

**MINUTES OF
SPRING GARDEN TOWNSHIP BOARD OF COMMISSIONERS MEETING
May 13, 2015**

President Fullmer announced that the Board of Commissioners met in Executive Session at 6:15 p.m. this evening to discuss personnel, real estate and potential litigation issues. Executive Session was adjourned at 6:55 p.m.

CALL TO ORDER

The Spring Garden Township Board of Commissioners held its regular monthly meeting at the Township Municipal Building, 340 Tri Hill Road, York, PA on Wednesday May 13, 2015. President Fullmer called the meeting to order at 7:00 p.m.

PERSONS PRESENT

John M. Fullmer, Jr., President
Cara Beth Zortman, Commissioner
Matthew R. Shorb, Vice-President
Thomas I. Warman, Commissioner
Eric M. Lehmayr, Commissioner
B.J. Treglia, C.S. Davidson, Inc.
There were nine people in the audience

George Swartz, Chief of Police
Gregory J. Maust, P.E., Township Manager
Steven F. Smith, Public Works Supervisor
Clifford Gordon, Codes Enforcement Officer
David M. Davidson, Jr. P.E., Engineer
Steve Hovis, Esq. Solicitor
Michelle K. Mullen, Fiscal Officer/
Benefits Coordinator

A. SERVICE AWARDS:

There were no service awards on the agenda for presentation.

B. REQUESTS FOR PRESENTATION BY THE PUBLIC:

The first public presentation was given by Attorney James M. Strong, McNees Wallace & Nurick, LLC representing Verizon. Attorney Strong's presentation was related to a proposed Verizon Wireless Small Cell Facility for the Country Club of York. He stated a small cell facility is different than a tower and is a single antenna attached to a structure which would cover a small area to supplement a macro cell. The proposed antenna would be installed inside a cupola to be placed on an existing stone structure near the area of the putting green. The antenna would not be visible. Zoning for the Country Club of York is Open Space/Conservation and the staff has provided a Zoning Ordinance interpretation that the proposed use needs a variance from the Township Zoning Hearing Board. Attorney Strong stated that under the 2012 Wireless Broadband Communications Act, the existing stone structure which is to be used for the antenna installation could be defined by the Board of Commissioners as a "support structure" and under the Act, he feels the legal interpretation of the Act would then allow the antenna installation to be undertaken through the standard Township permitting process, thereby eliminating the need to seek a variance through the Township Zoning Hearing Board. Township Solicitor Hovis commented that he believes the interpretation of the Act was to apply to co-location on existing structures and redefining an existing structure to allow the structure to be used as a wireless support structure would be using the definition of the Act as a means to an alternative approach. If the Board were to support the suggested approach, it is believed that establishing wireless support structures could be requested by anyone at numerous locations through the Township. Attorney Hovis felt that this would be establishing a potential precedence and is a manipulation of the Act to seek approval to use existing structures for co-location applications. Attorney Strong understood the position of the Township Solicitor but felt the legislation is unique and allows the Township to identify and approve existing structures as a "wireless support structure" and eliminate the need to seek a variance from the Township Zoning Hearing Board. Commissioner Fullmer and Commission Lehmayr provided comment on the proposed request and from their past experience on the Township Zoning Board, both felt the proper approach is to have the Zoning Hearing Board hear the proposed use and if required, seek a variance for the proposed antenna installation.

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A second presentation was jointly given by Krista Gardner and Rick Hogentogler of Stambaugh Ness and provided an overview of the 2014 Township Audit. The presentation provided an overview of audit results and covered responsibilities of Stambaugh Ness, serving as Township Auditor and responsibilities of the Townships. The presentation focused on the scope of the annual audit; audit results; financial highlights and five year trend analysis and matters of internal control. The Board thanked Ms. Gardner and Mr. Hogentogler for their overview and felt the details of the overview provided a good explanation of how the annual audit is prepared on an annual basis. A similar presentation will be planned for the 2015 audit.

C. PUBLIC COMMENT PERIOD: There were no public comments.

D. APPROVAL OF MINUTES: Motion Warman/Lehmayer to approve the **Minutes of the April 8, 2015** regular meeting as presented. There were no public comments. Motion carried. Yes-5, No-0.

