

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

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**1) Executive Session:**

- a) Mr. Brown called the executive session to order at 6:11 p.m., seconded by Mr. Sassu. Present were Supervisors Brown, Sassu and DiPaolo. Also present were Township Manager Mr. Dunbar and Solicitor Mr. Onorato. A discussion took place on real estate matters attended by Mr. Siegel, Mr. Roth and Mr. Lukens. Legal and personnel matters were also discussed. Mr. Dininny arrived at 7:23 p.m. and Mrs. Altieri at 7:25 p.m. Mr. Sassu adjourned the meeting at 7:25 p.m., seconded by Mr. Brown.

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

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

**3) Pledge of Allegiance**

**4) Roll Call:**

- a) The following members were present: Supervisors Altieri, Brown, Dininny, DiPaolo and Sassu.
- b) Also present were Solicitor David Onorato, Township Engineer John Chambers, Police Chief Francis Carroll, Parks & Recreation Director Karl Lukens, 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 & real estate matters.

**6) Consent Agenda:**

- a) **MOTION** – Supervisor Dininny made a motion to adopt the consent agenda. Supervisor Altieri seconded the motion. The motion *passed* 5-0. There was no public comment on this item.

**7) Presentation:**

- a) Chairman Sassu explained that they were going to go out of the regular order of business and have a public presentation from the McFarland and Small families.
- b) Mr. McFarland introduced members from his family and that of Sgt. Marc J. Small. Sgt. Small was killed in the line of duty in Afghanistan last month.
- c) Mr. McFarland read a letter into the Township record (see Attachment A to these meeting minutes) to acknowledge the efforts and support their family received from Township personnel while handling the arrangements for Sgt. Small's burial. In particular Mr. McFarland thanked Mr. Dunbar, Chief Carroll, Mrs. Walsh, and the LPPD for their assistance throughout that entire week.
- d) Mr. Murray Small, Sgt. Marc Small's father, commented that the treatment he received from all the people in Lower Providence Township proved that there are a lot of good Americans out there who support our military personnel.

- e) Mr. McFarland presented a donation to the Township from their families. He commented that because of the current financial situation, many townships have had to cut some of the “fun” items from their budgets. He hopes that this donation might be used to restore such an item back into the Township’s budget this year.
- f) Chairman Sassu thanked the McFarland and Small families, remarking that no donation is necessary. He noted that Sgt. Small made the ultimate sacrifice for the country. Mr. Sassu noted that a lot of good people have given their lives so that we can enjoy the freedom and liberties we have in this country, which should not be forgotten.
- g) Supervisor Dininny remarked that Sgt. Small must have been an exceptional human being. He has met the men who served with Sgt. Small, and if possible would like to see the donation go toward a use supporting redeployed soldiers.
- h) Supervisor Brown commented that his heart goes out to the McFarland and Small families, and he is sure they can put the donation to good use in Marc’s name.
- i) Supervisor DiPaolo, a former serviceman, commented that the families provide so much support and comfort to the service personnel. He expressed his sorrow for their family’s loss.
- j) Supervisor Altieri also expressed her sorrow for the families, stating she was glad the Township was able to provide assistance in their time of grief.
- k) Mr. Dunbar noted that actions taken by the Township were done with the support of the Board and staff. He learned more about this community in one week than he did the entire time he served as a Board Member and as the Manager. Mr. Dunbar commented that Sgt. Small was a very special person. The Township has adopted Sgt. Small’s Unit as part of their Caring and Sharing program. The Special Forces Brigade in Ft. Bragg has a Township flag to fly when they are redeployed.
- l) Ms. Amanda McFarland, Sgt. Small’s fiancée, discussed a non-profit organization she has started in Marc’s memory. This is called The Small Steps in Speech Foundation. Ms. McFarland works with severely mentally retarded children, and this foundation will help provide financial assistance for children with speech, language or communicative disorders who are in need of aid.

