

LOWER PAXTON TOWNSHIP  
BOARD OF SUPERVISORS

Minutes of Board Meeting held April 15, 2008

A business meeting of the Board of Supervisors of Lower Paxton Township was called to order at 7:36 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; Steven Stine, Township Solicitor; Lori Wissler, Community Development Manager; Dianne Moran, Planning and Zoning Officer; Charles Zwally, Mette, Evans and Woodside; Peter Gemora; Tim Mosher; Jay Bowden; William Weaver, Sewer Authority Director; and Brian Bingeman, Kurowski and Wilson, LLC.,

**Pledge of Allegiance**

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

**Approval of Minutes**

Mr. Crissman made a motion to approve the minutes from the March 18, 2008 business meeting. Mr. Blain seconded the motion, and the motion was approved unanimously.

**Public Comment**

No public comment was received.

**Chairman and Board Member's Comments**

None was provided.

**Manager's Report**

Mr. Wolfe noted that Tuesday, April 22, 2008, is Primary Election Day in the Commonwealth of Pennsylvania. He noted that the location for the voting poles can be found on

the Township's web site by clicking on Featured Links on the Home Page. He explained that the Township has 27 voting precincts, and clicking on the precinct will provide the address of the polling location.

Mr. Wolfe explained that the Township has adopted a roadside removal of litter program, similar to PENNDOT's, called the Heart Smart Street Wise Program. The program is undertaken by the Township's Recycling Committee and is very similar to the PENNDOT Adopt a Highway Program. He noted that individuals or community groups who are interested in volunteering for this program are encouraged to contact Ken Shoaff, the Township's Health Officer, by calling 657-5600.

Mr. Wolfe noted that the Township's Leaf Waste Collection Program is in operation as of the first of April. The Township's compost facility is open on Tuesdays, Thursdays and Saturdays from 7:30 a.m. to 5 p.m. He noted that tree branches, and leaf and shrub waste are accepted, but grass clippings are not. He explained that grass clippings are part of the regular weekly trash collection. He noted that the curbside leaf waste collection program is under way, with an annual fee of \$72, and interested residents may sign up by contacting the Township Municipal Center.

Mr. Wolfe noted that Dauphin County is sponsoring a Community Clean up for recyclables on Saturday, May 17, 2008, at the Harrisburg Area Community College from 9 a.m. to 1 p.m. He explained that electronic recyclables are accepted, as well as ten passenger tires per person. He noted that there is a fee for certain items such as large appliances, but he explained that these items may be recycled as part of the Township's weekly bulk curbside collection.

Mr. Wolfe noted that PENNDOT is continuing restoration of the Mountain Road Bridge that crosses I-81. He noted that the four-lane bridge has been restricted to two-lanes, and the restriction will remain in place for the summer months. He noted that he found that the roadway

restriction has been far less problematic than expected, and is working well with only minor backups.

## **OLD BUSINESS**

### Ordinance 07-14; Amending the zoning designation of property commonly known as Sportsmen's Golf Course changing existing Conservation, Institutional, and Agricultural Residential Districts to Institutional and Conservation Districts

Mr. Hawk noted that this is a continuation of the public hearing that was held at the April 1, 2008, Board Meeting. He noted that Mr. Stine conducted a public hearing during that meeting and that phase of the consideration has been completed. He noted that it was agreed that the Board would move forward to take action on the plan at this meeting.

Ms. Wissler noted that the Board did table action on the rezoning to allow the representatives of Union Deposit Properties and adjoining residents to hold further discussions. She noted that a meeting was held on April 8, 2008.

Ms. Wissler noted that the Township has proposed an amendment to the Township's Zoning Map for the three properties located north of Linglestown Road, currently zoned Conservation (CO), Agricultural-Residential (AR), and Institutional (IN). She noted that the amendment would rezone the three properties to CO and IN.

Ms. Wissler explained that the necessary advertisements were completed previously, and another public notice was submitted to The Patriot-News indicating that the Board would consider enactment of the Ordinance at this meeting.

Mr. Charles Zwally, of Mette, Evans, and Woodside, noted that he represents his clients, Boyd Mahoney Partnership, otherwise known as the Union Deposit Corporation. He noted that this is a Zoning Map amendment that was heard during the public hearing held on April 1, 2008. He noted that the amendment only involves a strip of 50 acres located at the northern portion of

the Sportsmen's Golf Course, also known as the Oakhurst Property. He noted that 37 of those acres would be rezoned to IN, and 13 of the acres would be rezoned to CO.

Mr. Zwally noted that this proposal has been before the Township for approximately two years, growing out of the joint workshop meetings held between the Board of Supervisors and the Planning Commission in the year 2006. He noted that the landowner does not believe that the AR District serves a purpose, noting that it is located in the area where Continental Drive would access the property. He noted that it is expected that Union Deposit Corporation would extend Continental Drive into Susquehanna Township, and in order to do so, he requests the rezoning to provide more flexibility to relocate the proposed road. He noted that the area currently zoned AR is not suitable for agricultural development, and given the lot size requirements, it would not be available for much in the way of residential development. He noted that if the rezoning is approved, his client would consult with the Supervisors, and entertain their views for the location of Continental Drive. He suggested that the location for this road would be much further down the mountain than its current terminus in Lower Paxton Township.

Mr. Zwally noted that the Lower Paxton Township Planning Commission has considered this amendment on two occasions, and have recommended the rezoning both times. He noted that these are the people the Board has appointed to advise them on these types of matters. He noted that the Planning Commission members are experienced and hard working individuals, and he took exception to certain testimony at the public hearing which seemed to negate their work.

Mr. Zwally noted that the Dauphin County Planning Commission has also recommended the map change, pointing out that the strip of AR is isolated and limited in size.

