LOWER PAXTON TOWNSHIP
BOARD OF SUPERVISORS

Minutes of Board Meeting held October 3, 2017

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

Supervisors present in addition to Mr. Hornung were: William B. Hawk; Gary A. Crissman, William C. Seeds Sr., and Robin Lindsey.

Also in attendance was George Wolfe, Township Manager; Steve Stine, Township Solicitor

Pledge of Allegiance

Mr. Crissman led the Pledge of Allegiance.

Approval of Minutes

Mr. Crissman motioned to approve minutes of July 5, 2017, and July 11, 2017, meetings. Mr. Hawk seconded the motion. Mr. Hornung called for a voice vote, and the vote was unanimous.

Public Comment

Tim Murphy, 1524 Pine Hollow Road, commented on the Township’s new website and meeting minutes.

John Lutz, 2337 Forest Hills Drive, announced that he had purchased his home in 2006 and at that time there was a vacant lot behind his home.
Mr. Lutz stated shortly after he had moved into the home; a developer purchased the vacant lot to build a home. The developer cleared a lot of trees and removed a large section of the sidewalk that borders on Continental Drive. He stated after the construction began, he had contacted Mr. Wolfe to discuss his concerns about some things the developer was doing, and that the sidewalk had been torn out and had not been replaced. There was a large grade of stone placed in the area where the sidewalk had been. The construction of the property was sporadic at the time, and then it stopped in 2008, and there has not been any work done on the property since that time. He presented three letters that he wrote to the Township to complain about the conditions of the development. The letters were dated April 25, 2013, March 17, 2014, and November 18, 2016. He was told that the developer did not have to replace the sidewalk because the lot was under active construction. He presented several pictures of the area and noted that the area is still in the same condition and no additional work has been done. He would like to see something done about the lot and the sidewalk. He mentioned that he did not receive a written response from the Township.

Mr. Hornung requested Mr. Lutz’s contact information.

Mr. Wolfe announced that he recalls some litigation taking place in that vicinity but is not certain of the address. He would research the matter further and get back to Mr. Lutz.

Katie Scheib, 131 Oak Park Road, announced she is looking forward to speaking to the Board of Supervisors at the next workshop meeting regarding some questions that she prepared for last week’s meeting.

Ms. Scheib stated there was a gentleman from Pine Hollow who came before the Board to present his concern about neighborhood safety because of the location of the District Magistrate’s office near his home.
Ms. Scheib continued the gentleman requested the presence of an LPT police officer at the District Magistrate’s office and compared the need for it to the Supervisors need for an armed presence at the Board meetings.

Ms. Scheib announced as a former official, she gets it and knows what it feels like to be vulnerable, sitting up front at a publicly advertised meeting at a specific time and place; often making unpopular decisions and feeling like a sitting target for anyone who wants to execute a grudge. She had served three communities, two as a Community Development Director and the other as an elected Borough Council Member and they did not need an armed officer in the back of the room because there was an armed Chief of Police sitting at the table with them. The Chief of Police was there to represent the Public Safety Commission of their local government and also as a deterrent for anyone that was interested in causing harm. She mentioned that the Chief of Police had a spot on the agenda and he apprised the elected officials and the residents of what was happening in the police department and other interesting information. She added that while watching ABC 27 News, she discovered that the LPPD is participating in a bungee jumping fundraiser event in downtown Harrisburg. The LPT Supervisors approved $65,000 for taser weapons, and she would be interested in knowing if the tasers are being used. She questioned, “what about the gang activities, repeated crimes, and the police response to the opioid crisis, or perhaps the use of Narcan with heroin addicts.” She noted the residents should not have to search Facebook, watch television, or piece together information from the Harrisburg Patriot to learn how police matters may affect their lives.

Ms. Scheib stated that having a high-ranking police officer at each meeting to speak on behalf of the department is a responsive government. She added, who knows, perhaps the Township’s Chief of Police could have answered the gentleman’s question last week.
Ms. Scheib requested that the Board of Supervisors consider adding the LPPD Captain to the agenda at each business meeting. She added having the police captain, or another ranking officer who is capable of speaking on behalf of the LPPD serves a multi-purpose, and it would eliminate the need for an officer at the back of the room, while still providing a police presence for safety purposes and at the same time afford community members the opportunity to ask questions and know more about what is going on in the Township.

Ms. Scheib concluded, most importantly, it makes our police force more resident and community friendly. She continued while on the campaign trail to be a Township Supervisor the one thing that she has learned is the desire from residents to be better informed and feel more connected to their local government.

**Chairman and Board Member’s Comments**

Ms. Lindsey announced two weeks ago the LPPD held a Cops, Coffee & Cars event at George Park. She thanked the LPPD for hosting the event. She announced this is Fire Prevention month, and the Colonial Park Fire Company will hold an open house from 10:00 a.m. until 3:00 p.m. The Police Academy Alumni event took place last Monday night. The Police Academy is hosted every year and open to the LPT residents, and if there are open spaces, it is also open to the outside community. There is an eleven-week commitment. She had participated in the Police Academy two years ago and the started and Alumni of the Police Academy.

Ms. Lindsey noted last Monday; the LPP Police Alumni met along with the District Attorney’s office, Victim Witness members, LPPD Detectives, and the Community Service Officer. She added the presentation included updates on what is happening in LPT, police training, and the Tasers are being used because this information was part of the presentation.
Ms. Lindsey urged the residents to sign up for the Police Academy in December. The Policy Academy begins at the end of February and ends in May.

Ms. Lindsey announced the Board of Supervisors went on a Road Tour all over the Township from 4:00 p.m. until 7:00 p.m. Mr. Hawk will be representing the LPT Board of Supervisors at the State Capital tomorrow where the State Legislatures will recognize the Township for the 250th Sestercentennial, and on Thursday evening she and Mr. Hawk will be attending the Dauphin County Supervisors Convention in Halifax.

