

**LOWER PROVIDENCE TOWNSHIP  
BOARD OF SUPERVISORS  
FEBRUARY 19, 2009 MEETING MINUTES**

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**1) Executive Session:**

- a) Mrs. Altieri called the executive session to order at 6:35 p.m., seconded by Mr. Dininny. The following Supervisors were present: Mrs. Altieri, Mr. Dininny, Mr. DiPaolo and Mr. Sassu. Mr. Brown was absent. Also present were Township Manager Mr. Dunbar and Solicitor Mr. Onorato. A discussion took place on real estate, legal and personnel matters. Mr. Dininny motioned to adjourn the meeting at 7:32 p.m., seconded by Mr. DiPaolo.

**2) Public Meeting: Call to Order**

- a) Chairman Sassu called the public meeting to order at 7:35 p.m.
- b) Chairman Sassu requested that everyone remain standing after the Pledge of Allegiance for a moment of silence to remember the following individuals: Staff Sergeant Marc Small, a local resident who was killed serving in Afghanistan; Michael Pye a Township Fire Police Officer; and Harry Hall who worked for the Lower Providence Township Sewer Authority.

**3) Pledge of Allegiance**

**4) 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, Project Analyst Nate Dysard, Director of Special Projects and Technology William Roth, Director of Community Development Michael Siegel, and Township Manager Joseph Dunbar.

**5) Chairman's Comments:**

- a) Chairman Sassu announced that an executive session was held prior to the meeting to discuss legal & personnel matters.

**6) Consent Agenda:**

- a) Mr. Dunbar noted the following changes for the consent agenda:
  - i) Under fiscal matters, item 1.c.2.a&b, the applicant has removed their applications so no action is necessary this evening.
  - ii) Under fiscal matters, item 1.c.2.d, at some point the Board will need to set a meeting date for this conditional use hearing. It was decided this would be addressed during the "other business" portion of the meeting.
- b) **MOTION** – Supervisor Dininny made a motion to adopt the consent agenda with the changes as noted by Mr. Dunbar. Supervisor Altieri seconded the motion. The motion *passed* 4-0. There was no public comment on this item.

**7) Presentations & Commendations:**

- a) Presentation to Detective Daniel McCabe on retirement from the Lower Providence Township Police Department:
  - i) Supervisor Sassu provided a summary of Detective McCabe's career history and accomplishments. He presented Detective McCabe with a large shadow-box frame containing a Township proclamation, his badge and other uniform decorations from his 36-years of service to Lower Providence.
  - ii) Senator John Rafferty presented a citation from the Pennsylvania Senate, and Representative Michael Vereb presented a proclamation from the Pennsylvania State House of Representatives to Detective McCabe. Chief Carroll and Detective McCabe provided closing remarks.

- b) Presentation to Sergeant Stanley Siuchta on retirement from the Lower Providence Township Police Department:
  - i) Supervisor Sassu provided a summary of Sergeant Siuchta's career history and accomplishments. He presented Sergeant Siuchta with a large shadow-box frame containing a Township proclamation, his badge and other uniform decorations from his 34-years of service to Lower Providence.
  - ii) Senator John Rafferty presented a citation from the Pennsylvania Senate, and Representative Michael Vereb presented a proclamation from the Pennsylvania State House of Representatives to Sergeant Siuchta. Chief Carroll and Sergeant Siuchta provided closing remarks.
- c) Presentation to Corporal Dennis Cardin on retirement from the Lower Providence Township Police Department:
  - i) Supervisor Sassu provided a summary of Corporal Cardin's career history and accomplishments. He presented Corporal Cardin with a large shadow-box frame containing a Township proclamation, his badge and other uniform decorations from his 32-years of service to Lower Providence.
  - ii) Senator John Rafferty presented a citation from the Pennsylvania Senate, and Representative Michael Vereb presented a proclamation from the Pennsylvania State House of Representatives to Corporal Cardin. Chief Carroll and Corporal Cardin provided closing remarks.
- d) Promotion of Terrence Kennedy and Mark Deussing to Sergeant in the Lower Providence Township Police Department:
  - i) Chairman Sassu and Chief Carroll presented Terrence Kennedy and Mark Deussing with their new Sergeant's badges and stripes.
- e) Promotion of Michael Slattery to Corporal in the Lower Providence Township Police Department:
  - i) Chairman Sassu and Chief Carroll presented Michael Slattery with his new Corporal's badge and stripes.

