

TOWNSHIP OF DERRY
BOARD OF SUPERVISORS MEETING MINUTES
MARCH 23, 2021

CALL TO ORDER

To ensure public safety during the COVID-19 crisis, the March 23, 2021 meeting was held by audio and video conferencing via a Zoom Virtual Webinar and shown live on the Derry Township YouTube page.

Chairman Abruzzo called the March 23, 2021 Regular Meeting of the Township of Derry Board of Supervisors to order at 7:04 p.m. via video conferencing with a Zoom Virtual Webinar through the on-line Meeting Room. He advised that all public meetings are recorded for providing accurate notes. After the Pledge of Allegiance, a roll call was performed. He stated the Board met in executive session at 6:15 p.m. to 7:02 p.m. where legal and personnel items were discussed.

IN ATTENDANCE:

SUPERVISORS

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

ALSO PRESENT:

Christopher Christman, Township Manager
Patrick Armstrong, Township Solicitor
Chuck Emerick, Director of Community Development
Thomas Clark, Director of Public Works
Chief Garth Warner, Police Department
David Sassaman, Hershey Volunteer Fire Department
Matthew Mandia, Director of Parks and Recreation
Cheryl Lontz, Manager of Payroll and Employee Benefits
Laura O'Grady, Director of Hershey Public Library
Michael Wood, HRG Engineer
Brian Blahusch, IT Manager
Julie Echterling, Recorder

VISITOR/PUBLIC COMMENTS:

Mr. Louis Paioletti, 156 W. Areba Avenue, spoke about the positive aspects and services of the Township. He stated he has three concerns or questions. One is the maintaining of properties in the Township. Two is traffic, which the Board and the Police are handling. He stated the traffic downtown is bad. He has watched three cars go through red lights and believes tickets should be given out. His third item is asking for clarification on signs in the public right of ways and property owned by the Township. He spoke about the freedom of speech on private property versus Township property. He sees campaign signs being placed early and asked for clarification for what he called sign pollution. He asked for clarification of what is allowed in the right of ways. Chairman Abruzzo stated this should be clarified at a future meeting.

Mr. Ken Gall, Hershey Trust, thanked the Board for considering the Hershey West End project tonight. He provided a history of the plan that goes back to 2006 and public meetings, meeting with businesses and other interested parties including neighbors. He spoke about the public input provided and the Master Plan that was approved in 2018. He spoke about Bullfrog Valley Road with traffic and roundabouts. He stated tonight's request is for approval for the infrastructure of the project and creating West End Avenue to allow traffic to flow through the project.

CONSENT CALENDAR:

Supervisor Cort made a motion to authorize action on the following items on the Consent Calendar:

- Adoption of Board of Supervisors Meeting Minutes for the March 9, 2021 Meeting.

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- Authorizing the release of \$8,358.00 from the cash financial security provided for the Stormwater Management Plan for Scheib Residence, S-2020-008, resulting in a new balance of \$3,515.00.
- Approving Accounts Payable of \$2,025,662.03 and Payroll of \$286,704.05.

Vice Chairwoman Nutt seconded the motion. **Motion carried 5-0.**

NEW BUSINESS:

SPECIAL LEGAL COUNSEL - CLOSURE OF THE DERRY TOWNSHIP LANDFILL:

Mr. Christman spoke about the closure of the landfill and the need for special counsel to assist the Township in finalizing a consent order agreement with the Pennsylvania Department of Environmental Protection. There are three counselors brought before the Board for consideration which are: Maryanne Starr Garber, Esq. – Land Air Water Legal Solutions, LLC - \$450/hour, Dennis A. Whitaker, Partner – Hawke McKeon & Sniscak LLP - \$350/hour, and Thomas M. Duncan, Esq.- Manko, Gold, Katcher & Fox, LLP - \$300/hour. He and Solicitor Armstrong recommended Mr. Duncan because he used to work for DEP.

