seeing vehicles making a left turn and try to merge quickly as traffic is merging onto the ramp. He noted that the Police Department has detailed enforcement efforts to prevent this from occurring.

Mr. Hawk questioned if there was a pedestrian pathway included in the design. Mr. Fleming answered that it would provide for a completely protected pedestrian corridor through the center of the DDI. Mr. Stump explained that there would be a Jersey barrier on both sides of the walkway. Mr. Fleming noted that there will be crosswalks and pedestrian signals to access the walkway, noting that it would be similar to what was installed for the Harvey Taylor Bridge crossing the Susquehanna River. He noted that the pedestrian would be protected by a four or five foot concrete wall on both sides.

Mr. Blain questioned how much it would cost. Mr. Stump noted that one advantage is that there is no need to replace the current bridge and there would be minimal work to improve the ramps. He noted that he has not calculated the price yet. He noted that the DDI installed in Missouri cost \$3 million, however it was a full-depth construction from end to end. He suggested that this project would be closer to the \$2 million range.

Mr. Crissman questioned if PENNDOT would be acceptable to this concept. Mr. Stump noted that he has not approached PENNDOT District-8 yet. He explained that District-5 seemed encouraging, however District 2, State College area, personnel were very negative against the concept. He noted that it would vary by district.

Mr. Blain noted that PENNDOT has a Master Plan for I-83 and he questioned how this would impact that plan. He noted that the roadway underneath the bridge will be increased from four lanes to six lanes and it would seem to impact the ramps as well as the bridge. Mr. Stump noted that he would have to discuss this with PENNDOT as to how it would impact the long-term plans. Mr. Seeds noted that PENNDOT has plans to widen the I-83 roadway from Union Deposit Road to I-81. Mr. Fleming noted that the timing for that project is unsure at this time. Mr. Seeds suggested that the plan was bid for this year. Mr. Fleming noted that time is a factor in showing this concept to PENNDOT as soon as possible. He noted that he would like PENNDOT to tell him what their next step is for the I-83 Master Plan. He noted that the benefit of doing an

improvement like this is that you would not be changing the bridge; therefore if PENNDOT would widen I-83, they could do it without impacting the DDI.

Mr. Seeds questioned what precipitated this discussion. Mr. Wolfe noted that Mr. Fleming and Mr. Robbins had discussions on the issue. Mr. Seeds questioned if the Township is paying HRG, Inc. to look at it, or is HRG, Inc. doing it on its own, hoping to sell it to PENNDOT. Mr. Fleming noted, at this point, HRG, Inc. has spent very little time on the plan, but if they show an interest, then there would be more work to do at that time. He noted, at this time, he is only working with Township staff on a design or concept.

Mr. Eric Epstein explained that he is a consultant with East Hanover Township, and has found that there is no recovery money left to pay for their road project at Routes 22 and 743. He noted that he is trying to rebuild the last six miles of Route 22 as part of the Walnut Street Corridor project, and they are locked in limbo as there are no funds. He noted that it would be good to see what the Harrisburg Area Transportation System (HATS) would say about this concept. He noted if HATS put this on their priority list, then the Board might have an idea of when the project would go. He noted that East Hanover Township has had the Route 22/743 project on the priority list for five years and it has gone nowhere. He noted that he did not think that people are aware that there is no recovery money funds left. He questioned where the money would come from to fund the DDI.

Mr. Epstein explained that a new administration is coming in, and it is a good issue to speak to. He noted that it is a great idea, and he hopes the Township gets the project done. He noted that it would be interesting to see where this would be put on the priority list with HATS.

Mr. Hawk noted that it would be good to float the idea to see what happens. Mr. Epstein agreed that it would be good to see if the concept would be advanced. He noted that he has been told that his project is right around the corner, but that corner keeps getting farther away.

Mr. Crissman noted that there needs to be an awareness of the great benefit from this project. Mr. Stump noted that he would like to meet with PENNDOT first to determine if they would be behind the project before going to HATS.

Mr. Wolfe noted that all Mr. Fleming is looking for, at this point, is for the Board to concur that the concept should be taken to PENNDOT. Mr. Crissman agreed that it should be done. Mr. Seeds questioned what it would cost the Township. Mr. Wolfe answered that it would

be very little. Mr. Fleming noted that it would entail another meeting similar to this one to show PENNDOT the concept. Mr. Crissman questioned if Mr. Fleming would wait for the new administration to come in. Mr. Wolfe answered that it would not be necessary. Mr. Seeds noted that the plan looks like it would work. Mr. Blain questioned how many people were on the wrong side of the road in Missouri when this project was started. Mr. Fleming acknowledged that educating the motor public would be a big part of the program. Mr. Crissman noted that it would be very hard to try to drive straight through as the lanes would direct you to crossover the roadway. Mr. Fleming noted that the traffic markings used in construction projects today are very informative as to directing motorists where they are to drive. He noted that the paint markings would be very bright and fresh while the motorists are in the learning curve. Mr. Crissman noted that he does not see that as a big issue. Mr. Fleming noted that he would report back to the Board after meeting with PENNDOT.

Discussion regarding the need to bore under I-83 in the
ARA mini-basin to complete sanitary sewer rehabilitation work

Mr. Weaver noted that during the last Authority meeting, he discussed the ARA sewer replacement project that included pipe bursting under I-83, however, during the preparation for the process, the contractor determined that the current pipe is encased in concrete. He noted that this was not shown on the drawings received from PENNDOT. He noted that CET met with the contractor and staff and determined that the project could not proceed with the pipe bursting which was awarded as part of the original contract. He noted that the contract also included an alternate for boring which was more expensive. He noted that CET prepared a recommendation for the Board to consider and Mr. Wendle would like to speak to this.

Mr. Wendle noted that there were two bids within the original contract for the job, one for boring and one for lining, and he felt that it was not worth spending \$300,000 to bore under I-83, noting that the primary reason for expanding the pipe was due to some sags, maintenance issues, and also some capacity issues. He noted before the contract was awarded, some excavation work was done on the east side of the highway to determine that the manhole was present as shown on the plan. He noted that the manhole was shown as well as some concrete encasement further west as shown on the drawings. He noted when the contractor started the

work, he discovered concrete on the other side of the manhole and an additional manhole that was not shown on the plan. He noted that it is impossible to pipe burst the section as originally planned.

Mr. Wendle noted that the contractor made a claim for delays noting that he has constructed the pipe for the work, in the amount of \$40,000. He explained that he has not had the opportunity to review and confirm if it is a legitimate claim. He noted that the urgent issue is how to proceed with the improvement needed under I-83. He noted that he looked at other possibilities, noting that the contractor provided a higher price for boring that what was his original bid. He noted that he received prices from Aaron Enterprises, a boring contractor who could do the work, and their price is in line with what the original bid was. He noted that he continues to think that it would be not be worth spending \$300,000 to bore under I-83 as an alternative. He noted that it was worth spending \$80,000 to pipe burst to pick up some additional capacity, but his current recommendation would be to line the pipe. He noted that the original estimate for lining was \$35,000 but they have since received a new price to do the lining for \$22,000. He noted that lining would provide for a little bit of increased capacity because it would be smoother with no additional joints; however, there will be sags that will require some maintenance. He noted that the concept of spending less than 10% of the cost to bore under the road to eliminate the leaking issues and provide a structural fix would be a preferable way to go. He noted that he would make some adjustments on the east side of I-83 to change the manhole alignment slightly so if it became a maintenance issue, then a separate contract for a competitive bid for boring could be let, and it could be located so it could tie into the sewer. He noted that the best thing to do at this time is to line the project, and if it becomes a problem in the future then the Authority could spend the money to fix it then. He noted that it is not cost effective to spend \$300,000 to bore the pipe. He explained that a change order to the contract would be needed.

