

**SPRINGETTSBURY TOWNSHIP  
REGULAR MEETING**

**JUNE 23, 2016  
APPROVED**

The Springettsbury Township Board of Supervisors held a Regular Meeting on Thursday, June 23, 2016 at 7:00 p.m. at the offices of Springettsbury Township located at 1501 Mt. Zion Road, York, PA.

**MEMBERS IN**

**ATTENDANCE:** Mark Swomley, Chairman  
Blanda Nace  
Kathleen Phan

**MEMBERS NOT**

**IN ATTENDANCE:** George Dvoryak  
Bill Schenck

**ALSO IN**

**ATTENDANCE:** Charles Rausch, Solicitor  
John Luciani, Civil Engineer  
Jeff Culton, Environmental Engineer  
Mark Hodgkinson, Director of Wastewater Treatment  
Barbara Lindeman, Director of Finance  
Dan Stump, Chief, Police Department  
Jean Abreght, Stenographer

**1. CALL TO ORDER:**

A. Opening Ceremony

**SWOMLEY** Chairman Swomley called the meeting to order and led the Pledge of Allegiance.

**2. ANNOUNCEMENT OF EXECUTIVE SESSIONS**

A. May 26, 2016 – 9:20 p.m. – Personnel and Eshbach/Laird Litigation

**SWOMLEY** Chairman Swomley announced that an Executive Session had been held on May 26, 2016 to discuss personnel and a legal issue.

**3. COMMUNICATION FROM CITIZENS**

**Keystone/Wallingford Development**

**BREACH** John Breach, 3714 Bedfordshire Drive questioned the status of the Wallingford Development. He cited road conditions, ponds, sidewalks, curbs, leaning light poles and safety issues. He stated that it had been two years since the last home

was built. He and the neighbors asked what they can do to get the development finished.

**PHAN** Ms. Phan responded that normally in these situations the developer is contacted to determine the status, which is done to assist the resident. She asked Mr. Luciani to investigate the situation as he has done for others.

**LUCIANI** Mr. Luciani reported that they met with the developers last year and developed a punch list with all the deficiencies. Some of the work was completed to finalize the storm water ponds. The walking trails are a condition of the plan. Some structural repairs are needed on Eastern Boulevard. Their bonding was increased by about 10%; however, the developer must complete the work and not the township. The roadways will not be accepted in substandard condition.

**BREACH** Mr. Breach stated that his daughter lives in another development Keystone built, and the entire development was completed. He understood that, for some reason, they don't want to complete Wallingford. Mr. Breach did not understand why the township had no authority to make the contractor finish his job.

**FORRY** Jeff Forry, 3910 East Sloway Circle, also spoke with regard to Wallingford. He is a registered engineer with the state and can see millions of dollars of repair work that needs done with topcoat, concrete work, etc. He questioned the amount of the bond and whether it would cover the work to be done.

**LUCIANI** Mr. Luciani responded that a professional engineer, hired by the developer, itemizes a list and uses current values. He could not guarantee the amount can do all the work because, in some cases, it takes 10 years to complete. Blacktop prices are getting higher. He reiterated that the township would not accept substandard conditions. At this point Mr. Luciani stated he will contact them, but the members of the Homeowner's Association also need to put pressure on them.

**PHAN** Ms. Phan indicated the board understands how frustrating this is. They will review the bond, reach out to the developer and determine the status of the punch list. The township does not want to take the bond money.

**RAUSCH** Solicitor Rausch stated that from a legal standpoint when enough is enough is usually when the developer goes bankrupt, skips town and they can't be found. From the township's standpoint that means that there's no hope that the project will be finished, then the bond is pulled and the surety is notified of a default. The surety has the option of doing the work or if they determine the cost to do

that work is more than the value of the bond, they'll give the township the cash and the township does the work. Once the township is involved it becomes public money and the work must be done under prevailing wage.

**SWOMLEY** Chairman Swomley noted that in the interest of time he asked the residents to provide contact information so that follow up can be done.

**Pleasantrees Development**

**ARSENBERGER** Daun Arsenberger, 1274 Winterberry Drive and

**BAKER** Chris Baker, 1213 Winterberry Drive came before the board with a similar situation in that the street in their development wasn't completed and the walking trail to the park maintained.