Mr. Zwally noted that during the December 2007 public hearing held before the Board of Supervisors to discuss the map changes, there were a number of residents from the adjoining developments, Forest Hills, and surrounding areas who appeared and made comment at that

meeting. As of result of their comments, the Board requested that he meet with the residents to alleviate their concerns. He noted that action on the amendment was deferred at that time. Mr. Zwally noted that he met with 17 property owners on December 19, 2007, and he offered a reduction in density for the Residential-Retirement (R-R) zoning for the IN District. In addition, he proposed a 30-foot buffer along the entire eastern common boundary line. He noted that he was asked to make that a 30/60-foot buffer; 30-foot where single-family homes are developed, and 60-foot for any other type of project. He noted that his client agreed to that buffer arrangement, and to the maximum height limitations for the IN zone.

Mr. Zwally explained that the text concessions for the amendments were approved by the Board of Supervisors at their April 1, 2008 meeting. He noted that at that same meeting, the map change was again deferred, and he was requested to make a further effort to meet with residents. He noted that approximately eight residents attended the meeting held on April 8, 2008, and he provided a report to the Board of Supervisors by letter dated April 11, 2008. He noted that there was a typographical error on page three that refers to the Industrial Zone that should refer to the Institutional Zone.

Mr. Zwally noted that, as a result of that meeting, noting that the discussions focused on the difference between a setback and a buffer, a number of property owners urged for a larger setback. He explained that as a result of those discussions, it was agreed to provide, by a recorded easement agreement, a 40-foot minimum setback on the entire boundary line of the IN for the eastern side. He noted that this concession involved more than just the 50 acres under consideration for rezoning. He noted that the 40-foot minimum setback would be subject to the ordinance requirement defining what setbacks are. He noted that it would provide additional protection in those areas where there may only be a 30-foot buffer developing single-family homes.

Mr. Zwally noted that with the 30/60-foot buffer and the 40-foot setback, the resident's adjoining his client's property on the entire eastern border have more protection than is afforded to any other residents under the ordinance. He noted that this is more protection than under any ordinance that he has had experience where there are two abutting residential zones. He noted that it is his understanding that there may continue to be some opposition to the plan, but he has done as much as possible to satisfy the neighbors.

Mr. Hawk noted that the 40-foot setback concession is the result of the resident's meeting held as a follow up to the last meeting. Mr. Zwally noted that he would put this restriction into place at the time of the preliminary and planning stage by a recorded easement agreement.

Mr. Crissman noted that he appreciated Mr. Zwally taking the time to meet with the residents, especially since he was not required to do this.

Mr. Richard Pleasants, 2348 Timber Line Court, noted that he lives in the area above Continental Drive and also has a second property in Forest Hills. He wanted to thank the Board members for being sensitive to his situation. He noted that he would try to cover the issues for his neighbors who are in attendance at the meeting.

Mr. Pleasants noted that he, and his neighbors, only just learned of the rezoning request on February 25, 2008. He noted that he was provided with a letter from the President of the Blue Ridge Country Club, stating that they did not receive a notice and were not aware of the proposed changes. Mr. Pleasants distributed a copy of the letter to the Board members. He noted that he would like the Board to put-off or reject the rezoning request noting that he has not had enough time to fight this. He noted that, under the prior zoning map, his property was zoned Park-Residence District (P-1). He noted that the old zoning map showed the line of separation between the AR and the IN District for the Sportsmen's Golf Course. He noted that the old map

respected that line, and maintained the AR District in keeping with the intent of the P-1 District. He noted that his neighbors are stunned to know that this is going on and not happy with the short notice. He noted that to go from a requirement of 1.5 units per acre to a potential of ten units per acre as per the new amendments adopted at the April 1, 2008 meeting is startling to the neighbors. He noted that the uses included in the IN zone are hospitals, nursing homes, and buildings up to 60 feet tall on the side of the mountain. He noted that this is shocking to the residents. He noted that if action on the request was deferred to the next meeting, it would still be within the 60-day requirement

Mr. Pleasants explained that the IN District is woefully inadequate in terms of accommodating a transitional use between his current zoning. He noted that he does not understand why the AR is not compatible with the former P-1 District. He noted, if the Board approved this plan, it would impose an additional 400 to 450 units of development for the area.

Mr. Pleasants questioned why this was not included in the Comprehensive Plan. He noted that there were no residents at the Planning Commission meeting, and he did not speak to the plan because he was not aware of the protocol.

Mr. Pleasants noted that Mr. Zwally noted that text changes were made to the Zoning Ordinance for the IN District, and he hoped that the changes that were made were for adjustments to the entire zoning ordinance that is massive and complicated. He noted that he has copies of both the old and new zoning ordinances and it has taken a lot of time to discover the differences between the two.

Mr. Pleasants requested the Board to provide more time, until the next meeting, noting that this request has been discussed since last summer, but for his neighbors it has only been going on for two weeks. He noted that no conceptual plan has been presented to show why this concept needs to be sold to the adjoining residents, and it is a huge unknown to everyone. He

noted that as a result of this issue, it has been determined that the Forest Hills Community would need to form its own association. He explained that Mr. Sproule is present to represent the 33 members of the Stonegate Community. He noted that they are requesting a 100-foot setback. He again requested additional time to contact more property owners to meet with the developer. He noted that he would hope to avoid a more difficult process to fight this issue after the fact.

Mr. Hawk noted, that although he does not mean to be argumentative, two years ago the Township did request input from the community during the Comprehensive Planning stage, and this goes back to prior to 2004 when the process began. He noted that the Blue Ridge Country Club was sent several notices regarding the rezoning. Mr. Pleasants noted that he talked to the President and they stated that they did not receive any mail from the Township. Mr. Hawk noted that he could not account for what they do with their mail, but they received four notices from the Township.

