

**TOWNSHIP OF DERRY**  
**BOARD OF SUPERVISORS MEETING MINUTES**  
**NOVEMBER 26, 2019**

**CALL TO ORDER**

Chairwoman Cort called the November 26, 2019 Regular Meeting of the Township of Derry Board of Supervisors to order at 7:30 pm in the meeting room of the Township of Derry Municipal Complex, 600 Clearwater Road, Hershey, PA. She advised that all public meetings are recorded for providing accurate notes. She noted there was a public hearing held earlier this evening. After the pledge of Allegiance, a roll call was conducted.

**IN ATTENDANCE:**

**SUPERVISORS**

Susan M. Cort, Chairwoman  
Justin C. Engle, Vice Chairman  
Richard D. Zmuda, Secretary  
Marc A. Moyer  
Matthew Weir

**ALSO PRESENT:**

Christopher Christman, Township Manager  
Jon A. Yost, Township Solicitor  
Chuck Emerick, Director of Community Development  
Chief Garth Warner, Derry Township Police  
David Sassaman, Hershey Volunteer Fire Department  
Thomas Clark, Director of Public Works  
Matthew Mandia, Director of Parks and Recreation  
Cheryl Lontz, Manager of Payroll and Employee Benefits  
Matt Bonanno, HRG Engineer  
David Habig, Assistant Director of Community Development  
Lauren Zumbrun, Economic Development Manager  
Julie Echterling, Recorder

**Public in Attendance:**

Robert Naeye, Linda Eyer, Marty Stabley, Steve Smith, Dennis Trout, Steve Seidl, Marilyn Ferguson, Michael Ferguson, Steve Fotos, Tracy Brown, Chuck Hess, Bill Tafuto, Don Santostefano, Jan Weir, Bryan Wehler, Doug Nicotera, Pamela Bowser, Holly Evans, Steve Marroni, Dave Gassert, Tom Stang, Rich Gamble, Wayne Rivers, Cindy Eckels, Heather Eckels, Randy Eckels, Dan Jameson, Sue Myers, Cliff Myers, Carter Wycoff, Kevin Ferguson, Dennis Burd, and Kim O'Connell.

**VISITOR/PUBLIC COMMENTS:**

Mr. Rich Gamble, Hockersville Road, asked why things were excluded with the original bids including the splash pad. He stated we need a new Recreation Center not Taj Mahal. He asked where the swim team's money is to help pay for the Center. He believes the Township should have the checks in hand before voting on the Center.

Mrs. Sue Myers sent a letter to the Board about the President Trump rally to be held in Hershey. She spoke about the \$20,000 in costs to the Township already and believes they should pay for the costs to the Township. Chairwoman Cort stated they just found out about the December rally and noted the Township is responsible for protecting guests and residents and has been for years. The Board will be evaluating this situation.

Mr. Jonathan Crist, 226 West Chocolate, stated he has attended three Londonderry Planning meetings about the proposed warehouses and noted one will be 1.2 million square feet. He spoke about the truck traffic that will need to access Middletown Road. He spoke about the second meeting with Londonderry Township for the second plan which will be half commercial and half residential for the 272 acres. He attended the DTMA meeting and let them know about the potential traffic issue.

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Mr. Steve Seidl, West Granada, asked about the assessment done on the trails. Mr. Mandia spoke about the audit. Public Works is working on signs. They are identifying issues and hope to have a report to the Board before the end of the year.

**ADOPTION OF MINUTES:**

Chairwoman Cort made a motion to adopt the November 6, 2019 Board of Supervisors Budget Meeting Minutes, November 12, 2019 Board of Supervisors Public Hearing 6:00 p.m., November 12, 2019 Board of Supervisors Public Hearing 6:10 p.m., November 12, 2019 Board of Supervisors Public Hearing 6:30 p.m., and November 12, 2019 Board of Supervisors Meeting Minutes. Supervisor Zmuda seconded the motion. **Motion carried 5-0.**

**NEW BUSINESS:**

**UPDATE ON THE DERRY TOWNSHIP COMMUNITY CENTER PROJECT:**

Mr. Christman stated the bids have been received and the results are under review. In the intervening weeks prior to the acceptance of the bids, the Township received notice from its Geotechnical Engineer, ARM group, on a revised analysis of foundation systems. The Board received a copy of the report.

Mr. Greg Koussis, Capital Management, stated they are evaluating the bids and hope to have a report to the Board soon for discussion for the December 3 meeting. He noted the base bids were \$25,617,660 which was \$2.3 million less than projected. He noted there are 11 alternatives that the Board must decide and if they chose them all it will add approximately \$900,000 to the project.