Mr. Hawk questioned how much it would cost to line the pipe. Mr. Shannon answered that \$25,000 is listed in the table while \$22,000 was listed in the memo.

Mr. Weaver noted that he wanted to make sure that the Board was comfortable with the lining process. Mr. Hornung questioned if the pipe is leaking. Mr. Wendle answered that it is a clay pipe located under the highway that is broken and it cannot be televised since it is underwater. He noted that there is a big sag in the pipe, and he assumed that it is leaking given

that it is located next to a stream bed. He explained that he looked into the suggestion made at the last meeting of relocating the pipe in the conduit that runs under the highway, however, the sewer is located on the upstream side below the level of the conduit, therefore, there is no way to dig underneath it.

Mr. Hornung questioned if the pipe is encapsulated in concrete is that an issue. Mr. Wendle answered that we do not know if the pipe is entirely encapsulated in concrete. He noted that there is nothing in the plans that showed that the pipe was concrete encased, and it could have happened that during construction someone filled 30 feet on top of the sewer, and poured some concrete around it. He noted if that is the case, there would be very little leakage, however, there is no way to know. Mr. Hornung questioned if the pipe could be filled with clean water. Mr. Wendle noted that a contractor would have to fill it with clean water, and blow out the line prior to doing the lining to ensure that it could be lined. Mr. Wendle noted that you could flush the line and televise it dry, but no one has done this. Mr. Hornung questioned how much it would cost to do that. Mr. Weaver noted that he has televised the line. Mr. Wendle noted that it was not done in the dry. Mr. Weaver note that the pipe is half full and you can see the leaks from the top of the pipe. Mr. Wolfe suggested that roots were seen coming in from the top. Mr. Weaver noted that he has seen sags, and there may be leaks. Mr. Hornung questioned if roots were seen. Mr. Shannon noted that there were some minor cracks where you could see the roof of the pipe when it was under water. Mr. Weaver suggested that it is not a leak issue but he would not recommend leaving the pipe as it is because when all the work is done, there will be millions of gallons of water following through it. He note that water follows the pipe and it has been found that clay pipe will break, and he does not want a pipe to break under I-83 that is buried 30 feet deep. He noted that is why he suggested doing the lining as it would provide for some structural integrity, noting that the entire pipe could fall apart around the liner and the liner would hold up. He noted that the pipe could break. Mr. Hornung noted if a liner is installed, the diameter has to decrease. Mr. Wendle explained that pipe will be sufficiently reduced; however, the end value will offset it and provide for extra capacity. He noted that the smoothness of the new pipe is substantially greater than the old pipe and there would be no joints. He noted that you would probably get some slight surcharging in the manhole upstream. Mr. Hornung questioned if there is surcharging now. Mr. Wendle answered yes. Mr. Weaver noted that there have been overflows at

the manhole at I-83, partially due to sags in the pipe as well as grease accumulation in the line. He noted that it is impossible to keep the pipe clean all the time. He noted, since the Authority is replacing the ARA mini-basin, he expects the flows to decrease tremendously based upon the current results. He noted that Mr. Wendle was very comfortable with the design.

Mr. Hornung questioned if after the I/I work is completed, will there still be surcharging with the existing pipe. Mr. Wendle answered only minor ones during significant wet weather events. He suggested that it would be about a half a foot in the manhole. He noted that he based his calculations on a new liner pipe, so it would probably be a little more than that if nothing is done. He noted that the assumption is that since the pipe is made out of clay it is not too good, but he has not viewed the entire pipe in the dry. He noted that the other alternative would be to do nothing, but he would still realign the top to provide for future boring and come back in the future and line the pipe. Mr. Hornung noted if the pipe breaks then you could not line it. Mr. Wendle noted that would be a problem. Mr. Weaver noted that since the pipe is located under I-83 there would be huge problems, and you would have to bypass the pipe pumping through the culvert for weeks until the problem was solved.

Mr. Hornung suggested that it would be good insurance to line the pipe. Mr. Hawk noted that it would cost \$22,000 to line it but how much would it cost to blow out the line. Mr. Wendle noted that it is included with the price. He noted that the contractor has to do that to assure them that they can line the pipe, especially since no one has seen what the pipe is like under the water. He noted even if there are sections of broken pipe, they could flush it out and line it. Mr. Weaver noted that the contractor must blow out the line before they could line it.

Mr. Weaver noted that he would prepare a change order. Mr. Hornung suggested that the contractors sunken cost estimates are a little high. Mr. Shannon noted that the total cost of the pipe bursting was \$59,000 and the contractor is stating that they put \$40,000 into the project. He noted that he needs to look at it. Mr. Weaver noted that he told the contractor that they didn't do anything other than put some pipe together. Mr. Wendle noted that that cost needs to be reduced substantially. He noted that the contractor could be told to file a claim if he is not happy.

Status report and discussion regarding the proposed noise ordinance, including threshold levels for violations

Mr. Wolfe noted, throughout a good part of the past year, staff has worked with interested parties in the development of a noise ordinance. He noted the last time the Board discussed the ordinance, he informed the Board that the Police Department was going to investigate the thresholds set within the Ordinance to determine if they were realistic for our Community. He noted that Public Safety Director (PSD) Johnson is present to discuss those findings and what has transpired since the last time this issue was discussed.

PSD Johnson explained that the final draft has not changed at all. He noted that the levels set in Table One were set by Housing and Urban Development (HUD) years ago. He noted that he sent Office Farrell, who is a sound and lighting expert for concerts, to various locations in the Township and he took decibel (dB) readings. He noted that the readings that he took using the Township dB device came back slightly higher than what was proposed for the ordinance. He noted that the concern was related to establishing dB levels when it was already known that there are readings in some areas of the Township that are higher than what is established for the ordinance. He explained that he met with Mr. Eric Epstein and Mrs. Tara Mead, and this was discussed and he suggested that they will say that the levels should remain as is; however, other people have notified him that they want the levels increased since they are not reasonable. He noted that a decision must be made on the dB levels in order to move forward with the process.

Mr. Hawk questioned if an increase in the dB level would be more restrictive. PSD Johnson answered that it would be less restrictive as higher levels of sound would be permitted. He suggested that everything else would meet with Mr. Epstein's and Mrs. Mead's requests, however there are other people who are not in agreement with it.

Mr. Blain questioned what areas displayed higher dB readings. PSD Johnson explained that the dB for a commercial district was set at 70, and Officer Farrell took a reading at the Tire Mart on Route 22 between 1 p.m. and 5 p.m. and it came in at 76.4 dB during normal business. He noted that the officer was standing at the street along Route 22 when he measured the dB level. He noted that the reading at Jack Williams Tire was 75.3 dB, and the Harley Davidson Dealership reading was 86 dB when showing motorcycles. He noted that the Pep Boys reading was 75 dB, Penn Garden Pool was 70.2 dB, Koons Park was 78.9 dB, and George Park was 78.9

dB. Mr. Hornung questioned what was occurring at Koons Park at the time the reading was taken. PSD Johnson answered that the readings were taken in July recording the normal ambient background noise. PSD Johnson noted in some of the residential areas, the readings were 62-63 db and the level was established at 60 dB.