Chairman Abruzzo made a motion to appoint Dennis Whitaker with Hawke McKeon & Sniscak as Special Legal Counsel to the Township for the purpose of reviewing any and all matters associated with the Derry Township Landfill Project at an hourly rate of \$350 per hour. Supervisor Zmuda seconded the motion. **Motion carried 5-0.**

RESOLUTION 2021-10 - SALE OF PROPERTY:

Mr. Christman stated that Article XV - Section 1504 requires the Board of Supervisors approval for personal property of Derry Township to be sold. The Police Department has surplus handheld radios that are no longer in use and should be removed from inventory. The Hummelstown Fire Department is interested in purchasing four (4) Motorola XTS5000 portable radios and chargers at \$50 per radio for a total consideration of \$200.

Vice Chairwoman Nutt made a motion to approve Resolution 2021-10 to authorize the sale of Personal Property in Accordance with the Pennsylvania Second Class Township Code. Supervisor Cort seconded the motion. **Motion carried 5-0.**

PLAN-HERSHEY WEST END – STREETS AND INFRASTRUCTURE PHASE- PLAT 1330:

Mr. Emerick stated Plat 1330 represents the first final plan after the January 2019 approval of Conditional Use Application No. 2018-01 for the Hershey West End Master Plan, as filed by Hershey Trust Company. The Conditional Use authorized the development of a new mixed-use community, based on traditional neighborhood design principles on approximately 246 acres. He discussed the location, zoning districts and overlay requirements. No disturbance is currently proposed that would impact the existing floodplain or wetlands. The properties proposed for development currently consist of five separate parcels with this final plan consolidating them into one tract of land. The southwestern corner of the site also contains another barn and rental homestead, which will remain as is. This phase is generally consistent with the Township’s Comprehensive Plan, Official Map, and Zoning Ordinance, although it does differ from the anticipated phases as scheduled in the Master Plan. The entire project proposes a mix of the following uses:

Existing & Approved Buildings	Proposed Commercial Buildings	Residential Buildings
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U-Gro	48,333	Retail	64,245	Single-Family Homes	123
HCAR Building	86,553	Grocer	20,000	Townhouses	146
Cocoa Beanery	3,355	Restaurants	35,182	Apartments	462
Englewood Barn	20,335	Hotel/Conference	115,075	Age Restricted Apartments	88
		Office	48,240	Assisted Living	100
		Medical Office Buildings	151,200		
		Community Buildings	5,700		
Total Sq Footage	138,241	Total Sq Footage	439,652	Total Units	919

The project is anticipated to be developed over a period of approximately 12 years and is expected to include approximately 5 phases of approvals. The project will be served by public water and sanitary sewer facilities. DTMA and Pennsylvania American Water have indicated that adequate capacity exists to serve the development. Existing electric, phone, cable, gas, and data lines will also be extended across the site, feeding from major service banks already serving the site within Research Boulevard. The property is currently subject to a Declaration of Condominium based on prior development and improvements that already exist on the site. Upon consolidation of the noted parcels, the property will remain one lot for all development, zoning, and subdivision purposes. Streets, as well as public utilities, will be offered for public dedication and therefore will become property of the Township or agency overseeing the public utility through deeds of dedication.

The traffic study narrative noted that two traffic studies are proposed for this development. The study recommends construction of the following roadway improvements as outlined at the study area intersections in conjunction with Traffic Phase 1 of Hershey West End:

- Install a two-lane roundabout at the intersection of the Waltonville Road and the relocated Route 322 ramp connector at the proposed West End Avenue.
- Install a fully actuated, two-phase traffic signal in the opening year at the Waltonville Road/Quarry Road/Route 322 West off-ramp.
- Optimize traffic signal function at the Middletown Road and Route 322 East off-ramp/frontage road intersection, at the Bullfrog Valley Road and Route 322 intersection, and at the Bullfrog Valley Road and proposed West End Avenue/Life Lion Drive intersection.

Within the Master Plan process, certain requirements of the Zoning Ordinance and Subdivision and Land Development Ordinance are made flexible to enable ingenuity and creativity in the layout and design. This was done since Master Plan development areas are to be a homogenous neighborhood, building their own character while respecting some basic design and planning principles and requirements. The alterations granted with the Conditional Use approval are documented on the plan. He spoke about the waivers that were previously approved and deferred including road widening for Bullfrog Valley Road, Wood Road and Waltonville Road. He went over each of the requested waivers for this plan and the conditions for approval.

