

**Upper Paxton Township Board of Supervisors
Regular Monthly Meeting
May 13, 2015**

Those in attendance: Ron Hepner, John Orr, and Robert Stoner, Supervisors; Betty Warfel, Secretary/Treasurer; Peter Howland, Esquire; and Luanna Zimmerman, Manager. Tom Shaffer and Jacki Flanagan. Student from Mr. Keim's class: Autumn Alexander; and Matt Manning.

The meeting was called to order by Chairman Hepner at 7:00 p.m. All present recited the Pledge of Allegiance to the flag.

Public Comments: None

Approval of Minutes and Financial Report: Minutes of the April 8th monthly meeting, April 22nd workshop meeting and the April 27th Emergency Executive Session were reviewed by the Supervisors. John Orr made a motion to approve the minutes of the April meetings. Second by Robert Stoner. With all in favor, motion carried. Treasurer Warfel presented a monthly financial report and list of bills for payment. Upon review of financial documents, Robert Stoner made a motion to accept the Treasurer's report as presented and pay the bills. Second by Ron Hepner. With all in favor, motion carried.

Old Business:

1. Supervisors and Luanna Zimmerman, Township Manager, met with Millersburg Borough and Millersburg Area Authority representatives as well as the Borough's and Authority's engineers and a potential contractor at the Chelton Avenue sinkhole site on May 13th. A representative from PP&L has spoken with a gentleman in the engineering department, however, Jere Troutman's call has not yet been returned. The project is moving along. The project must be completed within sixty days of the start date under the provisions of the emergency permit. Precast work needs to be performed prior to the start date of the project.

2. On today's date, the Supervisors and Township Manager made a site visit to the Nature's Edge Townhouse development to take measurements and observe the section of roadway currently being paved. Attorney Howland advised that even though the roads in the development may be tendered for acceptance by the Township he does not believe the Supervisors are under any obligation to accept the streets. The streets in the development may not meet several criteria set forth in the Township Code. Under the current ordinance, the Township shall not accept a deadend road over 500 feet. Also, the section of roadway currently being paved does not meet the radius requirement set forth in the Code for a cul de sac. Another concern voiced by the Supervisors is that paving of additional sections of the roadway in the future would cause damage to the roadway being paved at this time. John Orr and Luanna Zimmerman will prepare a letter to the developer stating the Supervisors' feelings about the acceptance of the streets and setting forth their intentions and letting him know that the Supervisors are not required to take over the roadways in the development. The correspondence will also inform the developer that a variance may be required if the roadways do not comply with the Township's ordinances. Concerns about damage caused by construction traffic on the current paved roadway during future paving will also be included.

3. Supervisors proceeded to discuss the comments received from Light-Heigel regarding the Jesse Esh and Elmer King Stormwater Management Plans. No comments have been received from either the Dauphin County Agricultural District or DEP. An Operation Maintenance Agreement should be executed in order to comply with the Township's Ordinance on both plans. On the King plan, John Orr added several additional comments to those set forth by Light-Heigel. These comments included (a) requiring infiltration tests being done on the soil, (b) concern that the infiltration device between the barn and holding area for cows could become clogged, and (c) whether the pit would be constructed to insure that it would not leak. The Township would be responsible for inspecting the infiltration system for the manure pit. John Orr and Luanna Zimmerman will prepare correspondence to both Mr. Esh, Mr. King and Bill Burch and include copies of the engineer's comments and the additional comments set forth by John Orr.