**LUCIANI** Mr. Luciani responded that it was an unusual situation. The township does not like to take those parks when they are not part of the Springettsbury park system. In the case of Pleasantrees, it was a litigated plan, and they are obligated to complete the basin and build some little foot bridges there, which is not done. With regard to the roads, there are probably a dozen to 15 lots that are not built yet. It is a phased development, and Don Patten has been given a punch list as well. Bonding money is available. One of the things that developed slowly was the street lighting, but that was completed. Residents will see areas that were spray painted as deficient. He suggested that the residents talk to Mr. Patten, the developer. Township representatives can talk to him as well. Letters can be issued to all the developers.

**SWOMLEY** Chairman Swomley indicated that follow up with the developers will be done.

**Traffic Lights**

**STUHRE** Charles Stuhre, 3680 Trout Run Road noted that a lot of work is taking place on traffic lights on Mt. Zion Road. The previous lighting had both left turn lanes turning simultaneously, passing each other and not conflicting. It had been changed and now northbound turns left when southbound through traffic is stopped. Timing only allows about three cars to get through left turns on southbound Mt. Zion at a time. He requested the lights be restored to the previous directions. He also commented on the left turns on Whiteford Road are not synchronized.

**PHAN** Ms. Phan noted that they are new lights and they can be monitored and adjusted.

**4. ENGINEERING REPORTS**

A. Environmental Engineer – Buchart Horn, Inc.

**CULTON** Jeff Culton of Buchart-Horn stated that Dennis Crabill had provided his written report. He offered to respond to any questions. There were none.

B. Civil Engineer – First Capital Engineering, Inc.

**LUCIANI** Mr. Luciani had provided his written monthly report as well. He had several updates.

- The MS4 report submission is required by the end of June and will need Chairman Swomley’s signature.
- An engineer requested that FEMA re-evaluate the property at 1803 Mt. Rose Avenue, which is in the flood plain. There is a certification indicating that Springettsbury Township is aware and understands that they are challenging FEMA’s map and are not opposed to them doing so. The property is on the east side of Mill Creek between I-83 and Mill Creek. He will sign the certification as the Zoning Officer.

1) Presentation on Rezoning a Portion of Land at the Intersection of Mt. Zion Road and East Market Street from Neighborhood Commercial (NC) to Commercial Highway (CH) with the Town Center Overlay

**Rezoning – Mt. Rose and Market**

**LUCIANI** Mr. Luciani described the current status of rezoning the intersection of Mt. Zion and Market Street. He had presented the board with a zoning map with the base zone of Neighborhood Commercial. The Planning Commission had reviewed the rezoning matter during several meetings with the following recommendations:

- Designate all four corners Town Center Overlay, Neighborhood Commercial, thus creating a Gateway to the community.
- The Town Center Overlay would extend to the back of the residential properties on the northwest corner to York Container’s property line; on the southwest corner to include several commercial businesses, and includes Rite Aid up to Industrial Highway.
- Homes will remain Neighborhood Commercial. Springetts Manor driveway eastward to remain Neighborhood Commercial including across the street.
- Entire rest of parcel to become Commercial Highway including Springetts Commons apartment complex.
- Mixed Use to remain to allow potential for 200 plus apartments to be built on the corner.

**LUCIANI** Mr. Luciani indicated he had been advised that the matter was to have been on the York County Planning Commission's June Agenda. However, he did not think it had been discussed. This new rezoning recommendation must be submitted to the York County Planning Commission.

**RAUSCH** Solicitor Rausch stated that there is a 30-day requirement for the recommendation to go before the YCPC prior to a Public Hearing.

**LUCIANI** Mr. Luciani asked if there were any questions on the recommendation.

**NACE** Mr. Nace asked for a clarification on the R1 finger sticking out that he assumed was the driveway.

**LUCIANI** Mr. Luciani responded that it is a driveway.

**NACE** Mr. Nace commented that it would make sense to designate that Commercial Highway as well since it is an existing entrance off Market Street. He thought it would be better not to create a parcel with split zoning on it.

**PHAN** Ms. Phan indicated that she had made the same comment in the previous review. She was concerned that the property owners may not be able to make changes with the driveway if it is rezoned.

