

**LOWER PROVIDENCE TOWNSHIP
BOARD OF SUPERVISORS
SEPTEMBER 4, 2008 MEETING MINUTES**

1) Public Meeting: Call to Order

- a) Chairman Dininny called the public meeting to order at 7:30 p.m.

2) Pledge of Allegiance

3) Roll Call:

- a) The following members were present: Supervisors Altieri, Dininny, DiPaolo and Sassu.
b) Supervisor Brown was absent.
c) Also present were Solicitor David Onorato, Township Engineer John Chambers, Police Chief Francis Carroll, Community Relations Coordinator Denise Walsh, Accounting Manager Sue Law, Project Analyst Nate Dysard, Director of Special Projects and Technology William Roth, and Director of Community Development Michael Siegel.

4) Chairman's Comments:

- a) Chairman Dininny explained that this was a work session for the Supervisors to discuss items that will require action at their next Business Meeting; therefore no public comment is taken on the specific items. A comment period is provided at the end of the meeting.

5) Public Participation on Agenda Items:

- a) There was no participation at this time.

6) Presentations & Commendations:

- a) Presentation to Tim Arthur for 5-Years of Service with the Police Department:
i) Supervisor Sassu provided an overview of Officer Tim Arthur's employment with the Township.
ii) Supervisor Sassu and Chief Carroll presented Officer Arthur with a gift certificate in recognition of his five years of service with the LPPD.

7) Discussions:

- a) 2009 Minimum Municipal Obligation (MMO) for Police & Non-Uniformed Employees:
i) Ms. Law explained that the Township's MMO for 2008 was \$579,500. The State will contribute \$298,000, leaving a balance of \$281,500 due by the Township.
ii) Supervisor Sassu, who is liaison to this Committee, acknowledged the effort put in by the employees working on this committee.
- b) Recycling Grant Survey Information:
i) Mr. Dysard explained that the 2005 and 2006 DEP Recycling Performance Grants are being audited. There is an outstanding grant of \$80,000 for each of these years that should be coming to the Township soon. While residential recycling for the Township ranks 12 out of 16, business recycling ranks 5 out of 16. The 2007 grant application is in the process of being submitted, which is the normal timeframe for submission.
- c) Discussion on ordinance regarding the regulation of brush, grass & weeds:
i) Mr. Siegel explained that a public hearing is scheduled for the next Supervisor's meeting for changes to the ordinance relating to brush, grass & weeds. Changes were made based on several complaints received by residents, and to make the ordinance consistent with current property maintenance codes (PMC). For parcels that are 1½ acres or larger, they will be permitted to just mow the perimeter of the property to help reduce the Township's carbon footprint.
ii) Chairman Dininny commented on an article that he just read regarding over-legislating things that do not need to be legislated, and cautioned against doing that. Mr. Siegel noted these changes are just for consistency with the PMC.

- d) Discussion on ordinance providing uniform requirements for direct & indirect contributors into the wastewater collection & treatment system of Lower Perkiomen Valley Regional Sewer Authority (LPVRS); providing for enforcement and administration; providing for wastewater discharge permits, payment of fees and the administration of the regulations; providing for the enforcement and imposition of penalties for violations thereof:
- i) Mr. Onorato noted that his office has prepared an ordinance that will be discussed in public hearing at the next Business Meeting. The ordinance amends the Township's current pre-treatment ordinance to be consistent with the LPVRS regional ordinance, and was done at the LPVRS's request. The changes only apply to non-residential contributors, and provide an enforcement mechanism.
 - ii) Chairman Dininny asked if this was just being done to be consistent with the LPVRS? Mr. Onorato explained that the Township is consistent, but the LPVRS has made changes and is now asking all municipalities to change their ordinances for consistency. The requirements were imposed on the LPVRS by the DEP & EPA.
 - iii) Mr. Dininny commented that the LPVRS has placed significant increases on their users the past two years, and asked if this change would result in another increase? Mr. Onorato stated that this change should not result in an increase.
- e) Discussion on Conditional Use Hearing for 2864 Ridge Pike:
- i) Mr. Siegel explained that this item would be on the next meeting's agenda. The property is currently being expanded under a deminimus land review, and the applicant would like to install a residence area on top for the employees to use.
- f) Discussion on Conditional Use Hearing for Eaglestream Plaza:
- i) Mr. Siegel noted this was similar to the last item, however the applicant is asking for the construction of four housing units above four retail spaces. This is located at the intersection of Ridge Pike and Eaglestream. This will be on the next meeting's agenda.
- g) Extension of 90-days for Collegeville Inn Conference & Training Center:
- i) Mr. Siegel explained that several months ago the applicant was in for a conditional use hearing and the Board asked them to prepare a better plan. The applicant is still working on the plan and is providing a 90-day extension to the Township.
- h) Extension of 90-days for 3481 Germantown Pike – Terra Landscaping:
- i) Mr. Siegel noted that this plan had been on hold because of a property line dispute with Worcester Township. The applicant has granted a 90-day extension twice while working to rectify the issue. This has finally been resolved, and the applicant is granting another 90-day extension and will bring in a plan in the next few months.
 - ii) Supervisor Altieri asked if there was a for sale sign on this property? Mr. Siegel noted they have a lease sign for office space. Supervisor DiPaolo commented that there is a for sale sign to sell equipment on the property.
- i) Extension of 90-days for Joy Galletta Property:
- i) Mr. Siegel indicated that there are legal issues that must be resolved with the adjacent property owner prior to this two-lot Gertrude Avenue subdivision coming before the Board. They are granting a 90-day extension to the Township.
- j) Impact Fee Committee report on Land Use Assumptions Report (LUAR):
- i) Mr. Siegel explained that the Montgomery County Planning Commission has created a LUAR for the Impact Fee Committee. The LUAR will be presented for consideration to the Board at their next meeting. The LUAR will determine the types of capital improvement projects to be considered by the Township over the next ten years, and also sets the Traffic Impact Fees. The Committee meets on September 10th to finalize the report prior to forwarding it to the Board. They have not received any feedback from the school district or neighboring Townships, and the Planning Commission was pleased with the report. Mr. Siegel noted that this represents 6-7 months of work by the Committee.
- k) Application S-07-14 – Victory Christian Church for Preliminary / Final Approval:

