

TOWNSHIP OF DERRY
BOARD OF SUPERVISORS MEETING MINUTES
June 8, 2021

CALL TO ORDER

To ensure public safety during the COVID-19 crisis, the June 8, 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 June 8, 2021, Regular Meeting of the Township of Derry Board of Supervisors to order at 7:02 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. There was an executive session from 6 p.m. to 6:55 p.m. to discuss land, legal and personnel matters.

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
William Oetinger, 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
Zachary Jackson, Director of Parks and Recreation
Cheryl Lontz, Manager of Payroll and Employee Benefits
Laura O'Grady, Director of Hershey Public Library
Matt Bonanno, HRG Engineer
Brian Blahusch, IT Manager
Julie Echterling, Recorder

VISITOR/PUBLIC COMMENTS:

Mr. Rich Gamble, 39 Hockersville Road, spoke about the email he sent the Board about his concerns for pedestrian safety downtown on Chocolate Avenue. He is concerned about the pedestrians who do not use the crosswalk and cross the street between cars. Chairman Abruzzo thanked him for the email and stated those concerns and suggestions will be shared with the Transportation Committee.

Mr. William Prescott, 1810 Church Road, stated he had a refrigerator he needed to dispose and called the recycling phone number and could not get someone to answer the phone and his question answered. He went to the public works building where the receptionist and Mr. Clark stated they do not know where that phone rings since they do not receive the calls. He then went to the administrative building to talk to someone in the IT department to let them know that this was happening. He started to explain to the receptionist at the Administrative Building when a Police Officer showed up. He was asked to leave the building by the Police Officer because he was told he was annoying them. He recorded the incident and is willing to share it with the Board. He asked if a Police Officer has the authority to remove him from the building. He noted he has lived in the Township for years and was trying to talk to someone about this issue of no one answering the phone when you call the Recycling Center. Chairman Abruzzo thanked him for sharing his story and stated he will look into it with the Manager.

CONSENT CALENDAR:

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

- Adoption of the May 25, 2021 Board of Supervisors Regular Meeting Minutes.

TOWNSHIP OF DERRY
BOARD OF SUPERVISORS MEETING MINUTES
June 8, 2021

- Authorizes the full release of cash financial security in the amount of \$8,159.00, which had been provided for the Stormwater Management Plan for 120 East Areba Avenue for Running Quail Properties, LLC, S-2020-002.
- Authorizes the full release of financial security in the amount of \$46,281.00, which had been provided in the form of Fulton Bank Letter of Credit No. STB356 for the Stormwater Management Plan for 2150 Church Road, S-2020-010.
- Authorizes the release of the remaining balance (\$39,121.00) of the financial security provided in the form of PNC Bank Letter of Credit No. 18130969-00-000 for the Stormwater Management Plan for the NMR Building Renovation and Addition, S-2018-017.
- Authorizes the release of \$13,743.00 from the cash financial security provided for the stormwater Management Site Plan for Kremer Residence, S-2020-017, resulting in a new balance of \$3,164.00.
- Approving Accounts Payable of \$1,638,256.30 and Payroll of \$293,319.14.

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

NEW BUSINESS:

APPOINT DIRECTOR OF PARKS & RECREATION:

Mr. Christman stated Director Mandia retired in April, creating a vacancy. After reviewing twelve (12) applications, the search committee convened and three qualified candidates were identified. Following the interview process, the leading candidate met with local stakeholders, including individual meetings with Supervisors, to discuss the candidate's vision for the future of the department. He stated he was proud to nominate Zachary Jackson to be appointed to the position of Director of Parks & Recreation. He stated Mr. Jackson is well-versed in the services the Township provides and has been a steady hand during the development of the Community Center Project. The Board spoke highly of Mr. Jackson and are happy he was chosen.