**NACE** Mr. Nace noted that it is on a line between Neighborhood Commercial and Commercial Highway. He recommended that it be made consistent.

**LUCIANI** Mr. Luciani responded that it was what the Planning Commission recommended. However, this can always be modified once the Public Hearing is held.

**PHAN** Ms. Phan commented that she did not want to have a resident complain because they can't do something to their property because it was rezoned.

**SWOMLEY** Chairman Swomley responded that there will always be complaints about zoning.

**Consensus to move the line for consistent zoning with the parent tract. The access parcel should be consistent with the parent tract.**

**MR. NACE MOVED TO ADVERTISE FOR THE PUBLIC HEARING ON REZONING TO OCCUR AT 6 P.M. PRIOR TO THE JULY 28<sup>TH</sup> MEETING. MOTION UNANIMOUSLY CARRIED.**

**5. CONSENT AGENDA**

- A. Acknowledge Receipt of April 19, 2016 York Area United Fire and Rescue Commission Meeting minutes.
- B. Acknowledge Receipt of May 31, 2016 Treasurer's Report
- C. Board of Supervisors Meeting Minutes – May 26, 2016
- D. Regular Payables as Detailed in Payable Listing of June 23, 2016
- E. Authorization to Approve Tax Refund Request for Tax Years 2011-2016 – Mark & Carole Plowman (Parcel #46-37-202) in the total amount of \$197.53
- F. SD-06-01 – Time Extension – Bensinger – Plan Expires 6/24/16 (New Plan Date 9/2/16)

**MS. PHAN MOVED TO APPROVE CONSENT AGENDA ITEMS A THROUGH F. MOTION UNANIMOUSLY CARRIED.**

**6. BIDS, PROPOSALS, CONTRACTS, AND AGREEMENTS**

- A. Authorization to Purchase 2017 International 7500 4x2 Heavy Truck Chassis through Tri-County Motor Sales in an amount not to exceed \$97,000 (PA COSTARS)

**MR. NACE MOVED TO APPROVE THE PURCHASE OF THE 2017 INTERNATIONAL HEAVY TRUCK CHASSIS THROUGH COSTARS. MOTION UNANIMOUSLY CARRIED.**

- B. Authorization to Purchase Truck Dump Body and Snow Removal Equipment for Chassis through U.S. Municipal Supply in an amount not to exceed \$76,000 (PA COSTARS)

**MR. NACE MOVED TO AUTHORIZE THE PURCHASE OF THE TRUCK DUMP BODY. MOTION UNANIMOUSLY CARRIED.**

- C. Authorization to Enter into Agreement with Benchmark Energy Solutions, Inc.

**MR. NACE MOVED TO AUTHORIZE TO ENTER INTO AGREEMENT WITH BENCHMARK. MOTION UNANIMOUSLY CARRIED.**

**7. SUBDIVISIONS AND LAND DEVELOPMENT**

A. Misericordia Nursing and Rehabilitation Center – Preliminary/Final Plan Zoning Confirmation

**LUCIANI** Mr. Luciani introduced Craig Smith of RGS Associates, who is doing the planning for Misericordia.

**SMITH** Craig Smith, RGS spoke before the board with regard to the Town Center Overlay as it related to the Misericordia property. He asked for clarification on the zoning prior to discussing action on the plan. He had been communicating with Solicitor Rausch regarding this item. He had submitted a letter to the board dated June 15, 2016.

**RAUSCH** Solicitor Rausch provided information concerning the project, which required the board’s knowledge and direction. The plan provided for a building expansion essentially for a common area with activity spaces, common living with semi-private rooms and additional parking spaces. The plan was approved by staff and Planning Commission followed by the realization that the parcel is located in the Town Center Overlay. The property does not front a major road so the streetscape requirement is irrelevant. He noted that Mr. Luciani observed that even if it was to follow the Town Center Overlay requirements, there would not be anything different than what already is shown on the plan.

**NACE** Mr. Nace noted that the Town Center Overlay would be more applicable if Kmart were to be redeveloped to be cohesive with the Misericordia plan. He had no issues.

**RAUSCH** Solicitor Rausch commented that he preferred not to get into whether or not the Town Center Overlay applied. The applicant in good faith processed their application; the township processed it and approved it, and fundamentally there isn’t anything additional.