Solicitor Armstrong asked about the dedication of streets as construction will continue after this phase is completed. Mr. Emerick explained to the applicant it would not be in the best interest of the Township to dedicate the streets to the Township with all the large construction vehicles utilizing the road. Vice Chairwoman Nutt asked if there were plans to change Waltonville and Wood Roads. Mr. Emerick spoke about the roads and the roundabouts that may change those roads slightly. She asked if the new constructed road would be open to the public during construction. Mr. Ken Gall noted they could allow traffic through, but would need to close it at times for construction. She asked if there would be

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additional traffic studies. Mr. Emerick stated the Master Plan indicates traffic would be looked at after Phase two. Because of COVID there may be changes in the phases. Mr. David Tshudy, Hershey Trust Attorney, spoke about the setup of the Condominium and how that works with the ownership of the land and the flexibility of the lots.

Chairman Abruzzo noted that most of the decisions were made in the Master Plan approval in 2018. He is concerned about the roads with closures, snow plowing, and other issues before the streets are dedicated. Residents will come to the Township with their concerns. Mr. Gall stated they could work on dedicating the streets sooner rather than later. Solicitor Armstrong stated the Board should consider adding a condition that the Township will accept the road dedication in the manner and timing acceptable to the Township. The Board agreed with adding this condition.

Supervisor Cort made a motion to grant the following waivers for the Final Lot Consolidation and Land Development Plan for Hershey West End – Streets and Infrastructure Phase, Plat 1330:

1. From Section 185-13.E.(3) – The final plan shall be prepared at a scale no smaller than one-inch equals 50 feet.
2. From Section 185-13.E.(4).(a).[9] - Existing features within 50 feet of the tract.
3. From Section 185-13.E.(4).(a).[36] - Existing contours within 50 feet of the site.
4. From Sections 185-13.E.(4).(a).[19], [20], and [21] - Profiles of existing utilities.

Supervisor Zmuda seconded the motion. **Motion carried 5-0.**

Vice Chairwoman Nutt made a motion to approve Plat 1330-Final Lot Consolidation and Land Development Plan for Hershey West End – Streets and Infrastructure Phase, subject to compliance with following items:

1. The applicant reimburses the Township for costs incurring in reviewing the plan no later than April 23, 2021.
2. The applicant provides financial security to guarantee the completion of the proposed improvements in a manner acceptable to the Township no later than September 23, 2021, and that the applicant executes the Development and Financial Security Agreement no later than September 23, 2021.
3. The applicant, in accordance with Condition Z of the Conditional Use approval, provides either a certified report, to the Township's satisfaction, from a design professional showing that the roadway construction of existing Research Boulevard is equal to or better than the prior or current roadway construction standards and provides financial security for an additional 1" overlay of wearing course or provides financial security to construct the roads to current standards, includes a lump sum cost equaling 15% of the construction costs for the existing portion of Research Boulevard to ensure its continued performance during the construction of the project, and a cost to provide an additional one inch of wearing course over the existing section of Research Boulevard in the financial security noted in Item b above no later than September 23, 2021.
4. The applicant provides deeds of dedication and accompanying exhibits for additional right-of-way of Bullfrog Valley Road, Wood Road, and Waltonville Road no later than September 23, 2021 for review/approval by the Township.
5. The applicant provides documents no later than September 23, 2021 to ensure that Hershey Trust Company will maintain the "green island" within the roundabout for review/approval by the Township.