Chairman Abruzzo made a motion to appoint Zachary R. Jackson to the position of Director of Parks & Recreation effective immediately. Supervisor Zmuda seconded the motion. **Motion carried 5-0.**

TERMINATING AGREEMENT FOR GRANADA GYM:

Mr. Christman stated the Township and the Derry Township School District ("District") are desirous of terminating agreements associated with the management and use of the Granada Gym facility owned by the District. The 2002 original agreement was amended in October of 2015. Since the facility is no longer being utilized for its intended use as outlined in the current management and use agreements, the Township and the District are desirous to terminate both agreements. Money owed to the Township shall be used to pay existing joint debt service on the facility and the outstanding balance of \$23,426 from the Township shall be paid at the time the agreement is executed. This will retire outstanding debt service on the facility two-years early. He noted this will be a savings to the budgeted debt.

Chairman Abruzzo made a motion to approve the Derry Township and Derry Township School District Acknowledgement Agreement to Terminate and End the Following Agreements: Gymnasium Facility Joint Management and Use Agreement - and - Amendment to Gymnasium Facility Joint Management and Use Agreement for the Granada Gym facility. Vice Chairwoman Nutt seconded the motion. **Motion carried 5-0.**

AGREEMENTS – COUNTY LOCAL SHARE MUNICIPAL GRANT PROGRAM:

TOWNSHIP OF DERRY
BOARD OF SUPERVISORS MEETING MINUTES
June 8, 2021

Mr. Christman spoke about the grants approved last August through the Dauphin County Local Share Municipal Grant program. He stated an agreement for each project needs to be in place for the grants. The Township agreed to serve as a co-applicant for the following projects:

1. Agreement #2021-32=Hershey American Legion Roof Replacement Project – (Requested - \$43,290; Awarded - \$17,700).
2. Agreement #2021-33=Derry Township School District “Safe Schools” Renovation Project – (Requested - \$250,000; Awarded - \$45,000).
3. Agreement #2021-34=Derry Township Police & Public Works Departments Radio Replacement Project – (Requested-\$157,069; Awarded - \$157,069). This is the second year of a three-year annual request.
4. Agreement #2021-35=Hershey Volunteer Fire Company Radio Replacement Project – (Requested Amount - \$139,675; Award - \$68,400.00). This is the first year of a three-year annual request.

Vice Chairwoman Nutt made a motion authorizing the Township Manager to execute Agreement #: 2021-32, Agreement #:2021-33, Agreement #: 2021-34 and Agreement #: 2021-35 for the Dauphin County Local Share Municipal Grant Program. Supervisor Cort seconded the motion. **Motion carried 5-0.**

FUTURE BOARD MEETINGS-VIRTUAL, IN-PERSON AND OR HYBRID MEETINGS:

Mr. Christman asked the Board to table action on this discussion until such time that the Disaster Declaration for the state is clarified. He stated they have been highly successful with the virtual public meetings and need to prepare to have in-person and or hybrid public meetings. He stated they need to look at the changes in the Sunshine law and noted more information is needed before a decision can be made. Solicitor Oetinger agreed.

Chairman Abruzzo made a motion to **TABLE** action and discussion on the Board of Supervisor’s Virtual or In-Person Meetings for the future until the Township Manager presents options for such meetings. Supervisor Cort seconded the motion. **Motion carried 5-0.**

WAIVER REQUEST – PLAT 1330-HERSHEY WEST END-LIGHTING:

Mr. Emerick provided the background for Plat 1330. It is the first final plan after the January 2019 approval of Conditional Use Application No. 2018-01 for the Hershey West End Master Plan. The Board of Supervisors conditionally approved Plat 1330 on March 23, 2021 with waivers from the Subdivision and Land Development Ordinance.

On May 4, 2021, the applicant requested an additional waiver from in conjunction with Plat 1330. The waiver requested is from Section 185-33.C – Lighting shall be provided along public streets and at intersections in accordance with an illumination design prepared by the Pennsylvania Power and Light Company. The Applicant’s justification provided is: *“We are requesting this modification to allow the streetlights located within the public ROWs to be owned, operated, and maintained by the Applicant and its successors and assigns (including Hershey West End Land Condominium Association, Inc., as a permitted assignee). Lights are already provided on the existing portion of the development and the Applicant desires to continue those fixtures throughout the rest of the site to continue the design themes.* The Planning Commission approved the waiver request with the stipulation that the applicant adds the waiver to the list of requested modifications on Sheet 1 of 95 of the Land Development Plan.