John Trish, 600 Prince Street, asked Ms. Lindsey if she had noticed the barricade or cones on Virginia Avenue and Prince Street while on Road Tour. He stated the LPPD placed the barricade there a month ago because there is a sinkhole growing the next block. He questioned if the problem was being addressed. He stated about four to five months ago he had asked Mr. Weaver about the drain near his home because all the bricks are falling out of the drain and now there is a sinkhole growing in the next block. He asked Ms. Lindsey what is going on with the drains. Ms. Lindsey replied Mr. Wolfe would contact Mr. Weaver and get back to Mr. Trish.

Mr. Wolfe indicated that Mr. Fink would get back to Mr. Trish with an update.

Mr. Wolfe announced Trick or Treat is on October 26th from 6:00 p.m. until 8:00 p.m., and during that time LPT Public Safety & Fire personnel will be out monitoring the event with the community. He stated the next day, October 27th, the Friendship Center is offering a free work out for a plastic bag of candy for donation.

Mr. Wolfe continued before Trick or Treat night the Township’s P&R department will host the Township’s Annual Hay Ride event in George Park on October 21st, and there will be Pumpkin Carving before or after the Hay Ride. The Township’s 250th celebration is on Saturday, October 14th at George Park.
Robert Lesher, Dauphin County Library, announced next week the DCL system would celebrate the 50th anniversary of the opening of three libraries in Dauphin County. The uptown branch which is now the Madeline Olewine Library, Kline Village branch which is now Kline Library, and the East Shore Library. Mr. Lesher provided a status report on the Dauphin County Library system. He noted the summer reading program was the most successful this year as there were 5,000 summer registrants. In March 2017, the vehicle Marco was launched, which is a new outreach program to extend library services to different areas and venues within the community.

Mr. Lesher added that Marco would participate in the Township’s 250th Anniversary celebration and the parade next Saturday.

Polly Murphy provided a detailed status report on the coordination and schedule of the Township’s 250th event.

**Change Order No. 1 to the contract with River Valley Recreation for replacing the rubberized play surface at Possibility Place**

Mr. Wolfe reported the Change Order request is from River Valley Recreation for the installation of the rubberized play surface at Possibility Place. The play surface was installed improperly over ten years ago without the appropriate requisite stone material, and it must be corrected.

Mr. Wolfe presented a Change Order from River Valley Recreation for $22,100 for the installation of the playing surface with the appropriate requisite stone material, and base drains. He noted the area is wet, so there will be a geotextile fabric applied to the stone and underneath the rubberized material.

Ms. Lindsey noted the Township received a Gaming Grant for $175,000 to pay for the play surface area.
Mr. Crissman asked Mr. Wolfe if the installation of the playing surface will be completed by next week. Mr. Wolfe answered yes.

Mr. Seeds noted volunteers built the Possibility Place and raised the money to install the play surface area and the work was done tax-free.

Mr. Crissman acknowledged the Colonial Park Rotary Club for the efforts in the development of Possibility Place.

Mr. Crissman motioned to approve Change Order No. 1 to the contract with River Valley Recreation for the replacement of the rubberized play surface at Possibility Place in the amount of $22,100. Ms. Lindsey seconded the motion. Mr. Hornung called for a voice vote, and the vote was unanimous.

Resolution 17-31; authorizing the destruction of specified municipal records

Mr. Wolfe stated Resolution 17-31 has an attached schedule of records that are due to be destroyed in accordance with the Township’s Retention and Disposition of Records Policy. He noted the records include financial, administrative, and Friendship Center records.

Mr. Crissman motioned to approve Resolution 17-31 authorizing the destruction of specified municipal records. Mr. Hawk seconded the motion. Mr. Hornung called for a voice vote, and the vote was unanimous.

Resolution 17-34; providing for the acquisition of permanent stormwater and temporary construction easements on the property of Keystone Services Systems, Inc.

Mr. Stine stated Resolution 17-34 provides for the acquisition of permanent stormwater and temporary construction easements to do some construction of the stormwater drainage facility on the property of Keystone Services Systems, Inc.
Mr. Crissman motioned to approve Resolution 17-34 providing for the acquisition of permanent stormwater and temporary construction easements on the property of Keystone Services Systems, Inc. on Nassau Road. Mr. Seeds seconded the motion. Mr. Hornung called for a voice vote, and the vote was unanimous.

Resolution 17-35; providing for the acquisition of permanent stormwater and temporary construction easements on the property of Anthony Tonini

Mr. Stine stated Resolution 17-35 providing for the acquisition of permanent stormwater and temporary construction easements to do some construction of the stormwater drainage facility on the property currently owned by Anthony Tonini.

Mr. Crissman motioned to approve Resolution 17-35 providing for the acquisition of permanent stormwater and temporary construction easements on the property of Anthony Tonini. Mr. Seeds seconded the motion. Mr. Hornung called for a voice vote, and the vote was unanimous.

Preliminary/final subdivision and land development plan for Forest Hills Commons (17-20)

Amanda Zerbe presented the Preliminary/Final Subdivision and Land Development Plan for Forest Hills Commons, the site is in the (CN) Neighborhood Commercial District and proposes to subdivide the property at 4200 Linglestown Road into four separate lots. The total area for 4200 Linglestown Road is comprised of 12,846 acres with a proposed area to be developed consisting of 8.92 acres. This land development plan intends to develop 4200 Linglestown Road into a commercial center consisting of retail, restaurants without drive-through service, and a financial institution. Lot 1 will have a total area of 1.469 acres, and the proposed development will entail either retail development or a restaurant. Lot 2 will have a total area of 0.858 acres, and the proposed development is a financial institution. Lot 3 will have a total area of 1.279 acres, and the proposed development is a restaurant.
Ms. Zerbe continued Lot 4 will have a total area of 8.565 acres, and the proposed development is a retail shopping center. The proposed development will be served by public sewer and water supply. On September 6, 2017, the Planning Commission recommended approval of the plan and five waiver requests at the meeting. The applicant has requested a waiver of the requirement that no driveway shall be located within five feet of a storm sewer inlet and staff supports this waiver request. There are three inlets proposed to be located closer than five feet to the edge of the main access across from the Weis driveway, and none of these inlets are in the vehicular path and are necessary to mitigate the spread of stormwater flow in Colonial Road. The applicant has requested a waiver of the requirement that a depressed curb shall be placed across driveway openings in curbed areas and staff supports this request. This requirement is most applicable to residential neighborhoods and is not practical for commercial developments of this nature due to the need for curb returns to support turning movements from large vehicles. The applicant has requested a waiver of the requirement to install a sidewalk along all existing streets which the subdivision/land development fronts pertaining to Linglestown Road only and staff supports this request. The applicant has requested a waiver of the requirement that an analysis should be performed for all intersections with 50 peak hour directional trips and staff supports this request. The development traffic volumes only exceed the thresholds during the Saturday peak hour; however, traffic volumes during Saturday peak hour in this area are significantly less than weekday peak hours. Accordingly, the weekday peak hours dictate the traffic needs, not Saturday. The applicant has requested a waiver of the requirement to provide a traffic calming plan, and staff supports this request.
Ms. Zerbe continued there are no new streets proposed with the commercial development, and thus traffic calming is not applicable. There are no technical comments that need to be addressed for this plan, and there are three administrative and three general comments.