**8) New Business:**

- a) Authorization to prepare and advertise a bid for the renovation of restrooms in the administration building (ADA Compliance):
  - i) Mr. Dysard requested authorization to advertise a bid for improvements in the administration building’s restrooms. These improvements will improve the appearance and bring the restrooms into ADA compliance.
  - ii) **MOTION** – Supervisor Brown made a motion to authorize this request. Supervisor Dininny seconded the motion. The motion *passed* 5-0. There was no public comment on this item.
- b) Consideration to reject RFP #09-01 on Investment Management Services:
  - i) Mr. Dysard indicated that they have received two responses to an RFP for investment management services. He is requesting authorization to reject both of the RFP’s and allow staff to manage the funds in an alternative manner.

- ii) **MOTION** – Supervisor Altieri made a motion to authorize this request. Supervisor DiPaolo seconded the motion. The motion *passed* 5-0. There was no public comment on this item.
- c) Consideration to accept RFP #09-03 for bids on traffic analysis and point of access study:
  - i) Mr. Dysard requested direction from the Board of Supervisors to accept one of two proposals for a traffic analysis study. The Board should appoint either Gannett Fleming or McMahon Associates for this work.
  - ii) **MOTION** – Supervisor Dininny made a motion to appoint McMahon Associates for the proposed work. Supervisor Altieri seconded the motion. The motion *passed* 3-2. Supervisors Brown and DiPaolo opposed the motion. There was no public comment on this item.
- d) Authorization to adopt 5-year Parks & Recreation Capital Plan:
  - i) Mr. Lukens requested that the Board of Supervisors adopt the 5-Year Parks & Recreation Capital Plan as previously presented at the March 5<sup>th</sup> meeting.
  - ii) **MOTION** – Supervisor Dininny make a motion to adopt the plan. Supervisor Brown seconded the motion.
    - (1) Supervisor Dininny commended the Park & Recreation Board for their work on this plan.
    - (2) **MOTION VOTE** – The motion *passed* 5-0. There was no public comment on this item.
- e) Letter to Board of Supervisors from Lois J. Mason, Director of Lower Providence Presbyterian Preschool re: request for waiver of \$25 for use of the Pavilion:
  - i) Mr. Lukens recommended that the Board provide a waiver of the \$25 fee for pavilion use as outlined in a letter from Lois Mason.
  - ii) **MOTION** – Supervisor Altieri made a motion to grant the waiver request. Supervisor Brown seconded the motion. The motion *passed* 5-0. There was no public comment on this matter.
- f) Letter from David Setley, President of the Collegeville Cougars re: request for waiver of \$25 for use of Level Road Schoolhouse:
  - i) Mr. Lukens recommended that the Board provide a waiver of the \$25 fee for use of the Level Road Schoolhouse as outlined in a letter from the Collegeville Cougars.
  - ii) **MOTION** – Supervisor Brown made a motion to grant the waiver request. Supervisor Altieri seconded the motion. The motion *passed* 5-0. There was no public comment on this matter.
- g) Authorization to advertise public hearing on Lower Providence Recreation Plan – Evansburg Point Park:
  - i) Mr. Lukens requested authorization to advertise for a public hearing on the plan for Evansburg Point Park. This is scheduled for the April 16, 2009 Board of Supervisors meeting.
  - ii) **MOTION** – Supervisor Altieri made a motion to authorize the advertisement. Supervisor DiPaolo seconded the motion. The motion *passed* 5-0. There was no public comment on this matter.
- h) Application S-08-10 known as Turkey Hill for preliminary and final plan approval:

- i) Mr. Siegel commented this project will sit at the corner across from the entrance to the Township's facility. This project includes a 4,000 sq. ft. store, pumping station area, 35 parking spaces, and an improved cross walk.
- ii) Mr. Keith Marshall, PE, a Project Manager with Nave Newell, Inc. was present to discuss the plan.
- iii) Mr. Marshall noted that a Conditional Use was granted for this project in June 2008. The project consists of the construction of a 4,000 sq. ft. store, installation of five fuel pumps with ten pumping stations, 35 parking spaces, and improved landscaping and stormwater control. Turkey Hill is installing a right-turn lane from Eagleville Road onto Ridge Pike, with the corresponding right-turn arrow for traffic movement. The landscaping on the corner will also include a knee wall and benches. This will not be a typical Turkey Hill facility.
- iv) Mr. Dunbar asked if the parking spaces include those located at the pumps?
  - (1) Mr. Marshall indicated that it does, with 25 spaces around the store and 10 spaces at the fuel islands.
- v) Supervisor Brown commented that there is not enough distance between the fueling area and the store at the WaWa, and he would like an assurance that there is adequate space between these areas for the Turkey Hill.
  - (1) Mr. Marshall noted there is 32' between the gas canopy and the parking area for the store. This represents more room than is typically planned at a Turkey Hill facility. Normal plans only have 26' between these areas.
- vi) Supervisor Altieri asked if all of the Planning Commission's questions had been answered or if the applicant would comply with the items?
  - (1) Mr. Marshall indicated they all will comply or have been resolved. He noted that the issue with regard to a third parking spot on the side of the building has been resolved by making it an employee parking space. Additionally, they are also installing a bike rack in this area.
- vii) Supervisor Brown asked how stormwater retention and discharge would be resolved?
  - (1) Mr. Marshall indicated that they have worked extensively with Township staff on this matter. There will be an underground basin to control peak rate runoff.
  - (2) Several BMP's are also being used such as a rain garden for water runoff from the gas canopy area. An underground seepage bed mitigates volume control. Water from Brother Paul's parking lot currently sheet flows across the Turkey Hill land. This water will now be collected in the Turkey Hill basin.
- viii) Mr. Onorato asked Mr. Chambers if the February 19, 2009 letter regarding stormwater had been addressed? Mr. Chambers indicated that it had.
- ix) Waiver Requests:
  - (1) Section 123-36.H – To permit shade trees, a monument sign and an existing adjoining structure to be located within the clear sight triangle of the proposed driveways. The applicant will be required to comply with PennDOT's site triangle regulations.

- (a) Mr. Marshall explained that this clear sight triangle applies to driveways. However, an existing building, landscaping and a sign are all within this triangle, which is why they seek a waiver. The applicant will be required to meet PennDOT's sight distance.
- (b) **MOTION** – Supervisor Brown made a motion to grant this waiver request. Supervisor Altieri seconded the motion. The motion *passed* 5-0.
- (c) There was no public comment on this matter.
- (2) Section 123-51.H – A waiver is requested to permit removal of existing vegetation without replanting. In lieu of replanting, the applicant agrees to implement the landscaping plan included in the plan sheets and conditional use order and agree to plant additional under story trees and shrubs used in lieu of trees along the perimeter border of the property to be shown on the final landscaping plan.
  - (a) Mr. Marshall explained that they would be planting a significant amount of trees on sight to help buffer the adjacent properties.
  - (b) **MOTION** – Supervisor Altieri made a motion to grant this waiver request. Supervisor DiPaolo seconded the motion. The motion *passed* 5-0.
  - (c) There was no public comment on this matter.
- x) **MOTION** – Supervisor Dininny made a motion to grant preliminary and final plan approval inclusive of the previously discussed waivers. Supervisor Altieri seconded the motion. The motion *passed* 5-0. There was no public comment on this matter.
- xi) Supervisor Altieri thanked Mr. Marshall for working with the Township in such a professional manner, and asked that he pass that along to Turkey Hill as well. Mr. Marshall commended Township staff for all of their efforts in this regard.
- xii) Supervisor Brown commented that the Historical Structures Inventory Report was excellent.
- i) Discussion and authorization on Open Space parcels:
  - i) Mr. Onorato explained that Montgomery County has an open space program with funds available to Montgomery County municipalities for open space acquisition. The Township developed an open space plan several years ago. Staff has been working with several property owners to purchase open space lands. Mr. Onorato explained that they need the Board's approval to submit the grant application to the County for purchase of several parcels. There is an 80/20 match on these grants.
  - ii) Mr. Onorato noted that the first parcel for consideration is the Nicolo tract on Crawford Road. This 12-acre parcel is adjacent to Audubon Elementary School. Mr. and Mrs. Nicolo intend to retain three acres of this parcel, with the Township acquiring the rest. This will allow for a potential trail connection on Eagleville Road. Burton Road borders the property on the South.
  - iii) The Board will need to take action on two resolutions: an agreement of sale and authorization of the Montgomery County Open Space grant application.