Ms. Mead noted when she met in September with PSD Johnson and Chief Martin from Susquehanna Township, who has a similar ordinance, they came to an agreement that in place of using the dB levels as the end all and be all, it would be used as a guide. She noted that she provided some language to PSD Johnson to use in crafting the ordinance. Mr. Epstein noted that he is in the radiation monitoring business and it is very similar to the dB business, and he noted that you can go to some places and the radiation levels are higher than the ambient levels. He noted that the language that he is looking for approval for tonight is to change “shall” to “may” to provide discretionary enforcement. He suggested instead of using the dB grid as the end all, it could be an appendix, to be used as a reference if necessary. He noted that highway construction needs to be exempted, but the end all should not be measured in dBs. He noted that language such as noise disturbance that disturbs the quality of life would be better if it provides flexibility to the officer. He suggested that some areas are out of the norm based upon where they are. He suggested proposing compromise language to give the police flexibility in enforcement. He noted if there is a loud noise, by the time the officer gets to the scene the noise is gone. He noted that some people live along the highway that will be out of the norm all the time. He noted that they are looking for enforcement for the people who continually disturb the peace. He noted that he would like to come to some type of compromise to provide discretion for enforcement.

Mr. Hawk questioned if this ordinance somewhat mirrors Susquehanna Township’s ordinance. Mr. Epstein noted, in talking with Chief Martin, he questioned if he would use the dB levels for enforcement and he said absolutely not. He noted that it is only a guidance tool. He noted that is where we are now, and some people are disturbed by the dB levels. He noted that the dB levels are to be used as a guidance tool rather than an arbitrary tool, and basically an enforcement tool that Chief Martin uses if the incident disturbs peace and dignity. He noted that the Police should be provided the ability to use discretion. He noted that there could be instances where the noise is lower than the threshold and it is an issue. He noted that no one wants to be a

noise cop. He only wants to provide a tool for the police to use. He noted that it is an inexact science.

Mr. Hawk questioned if the change in “shall” to “may” provides for some flexibility. PSD Johnson answered that it would provide for some flexibility, noting that “shall” means they have to do it. Mr. Wolfe noted that is not how he would read it. He would read it that “shall” means that the violation has occurred, and “may” means that it is not a standard. He explained that 35 mph speed limited tells him that it is a “shall” and not a “may”. He noted that either you have dB limits or you don’t. He noted if you are sending a police officer with a dB meter or Vascar, and then you say the number may be a violation that does not provide the officer an option. Mr. Epstein noted that by the time the officer get to the scene the dB level becomes a mute point. Mr. Wolfe noted that he understands that issue.

Mr. Epstein noted that everyone has traveled Front Street in Harrisburg, but no one drives 35 mph. He noted that is a “shall”. He noted if you are the wrong person at the wrong time going 50 mph you will get ticketed. He noted what we are wrestling with is that there are some people who are in a position, like Mr. Aurand and Ms. Mead, who are being assaulted by noise, will find that if only the dB level is used as the final determining factor it will never work. He noted by the time the officer gets to the call, the noise is gone. He noted when he spoke with Chief Martin, he stated that the dB level should not be the recourse if it was up to him. He noted that the struggle is what language can provide flexibility with some clarity. He noted that the current standard is not working. Mr. Blain questioned how Chief Martin would handle Ms. Mead’s issue. Ms. Mead answered that the neighbors would have been arrested. Mr. Hornung questioned what the arrest would have been based upon. Ms. Mead answered that it would have been based upon the other criteria that they had in their noise ordinance that is also included in the proposed ordinance. Mr. Epstein noted that it is a quality of life issue. He noted if someone likes to mow his lawn at ten o’clock at night using a light, it is a quality of life issue, and this is where the enforcement issue comes in. He noted that there could be people who have events that occur occasionally, like a graduation party that may go to ten or eleven at night. He noted that he is trying to confront and isolate the people who have habitual issues, such as reviving their car engine all the time. He noted it is not an exact plan. He explained that the average radon radiation reading is 12.5 picocuries per liter, or pCi/L, but he has monitors that are locked at 18

pCi/L all the time. He noted that level would be out of compliance, and you would need that kind of flexibility, without getting hung up on the dB level. He noted when an officer arrives at the scene he can use his discretion. Mr. Wolfe noted if when an officer arrives and there is no sound to measure, what does he base the violation on. Mr. Epstein noted that it becomes a problem when it becomes a familiar issue, when someone is screaming at another person. He noted that is when you have to afford law enforcement some flexibility. He noted that you need collaborating evidence; he noted that in Tara's case her husband must be at work at 4 a.m. noting that it is unusually early, but it is realistic for him to think that he can sleep at night. He noted that he had a noise problem in Susquehanna Township when he lived in the Brandywine Development that abutted the Camelot Apartments. He noted that they rented to college students attending Weidner Law University, and he was flexible to state on the weekends he could live with loud noise, however, during the week he was not flexible and he took his gun out and told the college students that was how he was going to deal with it since by the time the police officers got there the noise receded and went away. He noted that the people who lived behind the students were senior citizens and they were terrified of them. He noted that his point is that when someone's quality of life is consistently violated, people will not be as tolerant as the Mead and Aurand families. Mr. Wolfe noted that the police prosecuted the neighbors of the Aurand family and the judge discharged the case. He noted that it was based upon quality of life. Mr. Epstein noted that that the judge suppressed what evidence he would permit. Mr. Wolfe suggested that the judge wanted evidence. Mr. Epstein noted that he and Mr. Wolfe can go back and forth but the current ordinance is not working.

Mr. Blain noted that he had an encounter this summer where the ordinance did work, noting that a neighbor decided to keep a rooster and it would crow at 3 a.m. and wake up the three neighbors. He noted that this occurred for three straight months. He noted that the noise ordinance states that you can have an animal on your property as long as it does not impact the quality of life of the neighbors around it. Mr. Epstein noted that there was more than one neighbor disturbed by this noise for 90 days. Mr. Blain noted that there were two homes impacted and the Township filed a complaint against the neighbor with the Magisterial Judge, noted that it was a quality of life issue, and the judge found in favor of the neighbors stating that the person had to get rid of the rooster. He noted that the ordinance worked and he found in favor

of the two neighbors. Mr. Hawk noted that it was corroborating evidence to show that the rooster was disturbing the quality of life. PSD Johnson noted that the rooster was not smart enough to stop the noise before the police showed up. Mr. Blain noted that the noise ordinance worked in that case.

Mr. Epstein noted the Mead's and Aurand's are not contriving the problem, and they have systematically had their quality of life disturbed. He noted that Mr. Aurand's wife Lisa is undergoing chemotherapy and she has to put up with the noise. He noted that these people have better things to do than to come to meeting after meeting to discuss this issue. He noted that Mr. Hawk had a restaurant near his home that provided chronic noise for the neighbors, noting that the ordinance is reactive as something has to occur repeatedly before there is the ability to cut it off. He noted that there are 48,000 people living in the Township and it is getting more congested, and the ordinance may work for the rooster, however, it is an issue for Lower Paxton Township but not Susquehanna Township. He questioned why it can't work for the Meads.