Mr. Pleasants noted that he had an issue with the notices that were sent out. He displayed a map sent out with the notices. Ms. Wissler noted that the first mailing contained two colored maps, to show the existing and proposed maps. She noted that she made the maps smaller for the third notice that was sent to adjoining property owners. Mr. Pleasants noted that he spoke to many people and some acknowledged that they may have received a notice, but didn't know what it was because they could not read the map. He noted that nothing could be identified on the map. He explained he is anxious and desperate to plead to the conscience of the Board. He noted that the deficiency and inadequacy in the notice is problematic. He noted that the Comprehensive Plan determined to leave the area consistent with the current zoning, and to expand it at this point is inconsistent with the Comprehensive Plan that was adopted. He noted that the Board's choices are to vote tonight or defer it until he can hammer out the additional issues with the developer.

Mr. Pleasants noted that Attorney Stuart Magdole lives in the neighborhood, and he stated that he had read the notice and thought that it was not part of the property and ignored it. He explained that he wanted to be at the meeting but was unable to do so. He suggested that 30 to 40 members of the community are present at the meeting.

Mr. Seeds noted that the area that is presently shown as IN was formerly R-2, and during the Comprehensive Plan process many tracts of land were changed. He noted that the land was rezoned from AR to IN because R-2 would have permitted a much higher density. He noted that areas that were commercial years ago were rezoned to a lesser use. He noted ,out of fairness to a person who paid for a commercial property, who missed out on the public hearings, to find out that their property was down zoned, provides for a legitimate right to a grievance. He noted that those property owners have requested help from the Township with their zoning changes. He suggested that it is a mater of fairness, trying to weigh the rights of the individual property owner to the use of their property, and the rights of the community. He noted that much of the property was not zoned R-1 and not AR.

Mr. Pleasants noted that the part that was designated AR was the old P-1. He noted that the P-1 is more consistent with the AR zoning. Ms. Wissler noted that the area in question is the area north of the proposed Continental Drive extension. Mr. Seeds noted that it was zoned P-1 and is now zoned AR, and the area above that is zoned CO. Ms. Wissler noted that the majority of the area was zoned R-2. Mr. Pleasants noted that the IN development would be inconsistent with the current development of the mountain range in that area. He noted that it is not right to ask for more density zoning without a conceptual plan that would show what is planned.

Mr. Hawk noted that the Planning Commission stated that it made more sense to eliminate the AR zone and expand the adjacent IN and CO zones.

Mr. Sam Cooper, 4078 Rosewall Court, noted that the tract in question adjoins the first cul-de-sac off of Forest Hills Drive to the west of the property. He noted that he is an attorney and has practiced in the area as a former solicitor to the Susquehanna Township Planning Commission. He noted that the 30-foot buffer area was not what the residents recommended to Mr. Zwally; rather it was negotiated that it would be in addition to any setback areas. He explained that he only heard, two weeks ago, that the buffer area was an overlay as allowed by the zoning ordinance and it would only provide for a five-foot additional area. He noted that it would only provide for plantings in the setback area. However, in terms of the most recent meeting held with Mr. Zwally, the 40-foot setback that was proposed was not agreed to by the residents. He noted that a number of different uses could occur in the setback areas to include accessory buildings, so that the setback would not be clear of any construction or structures.

Mr. Cooper suggested that a strong case could be made as to whether the notices were clear. He noted that he did not understand what the notices were about. He noted that this rezoning would deviate from the Comprehensive Plan and the IN zone change that occurred three years ago should stop. He noted that no plan has been offered by the developer to show what the intended use is, knowing that this is not required by ordinance. He suggested, in terms of planning, there should be some transitional zone between his neighborhood and the area, and this has not been considered at all. He noted that zoning was instituted to help protect the public and uphold the public's health, safety and welfare. He questioned if this proposal will do this. He noted that the potential impact on the area has not been considered in terms of water, sewage and additional transportation. He suggested that more study is needed by the Township and the residents. He noted that he talked to Attorney Stuart Magdole, and he was not clear as to what was going on. He requested Mr. Cooper to make his point that the notices should have been clearer, and that this is the wrong development, at the wrong place, at the wrong time.

Mr. Cooper noted that Mr. Seeds talked about fairness, and he suggested that someone should talk to the fairness for those who have invested more than \$500,000 in their properties, and the affect that it would have on their investments.

Mr. Charles Sproule, 4045 Greystone Drive, noted that he is an executive board member of the Stonegate Association. He noted that several residents from the Stonegate Association are present at the meeting. He noted that of the 33 units, seven are adjacent to the border of the golf course, noting that they were purchased at a premium price since they were adjacent to the golf course. He noted that the rezoning could place institutional buildings next to their properties and it is not appropriate. He noted that only single-family homes or duplexes should be put in that area, as it would decrease their property values. He noted that all the property to the east of the development is upscale residential.

Mr. Sproule noted that he met with Mr. Zwally, and submitted written comments to the Board, dated January 16, 2008, and he stands behind those comments. He noted that not all the comments have been addressed by the developer or Township. He noted that he requested a 100-foot **landscaped** buffer from the property line, with the latest proposal only being a 30-foot buffer zone, in addition to an extra 10-foot. He noted that Mr. Zwally stated that this buffer zone was unprecedented in that the Township does not require that much space, but he noted that the development plan for Stonegate showed a 30-foot property line, with an average of a 55 to 75 foot separation line from the buildings to the property line. He noted that one unit has a 120 foot setback. He requests the developer to match the same buffer space, and to build similar structures. He noted that he has not received any assurance that this would happen.

Mr. Sproule noted that Mr. Zwally told the members of the Stonegate community that they would likely have a 60-foot buffer which means that it would border institutional structures. He explained that he requested surface water drainage issues be addressed due to the grading

slope of the golf course impacting the Stonegate community. He noted that he also requested access for walking and biking to the west from the east for his community. He noted that the property is bordered by residential uses to the east, and to the west it is zoned IN along Oakhurst Boulevard. He noted that since the IN development borders the west side of the property, the Township should require that the IN development be on the west side, and the residential uses on the eastern side to conform to the adjacent usages for the property.