- (1) Resolution 1 – Authorizing the agreement of sale for this parcel in the amount of \$740,000.
  - (a) **MOTION** – Supervisor DiPaolo made a motion to authorize the agreement of sale. Supervisor Brown seconded the motion. The motion *passed* 5-0. There was no public comment on this matter.
- (2) Resolution 2 – Authorizing the application for the Open Space grant through Montgomery County in the amount of \$592,000, or 80% of the purchase price.
  - (a) **MOTION** – Supervisor Altieri made a motion to authorize applying for the Open Space grant. Supervisor DiPaolo seconded the motion. The motion *passed* 5-0. There was no public comment on this matter.
- iv) Mr. Onorato noted that the second parcel for consideration is the Gorski tract at the end of Yerkes Road along the Perkiomen Creek. This parcel is 13-14 acres and is adjacent to Township-owned land. The property owner would like to retain less than one acre of the parcel and continue to live on that land.
  - (1) Mr. Dunbar commented that this parcel was high on the Township’s open space priority list. There are a lot of possibilities for this land including linkage downstream to Hoy Park.
  - (2) Mr. Onorato noted that the property owner would like to retain gardening rights on a separate 30,000 sq. ft. piece of land for the remainder of his life.
- (3) Resolution 1 – Authorizing the agreement of sale for this parcel in the amount of \$735,000.
  - (a) **MOTION** – Supervisor DiPaolo made a motion to authorize the agreement of sale. Supervisor Brown seconded the motion. The motion *passed* 5-0. There was no public comment on this matter.
- (4) Resolution 2 – Authorizing the application for the Open Space grant through Montgomery County in the amount of \$588,000, or 80% of the purchase price.
  - (a) **MOTION** – Supervisor Dininny made a motion to authorize applying for the Open Space grant. Supervisor Altieri seconded the motion. The motion *passed* 5-0. There was no public comment on this matter.
- v) Mr. Dunbar requested that the Board authorize a separate application to DCNR to supplement the purchase price of these two acquisitions and to prepare a master plan for the trails.
  - (1) **MOTION** – Supervisor Altieri made a motion to authorize this request. Supervisor DiPaolo seconded the motion. The motion *passed* 5-0.
- vi) Supervisor Brown thanked the Open Space Committee for their diligence in pointing them in the right direction, and to staff and the property owners for working out the acquisition.
- j) Discussion on Eagle Homeowners Association & J.P. Mascaro declaratory judgment:
  - i) Mr. Onorato noted that J.P. Mascaro filed suit just prior to this meeting, naming the Township, Eagle Homeowner’s Association (HOA), and Louis Mascaro as defendants. This is similar to the lawsuit Mr. Onorato was

proposing for the Township to file. He will need the Board's authorization to represent the Township.