Mr. Dan Gassert, ARM Group, went over a presentation with the Board. He spoke about the firm, what they do, how they test and research the ground/soil. He spoke about what increases the risk of sinkholes. He spoke about the extensive water storage including plumbing and water systems for the Center. He noted that when choosing a foundation the safety, performance and costs must be considered. He explained each type of foundation available for this building, the advantages, disadvantages and the sinkhole risk levels. Below are the foundations he spoke about:

Foundation Type	Sinkhole resistance level	Relative Construction Costs
Shallow Spread Footings	Low	Lowest
Compaction Grouting-	Moderate	Moderate to High
Aggregate Piers	Low	Low
Drilled Peir (Caisson)-	Excellent	Highest
H-Pile	Good	High
Micropiles	Very Good	Moderate to High
Rigid Inclusions	Low to Moderate	Moderate

Supervisor Weir asked if ARM was going to recommend one of the foundations. Mr. Gassert noted that ARM has recommended micropiles for the foundation. They aren't saying another system won't work but referenced his presentation as to their recommendation. Chairwoman Cort noted that their recommendations haven't changed from the first design. Supervisor Moyer spoke about the addendum to the November 6 report which stated ARM, asking the most conservative approach, stated micro piling is the best foundation for this project. Mr. Gassert agreed and noted they didn't say the system chosen by the Township wouldn't work but is simply recommending a different foundation.

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Mr. Bill Tafuto, ARM, stated their recommendations haven't changed and noted sink hole activity is not predictable. He spoke about how things change once the ground is disturbed during construction. He spoke about what would happen if there was a sinkhole and how they can work. He spoke about the pumping system and plumbing that they factored into their recommendation. He spoke about previous sinkholes the Township has had in the past and how water can travel and cause issues. He noted they are not the engineers of the foundation system the Township chose. He noted their recommendations are based on the location with sinkholes versus design factors. He noted they don't want to be held liable for the foundation the Township chooses.

Vice Chairman Engle spoke about the foundations and weighing the options for the risk and costs for the Center. Mr. Tafuto mentioned creating a fund just in case, kind of a self-insurance. He spoke about an example of a water issue in Allentown and the issues it caused. Vice Chairman Engle asked if there was a leaking pipe that lead to a sinkhole, is it typical that insurance would pay for it. Mr. Tafuto stated based on his experience they will pay for the structural damage from a sinkhole but won't pay for the repair of the sinkhole.

Mr. Koussis spoke about the bids in the spring and the alternatives. He noted the aggregate piers was \$500,000 less in the spring bids. He stated they spoke about spending the money for the foundation now or use the money you are saving for, just in case of an issue. He noted whatever foundation system chosen, there is still a risk of sinkholes. He spoke about the risk factors versus cost analysis.

Supervisor Moyer asked if any of the professional engineers weighed in on the foundation system. Mr. Bogrette stated they were part of the meetings with ARM. They will be taking the information from ARM for the foundation design. Mr. Trump, Kimmel Bogrette, stated they are comfortable with the foundation based on the ARM report, engineer review and design team meetings. Supervisor Weir noted that there are a lot of buildings built in the Township built on this type of soil. Mr. Koussis noted it is the owner's decision. Vice Chairman Engle stated they have had a lot of engineering look at this and agreed it is an owner's decision. Mr. Santostefano, Chairman of the Planning Commission and part of the design team, spoke about his experience and background including \$600 million of construction. He looked at all the information and believes the foundation chosen by the Township is a good one. He spoke about the news article and the ARM report. He noted he has seen owners chose a foundation system that wasn't the recommendation from the engineers. He noted there are no guarantees with sink holes.

Supervisor Moyer doesn't believe this project should move forward and should be rebid with the micropiles foundation. He noted that ARM is very qualified to make a recommendation with their experience with this area. He spoke about the level of risk and noted their job is to reduce risk for the Township. He is concerned that by ignoring the recommendation of ARM that we are saying we know better than the geotechnical engineer. He spoke about a contingent fund in case there is an issue with the foundation. He asked where money would come from. He noted every dollar for this fund, is less to pay the debt, a need in the Township and/or maintenance of the Center. He noted that this project has required two tax increases. He asked the legal question if we ignore the foundation recommendation of ARM, are we holding ARM harmless. He thinks this project should be using the foundation system recommended by ARM and should rebid. Vice Chairman Engle thinks this should have been a discussion before the bids went out. Mr. Tafuto stated they made a recommendation and aren't saying other systems won't work. He noted the Township doesn't know what system they have as the

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contractor will use a professional engineer to design the system. He noted that the Township can't sue them if there is a sinkhole and it's in their terms and conditions. Based on their experience, when something happens, often everyone involved is sued. This has happened to them three times and they haven't been liable but spent the money to prove it. Discussion ensued.