**8) New Business:**

- a) Authorization to advertise and bid installation of a right-turn lane from Ridge Pike at Trooper Road:
  - i) **MOTION** – Supervisor Dininny made a motion to authorize this request. Supervisor Altieri seconded the motion. The motion *passed* 4-0. There was no public comment on this item.
- b) Application S-08-04 – Eagleville Plaza for preliminary / final plan approval:
  - i) This item was removed from the evening's agenda at the applicant's request.
- c) Discussion on 2008 legal fees:
  - i) Mr. Dunbar explained that at the December 18, 2008 meeting, a request was made for staff to provide a summary of the 2008 legal fees, which are listed below.

(1) A total of \$176,000 was budgeted for general legal services in 2008, however \$303,820.93 was spent, at an overage of \$127,820.93. These costs break down as follows:

| <u>Fee:</u>            | <u>Budgeted Amount:</u> | <u>Actual Amount:</u> | <u>Over / (Under) Budget:</u> |
|------------------------|-------------------------|-----------------------|-------------------------------|
| General Legal Services | \$150,000.00            | \$122,105.83          | (\$27,894.17)                 |
| Zoning Hearing Board   | \$ 20,000.00            | \$156,130.10          | \$136,130.10                  |
| Court Reporter Fees    | \$ 6,000.00             | \$ 25,585.00          | \$ 19,585.00                  |

- (2) Mr. Dunbar explained that were it not for litigation brought on the Township by the National Parks Conservation Association (NPCA), which cost the Township \$151,807.11 in legal fees, they would have been under budget. Additional suits filed by NPCA cost the Township \$30,000 in November and December 2008 alone.
- (3) Mr. Dunbar noted that Ms. Cinda Waldbuesser of NPCA was originally supportive of the ARC project. The NPCA is now trying to dismiss one suit in State court in an attempt to carry it to Federal Court. Ms. Waldbuesser remarked to the press that she wanted to litigate this case in Federal Court all along. Mr. Dunbar stated that if it was NPCA's intent to litigate the matter at the Federal level, the \$151,807.11 was a total waste of time and taxpayer's money in 2008.

- ii) Mr. Dunbar remarked that in addition to the cost borne by the Lower Providence taxpayers, the NPCA has yet to pay bills due to the Township, which are over 110 days overdue. Further, they have not paid money owed to several court reporters for services rendered in July 2008.
- iii) There was no comment from the Board or the public on this presentation of data.
- d) Proposal for design evaluation and estimating services for Valley Forge Corporate Center:
  - i) Mr. Dysard requested that the Board authorize the Township to execute an agreement with CMX design consultants for design and evaluation services in the Valley Forge Corporate Center (VFCC).
  - ii) **MOTION** – Supervisor Dininny make a motion to authorize execution of the agreement. Supervisor Altieri seconded the motion.
    - (1) Supervisor Altieri asked if this was for landscaping design services, and if this was to enhance the business park to attract new business to the Township? Mr. Dysard indicated that it was.
    - (2) Mr. Dunbar commented that it was also for the preparation of a planning grant.
    - (3) **MOTION VOTE** – The motion *passed* 4-0. There was no public comment on this item.
- e) Rates for Zoning Hearing Board Solicitor:
  - i) Mr. Dunbar explained that authorizing the rates for the Zoning Hearing Board Solicitor is normally done in January, however the order in which meetings occurred in January precluded this from occurring. The firm of Mandracchia and McWhirk has provided a rate schedule of \$125 per hour for regular business matters, and \$150 per hour for litigation services. These rates remain unchanged from 2008.
  - ii) **MOTION** – Supervisor Dininny made a motion to accept the 2009 rates. Supervisor Altieri seconded the motion. The motion *passed* 4-0. There was no public comment on this matter.