**SWOMLEY** Chairman Swomley did not want to put any further burden on the matter.

**RAUSCH** Solicitor Rausch agreed to proceed with the Land Development Approval as presented.

B. LD-16-01 – Misericordia, 998 South Russel Street – 6/30/16 (Action)

**SMITH** Mr. Smith stated the plan for building expansion. There are 50 skilled care beds and seven apartments for caretakers who live in the facility. The expansion is for

common area, activity spaces, common living with some semi-private rooms. The number of beds do not increase, only a shift in amenity spaces on the north side of the property. Eight parking spaces will be added to the south side of the property. Stormwater management is established on the north side of the property, conveyed by a channel to a box culvert that goes across Route 83. Public sewer and water connections are part of the project. He noted that all the comments had been addressed. Approval of the cost opinion for financial security is needed, along with an agreement for stormwater management and the recording of the plan. He requested approval of the plan.

**LUCIANI** Mr. Luciani noted that one outstanding comment is that bonding in the amount of \$55,678.70 shall be secured.

**MR. NACE MOVED TO APPROVE LAND DEVELOPMENT 16-07 FOR MISERICORDIA NURSING AND REHABILITATION CENTER AT 998 SOUTH RUSSELL STREET AS INDICATED ON THE LAND DEVELOPMENT PLAN SUMMARY WITH THE SIX WAIVERS AS RECOMMENDED BY THE PLANNING COMMISSION AND THREE ADMINISTRATIVE ISSUES THAT HAVE BEEN ADDRESSED, NUMBERS 2, 3, AND 4. MOTION UNANIMOUSLY CARRIED.**

C. LD-15-04 – First Post, 3691 East Market Street – 6/23/16 (Action)

**DELLER** Casey Deller, C. S. Davidson brought forward the First Post Land Development Plan. He noted that the plan involves additional parking for the facility from approximately 93 spaces up to 148. The location is in the grass area adjacent to the woods line. The plan provides for lighting of the entire parking lot, as well as all necessary stormwater management and related infrastructure. The Planning Commission reviewed the plan, along with rounds of comments with the engineer and staff meetings. Two waivers are requested; that of street lights and sidewalks along Davies Drive. The waivers request to stop the sidewalk and lighting at the end of the parking with a six month note to install at a later date if requested. Minor outstanding comments relate to seals and signatures on the plan, stormwater, O&M, posting financial security. He requested board approval.

**SWOMLEY** Chairman Swomley noted that the administrative issues still include the no left-turn sign and the painted right-turn only.

**DELLER** Mr. Deller responded that they are included on the plan per the Planning Commission's request to refresh the right-turn only arrow and install no left-turn

signage. Their concern was cars exiting there have a very difficult time turning left with oncoming traffic coming from the east moving at a high rate of speed.

**NACE** Mr. Nace indicated he did not have any other questions. He stated he really appreciated their patience, flexibility and perseverance as it had taken a long time.

**MR. NACE MOVED TO APPROVE LAND DEVELOPMENT PLAN 15-04 FOR THE FIRST POST AT 3691 EAST MARKET STREET WITH THE 7 INDICATED WAIVERS AS RECOMMENDED BY THE PLANNING COMMISSION AND THE SIX OUTSTANDING ADMINISTRATIVE ISSUES. MOTION UNANIMOUSLY CARRIED.**

**8. COMMUNICATION FROM SUPERVISORS**

**PHAN** Ms. Phan received an email from Charles Hoffman of 3385 Kingston Road, who requested a speed bump on Kingston Road by Penn Oaks Park entrance south. The entrance is used by many youth, and the road has many speeders. He is concerned that someone will be seriously injured. Ms. Phan had forwarded the email to the board, as well as to Police Chief Dan Stump, who will begin a traffic study. After that procedures will be followed.

**NACE** Mr. Nace had received a complaint regarding traffic at Finley and Second; Finley and Fifth and Sundale and Cambridge. He had spoken with Chief Stump prior to the meeting, and some traffic studies will be done.

**SWOMLEY** Chairman Swomley commented that the area of Finley, Second, Eastern Boulevard had been discussed several years ago.

