

TOWNSHIP OF DERRY
BOARD OF SUPERVISORS MEETING MINUTES
JULY 27, 2021

CALL TO ORDER

Chairman Abruzzo called the July 27, 2021, Regular Meeting of the Township of Derry Board of Supervisors to order at 7:00 p.m. in the meeting room of the Township of Derry Municipal Complex, 600 Clearwater Road, Hershey, PA. He advised that all public meetings are recorded for providing accurate notes. After the Pledge of Allegiance, a roll call was performed. He announced Vice Chairwoman Nutt is on vacation and will not attend tonight's meeting.

IN ATTENDANCE:

SUPERVISORS

E. Christopher Abruzzo, Chairman
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
Robert Piccolo, Assistant Director of Public Works
Lt. Terry Ferree, Police Department
Zach Jackson, Director of Parks and Recreation
Laura O'Grady, Director of Hershey Public Library
Matt Bonanno, HRG Engineer
Julie Echterling, Recorder

SUPERVISOR ABSENT:

Natalie L. Nutt, Vice Chairwoman

Public in Attendance:

The following were in attendance: Jonathan Crist, Esq., Craig Rayson, Dave Getz, Kate Dattilo, John Osmolinski, Rich Gamble, John Foley, Jenny Dai, Dave Weaver

VISITOR/PUBLIC COMMENTS:

There were no public comments offered.

CONSENT CALENDAR:

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

1. Adoption of Board of Supervisors July 13, 2021 Public Hearing 5:30 PM Meeting Minutes.
2. Adoption of Board of Supervisors July 13, 2021 Public Hearing 5:45 PM Meeting Minutes.
3. Adoption of Board of Supervisors July 13, 2021 Public Regular Meeting Minutes.
4. Approval of Accounts Payable - \$2,159,275.16, Payroll of \$310,455.72.

Supervisor Zmuda seconded the motion. **Motion passed 4-0.**

NEW BUSINESS:

A LETTER OF SUPPORT FOR AMENDING THE PENNSYLVANIA SUNSHINE ACT:

Mr. Christman stated the Board asked for a letter in support of virtual meetings which were permissible only during the declaration of emergency. He provided a draft letter of support to the Board that would be sent to local state legislators to encourage them to take up an amendment to the PA Sunshine Law to allow for the use of virtual mediums as an option for holding a public meeting. Municipalities, without an amendment to the Sunshine Law, are limited to in-person or hybrid meeting models to conduct public business. He added that Derry Township's approach to a virtual model was effective and created greater opportunities for public participation.

Supervisor Cort made a motion to authorize the Township Manager to execute a letter of support to amend the Pennsylvania Sunshine Act to allow for fully virtual formats for conducting public meetings. Supervisor Zmuda seconded the motion. **Motion carried 4-0.**

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PLAN-CATHERINE HERSHEY SCHOOL FOR EARLY LEARNING, PLAT 1342:

Mr. Emerick stated Milton Hershey School is proposing to establish a Group Child Care Facility on property located at the southwest corner of the intersection of Governor Road and Homestead Road. The proposed use is permitted as a Conditional Use by the Zoning Ordinance, which was granted by the Board of Supervisors under Application No. 2020-05 on February 9, 2021. This lot, Lot 2, will contain 39.02 acres. The facility will be designed to accommodate up to 150 children between the ages of 0+ to 5 years old, supported by a staff of 80 employees and volunteers. The building is proposed to have a 41,325-square-foot footprint with a 9,502-square-foot second story. The proposed improvements will be served by public water and sewer facilities.

He stated access to the improvements is via a driveway from Homestead Road. As a result of the subdivision, proposed Lot 1 will only have frontage on Governor Road. During the Planning Commission meeting for the Conditional Use Application review, Hershey Trust Company, as owner of the property, committed to providing an access easement through Lot 3 to Lot 1 to avoid additional driveway conflicts along Governor Road. In the “final” transportation impact study submitted with the current plan, the proposed development is to generate 614 new trips during the average weekday, 117 new trips during the AM peak hour, and 119 new trips during the PM peak hour. The study also notes that no roadway improvements are recommended on the existing roadways based on the development of this project. Due to the connection of the pedestrian walkway/bicycle path at the southwest corner of the intersection of Governor Road and Homestead Road, modification of obsolete pedestrian signal equipment, which includes pushbuttons and pedestrian signal heads, will be required. He discussed the requested waivers, deferments, and conditions for the plan.