- i) Mr. Siegel noted that the applicant has been working diligently for eight months to provide a clean plan to the Board. They are only requesting one waiver, and have agreed to install a new trail in lieu of waiving the Park & Recreation (P&R) fees.
 - ii) Mr. Mike Beuke, Landscape Architect with Showalter & Associates, was present to discuss the plan.
 - iii) Mr. Beuke noted that the property is located at 601 N. Park Avenue on a 7.2 acre parcel zoned R2. They appeared before the Planning Commission (PC) and received a recommendation for preliminary and final approval. He noted there are actually two waivers.
 - (1) Mr. Beuke has spoken with Township consultant Glenn Harris regarding the landscaping waiver, and Mr. Harris concurs with that request.
 - (2) The basin depth previously exceeded 4', which the PC asked be reduced. This has been done so a waiver is no longer necessary for this item as it is now compliant with code.
 - (3) The applicant will pave the path for Eskie Park, and has been in contact with the Township to arrange for that to occur. This will be done with funds in lieu of the P&R and TIF fees.
 - iv) Chairman Dininny asked if they could use TIF money for a P&R project?
 - (1) Mr. Onorato explained that the fees would be waived in lieu thereof. This is a matter of wording in the resolution. The P&R fees can be used to build trails. This will be a waiver of the TIF with the applicant agreeing to make a separate contribution toward the trails.
 - v) Mr. Beuke noted that the applicant met with surrounding residents to discuss their landscape plan. There is a thick buffer on the perimeter of the property. There were no major concerns arising from that meeting, and Mr. Harris was also on board with their waiver request.
 - vi) Mr. Dininny asked Mr. Chambers if the storm water management was ok? Mr. Chamber indicated that it was, and there were no existing storm water issues.
 - vii) Supervisor Sassu remarked that he is a friend with one of the neighbors, who remarked on the excellent job the church has done with the plan and with the resident's meeting.
 - viii) This item will be moved to the Business agenda for consideration.
- 1) Extension agreement for School Resource Officer Program:
- i) Chief Carroll explained that Mr. Onorato has prepared a draft extension agreement for the School Resource Officer (SRO) program. This was originally funded with a PCCD grant, and implement in 2006 for a three-year period. The SRO program is a collaborative effort between the Township and the Methacton School District (MSD), whereby the MSD agrees to pay 75% of the local match for the program.
 - ii) Chief Carroll reviewed a PowerPoint presentation providing details on the program. Highlights include:
 - (1) The SRO interfaces with 1,350 students at the Arcola Middle School, and approximately 500 students at each of four elementary students.
 - (2) The SRO coordinates with instructional staff in the MSD to incorporate prevention and educational information into various curriculums such as Science, Government, and Health etc. Topics of discussion can include items such as safety issues, dealing with strangers, substance abuse, communication etc.
 - (3) One of the Audubon Elementary School Counselors asked the SRO to deal one-on-one with some of the at-risk children in a mentoring program. This can be done on a weekly or bi-weekly basis, providing role modeling and communication with the children. There are now 22 children in the mentoring program, which has received a positive response. Chief Carroll shared comments from one of the mentored children's parents, remarking on the positive behavioral changes over the past year.
 - (4) The Arcola PTA held a fundraiser to purchase \$800 fatal vision goggles, showing the visual effects of drug and alcohol, for use by the SRO during instruction.
 - (5) Chief Carroll reviewed statistical data on the reduction of violent incidents and after school suspensions during the two years of this program. Violent incidents have gone from a baseline of 45 reports per year to 14 incidents in the 2007-2008 year.