**AUTHORIZATION TO ADVERTISE AN ORDINANCE :AMUSEMENT TAX:**

Supervisor Zmuda made a motion to authorize the advertisement of the proposed ordinance to amend chapter 189, Article IV- Amusement Tax consistent with the Pennsylvania Second Class Township Code Section 1601 (a) as amended. Supervisor Moyer seconded the motion. **Motion carried 5-0.**

**RESOLUTION #1600-2020 BOARD OF SUPERVISOR MEETINGS:**

Vice Chairman Engle made a motion to adopt Resolution No. 1600 establishing the Board of Supervisors' meeting dates for the year 2020. Supervisor Moyer seconded the motion. **Motion carried 5-0.**

**PLAN FOR GODDARD SCHOOL OF HERSHEY EXPANSION, PLAT 1318.:**

Mr. Emerick spoke about the lots associated with this plat. He stated Plat 1318 Lot 2, proposes to expand the lot and building of The Goddard School. It proposes a 6,081-square-foot expansion to the existing 8,655-square-foot building. A total of 54 vehicle parking spaces, including 3 handicapped-accessible spaces, are proposed. The applicant will also be providing facilities for 4 bicycles. He discussed the conditions and waivers of the plan.

Supervisor Zmuda made a motion to approve Preliminary/Final Lot Add-On and Land Development Plan for Goddard School of Hershey Expansion, Plat 1318, subject to compliance with the following items:

1. The applicant reimburses the Township for costs incurring in reviewing the plan no later than December 26, 2019.
2. A performance security is provided to guarantee the completion of required improvements, and the accompanying Agreement to Provide Financial Security is signed no later than May 26, 2020.
3. The plans are revised to show all lot lines on Sheet 10 no later than May 26, 2020.
4. The plans are revised to show all existing utilities (water lines) within 200 feet of the subject parcels, including Lot 2 and Lot R, no later than May 26, 2020.
5. The Existing Inlet (EX-3) detail on Sheet PCSM-2 is revised no later than May 26, 2020 to change the invert from MH-1 to 363.00' (not 366.00') to be consistent with the profile.
6. The executed legal agreement extinguishing a portion of the current "private street right-of-way" is provided no later than May 26, 2020.
7. The PADEP approval letter for the sewage facility planning module application mailer request for sewage planning exemption is provided no later than May 26, 2020.
8. A CD containing a digital file of the final plan in Auto CAD or DXF compatible format is provided no later than May 26, 2020.
9. Draft copies of the property deeds for the resulting Lot 2 and Lot R are provided no later than May 26, 2020. The deeds must include the following restrictive covenant language: "UNDER AND SUBJECT TO the Operation and Maintenance Agreement dated \_\_\_\_\_, recorded in the Office of the Recorder of Deeds of Dauphin County, Pennsylvania, at Instrument No. \_\_\_\_\_, regulating the BMPs associated with the development project."

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10. The Stormwater Best Management Practices Operation and Maintenance Agreement is recorded concurrently with the plan.
11. The legal agreement extinguishing a portion of the current “private street right-of-way” is recorded concurrently with the plan.

It is also moved that the requested waivers, outlined below, from the Subdivision and Land Development Ordinance are granted:

1. From Sections 185-12.D.(2) and 185-13.E.(3) regarding showing the property at a minimum scale of 1” = 50’.
2. From Sections 185-12.D.(3).(a).[21] and 185-13.E.(4).(a).[19] regarding providing storm sewer profiles at a minimum horizontal scale of 1” = 50’ and a minimum vertical scale of 1” = 5’.
3. From Sections 185-12.D.(3).(a).[22] and 185-13.E.(4).(a).[20] regarding providing sanitary sewer profiles at a minimum horizontal scale of 1” = 50’ and a minimum vertical scale of 1” = 5’.

Chairwoman Cort seconded the motion. **Motion carried 5-0.**

**FINAL SUBDIVISION PLAN FOR CRYSTAL A DRIVE, PLAT 1319:**

Mr. Emerick stated Plat 1319 is being processed to correct some errors in the metes and bounds and to revise the identification of corner monumentation to reflect what has been set in the field, as inspected by HRG. He discussed the waiver and condition for the plan. The Derry Township Planning Commission recommended this plan.