TOWNSHIP OF DERRY
BOARD OF SUPERVISORS MEETING MINUTES
June 8, 2021

Supervisor Cort made a motion to grant a waiver from Section 185-33.C of the Subdivision and Land Development Ordinance regarding the Final Lot Consolidation and Land Development Plan for Hershey West End – Streets and Infrastructure Phase, Plat 1330, subject to the applicant adding the waiver to the list of requested modifications on Sheet 1 of 95 of the Land Development Plan no later than September 23, 2021. Supervisor Zmuda seconded the motion. **Motion carried 5-0.**

TIME EXTENSION: CONDITIONAL USE #2020-04-1527 EAST CARACAS AVENUE:

Mr. Emerick stated in September 2020, the Board adopted a Decision approving Conditional Use Application No. 2020-04, as filed by Mrs. Nguyen to establish a Single-Family Conversion at 1527 East Caracas Avenue, Hershey. Condition ‘J’ in the Decision states the approval of 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 approval. Mrs. Nguyen has requested a one-year extension of the terms of condition ‘J’, due to the COVID-19 situation and the availability of contractors, in order to complete the work.

Vice Chairwoman Nutt made a motion granting the requested extension regarding condition ‘J’ of the Decision for Conditional Use Application No. 2020-04, allowing the applicant until September 8, 2022, to obtain a zoning permit, building permit, or certificate of use and occupancy. Supervisor Cort seconded the motion. **Motion carried 5-0.**

TIME EXTENSION: PLAT 1333 FOR 1106 COCOA AVENUE-PROPERTIES, LLC:

Mr. Emerick discussed Plat #1333 which is located on the western side of Cocoa Avenue. He discussed the zoning and the current mixed-use commercial building on the site which is to be demolished for a new dentist office. The Board approved the Plat in January with 11 conditions of approval. He stated, to date they have completed one of the 11 and are requesting additional time to address the conditions. The applicant has requested a one-year extension.

Vice Chairwoman Nutt made a motion to extend the approval of Preliminary/Final Land Development Plan for 1106 Cocoa Avenue for Nagillum Properties, LLC, Plat 1333, to July 4, 2022, subject to compliance with the following items:

1. The Applicant shall reimburse the Township for costs incurred in reviewing the plan no later than July 4, 2022.
2. The Applicant shall provide financial security to guarantee the completion of the proposed improvements in the amount of \$135,950.00 and in a manner acceptable to the Township no later than July 4, 2022. Additionally, the Applicant shall execute the Development and Financial Security Agreement no later than July 4, 2022.
3. The Applicant shall revise Sheet C3.0 so that all occurrences of “Central Master Plan Approval Area” are changed to “Hershey Mixed Use Zoning District” no later than July 4, 2022.
4. The Applicant shall provide the Township administrative fee of \$26.00 for the sewage facility planning module application mailer request for sewage planning exemption no later than July 4, 2022.
5. The Applicant shall address and/or comply with the comments in the April 28, 2021, HRG, Inc. letter in a manner and form acceptable to the Township no later than July 4, 2022.
6. The Applicant shall provide the Township with a CD containing a digital file of the final plan in Auto CAD or DXF compatible format no later than July 4, 2022.
7. The Applicant shall provide the Township with 2 originals of the signed and notarized Development and Financial Security Agreement no later than July 4, 2022.

TOWNSHIP OF DERRY
BOARD OF SUPERVISORS MEETING MINUTES
June 8, 2021

8. The Applicant's attorney shall provide the Township with a draft Deed of Dedication for right-of-way along Cocoa Avenue no later than July 4, 2022, for review and approval by the Township Solicitor.
9. The Applicant shall provide title insurance no later than July 4, 2022, for the Cocoa Avenue right-of-way to be dedicated to the Township.
10. The Applicant shall comply with all outside agency requirements, including, but not limited to, PennDOT, PADEP, FAA, and EPA, if applicable.
11. The Applicant shall record the Development and Financial Security Agreement concurrently with the Plan.
12. The Applicant shall record the Deed of Dedication for right-of-way along Cocoa Avenue concurrently with the Plan.