Mr. Sproule noted that the earliest notice that he received was dated October 15, 2007, but the maps showed no roads or identification. He noted that he did not pay any attention to this since there was nothing to identify the property. He noted that the Township needs to do a better job on its public notices. Mr. Hornung noted that the second notice shown to him by Ms. Wissler did show the street name. Mr. Sproule noted that many of the people stated that they did not get a second notice. Ms. Wissler noted that she specifically directed staff to add street names since she received many phone calls from people who received the notices and did not understand them. She noted that the paper work states that the zoning is for the Sportsmen's Golf course. Mr. Hornung questioned if the second letter was sent out to the same people who received the first letter. Ms. Wissler stated that it was, and she could verify that since she received numerous phone calls. It was noted that many people in the audience stated that they did not receive the second letter.

Mr. Hawk noted that Mr. Zwally provided a 40-foot setback and Mr. Sproule was requesting a 100-foot setback. Mr. Hawk suggested that it was a large setback. Mr. Sproule agreed that a 100-foot setback is excessive, but 40-foot is not enough.

Mr. Crissman questioned what would be accomplished if the plan was withdrawn from the agenda again. He noted that he did not know what would be accomplished. He noted that the notices are not required by law. He noted that Mr. Zwally has met with the residents several

times, and he did not think any additional issues would be resolved. He noted that he needs a good reason to postpone the vote.

Mr. Blain questioned if Mr. Zwally laid out a sketch plan for the development in regards to the structures. Mr. Zwally answered that he did not provide a sketch plan, but at the December 19, 2007 meeting he provided a general description of what the project would be. Mr. Zwally noted that he wanted to correct something Mr. Sproule stated about his complaint about the notice. He noted that Mr. Sproule has attended every meeting that has been held for the last year, and has been on top of the project for his association from day one. He noted that he indicated that there is a 100-foot buffer in Stonegate, but he noted that it is not a buffer, but it may be a setback. He noted that a buffer is a screened visual/sound planting or landscaped area, or if available, it may retain dense foliage. He noted that the 30-foot buffer only applies where there is single-family, whereas, duplex or any other type of structure would require the 60-foot buffer.

Mr. Blain questioned what the total tract of land is in acres. Mr. Zwally answered that the total plan, as a result of rezoning, would have 190 acres for the IN zone. He noted that the current IN zone includes 153 acres. He noted that the lower area is already zoned IN, and the people who abut that area are benefiting by the agreed setbacks.

Mr. Blain noted that the issue is more the fear of what would actually be built in the IN zone, than the actual rezoning of the last 50 acres. He noted that part of the 50 acres would be zoned CO. Mr. Zwally noted that part of the 50 acres would have to be devoted to the development of Continental Drive. Mr. Blain explained if Mr. Zwally wanted to develop the property, he could do so any way he wants to since it is zoned IN, and he could line up tall structures along the eastern side. Mr. Zwally noted that the R-R is not a clear by-right development, as it is similar to a Conditional Use application, in that the developer must file an overall plan that the Board must approve before qualifying for the R-R. Mr. Blain questioned if

Mr. Zwally had any idea as to how the property would be laid out. Mr. Zwally answered that the concept is for the more intense uses to be on the lower portion of the property, and the lesser intense uses to be located on the upper end of the property. He noted that the Board approved text amendments that would increase typical single-family homes. Mr. Blain noted that he wished the developer could provide some assurance to the neighbors that he would be keeping the higher intensity uses towards the lower portion of the property. Mr. Zwally suggested that it would be necessary due to the topography and the layout of the tract.

Mr. Hawk noted that the CO zone provides for development with low average intensity keeping important natural features such as wetlands, creeks, etc., and to provide ground recharge and to allow an amount of flexibility.

Mr. Hornung questioned Mr. Stine when an applicant applies for an R-R overlay, does staff have to approve it similar to a rezoning. Mr. Stine answered that he did not recall what the requirements are. Mr. Zwally suggested that it is similar to a special exception or conditional use application, meeting the standards and showing detail. Ms. Wissler noted that the R-R development is a permitted use in the IN, and has its own section. Mr. Hornung noted that the developer would have to meet certain requirements to achieve the R-R overlay.

Mr. Crissman questioned what would be gained by the postponement. Mr. Blain answered that it would provide one more chance for a dialogue by those residents who claim that they did not receive a notice. He noted that the rezoning could only be postponed until May 11, 2008, and the Board must act on the rezoning at its May 6, 2008 meeting. Mr. Hornung questioned if the rezoning request could be mutually extended. Mr. Stine noted that the Second Class Code does not allow for this. Mr. Blain noted that he is only looking to provide extra time as a courtesy to the residents. He noted that not much could be done with the 150 acres that are zoned IN, but it would be good to allow those who have not met with the developer to have him

answer their questions. He noted that he agreed with Mr. Crissman, that he does not think that anything will change.

Mr. Hawk noted that Mr. Sproule would like to see the IN developed on the west end of the property and the eastern side to be developed as residential. It was noted by a person in the audience that the developer could change their plan. Mr. Blain noted that the people are mixing the land development with the rezoning request. He noted that the only piece of discussion concerns the 50 acres that are currently A-R. A person noted that the Comprehensive Plan should remain as is and not be changed. Mr. Blain noted that the discussion has expanded beyond the rezoning issue, therefore, he suggests that all the residents should be provided one last opportunity to discuss their concerns with the developer. He noted that the Board of Supervisors will have to act on the rezoning only, and not the land development plan.

Mr. Hawk noted that Mr. Zwally explained the difference between a buffer and a setback very clearly. He noted that if the land is rezoned, there would be another opportunity for residents to provide comments during the land development plan. He noted that the developer would have to meet the requirements of the rezoning. Mr. Pleasants questioned what was the intent to change the intensity for development on such a large tract of land. He noted that this has the opportunity to increase the density four-fold. Mr. Blain noted that one of the things that came out of the Comprehensive Plan was that the Township did not maintain enough stock for residential retirement communities. He noted that the Township is trying to provide the opportunity to build residential retirement communities and facilities. He noted that this tract of land made sense since the developer was interested in doing it, and it abuts the retirement communities in Susquehanna Township.

