

**LOWER PROVIDENCE TOWNSHIP
BOARD OF SUPERVISORS
AUGUST 24, 2009 MEETING MINUTES**

1) Executive Session:

a) Mr. Dininny called the executive session to order at 6:00 p.m., seconded by Mr. Brown. The following supervisors were present: Mrs. Altieri, Mr. Brown, Mr. Dininny, and Mr. Sassu. Mr. DiPaolo was absent. Also present were Township Manager Mr. Dunbar and Solicitor Onorato. A discussion took place on personnel matters. Mrs. Altieri motioned to adjourn the meeting at 7:32 p.m., seconded by Mr. Brown.

2) Public Meeting: Call to Order

a) Chairman Sassu called the public meeting to order at 7:37 p.m.

3) Pledge of Allegiance

4) Roll call:

- a) The following members were present: Supervisor Altieri, Brown, Dininny, and Sassu.
- b) Supervisor DiPaolo was absent.
- c) Also present were Solicitor David Onorato, Township Engineer John Chambers, Parks & Recreation Director Karl Lukens, Accounting Manager Susan Law, Project Analyst Nate Dysard, Human Resources Coordinator Geri Golas, Finance Coordinator Cheryl Imes, and Township Manager Joseph Dunbar.

5) Chairman's Comments:

- a) Chairman Sassu apologized for an incident that occurred at the August 6, 2009 Board meeting during the public comment period. He said that in the future he would request that everyone abide by the rules of the Township and those rules set by the Second Class Township Code. Those who do not comply will be asked to sit down and, if they do not sit down, they will be escorted from the meeting.
- b) Chairman Sassu announced that an executive session was held prior to the meeting to discuss legal, personnel and real estate matters.

6) Consent Agenda:

- a) **Motion** – Supervisor Dininny made a motion to approve the consent agenda. Supervisor Altieri seconded the motion.
 - i) Supervisor Brown abstained from voting on the July 16, 2009 meeting minutes, as he was not present for the meeting.
 - ii) Supervisor Brown questioned Invoice #21316, dated August 4, 2009 from Mandracchia & McWhirk, LLC totaling \$3,480.50. He said he cannot find any public authority or anything in minutes or notes that allow this billing to go forward. Additionally, he said his oath of office comes into question on some of these billings and he would vote no on this invoice.
 - iii) **Motion Vote** - The motion *passed* 4-0 with the exception noted by Supervisor Brown.
 - iv) Supervisor Brown added that all the items on Invoice #21316, dated August 4, 2009 are after The American Revolution Center announced they were leaving Lower Providence Township and moving to Philadelphia. All the charges shown were billed after the ARC said they were leaving. He said he cannot, in all good conscience, vote for this invoice.
 - (1) Supervisor Dininny asked if the NPCA has officially pulled its challenge to the overlay ordinance.
 - (2) Mr. Dunbar deferred this question to Mr. Onorato. Mr. Dunbar has not received anything.
 - (3) Mr. Onorato stated the NPCA had not officially withdrawn the application. The ARC has indicated their intention of abandoning the Lower Providence site and acquiring

land in Philadelphia through a land swap with the Federal government. As a result of that, the attorneys have agreed to hold everything in abeyance. He said the NPCA has not withdrawn their litigation and the Township is hoping to come to a with resolution the ARC, the NPCA, and those individuals that are part of the lawsuit. If it is to go forward, he said, the Township would likely want to consider repealing the Living History Overlay Ordinance, if, in fact, the ARC is abandoning the site. He stated that no official letters have been filed in court, but the agreement was made in late June or July.

7) Presentations & Commendations:

- a) Presentation to William Roth, Director of Special Projects and Technology, recognizing 5 Years of Service with Lower Providence Township:
 - i) Chairman Sassu spoke of Mr. Roth's service to the Township, including his efforts to advance the Township's technology in all departments.
 - ii) Mr. Roth thanked the Board and stated that it has been a pleasure to serve the Board and Lower Providence Township. A Township resident since 1983, he said Lower Providence is a wonderful place to live. He said the staff works as a team, which allows him to do his job with great support from the other Township employees. He thanked Mr. Dunbar for the opportunity to work on many exciting projects.