E. ACCEPTANCE OF TREASURER'S REPORT: Motion Lehmayer/Warman to **accept the Treasurer's Report**. There were no public comments. Motion carried. Yes-5, No-0.

F. APPROVAL OF WARRANTS FOR PAYMENT: Motion Zortman/ Warman to **approve, the Warrants for Payment** as presented. There were no public comments. Motion carried. Yes-5, No-0.

G. OPENING/ AWARD OF BIDS: There were no bids presented for Board consideration.

H. SUBDIVISION/ LAND DEVELOPMENT PLANS FOR ACTION:

There were three (3) plans submitted for Board action.

1. The first plan was **Popeye's Louisiana Kitchen Restaurant: Final Land Development Plan for a proposed fast food restaurant at 1095 Mt. Rose Avenue**. Linda Keller, Director of Community Development & Planning, provided an overview of the plan with three (3) conditions and five (5) waivers which have been presented and supported by the Township Planning Commission. Motion Warman/Lehmayer **to approve the plan with the three (3) conditions and five (5) waivers as presented**. There were no public comments. Motion carried. Yes-5. No-0.
2. The second plan was **the Final Land Development Plan for York Country Day School for a revision to a proposed addition to the school located at 1071 Regent's Glen Boulevard**. Linda Keller, Director of Community Development & Planning, provided an overview of the plan. The plan had been approved last year, subject to three (3) waivers and six (6) conditions being met. Linda reported that three (3) of the six (6) conditions have been met. Attorney Hovis suggested that a legal note be established that provides an expanded width for the existing sewer easement to allow for future use, thereby eliminating the need to work in close proximity to the building. Motion Warman/ Zortman **to approve the plan as presented based on two (2) conditions being met, three (3) waivers as presented, and final sewer easement language acceptable to the Township Solicitor**. There were no public comments. Motion carried. Yes-5. No-0.
3. The final plan for Board consideration was the **Shoppes at Wyndham: Final Land Development Plan for Retail Stores at 940 South Richland Avenue**. Linda Keller, Director of Community Development & Planning, reported that the plan, at the request of the Owner was **"tabled" until the June Board meeting**.

I. OLD BUSINESS:

1. **Status of Update to Township Comprehensive Recreation Plan:**
Recreation Director, Christine Hartle was not present. Commissioner Lehmayr, Board Liaison to the Recreation Commission reported that first meeting was held to receive public input and there was a lot of good discussion. The consultant is doing a good job. There were 10 people in attendance at the Recreation Commission meeting and the public discussion was considered to be very positive.
2. **Status of Municipal Complex Project & Upgraded Township Facilities:**
Manager Maust reported that the Pennsylvania Department of Environmental Protection (DEP) has provided "unofficial" review comments for the technical portion of the Combined Risk Assessment & Final Report prepared by Herbert, Rowland & Grubic, Inc. for Township owned property at 1799 Mt. Rose Avenue. Risk assessment review is still in progress and DEP is expected to complete their overall review and provide a formal response to the Township near the end of May. Following receipt of DEP's formal comments, the Township will have sixty (60) days to provide a follow-up response to the State. Commissioner Warman gave an explanation of the recent communication from the Corps of Engineers and the Preliminary Jurisdictional Determination (JD) that has been issued for the Township site. Commissioner Warman believes the Preliminary JD is adequate for the Township's needs in considering potential development of the site and the Determination as issued is valid for five (5) years. No further wetlands work is considered necessary at this time. More information concerning DEP's on-going review for Act 2 Release of Liability is expected for the June Board meeting.
3. **Determination of Township Requirements for Building Permit vs. Zoning Permit.**
Linda Keller, Director of Community Development & Planning reported that she is continuing to work to establish updated Township requirements clarifying what types of projects should require a building permit vs. those projects that should be issued a zoning permit. Spring Garden Township does not have a zoning permit process in effect at this time. The intent is to clarify which projects would require either a building permit or zoning permit. The intent is not to require both. Linda has provided information to Attorney Dave Jones from Stock & Leader for legal feedback. Linda is interested in receiving Board input and welcomes Commissioner feedback. President Commissioner Fullmer requested that Linda continue with this project assignment and requested that this "open" issue be carried under Old Business for continued Board discussion.