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

REQUEST TO VACATE REESE AVE-FROM UNIVERSITY DRIVE TO MILLARD STREET:

Mr. Emerick stated the Hershey Company is seeking to petition the Board of Supervisors to vacate a portion of Reese Avenue. This vacation would deter commercial traffic from entering the Swatara Station neighborhood, provide additional building area for the modernization of the Reese Plant, decrease the traffic burden at the Hockersville Road/West Chocolate Avenue traffic signal, and retain pedestrian and bicycle connectivity.

Mr. Kenny Hinebaugh, The Hershey Company (THC), stated the stretch of Township Road fronts the Reese plant property to the north and State Route (SR) 422 to the south. As THC look to modernize the office area along Reese Avenue, they were challenged to evaluate changes that can improve their operations and, at the same time, reduce impact to our neighbors. The portion of Reese Avenue between University Drive and Millard Street is predominately commercial in character since it serves and provides access to THC's Reese plant. At Millard Street, Reese Avenue transitions to a residential character since it extends through a residential neighborhood. Wayward trucks from the plant sometimes use this residential portion of Reese Avenue. One of their goals is to ensure that this wayward truck activity no longer occurs. At the same time, building setbacks along Reese Avenue limit their ability to renovate and expand existing offices.

He stated, in an effort to remain compliant with setback ordinances, provide flexibility in modernizing the office space, and ensure that trucks access the plant only via University Drive and be precluded from traveling through adjoining residential areas, they propose that Reese Avenue be vacated along their property frontage and therefore make SR 422 our street frontage. With the ongoing efforts the Township is taking to provide a walkable and mobile community, THC would offer that a pedestrian/bike/travel way be provided along the vacated roadway between University Drive and Millard Street. A combination of existing sidewalks and new paths could be installed to provide the extended connectivity from east to west. A traffic study was conducted and looked at the signalized intersections at SR 422/University Drive and SR 422/North Hockersville Road. The study looked at timing, queuing, and level of services at each intersection. The study has concluded that no improvements would be warranted as a result of Reese Avenue along the Reese plant property no longer being a part of the Township Road network. The intersections would continue to function as they do today, however THC personnel would no longer use the remaining portion of Reese Avenue between Millard Street and North Hockersville Road. This will help to alleviate some congestion at the North Hockersville Road intersections. This also allows THC with the increased ability to control wayward trucks from entering the neighborhood. He stated they

TOWNSHIP OF DERRY
BOARD OF SUPERVISORS MEETING MINUTES
June 8, 2021

appreciate the input of the Board of Supervisors, the community, and their neighbors for considering this request.

He stated, in working with the Township's Transportation Committee, it was suggested THC bring this discussion in front of the Board for an informal discussion to begin to gain the feedback of all that would be impacted by this request. They then would reach out directly to their closest neighbors impacted for their continued input.

Vice Chairwoman Nutt asked what is the best way to register neighbors' comments. Supervisor Cort asked that they go further than the closest neighborhood since the Board hears often that they wish the outreach would have gone further. Mr. Emerick stated his email address could be used for input from the neighbors to collect all the comments. Chairman Abruzzo asked about the value of the property and were the trails going to connect and be a value to the Township. Solicitor Oetinger noted that any vacation of a street requires an ordinance and requires public notice. He noted that he has not seen compensation for a vacation, however, there are normally conditions to the vacation. He asked about utilities in the right of way. Mr. Hinebaugh stated PPL has utilities there and they will work with them. Supervisor Wyckoff asked about losing this road and liquid fuels money for the Township. Mr. Clark noted it is about half a mile. The money lost here would be made up with the Hershey West End project.

