

TOWNSHIP OF DERRY
BOARD OF SUPERVISORS SPECIAL MEETING MINUTES
FEBRUARY 6, 2020 5:30 P.M.

CALL TO ORDER

Chairwoman Nutt called the February 6, 2020 Special Meeting of the Township of Derry Board of Supervisors to order at 5:34 p.m. 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. A roll call was performed after the Pledge of Allegiance.

IN ATTENDANCE:

SUPERVISORS

Natalie L. Nutt, Chairwoman
Carter E. Wyckoff, Secretary
Susan M. Cort
Richard D. Zmuda

ALSO PRESENT:

Christopher Christman Township Manager
Jon A. Yost, Township Solicitor
Marie Sirkot, Administrative Assistant
Julie Echterling, Recorder

Public in Attendance:

Linda Eyer, Dwayne Eyer, Mary Ann Kilpatrick, Marilyn Ferguson, Jonathan Crist, Robert Naeye, Dan Clough, John Foley, Allie Weller, Gwendolyn Weller, Skip Becker, Chris Abruzzo, Andrea Abruzzo, Vicky Feinstein, Jane Celurso, R WyM, Kathy Sicher, George O'Hara, Steve Marroni, Amy Backenstose, Kim Mione, Lou Mione, Ronald Furby, David Sassaman, Chris & Matt Luttrell, Beth Shaw, Jason Pedersen, Ken Scardino, Dale Holt, Joyce P, Missy Whitmore Tarkenton, Kelly Ferlel, Marlene Kanel, Christine Drexler, Jenny Stabler, Rich Gamble, Tracy Brown, Tony & Leah Prigitore, Beverly Swaggart, Chip & Angie Dye, Wayne Rivers, Paul Guarino, Lindsay Drew, Doug Nicotera, Ed Leppold, S Cappelli, J Shelly, Pamela Ruddle, Steve Seidl, Joshua Kertstensen, Kevin Ferguson, Michelle Yin, Bong-Hee You Yin, J Garner, Ella Patterson, Kathleen Ryland, Michael Guntrum, Dave Weaver, R G, Jordan Yeagley, Ashley Zyatz, Chuck and Linda Crandell, Robert O'Donnell, A Flynn, S J, Carol Nye, Louis Shaw III, Beth Campbell Hetrick, Mary Beth Backenstose, Dan Serfass, Katrina Briddell, Geoffrey Crout, Bob Barker.

INTRODUCTION:

Chairwoman Nutt stated the purpose of this Special Meeting is to select and appoint a new Township Supervisor to fill the unexpired term of Marc A. Moyer, which terminates on December 31, 2021. Mr. Moyer tendered his resignation to the Township Manager on Friday, January 17, 2020. That set into motion a process for this Board to select his replacement. As per Section 407 (b)(1) of the Second-Class Township Code, the Board of Supervisors accepted Mr. Moyer's resignation at its regularly scheduled meeting on Tuesday, January 28, 2020. As per the Second-Class Township Code, Section 407, the Board of Supervisors has 30 days from the date of accepting the resignation with which to fill the vacancy. The end of this 30-day period is Thursday, February 27, 2020. If the Board of Supervisors has not filled the vacancy by that date, the Township shall advertise another public meeting to be convened to activate the Vacancy Board, as per Section 407(c) of the Second-Class Township Code, to fill the vacancy. The Vacancy Board must meet to appoint a candidate within 15 days of the end of the initial 30-day period. The 15th day for the Vacancy Board is Friday, March 13, 2020. If at that time, the Vacancy Board does not select a candidate to fill the vacancy, the members of the Vacancy Board shall petition the Dauphin County Court of Common Pleas to fill the vacancy, as per the Second-Class Township Code, Section 407(d). The vacancy was duly advertised and posted on the Township website for 15 days. The Township received letters of interest and resumes from prospective candidates through Monday, February 03, 2020. She stated they received notice today that Mr. Justin Engle has withdrawn his application for Supervisor. There are seven candidates interested in

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filling out the remainder of Mr. Moyer's term. She thanked all the candidates for their interest in serving our community.