8) Public Hearing

- a) *Mr. Tim Kurek was present to take a complete record of testimony for all hearings.*
- b) **Motion** – Supervisor Altieri made a motion to enter the Conditional Use Hearing for Conditional Use Application CU-09-01 for 3236 Ridge Pike. Supervisor Dininny seconded the motion. The motion *passed* 4-0.
- c) Conditional Use Hearing on Application CU-09-01, 3236 Ridge Pike
- d) Mr. Onorato opened the public hearing.
 - i) During the course of the hearing the following exhibits were entered into the record:
 - (1) Exhibit T-1 – Packet that includes a notification letter to the applicant through the applicant's attorney Mike Clement, copy of the public hearing/public notice advertisement, copy of certificate of posting indicating the property was posted on August 10, 2009, copy of the advertisement which was placed in the Times Herald advertising tonight's meeting.
 - (2) Exhibit A-1 – Sketch plan dated July 28, 2000.
 - (3) Exhibit T-2 – Application and addendum.
 - (4) Exhibit A-2 – Architectural rendering prepared by Harmon & Deutche – two sheets identified as SD-1, showing front and rear elevations.
 - ii) Mr. Louis Gambone, the applicant, gave a brief description of the project proposed at 3236 Ridge Pike.
 - iii) Ms. Suzanne Creveling, the applicant's engineer, gave the detail of the proposed project.
 - (1) During Ms. Creveling's testimony, Supervisors Altieri, Brown, Dininny and Sassu had questions for the engineer. Mr. Onorato also questioned the engineer.
 - iv) Public Comments:
 - (1) The following members of the public had questions for the applicant's engineer and / or comments for the record:
 - (a) Mr. Larry Salutric, 3232 Ridge Pike.
 - (b) Ms. Colleen Eckman, 5 Camiel Lane.
- e) **Motion** – Supervisor Brown made a motion to close the Conditional Use Hearing for Conditional Use Application CU-09-01 for 3236 Ridge Pike. Supervisor Altieri seconded the motion. The motion *passed* 4-0.

9) New Business:

- a) Application S-09-02 for Barry Minor Subdivision for Preliminary / Final Approval:

- i) Mr. Dysard stated the applicant, Mr. & Mrs. Barry, were requesting that the Board to vote on Preliminary / Final Plan approval for a two-lot subdivision. The applicants' engineer, Glen Calchesky, from Conver & Smith Engineering, and attorney, Mr. Joseph Baldassari, were present to speak to the Board. Mr. and Mr. Brad Barry also were present.
- ii) Mr. Calchesky stated there were three waiver requests:
 - (1) Section 123-32 – Curbs – Waiver requesting not to install the curbs along Catherine Street and Wetherill Road.
 - (2) Section 123-32 – Sidewalks – Waiver requesting not to install the sidewalks along Catherine Street and Wetherill Road.
 - (3) Section 123-145 – Tree Replacement – If necessary, for tree replacement standards.
- iii) Mr. Calchesky stated he sent an e-mail regarding condition 2.d. of the resolution. He stated that since the project is minor in nature, with only 11,760 sq. ft. of earth disturbance, they are requesting that the Montgomery County Conservation District's adequacy letter not be provided and that the review of the stormwater and erosion control be done by the Township Engineer.
- iv) Mr. Chambers stated the Township Engineer has no objection to the request.
- v) Mr. Dysard stated there are two minor changes to the resolution.
 - (1) Change #1 – Date of the CMX letter is August 12, 2009; date was removed from the resolution.
 - (2) Change #2 – Item 2 d was removed from resolution.
- vi) Mr. Onorato stated that the resolution has been corrected.
- vii) Mr. Onorato stated the other question was the Tree Replacement requirements. He asked the applicants if they believe they comply with the Tree Replacement requirements.
- viii) Mr. Calchesky stated there is some confusion on the Tree Replacement. Ordinance #576 replaced the old Tree Replacement Ordinance. He said the new Tree Replacement Ordinance required a one-to-one replacement and that is what is shown on the plan.
- ix) Mr. Onorato asked the applicant to go through their analysis of how they comply to the new ordinance.
- x) Mr. Calchesky presented a chart showing that a lot of trees are being preserved on the site. A second chart showed that the applicant is doing a one-to-one replacement.
- xi) Mr. Onorato stated the resolution shows a waiver for the Tree Replacement, if needed. Mr. Brown asked if the waiver is being removed from the resolution.
- xii) Mr. Onorato suggested that the waiver be removed from the resolution. He said the Township's landscape architect has not reviewed the plan and the applicant is making a recommendation that they comply.
- xiii) Mr. Dininny stated he does not know why the Township has a landscape architect if it does not listen to them first. He asked if there could be a condition that the landscape architect must agree to the trees for trees replacement.
- xiv) Mr. Dunbar stated he believes part of the issue is the timing of adopting the new Natural Features Preservation Plan and the Engineer working with the Board and staff, Mr. Harris, leaving the firm.
- xv) Mr. Dininny stated that he understands, but would like to have someone say that the interpretation of the ordinance by the applicant is correct. He suggested placing a condition on the resolution until the Township's landscape architect looks at the plan and concurs.
- xvi) Mr. Dysard said that the CMX letter of July 29, 2009 shows that the landscape engineer stated the tree issue has been addressed. Mr. Brown stated the letter is old and Mr. Sassu said the letter does not state how the applicant has addressed the issue.
- xvii) Mr. Calchesky said that he has no problem with the condition. Mr. Baldassari stated he is concerned about the timing. He said it was their understanding that the Township landscape architect had given approval and he does not want the lack of a waiver in the

resolution to delay development. He agreed that the condition allows them to move forward.