RESOLUTION 2021-12- TRAFFIC SIGNAL MAINTENANCE AGREEMENT:

Mr. Emerick stated on December 28, 2020, the Pennsylvania Department of Transportation's (PennDOT) Bureau of Maintenance and Operations (BOMO) renamed and re-issued Publication 191: Traffic Signal Maintenance Manual (12-20). The 2020 Edition of Publication 191 contains a new policy related to Traffic Signal Maintenance Agreements (TSMA) which requires a TSMA to be in place prior to the issuance of a new or revised traffic signal permit anywhere in the Township.

Mr. Emerick stated that Solicitor Armstrong has reviewed the Agreement and has the following concerns:

- The Agreement specifically states that "Title to all Traffic Signal installations shall vest with the Municipality" unless otherwise indicated by PennDOT.... He noted they own all the signals now and have only one signal operation agreement that we are being reimbursed for at the intersection of Campus Drive and Centerview Drive on the Penn State Milton S. Hershey Medical Center campus (PSMSHMC). In this case, Derry Township is responsible for the maintenance and repair of the signal but is reimbursed for those costs by PSMSHMC.
- There is a specific section in the Agreement addressing "Preventative and Responsive Maintenance" that requires the Township to provide a specific level of preventative and responsive maintenance, at the Township's own expense, for all Traffic Signals owned by the Township, which is all the signals located in Derry Township. The Agreement will contractually bind the Township to comply with these new standards for all traffic signals in the Township and the Agreement provides for penalties in the event the Township fails to comply with such standards going forward. Mr. Emerick noted that the Township has a contract with PA PERCS, Inc. to maintain all the traffic signals in the Township.
- There is a section on the potential for penalties or consequences in the event the Township fails to fulfill its responsibilities. In short, PennDOT would be able to withhold liquid fuels payments from the Township and or withhold future federal or state-aid projects from the Township.

TOWNSHIP OF DERRY
BOARD OF SUPERVISORS MEETING MINUTES
June 8, 2021

- The Agreement specifically states that the Township agrees to indemnify PennDOT from any and all claims resulting from the Township’s actions and/or inactions relating to its obligations under the Agreement.
- PennDOT is making all municipalities sign the TSMA before it will issue any permits for new or modified traffic signal devices within the Township. Further, they note in their instructions page for the TSMA “The TSMA is a standard agreement using approved language from PennDOT’s Office of Chief Counsel (OCC); therefore, the language should not be altered.”

Mr. Emerick noted that Solicitor Armstrong would like to have a conversation with PennDOT prior to the Township signing it. Solicitor Armstrong believes there may be some push back from other municipalities on this Agreement and there could be changes made to the contract after the Township signs it. Solicitor Armstrong wanted to make sure that the Township would be entitled to the benefits of any changes to the Agreement. Solicitor Oetinger stated they have reservations since they know the Township has important projects that are on hold because of this new agreement, however, they also know the new agreement could change.

The Board members spoke about the importance of the public safety projects they have and how important it was that they proceed and not be delayed. Mr. Clark spoke about the maintaining of the lights now and having provided the maintenance records for a lawsuit in the past. Solicitor Oetinger spoke about the potential liability for the Township including legal costs if PennDOT is pulled into a lawsuit. He suggested a middle road solution. They would reach out to PennDOT and ask that if any of the language in the agreement changes in the future, it would apply to the Township. Discussion ensued.

Supervisor Zmuda made a motion to adopt Resolution No. 2021-12, authorizing the Director of Community Development to sign the Traffic Signal Maintenance Agreement with the provision that wording would allow the Township to return to the agreement pending any changes to the agreement by PennDOT. Vice Chairwoman Nutt seconded the motion. **Motion carried 5-0.** Mr. Emerick noted he would not sign the agreement until the middle of the road solution is resolved.