Mr. Wolfe noted that there are a few people who are adversely affected by this, and it is a significant issue; but overall the Township does not receive a significant number of complaints in regard to noise that can't be handled during normal channels, such as the Police telling someone to stop the noise. He noted that his concern is developing an ordinance that is not enforceable, noting that a police officer needs a standard for a violation as opposed to one neighbor saying one thing and another neighbor saying something else without a standard to use for enforcement. He noted that the Township should file a charge and let the Magistrate handle it. He noted that is what happened in Aurand's situation, and because there was not sufficient evidence to support the claim, it was dismissed. Mr. Epstein noted that he does not know why the ordinance works in Susquehanna Township but not in Lower Paxton Township, suggesting that it might be a matter of education, noting that laws are made to protect against extreme acts. He noted rarely do you have murder, but there are laws in place to take care of those events when they occur. He noted, if someone living next to him is loud, it would be closed out the next day. He noted at some point he would be going down the alley where he would take it into his own hands. He noted all he is trying to do is to borrow what works for Susquehanna Township, and to provide the police officers some flexibility.

Mr. Blain questioned if PSD Johnson reviewed the Susquehanna Township Ordinance. PSD Johnson answered yes and he explained that he has met with Chief Martin numerous times. He noted that he has read ordinances from multiple municipalities. Mr. Blain questioned if the Susquehanna Township Ordinance uses the dB level as the “drawn the line in the sand” criteria. PSD Johnson answered that the dB levels are included in their ordinance, but the instruction that the police have received from Chief Martin is that it is to be used as the guide. Mr. Blain noted that the Chief of Police has directed that it be used as a guide, noting if there is a dB level in their ordinance and if someone is measuring the dB level and it is 71 and only 70 dB is permitted then the police officer can use discretion in filing a charge. PSD Johnson noted that it would be a possibility; however in talking with Chief Martin he indicated in 2010, he had nine arrests under the ordinance and they were not based upon the dB level. Ms. Mead noted if more than one person is disturbed, that would corroborate the problem. Mr. Epstein noted that he is trying to take the Township’s ordinance one more step to codified Chief Martin’s instructions, noting that dB levels would not be the guiding tool. He noted that it can’t be the guiding tool. He noted if a person lives along I-81, they would be out of compliance. He noted that the struggle is how to give the police discretion to capture it without being a robotic reaction. He noted that all of Chief Martin’s cases for last year were not based upon dB levels. Mr. Wolfe noted that he does not know why there would be two issues, noted that the prima fascia argument is in the ordinance. Mr. Epstein noted that something is not working since this has been on-going for over two years. Mr. Wolfe noted that this is the proposed ordinance, and it has a prima fascia component to it, noting that the dB component does not work. Mr. Epstein noted that he is suggesting that it should be a guideline. Mr. Crissman noted that it is a standard, and stated that you can’t send a police officer out with a “may”, noting then it would provide the police officer to make a subjective decision, and he did not want to place our staff in that position, noting that neither side will agree with the decision. He noted that there is a need for a standard. Mr. Epstein noted that it will not hold up in court, and Susquehanna Township proved that they don’t use the dB level. Mr. Crissman suggested that it could be a range level, but there has to be a standard as you can’t give carte blanche to an officer to enforce the law. He noted that a person could argue that the other party is the police officer’s friend and ruled in their favor. He noted that he would not put an officer in that position and it is not good decision making.

Mr. Epstein noted that he has been working on this for two years and he does not want to tie the officer's hands with a dB level, noting that he wouldn't mind providing a range. Mr. Hornung noted even if an officer pulls someone over for speeding, he still has the option to waive the rule, noting that he agrees with Mr. Crissman, that the dB level needs to remain. He noted that it is up to the officer, at his reasonable discretion, to make a judgment that the problem could be dealt with in another manner rather than writing a ticket. He noted that sometimes the officer knows he needs to write a ticket. He noted that he would not remove the dB levels from the ordinance, end of discussion. Mr. Epstein noted that is not what he is saying. Mr. Hornung questioned Mr. Epstein what he has been saying for the last 15 minutes. Mr. Blain noted that they are suggesting using the dB level but not that it must be followed hard and fast. Ms. Hornung noted that it is staying as it is written for him.

PSD Johnson questioned what number it should be set at since it is currently 60 dB. Mr. Hornung noted, for the Tire Mart instance, they are next to Route 22 and have commercial on both sides and it may be dealt in another way as far as commercial to commercial. PSD Johnson noted that commercial and industrial are set at 65 dB during the day; however, the actual reading is 75 dB. Mr. Hornung questioned if it states commercial to commercial. Mr. Wolfe answered yes, and noted that the numbers need to increase a little.

Ms. Mead noted that her family has been through two years of hell. She noted that her husband is taking care of their children, and her family has done nothing wrong. She explained that they have behaved and done everything that the Police Department has told her to do, and have been very respectful to law enforcement. She noted that she has been before the Planning Commission, and the Board of Supervisors numerous times to discuss the need to revamp the noise ordinance, not necessarily for selfish reasons but to protect her family and to have peace and privacy in her home. She noted that she will not be the only family with issues, noting that more people will be moving into the Township and noise disturbances will be an issue. She questioned if anyone else would put up with this for two plus years. She noted that she highly doubted it and she questioned why the perpetrators should have more rights that she does. Mr. Hornung noted that the Board is trying to make the correction for Ms. Mead and he does not understand the rhetoric. He noted that he wants to push the Ordinance through. Ms. Mead noted that is what she wants to do also, but she knows that a Police Officer's job is not easy especially

when they deal with perpetrators who mouth off to them, are disrespectful, and make their jobs even harder. She noted that she is not saying to get rid of the dB levels, only following the advice of Chief Martin, noting that he states that they should not be used as the end all. Mr. Hornung noted that the Township would not be doing that and he does not understand why the conversation is continuing since it seems that we are both saying the same thing.

Mr. Epstein questioned what needs to happen to move the ordinance forward. Mr. Wolfe noted that he needs Board authorization to advertise the ordinance. H noted that he would prefer to advertise using the recommended dB levels from staff, hold a public hearing, and consider the ordinance in a business session.

Mr. Seeds noted that he has not had an opportunity to ask questions about particular articles in the ordinance since all we are talking about is “may” or “shall” or whatever.

Mr. Blain questioned, if the ordinance is passed and a situation occurs at Ms. Mead’s home, how it will be handled. He questioned if anything would change as to how it is currently handled. PSD Johnson answered that the individual would be issued a citation for a violation of the ordinance. He noted that there was always the option of charging them with disorderly conduct, but the judges will not convict if they do not have multiple residents confirming the noise, or the officer hears the noise. He noted for a first event, a warning will be given, and the second time a citation will be issued. He noted, typically, this would only occur after ten o’clock at night or before 6 a.m. He noted for noise occurring during the day, the magisterial judges will not find a defendant guilty if it is within reason. Mr. Hawk noted that is what he is struggling with. He noted by the time the officer is called out the noise is gone. Mr. Blain noted, in his instance, there was corroboration of another person, and the police officer made the determination based upon two people’s complaints. PSD Johnson noted that the defendant could ask for a hearing and he would need the witnesses to come to testify in court. He noted that the judge will most likely render a decision against the defendant. He noted in the Aurand case, the incident occurred in the afternoon, the kids were playing music in the pool, the officer heard the music that was rather loud, and he cited the family. He noted that the charge went to a hearing and he was told that some of the evidence was not allowed during the hearing. He noted that the Judge told him that he would not find anyone guilty of loud noise while having a pool party at 12 noon. He noted that he was told not to bring something like this to his courtroom again.