**9) Public Hearing:**

- a) *Mr. Byron Battle was present to create a complete record of testimony for the hearings.*
- b) An Ordinance amending the zoning map attached to and incorporated in Chapter 143 of the Code of the Township of Lower Providence changing the zoning classification of certain parcels of land from Village Commercial, Professional and Business Office District, R-2 Residential and Industrial to Evansburg Village Commercial:
  - i) **MOTION** – Supervisor Altieri made a motion to enter into a public hearing. Supervisor DiPaolo seconded the motion. The motion *passed* 4-0.
  - ii) During the course of the hearing the following exhibits were entered into the record:
    - (1) Exhibit T1 – Proofs of publication in The Times Herald for January 30 and February 7, 2009; a letter dated January 16, 2009 to the property owners affected by the ordinance along with a list of addresses for those in receipt of this letter; a map depicting the proposed changes; certificates of posting and photographs of the notices posted.
    - (2) Exhibit T2 – A review letter from the Montgomery County Planning Commission dated January 27, 2009, with a revision date of January 28, 2009.
    - (3) Exhibit T3 – Minutes from the January 28, 2009 Lower Providence Township Planning Commission meeting.
  - iii) The following individual commented during the hearing:
    - (1) Mr. Joseph DiDomenic, 2797 Egypt Road.
  - iv) **MOTION** – Supervisor DiPaolo made a motion to close the public hearing. Supervisor Altieri seconded the motion. The motion *passed* 4-0.
- c) An Ordinance amending Chapter 143 of the Code of the Township of Lower Providence (also known as the Zoning Ordinance of Lower Providence Township) by eliminating the existing Village Commercial District and adding a new Village Commercial District and new Evansburg Village Commercial District:
  - i) **MOTION** – Supervisor Altieri made a motion to enter into a public hearing. Supervisor DiPaolo seconded the motion. The motion *passed* 4-0.
  - ii) Mr. Siegel thanked Mr. DiPaolo and the members for the Village Commercial Committee for all of their work over the past 2 ½ - 3 years on this project.

- iii) During the course of the hearing the following exhibits were entered into the record:
  - (1) Exhibit T1 – Proofs of publication in The Times Herald for January 30 and February 7, 2009; a copy of the advertisement notice; a copy of the full ordinance.
  - (2) Exhibit T2 – A review letter from the Montgomery County Planning Commission dated January 27, 2009, with a revision date of January 28, 2009.
  - (3) Exhibit T3 – Minutes from the January 28, 2009 Lower Providence Township Planning Commission meeting.
- iv) The following individuals commented during the hearing:
  - (1) Mr. Tom Borai, 5 Brenda Lane.
  - (2) Mr. Joseph DiDomenic, 2797 Egypt Road.
  - (3) Mr. William Bondi, 3763 Germantown Pike, was using a power of attorney on behalf of his mother, Frances Bondi.
  - (4) Mr. Michael Comroe, 205 Pinetown Road.
- v) **MOTION** – Supervisor Altieri made a motion to close the public hearing. Supervisor DiPaolo seconded the motion. The motion *passed* 4-0.
- d) An Ordinance amending Section 138 of the Code of Lower Providence Township to add certain provisions concerning speed limits and stop intersections in the Corporate Center:
  - i) **MOTION** – Supervisor DiPaolo made a motion to enter into a public hearing. Supervisor Altieri seconded the motion. The motion *passed* 4-0.
  - ii) Chief Carroll noted that this ordinance was advertised in The Times Herald on February 2 and February 9, 2009.
  - iii) There was no public comment on this matter.
  - iv) **MOTION** – Supervisor DiPaolo made a motion to close the public hearing. Supervisor Altieri seconded the motion. The motion *passed* 4-0.