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6. The applicant addresses all comments in the attached February 25, 2021 HRG, Inc. letter no later than September 23, 2021.
 7. The applicant provides a CD containing a digital file of the final plan in Auto CAD or DXF compatible format no later than September 23, 2021.
 8. The applicant provides 2 originals of the signed and notarized Development and Financial Security Agreement no later than September 23, 2021.
 9. The applicant provides 2 originals of the signed and notarized Stormwater Operation and Maintenance Agreement and Access Easement no later than September 23, 2021.
 10. The applicant provides 2 originals of the signed and notarized Agreement for Deferment of Roadway Widening no later than September 23, 2021.
 11. The applicant provides a final copy of a Declaration referencing the Stormwater Operation and Maintenance Agreement and Access Easement no later than September 23, 2021 for review by the Township.
 12. The applicant shall acknowledge and agree in writing that the Township's instant conditional approval of Plat 1330 in no way, in and of itself, modifies any conditions, waives any rights, or extends any timelines that are related to and/or incorporated into the Conditional Use approval granted by the Township on January 22, 2019. The applicant shall not be entitled to any additional protection of its right to proceed with the future phases of the Conditional Use approval solely because of the Township's instant conditional approval of Plat 1330. If the applicant proceeds with the construction of the roads and infrastructure depicted on the conditionally approved Plan for Plat 1330, the applicant shall still be required and obligated to satisfy and comply with the conditions and restrictions set forth in the Conditional Use decision and may not rely on the instant approval as a basis to proceed with future improvements and/or phases if not done in accordance with the Conditional Use decision. The Township's instant conditional approval shall not relieve HTC from filing and having the Township approve any permit, land development, subdivision, site plan, or other approvals which may be required by other Township, state, or federal regulations, or from otherwise complying with all other applicable conditions of the Conditional Use decision. The applicant shall comply with all the conditions and requirements set forth within the Conditional Use decision.
 13. The applicant shall submit the requisite application/submission to the Township for adjustments to the conditions noted in the January 22, 2019 Conditional Use decision prior to the submission of another phase of the Hershey West End land development. The anticipated adjustments are necessary due to existing timelines within the decision, potential adjustments to the proposed phasing schedule and any additional relevant issues.
 14. The applicant records the Development and Financial Security Agreement concurrently with the plan.
 15. The applicant records the Stormwater Operation and Maintenance Agreement and Access Easement concurrently with the plan.
 16. The road dedication will take place at in a timeframe and in a manner acceptable to the Township.
 17. The applicant records the Agreement for Deferment of Roadway Widening concurrently with the plan.
 18. The applicant records the Declaration referencing the Stormwater Operation and Maintenance Agreement and Access Easement concurrently with the plan.
 19. The applicant records the deeds of dedication for additional right-of-way along Bullfrog Valley Road, Wood Road, and Waltonville Road concurrently with the plan.
- Supervisor Cort seconded the motion. **Motion carried 5-0.**

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PLAN-BURDS-PLAT 1336-MIDDLETOWN ROAD:

Mr. Emerick stated Plat 1336 proposes to further subdivide the lands of Dennis and Karin Burd located along Middletown Road. Lots 1, 2, 3, 4, and R (residue) were created by Plat 981. Plat 981 also proposed land development details for the following:

- Lot 1 as a Turkey Hill Mini Market.
- Lot R contained the garden center operated by Stauffers of Kissel Hill.
- Lot 3 was developed as a car wash and lubrication facility (Plat 1125)
- Lot 2 was developed as The Goddard School (Plat 1202). Lot 2 will be enlarged by 1.077 acres for future development by the previously approved Plat 1318.
- Lot 4 remains undeveloped. The project area was also depicted on Plat 1310, a sketch plan titled "Gateway to Hershey."
- Lot R is being subdivided to create a new lot around the Stauffers of Kissel Hill improvements, identified as Lot 5. Another element of Plat 1336 is to reconvey Lot 4 back to Lot R because without it, Lot R will not have any road frontage.

A total of 71 vehicle parking spaces exists on the property. The plan notes that 107 parking spaces that are required are considered grandfathered for this existing use. If the use is changed, required parking would need to be provided. Stormwater and traffic information is not necessary since this subdivision does not propose any new development. He discussed each of the waivers, deferrals, and conditions of the proposed plan.

Vice Chairwoman Nutt made a motion to approve the following waivers and deferments are granted from the Subdivision and Land Development Ordinance for the Preliminary/Final Subdivision Plan for Dennis L. Burd and Karin M. Burd, Plat 1336:

1. Waivers from Sections 185-12.D.(2) and 185-13.E.(3) regarding showing the property at a minimum scale of 1" = 50'.
2. Waivers from Sections 185-12.D.(3).(a).[21], [22], [23] and 185-13.E.(4).(a).[19], [20], [21] regarding the preparation of profiles for all existing storm sewer, sanitary sewer, water, and gas lines within the property.
3. Deferments from Sections 185-22.D.(2) and (3) regarding road widening, with the stipulation that the owners enter into an agreement with the Township that would allow the Township to require the roadway widening in the future if deemed necessary.
4. Partial deferment from Section 185-34.A.(1) regarding sidewalk installation, with the stipulation that the owners enter into an agreement with the Township that would allow the Township to require the installation of sidewalk in the future if deemed necessary.
5. Deferment from Section 185-22.E.(5) regarding curb installation, with the stipulation that the owners enter into an agreement with the Township that would allow the Township to require the installation of curbs in the future if deemed necessary.