She discussed the following process for the meeting:

- In alphabetical order, each candidate will have three minutes or less to outline why they are seeking this position and what qualifications they are bringing to the Township. After each candidate has made their opening comments, the Board members will have an opportunity to ask questions, if they so choose. This process will continue for each candidate.
- Following the conclusion of opening remarks and questions, the floor will be open to put candidates into nomination.
- Each candidate that is put into nomination will be handled as a separate action item. Members will need to place candidates in nomination with a Motion and a Second. Once candidates are in nomination, the Township Manager will call a Roll Call vote on the candidate in nomination.
- If a candidate receives a majority of the votes (3 or more), that individual shall be appointed to the position of Township Supervisor and the nominations will be closed. Once a Supervisor is selected, a notary public is available to administer the oath of office should the candidate wish to be sworn-in immediately. At this point, the Chair will accept motions to adjourn the meeting.
- If, after several rounds of voting, and no candidate receives a majority of the votes, the Chair will declare the Board at an impasse and nominations will be closed. The Board will adjourn until such time that another meeting can be advertised for the Vacancy Board to convene, as per Section 407(c) of the Second-Class Township Code.

VISTOR/PUBLIC COMMENTS:

Mr. Rich Gamble, Hockersville Road, hopes there will be leadership shown tonight. He asked the Board to please work together as it is not them versus us. He is concerned about what he has seen in the paper. He asked them to do what is right for the Township and become united.

Mr. Jon Crist, 226 West Chocolate, provided handouts to the Board. He stated his issue with the candidates is not protecting neighboring property owners in regard to zoning. He noted John Foley, Chris Abruzzo, Joyce St. John and Ronald Furlan have not cared about property owners with their voting records. He spoke about three on their respective Boards in April, 2013 when Chipotle was built. Dauphin County Planning Commission recommended the plan be turned down because of increased traffic, neighbors and size. He spoke about the damage that was caused by the construction. He noted Foley, Abruzzo and Kelly Fedelli changed the zoning so that the Chipotle could be built. He quoted the definition of zoning versus using it for economic development. He noted Mr. Abruzzo is the Chairman of Dauphin County Planning Commission. He reached his three-minute time limit.

Mr. Wayne Rivers, 815 Cypress Court, noted that many residents voted for former Supervisor Moyer and that he was very involved with the candidates. He thought the Board was going to work together after the election and do the best for the Township. He asked the Board to think of those who voted for Mr. Moyer and pick someone of the same cloth. He is tired of hearing about the Recreation Center and feels it's time to decide and move on.

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Mr. Kevin Ferguson, Carlisle Road, disagrees that the next Supervisor should reflect Mr. Moyer. The seat is the people's seat. He noted we don't know how Mr. Moyer would have voted. He had no plan for the Recreation Center, just that he didn't like the cost for the project.

Mrs. Lindsay Drew, 73 Carousel Circle, spoke about the oath the Supervisors swore when they took office. She noted this isn't the first time she has asked for more transparency from this Board and compliance with the Sunshine Law. She sent an email after the last meeting quoting the Sunshine Act and concerns she had about actions taken. She spoke about the lawsuit filed this week dealing with the Sunshine Act. She said the choosing of a Supervisor candidate should be an easy one with choosing the most qualified candidate after interviewing them. She said it appears it won't be easy and spoke about recent comments, campaign contributions, and personal agendas. She heard one Supervisor discouraged someone who wanted to apply because the replacement had already been chosen. If this is true, she asked how the residents could trust the Board. She asked them to do the right thing and act with integrity.

Mrs. Linda Eyer, 2321 Raleigh Road, stated that over the past 16-18 months there hasn't been a bottom line of the true cost of the Recreation Center. She noted as an accountant, she has a problem with this fact. She hopes when they consider a candidate, they will choose someone with transparency who will help with the true costs of the Center.

Mr. Dennis Burd, 651 Pheasant Road, spoke about his concerns with the lack of growth and how the Township needs new sources of revenue. He spoke about losing residents to the West Shore and Lancaster. He has lived in the Township since 1968 and spoke about the things he helped develop on Middletown Road. He hopes the Board and future Supervisors have an open mind.