Chairman Abruzzo expressed concern about possible traffic delays at Homestead and Governor Roads. Craig Raynor and Paul Wood, Engineers, spoke about the recommendation for a four-way stop at Bachmanville Road to help with the traffic delays. This was outlined in the July 14 TSI letter. Solicitor Armstrong asked that an additional condition be put on the plan for compliance with the conditional use decision. He asked about the easement with the trails and maintenance. Attorney David Tshudy, Troutman Pepper, stated they could talk about this but typically the Township takes responsibility for the maintenance of the trails after an 18-month period. He noted that they will be back before the Board for the application for the signal improvements since PennDOT requires the Township to be the applicant.

Supervisor Cort made a motion that the following waivers and deferments are granted from the Subdivision and Land Development Ordinance as noted in the Explanation section of this agenda item for the Preliminary/Final Subdivision and Land Development Plan for Catherine Hershey School for Early Learning, Plat 1342:

1. Waivers from Sections 185-12.D.(3).(a).[9] and 185-13.E.(4).(a).[9] regarding providing all existing structures, wooded areas, watercourses, rock outcrops, culverts, utilities, fire hydrants, streets grade and width, within 200 feet and 50 feet of the entire property.
2. Waivers from Sections 185-12.D.(3).(a).[10] and 185-13.E.(4).(a).[10] regarding showing the location of sensitive environmental areas outside the project area.
3. Waivers from Sections 185-12.D.(3).(a).[11] and 185-13.E.(4).(a).[12] regarding providing gross and net developable area of land expressed in acres and square feet, along with drawings and calculations to describe how the net developable area has been calculated.
4. Waivers from Sections 185-12.D.(3).(a).[21], [22], [23] and 185-13.E.(4).(a).[19], [20], [21] regarding profiles of existing stormwater sewer and conveyance systems, existing sanitary sewer systems, and existing gas and water systems.
5. Waivers from Sections 185-12.D.(2) and 185-13.E.(3) regarding plan scale.

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6. Deferment from Section 185-22.E.(5) regarding installing curbing along all existing streets on the property and adjacent to the project-with the stipulation that the property owner enters into an agreement with the Township that would allow the Township to require the installation of curbing in the future if deemed necessary.
7. Waiver from Section 185-49 regarding a wetlands determination for the entire property.
8. Deferment from Section 185-34.A.(1) regarding sidewalk installation; regarding sidewalk installation along the frontages outside of the areas where pedestrian shared-use paths are provided, The project proposes an extension of the existing Township trail (Lot 1) from the Cocoa Avenue area to the intersection of Governor Road and Homestead Road (Lot 2) and along Lot 2 Homestead Road and Bachmanville Road frontage with the stipulation that the property owner enters into an agreement with the Township that would allow the Township to require the installation of sidewalk in the future if deemed necessary.
9. Waiver from Section 185-34.A.(1) regarding sidewalk installation-regarding sidewalk installation along the frontages where the shared-use path is provided.
10. Waiver from Section 185-22.D.(3) regarding cartway widening.
11. Waiver from Section 185-30.F regarding radial lot lines.

Supervisor Zmuda seconded the motion. **Motion carried 4-0.**

Chairman Abruzzo made a motion to approve the Preliminary/Final Subdivision and Land Development Plan for Catherine Hershey School for Early Learning, Plat 1342, subject to compliance with the following items:

1. The Applicant shall reimburse the Township for all costs incurred in reviewing the Plan no later than August 27, 2021. The Applicant shall continue to satisfy and pay all outstanding Township Professional Consultant invoices in relation to the Plan in accordance with §503 of the MPC.
2. The Applicant shall provide financial security to guarantee the completion of the proposed improvements depicted on the Plan in the amount of \$1,879,595.00 and in a manner and form acceptable to the Township, no later than January 27, 2022, and the Applicant and Owner shall agree to and execute a Development and Financial Security Agreement in a manner and form acceptable to the Township no later than January 27, 2022.
3. The Applicant shall comply with and/or otherwise satisfy the comments in the Township Engineer's review letter dated July 15, 2021, a copy of which is attached hereto and specifically incorporated herein by reference, no later than January 27, 2022.
4. The Applicant shall provide the Township with a draft agreement for the bicycle/pedestrian trail that is proposed in-lieu of sidewalk installation for review and approval no later than January 27, 2022.
5. The Applicant shall provide 3 originals of the signed and notarized Development and Financial Security Agreement no later than January 27, 2022.
6. The Owner shall agree to, execute, and have notarized a Declaration of Covenants for the Deferment of Curbing and Sidewalk Installation in a manner and form acceptable to the Township no later than January 27, 2022.
7. The Applicant shall provide 3 originals of the signed and notarized Stormwater Operation and Maintenance Agreement and Access Easement no later than January 27, 2022.
8. The Applicant shall provide a final copy of the property Declaration referencing the Stormwater Operation and Maintenance Agreement and Access Easement no later than January 27, 2022.
9. The Applicant and Owner shall comply with all outside agency requirements, including, but not limited to, PennDOT, PADEP, FAA, and EPA, if applicable.
10. The Applicant shall record the Development and Financial Security Agreement, or a Memorandum of the same, concurrently with the Plan.

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11. The Applicant shall record the agreement for the bicycle/pedestrian trail concurrently with the Plan.
12. The Applicant shall record a Declaration of Covenants for the Deferment of Curbing and Sidewalk Installation concurrently with the Plan.
13. The Applicant shall record the Stormwater Operation and Maintenance Agreement and Access Easement concurrently with the Plan.
14. The Applicant shall record the property Declaration, referencing the Stormwater Operation and Maintenance Agreement and Access Easement, concurrently with the plan.
15. The Applicant shall comply with the conditions of the Conditional Use Decision of February 2021.

Supervisor Zmuda seconded the motion. **Motion carried 4-0.**

TIME EXTENSION – PLAT 1328 - TOWNEPLACE SUITES HOTEL:

Mr. Emerick stated Plat 1328 is a plan that both the applicant (Bears Creek Hershey Hotel II, LLC) and the Board of Supervisors found to be an acceptable solution and reasonable compromise to settle the dispute surrounding the approval of the plan. The Board of Supervisors initially approved Plat 1328 on April 14, 2020, conditional upon several items being addressed by the applicant no later than October 14, 2020. On September 17, 2020, the applicant, by way of their legal counsel, requested an extension until October 31, 2021 to address the conditions of approval, due to appeal periods and the impact of COVID-19 on the construction, tourism, and hospitality industries. The Board granted the request on September 22, 2020, subject to the outstanding conditions of approval being addressed no later than October 31, 2021. The applicant, again by way of their legal counsel, is now requesting a second extension of time until October 31, 2022 to address the conditions of the September 22, 2020 extended approval. The second extension request proposes no changes to the details of Plat 1328 or the waivers. Supervisor Wykoff asked about the current homes and the maintenance of the properties. Mr. John Foley, 150 West Chocolate Ave., stated three of the six homes are rented and two are pending.

Supervisor Zmuda made a motion to approve the Preliminary/Final Subdivision and Land Development Plan for Towneplace Suites Hotel, Plat 1328 is extended until October 31, 2022, subject to compliance with the following items:

1. A performance security in the amount of \$362,458.00 is provided to guarantee the installation of required improvements, and the accompanying Agreement to Provide Financial Security is signed no later than October 31, 2022.
2. The applicant provides calculations indicating that the fire hydrant flowrates satisfy the rates needed under the "Fire Suppression Rating Schedule" as published by the Insurance Services Office, New York, New York, or the current National Fire Prevention Association standard which apply to the building type being considered, as may be applicable, no later than October 31, 2022.
3. A digital file of the final land development plan (Plat 1328) is provided in an Auto CAD or DXF compatible format no later than October 31, 2022.
4. The Stormwater Best Management Practices Operation and Maintenance Agreement, including Plat 1328, is recorded.
5. The property consolidation deed referencing the Stormwater Best Management Practices Operation and Maintenance Agreement is revised no later than October 31, 2022 to reflect Plat 1328 and the fact that no right-of-way dedication is proposed; and that the consolidation deed is recorded concurrently with the Stormwater Best Management Practices Operation and Maintenance Agreement.