- ii) **MOTION** – Supervisor Brown made a motion to send Mr. Onorato to the hearing in the Township's defense. Supervisor DiPaolo seconded the motion. The motion *passed* 5-0.
  - (1) Mr. Richard Snyder, 1046 Anders Place, is President of the Eagle HOA. Mr. Snyder requested a written exemption from J.P. Mascaro's trash collection, asking the Township to direct them not to collect the trash. Mr. Snyder noted that J.P. Mascaro collects the trash at 6 a.m., which violates the HOA rules that collection cannot begin prior to 8 a.m.
    - (a) Mr. Snyder noted that should J.P. Mascaro be successful in their endeavors, they have not picked up the trash in his neighborhood for the past 19 years. Fines for these non-collections would run close to \$2 million for non-collection of trash for 19 years. He suggested that the Township pursue collection of these fines.
  - (2) Mr. Onorato directed the Board to not respond to any comments, as this is a legal matter. He noted that this would be resolved quicker now that it is in court.
  - (3) Mr. Dunbar asked if Mascaro had requested an emergency hearing? Mr. Onorato indicated that they had, however the date has not been set.
  - (4) Ms. Nancy Kline, 1132 Bayless, is Vice President of the Eagle HOA. She commented that J.P. Mascaro is collecting the trash against their wishes, is trespassing, and she would like them off of their property until this matter is resolved.
  - (5) Supervisor Brown noted that he had been away for several weeks, and had over 100 e-mail and other messages on this matter. He is fully aware of the public's concern.
  - (6) **MOTION VOTE** – The motion *passed* 5-0.
- k) Discussion on Village Commercial / Evansburg Village Commercial Ordinance:
  - i) Mr. Dunbar indicated that this matter is a carryover item from the February meeting where it was tabled. He asked if the Board was ready to advance this matter so it can be advertised and/or any substantive changes can be addressed.
  - ii) Supervisor Brown indicated he was ready to address this in April.
  - iii) Supervisor Dininny is also ready to proceed.
  - iv) Mr. Onorato noted they already had the public hearing. This needs to be re-advertised for the vote.
  - v) Supervisor Altieri asked if minor changes could be incorporated without the public hearing? Mr. Onorato indicated that they could.
  - vi) Mr. Dunbar asked if they wanted to incorporate the final changes from the Montgomery County Planning Commission into the ordinance? Mr. Onorato indicated they did, and to advertise for the vote.
  - vii) **MOTION** – Supervisor Brown made a motion to advertise this matter for the April 16, 2009 meeting. Supervisor Altieri seconded the motion.
    - (1) Supervisor DiPaolo clarified this was for the vote and not a hearing, which was confirmed.

(2) **MOTION VOTE** – The motion *passed* 5-0. There was no public comment on this matter.

**9) Public Hearing:**

- a) *Mr. Tim Kurek 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 a certain parcel of land from R-2 Residential and VC – Village Commercial to R-4 Residential District (Maris Tract):
  - i) **MOTION** – Supervisor DiPaolo made a motion to enter into a public hearing. Supervisor Brown seconded the motion. The motion *passed* 5-0.
  - ii) Mr. Robert Iannozzi, Jr., Esq. from Dischell, Bartle, Yanoff & Dooley was present to represent the applicants Howard and Cathy Maris, also present.
  - iii) During the course of the hearing the following exhibits were entered into the record:
    - (1) Exhibit A1 – The January 27, 2009 review letter from the Montgomery County Planning Commission.
    - (2) Exhibit A2 – Correspondence with the Township Solicitor dated February 2, 2009.
    - (3) Exhibit A3 – A deed of restriction on the property, filed March 9, 2009.
    - (4) Exhibit T1 – Proofs of publication in The Times Herald for February 27 and March 6, 2009; and a certificate of posting of the property.
  - iv) The following individuals commented during the hearing:
    - (1) Mr. Earl Joseph, 116 Evansburg Road, who was opposed to the zoning change.
    - (2) Mrs. Elizabeth D. Laughlad, 1010 Greensway Circle, who had questions on the zoning change.
  - v) **MOTION** – Supervisor Altieri made a motion to close the public hearing. Supervisor DiPaolo seconded the motion. The motion *passed* 5-0.
- c) An Ordinance to amend Chapter 123 Subdivision and Land Development Ordinance of the Code of Lower Providence Township, Montgomery County, Pennsylvania by adding Part 9 Natural Resources (Tree Ordinance):
  - i) **MOTION** – Supervisor Altieri made a motion to enter into a public hearing. Supervisor Brown seconded the motion. The motion *passed* 5-0.
  - ii) Mr. Siegel noted that the Planning Commission gave unanimous approval to this amendment.
  - 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 February 27 and March 6, 2009, a review letter from the Montgomery County Planning Commission dated February 11, 2009, and the Lower Providence Township Planning Commission meeting minutes from February 25, 2009 with a 9-0 vote in favor of the amendment.
  - iv) During the course of the hearing Supervisors Dininny, Sassu, Brown and Chris commented on the ordinance, along with Mr. Dunbar and Mr. Siegel.
  - v) The following individuals commented during the hearing:

- (1) Mr. Randy Roberts, 201 Church Road.
- vi) **MOTION** – Supervisor DiPaolo made a motion to close the public hearing. Supervisor Altieri seconded the motion. The motion *passed* 5-0.

**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 a certain parcel of land from R-2 Residential and VC – Village Commercial to R-4 Residential District (Maris Tract):
- i) **MOTION** – Supervisor Dininny made a motion to approve this ordinance. Supervisor Altieri seconded the motion. The motion *passed* 5-0.
- ii) There was no public comment on this item.
- b) An Ordinance to amend Chapter 123 Subdivision and Land Development Ordinance of the Code of Lower Providence Township, Montgomery County, Pennsylvania by adding Part 9 Natural Resources (Tree Ordinance):
- i) **MOTION** – Supervisor Brown made a motion to adopt this ordinance. Supervisor DiPaolo seconded the motion. The motion *passed* 5-0.
- ii) There was no public comment on this item.

**11) Comments and Other Business:**

- a) Mr. Dysard requested authorization to submit a COPS grant application.
- i) **MOTION** – Supervisor Altieri made a motion to authorize the requested grant submission. Supervisor DiPaolo seconded the motion.
- (1) Supervisor Brown asked what it was for?
- (2) Mr. Dysard noted this was a hiring and recovery program that pays the salary and benefits of police officers for three years.
- (3) Mr. Dunbar noted this was part of the stimulus plan and pays the salary of a police officer for three years in full.
- (4) Chairman Sassu noted this was different from previous grants in that it can be used to replace retiring officers.
- (5) **MOTION VOTE** – The motion *passed* 5-0. There was no public comment on this matter.
- b) Mr. Dysard requested that the Board authorize advertisement of the road reconstruction bids for 2009.
- i) **MOTION** – Supervisor Brown made a motion to authorize this request. Supervisor Dininny seconded the motion. The motion *passed* 5-0. There was no public comment on this matter.
- c)
- 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* 5-0. There was no public comment on this matter.
- d) Supervisor Dininny noted dates for upcoming events include a Post Prom Fundraiser on March 27<sup>th</sup>, and the Library's Annual Wine Tasting Fundraiser on March 28<sup>th</sup>.

- e) Chairman Sassu noted there would be more fundraisers by Police groups in upcoming months. These will go toward a fund that pays funeral expenses for officers killed in the line of duty in Philadelphia.

**12) Courtesy of the Floor:**

- a) Mr. Tom Borai, 5 Brenda Lane, thanked the LPPD for responding to incidents in his neighborhood a few nights ago. There were people soliciting things from door-to-door at 8:45-9:00 p.m. in the evening. He thinks people should have to have permits to solicit door-to-door. Mr. Onorato noted that he is looking into that.
- b) Mr. Randy Roberts, 201 Church Road, note that he met Mr. Dunbar at a Delaware Valley Regional Planning Commission Meeting, and it was there he learned of Sgt. Marc Small. Mr. Roberts commended the Township on their efforts in assisting with Sgt. Small's funeral.
- c) Ms. Colleen Eckman, Camiel Lane, thanked the Board for acquiring the open space lands, noting the selected parcels were good ones.

**13) Adjournment:**

- a) **MOTION** – Supervisor Brown made a motion to adjourn the meeting. Supervisor Altieri seconded the motion. The motion *passed* 5-0. The meeting adjourned at 9:17 p.m.

Respectfully submitted,

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Joseph C. Dunbar, Secretary