Mr. Steve Seidl, 450 West Granada, suggested the Supervisors have a great opportunity ahead of them. He asked them to listen to the candidates and what they have done and not done and what are their agendas. He spoke about the issues for the Township. He hopes they can come together as a Board to pick a candidate that can work with all four Supervisors. He noted it would be better that they chose a candidate instead of the court.

NEW BUSINESS

Selection and Appointment of a Township Supervisor to Fill the Unexpired Term of Marc A. Moyer:
Chairman Nutt noted that each candidate would have an opportunity to speak and then the Supervisors will ask questions.

E. Christopher Abruzzo, Esq.

Mr. Abruzzo has lived in the Township for 21 years. He was elected to the Board of Supervisors in 2007 and served his six-year term including as Chairman of the Board. He served on the Municipal Authority Board, Parks & Recreation Advisory Committee, Industrial and Commercial Development Authority (ICDA) and as the liaison for the Police and Fire Departments. He noted he is fiscally conservative and spoke about the role of a Supervisor as a policy and decision maker. He spoke about accomplishments of the Board while he served including flooding/storms, budgets, negotiations with the Police and working with the long-term debt. He believes he can be an asset to this Board and help unite the Board. He is the Chairman of the ICDA and Dauphin County Planning Commission. He volunteers with the Mohler Center

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Board and the Hershey Food Bank. He would resign from the Mohler Center if it is a conflict. He offers his services to the Community and this Board.

Supervisor Zmuda said he has one major issue with Mr. Abruzzo with his vocal and financial support for the Nutt/Wyckoff campaign. He asked how he can be trusted to make unbiased decisions. Mr. Abruzzo spoke of his support of many of the candidates for Supervisor over the years including Supervisor Cort. He said who he has supported wouldn't interfere with his decision making.

Supervisor Zmuda asked what his position is on the contracted HCC (Hershey Community Center) and does he agree that the contractors should be immediately released before putting the Township in jeopardy of contract default and thus potentially costing the Township \$3 million in cancellation fees adding to the nearly \$8 million in soft costs for the project. Mr. Abruzzo stated he has seen different plans and believes they can agree on something without cancelling the contracts. He noted the stakeholders for this project are the residents and second are the swimmers and Mohler Center. He doesn't subscribe to a blank check mentality. He believes there is time to meet with the contractor and tell them we have paused so that no additional costs are incurred. He doesn't believe it is a good idea to rip up the plans and start over.

Supervisor Cort asked him, if he was appointed, what would be the first thing you would do and help get consensus on the Board with the Recreation Center. Mr. Abruzzo stated he would meet with each Supervisor and understand what is important to them. He stated through that process, come to some common ground and accept what is middle ground which could be done in a week. He believes they need to reach out to the contractor. He believes they need the HCC and should have a competitive pool and an area for the elderly.

Chairwoman Nutt asked what he felt was the primary responsibility of local government. Mr. Abruzzo stated it is Public Safety, Public Works and Parks and Recreation.

Supervisor Wyckoff asked him if he is sure he wants to be a Supervisor. Mr. Abruzzo said yes. He would like to help the Community and Board with the difficult issues in the Township.

Amy H. Backenstose, Esq

Mrs. Backenstose spoke about the things she loves about Hershey. She would bring prudence in spending and keeping everyone's best interest at issue at all times. She would want to keep the focus on the residents and not special groups. She would like to maintain safety, good schools and maintain green space in the Township. She would like to see Hershey continue to be as special as it has been over the years. She wished everyone luck tonight.

Supervisor Zmuda asked what her position is on the contracted HCC (Hershey Community Center) and does she agree that the contractors should be immediately released to avoid putting the Township in jeopardy of contract default and thus potentially costing the Township \$3 million in cancellation fees adding to the nearly \$8 million in soft costs for the project. Mrs. Backenstose stated she wouldn't want to see the Township pay a \$3 million penalty. She would like to meet with the people and the Board and see both sides. She would need to be brought up to speed on the project and would like to hear from the residents.

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Supervisor Cort asked her, if she was appointed, what would be the first thing you would do and help get consensus on the Board on the Rec Center. She would talk to the Board and people and see what they want.