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6. The agreement regarding the operation and maintenance program for the Autostacker spaces, including information related to the anticipated method of loading and unloading the Autostacker, is recorded concurrently with the Stormwater Best Management Practices Operation and Maintenance Agreement.

Supervisor Cort seconded the motion. **Motion carried 4-0.**

SECURITY-STORMWATER PLAN FOR LAWALL RESIDENCE, S-2021-013:

Chairman Abruzzo made a motion to accept a cash financial security in the amount of \$6,078 and enter into the Agreement to Provide Financial Security with Christopher F. and Megan E. Lawall for the Stormwater Management Plan for Lawall Residence, S-2021-013. Supervisor Cort seconded the motion. **Motion carried 4-0.**

AMENDING ORDINANCE-CHAPTER 210:

Lt. Ferree stated they received a request to have the 1400 block of East Derry Road studied for possible posting of no parking. The area requested was just west of Walker Avenue on the south side of the roadway. A traffic study was conducted for a possible parking restriction along East Derry Road. During the study, a resident requested that a traffic study be conducted to have Walker Avenue ordinated as a one-way roadway. During the traffic study of both the parking restriction and the one-way roadway, it was determined that the sight distance was an issue. The width of Walker Avenue was measured between 13-15ft. wide making it difficult for two vehicles to pass each other at the same time. He spoke with 14 residents in this area. Two expressed concerns with making it a one-way roadway. In addition, there will be no issues with mass transit, with emergency vehicles or with the Hershey Post Office. In looking at Title 67 criteria for establishment of one-way roadways in § 212.113, all seven (7) criteria are satisfied and the change to the roadways, as proposed, can be made.

Supervisor Zmuda asked about making the one-way longer on Walker Avenue. Solicitor Armstrong asked if HRG had reviewed the proposed changes. Lieutenant Ferree noted that they could look at making it one-way further down Walker Ave. and that HRG had not reviewed it. Discussion ensued. The Board decided to have the Police Department look at making Walker Avenue one-way longer down the street and have HRG review the plans prior to advertising the change to the ordinance.

Supervisor Zmuda made a motion TABLING action on the advertisement of an ordinance amending the Code of the Township of Derry (Ordinance No. 553) Chapter 210 (Vehicles and Traffic), Article II (Traffic Regulations), Section 210-18 (One-way streets established) by 1. designating Walker Avenue as a one-way roadway southbound from East Derry Road to Harding Avenue and 2. deleting from Code of the Township of Derry (Ordinance No. 553) Chapter 210 (Vehicles and Traffic), Article II (Traffic Regulations), Section 210-24 (Stop intersections established) the designation of Walker Avenue at its intersection with East Derry Road as a stop intersection, northbound until the Police review extending Walker as a one-way HRG reviews the proposal. Supervisor Cort seconded the motion. **Motion carried 4-0.**

FIRE WORKS – AUG 20 -HERSHEYPARK:

Chairman Abruzzo made a motion to grant permission to hold a fireworks display at the parking field (White Field – East) on Hershey Entertainment & Resorts property to the north side of Hersheypark Drive, east of Hotel Road on Friday, August 20, 2021 at approximately 9:00 p.m. Supervisor Cort seconded the motion. **Motion carried 4-0.**

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SUPPORT LETTER – MULTI-MODAL GRANT-HUMMELSTOWN:

Mr. Christman shared that on Monday, July 26, 2021, the Township received a request for a support letter to include in the Hummelstown Borough’s application later this week for CFA Multimodal Grant funds for pedestrian improvements throughout the Borough. The project will have interconnectivity with Derry Township providing access to the Eshenour Trail and the new Hershey West End project.

