

**MINUTES
BOARD OF COMMISSIONERS' PUBLIC MEETING
AUGUST 15, 2011**

CALL TO ORDER - ROLL CALL - DECLARATION OF QUORUM:

The Penn Township Board of Commissioners met in a regular session on Monday, August 15, 2011 at the Penn Township Municipal Building. President Prieber called the meeting to order at 7:00 P.M. with a roll call of members. Present were Commissioners Prieber, Heilman, Goldsmith, Rewa and Felix. Also present were Solicitor Tilley, Manager Garvick, Police Chief Rhodes, Zoning Officer Menges and Township Engineer Bortner.

PLEDGE OF ALLEGIANCE TO THE FLAG FOLLOWED BY A PERIOD OF SILENT MEDITATION:

All in attendance stood for the Pledge of Allegiance to the flag, which was followed by a period of silent meditation.

ANNOUNCEMENTS:

President Prieber announced that following the public meeting this evening, the Board of Commissioners would convene in an executive session with the Solicitor for the purpose of discussing legal and/or personnel issues.

APPROVAL OF THE MINUTES FROM THE PREVIOUS MEETING:

The minutes of the July 18, 2011 meeting of the Board of Commissioners were approved as submitted.

PERSONS TO BE HEARD CITIZENS COMMENTS:

Gerry Funke, Group Hanover Inc., requested that the Board of Commissioners consider adopting the Resolution for the sewer module for the Snyder's – Lance project even though he only submitted it this morning, which was after the deadline for tonight's meeting. Manager Garvick stated that he had no problem with approving the resolution for the module this evening. The Commissioners will consider the request under the Health and Sanitation portion of the meeting.

LERTA PUBLIC HEARING – TO CONSIDER ESTABLISHING A LERTA BOUNDARY:

Manager Garvick stated that the Purpose of the Hearing is to elicit testimony to determine the desirability of establishing of a boundary within which industrial development would occur and could result in the assessment of a property tax rate divergent of the rate assigned to all other properties within the taxing district. The option to adjust the tax rate is allowed by the Local Economic Revitalization Tax Act, also known as LERTA. This Hearing, required by the LERTA legislation, has been properly advertised in the Hanover Evening Sun.

On September 14, 2010 Legacy 92, LLC purchased from the entity known as B & F Tool and Gear, Inc, the land and 43,141 sq. ft. building at 300 Fame Avenue, Hanover, PA. On September 30, 2010 the Township received a land development plan from Legacy Athletics

proposing a 3,141 sq. ft. office addition and a 20,000 sq. ft. factory addition to the existing structure. The plan was approved on November 15, 2010 and construction permits were issued on April 1, 2011.

On May 12, 2011 the Township received correspondence from Attorney Jeremy Frey of Barley Snyder, representing Paige Wingert and Legacy 92, LLC, requesting consideration of a LERTA boundary comprising 300 Fame Ave. The request is for consideration of a 10-year tax relief schedule for new improvements only. In other words, any relief granted would not include the current property taxes being paid on the land and the original structure. The proposed taxing schedule would have the property owner contributing 0% property taxes in the first year of the LERTA schedule incrementally increasing by 10% per year until by year 11 the tax rate would be the full 100%.

All three taxing authorities, the Township, the SWSD, and the County of York, must agree to participate in a LERTA schedule. However, the schedule need not be the same for all three taxing entities. The Township is solely responsible for establishing by Ordinance the LERTA boundary itself.

The Penn Township Planning Commission was invited to put forth a recommendation on the request. However, following discussion at its meeting on August 4, 2011, the Planners voted to withhold any recommendation.

Manager Garvick indicated that this completed the staff review. He also informed the Board that he would respond to any questions that the commissioners may have now or at any time during this hearing.