Chairwoman Nutt asked what she felt was the primary responsibility of local government. Mrs. Backenstose stated the best interest of the taxpayers and residents and doing the best for our community.

Supervisor Wyckoff asked her what her motivation was. Mrs. Backenstose stated her motivation is her children.

H. Robert "Skip" Becker

Mr. Becker stated he spent the last year on the campaign trail for this position. He reached out to the residents and listened to them. He noted he isn't aligned with any party and wasn't endorsed by any political party when he ran. He stated he wouldn't be bringing any baggage to the Board. He is a community minded person. He spoke about his history running a bus company with being a manager and working with contracts, budgets and personnel. He stated he has the time, skill and desire to do the job and it would be his pleasure to serve in this way for his community.

Supervisor Zmuda asked what his position is on the contracted HCC (Hershey Community Center) and does he agree that the contractors should be immediately released to avoid putting the Township in jeopardy of contract default and thus potentially costing the Township \$3 million in cancellation fees adding to the nearly \$8 million in soft costs for the project. Mr. Becker noted he doesn't have access to the documentation and information this Board has, and he would need to look at them. He noted we aren't in a financial situation to throw everything out the door.

Supervisor Cort asked him, if he was appointed, what would be the first thing you would do and help get consensus on the Board on the Recreation Center. He believes they should meet with each Supervisor to get to know them and they get to know him. He said we need to work together by talking with each other.

Chairwoman Nutt asked what he felt was the primary responsibility of local government. He believes local government is responsible for the safety of their citizenship. There should be attention to infrastructure so residents can go about their business with ease. He also believes Parks and Recreation is important.

Supervisor Wyckoff thanked him. Mr. Becker said he would like to serve and would bring a positive aspect to the Board.

John W. Foley, Jr.

Mr. Foley provided the Board a presentation. He spoke of his experience as a Supervisor with the flooding, realigning Cocoa and Chocolate, Bank, roundabouts, new fire station and the solar project. He spoke about his leadership including 23 years with the fire company. He was Chairman of the Board of Supervisors and the ICDA. He spoke about the other Committees he served on including the Tri County Regional Planning Commission, Derry's Emergency services, Transportation and as Vice President of the Milton Hershey School Alumni Association. He spoke of successes including helping the Township reserve fund grow to \$2.2 million, oversight on projects, Granada Gym, the Fire House, and leading the Board.

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Supervisor Zmuda asked him about the pending lawsuit he has with the Township. Mr. Foley stated he isn't a principal in the lawsuit. He noted he acted in the real estate transaction for a titled property. Supervisor Zmuda asked how he can be unbiased. Mr. Foley noted that a judge has ruled on that issue and he had told each Board member how he felt their actions were discriminatory. Supervisor Zmuda asked about how he would work with the Hershey entities with the rocky relationship he has with them. Mr. Foley stated he served with the Hershey Fire Dept. for 23 years and received thanks for serving by being dismissed. He believes there are personnel issues. It continues, and he believes ignoring it won't make it better.

Supervisor Zmuda asked what his position is on the contracted HCC (Hershey Community Center) and does he agree that the contractors should be immediately released to avoid putting the Township in jeopardy of contract default and thus potentially costing the Township \$3 million in cancellation fees adding to the nearly \$8 million in soft costs for the project. Chairwoman Nutt asked if he could ask the question without repeating the numbers he has used as she has different numbers. Mr. Foley stated he was on the Board when the project started which was projected at \$18-\$20 million. He noted the project has grown and he isn't privy to all the documents the Board has reviewed. He believes the team needs to come back and he needs additional information.

Supervisor Cort asked him, if he was appointed, what would be the first thing you would do and help get consensus on the Board on the Recreation Center. Mr. Foley believes the team needs to get together with the Board and construction team. Common ground needs to be found and understand the numbers and how it will affect the taxpayers.

Chairwoman Nutt asked what he felt was the primary responsibility of local government. Mr. Foley stated it is Public Safety, Public Works, Administration, Recreation and Parks, Library and development.

Supervisor Wyckoff had no questions.