Supervisor Wyckoff made a motion to authorize the Township Manager to execute the letter of support for Hummelstown Borough’s application for a Commonwealth Financing Authority Multimodal Grant for pedestrian safety improvements within the Borough. Supervisor Cort seconded the motion. **Motion carried 4-0.**

CORRESPONDENCE BOARD/COMMITTEE INFORMATION:

Supervisor Zmuda attended the transportation meeting where they discussed how well the first concert’s traffic flow went. He stated there is a concert this weekend and they will have the same traffic process for this concert. They discussed the crossing on Cocoa Avenue, especially at Brook Lane to Cocoa Castle. This was requested by a resident. HRG will be looking into treatments to mitigate and make it safer to cross. He noted speed limits are going up around town. Supervisor Cort attended the Parks and Recreation Advisory Board meeting and toured the Recreation Center. She asked Lieutenant Ferree to look at Wood Road heading west and spoke about her concerns with traffic and a blind spot around the curve. He stated they have received concerns and noted that Wood Road is a state road. She thanked Mrs. O’Grady for all her work enthusiasm, passion, and hard work at the library these past 4 years.

Supervisor Wyckoff attended the DTMA meeting and thanked Mrs. O’Grady for her dedication and noted her impact will live on in the library. Mr. Christman attended the DTMA meeting and they were provided updates on projects including the Clear Water Energy project. They discussed upcoming projects throughout the Township. The Board asked if these projects could be more public/advertised on the website and asked if they could come to a Board meeting to provide an update for all. Chairman Abruzzo attended the library meeting. They spoke about possibly increasing the library hours and potential upcoming projects. He spoke about the work Mrs. O’Grady did and how all those involved with the library have appreciated her work.

REPORTS:

<u>Police:</u>	Lieutenant Ferree stated August 3 is National Night Out 6 – 8 p.m. and invited everyone to come out.
<u>Public Works</u>	Mr. Piccolo noted 52 signs (25mph) signs will be put up by the end of the week. He spoke about two paving projects that will be completed soon. He spoke about all the steps the Township took in combating the Spotted Lanternfly. Below is a summary of those steps/activities: <ul style="list-style-type: none"> • Employees were educated on spotting Lanternfly and procedures • 55 of the trees the Spotted Lanternfly nests in were removed • 238 trees were sprayed to combat the Lanternfly. • Information was presented in the Newsletter and weekly communications to the Public. • They have met and exceeded the requirements for combating the Lanternfly.
<u>Library</u>	Mrs. O'Grady stated the book sale will begin July 30. She thanked everyone for their support.

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<u>Recreation</u>	Mr. Jackson provided an update on the current progress of the Recreation Center. The last drive-in movie will be held on August 6.
<u>Manager</u>	Mr. Christman thanked Mrs. O’Grady for her all her hard work. He stated they received 14 applications and is glad she will be helping with her replacement.

VISITOR/PUBLIC COMMENTS:

Mr. Rich Gamble, 39 Hockersville Road, spoke about three kids darting out in traffic downtown this weekend. They were wearing dark clothes and were very hard to see. He suggested eliminating parking from Cocoa to Ridge to help combat this issue.

Mr. Dave Weaver, 214 Java Ave., understands posting signs for the speed limit but there can become a time when there is sign pollution. He believes there comes a time to make people responsible.

Mrs. Jenny Dai, 87 Hawthorne Drive, spoke about the PPL pole being replaced in her back yard. They are replacing the two small poles with a large 20 foot high pole 50 feet from her house. She is concerned about her children and wanted to see if it could be put underground instead of what they are doing. She asked for help because she has not been able to resolve this. Chairman Abruzzo asked her to stay after and talk with Staff and Supervisor Cort asked her to send everything she has done to date to them via email, so they know.

Supervisor Zmuda made a motion to adjourn the meeting at 8:21 p.m. Supervisor Cort seconded the motion. **Motion carried 4-0.**

SUBMITTED BY:

Carter E. Wyckoff
Township Secretary