Mr. Hawk noted that Ms. Mead has a loud noise situation where a neighbor reeves his engine beside their house, but he stops doing it by the time the police arrive. Ms. Mead explained that the neighbors have a scanner and they turn down the noise before a police officer gets to the home. She noted when the officer has asked the neighbor to turn on his car, he won't do it. Mr. Epstein noted that 90% of the time, all it takes is for an officer to tell the person to stop the noise. He noted that is what makes this so difficult, the people who are perennial violators. He noted that if the Judge takes the position that PSD Johnson noted, it is heartbreaking that Lisa Aruand is undergoing chemotherapy, and that we don't live in a time where people are civil to each other. He noted that you can't enforce civility. He noted that the ordinance is a reasonable compromise and he thinks the ordinance is almost there.

Mr. Hornung questioned if there is a recording device that could be set up to record the noise. Mr. Epstein noted that there are First Amendment issues, and calibration issues. PSD Johnson noted that he could not record a conversation without prior notice. Mr. Hornung noted that it would be a recording of a noise level, not a conversation. Mr. Wolfe noted that it would be a wiretap issue.

Mr. Blain suggested that the new ordinance would resolve the problem. Mr. Epstein agreed. He noted that the police will use flexibility in what they do. Mr. Epstein noted that he would like to make the ordinance work. Mr. Blain noted that the issue is the need to raise the dB levels for the table. He noted that raising a level from 70 to 75 is not an issue. He noted that we just talked for a long time on something that we all agree upon. He noted that the dB levels should be increased a little. Mr. Wolfe agreed. Mr. Hornung noted that the police are the ones who will have to enforce the ordinance, and he thinks it should be up to them to determine how best they could solve Ms. Mead's problem.

Mr. Hawk questioned how many times the police have been called to Ms. Mead's home. Ms. Mead answered at least 40 times. Mr. Hawk noted that the neighbor still gets away with it, and he questioned if there is truth to the complaint. Mr. Wolfe noted that is not the Township's problem to resolve. He noted that police officers are not the judge; they are not present to state these people are righteous and those people are not. He noted that they are there to say they believe there is a violation of some standard and there is a need to a take enforcement action. He noted that someone else must make the decision as to whether someone is guilty or not. Mr.

Hawk noted that the police never catch the persons in the act. PSD Johnson noted that is a major part of the problem. He noted that every officer who takes a call has not heard the noise with the exception of one time where she indicated that he was playing the stereo very loud. He noted that the neighbor was told to turn it down and he did. He noted that he would not typically cite for that unless the officer was called back within a short period of time for the same violation. Mr. Blain noted that the new ordinance would provide the flexibility not to cite them. Mr. Epstein noted that we are not that far apart, noting that Mr. Wolfe asked PSD Johnson to do some readings and it was shown that the HUD application may have been a little too low. He noted if you raise the levels a little, it will be fine. He explained that he would have liked lower dB levels but he can't argue against the findings. He agreed that the levels need to be raised a little.

Mr. Seeds stated that there are some problems with the way the ordinance is written. He noted that Section 505.5, has the residential limit of 60 dB from 7 a.m. to 10 p.m. and 45 dB from 10 p.m. to 7 a.m. He noted for commercial/industrial it is 65 during the day and 55 at night. He noted that it states all others are 70 dB. He questioned what would all others be, and he questioned if it included business campus. Mr. Wolfe noted that business campus is considered to be commercial, noting all others would be governmental facilities, parks, and the compost facility. He noted that it is based upon zoning districts. Mr. Seeds questioned Mr. Wolfe if he would consider business campus to be residential. Mr. Wolfe answered no. Mr. Seeds noted that it needs to be spelled out. Mr. Wolfe answered that it is in the zoning ordinance. Mr. Hornung noted that it does not have to be included in this ordinance as it is already contained in the zoning ordinance. He noted that he thinks it is okay the way it is.

Mr. Seeds noted that Section 505.11, concerns domestic power tools and it lists the time from 9 p.m. to 7 a.m. He questioned if it would be a problem for police officers to enforce the ordinance when the times are not the same. Ms. Mead noted that it was brought up during a previous meeting that there was an inconsistency in the hours mentioned. PSD Johnson noted that generally, it is dark by 9 a.m. and people don't normally use tools after that hour. He noted if you want to move the time to 10 p.m. then there will be people with lawn mowers that will be out cutting grass at 10 p.m. which would cause more noise than a backyard party that no one wants us to cut off. Mr. Seeds noted if the police are okay with it then he is fine with it.

Mr. Seeds noted that it is the same for the Section 505.12, loading and unloading section. He noted that no dB's are listed for this section. He questioned what it would be. Mr. Wolfe answered that it would be listed as a noise disturbance. Mr. Seeds noted that you would go by whatever zone it is in.

Mr. Seeds noted that Section 505.13, is vehicle disturbance with a dB of 50. PSD Johnson noted that level would have to be increased to 60. Mr. Seeds noted would that be for all zones. PSD Johnson answered only for a residential area. Mr. Crissman noted that it specifically states for any residential zone. Mr. Seeds noted that there are too many dB levels and it is too hard to decipher and enforce for Section 505.15. PSD Johnson noted that one has to do with the size of the vehicle, noting that large trucks would create more noise than cars, and motorcycles create more noise. He noted that you would be over 90 dB if you started up a Harley Davidson motorcycle. He noted the question is if you can tell people, whose motorcycles pass inspection that they are not allowed to ride them. He noted that you can't do that.

Mr. Seeds noted that he has a concern about the police officers being able to enforce the ordinance, but as long as the Police Department is okay with it he is fine with him. PSD Johnson noted that it will be difficult no matter what the numbers are, and what the findings are depending on the time of the day. He noted if it is after 9 p.m. or 10 p.m. and before 7 a.m. then it will be quite easy. He noted in speaking to the judges, for daytime violations, unless it is excessive noise, they will be hard pressed to find people guilty of violating a noise ordinance. Mr. Blain noted that it is the judge's call to make and if the Township issues a noise ordinance, and there is an issue at the Mead home, and the police cite the person for noise, the defendant has the prerogative to appeal the citation to the judge. He noted that it will be the judge's call as to how they will enforce the law. He noted as long as the Township is doing its part, you will always run that risk that a Judge will not uphold the ordinance.

Mr. Seeds noted that Section 505.15, lists noise disturbance. He questioned what a noise disturbance is. He questioned if it would go by the dB for the particular zone. Mr. Wolfe noted if you look at the definition of noise disturbance, it would be applicable. Mr. Seeds noted that it is arbitrary. PSD Johnson noted that it is an individual perception. Mr. Seeds noted that there is no other way to do it.

Mr. Seeds noted that Section 505.16, for domestic animals has no dB listed. He questioned how it would be handled. Mr. Wolfe noted that it would be considered a noise disturbance. Mr. Hawk questioned how you would enforce that. PSD Johnson noted that the officer would give a warning, and if called back a second time, they would cite the person. Mr. Hawk noted that he knows of a person who has a pet door and the dogs comes out at 5:30 a.m. and start barking. He noted that the person is not ready to get up at 5:30 a.m. Mr. Wolfe noted that the people better change their routine. Mr. Epstein noted that there are tethering issues and quality of life issues. Mr. Hawk noted his quality of life would be affected. Mr. Wolfe noted that a citation would be issued to the person based upon the evidence provided. Mr. Hawk noted that the dogs are not barking when the police get there. Mr. Wolfe noted that the person would have to be a witness at the hearing and testify that the dog was barking at such a date and time. PSD Johnson noted unless you were the only home disturbed, other neighbors would also testify. Mr. Wolfe noted that many of these violations would be handled very similar to the way Ms. Gourley handles property maintenance violations. He noted that it would be based upon a complaint and the complainant would need to attend the hearing to testify or there would be no evidence. He noted that there are instances where charges are filed and no one shows up, and then the Judge dismisses the case.