Mr. Hawk noted that there has been a significant decrease in single-family homes in the past year, with a significant increase in retirement facilities. Mr. Cooper noted that the zoning

was changed to IN two years ago for use as a retirement residential development and the rationale is chipping away at the buffers and quality of life that he and his neighbors will have. He noted that more study is needed for this. He noted that if it is the desire of the Township to extend Continental Drive, it will need real serious planning to the land adjacent to his development. He noted that it could have a detrimental impact on the structures in Forest Hills.

Mr. Sproule noted that Mr. Crissman questioned what could be gained by postponing the decision, and he suggested that the developer could be given an opportunity to increase the 40-foot setback. Mr. Blain noted that the meeting is to discuss the rezoning of a parcel of land; the buffer issue would be resolved in the land development plan. Mr. Sproule noted that the reason the people came to the meeting was to ask questions concerning the type of buildings to be built and the setbacks. He noted that if the Board could resolve these issues, the people would be very happy, and there would be a better likelihood that the Board members would be re-elected.

Mr. Hawk noted that the developer has consented to a 40-foot setback and he has heard a request for a 100-foot setback and he noted that he has heard the word negotiation. He noted that if the applicant is firm with his 40-foot setback and Mr. Sproule wants to maintain a 100-foot setback, nothing will be resolved. He noted that there needs to be some give and take. Mr. Sproule noted that he agreed. He noted that when Stonegate was developed, there was a 30-foot buffer on his side of the property line, in addition to some of the homes that were located 30 to 70 feet from the property lines. He noted that most properties are located 55 to 75 feet from the property line. He requested Union Deposit to do something similar to this. He noted that a 100-foot setback is unrealistic, but a 40-foot setback is unacceptable to him.

Mr. Sproule noted that no sketch plan is available for the development, therefore, he requested the developer to locate the residential uses adjacent to the eastern side of the property,

and locate all high rise structures to the western side of the property. He noted that if there was consensus with these two items, most of the residents would be happy.

Mr. Seeds noted that this is almost like contract zoning, and the Board is not permitted to do that as the zoning goes with the land. He noted that someone else could purchase the land and develop as they wish. He noted that the discussion should center on whether it is right for that land. He noted that he did not think that more time would make a difference.

Mr. Hawk noted that he thought that the residents were to decide on a reasonable compromise as a result of a meeting held April 8<sup>th</sup>, but that didn't happen. He noted that the Board must take action at its first meeting in May. Mr. Sproule noted that there were no negotiations at the April meeting; Union Deposit Corporation only made an offer.

Mr. Tim Ritty, 2409 Melbourne Drive, noted that he has spoken before and will make his comments brief. He noted that the onerous was put on the residents to figure out what they wanted. He noted that he disagrees with that, noting that the zoning change should be a positive change and the onerous should be on the developer to convince everyone that it is a positive change. He noted that he has not heard from the developer why this change is a positive change to the Township and surrounding neighborhoods. He noted that he has not heard why this development is good for the Township. He noted that the people elected the Board members to make good decisions for the Township and when they vote, he asked that they be convinced that the change will be good for the Township. Mr. Crissman responded that the Planning Commission is made up of local residents who had an opportunity to review the plan and they recommended it, and if the Township ignores their recommendation, then the Township is ignoring the citizens. He noted that the Dauphin County Planning Commission made a positive recommendation for the plan. He noted that the two bodies are saying yes, while citizens are saying no, and this is what he must wrestle with.

Mr. Zwally noted that the area to be rezoned is shown by the dotted lines, and it only borders five lots on that boundary line. He noted that the five lots abutting the AR are not provided with any buffers. He noted that he is providing a buffer along the entire eastern border of the property. He noted before the agreement there was no buffer requirement. He suggested that nothing more would be served by a further delay in the vote. He noted that he has met with the residents twice, noting that 17 people attended the December 2007 meeting, and the 30/60-foot buffer was negotiated at that meeting. He suggested that it was generally accepted as a good solution, and at the next meeting, he offered the 40-foot setback. He noted that the developer would not agree to a 100-foot setback. He promised that he would consult with the residents for the land development prior to the plans being filed. He noted that this needs to come to an end and he did not see anything to be gained by further meetings. He noted that the public needs to understand that the developer does not have plans to throw into the hopper, but rather a long-range plan that will not be developed for several years. He noted that he would be willing to take the residents' input into consideration for the plan at the time of the land development process.

Mr. Pleasants noted that Mr. Zwally mentioned the five property owners, one of which is his that abuts the requested rezoned property. He noted that the owner of Lot 109 wished to be here, but just had a newborn baby and could not be present. He noted that Mr. Hornung met with those property owners this past Sunday, and they adamantly objected to the change as it abuts the corner of their property. He noted to dismiss them is totally unfair. Mr. Hornung answered that no one dismissed them. He noted, in reviewing the Planning Commission's recommendations, they were addressing the need for retirement senior living, but it is the Township's responsibility to implement the zoning ordinance for each location. He noted that zoning is applied to property values, but it would have made sense to have transitional zoning. He noted if Union Deposit Corporation is looking at a long-range plan, then why are they asking for the zoning now. Mr.

Hawk noted that there is a time limitation for the rezoning application request. Mr. Pleasants suggested that the request could have been made at the time the land development plan was proposed. He noted that it is a mistake to blanket IN zoning on such a large parcel without any transitional zoning along Forest Hills Drive.