Ronald C. Furlan

Mr. Ronald Furlan noted he moved into the Township in 2007 and never used the Recreation Center. He spoke about his experience as a licensed engineer and planner. He is retired and has time to serve. He isn't tied to any groups and can be totally objective. He has worked with the Authority and worked at PA DEP. He believes with the HCC project they are paralyzed from analysis. They need to address wants versus needs and is glad to see they went with the smaller model. He noted very few of these types of Centers run in the black. He spoke about the burden there is with balancing reduced rates for those who can't afford to use it and trying to operate in the black. He noted they need to find ways to reduce the burden and he has done this in the past with projects he has worked on.

Supervisor Zmuda asked what his position is on the contracted HCC (Hershey Community Center) and does he agree that the contractors should be immediately released to avoid putting the Township in jeopardy of contract default. Mr. Furlan would like to talk to everyone about the project. He spoke about the cost reductions done with the removal of the second floor. He noted they need to look at the contract to reduce the cost and move forward.

Supervisor Cort asked him, if he was appointed, what would be the first thing you would do and help get consensus on the Board on the Recreation Center. Mr. Furlan stated he would meet with them as time is of the essence. He would like them to figure out how to make it work and move forward.

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Chairwoman Nutt asked what he felt was the primary responsibility of local government. Mr. Furlan stated Public Health and Safety are number one. He spoke about fiduciary responsibility and infrastructure being important. He would like to see smart growth.

Supervisor Wyckoff looks forward to working with him on DTMA and had no questions for him.

Beth J. Shaw, Ph.D.

Mrs. Shaw spoke about her contributions to the community. She has lived here for over 20 years and is a licensed psychologist. She works as the Executive Director of Student Support Services for Milton Hershey Schools. She spoke of growing up in the community. She believes they are responsible to uphold the vision of Milton and Catherine Hershey. She spoke about she and her family's service to the community including serving with the Ronald McDonald House and Pet therapy for Rehab Hospital. She spoke about her professional skills with research and data to reach informed decisions. She has led several task forces and worked with stakeholders to accomplish the goals set. She spoke about leading by example and numerous projects she has successfully worked on including capital projects with budgeting. Based on her experience and skills she feels she would add value to the community. Her goal is to be of service to her community.

Supervisor Zmuda asked what her position is on the contracted HCC (Hershey Community Center) and does she agree that the contractors should be immediately released to avoid putting the Township in jeopardy of contract default. Mrs. Shaw stated she has been to several meetings on the Recreation Center. She believes the Township needs a multi-generational center and believes the project has stalled long enough. She stated she would need access to the information the Board has. She believes they could move quickly on this issue.

Supervisor Cort asked her what services she thinks are important for the Center. Mrs. Shaw stated she helped on the original concepts for the Rec Center. She spoke about the importance of multi-generational uses such as the Mohler Center, summer programs and after school programs. She stated they need the pools. She believes all the needs of the community need to be included in the Recreation Center.

Chairwoman Nutt asked what she felt was the primary responsibility of local government. Mrs. Shaw stated they are responsible for the safety and security of the residents. She also stated they need public works and parks and recreation.

Supervisor Wyckoff thanked her for all her service in the community. He didn't have any questions for her.

Joyce P. St. John

Mrs. St. John thanked the Board for listening. She stated she is a long-term resident and raised three kids here. She spoke about the unique community with the School District and Township being in the same boundaries. She has served on the Planning Commission and Design Board. She spoke about difficult decisions being made when there is discourse on a subject. She is an engineer and has been in project management including projects for the School District, Hershey Factory, Hershey Trust and other entities in the Township. She stated she has strong organization skills, assessing problems and getting them resolved. She stated she hopes the Board can chose a supervisor and believes she would fit that position well.

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Supervisor Zmuda asked what her position is on the contracted HCC (Hershey Community Center) and does she agree that the contractors should be immediately released to avoid putting the Township in jeopardy of contract default. Mrs. St. John doesn't believe the contracts should be immediately cancelled. She believes there could be consensus within the Board. She believes there is a need for a competitive pool. She believes there are options and change orders that can address concerns and issues.