Mr. Seeds noted that he has a neighbor that uses a security fence for his dog, and the dog barks every time he comes out of his house. He noted that the dog won't come into his yard. He noted that the dog barks at everyone. PSD Johnson noted that there would be grounds to cite that dog owner. Mr. Epstein noted that 90% of the time the first time you complain to the person, you stop the violation. He noted for the most part people are pretty good.

PSD Johnson noted that there are approximately 300 loud noise complaints a year and generally the officer asks the people to stop it and generally they do it, and if they don't a disorderly conduct citation is issued. He noted it is rare. He noted for Ms. Mead and Mr. Aurand, the people causing the problems take the position that they are not bothering anyone and they will continue to do it, and noted that the people making the complaint are harassing them. He noted that Dr. Shirley and his wife are adamant that the noise ordinance should not exist and he was offended, and threaten to sue the Police Department because they cited him for his daughter having a pool party at 12:30 p.m. He noted that it is Dr. Shirley's position that he

cannot expect to remain silent in his own home and they have a life to live as well. He noted that Mr. Schell and his family have sent emails to him that are over the top and he wants the Mead's arrested for harassment. He noted that Mr. Schell is tired of the fact that he can't do anything on his property and he is tired of being told by the police to turn down the noise. He noted in the most recent case, he called the State Police and wanted them to arrest the Lower Paxton Township Police Officer for disturbing him. Mr. Seeds noted that people work nights and have to sleep during the day. He noted that neighbors feel they have the right to do what they want. Ms. Mead noted that her husband leaves for work at 4 a.m. and goes to bed early. PSD Johnson noted that Mr. Mead starts work at 5 a.m. and Mr. Schell stated that when Mr. Mead starts his car early in the morning, he wakes the Schell's up. Mr. Blain questioned if this ordinance is what she is looking for. Ms. Mead answered yes. She noted that it is very similar to what Susquehanna Township has. Mr. Blain noted that the dB levels need to increase a little in some areas. Ms. Mead noted that she is fine with that. She noted that she is fine with anything that will make the police officers jobs easier and improve her quality of life. Mr. Blain noted that the PSD Johnson is also okay with what is written except for the raising of the dB levels.

Mr. Seeds noted that the prima fascia section has no dB listing either. He noted that it would refer back to noise disturbance. PSD Johnson noted that two neighbors that have heard the noise can be subpoenaed to court and testify at a hearing. Mr. Hornung questioned if Ms. Mead has a corroborating neighbor. Ms. Mead answered not necessarily because 99% of the violations with regard to noise are on the property line. She noted that she will not necessarily have a neighbor who hears the noise as well. Mr. Hornung questioned if the ordinance needs two people to corroborate and the victim can only come up with one person from one household, and the judge looks at this and throws it out because it does not meet the requirements of the ordinance, he does not want that to happen. He noted that he understands the reason for two different witnesses because it could just fuel a feud by only requiring one person, but this will still not help Ms. Mead. He noted that it is his concern that this will not help the Mead Family. PSD Johnson noted if the law is written for one particular situation, yes, but the problem is a judge will require more than one person. He noted that generally, there is additional evidence to go along with it, such as an injury or something else. Ms. Mead questioned if police logs would

be helpful in that regard if it could be entered as evidence before a judge. PSD Johnson noted that it could be entered as evidence.

Mr. Seeds noted that Ms. Mead or SWAN has made recommendations regarding exemptions, for the legal and safe discharge of firearms for target practice. Mr. Epstein explained this is due to an article that was recently in The Paxton Herald. He noted that this was one of the few ideas that came back that made sense, noting that a person questioned firearms discharged by a farmer on his property or someone shooting clay pigeons on his own property. He noted this was a recommendation from SWAN that made sense to them. He noted that it took over two years to get to this point and he never thought he would be supporting the increase in the dB levels. Mr. Seeds questioned could someone shoot clay pigeons during the day the way the ordinance is currently written if they have enough land. PSD Johnson noted as long as they are not within 150 yards of a residence. Mr. Seeds questioned if the Harrisburg Hunters and Anglers Club would have a problem. Mr. Stine noted that a club is protected by a state statute.

Mr. Hawk noted that there are two basic problems, you will not please everyone all the time, but this will help 90% of the people and there are still the 10% that you can't satisfy. He questioned how you would solve the problem of Ms. Mead's need for two corroborating testimonies. Mr. Epstein noted after working on this ordinance for two years, increase the dB levels, look into the shooting of the clay pigeons, and move on. He noted that many people are opposed to the ordinance and there have been attempts to change the ordinance wording to appease some of the people. He suggested that the system is working.

Mr. Seeds noted if someone sets off fireworks at 9 p.m. on the Fourth of July it will be over the limit. Ms. Mead noted that her neighbors do that every year. Mr. Seeds noted that they could be cited for doing that. Mr. Epstein noted that they have reached a point that we need to move on.

Mr. Hawk requested PSD Johnson to increase the dB level. Mr. Crissman noted for Section 505.17, there is a typographical error.

Mr. Wolfe noted that he will advertise the ordinance with the recommended dB levels from PSD Johnson and schedule a public hearing. Mr. Hornung noted the principal reason for all of this is due to ongoing issues in the Township and he noted that he does not see the ordinance solving the issue. He noted that he likes it but he is not sure it will solve Ms. Mead's issues. He

noted that he does not think it goes far enough, and he suggested that many sections are covered under the definition of noise disturbance, noting that some do not list dB. He noted when he used to live on Blue Stone Avenue, there was a neighbor two streets over who worked on his car, revving his car and it could be heard for a mile. He noted with all the neighbors there would have been plenty of corroborating evidence, but he questioned if revving an engine endlessly could be added to the ordinance, into the vehicle repair section. He noted that it would not require a dB level or corroborating evidence, and the judge could determine the outcome. PSD Johnson noted that he would need to figure out a time frame for this. Mr. Hornung noted that changes to the ordinance can be made in the future, if needed.

Mr. Hawk noted that Mr. Aurand bought a dB meter, and he questioned if it counts for anything. PSD Johnson answered no as he is not certified and the meter is not calibrated. He noted that in most instances, a judge would not accept a civilian's testimony. Mr. Wolfe noted that you would need a police officer to swear to the readings in court.

Review of a question from the Linglestown Merchants Association
regarding sidewalk and planting strip maintenance

Mr. Wolfe noted that he received an email from the Linglestown Merchants Association (LMA) questioning sidewalk and grass strip maintenance. He noted that he knows the answer to the question, but he wanted to discuss this with the Board members to make sure that they would be comfortable with his response. Mr. Blain noted that it would be the responsibility of the property owner to maintain. Mr. Wolfe answered yes, noting that he has included the section of the Township ordinance that covers this for streets and sidewalks that states, "it is the responsibility of the property owner to maintain grass strips and sidewalks". He noted that it could cause some consternation among the property owners because they now have been provided with an improvement to the frontage along their property that they did not have or maintain before. Mr. Blain noted that the Township has installed sidewalks before and people are responsible to maintain it. Mr. Wolfe noted that it was done on Dartmouth Street.