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

Chairman Abruzzo made a motion to approve the Preliminary/Final Subdivision Plan for Dennis L. Burd and Karin M. Burd, Plat 1336, subject to compliance with the following items:

1. The applicants reimburse the Township for costs incurring in reviewing the plan no later than April 23, 2021.

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2. The applicants provide financial security to guarantee the completion of the proposed improvements in a manner acceptable to the Township no later than September 23, 2021, and that the applicants execute the Development and Financial Security Agreement no later than September 23, 2021.
3. The applicants address all comments in the attached March 12, 2021 HRG, Inc. letter no later than September 23, 2021.
4. The applicants provide a CD containing a digital file of the final plan in Auto CAD or DXF compatible format no later than September 23, 2021.
5. The applicants provide deeds of dedication and accompanying exhibits for additional right-of-way of Kaylor Road and Middletown Road no later than September 23, 2021 for review/approval by the Township.
6. The applicants provide draft copies of the property deeds for the resulting Lot 5 and Lot R no later than September 23, 2021. The deeds must include the following restrictive covenant language: “UNDER AND SUBJECT TO the Operation and Maintenance Agreement dated November 13, 2019, recorded in the Office of the Recorder of Deeds of Dauphin County, Pennsylvania, at Instrument No. 20200003293, regulating the BMPs associated with the development project.”
7. The applicants provide a signed copy of the First Amendment to Reciprocal Driveway Easement Agreement no later than September 23, 2021.
8. The applicants provide 2 originals of the signed and notarized Development and Financial Security Agreement no later than September 23, 2021.
9. The applicants/owners provide 2 originals of the signed and notarized Agreement for Deferment of Curbing and Sidewalk Installation and Roadway Widening no later than September 23, 2021.
10. The applicants record the Development and Financial Security Agreement concurrently with the plan.
11. The applicants record the Agreement for Deferment of Curbing and Sidewalk Installation and Roadway Widening concurrently with the plan.
12. The applicants record the First Amendment to Reciprocal Driveway Easement Agreement concurrently with the plan.
13. The applicants record the revised deed adding Lot 4 to Lot R concurrently with the plan.
14. The applicants record the deeds of dedication for additional right-of-way along Kaylor Road and Middletown Road concurrently with the plan.

Supervisor Zmuda seconded the motion. **Motion carried 5-0.**

PROPERTY REGISTRATION CHAMPIONS, LLC, D.B.A. PROCHAMPS:

Mr. Emerick spoke about the services and history of using PROCHAMPS. The contract is up for renewal and has been reviewed and revised by Solicitor Armstrong. He stated they provide the following services for foreclosed and vacant properties in the Township:

- Maintaining the registration website and tracking system for both foreclosed and vacant properties.
- Researching all properties, contacting owners, banks, and lending institutions to register in the program.
- Providing a high-end website for code enforcement to track properties, see details on problem properties, and communicate directly with the owners or banks through the website.
- Following up with the owners and banks when we report a code violation through their website.
- Handling the collection of fees from the owners and banks and remitting the Township’s portion of the fee to us.

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Supervisor Zmuda made a motion to authorize Christopher S. Christman to execute the agreement between Derry Township and Property Registration Champions, LLC, d.b.a. PROCHAMPS. Supervisor Cort seconded the motion. **Motion carried 5-0.**

LONG LINE PAINTING, INTERSECTION SYMBOLS & THERMOPLASTIC MATERIALS:

Mr. Clark stated they opened the bids for the Long Line Painting, Intersection Symbols and Thermoplastic Materials project. Two were received from Alpha Space Control Company (\$55,278.02) and D. E. Gemmill, Inc (\$53,160.75). This would be paid through the Liquid Fuels fund.