- xviii) Mr. Barry stated he is trying to get a first-time home credit, which requires occupancy by December 1, 2009.
- xix) Mr. Onorato noted that the letter references the old ordinance. Mr. Dininny asked if the plan could be reviewed again quickly?
- xx) Mr. Dunbar suggested granting the waiver with the condition that no building permits are to be issued until the plan is reviewed one more time. If there is a discrepancy, it is will be up to the staff to address. Mr. Baldassari expressed concerned about the timing.
- xxi) Mr. Dunbar said the plan could go out to CMX tomorrow for review once the Board provides direction. He said if the plan is reviewed and everything is okay, they will not need to come back in front of the Board.
- xxii) Mr. Baldassari stated that this is fair, but noted that the old ordinance is more restrictive than the new ordinance and thus, if they adhere to the old ordinance, they should be within the requirements of the new ordinance.
- xxiii) Mr. Onorato recommended that the Board take action on the waiver. He said that if the Board removes the waiver and CMX says they do meet the requirement, there is no problem and if CMX decides the applicant does not comply, the applicant would have to amend the plan and come back in front of the Board.
- xxiv) Mr. Barry asked if it would it be acceptable to the Board if they added two more trees to the plan? Mr. Baldassari said that the waiver still needs to be addressed.
- xxv) **Motion** – Supervisor Brown made a motion to grant waiver C – Section 123-145. No one seconded the motion.
- xxvi) Mr. Sassu stated they would discuss the other waivers being requested.
 - (1) Waiver of Section 123-32 Curb and Storm Sewers
 - (2) Waiver of Section 123-33 Sidewalks
 - (a) **Motion** – Supervisor Brown made a motion to grant waivers of Section 123-32 and 123-33. Supervisor Altieri seconded the motion subject to a note being added to the plan stating that if the Township installs curbs, storm sewers and sidewalks in the future along Catherine Street and Wetherill Road, the applicant will install these items at that time. The motion *passed* 4-0.
 - (3) Waiver of Section 123-145 Tree Preservation Protection Replacement
 - (a) **Motion** – Supervisor Dininny made a motion to grant the waiver of Section 123-145. Supervisor Brown seconded the motion. The motion *passed* 4-0.
- xxvii) **Motion** – Supervisor Dininny made a motion to grant preliminary / final subdivision approval. Supervisor Brown seconded the motion. The motion *passed* 4-0-0
- b) Authorization to modify the Township’s existing developer escrow policy to cover cost incurred by the Township:
 - i) Mr. Dysard requested authorization to modify the existing developer escrow policy to cover costs incurred by the Township. The Township would have to adopt this in the 2010 fee schedule.
 - ii) **Motion** – Supervisor Altieri made a motion to authorize modification of the Township’s existing developer escrow policy. Supervisor Brown seconded the motion. The motion *passed* 3-1. Supervisor Dinniny voted against the motion.
- c) Authorization to prepare and advertise bid for right-turn lane improvements at Trooper Road and Ridge Pike:
 - i) Mr. Dysard requested authorization to advertise a bid for the right-turn lane improvements at Trooper Road and Ridge Pike.

- ii) **Motion** – Supervisor Brown made a motion to authorize the advertisement for bid the right-turn lane improvements at Trooper Road and Ridge Pike. Supervisor Dininny seconded the motion. The motion *passed* 4-0.
- d) Authorization to approve Denis McCall of Methacton School District as the representative for the School District, Lower Providence Township and Worcester Township to the countywide Earned Income Tax Collection / Act 32 committee:
 - i) Ms. Law requested authorization to approve Denis McCall of Methacton School District as the voting representative for Lower Providence Township to the countywide Earned Income Tax Collection / Act 32 committee.
 - ii) **Motion** – Supervisor Dininny made a motion to authorize the appointment of Denis McCall to the countywide Earned Income Tax Collection / Act 32 committee. Supervisor Altieri seconded the motion.
 - (1) Supervisor Brown asked if there would be a cost to the Township.
 - (2) Supervisor Sassu stated this was a voluntary appointment.
 - iii) **Motion Vote** – The motion *passed* 4-0.
- e) Authorization to move forward with planning of Small-Sided Soccer Tournament and memorial marker for SSgt Marc Small:
 - i) Mr. Lukens requested authorization to move forward with the planning of the Small Sided Soccer Tournament and memorial marker for SSgt Marc Small.
 - ii) **Motion** – Supervisor Dininny made a motion to move forward with the planning of the Small Sided Soccer Tournament and memorial marker for SSgt Marc Small. Supervisor Brown seconded the motion. The motion *passed* 4-0.
- f) Authorization to place a congratulatory ad in the program booklet for the Perkiomen Watershed Conservancy Environmental Awards:
 - i) Mr. Roth requested authorization to place a congratulatory ad in the program booklet for the Perkiomen Watershed Conservancy Environmental Award.
 - ii) **Motion** – Supervisor Altieri made a motion to authorize a placement of a congratulatory ad in the program booklet for the Perkiomen Watershed Conservancy Environmental awards. Supervisor Brown seconded the motion. The motion *passed* 4-0.