4. Supervisors reviewed the Decision Granting the Application for Special Exception with Conditions for the John Riehl dog kennel issued by the Upper Paxton Township Zoning Hearing Board dated April 23, 2015. The last day to file an appeal would be May 21st. **(a)** Tom Shaffer expressed the opinion that the Zoning Hearing Board attorney erred in advising the Board that Riehl was only required to meet three criteria under the Township's Code of Ordinances in order to obtain a Special Exception. Shaffer stated that purpose of the criteria set forth in the Code is to only have kennels operate in proper areas that are not too close to residential developments. Shaffer also expressed concerns about the noise caused by dogs barking and manure polluting a nearby stream. These concerns could not be addressed by the Zoning Hearing Board because they are speculated due to the fact that the kennel has not yet been constructed. Shaffer also inquired why the Zoning Officer had not returned Riehl's application as incomplete because it did not contain a narrative. No response to this question. Ron Hepner stated that under the Comprehensive Plan Supervisors cannot restrict uses by spot zoning within a district. **(b)** Jacki Flanagan stated that she did not believe the ZHB Solicitor had forwarded information she set forth in a correspondence to the Board for their consideration. Attorney Howland clarified the role of the ZHB Solicitor as advising the Board of the law but remaining impartial so as not to influence their decision and also advised that the only way this information could have been considered would be if Ms. Flanagan had testified at the ZHB meeting. In response to Ms. Flanagan's inquiry, Supervisors advised that under areas zoned as agricultural many commercial uses are allowed under the Code. **(c)** Attorney Howland advised that the appellate Court would not change the findings of fact of the Zoning Hearing Board unless the findings are deemed to not be correct under the law. The Court of Common Pleas would have the discretion to consider additional evidence. With respect to Shaffer's assertion that the Zoning Hearing Board attorney provided the wrong parameters for the Board to make its decision, Attorney Howland will look at this to see if they missed something that could warrant filing an appeal. **(d)** Tom Shaffer inquired who will be responsible for enforcing the restrictions set forth the Special Exception Decision. The Township would inspect the kennel. If the provisions are not met, legal action could be pursued to revoke the Special Exception and no longer allow the operation to continue to function within the Township. **(e)** John Orr pointed out that the Board of Supervisors has passed one of the most restrictive ordinances with respect to kennels in the State. Orr also stated that a substantial amount of money has already been spent with respect to this matter and that many roads in the Township are in need of repair. John Orr made a motion that the Board would not appeal the Zoning Hearing Board's Decision regarding the John Riehl Special Exception Application. Second by Ron

Hepner. Robert Stoner cast a “no” vote because he would like to review Attorney Howland’s research as to whether an appeal could be filed. With two Supervisors in favor, motion carried. (f) Jacki Flanagan stated her intent to pursue obtaining private funding to file an appeal on behalf of a community group.

5. Ron Hepner entered into the record that the date for opening the bids for proposed road projects would not take place on Friday, May 15th due to an advertising problem with the Upper Dauphin Sentinel. In order to comply with bidding requirements, the meeting for opening the bids will take place on Friday, May 22nd at 9:00 a.m.

6. Supervisors proceeded to discuss additional proposed road projects. Supervisors will contact Light-Heigel in order to obtain information regarding the Green Street project for review at the next meeting. Plans for Summers Road will also be reviewed at the May workshop meeting. Information and a formal quote will be obtained from Midland Asphalt with respect to work on Etzweiler Road. Manager Zimmerman will contact Midland Asphalt to request a quote for cracksealing services.

7. The Board discussed options for developing a wireless facilities management ordinance. Attorney Howland provided information on ordinances which have been adopted by other municipalities as well as the one being proposed by the Cohen Law Group. Following discussion, Supervisors decided to table this matter in order to gather more information that will be discussed at the May workshop meeting. Ron Hepner will discuss this matter with other municipalities at the Upper Dauphin COG meeting.

New Business

1. Robert Coleman, a member of the road crew, tendered his resignation. John Orr made a motion to accept Robert Coleman’s letter of resignation. Robert Stoner seconded the motion. All in favor, motion carried.

2. Attorney Howland informed the Board the results of his research with respect to the Public Private Partnership. In Howland’s opinion, this would not apply to the Township’s plans to construct a new Township Office building. John Orr stated that the ability to have the contract under the control of one project manager/contractor would allow the project to be completed more quickly and save money in the process. Howland will talk with the Solicitor for the gentleman who proposed this idea to John Orr at the PSATS Conference in order to get a better understanding of how this arrangement would work.

Public Comments: None

With no further business to be discussed, Ron Hepner moved to adjourn. Second by John Orr. All in favor, meeting adjourned at 8:47 p.m.

Respectfully submitted,

Betty A. Warfel, Secretary