Mr. Seeds noted that he has always taken care of his property, noting that he puts a non-salt substance to treat the snow and ice. He noted that the new walk is nice but it is slippery, even when it is dry. He noted that there is a problem with the surface and he suggested to Ms.

Robenolt that the LMA, who collects dues from their members, may want to form a group to hire one contractor to clear the snow in the Square. He noted that some property owners will take care of the shoveling, and other won't. He noted that it is very difficult to enforce and it is a problem.

Mr. Seeds noted that he had walks in front of his property, and now since there were temporary takings and permanent takings, some areas in the Square area no longer belong to the property owner since they were taken. He questioned who will maintain the grass and shovel the snow for those areas. He noted that it is difficult to keep the sidewalks open after the snow plow comes through and he won't bother with the sidewalks next to the curb, he will just keep the inside sidewalks clean. Mr. Blain noted that he does not understand the problem. He noted that it was taken since the right-of-way was needed and the law states that the property owners are responsible for maintenance of the right-of-way. Mr. Wolfe read, "it is the obligation of the adjacent property owner to maintain sidewalks, curb, and mowing strips and eliminate any conditions which in the opinion of the Township maybe a hazard to the public. The following conditions shall be considered sufficient cause for requiring the repair and maintenance of the sidewalks." He noted that the Township can require people to maintain the sidewalks and to fix them as well. Mr. Blain noted that staff does that now as there are areas in the Township where the sidewalks have been push up by tree roots, and the property owner is told to fix the problem. Mr. Wolfe noted that Mr. Seed's suggestion to provide a communal agreement for the maintenance in the Square area is a great idea. Mr. Crissman noted that it would be LMA's choice to do that. Mr. Seeds questioned what if they don't do it. Mr. Crissman noted that each property owner would need to maintain their area. Mr. Seeds questioned Mr. Stine who is legally responsible to maintain those areas. Mr. Stine answered it is clear that it would be the adjacent property owner responsible for the part that is in front of their property. Mr. Seeds noted in the Square area, there is the replaced sidewalk but additional walks that curve out. He noted that he has three times the amount of sidewalk to do than what he had before. Mr. Stine noted that it would cover whatever lies between the paved cartway and the house. Mr. Hornung noted that the property owner is responsible to maintain that area. Mr. Blain noted that the Township or State paid money to someone to take a right-of-way, improve the right-of-way with curbing and sidewalk that improved the value of the property, so not only did they get cash in hand, but

ultimately the value of their property has been increased and people are going to complain that they have to take care of it. He noted that he has a hard time with that.

Mr. Seeds noted that now you have walks 15 feet in front of your property that you did not have before the land was taken. Mr. Crissman noted that the people knew this going into the project. Mr. Hornung noted that it is the property owner's responsibility, regardless. Mr. Epstein noted that he lives in Colonial Crest and it has 225 homes with 150 acres, and the islands are common areas. He noted that the people living in the development take care of the islands and have been doing so for 50 years. Mr. Seeds questioned if the association does it. Mr. Epstein noted that neighbors do the work. He noted that he does not understand what the issue is, as the residents mow the common areas. Mr. Hornung noted that you live there and you want it to look nice. Mr. Epstein noted that the people take care of it, and if you added all the common areas together, it would amount to close to an acre of land to maintain. He noted that he does not get it as that is the way it is. He noted that the people are going to have to get a shovel and maintain their sidewalks. Mr. Seeds noted that he is not complaining personally, just the people in the Village are asking about it. Mr. Hornung noted that the answer is the property is their's to maintain. Mr. Crissman agreed. Mr. Seeds suggested if someone wanted to fight the issue, it would be a different answer. Mr. Hornung noted that it will not change. Mr. Seeds suggested if someone takes your land from you, you are no longer responsible for it. Mr. Stine noted for almost every street in the Township, the Township owns from the cartway to the backside of the sidewalk. He noted that individual property owners do not own their curbs and sidewalks, the Township does, but those people, by the ordinance, are required to maintain it. He noted that this situation is no different, it might be bigger, but it is the same rule. Mr. Seeds stated that he does not think the Township owns people's sidewalks. Mr. Stine noted that the Township gets a fee simple dedication, so it owns it.

Mr. Wolfe noted when there is an improvement guarantee, the Board will always ask why sections of a sidewalk have not been built since the developer has bonded the improvement. He noted that once the developer has developed the lot, they build the curb and sidewalk and then they are the responsibility of the property owner to maintain even though the developer is building it in the public right-of-way. Mr. Seeds noted that sidewalks are public right-of-ways.

Mr. Stine answered yes. Mr. Seeds questioned if they are owned by the Township or State. Mr. Stine answered that the Township owns it.

Mr. Hawk questioned if the Board is satisfied with the letter Mr. Wolfe wrote. Mr. Wolfe noted that he has not written the letter yet, but he would respond by quoting Section 176.13 of the Township Ordinance on maintenance and curb, noting that the abutting property owners are responsible for the curb, sidewalk and landscape island maintenance. Mr. Seeds noted that you would need to make that clear to Ms. Robenolt. Mr. Hornung noted that he would state this is the requirement. Mr. Wolfe noted that the idea of communal maintenance is a great one.

Mr. Blain questioned if Hummelstown has a communal maintenance agreement. Mr. Wolfe answered that he could find out how they maintain their Square area before he responds to the LMA. Mr. Hornung noted that the Board cannot back off on this issue because of all the other areas where the ordinance is enforced. He noted that the ordinance could be changed in the future if needed. Mr. Hawk noted if the Township has improved someone's property, they should not expect the Township to maintain it for them. Mr. Seeds noted that it is a question if it improved the property or not. He noted that it does look nice. He noted that it is a separate issue when they take parking from a property owner. He noted that the surface is slippery when dry. Mr. Blain noted that his surface was slippery and it wears off over a period of time, noting that it improves the durability of the surface. Mr. Seeds noted that the sidewalks will not stay nice as the salt will hurt it. Mr. Blain disagreed with Mr. Seeds on that. He noted that he should look at Old Iron Estates as the entrance is stamped concrete and it looks just as nice today as it did when it was first installed.

Introduction to the development of the 2011 to 2015 Strategic Plan

Mr. Wolfe suggested that this agenda item would only be an introduction into the process as he was going to request a special board meeting to further discuss this on January 25th. Mr. Hawk noted that he would not be able to attend that night.

Mr. Wolfe noted that he needs to set a date for a workshop meeting for the Strategic Plan. Mr. Hornung questioned if the Board could meet at 6 p.m. on February 1st. Mr. Wolfe answered that would work.

Mr. Wolfe noted that he wanted to provide a brief introduction to the process, noting that the current plan that was undertaken in 2006 is coming to an end. He noted that the Board indicated a strong desire to develop a strategic plan for Township capital projects for a long-term basis largely due to determining municipal resources and how it could program the projects for the future. He noted as part of the budget process, the Department Directors completed preliminary brainstorming into capital projects for the future and he provided the Board with that list during the budget process. He noted that he would like the Department Directors to meet with the Board members to undertake a brainstorming session to determine long-term capital projects. He noted, in the past, all the items were listed and then the projects were ranked based upon a numerical formula and the top two categories were taken to formulate the strategic plan. He noted once the plan was formulated, the Board began a process as to how to fund the improvements. He noted that he reviewed state grants revenues, municipal resources, and at one time the Township looked to fund a good portion of the Nyes Road project however, it only had to pay for the design for the intersection at Nyes Road and Locust Lane. He noted that there needs to be a determination as to how the projects should be funded as well as researching ways to finance projects to lessen the impact on municipal resources.