Page Wingert, owner of Legacy Athletic, made a presentation on why they were requesting the LERTA. Mr. Wingert stated that Legacy Athletic is being relocated to Fame Avenue from Barnhart Drive. He first requested the LERTA at the May Board of Commissioners meeting due to the fact that he was made aware of the LERTA because of articles in the Evening Sun regarding the Knorr Brake Corporation. Legacy formally filed its request on May 11, 2011. He reviewed the criteria that the Commissioners used in considering the Knorr Brake request and he stated he would use the same criteria for his request. He reviewed the history of his company and stated they embroider and sell hats and other items, including jewelry, for colleges and resorts. They compete with larger companies and buy their blank products from China and then customize the products for about 5000 vendors. They provide jobs for skilled laborers including embroiders, jewelry assemblers, and graphic artists. They have over sixty employees and the new facility will allow for continued growth. More than half of the employees are graduates of South Western School District and about half reside in Penn Township. He introduced two employees who work at the facility and live in Penn Township. He explained he recruited an individual to help in the manufacturing of jewelry. He stated he has little turnover and tries to create a family atmosphere at the facility. He talked about the commitment to the Community and the school district. He explained why he purchased the building and had no intention of leaving the Hanover area.

Jeremy Frye, attorney for Legacy Athletic, explained the implications of the tax reduction. He wanted to make sure that the Commissioners understood it would not result in the loss of existing tax revenue. The abatement would be phased in over ten years on the new construction and additions made to the facility. He stated he knows that the concern of the

Commissioners is for the residents of the area but any tax increase would be passed on to Legacy for the existing structures.

Mr. Wingert referenced the letter that was submitted to the Commissioners from the Junior Achievement Program about the support that Legacy has provided them.

Michael Smith, Campaign Director of the York County United Way, stated that over the past four years Legacy and its employees have donated over \$50,000 to the United Way campaign. They are one of only eight companies that match the dollar-for-dollar employee contributions. The average employee and corporate per capita giving is \$160 per employee. Mr. Wingert has served as a volunteer for the United Way and encourages others to participate.

Dale Myers, President of the South Western School District Board of Education, stated that the district has made no recommendation on what they would do if the LERTA were approved. They did not want to sway the vote of the Commissioners. He stated that the Township Commissioners should be concerned about bringing jobs to the Township and could set a LERTA boundary designation to encourage growth in the area. The Commissioners could give secondary consideration to this request when preparing that area. The School Board feels that the Commissioners should consider all aspects of this request but they do have one legal concern.

Keith Nonemaker, Solicitor for the School District, stated that he has some concerns about the LERTA designation and felt that this application does not meet the requirements for a LERTA. The concern is that the request is being made too late because the application was not made at the time the building permits were secured. Attorney Nonemaker referenced the section of state law that requires that the LERTA request be made at the time of application for the building permit.

Mr. Myers concluded his remarks by complementing Legacy Athletics and recognizing them as an outstanding business.

There was no one present from the County of York to discuss the request.

Kentha Hanson, York County Economic Development Corporation, informed the Commissioners that she works on retaining and attracting economic development projects to the York Area. LERTA is the only economic tool that local areas have to attract and retain businesses in the area. She stated that there are precedents in York County where the LERTA was applied for and granted after the building permits had been secured and approved.

Gary Laird, Hanover Chamber of Commerce, is supportive of the endeavor on 300 Fame Avenue. The U.S. Chamber of Commerce states that ninety percent of the businesses in our area are considered small businesses. They supported the LERTA for Legacy due to the economy. Legacy Athletic has been a member of the Chamber since 2003. Mr. Laird stated that Legacy hires from our local workforce and additional employees will contribute to local tax revenue and will help with other businesses in the area and will not have an impact on the infrastructure in the area. The LERTA will not affect the current tax base and Legacy supports numerous non-profit organizations in the area as well as the school district.

Commissioner Felix stated several concerns about the LERTA program and its intent to be used for barren land for development and not for revitalization. He has concerns about the

point brought forth by Attorney Nonemaker and the timing of the request for LERTA since it was after the building permit was issued. Attorney Frey then cited case law supporting a LERTA designation in Philadelphia subsequent to issuance of building permits.

Commissioner Heilman had no comments at this time.

Commissioner Goldsmith expressed concern about the timing of the request.

Commissioners Prieber and Rewa had no comments at this time.

Solicitor Tilley provided comments regarding the consideration of the request. Mr. Wingert stated that he is looking to get into new products with the movement into the new building, which would require reinvestment into the business for inventory and machines for different products. He stated that sales are increasing. Mr. Wingert stated that he is trying to change the paradigm of the LERTA so that people are aware it is available. He is concerned about being held to standards that are non-existent.

