

MINUTES

BOARD OF COMMISSIONERS

LOWER ALLEN TOWNSHIP

REGULAR MEETING

JANUARY 28, 2008

The following were in ATTENDANCE:

BOARD OF COMMISSIONERS

John T. Titzel
Lloyd W. Bucher
Peddrick M. Young, Sr.
Dan Christ

TOWNSHIP PERSONNEL

Thomas Vernau, Manager
Jan Faust, Assistant Manager
Daniel Flint, Community
Development
Nancy Dietel, Finance Director
John Eby, Planning and Zoning
Coordinator
Frank Williamson, Chief of
Police/Public Safety Director
Christopher Yohn, EMS Captain
Danna Lutes, Township Secretary
Steven P. Miner, Solicitor
Trudy Metzler, Recording Secretary

President TITZEL called to order the Regular Meeting of the Board of Commissioners of Lower Allen Township at 7:30 p.m. followed by an opening prayer and the Pledge of Allegiance. He announced Proof of Publication was available for review.

Commissioner BLACK was absent with excuse.

RECESS TO EXECUTIVE SESSION

The Regular Meeting of the Board of Commissioners recessed to Executive Session at 7:34 p.m. for the discussion regarding the Memo of Understanding between Lower Allen Township and Public Safety Director Frank Williamson.

RECONVENE REGULAR MEETING

The Regular Meeting of the Board of Commissioners reconvened at 7:42 p.m.

AUDIENCE PARTICIPATION: ANY ITEM ON THE AGENDA

President TITZEL asked if anyone in the audience would like to address any item that appears on the Agenda.

Mr. Pentti Nupponen identified himself to the Board and advised he would like to address the Board on the community fluoridation agenda item.

INTRODUCTION OF NEW POLICE OFFICER DONALD COFFEY

Mr. Williamson introduced to the Board new Police Officer Donald Coffey, who was sworn-in on January 14, 2008. Officer Coffey and his family moved to the area from New York City shortly after January 1, 2008. The Board welcomed Officer Coffey to the Township.

CONSENT AGENDA

President TITZEL advised that any Commissioner, Staff member or anyone in attendance could request any item on the Consent Agenda be removed for further discussion and asked if there was any such request.

There was no response.

Commissioner CHRIST moved to approve the items on the Consent Agenda, those items being:

1. Warrants Journal of 1/17/08 in the amount of \$246,696.45.
2. Department Reports:
 - a. for the month of December 2007: Engineer, Public Works, Community Development and Public Safety
 - b. for the month of November 2007: Community Development
 - c. monthly report dated January 23, 2008 from Community and Human Resources Specialist.
3. Approve authorizing the Manager to execute a contract with Pennoni Associates, Inc. in the amount of \$1,900.00 to perform a Phase I Environmental Assessment for Township owned properties on Hummel Avenue.
4. Approve Basco Associates Invoice #59252, in the amount of \$13,243.82, for payment. Invoice is for work completed during the month of August, 2007.

5. Approve Payment Application #9 for eciConstruction, LLC in the amount of \$825,864.78.
6. Approve Application for Payment #8 from Herre Bros., Inc. in the amount of \$184,529.09.
7. Payment of Application #9 to Silvertip, Inc. for Plumbing Construction in the amount of \$74,190.32 for the Municipal Services Center.
8. Payment of Application #9 to Silvertip, Inc. for HVAC Construction in the amount of \$77,879.10 for the Municipal Services Center.
9. Approve Payment Application #10 for eciConstruction, LLC in the amount of \$285,866.90.
10. Approve moving Wendy Hayden, Community and Human Resources Administrative Clerk to regular full-time status as she has successfully completed her six (6) month probationary period.

Commissioner YOUNG seconded the motion. Motion carried 4-0.

AUTHORIZE STAFF TO RETAIN CHRISTOPHER S. UNDERHILL, ESQ. OF THE LAW FIRM HARTMAN UNDERHILL AND BRUBAKER AS SPECIAL COUNSEL TO ADVISE THE TOWNSHIP ON MATTERS OF LAND USE AND CIVIL RIGHTS

Commissioner CHRIST moved to authorize Staff to retain Christopher S. Underhill, Esq. of the law firm Hartman Underhill and Brubaker as special counsel to advise the Township on matter of land use and civil rights. Vice-President BUCHER seconded the motion. Motion carried 4-0.

APPROVE MEMDORANDUM OF UNDERSTANDING WITH FRANK E. WILLIAMSON, JR., REGARDING WORKING CONDITIONS FOR THE POSITION OF CHIEF OF POLICE AND DIRECTOR OF PUBLIC SAFETY

Commissioner YOUNG moved to approve the Memorandum of Understanding with Frank E. Williamson, Jr., regarding working conditions for the position of Chief of Police and Director of Public Safety. Vice-President BUCHER seconded the motion. Motion carried 4-0.