Ron Lucas, Stevens & Lee, announced he is representing Eric Kessler, the owner of Vanguard Realty Group. The Forest Hills Commons Development Plan is Commercial development. The development plan that was submitted a year ago was approximately 95,000 square feet, and the plan has been reduced to under 70,000 square feet, with some other significant changes to the plan. The plan has been in the study for numerous factors over the last several years. The development plan was submitted to the Planning Commission at their meeting on August 2, 2017, and at that time they had met with the SWAN board and Eric Epstein. The plan was tabled, and they requested a second meeting and met with the SWAN Board again on August 23, 2017, and Mr. Epstein had invited other people who were interested in the development plan. He and Mr. Kessler attended the meetings and answered the questions presented by Mr. Epstein, and all the questions that were submitted. The development plan went back to the Planning Commission on September 6th and was unanimously recommended for approval, as well as, the five waivers. The Dauphin County Planning Commission recommended approval of the plan also.

Mr. Lucas announced that he would review the questions that came up during the process. There was a question about what had happened over the years with some of the prior owners, as far as for fill on the site.
Mr. Lucas stated he and Mr. Kessler do not know what happened decades ago, but the prior owner was KIMBOB, and they obtained a permit and closure on a permit to do fill, and that was approved and inspected by DEP. KIMBOB had discussed a plan, but never submitted a plan for approval, nor did they receive approval. Vanguard had purchased the property, and there was one thing that occurred; there was some fill that was put in there, and DEP permitted it. There was a contractor doing work there, and there was also a contractor used by the Sewer Authority, and both times the contractors dealt with and were approved by DEP. He noted there was some passed off pilings that were a couple of feet high dumped there overnight and since then Mr. Kessler put up a barricade to prevent someone from entering the area. DEP said that the pilings could be disposed properly or utilized by the site contractor to mix in with the black top, which is done when the road is milled. He noted the piling would be used when the developer begins construction and will be dealt with properly according to DEP. Skelly and Loy completed test pits, five feet, by five feet, by five feet, to determine what was there and did not find any debris. They found that the groundwater was below that level and so the underground stormwater detention system would be above the groundwater level.

Mr. Lucas referenced the display noting the location of the proposed stormwater detention system. He noted the plan for the Stormwater Management system has been reviewed by the Township’s engineer HRG and has met the requirements of the Township’s Ordinance. There were four borings done by Kitlinski & Associates as part of the due diligence required by the lender as part of the financing, and no debris was found within those four borings.

Mr. Hornung called for a five-minute recess.
Mr. Lucas stated there were some additional questions presented at the Planning Commission meeting on September 6th. The question posed was about the current county authorized Rt. 39 Traffic Study and whether Vanguard Realty would wait for the study to be completed before developing the area. Vanguard has learned the Rt. 39 Traffic Study has not commenced and that it may be years before the study is completed and the study is a major project that would require PennDOT or federal funding long term. The Township and HRG have completed the Traffic Study. He noted there were some additional questions about the floodplain and the original maps done by FEMA over the years were simply lines drawn along the paths of streams and did not follow the topography of where the floodplain was located. The development site had never been studied, and Skelly and Loy did an extensive study to determine the location of the floodplains. FEMA and the Township reviewed the study. FEMA issued VR a letter of map revision in January 2016.

Mr. Lucas referenced the display noting the location of the stream and the proposed stormwater retention basins. He noted Vanguard had met the requirements of FEMA and the Township's Ordinance. There was a wetland mitigation study done, and there were areas there that did not connect to the stream. The engineer and DEP reviewed the area, and it was determined that the area is the best location to install some wetlands and DCNR have requested that some wetlands be established next to some game lands.

Mr. Lucas continued there was a question posed as to whether the street that runs through the site should be extended to Colonial Road. He noted there are two access driveways on the site and the Traffic Study was completed and approved by HRG. Additionally, there was an issue presented at the PC meeting about the need for a traffic signal at the site in the future.
Mr. Lucas continued Mr. Kessler had agreed to contribute towards the installation of a traffic signal if it is needed within the next ten years. Vanguard Realty sent a post conditioned approval Mr. Wolfe to and discussed the agreement with Mr. Stine.

Mr. Lucas explained the development agreement would be signed and recorded and would bind the landowner, and future landowners to contribute up to 50 percent to the cost of the traffic signal, less any funds that would come from the federal, state, and the Township; but no more than the amount contributed by the property owner to the east of the Weis property. He stated the proposed development complies with the Township’s Zoning and Subdivision/Land Development Ordinances, and there were no questions identified by the Township staff or engineer.

Mr. Crissman referenced the fill that had to be examined. He asked Mr. Lucas if the land is clear and clean. He asked Mr. Kessler to provide the documentation from DCNR, DEP, and FEMA. Mr. Lucas answered he thinks that the records have been provided and if not, he could provide the documents and the clearance that Vanguard Realty obtained from DEP. Vanguard Realty does not have the previous records. Mr. Epstein got the records from KIMBOB that showed the approval of their work. Vanguard Realty has provided the documents for the work completed on the site. Mr. Crissman stated he has reservations when hearing the word “I think” as opposed to “yes, here is the documentation.” Mr. Lucas stated the documents are not in his hands this evening. Mr. Crissman stated he would like to be sure that the land is clean before he is willing to vote for support of the development. He noted that it is crucial, and he would like to be protected as a Supervisor in defending the Township and would like the applicant to be defended if something should occur later on.
Mr. Crissman stated he would like to make sure that everyone is protected, and that documentation exists indicating the land is free and clear. Mr. Lucas stated the documentation does exist from the tests pits and soil borings.