J. NEW BUSINESS:

1. In the absence of Recreation Director, Christine Hartle, Manager Maust presented a request to purchase a **replacement rock climbing wall and tubing at Tri-Hill Park tube to replace the damaged climbing wall module which has been removed because of safety concerns.** Motion Warman/Zortman to **approve the purchase of a replacement rock climbing wall and tube at a cost, not to exceed \$5,000. The purchase is to be paid from the Recreation Escrow Fund.** There were no public comments. Motion carried. Yes-5, No-0.
2. Chief Swartz requested approval of Resolution #2015-04, covering Police Department Policies 15-004-02, Response to Active Aggression, 15-005-06, Domestic Violence and 15-009-06, Naloxone. Motion Lehmayr/Warman to approve **Resolution #2015-04, Police Department Policies as presented.** There were no public comments. Motion carried. Yes-5, No-0.

3. Chief Swartz reported that the Board at the April meeting approved a one (1) year agreement to enter into an agreement with Power DMS. Further discussion with the software provider has resulted in cost savings to the Township if a three (3) year agreement is signed and there are advantages to having the software in the same cycle as the police accreditation cycle. Chief Swartz requested approval to extend the Police Department Agreement with Power DMS (Accreditation Document Management Resource) to three (3) years. Chief Swartz explained that there is a 30% discount for a three (3) year agreement with a total three (3) year cost of \$ 7,365.00. Motion Zortman/Lehmayer to **approve the extension of the Police Department Agreement with Power DMS (Accreditation Document Management Resource) to three (3) years at a cost of \$ 7,365.** There were no public comments. Motion carried. Yes-5, No-0.
4. Chief Swartz overviewed the Memorandum **of Understanding (MOU) with the York City School District.** The Safe School Act requires an MOU be in place for Phineas Davis Elementary School. The current MOU needs to be renewed. York City Police will be first response for “in- building” or “on-school” property issues, Spring Garden Police will respond second. Motion Warman/Zortman to **approve the Memorandum of Understanding (MOU) with the York City School District as presented.** There were no public comments. Motion carried. Yes-5, No-0.
5. Attorney Hovis overviewed the role of Rob Bissey who currently serves as the Emergency Management Coordinator (EMC) for Spring Garden Township, Springettsbury Township and Manchester Township’s. Mr. Bissey cannot continue in the role as E.M.C. due to other priorities. Chief McCoy has proposed an approach that would have York Area United Fire & Rescue providing EMC support through an assigned YAUFAR Battalion Chief. An overview of recent discussions concerning the EMC role which have taken place at the YAUFAR monthly meetings was provided by Commissioner Fullmer and Commissioner Lehmayer. After Board discussion, the Board requested that Attorney Hovis continue discussions with Chief McCoy and explore how an intergovernmental approach could be established with YAUFAR to provide EMC services.
6. At the request of the Manager, **the Proposal for C.S. Davidson, Inc. to migrate existing zoning, building & occupancy permit data into CSDATUM was “tabled“ until the June meeting.**

K. ENGINEER’S REPORT

1. The Engineer’s Report was presented with no additional comments. There were no comments from the Board on the Engineer’s Report.

L. SOLICITOR’S REPORT

1. The Solicitor’s Report was presented with no additional comments. There were no comments from the Board on the Solicitor’s Report.