Chairwoman Cort made a motion to approve the Revised Final Subdivision Plan for Crystal A Drive, Plat 1319, is approved, subject to compliance that the applicant reimburses the Township for costs incurred in reviewing the plan no later than December 26, 2019. In addition, the requested is granted from Section 185-18 of the Subdivision and Land Development Ordinance regarding monuments and markers. Supervisor Weir seconded the motion. **Motion carried 5-0.**

**DECISION-CONDITIONAL USE APP # 2019-06 - 826 REESE AVENUE:**

Supervisor Zmuda made a motion to adopt Decision for Conditional Use Application No. 2019-06 with the following conditions:

1. The establishment of the Specialty Home shall be in substantial compliance with the information presented with the Conditional Use Application and during the November 12, 2019 Board of Supervisors public hearing.
2. If, in the future, the applicant proposes to increase the number of bedrooms in the dwelling beyond the existing three, they must apply for further approval from the Township.
3. The operation of the Specialty Home must at all times comply with the requirements of Sections 225-501.20.A through L of Chapter 225 (Zoning) of the Code of the Township of Derry.
4. Notwithstanding any lesser restriction required by the Township’s Property Maintenance Code, Chapter 143 of the Code of the Township of Derry, no more than 2 individuals (excluding children under the age of 3) may occupy any bedroom.
5. Any outdoor amenities or improvements to the Specialty Home such as decks, seating areas, horseshoe pits, patios, and the like must be at least 25 feet from any adjacent single-family dwelling.
6. The owner or operator must pay all State, County, and local hotel occupancy taxes that are applicable to the temporary lodging.
7. The owner or operator must register the unit and pay the fee for any rental inspection program operated by the Township.

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8. If the Derry Township Police Department receives excessive noise complaints regarding the use of the Specialty Home, upon receipt of the third complaint the owner or operator shall install and monitor a noise monitoring system such as Noiseaware™ or an equivalent device to monitor the noise levels in an attempt to circumvent complaints.
  9. The granting of approval of the Conditional Use request shall not relieve the applicant from filing and having the Township approve any permit, land development, subdivision, or site plan which may be required by other Township regulations or from otherwise complying with all applicable Township regulations.
  10. The granting of approval of this Conditional Use shall expire if a zoning permit, building permit, or certificate of use and occupancy is not obtained within 12 months from the date of the grant of approval of the Conditional Use.
  11. The Specialty Home shall meet all other requirements of the Township that may apply
- Vice Chairman Engle seconded the motion. **Motion carried 5-0.**

**DECISION-CONDITIONAL USE APP # 2019-07- 1446 EAST CHOCOLATE AVENUE:**

Chairwoman Cort made a motion to adopt Decision for Conditional Use Application No. 2019-07 with the following conditions:

1. The establishment of the Specialty Home shall be in substantial compliance with the information presented with the Conditional Use Application and during the November 12, 2019 Board of Supervisors public hearing.
2. If, in the future, the applicant proposes to increase the number of bedrooms in the dwelling beyond the existing three, they must apply for further approval from the Township.
3. The operation of the Specialty Home must at all times comply with the requirements of Sections 225-501.20.A through L of Chapter 225 (Zoning) of the Code of the Township of Derry.
4. Notwithstanding any lesser restriction required by the Township's Property Maintenance Code, Chapter 143 of the Code of the Township of Derry, no more than 2 individuals (excluding children under the age of 3) may occupy any bedroom.
5. Any outdoor amenities or improvements to the Specialty Home such as decks, seating areas, horseshoe pits, patios, and the like must be at least 25 feet from any adjacent single-family dwelling.
6. The owner or operator must pay all State, County, and local hotel occupancy taxes that are applicable to the temporary lodging.
7. The owner or operator must register the unit and pay the fee for any rental inspection program operated by the Township.
8. If the Derry Township Police Department receives excessive noise complaints regarding the use of the Specialty Home, upon receipt of the third complaint the owner or operator shall install and monitor a noise monitoring system such as Noiseaware™ or an equivalent device to monitor the noise levels in an attempt to circumvent complaints.
9. The granting of approval of the Conditional Use request shall not relieve the applicant from filing and having the Township approve any permit, land development, subdivision, or site plan which may be required by other Township regulations or from otherwise complying with all applicable Township regulations.
10. The granting of approval of this Conditional Use shall expire if a zoning permit, building permit, or certificate of use and occupancy is not obtained within 12 months from the date of the grant of approval of the Conditional Use.
11. The Specialty Home shall meet all other requirements of the Township that may apply.