**LUCIANI** Mr. Luciani stated that as a speed hump use is evaluated, a temporary speed hump could be used for a trial. There had been instances where speed humps were installed and then needed to be removed, which was very costly.

**PHAN** Ms. Phan noted that she had occasion to drive Eastern Boulevard around the turnabout. She noted that left-turn people are making the turn in front of it instead of going around.

**LUCIANI** Mr. Luciani stated they are supposed to follow it all the way around.

**SWOMLEY** Chairman Swomley asked Chief Stump if he had a list of all the study areas.

- STUMP** Chief Stump indicated they would begin with those three. He added that good weather affects the studies.
- NACE** Mr. Nace noted that within communication from Supervisors, he had been assigned liaison for Community Development. They had been interviewing staff and are prepared to hire some additional staff in Community Development in order to get that back up to a better complement of individuals. This will help with Inspections, Plan Reviews and Communication with developers and reduce engineering fees.
- SWOMLEY** Chairman Swomley stated he had the opportunity sit in on one of the interviews, and in addition, he knew one of the individuals who applied for one of the positions. He stated for the record that Mr. Nace had done an outstanding job at pulling everything together.
- PHAN** Ms. Phan stated that the new Parks and Recreation Director, Colin Lacey, has been doing an excellent job with our parks. He has some great ideas including possibly having dog days of August for pet owners to bring pets into the park. He's thinking outside the box and doing a great job with the summer parks program.
- NACE** Mr. Nace added that Sounds of Summer attendance has been really good. He encouraged the public to come out and enjoy some free music on Sundays and Wednesdays at the amphitheater.
- SWOMLEY** Chairman Swomley reported that a Manager search was underway through Colin Baenziger & Associates, which is a well-established and well-recognized search firm for municipal positions. They received approximately 40 applicants, which have been narrowed down to eight. They're doing full background checks at this point; internet checks, newspaper checks and all kinds of research, the result of which will be submitted to the board within the next several weeks.
- SWOMLEY** Chairman Swomley reported that he had some correspondence with Chief Stump concerning having a Shred It truck come to the township. Consolidated Paper near the prison has shredding capabilities and they provide free service to the residents.
- STUMP** Chief Stump responded that one of the police department requirements is that they need to see it being destroyed, and they had been great to work with that

requirement. The cost for what the Police Department destroys had a minimum at one place of \$200 up to \$1000.

**NACE** Mr. Nace added that the York County Economic Alliance does that as well. Occasionally they set Saturdays for Recycling Days and the response is amazing. There are donations to support causes.

**SWOMLEY** Chairman Swomley stated that it is a win/win because they shred all that paper, bundle it up and send it out. They make money on it to get it recycled to make other products.

**9. SOLICITOR'S REPORT**

A. Heartland Dental – Firehouse Shoppes

**RAUSCH** Solicitor Rausch brought forward a matter concerning Heartland Dental located in the new Firehouse Shoppes. Heartland is on the end unit that faces Market Street in the Town Center Overlay, which requires at least one entrance facing the major street. They are in the Town Center Overlay which requires at least one entrance doorway facing the major street, which would be Market Street. During the planning process the front door faced Market Street; however, during construction there had been some discussion to reconfigure inside with a request to move the front door over to front the parking lot. They were under the impression that it was okay. There are some email exchanges which were somewhat confusing as to whether it was okay. He did not think it was done deliberately or in bad faith. The door was switched, and where there would have been a door would lead into exam rooms. They received a temporary Occupancy Permit. It was approved under the Town Center Overlay as a conditional use. Solicitor Rausch and Mr. Luciani agreed that it should come before the board which has the authority to modify a conditional use and approve the doorway facing the parking area and indicate that the board is satisfied with that. The staff then can issue a permanent Occupancy Permit.

**SWOMLEY** Chairman Swomley added that there was enough ambiguity including the changes in Community Development Department. He thanked Mr. Nace for stepping in and making some needed improvements there.