APPROVE RESOLUTION 2008-R-03, A RESOLUTION OF THE BOARD OF COMMISSIONERS OF LOWER ALLEN TOWNSHIP, CUMBERLAND COUNTY, APPOINTING FRANK E. WILLIAMSON, JR. AS CHIEF OF POLICE OF LOWER ALLEN TOWNSHIP FOR A TERM OF TWO YEARS

Commissioner YOUNG moved to approve **Resolution 2008-R-03**, a resolution of the Board of Commissioners of Lower Allen Township, Cumberland County, appointing Frank E. Williamson, Jr. as Chief of Police of Lower Allen Township for a term of two years. Commissioner CHRIST seconded the motion. Motion carried 4-0.

ANY BUSINESS PERTINENT TO THE TOWNSHIP. DISCUSSIONS WILL BE LIMITED TO FIFTEEN (15) MINUTES PER PERSON

President TITZEL asked if anyone in the audience would like to address the Board on any business pertinent to the Township.

There was no response.

COMMUNITY DEVELOPMENT

Discussion RE: SLDL Docket No. 2007-12, Land Development Plan for Linlo Properties III, LP, Building Addition at 1215 Manor Drive

Mr. Flint advised the Board that this is an office building in the Westport Business Center on the corner of Manor Drive and Lena Drive.

This is an existing condition as the initial land development plan included future expansion added to the area, which is what the current plan is proposing. Because the original plan is more than five (5) years old, the five year protection expired so a new land development plan had to be written. The main difference is that some of the stormwater management requirements have changed. Stormwater quality and groundwater recharge had to be designed just for the expanded impervious area, not the existing impervious areas.

Due to an apparent discrepancy on the original plan, the Applicant obtained a variance from the Zoning Hearing Board regarding the buffer between this project and the adjacent residential area. A 45-foot buffer was shown and approved on the original plan. Township Ordinance requires 100-foot buffer. The discrepancy was discovered when the plan for the addition was received.

This will be an agenda item for February 11, 2008.

Discussion and Possible Action RE: Proposed Agreement from LFGC, Inc. re: Pending Construction Permit Applications for Two Dining Facilities from a Previously Approved Land Development Plan

Mr. Flint advised the Board that this issue was discussed at a previous Board of Commissioners meeting.

Mr. Flint advised the Board that the two construction permit applications are currently on hold due to the pending possible change to the Zoning Ordinance. There was a slight change to the current proposed agreement to clarify the Zoning Amendment being referenced.

Commissioner CHRIST asked for clarification that Liberty Forge will be on the February 11 meeting to discuss the overlay districts they proposed. He also asked if Liberty Forge would still propose a text amendment to 220-129 or are they planning to just propose the new overlay language. Mr. Vernau responded that Liberty Forge is planning to submit the new overlay district language, the new overlay district being called "Conservation Park".

Commissioner CHRIST asked Mr. Flint what the benefit would be to the Township to accept the agreement. Mr. Flint responded that it gives clarity to what is being done so an application is not being held indefinitely without an apparent reason. Commissioner CHRIST asked if there would be a detriment to the Township to act on those applications at this point. Mr. Flint advised that the only action that could be taken at this point would be to deny the applications.

Commissioner YOUNG asked if by the Board taking action and passing this agreement is the Township putting itself in jeopardy in any way. Mr. Flint responded that the Board would not be stating or agreeing to approval or denial of anything. Commissioner YOUNG inquired if the Board denies the proposed agreement what happens to Liberty Forge's submissions. Mr. Flint responded that the submissions continue to hang in limbo, neither approval nor denied.

Extensive discussion ensued.

Vice-President BUCHER moved to approve the proposed agreement from Liberty Force Golf Course, Inc. regarding the construction permit applications for the two dining facilities from a previously approved Land Development Plan. Commissioner YOUNG seconded the motion. Commissioner CHRIST asked if the Township is not being hurt by not accepting the agreement, is it just easier to track. Vice-President BUCHER stated that the agreement can be terminated with a 60-day written notice. Call for the question was made. Motion carried 3-1, Commissioner CHRIST voting in the negative.

Authorize Staff to Advertise for Bids for the Lower Allen Community Park Soccer Fields, Parking, and Loop Trail Improvement Project

Mr. Flint advised the Board that for some time a consultant has been working on the design of the improvement project at Lower Allen Community Park. The preliminary plan was scaled back somewhat to meet the budget. Very little parking improvement will be done as part of this project. There will be extensive improvements to the soccer fields, and trails connecting the parking areas to the soccer fields which becomes part of the loop trail around the park. The soccer fields will probably be ready for play in the fall of 2009.