Chairman Abruzzo made a motion to award a contract for Long Line Painting, Intersection Symbols and Thermoplastic Materials at various intersections within the township to D.E.Gemmill, Inc for \$53,160.75. Vice Chairwoman Nutt seconded the motion. **Motion carried 5-0.**

CORRESPONDENCE BOARD/COMMITTEE INFORMATION:

Supervisor Cort spoke about the All Things Diversity meeting tomorrow night. She thanked the IT manager, Brian Blahusch, for all his assistance over the past year. She wished Mike O’Keefe well in his retirement in Hummelstown and wished everyone a Happy Easter and Passover. Vice Chairwoman Nutt attended the Library Board meeting and Mrs. O’Grady will provide an update on new policies and the budget. She attended the Transportation meeting where they discussed sidewalks, the Middletown Road trail, and compiling issues to address with PennDOT. Supervisor Wyckoff attended the DTMA meeting where they provided updates on projects and continued with the bond issuance. He noted they are putting out a proposal for a new engineer for DTMA.

Transportation Meeting-Traffic Issues Downtown-Chocolate & Ridge:

Supervisor Zmuda, Vice Chairwoman Nutt and Chief Warner attended the Transportation meeting.

Chief Warner spoke about the three most recent accidents on Chocolate. One involved a car only and appears to be a driver’s error of stepping on the gas instead of the brake. The other two involved pedestrians. With these two accidents, the drivers stated they did not see the pedestrian in the crosswalk and the pedestrian was crossing correctly. During the transportation meeting they discussed the recent issues with this intersection. He stated they started an enforcement and education program this past weekend. They stopped cars and educated them and are trying to get the word out to the community. He believes more signage may be needed for Chocolate and Ridge for the crosswalk. They are considering a study to determine if a dedicated time, with all traffic stopped, for pedestrians to cross would be warranted. In addition, in the study, consider if the crosswalk can be more visible with the possibility of widening it. Overall, he believes there needs to be a study of the downtown corridor for both cars and pedestrians at all the intersections.

Supervisor Zmuda made a motion to instruct Mr. Christman to authorize HRG to formalize the issues and points of discussion for the downtown area in an official capacity. Supervisor Cort suggested asking HRG to provide a scope of services for the study for the Board to approve and then go from there on approving the study. Supervisor Zmuda made amended his motion to ask for a scope of services for the study of the downtown corridor from HRG. Vice Chairwoman Nutt seconded the motion. **Motion passed 5-0.**

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Chairman Abruzzo spoke about bringing businesses downtown and the increased traffic it has brought. It has also brought increased traffic speeding and drivers trying to make the lights. He is concerned about the pedestrian traffic along the corridor. He appreciates what the Police did this past weekend. He would like to see speed controls on Chocolate to condition behavior to slow down. He supports a traffic study. Chief Warner spoke about drivers being distracted by looking for parking. Adding signage can help. He believes the study will bring awareness. Speeding is the main complaint they hear. He discussed radar and how helpful it would be for them.

REPORTS:

<u>Fire:</u>	Mr. Sassaman spoke about the Easter Bunny drive on March 27. He spoke about the training they did at the Elm Avenue building and was thankful for the ability to train.
<u>Parks & Recreation</u>	Mr. Mandia stated they are completing the structural steel, roof decking, plumbing rough in, concrete incasement and interior columns. They are on schedule for a summer 2022 open and are on budget. They have spent \$9,024,005 of the initial drawdown of \$14,511,996. He noted the second bond issuance will help as they continue to build. He spoke about the parking on Bullfrog Valley Road to access the trails. He thanked Public Works for the fencing they put up and the signs posted to use other parking areas including Shank Park.
<u>Manager:</u>	Mr. Christman stated Congress passed Bill 1319 which is to provide relief for local municipalities dealing with COVID. He noted he has not received any written notification of money nor any requirements that must be met to receive money. He will inform the Board when he receives information. Chairman Abruzzo believes any money received from this should be put in reserve because the Township is not completely out of the effects of COVID.

VISITOR/PUBLIC COMMENTS:

Mr. David Weaver raised his hand online to speak but was not able to be heard. Chairman Abruzzo encouraged him to reach out to any member of the Board or try again at the next meeting.

ADJOURNMENT:

Supervisor Zmuda made a motion to adjourn the meeting at 9:35 p.m. Supervisor Cort seconded the motion. **Motion carried 5-0.**

SUBMITTED BY:

Carter E. Wyckoff
Township Secretary