Mr. Lucas explained Skelly & Loy had completed the tests two-fold, one test to determine if there is anything in the soil, and the other was done to determine where the groundwater level is located for the underground stormwater detention system. Kitlinski & Associates did the test borings which are required by a lender.

Eric Kessler, Vanguard Realty Group, Inc. stated he had engaged Kitlinski & Associates, and they completed a series of 28 test borings, and they went down 12 feet underground. The borings were sent to a Geo Test Lab. The lenders require the tests and having the tests done is a way to demonstrate that the development will not hit any debris or radioactivity.

Mr. Crissman asked Mr. Kessler if the Township staff had possession of the documents. Mr. Kessler stated you are welcome to the test results, but the test boring is not a required test. He had the tests completed to go a step beyond.

Mr. Kessler announced he would make the tests results available. He noted that every boring was sent to a Geo Tech Lab and he has the lab results for every boring, clean.

Mr. Crissman asked Ms. Zerbe if they are satisfied with the information that has been provided by the applicant. Jason Hinz, HRG answered yes, he and Ms. Zerbe have the reports from Skelly and Loy, Inc. that were discussed earlier, about the soil investigations at the site, but have not seen any information on the borings, as those tests are typically done later as part of the building construction process. Mr. Kessler added he had the test borings completed ahead of time to protect himself.
Mr. Crissman asked Mr. Lucas if the Township Police and Fire departments have given an approbation for access to the site. Mr. Kessler responded he met with the Fire Chief and Fire Marshall and received their responses in writing. He stated the Fire Marshall established where the fire hydrants and building connections are to be located.

Ms. Lindsey asked Mr. Kessler about the waiver request for the sidewalk. She mentioned that in the future the Board would like to see the sidewalks connected along Linglestown Road. Mr. Kessler explained that the sidewalk on Colonial Road is not a problem, but a guardrail surrounds the short sidewalk on his property, which goes from Sheetz to his driveway and there is a bridge in front of his property that goes over a creek. He noted there are only 42 inches between that area and the sidewalk cannot physically fit. He also took photographs and sent them to Ms. Zerbe. Ms. Lindsey asked Mr. Kessler if he would be willing to contribute toward connecting the sidewalks. She asked Mr. Kessler to consider documenting the commitment in the plan. Mr. Kessler agreed. He added the check is not a problem, but there are some physical issues to build the sidewalk at that site without changing the grade and width. Installing a sidewalk in that area is a lot more than pouring some concrete.

Mr. Crissman suggested that there be a ten-year time frame for the sidewalk. Mr. Kessler agreed.

Mr. Seeds noted the proposal for the traffic light should be included in the developer's agreement. Mr. Kessler stated he would record the details about the traffic light in the deed so that it follows the ownership of the parcel. Mr. Seeds stated the Township had to pull some Improvement Guarantees because the developers were not able to make the improvements.

Mr. Kessler noted that it is hard to bond something that may or may not occur, but they would place the information on the deed, and it would be a requirement of the deed holder.
Mr. Seeds stated his goal was to get more sidewalks installed on Linglestown Road because he sees more people using the sidewalks. He suggested that Mr. Kessler include language the developer’s agreement that indicates if the adjoining property to the east or west of Mr. Kessler's property installs sidewalks, then Mr. Kessler would also install sidewalks.

Mr. Lucas stated the area in question is in the PennDOT right of way and they would have to approve the installation of a sidewalk. He explained there is a short area between the bridge abutment and the guard rail and if a truck hits that area and pushes the guard rail, then the pedestrian has nowhere to go. He continued it would be difficult to install a sidewalk without adding another guide rail or possibly going into wetlands. He noted the developer's agreement would include a provision that in ten years as part of a larger project, the developer will contribute to installing sidewalks at that location. He noted there are physical limitations to installing a sidewalk in that area without building a retaining wall.

Mr. Seeds stated PennDOT gave the Township an option to install sidewalks on the bridges located at Union Deposit and Emerton Ave at their expense.

Mr. Kessler stated he is willing to put something in the Developer's Agreement, but would like approval, and they will work on the language with Mr. Stine.

Eric Epstein, 4100 Hillsdale Road, Chairman of SWAN, stated there had been testimony this evening, and he would like to rebut some things that were just mentioned.

Mr. Epstein asked Mr. Hornung how to proceed because generally, the interaction has been positive, as this has been an ongoing process for two years. He strongly disagrees that the fill issue has been dealt with and he submits that tonight, as it has been submitted for the last 18 months. He thinks there is a way to deal with the sidewalks and included this information in his recommendation.
Mr. Epstein stated Derry Township has a trust fund for sidewalks. He added this was discussed at the PC meeting.

Mr. Epstein stated he litigated the issue with Baltimore Tar and had raised the issue, and it has not been addressed. He researched the Department of Environmental Protection, and there are no manifests for what was dumped when KIMBOB owned the property. He understands Mr. Kessler’s position. In 1988, there was a trash war going on in Dauphin County, Dauphin Meadows was closed, and the Harrisburg Incinerator was crippled, and a lot of trash went to many places. The fact that Mr. Kessler did not own the property in 1988 when the fill was deposited is irrelevant. There is a chain of custody and a history. The fill did not go away, in much the same manner as when he litigated the Baltimore Tar case. Mr. Pleasants indicated that he was not there when the paving materials, asphalt millings as it would be, were produced. In that case, he had proved that there were all kinds of chemicals and toxins and that is the reason, which the 4.5 acres across from Stray Winds Farm can never be developed to a Residential level because it is contaminated. He loves what Mr. Kessler did, and by the way, there were 25 borings, and eleven did not work, let us get all the facts on the table. There were 11 out of 25 is 44% off. He is not comfortable with that number; however, he appreciates the fact that Mr. Kessler looked at the site.