**10) Ordinances & Resolutions:**

- a) An Ordinance amending the zoning map attached to and incorporated in Chapter 143 of the Code of the Township of Lower Providence changing the zoning classification of certain parcels of land from Village Commercial, Professional and Business Office District, R-2 Residential and Industrial to Evansburg Village Commercial; AND An Ordinance amending Chapter 143 of the Code of the Township of Lower Providence (also known as the Zoning Ordinance of Lower Providence Township) by eliminating the existing Village Commercial District and adding a new Village Commercial District and new Evansburg Village Commercial District:
  - i) **MOTION** – Supervisor Altieri made a motion to take agenda items 5a and 5b under advisement and table them until a later date. Supervisor Dininny seconded the motion. The motion *passed* 3-1. Supervisor DiPaolo opposed the motion. There was no public comment on this item.
  - ii) Mr. Dunbar asked if there was a timetable for rendering a decision on a public hearing? Mr. Onorato indicated there was not.
- b) An Ordinance amending Section 138 of the Code of Lower Providence Township to add certain provisions concerning speed limits and stop intersections in the Corporate Center:
  - i) **MOTION** – Supervisor Dininny made a motion to adopt this ordinance. Supervisor DiPaolo seconded the motion. The motion *passed* 4-0.
  - ii) There was no public comment on this item.

**11) Comments and Other Business:**

- a) Mr. Dunbar thanked the Delaware State Police, the Pennsylvania State Police, the East Norriton and West Norriton Police Departments, the staff and Police of Lower Providence Township for their assistance in going to Delaware to bring home the remains of Staff Sergeant Marc Small, and for their assistance to his family. Mr. Dunbar noted that the funeral was being held tomorrow, and reviewed the details for the arrangements. He remarked that there were many members of the Special Forces in the community, and to thank them for their service to the country when you see them.
- b) Supervisor Dininny thanked Mr. Dunbar for the report on the legal bills. He noted that the NPCA has the prerogative to bring a lawsuit against the Township if they want. However, it is deplorable for

them to come from other states and try to govern what is the right of this Board by Pennsylvania law, and then not pay their bills. The NPCA comments on the money their organization has, yet have not paid money owed to this Township and to the Court Stenographers. The NPCA spent \$150,000 of the Township's tax dollars to bring a lawsuit to Lower Providence, and then gloated that they didn't want to do it at this level but at the Federal Government level. If that is what they wanted to do, they should not have wasted our time and the taxpayer's money. He urged NPCA to pay their bills. He again thanked Mr. Dunbar for letting the taxpayer's know where there money has gone.