SECURITY-S-2021-09-STORMWATER-1089 DERRY WOODS:

Vice Chairwoman Nutt made a motion to accept a cash financial security in the amount of \$28,511 and enter into the Agreement to Provide Financial Security with Michele Buck for the Stormwater Management Plan for 1089 Derry Woods Drive, S-2021-009. Supervisor Cort seconded the motion. **Motion carried 5-0.**

CORRESPONDENCE BOARD/COMMITTEE INFORMATION:

Supervisor Zmuda stated they (Vice Chairwoman Nutt, himself, and Mr. Christman) are working through the Greater Hershey traffic study and hope to have something to the Board in the next month. He and Supervisor Cort spoke about the successful Market on Chocolate which will be happening every Saturday till September. He stated they can use more volunteers. Vice Chairwoman Nutt suggested they reach out to PSATC about the new PennDOT agreement.

REPORTS:

Police	Lt. Roche stated they received the body cameras and hope to have them active in the next 60 days after training.
--------	--

TOWNSHIP OF DERRY
BOARD OF SUPERVISORS MEETING MINUTES
June 8, 2021

<u>Fire:</u>	Mr. Sassaman spoke about the Medal of Valor bestowed on two members who saw an active fire and stopped and helped rescue the family. The story will be included in their next Newsletter.
<u>Library:</u>	Mrs. O’Grady spoke about the summer reading program.
<u>Public Works:</u>	Mr. Clark spoke about the paving projects underway and the new process for paving this year. He spoke about the excellent job done with the landfill project with the grading of the seven acres.
<u>Manager</u>	Mr. Christman stated the Township should be receiving \$1.3 million of the \$2.6 million grant through DCED soon. He thanked the Staff for their efforts to ensure the correct paperwork was submitted.

Recreation Update:

Mr. Jackson provided a financial update on the new Recreation Center. He noted the project team believes they are on budget and on schedule. Below are the numbers:

SOFT COSTS

- Design Professional Services \$3,009,268
- Other Soft Cost /FF&E \$1,817,197
- Soft Cost Subtotal \$4,826,465

CONSTRUCTION

Original Contract Amounts

1. General Contractor \$20,951,600
2. Mechanical Contractor \$2,543,000
3. Electrical Contractor \$1,465,000
4. Plumbing Contractor \$1,294,250
5. Fire Protection Contractor \$ 256,960

\$26,510,810

Cumulative change orders for 25Y pool \$(572,129)

Non-Pool redesign approved CO's to date \$647,529

Current Contracts Subtotal \$26,586,210

PROJECT CONTINGENCY

Initial (5% of Construction) \$1,325,541

Changes to contingency \$(75,400)

Contingency Balance \$1,250,141

Projected total cost \$32,662,816

VISITOR/PUBLIC COMMENTS:

Mr. Rich Gamble, 39 Hockersville Road, spoke about his concerns with vacating Reese Avenue. He is concerned about CAT/share ride and the school busses that use this area. He is concerned how they would be able to turn around. He also asked about the impact to Half Street, Peach Street and property that belongs to the Railroad. He noted this could have an impact on the congestion and noted it would affect other businesses.

TOWNSHIP OF DERRY
BOARD OF SUPERVISORS MEETING MINUTES
June 8, 2021

Mr. Kevin Ferguson, 1338 Quail Hollow Road, thinks the Board should think about hybrid meetings which can increase public input. He does not understand the Reese Avenue plan and how truck traffic will work with the plan. He thinks it could affect the local businesses negatively and does not understand how it would be an improvement for the residents. He believes we need to look at what we are getting for what we are giving up.

Mrs. Linda Eyer stated she has asked in the past for an update on the Recreation Center. She would like to hear about the opening costs and the ongoing operating costs.

Mr. William Prescott continued to discuss the issue he encountered at the Township Building. He noted he has a video of the incident and can show someone. He would like to ask the Police Chief about this and is concerned with what the Police can do. Chairman Abruzzo stated he would follow-up with Mr. Christman tomorrow.

ADJOURNMENT:

Supervisor Cort made a motion to adjourn the meeting at 9:11 p.m. Vice Chairwoman Nutt seconded the motion. **Motion carried 5-0.**

SUBMITTED BY:

Carter E. Wyckoff
Township Secretary