Mr. Epstein continued, whenever borings are done, there is pressure, compression, hydrology, and perhaps geology, but they are not talking about chemicals. Mr. Kessler is not able to tell him that there is no radioactivity there and that soil could have alpha decay, and Mr. Kessler does not have to test for this.

Mr. Epstein stated he spent hours at the Department of Environmental Protection, and there are no manifests.
Mr. Epstein continued there is a difference in taking a graph sample and looking at what is in the soil or determining that the compression is okay to build. He added, yeah, it is okay to build on, but they do not know about the soil. He asked the Board of Supervisors to look at his recommendation. He stated the Board just passed a Resolution this summer protecting the Paxton Creek. This facility slopes into the Paxton Creek. It would be hard to imagine, and he does not know what is in there, it could be nothing, but no one says that it is benign. This slopes in the creek, which empties into a lake, which drains into a river. He noted that everyone is aware of the sensitivity of the Paxton Creek. He cannot imagine that the fill dumped in 1988 would not migrate, or move. He and Mr. Kessler have gone back and forth on this issue, and people are not listening. It would have been nice if someone tested to see what is in the soil. The cost to test the soil is anywhere from $1,500 to $5,000. He asked Mr. Kessler to test the sedimentation in the creek.

Mr. Epstein announces he is not here to upset the apple cart because the process with Mr. Kessler and Mr. Lucas has been great. He noted that when the plan was first presented, it looked like it was a plan concocted by Lewis Carroll and Franz Kafka at a Halloween dinner. The development plan was conditional, but to Mr. Kessler's credit, it has improved. The plan went from almost 100,000 square feet to 69,000 square feet. There are tons of trees now going in there, and that is almost $50,000 in vegetation. SWAN is not LEED Certified, but the area is a green as it could be. He stated still after all the research no one can produce manifests.

Mr. Kessler stated he traced the deed to the ownership of the property to 1895, and everyone knows that when it was Stephenson's Flowers, it was marsh and wetlands. He is not taking an issue with anything that has been stated. He has a problem with the things that have not been mentioned and not knowing exactly what is there.
Mr. Epstein announced he has raised the issue at the Department of Environmental Protection and met with Mr. Gehret and Ms. Zerbe who allowed him to go through the files that are kept at the Township building. Mr. Kessler and Mr. Lucas have been good, as he gave them pages upon pages of questions. He stated no one could say for sure what is in the ground, or if it has migrated off. To be contrary, if it is PCB’s or TCB’s then it probably should not be disturbed, but if it is something that is fluid, and has conductivity, then it is perhaps shale bedrock, and someone may want to look at the ground.

Mr. Epstein stated he met with Mr. Kessler and Mr. Lucas in early July and asked them to table the issue, and they did. SWAN still takes exception to the traffic issue, because that is a horrible intersection. The intersection may meet all the metrics, but anybody who travels on Linglestown Road knows that it is not a pleasant experience, and all the intersections are failing for siting. He asked the Board to review SWAN’s recommendations.

Mr. Epstein added turning out of Sheetz is a blind turn. Mr. Kessler did not create the problem, and cannot be asked to solve the problem. He noted that a lot of credit goes to Mr. Kessler, Mr. Lucas, and Mr. Wolfe, for the developer’s agreement today.

Mr. Epstein noted that Mr. Crissman had mentioned that on any project transportation affiliated, 75% of the money is paid by the federal government.

Mr. Epstein stated let us be clear on what that 50% is; the 50% is usually 50% to 25%. He stated Mr. Kessler and Mr. Lucas were open and accessible on this project.

Mr. Epstein asked the Board of Supervisors to review SWAN’s recommendations. He noted that the project is at a good point, but in good conscience, he cannot say that SWAN knows what is in the fill or that it is safe when someone leaves the Sheetz and goes out onto Colonial Road because it is not. He thanked the Board of Supervisors.
Mr. Epstein announced on October 24th HRG will be at the site to explain to the community what they are testing for, and SWAN had requested that HRG look at West Hanover Township which is looking build out 5000 buildouts Residential on Piketown Road to Rt. 39.

Mr. Epstein stated he hopes that everyone begins to go in the same direction, such as the school district, other school districts, and other Townships. He provided documents to the Board members. He noted that the documents are from the discussion between SWAN and Mr. Pleasants had on the Baltimore Tar Property. There are a couple of things SWAN has been trying to raise, and that is the hydraulics, sloping, and “what is in the land?” and if anything has migrated. He stated this is something that needs to be discussed and hopes that it will happen this evening. He stated we could not say that we are going to be stewards of Paxton Creek and then say, “Well, we do not know what is in the dump, and just because someone did not put it in the dump, that makes it okay.” He added cadmium lead, or whatever it does not automatically become benign because someone else buys the land.

Mr. Epstein concluded this had been a much more collaborative process than it has been in the past. He asked the Board to consider the issue that SWAN has raised. He noted that SWAN completed two years of litigation at the Department of Environmental Protection.

Mr. Epstein thanked Mr. Kessler, Mr. Lucas, PC, TCRPC, DCPC, Ms. Zerbe, and Mr. Gehret for the time put into researching the issue.

Mr. Kessler announced that he met with the biologist at Skelly and Loy after hearing the comments Mr. Epstein made regarding the sedimentation. He asked the biologist what kind of testing could be done for sedimentation. The biologist explained that there is sedimentation now because the land is raw and by developing it with rain gardens, vegetation with subsurface stormwater facilities, and silt sumps, the development will stop the sedimentation.
Mr. Kessler explained there would be silt sumps installed that collect the silt before the water even goes into the inlets. The development would stop the silt from going into the stream, which is better than what currently exists. He was told that doing nothing is the worst thing because it is uncontrolled at this time. There is no sedimentation build up in the piles that they have found, but sedimentation is from raw land, and it comes from every bit of raw land all over the Township. The raw land allows sedimentation to build up and then it goes downstream.