Commissioner CHRIST moved to authorize Staff to advertise for bids for the Lower Allen Community Park Soccer Fields, Parking and Loop Trail Improvement Project. Commissioner YOUNG seconded the motion. Motion carried 4-0.

Discussion RE: Request for Security Reduction for SLD Docket No. 96-32, Subdivision Plan for UMHC Lots 11 A, B and C

Mr. Flint advised the Board that the United Methodist Home subdivision plan for Lots 11 A, B and C, SLD Docket No. 96-32 still has some improvement security primarily for sidewalk. Some of the lots are still undeveloped. Three of the streets have been dedicated to the Township and they are ready for a reduction in their security amount.

This will be an agenda item for February 11, 2008.

MANAGER

Discussion RE: Tax Collection Consolidation Legislation

Mr. Vernau reminded the Board that he provided them with a handout with bullet points pros/cons regarding a couple of House bills and a Senate bill that would call for a consolidated tax collection.

Senate Bill 1063 is apparently on the fast track for action and may be considered tomorrow. Mr. Vernau received a call today asking him to please contact his Senator and ask her to vote down SB 1063. Mr. Vernau advised the caller that he does not speak for the Township and would present the issue to the Board.

Mr. Vernau advised the Board that House Bill 1458 would allow earned income tax collection to take place on a school district level. House Bill 1550 and Senate Bill 1063 would do it on a county level. Senate Bill 1063 has received a lot of support. Municipal groups have serious concerns about it, mainly that the percentage formula to staff the governing body is not what municipal groups consider fair and valid. There are also issues with the lack of definition of an audit in the bill. The rules of auditing need to be very clear. Extensive discussion ensued.

Commissioner CHRIST moved to instruct the Manager to express the Board's opposition to both House Bill 1550 and Senate Bill 1063. Commissioner YOUNG seconded the motion. Motion carried 3-1, Vice-President BUCHER voting in the negative.

Discussion and Possible Action: Participation in COG Action to Halt the Commonwealth's Chesapeake Bay Tributary Strategy

Mr. Vernau advised the Board that over the past couple of years, municipalities and sewer authorities along the Susquehanna Basin have faced possible increased cost set out by the Chesapeake Bay Tributary Strategy. As the Strategy has been reviewed, municipal groups feel that the burden placed upon municipalities is much higher than it should be in relation to what is being added to the water basin. More of the nutrients are coming from point sources, such as farms and factories, but those sources have been given a pass. The Capitol Region COG has decided to file joint action. If the Township decides to join the action, there is a \$2,000.00 cost involved. Senator Vance supports the municipal groups' opinion of having DEP do something

more equitable. Representative Naylor has already introduced legislation to change the distribution costs to a more equitable formula.

Mr. Miner advised the Board that he had the opportunity to meet with John Brossman at the Sewer Authority. Mr. Brossman is not in favor of litigation unless the permit does not provide the schedule that the Authority needs to upgrade the plant without nutrient trading.

Extensive discussion ensued.

Vice-President BUCHER moved to direct the Manager to forward the information received to the Sewer Authority for consideration and decision at its February 7, 2008 meeting and further direct the Manager to respond to COG by February 8, 2008 on behalf of the Township and the Authority based on the Authority's decision. Commissioner CHRIST seconded the motion. Discussion ensued. Call for the question was made. Motion carried 4-0.

Discussion RE: Animal Control Contract

Mr. Vernau advised the Board that there is an agency that is non-profit, does not have facility per se in the Township but are residents of the Township. They are involved with an organization called Homeward Bound. They are a no-kill/stray adoption type agency. They hold animals for 48-hours and then send them on to be adopted.

Staff has been in conversation with the agency concerning handling the Township's stray domestic animals. They will also handle exotics on a case by case basis.

Discussion ensued.

Vice-President BUCHER moved to accept and adopt the 2008 Municipal Animal Protective Service Agreement with Homeward Bound Animal Rescue, Wellgate Lane, Mechanicsburg. Commissioner YOUNG seconded the motion. Motion carried 4-0.

Discussion RE: Public Water Fluoridation

Mr. Vernau advised the Board that he has provided them information fluoride in drinking water. The effects of fluoridation is not the only issue. The other issue is whether municipalities and water companies should be the ones adding the fluoride.

Mr. Vernau inquired if the Board would be interested in holding a public forum meeting to listen to both sides of the issue before making any decision.