Mr. Hornung noted that he has talked to both sides, and it was initially thought that a buffer should be required with an additional setback of 40 feet. He suggested that the proper way to proceed, noting the residents' fears, would be best served if the Union Deposit Corporation provided plans when requesting the rezoning and R-R overlay, and to approve it all in one night. He noted that the developer wants to proceed with an R-R overlay in the IN zone. He suggested, if the developer provided a plan for an R-R overlay request, it would relieve the fears of the residents. He noted that there are additional concerns for water supply. He noted, if the Township rezones the land to IN with an R-R overlay, there is a potential for 1,908 units for the land. He noted that it is not possible. He noted, if the rezoning was delayed until the land development plan, then it would be clear as to what is proposed. He noted that the residents' fears would be relieved if a plan was presented. He noted that he is sensitive to the developer, especially since time is money, but there seems to be no rush on the part of the developer.

Mr. Blain questioned if Mr. Hornung was recommending that action be postponed until the first meeting in May, 2008. Mr. Hornung noted that the rezoning should be rejected, and request the developer to come back with a plan, noting that it would be a financial concern to the developer. He noted that he could not force the developer to approach the rezoning in the manner he described, but he thought it would be better to come back and rezone the property at the same time a plan is provided..

Mr. Seeds made a motion to reject Ordinance 2007-14. Mr. Hornung noted that no second was made to the motion, therefore the motion died.

Mr. Crissman made a recommendation to withdraw the issue from the agenda in light of the discussion provided by the community, as well as the discussion provided by the Board members, knowing that a decision must be made at the May 6, 2008 business meeting. Mr. Blain noted that when the Board postponed action at the last meeting, it was decided to act on the Ordinance at this meeting. Mr. Crissman noted that the Board is able to table this item until the May 6, 2008 meeting. Mr. Hawk noted that if the Board is in agreement, then the Ordinance will be tabled until the next meeting.

Mr. Pleasants questioned if the Board did not take action by the deadline, would the Ordinance be deemed approved. Mr. Blain noted that if the Board did not take action within the 60-day requirement, the request for rezoning would die, and the applicant would have to reapply.

Mr. Matthew Dankman, 4075 Deer Run Court, questioned if the Board would vote to reject or approve the request at the May 6, 2008 meeting. Mr. Blain answered that the Board could also have a third option, and do nothing.

Agreement between the Township and Penn Waste for the sale of recyclables

Mr. Stine noted this is the agreement to sell single stream recyclables to Penn Waste, Inc. as a result of a proposal provided to the Township by Penn Waste, Inc. Mr. Stine noted that he prepared the agreement, and Penn Waste, Inc. has reviewed the agreement and is in agreement with it, and it is ready for Board action this evening.

Mr. Crissman made a motion to approve the agreement between the Township and Penn Waste, Inc., for the sale of recyclables, with two changes to the agreement. He noted that in item four, Delivery, the sixth line, the additional word “shall” should be removed, and in the following paragraph the blank line would include the number 1 (one) time per year. Mr. Blain seconded the motion, and Mr. Hawk called for a roll call vote: Mr. Blain, aye; Mr. Crissman, aye, Mr. Hornung, aye; Mr. Seeds, aye; and Mr. Hawk, aye.

## **NEW BUSINESS**

### Ordinance 08-04; amending the zoning designation of properties identified as 100 Holbrook Street and 4611 Fritchey Street from Low Density Residential (R-1) to Commercial General (CG)

Ms. Moran noted that the Township has proposed an amendment to its Zoning Map for 100 Holbrook Street (Parcel No. 35-052-070) and 4611 Fritchey Street, (Parcel No. 35-052-280) from R-1, Low Density Residential District to CG, Commercial General District. She noted that the property is currently zoned R-1, and the Township has prepared the rezoning request to return the property to its commercial zoning.

Ms. Moran noted that these properties were included in the R-1 zoning district during the Township's 2006 Zoning Ordinance update. She noted that the parcels to the rear of the properties are owned by the Harrisburg Church of Christ and are zoned R-1, the properties to the east are zoned Office Neighborhood, and the properties to the north are zoned Commercial General. She noted that it is staff's recommendation that the zoning of the property be changed to CG.

Ms. Moran noted that the Dauphin County Planning Commission reviewed this matter on March 3, 2008, and recommended disapproval of the proposed amendment with the following two comments. Allowing commercial uses on the south side of Fritchey Street could set a bad precedent for the immediate area by expanding the width of the commercial zoning corridor south of US 22, and rezoning the two tracts to Commercial General could also have a negative impact on the adjacent church and other nearby commercial properties, and on the ability of Fritchey Street to act as a parallel access road to the US 22 corridor.

Mr. Moran noted that the Lower Paxton Township Planning Commission reviewed the plan on March 12, 2008 and recommended approval of the rezoning.

Ms. Moran noted that public notices appeared in The Patriot-News on March 31, 2008 and April 7, 2008, indicating that a public hearing would be held to consider the enactment of Ordinance 2008-04.

Ms. Moran noted that the Township mailed notices to property owners surrounding the area on March 18, 2008. In addition, public notices were posted on the parcel being considered for rezoning.

Ms. Moran noted that Mr. Mosher from 100 Holbrook Street, and Mr. Bowden from 4611 Fritchey Street, are in attendance.

Mr. Stine noted that this the time and date set for the public hearing for Ordinance 2008-04, which would amend the zoning designation of properties identified as 100 Holbrook Street and 4611 Fritchey Street from R-1, Low Density Residential District to CG, Commercial General.

Mr. Gerry Smith, 130 Ferre Street, explained that he has lived at his address for 38 years, and he noted that the zoning changed from CG to R-1 in 2006 as a result of the Comprehensive Plan. He noted that the area that he lives in is virtually completely residential. He noted that there are some spots that have commercial establishments, on Hillcrest Street, and immediately behind his property, Fisher's Auto Parts. He noted that no other commercial properties are located on that street. He suggested that there must have been a reason for the change in the Comprehensive Plan to rezone to parcels to R-1, and he supports that decision. He noted that someone who bought a property zoned commercial might think that they would be able to have a commercial business in that location. He noted that to a certain extent it would depend on what type of business it is. He noted that commercial uses, such as doctor's offices, do not disturb the feel of the area. He noted that he purchased his home because it was close to the schools, and his children could walk to school.