Supervisor Cort asked her what services are important for the Center. Mrs. Shaw stated she helped on the original concepts for the Rec Center. Mrs. St. John would talk to everyone and believes it is important for the Board to hash things out. She understands the concerns about the financial aspect of the project and has heard conflicting numbers with costs with some being realistic and others are optimistic.

Chairwoman Nutt asked what she felt was the primary responsibility of local government. She believes public safety, infrastructure and parks and recreation are important. She spoke about the flooding and what it did to Bullfrog pond. She spoke about the local response to this issue. She believes local government needs to do what the private sector can't do for the residents.

Supervisor Wyckoff thanked her and had no questions.

Chairwoman Nutt thanked everyone who applied and presented tonight. Supervisor Zmuda asked for time to review his notes prior to voting.

RECESS & RECONVENE MEETING:

The Board of Supervisors recessed at 7:09 p.m. The meeting of the Board of Supervisors reconvened at 7:17 p.m.

VOTING:

Chairwoman Nutt asked the Board for motions for a Supervisor which would need to be seconded and a roll call would be done.

Supervisor Zmuda made a motion to appoint Skip Becker as Supervisor to fill the unexpired term of Mr. Marc Moyer expiring 12/31/2021. Supervisor Cort seconded the motion. Mr. Christman performed a roll call vote.

<u>Roll Call Vote:</u>	Chairwoman Nutt	- Nay
	Supervisor Wyckoff	- Nay
	Supervisor Zmuda	- Aye
	Supervisor Cort	- Aye

Motion failed 2-2.

Supervisor Cort made a motion to appoint Beth J. Shaw as Supervisor as Supervisor to fill the unexpired term of Mr. Marc Moyer expiring 12/31/2021. Supervisor Zmuda seconded the motion. Mr. Christman performed a roll call vote.

<u>Roll Call Vote:</u>	Supervisor Wyckoff	- Nay
	Supervisor Zmuda	- Aye
	Supervisor Cort	- Aye
	Chairwoman Nutt	- Nay

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Motion failed 2-2.

Chairwoman Nutt made a motion to appoint Chris Abruzzo as Supervisor to fill the unexpired term of Mr. Marc Moyer expiring 12/31/2021. Supervisor Wyckoff seconded the motion.

Chairwoman Nutt noted they need someone with experience and who is ready to serve. Supervisor Cort spoke about the seven candidates and the former supervisors. She spoke about the two paths they have in front of them. She spoke about the process if they can't decide and how they can't act until February 28. She said the second path is if they can vote for one so they can move forward together, or we have to wait for a judge. She asked if they can't be united, that the vote for Mr. Abruzzo be tabled until next Tuesday's meeting. Chairwoman Nutt believes they need to move forward and believes Mr. Abruzzo could hit the ground running. Mr. Christman stated the process as there is a motion on the floor. Supervisor Wyckoff noted that they voted on the other candidates and thinks they should vote on this one. Mr. Christman discussed the process of the Vacancy Board and timing. He noted the Board could have additional meetings to vote on a Supervisor. Supervisor Cort asked if they could meet before their next regular meeting. Mr. Christman spoke about the advertising requirements that he felt it could be done in order to have the meeting next Tuesday. Mr. Christman performed a roll call vote.

<u>Roll Call Vote:</u>	Supervisor Zmuda	- Nay
	Supervisor Cort	- Nay
	Chairwoman Nutt	- Aye
	Supervisor Wyckoff	- Aye

Motion failed 2-2.

Supervisor Cort made a motion to appoint Joyce St. John as Supervisor to fill the unexpired term of Mr. Marc Moyer expiring 12/31/2021. Supervisor Zmuda seconded the motion. Mr. Christman performed a roll call vote.

<u>Roll Call Vote:</u>	Supervisor Cort	- Aye
	Chairwoman Nutt	- Nay
	Supervisor Wyckoff	- Nay
	Supervisor Zmuda	- Aye

Motion failed 2-2.

ADJOURNMENT:

Chairwoman Nutt made a motion to adjourn the Special Meeting of the Board of Supervisors at 7:33 pm. Supervisor Wyckoff seconded the motion. **Motion carried 4-0.**

SUBMITTED BY:

Carter E. Wyckoff
Township Secretary