M. POLICE CHIEF’S REPORT

1. Chief Swartz reported the Police Accreditation Assessment Team has completed two (2) days of on-site reviews and exit discussions with the Assessment team representatives indicated that “unofficially”, there is unanimous agreement to recommend that re-accreditation be given for the next three (3) years. Chief Swartz commented that Sergeant Lehman served as the Primary Department Coordinator to prepare the Police Department for re-accreditation consideration and did an excellent job.
2. Chief Swartz continues to recruiting efforts to replace the position vacated by the retirement of Sgt. David Jay. To meet the upcoming deadline for the July Police Academy Class, Chief Swartz requested Board approval to extend an offer of employment to a candidate from the Department eligibility list, subject to satisfactory completion of testing

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and meeting the conditions of employment as established by Chief Swartz. Motion Warman/Zortman to **give Chief Swartz the authorization to extend an employment offer for a new officer to join the Police Department subject to satisfactory completion of testing and meeting the conditions of employment as established by Chief Swartz.** There were no public comments. Motion carried. Yes-5, No-0.

N. FIRE CHIEF'S REPORT

1. Manager Maust reported that he had received a message from Chief McCoy prior to the Board meeting that he would be absent from the meeting due to a family emergency. President Fullmer asked whether there were any comments on the Fire Chief's Report that the Manager should discuss with Chief McCoy after his return to the office. There were no comments from the Board and the Fire Chief's Report was accepted as presented.

O. PUBLIC WORKS SUPERVISOR'S REPORT

1. The Public Works Supervisor's Report was presented with no additional comments. There were no comments from the Board on the public Work's Supervisor's Report.

P. RECREATION DIRECTOR'S REPORT

1. The Manager reported that Christine had experienced an "off the job" injury and was unable to attend the Board meeting. . President Fullmer asked whether there were any comments on the Recreation Director's Report that the Manager should discuss with Christine after her return to the office. There were no comments from the Board and the Recreation Director's Report was accepted as presented.

Q. ZONING OFFICER'S REPORT

1. Linda Keller requested Board approval for Stormwater Operation and Maintenance and Right-of-Way Agreements for:

Barry Buser and Chen Jing Cai, 1709 Crescent Road
Beth Ann Walp and George Paul Yelenoc, 70 Elmwood Blvd.
Lex and Jill Brockington, 1245 Copper Beach Drive.

Linda reported that technical reviews have been completed for the Buser/Cai agreement and Walp/Yelenoc agreement. Linda noted that technical review is incomplete for the Brockington agreement and could be considered for Board action with a conditional approval. Motion Warman/Lehmayer to **approve the agreements for Buser/Cai and Walp/Yelenoc and consideration on the Brockington agreement be "tabled" until the completion of technical reviews.** There were no public comments. Motion carried. Yes-5, No-0.

2. There were no comments on the Zoning Officer's Report as presented.

R. CODES ENFORCEMENT OFFICER'S REPORT

1. The Codes Enforcement Officer's Report was presented with no additional comments. There were no comments from the Board on the Codes Enforcement's Report.

S. MANAGER'S REPORT

1. The Manager asked the Board to approve a Temporary Easement for Columbia Gas for work related to the relocation of existing gas lines across Township owned property at 1799 Mt. Rose Avenue affected by the I-83, Exit 18 interchange Improvement project. The Temporary Easement would amend the previous agreement approved by the Board. Motion Warman/Zortman **to approve the Temporary Easement for Columbia Gas as presented.** There were no public comments. Motion carried. Yes-5, No-0.

2. The Manager overviewed the Year-to-Date Financial Performance Reports for General Fund, Sewer Revenue Fund and Liquid Fuels Funds covering activity through the first four (4) months of 2015. Monthly updates on year-to-date performance will be given to the Board of Commissioners as part of the information distributed along with the regular monthly meeting packets.
3. Manager reported that a 4th Ward resident is in the process of selling their residence and will be relocating out of the Township during the time the home is on the market for sale. The property owner has requested that relief be given for refuse fees as there is no one that will be residing at the property. Manager stated there is no Township policy in place that provides relief from refuse charges for the type of situation as requested by the property owner. Commissioner Lehmayr stated there are a lot of homes vacant within the Township so how would we “police it”. The Board concluded that, in the absence of a policy to control vacant property situations, the property owner is still responsible to pay for on-going reuse costs.

ADJOURNMENT

With no further business to transact, Motion Warman/Zortman to adjourn the meeting at 9:10 p.m.

Respectfully submitted,

Gregory J. Maust, P.E.
Township Manager/Secretary