Mr. Kessler stated he has just received bids on the development today, and there is over $600,000 in protection items to prevent the silt from getting into the stream. He elected not to do an above ground detention pond, because they are cheap, unsightly, and breed mosquitoes. The stormwater detention system will be placed underground, and the development will be green and reactive to the environment. He presented the boring report completed by Kitlinski Associates, and it is not required for the development.

Mr. Kessler announced he has completed protective measures and relied on the engineers. There are engineers for the soil, hydraulics, geo-technology, and biologists on this project and right they are all satisfied with the plan.

Mr. Epstein noted the problem is not just silt, it is also affluent pathways.

Mr. Epstein stated that most folks are unaware of it right now, but in the old days the exit signs were filled with tritium, which is a radioactive isotope that cannot be separated from water. The landfills must be monitored for tritium, and it could be in the soil. He stated there is a crisis with the landfills right now and with that crisis, he would like to know if there is tritium in the soil. He noted that no one could say what is there and what is not there without testing the ground, but we know that there are no manifests.
John Trish, 600 Prince Street, questioned if the Board has received copies of the test results. He referred to SWAN’s testimony on June 16, 2014, and referenced the LOMR. He questioned if the Board received the test results from FEMA in 2014.

Jason Hinz, HRG, stated regarding the Letter of Map Revision (LOMR); that was issued by FEMA back in 2016. The LOMR was discussed initially with the presentation of the development plan. The floodplain delineation follows what was approved in that LOMR by FEMA.

Tim Murphy, 1524 Pine Hollow Road, asked Mr. Hinz, “What exactly does that mean?” Mr. Hinz answered the floodplain that was depicted in the plan was approved by FEMA before being drawn. Mr. Murphy announced he is a retired engineer, having worked on hydrology, hydraulics, and floodplain management studies for 36 years. He is looking at from the perspective of the Township and the Township's liability. There is a LOMR and a floodplain delineation that indicates the proposed buildings are going to be high and dry. As Mr. Epstein mentioned earlier, the land was not always that high, and there is a reason the land was filled. The land was filled because it was a natural floodplain, or flood retention area. Over the years fill had been placed there by whomever, and the land has been raised, and essentially the stream is channelized. Both streams are channelized, and all the existing natural flood retention is gone, and that is why there is an area that can now be developed. Someone mentioned earlier that there was never a detailed flood retention study done in that area prior to the fill being placed and this is called an approximate delineation. FEMA had no recourse to go back on after the fill was placed and the LOMR was requested. The Township is already dealing with TMDL's in the Paxton Creek basin.
Mr. Murphy questioned how much money the Township had spent on the Earl Drive Culvert, to fix accelerated runoff water, because of similar situations. The water was retained in that area and is now rushing downstream because the natural detention is gone. The site is an example of what should not be permitted in the Township, even if FEMA says that it is okay. The Township should not legitimize what has been done over the years, and it is not a good idea to develop buildings at the site.

Mr. Murphy stated hopefully, the subsurface stormwater management practices, are not meant to be infiltration practices because all that would do is accelerate the transport of whatever may be in the soil into the stream.

Mr. Murphy commented on the sidewalk. He suggested that the Township place a bridge across the site to install the sidewalk.

Mr. Mark Levine, 1507 Knoll Crest Road, mentioned the traffic congestion on Linglestown Road and Colonial Road intersection.

Mr. Levin referenced the site on display, noting that he raised the issue about extending Academy Drive through this property and attaching it to Colonial Road. He stated the developers tend to be proprietary in their roadways and do not try to join their properties to neighboring properties. He presented the issue to Mr. Epstein at a recent SWAN meeting, and Mr. Lucas was responsive. Mr. Lucas and Mr. Kessler both object to extending Academy Drive and the next day Mr. Kessler went to Grove Miller Engineering, Inc. Mr. Jay E. States, Principal Traffic Engineer for Grove Miller Engineering, Inc prepared a memorandum.

Mr. Levine presented a memorandum responding to the report provided by Mr. States. The document is attached and recorded.
Mr. Levine suggested that Mr. Kessler add an alternate route to divert the traffic from Linglestown Road. Mr. Hornung disagreed with Mr. Levine noting that he does not think it is a good idea to have traffic going through a Residential area to get to a Commercial development.

Mr. Levine asked the Board to consider running Academy Drive through the property to Colonial Road. Mr. Hornung replied, no. Mr. Crissman replied, no. Ms. Lindsey replied, no. Mr. Seeds replied, no.

John Frame, 2730 Woodrow Drive, thanked Mr. Kessler for the presentation. He stated he is concerned about the left turn out of Sheetz on to Colonial Road. He noted that during rush hour from 3:30 p.m. until 6:30 p.m. it is difficult to make a left turn from Sheetz on to Colonial Road.

Mr. Frame stated he does not think the environmental questions have been answered although Mr. Kessler had provided some assurances. He asked the Board to consider making the approval after the development agreement is made.

Mr. Frame stated regarding the streamside and wetland remediation; he would like to remind the Board that the Township is already spending significant funding to restore Paxton Creek because anything that is done to disturb that area would eventually go into the Susquehanna River. He asked the Board to consider this information.

Mr. Frame stated he would not suggest obtaining soil samples for every property in LPT before the area is developed but, when there is a property that has significant fill, and after all, that has happened, it is a good idea to get soil samples.

Mr. Frame asked the Board to table their vote until more questions have been answered and that the language discussed is agreed upon.
Don Haschert, 5908 Pine Hollow Ct, noted that he has not followed the development plan closely but observed the traffic light cooperation agreement being discussed. He questioned if the Board has seen the actual paperwork for the traffic light cooperation agreement.

Mr. Hornung answered this process occurs often, and PennDOT handles it. Therefore, the Board would not see the paperwork. Mr. Haschert questioned if the agreement would go into the deed. Mr. Kessler answered the agreement language was provided to the Township Solicitor.