(6) The PCCD recognized the success of this program in the MSD in May 2007. The US Department of Justice visited the district in September 2007 to see the program in action. In January 2008, the SRO was asked to make a presentation on the program at the PCCD's winter retreat.

- iii) Chief Carroll noted that June 30, 2009 brings an end to the grant funding for this program, and he is requesting that funding be considered for a 3-year extension. MSD would pay for 75% of the SRO cost.
- iv) Supervisor Sassu discussed the use of police officers in school districts (rather than resource officers) and asked if this was a good idea? Chief Carroll indicated that it depends on the philosophy of the school, however it is typically more of a city approach rather than a Township approach.
- v) Chairman Dininny commented that he had been skeptical of the SRO use in grade schools when this program began, however this has been a success. He commented that Officer Mark Stead is the person who makes this a success, and that the wrong person in this position could easily turn the numbers the other way.
- vi) Chief Carroll concurred, noting that Officer Stead is the perfect person for this job. He has been a positive role model and created a good rapport with the students. Chief Carroll relayed a story where Officer Stead was on vacation in Ocean City, NJ this summer and was approached by several children who recognized him.

8) Comments and Other Business:

- a) Mr. Siegel announced that the Township has received an award from the PA Horticultural Society for Naturalization of Still Meadow Basins. The Board will be invited to receive the award this November in Philadelphia.
- b) Chief Carroll acknowledged the efforts of the LPPD, several Eagleville residents, and the US Attorney General's Office in apprehending a child predator last Tuesday. A 62-year-old Allentown man had come to Eagleville to meet with a teenage girl. He is now in the County prison in lieu of \$1 million bail. This investigation into this matter began on July 17th.
 - i) Chairman Dininny applauded the LPPD's efforts, and thanked them for keeping the community safe.

9) Courtesy of Floor:

- a) Ms. Janice Kearney, Chairwoman of the Zoning Hearing Board (ZHB), was present to read her comments into the record on behalf of the ZHB. She noted that she was sorry Mr. Brown was not here because some of her comments are directed toward him. These comments are *summarized* below:
 - i) At the last Board of Supervisors (BOS) meeting two weeks ago, two members Mr. Brown and Mr. DiPaolo raised an alleged issue with work performed by the ZHB Solicitor Charles Mandracchia, and as a result wished to withhold payment of an invoice for services rendered. Ms. Kearney noted that she could not discuss the specifics of the matter as it was still being litigated, however the ZHB does not have any issue with their Solicitor's work, and there has been no harm caused to the Township as a result of his work. The ZHB believes they stand on firm ground, as the facts will bear. The ZHB currently has a case before them of local, regional and national interest, the American Revolution Center (ARC). This is a complex, tedious and contentious case, with a number of issues that need to be researched, contemplated and decided, requiring the full attention of the ZHB members and their Solicitor to be able to focus on this work and best serve the interests of the Township. Ms. Kearney finds it beyond coincidental that the same two BOS members who collaborate with the party in litigation against the Township relating to the ARC matter are the same BOS members who held up payment of the ZHB Solicitor's invoice. This is not the first time they have made a target of a member of her Board. Ms. Kearney kept silent in the past, however she is not going to remain silent this time. Ms. Kearney commented that if Mr. Brown or Mr. DiPaolo had a legitimate concern with regard to this matter they could have made a call to the BOS Solicitor prior to the meeting to have him

research and provide clarification on the matter prior to that meeting. Ms. Kearney remarked that they could have at least called her with their questions, or asked other lawyers they know for a legal opinion, however this was not done. Ms. Kearney thinks this is a needless diversion from the serious matter currently before the ZHB, and thinks that it was an attempt to pressure the ZHB and discredit its' Solicitor. The ZHB members are offended at the attempt to bring politics into the ZHB legal proceeding. This is viewed as an abuse of power, or an attempt to interfere with or influence the normal outcome of the ZHB. Ms. Kearney commented that the ZHB takes its responsibility seriously, and has every intention of giving the ARC the property time, action and due diligence necessary to arrive at a decision that is fair, has integrity, and respect for the law free of outside influence as they do with all cases. They resent the attempt to make the ZHB into a political tool. The ZHB appointed Mr. Mandracchia by a majority vote; he works for and represents the ZHB. The ZHB is very satisfied with Mr. Mandracchia's competence and performance to date, with his strong work ethic, and takes no issue with any matter where he has represented the ZHB. If the ZHB does have issues with Mr. Mandracchia's performance, they will take action up to and including replacing him.