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Vice Chairman Engle seconded the motion. **Motion carried 5-0.**

**SECURITY-S-2019-017-STORMWATER MGTPLAN-1166 SAND HILL ROAD:**

Supervisor Weir made a motion to accept cash financial security in the amount of \$12,903.00 and enters into the Agreement to Provide Financial Security between Kevin E. Walker and the Township for the Post Construction Stormwater Management Plan and Erosion and Sediment Pollution Control Site Plan for Kevin Walker, 1166 Sand Hill Road, S-2019-017. Vice Chairman Engle seconded the motion. **Motion carried 5-0.**

**PERFORMANCE SECURITY – PLAT #1295-TRU HOTEL:**

Chairwoman Cort made a motion to accept cash performance security in the amount of \$71,388.00 for Plat 1295 and authorizes the release of the remaining balance (\$71,388.00) of Bryn Mawr Trust Company Letter of Credit No. 1044. Supervisor Moyer seconded the motion. **Motion carried 5-0.**

**CORRESPONDENCE BOARD/COMMITTEE INFORMATION:**

Supervisor Zmuda spoke about the transportation meeting. They are working with HRG on a letter to the County and PennDOT. The traffic study stopped at Middletown Rd in Derry Township and they're asking for the study to be expanded. Supervisor Weir spoke about the November 14th storm water meeting in DTMA in south Londonderry Township.

**REPORTS:**

<u>Fire:</u>	Mr. Sassaman spoke about the Thanksgiving dinner being held at the Fire Company on Thanksgiving from 11-2.
<u>Community Development</u>	Mr. Emerick introduced David Habig as the department's new assistant. He is finishing up his internship.
<u>Economic Development</u>	Mrs. Zumbrun spoke about the Christmas event downtown and the need for volunteers.

**ACCOUNTS PAYABLE and PAYROLL:**

Chairwoman Cort made a motion to approve accounts payable in the amount of \$505,288.52 and Payroll totaling \$315,947.80. Supervisor Zmuda seconded the motion. **Motion carried 5-0.**

**VISITOR/PUBLIC COMMENTS:**

Mr. Tom Stang, Almond Drive, learned a lot tonight. He is surprised the micro piling wasn't an option in the 11 alternatives sent out with the bids. He asked ARM if part of their reasoning for the foundation has to do with the pool water lines. Mr. Tafuto stated the underground piping and pumps were a factor in their recommendation.

Mr. Kevin Ferguson believes the Board made a good decision and asked why this was being presented tonight when it had already gone out to bid. He wants to see the project keep moving. He spoke about the outside features for the pool. He stated when the doors open, they will be grateful for all of this. Any further delays will hurt the community and increase costs. Mr. Koussis noted opening the outdoor pool early is an alternative with a cost of approximately \$19,000.

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Mr. Wayne Rivers, 815 Cyprus Court, said they haven't heard about public safety and asked what would happen if something went wrong with the foundation. He believes this discussion should have taken place before now. He spoke about the costs, soft costs, the \$2 million already spent, and the costs being over the \$33 million budget. He believes they should consider a different foundation.

Mrs. Linda Eyer, 2321 Raleigh Road, spoke about the partnership with the community Center. She asked about the business plan and the PFM suggestions. She feels like this is being rushed to get done before the end of the year.

Mr. Steve Seidl, 450 W Granada, stated he believes they should have their permits in hand before awarding the contract. There could be time delays by the contractor. As a professional engineer he wouldn't discount their judgment. He would have thought that the micro piling would have been included in the bids and considering \$500,000 on a \$25,000,000 bid seems to make sense. He said it's important to look at the structure.

Mr. Dennis Trout, Locust Lane, thanked the Board for their letter on Middletown Rd. His concern is about the costs associated with the pool. He spoke about the three pools and how they will increase the possibility for a sinkhole. He stated many are concerned and have written in and that's not shared with the public. He appreciates what they do but is concerned about the urgency in this plan.

Mr. Rich Gamble, Hockersville Rd, is concerned about safety. He asked what if a child was killed because of a sinkhole. It is a possibility; just glad it hasn't happened at the school. He thinks they should wait for the new Board. He stated safety and cost should be a concern and asked what's the big deal with delaying it.

Chairwoman Cort stated this project has been going on since 2014. There is a need to decide and safety is their main concern.

**ADJOURNMENT:**

Chairwoman Cort made a motion to adjourn the meeting at 10:08 pm. Supervisor Zmuda seconded the motion. **Motion carried 5-0.**

**SUBMITTED BY:**

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Richard D. Zmuda  
Township Secretary