Mr. Wolfe stated there is a developer’s agreement after the plan is approved and that specific language which has already been reviewed by the Township Solicitor will be in the developer’s agreement. Mr. Haschert asked Mr. Wolfe if the developer will pay 50% of the cost to install a traffic light. Mr. Kessler answered Vanguard Realty would share the cost with the Weis, property owner. Mr. Haschert questioned when the traffic light will be installed and what would trigger the installation. Mr. Wolfe explained that PennDOT has standards and sufficient warrants would need to exist, which is criteria met by the two driveways, regarding traffic. The Board cannot arbitrarily decide to install a traffic signal in the development.

Mr. Wolfe stated he expects that with Mr. Kessler’s development, and with any development at Weiss which, potentially has another development plan coming before the Board in the future, both driveways would have the need, and meet sufficient warrants in the future, and that is a supposition.

Kathy Becker, 2276 Forest Hills Drive, announced she walks to Sheetz with her husband, and they must climb over the guardrail, and it is not safe.

Ms. Becker stated she saw someone in a wheelchair trying to negotiate that area.

Ms. Becker suggested that the Board consider having the developer build a bridge to take care of the issue.
Mr. Lucas stated the development plan meets the Township’s Zoning Ordinance requirements and they have gone beyond the requirements with testing, and cannot prove a negative. The test borings that were done would be done during the building permit process or for lending purposes, and there are no issues. The site is not a formal industrial site where fill has been used, but the site has been permitted.

Mr. Lucas stated Mr. Epstein raised the issue about what could be there, but that is all speculation. Mr. Kessler is not able to prove a negative, and if there were fill in the area, they would be required to dig up the area. The design will prevent sediment from going into the stream, and there would be more sediment going into the stream from the raw land than there would be if it were developed. There are over 400 hundred trees required in the Township Ordinance and over 1,000 trees shown on the plan.

Mr. Lucas stated he and Mr. Kessler would work on the development agreement and include the information about the contribution to the traffic signal and sidewalk. The agreement would be binding on the property and all the lots, if and when the lots are sold.

Mr. Lucas asked the Board to approve the development plan.

Mr. Crissman asked Mr. Kessler if there is anything more that could be done for the comfort of the Township and the residents and if he is willing to do additional testing to the soil. Mr. Crissman asked Mr. Hinz if there is anything more Mr. Kessler could do to test the soil to make sure that it is safe.

Mr. Hornung asked Mr. Kessler if he had tested for compaction when the soil boring tests were completed. He questioned if the soil was analyzed. Mr. Kessler answered every soil boring was bored at 12 feet in depth, and every soil sample was sent to a laboratory. The laboratory analyzed the soil for compaction, debris, and contamination.
Mr. Kessler state laboratory did not look for radiation or testing for heavy metals. The Geo Technical report from the soil borings and the initial test pits that establish the groundwater level and a visual. The test results came back as buildable ground without anything being red flagged. Mr. Kessler stated he would go the extra mile and check if he thought there was anything else on the ground.

Mr. Kessler explained that he had soil boring tests completed for his comfort and not because it was required. The new development would stop the sedimentation release, and it is being released, just as it is on every bit of raw land in the Township.

Mr. Kessler stated he does not buy results from professionals. There are soil engineers, biologists, and Geo Technical engineers on the project and there are no red flags. When the development begins, and the contractors dig at the center of the site for the underground stormwater management system, they will monitor what comes out of the ground. If there is something there, the Township engineer will know.

Mr. Kessler stated he had completed the due diligence.

Mr. Hinz stated based on the requirements of the Township Ordinances Mr. Kessler has performed the adequate amount of soil testing that is required to this point.

Mr. Hinz continued Mr. Kessler had mentioned that he had completed the soil borings. He has not reviewed the results but is certain that if the lender saw anything in the test results, there may be additional testing to be sure of the results.

Mr. Hinz added the results do not pertain to environmental testing, such as heavy metals or other contaminants that may exist in the soil. There are tests that can be done to determine if those things exist, but it is not typically a requirement of the Ordinance at this stage in the process.
Mr. Seeds asked Mr. Hinz if HRG would be involved in inspecting the site. Mr. Hinz answered HRG will inspect the site and the underground stormwater facilities, but would not be involved in the building pad inspections.

Mr. Kessler announced he will go a step further and will instruct the engineers to look and test whatever is required as the fill is removed from the site. He would like to go on record as going a step further, to specifically monitor the soil for an anomaly.

Mr. Seeds asked Mr. Kessler to send the report to HRG. Mr. Kessler noted that he would complete the tests for his protection. The engineers will oversee the construction and inspections, just like HRG will do, but they will be instructed to pay specific attention while they are excavating if they see anything unusual to be on alert for wet soil, or contamination.

Mr. Epstein suggested that Mr. Kessler complete a grab sample.

Mr. Crissman asked Mr. Hinz if the grab sample is acceptable. Mr. Hinz answered HRG’s inspectors are not Geo Technical experts, but they can visually assess the conditions, and if there is anything that looks abnormal they could point it out. He noted the HRG inspectors would not complete soil sampling or any additional investigations.

Mr. Lucas stated the issues identified during the excavation would be communicated to HRG in writing.

Ms. Lindsey asked Mr. Epstein to repeat his question. Mr. Epstein replied the Board is not addressing the questions that he had raised.

Mr. Epstein stated he had asked Mr. Kessler to take a grab sample to test the soil for cadmium, led, and mercury. He cannot make Mr. Kessler do anything that is not in the Township’s Ordinance, or the law, but for the last 18 months, he has raised the issue, that Mr. Kessler does not know what is in the soil.
Katie Scheib questioned if there is an inclusion in the Township Zoning Ordinance that would provide instructions on how to handle a site that was a former dump and the tests that should be done before developing. She noted the Township’s Zoning Ordinance does not address what happens to properties that were used as dumps. Mr. Kessler mentioned that he had spent over $600,000 trying to be environmentally sensitive. The Township has gone to great lengths trying to protect Paxton Creek, and Mr. Epstein stated that the soil could be tested for $5,000.

Ms. Scheib stated she does not care who does the testing, it could be the Township or the developer, but the Board should table the discussion until further tests are completed. She suggested that the Township pays for the tests.

Mr. Lucas announced no one mentioned that the site was a dump, the site has never been identified as a dump, but there was fill placed on the property, and there is a significant difference.