Solicitor Tilley stated that LERTA is a state law which is implemented at the local level and the Township is not responsible for promoting it. The law was implemented to develop real estate that is barren. He also referenced the Philadelphia case that Attorney Frey mentioned. He stated that the Commissioners could look at an area rather than one property or one request at a time. They could then market the area as a LERTA area. As a policy making body this is how the Board may want to consider the LERTA.

Commissioner Felix indicated opposition to the LERTA request.

Commissioner Heilman stated support for the LERTA request and said rules and regulations should have been established prior to Legcy's application and the Township should promote the LERTA process. He also said that establishment of a LERTA zone is not necessarily a commitment to a tax break.

Commissioner Rewa stated he supported the request.

Commissioner Goldsmith has concerns about establishing a LERTA area with regards to future business.

Commissioner Prieber stated he was in favor of establishing a boundary.

Action on the LERTA request was tabled to the next meeting.

The public hearing concluded at 8:00 p.m. President Prieber then moved into the regular meeting.

TOWNSHIP REPORTS - STANDING COMMITTEES:

Public Safety Committee - Commissioner Felix:

Commissioners Felix/Goldsmith moved to approve a request dated July 24, 2011 from the South Western Band Boosters for the use of barricades and fire police at the Cavalcade of Bands competition on Saturday, October 29, 2011. Motion unanimously carried.

Personnel Committee - Commissioner Heilman: No Report.

Finance Committee – Commissioner Heilman:

Commissioners Heilman/Goldsmith moved to approve Township warrants in the amount of \$863,581.62. Motion unanimously carried.

Commissioners Heilman/Goldsmith moved to approve a request dated July 12, 2011 from the Hanover Eagles Auxiliary for a waiver of the permit fee for a yard sale held on July 16, 2011. Motion unanimously carried.

Commissioners Heilman/Goldsmith moved to approve a request dated August 3, 2011 from the Penn Township Lions Club for a waiver of the sign permit fee to advertise a chicken barbeque on September 10, 2011. Motion unanimously carried.

Public Works Committee – Commissioner Goldsmith:

There were no additions or changes to the Engineer's Report.

Planning & Recreation Committee – Commissioner Felix:

Commissioners Felix/Goldsmith moved to approve a request dated June 30, 2011 from Hanover Land Services for a waiver of the environmental impact study for the Walter J. and Mary Lois Danner Final Land Development Plan. Motion unanimously carried.

There were no additions or changes to the Zoning Officers Report.

The following subdivision and land development plans were formally filed:

P11-11 – Yazoo Mills, Inc.

Commissioners Felix/Goldsmith moved to approve the following subdivision and land development plans: None.

Commissioners Felix/Goldsmith moved to approve the following extension requests that will expire on November 21, 2011:

P01-28 – High Point @ Rojen Farms

P03-30 – Mustang Pointe

P11-07 – Snyder's-Lance, Inc.

Motion unanimously carried.

Commissioners Felix/Goldsmith moved to approve the following extension request that will expire on September 19, 2011:

P08-14 – National Barn

Motion unanimously carried.

Health & Sanitation – Commissioner Rewa:

Commissioners Rewa/Goldsmith moved to adopt Resolution No. 765, revising the official sewage facilities plan by including the Cherrytree – Phase 3 development. Motion unanimously carried.

Commissioners Rewa/Goldsmith moved to adopt Resolution No. 766, revising the official sewage facilities plan by including the Snyder’s – Lance Research and Development Building. Motion carried on a 4-1 vote with Commissioner Felix casting the dissenting vote.

Commissioner Rewa acknowledged that it was the twentieth anniversary of the Township’s pay-as-you-throw refuse program and he thanked all the vendors who sell the refuse bags, including some who have done so for the last twenty years. Letters of Appreciation will be sent to all vendors.

MANAGERS REPORT: There were no additions/corrections to this report.

OLD BUSINESS: None.

NEW BUSINESS: None.

CITIZEN’S QUESTIONS TO THE BOARD REGARDING DISCUSSION ITEMS: None.

QUESTIONS FROM PRESS: None.

ADJOURNMENT:

There being no further business to come before the Board, Commissioners Rewa/Goldsmith moved for adjournment at approximately 8:11 P.M. Motion unanimously carried.

Respectively submitted,

Kristina J. Rodgers
Township Secretary