Vice-President BUCHER asked the Solicitor if the Board has any jurisdiction in this area. Mr. Miner responded that it is ultimately DEP's responsibility, but DEP looks for public input as to whether or not the Township would want to make a change. PA American would have to abide by the desire of the majority of municipalities it serves. DEP's as well as PA American's official position is neutrality. As long as the water is safe to drink, the choice can be made to fluoridate or not fluoridate. If a change is made, DEP would supervise that change and the public notified.

Mr. Vernau spoke with the Pennsylvania Department of Health and they have no opinion nor are they involved in any way.

Mr. Vernau advised the Board that the Township has no record of any action in place to recommend fluoridation. All municipalities would have had to agree.

Mr. Pentti Nupponen and Carol Hartwell addressed the Board regarding the negative affects of fluoridation of public water.

Extensive discussion ensued

Commissioner CHRIST stated that he is not comfortable wading into this issue at this point on either side. There are more studies to be done and he expressed his opinion that the Board should talk a wait-and-see attitude.

Mr. Vernau emphasized that the purpose for bringing up the issue was to ask the Board if they want to arrange a forum at which testimony on both sides of the issue would be heard.

It was the Board's decision to not pursue the issue at this time.

Building Update

Mr. Vernau advised the Board that the overall cost for the new building has not changed very much. The approved change orders have resulted in net credits. There are additional change orders pending. It started as a \$9.1 million project and costs remain in the ballpark.

Commissioner CHRIST inquired as to the projected opening date. Mr. Vernau advised the Board that the opening date has just been moved to May 10th. However, Staff is not looking at doing a move-in until sometime in June.

Mr. Vernau further advised the Board that there are issues that Staff considers design omission items the architect and/or engineers forgot about or did not take into account. Those omissions must now be done and cost money. There are some omissions for which Basco Associates is being held partially responsible. Mr. Vernau has met with a representative of Basco, showed him the list and advised that the Township expects Basco to participate in the cost. The representative said he would discuss the list with his bosses. That was before Christmas and to date Mr. Vernau has not heard from the representative. Mr. Vernau further advised the Board that the representative he met with has taken another position. Mr. Vernau will contact Basco to determine if the list was handed off to someone or left in the inbox. Discussion ensued.

President TITZEL inquired about the cost of temporary heat and asked if the cost is included in the contract. Mr. Vernau explained that the job was bid in November. According to the contractor's construction calendar, the building would have been dried-in well before now and not as much temporary heat would have been used. The Township put a hold on the project to

do value engineering, which resulted in a three month delay. Mr. Vernau felt it would fair to split the cost of temporary heat three ways among the Township/Basco/eciConstruction.

Mr. Vernau asked the Board if they are in favor of hiring a relocation specialist. There is a township resident who is a relocation specialist and is willing to cut his hourly rate in half. Mr. Vernau and Ms. Faust both feel it would be worth the cost. The Board was in agreement.

Mr. Vernau advised the Board that an open house would probably take place sometime in July.

Concerning the existing building, for sale signs should soon be in place. The parcels will be sold as a package, but will not be combined.

OTHER BUSINESS

Ms. Dietel advised the Board that she is working on closing out 2007. The projected balance is a little better than the figure previously given.

Mr. Williamson thanked the Board for its support this evening. Mr. Williamson advised the Board that over the past weekend there were two Smooth Operator details on Route 15. So far with this wave of Smooth Operator, there were 65 contacts. Last Thursday or Friday southbound at Lower Allen Drive high speed was 93 mph and Saturday high speed was 82 mph coming northbound. In that area the speed limit is 55 mph.

Mr. Vernau advised the Board that he has distributed to the Board the Conservation Park Ordinance Amendment submitted by Liberty Forge. They have requested that the Board receive the amendment in plenty of time for the February 11 meeting. This would be a third overlay district the Board could adopt.

Commissioner CHRIST advised the Board that he will be attending the February 6 COG/Verizon meeting with Dan Cohen to discuss the negotiations. The meeting is at the Lemoyne Municipal Building from starting at 11:30 a.m.

Dr. Frank Jackson of 1460 Raven Hill Road identified himself to the Board. Dr. Jackson thanked Mr. Vernau for his memo. He advised the Board that some residents are going to a land planner, at their own expense, to obtain some information. After the meeting they will want to meet with Staff to discuss the information. Dr. Jackson stated that the Patriot News had a lead editorial on congestion in this part of the county. The area is now looking at a development at Liberty Forge which will do nothing but increase the congestion on a two lane, windy, hill road that was never designed for that type of development being proposed. Dr. Jackson thanked the Board for its time.

EXECUTIVE SESSION

There was no Executive Session.

ADJOURN

The Regular Meeting of the Board of Commissioners adjourned at 9:55 p.m.

ATTENDANCE REGISTER

An Attendance Register is made part of this record.