Mr. Wolfe suggested that the process should start with another brainstorming session on February 1st between the Board of Supervisors and the Department Heads. He noted that a ranking could be done during a second workshop session. Mr. Crissman questioned if the prior list would be used. Mr. Seeds noted that Mr. Wolfe would collect suggestions from the Department Heads. Mr. Wolfe noted that he has done that, and the items that were high on the previous list that were not completed will be included in the new listing. He noted that he would provide the list to the Board members in advance.

Mr. Blain suggested that this would put the cart ahead of the horse. He suggested that the first thing to do is to look at the fundamental problem which is that the base operations break even. He noted that any projects that would be done now are funded by the General Fund (GF) are draining down GF revenues to do those projects. He noted that the Board is below the minimum threshold for the GF and it should not be looking at projects at this point. He suggested that the Board needs to do modeling of what the base operations look like, holding all things steady, and what the revenue and expense base would look like year over year for the next five

years. He noted that health care costs will increase, contracts with the unions for payroll will increase, and if you add all that in the planning, there won't be any funds for projects. He noted that the Board needs to figure out what the operations will look like for a projected basis for 2012 through 2016, and once that is modeled, then it would allow the Board to determine if there will be enough tax revenue to fund base operations. He noted once this is determined then the Board could take the next step to build in projects. He noted that the Board needs to do projections on what the base business is going to look like five years out. He suggested that having the Department Heads attend the meeting on February 1st is premature at this point. He noted that the Board needs to get a handle on what the general obligations will look like prior to doing that.

Mr. Wolfe noted if you are going to define base operations, we are at that level now. He noted if we know what our historical cost factors are, we can project into the future. He noted that he cannot answer what is the new norm, hoping that the Township will experience an increase in development activity, such as what is occurring now, and that it will continue into the future. He noted that it is impossible to predict this. He noted that the historical patterns of revenues are not where they should be. He noted that he does not know what to base the revenues on. Mr. Blain noted that you can take different scenarios such as three different types, one that would be flat growth, one with a 3% growth and one with a 5% growth. He noted that we have a good handle on what the expenses will be from one year to the next, and this would provide a base to determine what our financial operations would look like before we add capital projects.

Mr. Seeds stated that the Board needs to develop a strategic plan for an improved economy. He suggested that there may be grants available. Mr. Blain explained that he is not saying that the Board would not do a strategic plan; however, this is how he would like to start the process, looking to see where the Township will be five years from now. He noted once that is determined then the Board could plug in projects.

Mr. Wolfe noted that he would provide a presentation based upon base operations and projections for five years. Mr. Blain noted that he needs a good projection for future salaries and benefits as that encompasses 60% of the budget for expenses. He noted that the Township is as thin as it can get if it wants to continue the current service levels that it is providing. He noted

that it must be determined what it would cost for payroll if services were increased without looking for park or road improvements. He noted that the Township needs to know if it could handle an increase in police officers if PSD Johnson made a request for more officers.

“Otta Know” Presentation: Dauphin County
Central Booking Administrative Order

Mr. Wolfe noted that he asked PSD Johnson to explain the County Administrative Order in regards to Central Booking.

PSD Johnson noted that he has already explained the process to the Board members during a previous meeting. He noted that Dauphin County has been working for several years to develop a Central Booking Center (CBC). He noted that many of the smaller agencies do not have adequate manpower to devote to processing a suspect, noting that it is time consuming, and in some instances, if an officer is making an arrest, that municipality will not have an officer available to take calls. He noted that it does not look like the CBC will be open for Dauphin County for at least another couple of years. He explained that those agencies that have the 10-Print System, (Lower Paxton Township, Derry Township, City of Harrisburg, Pennsylvania State Police, and Swatara Township) would be considered satellite offices of a CBC that will exist in the future. He noted that the President Judge has agreed to allow the agencies that have the 10-Print machines to charge persons arrested for certain crimes a \$200 processing fee. He noted that anyone who is arrested and convicted will be assessed \$200 as part of their court costs. He explained that the Township would receive 95% of the cost with the remaining 5% going to Dauphin County. He noted that each month as Dauphin County receives the fees, it will issue the Township a check.

PSD Johnson noted that this process started January 1, 2011, and there have been some problems, noting that some suggestions were not included in the Administrative Order. He noted that the issues of juvenile arrests were not included. He explained that the form for receiving the funds is to be sent to the Magisterial Judge; however, juveniles do not appear before the Magisterial Judges, as they appear in the juvenile court system. He noted that he is having a meeting tomorrow to discuss some of the loose ends. He reported that the Department has

booked 25 persons to date, and these were Lower Paxton Township bookings only. He suggested that Township should receive its first check in the three to four months.

PSD Johnson noted that there are restrictions as to how the money can be used noting that it has to be used for the start-up, maintenance, and other items need for the booking center. He noted that it does include salaries for officers who are working the booking center.

Mr. Seeds questioned if this was included in the 2011 budget. PSD Johnson answered that there are some funds in the budget for this line item but he was unsure when the process would start. Mr. Wolfe noted that they chose to use a very conservative number for the budget at this time. PSD Johnson explained that he just found out that the Magisterial Judges were never notified of this change, and when they received the forms they did not know what to do with them.

Mr. Seeds questioned if Dauphin County opens a CBC, will that mean the Township has to close its center. PSD Johnson answered no, as the Township is considered to be a satellite office. He noted that the Department will continue to book suspects for its arrests as well as any other Department that needs help. He noted if any of the other booking centers have difficulty with their 10-Print Systems, they can bring their suspects to the Department to be processed. He noted that the \$195 goes to the center that does the booking. Mr. Seeds noted if a township or borough does not have a CBC, and they bring the suspect to the Township, then the Township would get the money. PSD Johnson answered that was correct. Mr. Seeds questioned if they would have difficulty collecting the fees. PSD Johnson answered that the Judge would order the fee to be paid as part of the court costs, and Dauphin County should not release anyone from probation until they have paid all the fees. He noted the only way the Township would not receive its payment is if Dauphin County Probation drops the ball.

PSD Johnson noted in 2010, the Department processed 1,300 people. Mr. Seeds questioned what happens if someone is processed and found innocent. PSD Johnson noted that is one of the topics of discussion for tomorrow, especially since it still takes time and effort for the Department to do the processing. He noted if the charges are dismissed, it does not necessarily mean that the people are not guilty. He noted that the person may still have to pay all the costs even if a case is dismissed. He noted that this needs to be worked out. Mr. Seeds noted that he does not agree that a person should pay the costs if they are found not guilty.

Mr. Crissman requested PSD Johnson to keep the Board members up to date on this process.

Improvement Guarantee

Holy Name of Jesus

A new letter of credit with PNC Bank in the amount of \$205,000, with an expiration date of January 11, 2012.

Mr. Wolfe noted that the Board must approve this Improvement Guarantee in order to release the Holy Name of Church from a stop work order. Mr. Crissman made a motion to approve the Improvement Guarantee for the Holy Name of Jesus Church. Mr. Hornung 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 8:34 p.m.

Respectfully submitted,

Maureen Heberle
Recording Secretary

Approved by,

Gary A. Crissman
Township Secretary