Mr. Smith questioned what the intended use of the commercial properties would be. Mr. Blain suggested that the applicants could answer that question.

Mr. Jay Bowden, 4409 Plymouth Street, stated that he has been a resident of the Township for 25 years. He noted that that he has owned the property across the street from the proposed rezoning for 30 years. He noted that he leased the property, from the prior owners, and currently he uses it as a parking lot for his business. He explained that he learned that the Township was to rezone the property and returned the land back to its prior use, and he commended the Township for doing this. He noted that the property had previously been used as a coal yard. He noted that his property is triangular in shape and not suitable for building due to setback restrictions. He noted that he has improved the property by adding landscaping.

Mr. Bowden explained that the Planning Commission duly recognized that the land should be returned to its former commercial use. He noted that he has no immediate plans to build on the land as it would be very difficult to do so due to its size.

Mr. Seeds noted that when the lines were redrawn for the new zoning map, they were drawn in a straight line, but he noted that the land was commercial for many years, and he suggested that the person who bought the land would have paid more for it due to its commercial zoning. He noted that it was inadvertently rezoned to R-1, and noted that the request is to rezone the tract back to its original use in order for the owner to continue to make use of the land for commercial use. Mr. Seeds explained that he does not know what the future use would be, but, once the land is rezoned, it can be used for whatever is allowed for that zone.

Ms. Wissler explained that the Township is recommending the rezoning, and Mr. Bowden and Mr. Moser are not the applicants.

Mr. Tim Moser, 100 Holbrook Street, explained that he runs a local plumbing company and he put his whole life into it and that is why he would want it to continue to be used as it was

intended for. He noted that he tried to increase the value of his property in the neighborhood by installing a fence and adding plantings. He noted, if his business continues to increase, he would do further enhancements to the property. He noted that he would like to get along with the neighbors, and for them to become his customers.

Mr. Smith noted that Mr. Moser has done a nice job of fixing his residence and business. He noted that when he received the notice he did not know if it was the intent to put a used car lot at that location. He noted that he was pleased when it was rezoned residential, and he thought the Planning Commission had a good reason for the rezoning, not realizing that it was a mistake on the map. He noted that once the land is rezoned commercial, then anyone in the area could make the same claim, that they want their property changed also. Mr. Seeds noted that it was the Board that approved the zoning changes and it was an oversight. He noted that the entire map was revised and the Board members did not look at each parcel.

Mr. Stine stated, that seeing no further response, it would be appropriate to close the public hearing on Ordinance 2008-04 and the Board may take action if it so desires.

Mr. Hawk requested Ms. Moran to point out Mr. Smith's home on the map, the two properties for rezoning, and the commercial establishments in the area. Ms. Wissler noted that the north side of Fritchey Street was always commercial, but some properties on the south side were also zoned commercial. Mr. Seeds noted that the present owners seem to be taking care of their properties.

Mr. Crissman made a motion to approve Ordinance 2008-04, amending the zoning designation of properties identified as 100 Holbrook Street and 4611 Fritchey Street, from Low Density Residential (R-1) to Commercial General (CG). Mr. Blain seconded the motion. Mr. Hawk called for a roll call vote: Mr. Blain, aye; Mr. Crissman, aye; Mr. Seeds, aye; and Mr. Hawk, aye.

Proclamation 08-01; Designating Arbor Day in Lower Paxton Township

Mr. Hawk proceeded to read the Proclamation declaring Monday, April 21, 2008, as Arbor Day in Lower Paxton Township.

Mr. Blain made a motion to adopt Proclamation 08-01; designating Arbor Day in Lower Paxton Township. Mr. Crissman seconded the motion, and a unanimous vote followed.

Mr. Hawk noted that the Arbor Day ceremonies will take place, Monday, April 21, 2008, at the Thomas B. George Jr. Park at 1:00 p.m. He noted that fourth grade students from Paxtonia Elementary School will be present to assist in the planting of two trees. He noted that everyone is invited to attend.

Resolution 2008-17; Establishing a Lower Paxton Township Greenway Committee

Mr. Wolfe noted that Board members reviewed this item during a Workshop session and the Resolution provides for the establishment of a Greenway Committee with the composition and duties listed in the Resolution. He noted that adoption of the Resolution has been recommended by the Parks and Recreation Board.

Mr. Crissman made a motion to approve Resolution 2008-17; establishing a Lower Paxton Township Greenway Committee. Mr. Blain seconded the motion. Mr. Hawk called for a voice vote, and a unanimous vote followed.

Resolution 08-18; Authorizing the Township Manager to execute a Highway Occupancy Permit with PENNDOT for the driveway serving George Park

Mr. Wolfe noted that this Resolution would authorize himself, to execute a Highway Occupancy Permit with PENNDOT for the driveway servicing the Thomas B. George Jr. Park.

Mr. Blain made a motion to approve Resolution 2008-18, authorizing the Township Manager to execute a Highway Occupancy Permit with PENNDOT for the driveway serving the Thomas B. George Jr. Park. Mr. Crissman seconded the motion, and a unanimous vote followed.

Change Orders 2, 3, 4, 5 & 6; Valley Road/Winfield Street sewer replacement contract

Mr. Wolfe noted that the Board members had previously been provided copies of Change Orders 2 and 3 and he distributed copies of Change Orders 4, 5, and 6 to the Board at this time. He noted that this project was necessary to increase the size of the sewer along Valley Road and Winfield Street. He explained that, when the contractor started the job a few months ago, through the process of construction, these change orders became necessary. He noted that Ms. Reese, the Project Manager from CET Engineers, has provided an explanation for each change order. He noted that it is staff's recommendation to approve the change orders.