- ii) Supervisor DiPaolo explained that the issue is litigation brought by an applicant who was not notified in time, and Mr. Onorato advised them of this. The BOS authorized Mr. Onorato to represent them in court relating to this case. If the litigant prevails, and Mr. Mandracchia's firm failed to act in this case, they should not pay the bill. If the case is litigated and the ZHB prevails he gets paid. Mr. DiPaolo does not think the Township should spend money to send Mr. Onorato and Mr. Mandracchia to defend a case that shouldn't be there if the notification had been sent out properly. Mr. DiPaolo commented that Mr. Dunbar noted this was not the first time this occurred. If everything is fine and he acted properly then there is no issue, however if no notice was given and the applicant prevails, why is the Township paying for services. The Board rendered a decision and the applicant was never notified. The applicant was not happy with the decision and is appealing it.
- iii) Ms. Kearney stated this is under open litigation and cannot comment. She thinks that the timing when this was raised is odd. Mr. DiPaolo replied that they couldn't bring this up once the bill was paid. Ms. Kearney disagreed. Mr. DiPaolo reiterated if there is no issue he gets paid, but if he failed to perform they shouldn't pay him.
- iv) Chairman Dininny noted that the Solicitor of the ZHB and Zoning Officer works at the pleasure of the ZHB and Zoning Officer, not the BOS. He doesn't know of anywhere in the MPC it indicates they can arbitrarily hold up payment of bills. The bills should have been paid. Mr. Dininny has received phone calls from Township residents. This was first brought up in Executive Session by Mr. Brown, and then an hour later in a public meeting by Mr. Borai. It was a serious accusation, and Mr. Dininny had the answer prior to the last meeting. Residents have called to say to him that this was a personal attack against Mr. Mandracchia by 2/5 of the BOS. A personal attack against a Township employee gets in the way of paying the bills. The BOS is the watchdog of the Township's money, bills must be paid in a timely matter or it reflects on this community in a negative manner. If this is not personal and it is pressure to influence the work of the ZHB it is deplorable.
- v) Ms. Kearney indicated that is how this is being perceived. She pays lawyers bills as part of her employment, and noted that you cannot hold up payment of bills until a case is resolved or you would never get anyone to represent you.
- vi) Mr. DiPaolo indicated that was not what was said. The applicant has charged that he was denied proper service with the decision. Mr. DiPaolo agrees with Mr. Dininny, this is not a personal attack. If someone does not perform their job function and Mr. Onorato has to go to court, they should not pay any bill until the court decides the matter.
- vii) Mr. Dininny remarked that he bills that were due were not for this issue. Mr. DiPaolo noted that the only bill that he was opposed to related to the Leo White case, and indicated that this should be reflected in the minutes from that meeting. He did not oppose payment of other bills.

- viii) Mr. Dininny stated that Mr. Mandracchia is doing a fantastic job trying to get hold of these hearings. If there is a personal attack or trying to intimidate Mr. Mandracchia to act in a certain way by saying you can control his bills, that is the perception whether it is intended or not, and it is wrong. The BOS responsibility is to pay bills, and keep politics out of it. If there is a problem it should be addressed. He does not think there is any controversy in this case, and controversy has been put to it.
- ix) Mr. DiPaolo remarked that if there were no controversy it wouldn't be in court. Ms. Kearney commented that frivolous lawsuits are filed every day of the week, and the applicant has a right to appeal. Just because this is in court does not mean Mr. Mandracchia is guilty.
- x) Mr. Dininny appreciated the comments and remarked he does not think there is any pressure on the ZHB relating to the matters before them, and he thinks Mr. Mandracchia is doing a good job.
- b) Chairman Dininny announced that an executive session was held prior to this meeting to discuss legal matters.

10) Adjournment:

- a) **MOTION** – Supervisor Sassu made a motion to adjourn the meeting. Supervisor DiPaolo seconded the motion. The motion *passed* 4-0. The meeting adjourned at 8:45 p.m.

Respectfully submitted,

Joseph C. Dunbar,
Secretary