Mr. Lucas summarized the development agreement. He suggested that the long-term items be placed in the developer agreement, and the Improvement Guarantee would include the inspections during the construction process.

Mr. Seeds stated there were some good suggestions and comments made about the sidewalks. He asked Mr. Lucas to include language in the agreement that obligates the developer to contribute to the sidewalk, if and when it occurs on the adjoining properties.

Mr. Lucas state there will be language in the agreement about the contribution being made to install the sidewalk on the land, but PennDOT would have to redo the bridge.

Mr. Hornung asked Mr. Kessler if he could put a bridge on the property.
Mr. Kessler answered that it would take several years to get permits from DEP and PennDOT and it is a massive undertaking. PennDOT would have to approve a sidewalk at the site. He met with PennDOT about the entrance to the development, and they were not in favor of the sidewalk on Linglestown Road. He would install a 36-inch sidewalk if the Township approved it. However, it would be against his better judgment because it is dangerous.

Mr. Hornung referenced the display. He asked Mr. Kessler if a sidewalk could be installed. Mr. Kessler replied that he would have to ask the engineer because the sidewalk would change the impervious coverage, the green area, and the water flow.

Mr. Kessler stated the engineers went to great lengths to direct the water flow through the vegetation to clean the silt and the sidewalk would disrupt the plan. Mr. Hornung suggested that Mr. Kessler use macadam for the walkway. Mr. Kessler stated the macadam is the same and would disturb the flow. Mr. Hornung noted the macadam walkway does not have to be as flat as a sidewalk. Mr. Kessler agreed. Mr. Hornung stated there are people from Forest Hills who will want to walk to the retail center and possibly the Weiss store.

Mr. Lucas added the sidewalk must be ADA compliant coming off the state road and cannot be any steeper than 2% or 3%. Mr. Kessler stated if permitted, he would install a 36-inch sidewalk along the frontage. Mr. Hornung stated there could be a potential liability. Mr. Kessler stated he thinks that PennDOT will install the sidewalk with the highway project. Mr. Hornung stated that project would not be completed for another five or six years and meanwhile there is going to be a retail establishment built there.

Mr. Kessler suggested installing a stone path. He noted that the water would flow through the path. Mr. Lucas added the stone path would not meet the ADA requirements.
Ms. Lindsey stated she is okay with Mr. Kessler adding language to the developer’s agreement to make a contribution to a sidewalk in the near future. Mr. Kessler agreed.

Mr. Crissman asked Mr. Kessler if he would consider having the soil tested and provide the Board with a report. Mr. Kessler answered yes.

Mr. Crissman asked Ms. Zerbe how much time is left. Ms. Zerbe answered the time extension is good until November 8th.

Mr. Crissman suggested that the Board review a formal draft agreement before making a decision. He questioned how long it would take to draft the agreement. He requested that the Board table the decision until they receive the draft agreement. Mr. Seeds agreed.

Mr. Lucas stated the plan meets the requirements and should be approved. The agreement must be drafted and reviewed by Mr. Stine, and the plan cannot be recorded until there is a developer’s agreement. He asked the Board to approve the plan.

Mr. Hornung asked Mr. Lucas if they would test the soil for heavy metal. Mr. Lucas answered yes. Mr. Kessler answered the engineers have a standard test regime.

Mr. Crissman asked Mr. Lucas if he has the documents for the Preliminary/final subdivision and land development plan for Forest Hills Commons. Mr. Lucas answered yes.

Mr. Crissman asked Mr. Lucas if he supports the five waiver requests. Mr. Lucas answered yes. Mr. Crissman referenced three Administrative comments in the memorandum. He asked Mr. Lucas if the items have been completed, or will be completed in timely fashion, acceptable to Township staff. Mr. Lucas answered yes.
Mr. Crissman referenced three General comments in the memorandum, specifically number three which is the letter dated September 26th from Jason Hinz, HRG, and the 21 Administrative comments. He asked Mr. Lucas if the items have been completed, or will be completed in timely fashion, acceptable to Township staff. Mr. Lucas answered yes.

Mr. Crissman motioned to approve Preliminary/final subdivision and land development plan for Forest Hills Commons; the five waiver requests, four administrative comments, and three general comments including the letter dated September 26th from Jason Hinz, HRG including the 21 Administrative comments, and conditioned upon the approval of the developer’s agreement by the Board of Supervisors’ later. Ms. Lindsey seconded the motion.

Mr. Hornung called for a roll call vote.

Ms. Lindsey aye. Mr. Crissman aye. Mr. Hawk aye. Mr. Seeds aye. Mr. Hornung nay.

Resolution 17-22; accepting the dedication of streets in Stray Winds Farm, Phase 1

Ms. Zerbe reported the requirements for the road dedication had been met. She recommended that the Board accept the Orchards of Seabiscuit and Seattle Slew Drive in Stray Winds Farm, Phase 1.

Mr. Crissman motioned to approve Resolution 17-22, which accepts the dedication of streets in Stray Winds Farm, Phase 1. Mr. Hawk seconded the motion. Mr. Hornung called for a voice vote, and the vote was unanimous.

Improvement Guarantees

Mr. Crissman motioned to approve the Improvement Guarantees for Shadebrook Phase II; Wilshire Estates, Phase 1, Charleston Riding, Infinity Charter School, Tuscan Villas at the Estates of Forest Hills, and AT&T 4920 Jonestown Road. Mr. Seeds seconded the motion. Mr. Hornung called for a voice vote, and the vote was unanimous.
Payment of Bills

Mr. Seeds motioned to approve the payment of bills for Lower Paxton Township and the Lower Paxton Township Authority. Mr. Crissman seconded the motion. Mr. Hornung called for a voice vote, and the vote was unanimous.

Announcements

Mr. Hornung announced the Board met in Executive Session before this meeting to receive information from the Township Manager.

Adjournment

There being no further business, Mr. Hornung adjourned the meeting for the Lower Paxton Township. Mr. Crissman seconded the motion, and the meeting adjourned at 10:45 p.m.

Respectfully submitted,

Shellie R. Smith
Recording Secretary

Approved by,

William B. Hawk,
Secretary