Mr. Weaver explained that Change Order No. 2 is for a manhole that was not surveyed correctly, resulting in an increase in the amount of \$10,570.17.

Mr. Weaver explained that Change Order No. 3 is for two properties located at 4304 and 4310 Winfield Street, the building sewers for both properties and the clearwater lateral at one property ran the length of the driveway and full driveway restoration was not anticipated in the contract. This would increase the contract \$5,302.25 to pave the driveways.

Mr. Weaver explained that Change Order No. 4 includes a clearwater system to be installed on Winfield Street, with piping in the trench, together with the mainline sewer and laterals, and stubbed at the properties at the edge of the right-of-way, for an increase to the project in the amount of \$24,680.22.

Mr. Weaver explained that Change Order No. 5 would perform the paving on Valley Road, noting that the paving had to be recalculated by CET to accommodate the additional paving that was necessary for the north side of Valley Road due to the water main that traverses along Valley Road. He noted that the cost of the additional paving is in the amount of \$22,531.00.

Mr. Weaver explained that Change Order No. 6 would perform the paving on Winfield Road, noting that the paving had to be recalculated by CET to accommodate the additional paving that was necessary as a result of damages to the roadway, in the amount of \$79,458.

Mr. Weaver noted that all the change orders increased the project costs from \$1,090,053.00 to a total of \$1,201,594.60.

Mr. Crissman made a motion to approve Change Orders No. 2, 3, 4, 5, and 6 as presented by Mr. Weaver. Mr. Blain seconded the motion. Mr. Hawk called for a voice vote, and a unanimous vote followed.

Preliminary/Final Land Development Plan for additions and renovations to  
Dauphin County Technical School

Ms. Moran noted that this plan was previously approved by the Board members at its March 20, 2007 meeting. She noted that the plan was being updated with minor plan changes that have occurred during construction. She noted that the two provisions provided for approval are the Fairmont Drive sidewalk realignment. She noted that this was due to the existing utilities that were in the area of the sidewalk connection to Locust Lane. She noted that the new layout is outside of the road right-of-way, thus requiring an access agreement. In addition, the School desires an addition of a 75 foot by 95 foot area for storage. Ms. Moran noted that Herbert, Roland, and Grubic, Inc. (HRG) has concluded that the paving would be acceptable, and the installation of an infiltration trench on the down slope side would mitigate drainage concerns.

Ms. Moran noted that the property is located at 6001 Locust Lane, consist of 47.0418 acres and is located south of Locust Lane and west of Fairmont Drive. She noted that the property is zoned Institutional and is served by public sewer and public water.

Ms. Moran noted that HRG, Inc.'s comments for Nos. 1 and 3 apply, and comment No. 2 has been addressed and is not needed.

Ms. Moran noted that Mr. Brian Bingeman, of Kurowski and Wilson, LLC., is present to represent the plan.

Mr. Crissman questioned if the Board is only to approve the two requests, one for the sidewalk, and the other for the storage building. Ms. Moran noted that they are the only changes. Mr. Crissman questioned if the letter from HRG, Inc. dated April 8, 2008 must also be approved. Ms. Moran noted that only comments No. 1 and 3 must be approved.

Mr. Brian Bingeman, of Kurowski and Wilson, LLC, noted that he concurs with Ms. Moran and he agrees to the request for the changes to the plan and to the two comments from HRG, Inc. listed in their letter dated April 8, 2008.

Mr. Seeds agreed that there was a need to work around the area for the sidewalk, and stated that it would be a big plus since it would complete the sidewalk between the two driveways, and add sidewalk along Fairmont Drive.

Mr. Crissman made a motion to approve the preliminary/final land development plan for additions and renovations to the Dauphin County Technical School for the Fairmont Drive alignment, and the approval of the additional 75' X 95" paved area for storage with the following conditions, 1) Plan approval shall be subject to addressing comments No. 1 and No. 3 of HRG, Inc., memo dated April 8, 2008; 2) Plan approval shall be subject to providing original seals and signatures; and 3) Plan approval shall be subject to the execution of the Agreement to grant public sidewalk access.

Mr. Blain seconded the motion. Mr. Hawk called for a voice vote, and motion passed unanimously.

### Improvement Guarantees

Mr. Hawk noted that there were six improvement guarantees for consideration.

#### Estates of Forest Hills, Phase VI

An extension and reduction in a letter of credit with Community Banks, in the amount of \$19,562.40 with an expiration date of April 21, 2009.

#### Autumn Ridge, Phases II & III

An extension in a letter of credit with Fulton Bank in the amount of \$45,702.00 with an expiration date of May 6, 2009.

#### Members 1<sup>st</sup> Federal Credit Union

A release of a letter of credit with Mid-Atlantic Corporate Federal Credit Union in the amount of \$207,350.00.

#### Kings Crossing, Phase C

An extension in a letter of credit with Fulton Bank in the amount of \$31,980.00 with an expiration date of May 18, 2009.

#### Stratford Woods, Phase III

A reduction and extension in a letter of credit with Fulton Bank in the amount of \$9,212.50 with an expiration date of May 30, 2009.

#### 5710 Union Deposit Road

A new letter of credit with Integrity Bank in the amount of \$248,000.00 with an expiration date of April 10, 2009

Mr. Seeds made a motion to approve the six listed improvement guarantees as presented. Mr. Crissman seconded the motion. Mr. Hawk called for a voice vote, and the improvement guarantees were unanimously approved.

### **Payment of Bills**

Mr. Seeds made a motion to pay the bills of Lower Paxton Township and Lower Paxton Township Authority. Mr. Blain seconded the motion, 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 10:08 p.m.

Respectfully submitted,

Maureen Heberle  
Recording Secretary

Approved by,

Gary A. Crissman  
Township Secretary