10) Conditional Use Decision:

- a) Conditional Use Application CU-09-01, 3236 Ridge Pike
 - i) **Motion** – Supervisor Dininny made a motion to accept the Conditional Use Application for 3236 Ridge Pike. Supervisor Altieri seconded the motion. The motion *passed* 3-1. Supervisor Brown voted against the motion.

11) Old Business:

- a) Authorization to release final payment in the amount of \$117,358.13 to Asphalt Paving Systems Inc for the micro-resurfacing project upon receipt of the required maintenance bond:
 - i) Mr. Dysard requested authorization to release the final payment in the amount of \$117,358.13 to Asphalt Paving Systems Inc for the micro-resurfacing project. The Township has received the required maintenance bond for the project.
 - ii) **Motion** – Supervisor Altieri made a motion to authorize the release of the final payment in the amount of \$117,358.13 to Asphalt Paving Systems Inc for the micro-resurfacing project. Supervisor Dininny seconded the motion. The motion *passed* 4-0.
- b) Update on Montgomery County Consortium Intergovernmental Stormwater Agreement:
 - i) Mr. Chambers gave an update on the Montgomery County Consortium Intergovernmental Stormwater Agreement.

12) Other Business:

- a) Mr. Onorato said the Regional Sewer Authority is planning to build a parallel interceptor along the Perkiomen Creek. He said this will require easement approval from the Township for land

owned by the Township. He said the Board needs to authorize signing of the easement agreements.

- i) **Motion** – Supervisor Brown made a motion to authorize the signing of the easement agreements. Supervisor Dininny seconded the motion. The motion *passed* 4-0.
- b) Mr. Dunbar discussed the lawsuit filed by Montgomery County against the Lower Providence Sewer Authority, Lower Providence Township and the Lower Perkiomen Valley Sewer Authority on an EDU capacity dispute. He requested that the Board authorize Mr. Onorato to enter his appearance in conjunction with the representative of the Lower Providence Township Sewer Authority to handle this matter.
 - i) **Motion** – Supervisor Altieri made a motion to authorize Mr. Onorato to enter his appearance for the lawsuit filed by Montgomery County against Lower Providence Sewer Authority, Lower Providence Township and Lower Perkiomen Valley Sewer Authority. Supervisor Dininny seconded the motion. The motion *passed* 4-0.
- c) Mr. Lukens stated he received a request from the Methacton Wolverines to have the fee waived for use of temporary lighting on their practice field at Eagleville Elementary School and has received a recommendation from by the Park Board to grant the request.
 - i) **Motion** – Supervisor Dininny made a motion to waive the fees for the temporary lighting at the Eagleville Elementary School field for the Methacton Wolverines. Supervisor Altieri seconded the motion. The motion *passed* 4-0.
- d) Mr. Lukens stated he received a request from the Lower Providence Warriors to use temporary lighting at the Evansburg Point Park field and have the fees waived. The Park Board recommended granting the request.
 - i) **Motion** – Supervisor Dininny made a motion to allow temporary lighting at the Evansburg Point Park field and waive the fees for the temporary lighting. Supervisor Altieri seconded the motion. The motion *passed* 4-0.
- e) Supervisor Brown requested the Board authorize the sending of the Revenue Sharing Resolution to Congressman Sestak, Casey, Senator Specter & the Ferguson Group.
 - i) **Motion** – Supervisor Brown mad a motion to authorize the sending of the Revenue Sharing Resolution to Congressman Sestak, Senator Casey, Senator Specter & The Ferguson Group. Supervisor Altieri seconded the motion. The motion *passed* 4-0.

13) Comments from Board:

- a) Supervisor Sassu thanked the Parks & Recreation Board, the Parks & Recreation Department, the Public Works Department and all those who helped out at the Lower Providence Township Car Show. He said there was a big turn out, with 78 vehicles in the show and a lot of spectators in attendance.

14) Adjournment:

- a) **Motion** – Supervisor Brown made a motion to adjourn the meeting. Supervisor Altieri seconded the motion. The motion *passed* 4-0. The meeting adjourned at 9:28 p.m.

Respectfully submitted,

Joseph C. Dunbar, Secretary