- c) Mr. Onorato recommend that the Board set a hearing date for a continuation of the conditional use hearing started by the Collegeville Inn several months ago (agenda item 1.C.d).
  - i) **MOTION** – Supervisor DiPaolo made a motion to schedule the continuance for March 19, 2009. Supervisor Dininny seconded the motion.
    - (1) Chairman Sassu asked if this was doable? Mr. Dunbar indicated that it would meet the advertising requirements.
    - (2) **MOTION VOTE** – The motion *passed* 4-0. There was no public comment on this matter.
- d) Supervisor DiPaolo asked if they needed to vote on a 6-month extension for Eadah? Mr. Dunbar indicated this was done with the consent agenda.
- e) Chairman Sassu urged people to show their support of the police and service men and women 365 days a year.
- f) Public Comment:
  - i) Mr. Michael Conroe, 205 Pinetown Road, asked Supervisor Altieri why she voted to table to the VC ordinance when it received unanimous approval from the Planning Commission?
    - (1) Supervisor Altieri indicated that she respects the work done by the PC, but has some questions of her own that need to be worked through prior to voting on this ordinance.
    - (2) Mr. Comroe asked if she would make changes to the ordinance? Mrs. Altieri indicated she might.
    - (3) Mr. Comroe asked Chairman Sassu when the re-vote on this item would be held? Mr. Sassu indicated it would depend on when the issues are worked out.
  - ii) Mrs. Leslie Bass, 39 Lee Road, asked Supervisor Altieri to publicly express the concerns she has regarding the VC ordinance.
    - (1) Supervisor Altieri explained she was under the impression there would be two ordinances, one for Evansburg VC and a general VC ordinance, however the ordinance she has before her is only one ordinance. While there are some overlying pieces between the two sections, there are unique items as well. The format is confusing to her and she would recommend that there be two separate ordinances.
    - (2) Mrs. Bass asked if these concerns were brought up with the PC? Mrs. Altieri noted she was not able to attend that meeting.
    - (3) Mrs. Bass commented that all parties involved with the VC ordinance should be commended, from Mr. DiPaolo, to the VC committee (VCC) members, to staff, the County and the PC.
    - (4) Mr. Dunbar affirmed that when the VCC reviewed the ordinance, it was broken out into two ordinances, however the final crafted version is one ordinance. This issues needs to be resolved.
    - (5) Mrs. Bass asked if Mr. Dininny's concerns were similar? Supervisor Dininny noted he first saw this version two weeks ago. There are changes to properties, and not all property owners understand these changes. There are some issues with the ordinance, and he wants to make sure everyone involved understands the changes.
    - (6) Mrs. Bass urged the re-vote to be rescheduled as soon as possible.
  - iii) Mr. Richard Snyder, 1046 Anders Place, is the President of the Eagle Homeowner's Association. They are exempt from using J.P. Mascaro as a trash hauler, and have been for the past 19 years. They use Louis Mascaro. Recently J.P. Mascaro just showed up and picked-up their trash. Mr. Snyder indicated they are exempt under Resolution 90-10, and requested that the Township direct J.P. Mascaro to cease their trash pick-up.

- iv) Mr. Marc Malarz, 1082 Bayless Place, is the Treasurer of Eagle Homeowner's Association. If they are forced to use J.P. Mascaro it will be \$80,000 more than their current hauler for the same service. As a new resident of the Township just two years ago, when he called the Township to ask about trash collection and then J.P. Mascaro, he was told they did not service his community. He asked why they were trying to service his community now?
  - (1) Mr. Onorato explained there has been an exchange between lawyers, and he is asking the Board not to comment on this matter.
- v) Mr. Tom Armstrong, 1030 Anders Place, reiterated the story regarding trash collection and J.P. Mascaro. He noted that they currently pay \$18.70 per month for the same service that J.P. Mascaro wants to charge \$34.65 for.
- vi) Mr. Donald Henry, 1122 Bayless Place, reiterated the trash collection sentiments. He remarked that he has terrific trash service and will not pay more money for worse service.
- vii) Mr. Martino Rivalta, was very vocal regarding the trash collection situation, commenting he would not pay double the cost and the Township should get involved.
  - (1) Mr. Onorato noted there has been an exchange of letters between lawyers on this matter and the Board is advised not to discuss it. This is a legal issue.
  - (2) Mr. Rivalta commented that the Board should protect the residents on this matter.
- viii) Mr. Tom Borai, 5 Brenda Lane, commented that there were two different ordinances for VC, and all the people involved thanked the VCC for the ordinances. He asked why they are tabling this ordinance?
  - (1) Mr. Onorato noted that the rezoning of parcels already happened, and they fall under the current VC ordinance.
  - (2) Mr. Borai commented that this should not be held up because of the drive-thru issue.

**12) Adjournment:**

- a) **MOTION** – Supervisor Dininny made a motion to adjourn the meeting. Supervisor Altieri seconded the motion. The motion *passed* 4-0. The meeting adjourned at 9:42 p.m.

Respectfully submitted,

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Joseph C. Dunbar, Secretary