**MS. PHAN MOVED TO MODIFY THE CONDITIONAL USE FOR AN ENTRANCE DOOR FACING THE PARKING AREA AND RECOMMENDS THE ISSUANCE OF A PERMANENT OCCUPANCY PERMIT. MOTION UNANIMOUSLY CARRIED.**

**B. Yake Travel Tax Appeal**

**RAUSCH** Solicitor Rausch reported that under the Business Privilege and Mercantile Tax state law the tax is calculated on gross receipts. Yake Travel would like to make their payment on what they call gross profit, not gross receipts.

**SWOMLEY** Chairman Swomley commented that might be because a lot of that is passed through to the travel firms so their profit is a small percentage.

**RAUSCH** Solicitor Rausch reported that Yake's accountant wrote a letter, which triggers an Appeal. Under the ordinance, the board appoints a Hearing Officer. However, in this case Solicitor Rausch was not sure what the Hearing Officer would do. Solicitor Rausch recommended that the board re-affirm that the Business Privilege Tax is based on gross receipts under the state law and not make any adjustments.

**NACE** Mr. Nace stated that there are six municipalities in York County that collect Mercantile Business Privilege Tax. The subject has received a lot of attention in the Advocacy Department where Mr. Nace is employed. Some of the municipalities had elected to hire an Auditor who suggested, based on current case law, that there are new rules and regulations that can be applied to the actual Ordinance. They are not changing Ordinances; rather updating the rules and regulations making more things taxable. Some municipalities are doing a three year backwards audit on payers and collecting, in some cases, hundreds of thousands of dollars. Those businesses have reached out to YCEDC for assistance in how to deal with it. Some of the problems involve gross receipts from contracts, and a state contractor is not permitted to mark up. Bottom line is that he is losing money in some cases. There are no provisions whatsoever for gross or net profits. There is a Pennsylvania Association of Mercantile and Business Privilege Tax Collectors. They have an Annual Meeting in the fall, which Mr. Nace advised he will attend.

**RAUSCH** Solicitor Rausch indicated he was not sure whether there will be an Appeal as he had not seen anything official. The owner had contacted him with regard to appointing a Hearing Officer from Philadelphia. Solicitor Rausch did not believe it will require hiring special tax counsel. They are simply asking for relief, and from a personal level that may be justifiable, but from a legal standpoint he did not think so. Solicitor Rausch requested a consensus from the board that he work with the Yake ownership on the matter.

**Consensus to delegate Solicitor Rausch to work with Yake ownership on this appeal and determine whether or not there is a need to enlist a Hearing Officer.**

**10. MANAGER'S REPORT**

**STUMP** Police Chief Dan Stump noted that National Night Out will be held August 2<sup>nd</sup> from 5 to 8 p.m. at St. Joe's Elementary School. He stated there will be a lot of entertainment for kids and something for adults, different organizations, safety and health items. He encouraged everyone to come out. Everything including refreshments is free.

**11. ORDINANCES AND RESOLUTIONS**

A. Resolution No. 2016-40 – East York Interceptor Planning Module

**MS. PHAN MOVED TO APPROVE RESOLUTION NO. 2016-40 FOR THE EAST YORK INTERCEPTOR PLANNING MODULE. MOTION UNANIMOUSLY CARRIED.**

**12. OLD BUSINESS**

There was no Old Business.

**13. NEW BUSINESS**

A. Appointment of Representatives to Serve on the Township's Negotiating Committee for Collective Bargaining between Springgettsbury Township and the Springgettsbury Township Police Officer's Association (Current Contract Expires December 31, 2016)

**MR. NACE MOVED TO APPOINT REPRESENTATIVES TO SERVE ON THE TOWNSHIP'S NEGOTIATING COMMITTEE FOR COLLECTIVE BARGAINING AGREEMENT CONSISTING OF THE HUMAN RESOURCES DIRECTOR, NITZA SANCHEZ-BOWSER, FINANCE DIRECTOR BARBARA LINDEMAN, CHAIRMAN OF THE BOARD MARK SWOMLEY AND ATTORNEY PATRICK HARVEY. MOTION UNANIMOUSLY CARRIED.**

**14. ADJOURNMENT**

**SWOMLEY** Chairman Swomley adjourned the meeting at 8:40 p.m.

**SPRINGETTSBURY TOWNSHIP  
REGULAR MEETING**

**JUNE 23, 2016  
APPROVED**

Respectfully submitted,

Doreen K. Bowders  
Secretary

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