

**TOWNSHIP OF DERRY**  
**BOARD OF SUPERVISORS MEETING MINUTES**  
**OCTOBER 12, 2021**

**CALL TO ORDER**

Chairman Abruzzo called the October 12, 2021, Regular Meeting of the Township of Derry Board of Supervisors to order at 7:04 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 the Board met in Executive Session at 6:30 p.m. to discuss land, legal and personnel issues.

**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  
Peter Nelson, Township Solicitor  
Chuck Emerick, Director of Community Development  
Robert Piccolo, Assistant Director of Public Works  
Garth Warner, Chief of Police Department  
David Sassaman, Hershey Volunteer Fire Department  
Zach Jackson, Director of Parks and Recreation  
Alison Trautmann, Director of Hershey Public Library  
Matt Bonanno, HRG Engineer  
Julie Echterling, Recorder

**Public in Attendance:**

The following were in attendance: Caitlin Torres, Elliott Torres, Charlene Ferguson, Elaine Gruij, Tim Arntz, Zahriah Balentine, Rachel Groves, Tim Anderson, Ken Gall, Jason White, Joy White, Tony Roland, Mike Pries, Jerry Feaser, Susan & John Grab, Phil Jurus, Tracy Brown, Michael Corado, Rich Gamble, Dave Snyder

**VISITOR/PUBLIC COMMENTS:**

There were no comments offered.

**PRESENTATIONS:**

**VOTER HALL OF FAME:**

Dauphin County Commissioner Mike Pries and Director of Bureau of Registration and Elections, Jerry Feaser presented Mr. John Grab the Voter Hall of Fame award. Mr. Pries spoke about Mr. Grab's history of voting in the November election consecutively for the past 50 years. He spoke about Mr. Grab's history of being a teacher, coach, School Board member and other ways he has served his community. He mentioned Mrs. Grab who has served for the past 13 years with elections. He read the citation from the state and noted today October 12, 2021 was proclaimed John Grab Day in the County. Mr. Feaser also spoke about Mr. Grab's contributions to the community and polling place over the years.

**OFFICER ELLIOTT TORRES SWEARING-IN:**

Chief Warner spoke about Officer Elliott Torres history in the military and his background in Police training. Chairman Abruzzo swore in Officer Torres. The Board welcomed him.

**CONSENT CALENDAR:**

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

1. Adoption of Board of Supervisors Meeting Minutes for the September 28, 2021 Regular Meeting.

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2. Authorize the release of the remaining balance of \$645,747.00 from the performance security provided as PNC Bank Letter of Credit No. 18130893-00-000 for the required site improvements represented by the Preliminary/Final Subdivision and Land Development Plan for Hersheypark 2020 Attraction, Plat 1298.
3. Approval of Accounts Payable \$762,466.50 and Payroll of \$282,699.44

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

**NEW BUSINESS:**

**DISCUSSION OF VULTURES WITH MR. ROLAND-USDA:**

Mr. Christman discussed the ongoing problem with vultures that have been causing damage to the Zoo, Silo building and the residents near the Zoo. He spoke about the current laws protecting them. He stated Mr. Tony Roland from the USDA is here to help the Township get an understanding of what can be done to mitigate this situation and move the vultures out of the area.

Mr. Roland stated they contracted with the Zoo three years ago to help with the vultures. He noted these vultures are normally found in southern states where it is warmer but they have been coming to PA in recent years. He noted they roost communally and spoke about the damage they do to roofs, windows, caulking and vehicles. He spoke about the captures, tag and release program they started and the results. They have found them in Canada and six other states.

Chairman Abruzzo spoke about the public health and safety issues and asked what could be done. He has seen them and pictures of them including near the bear cages at the Zoo. Mr. Roland spoke about the following ways to mitigate the issue: pyrotechnics, their habitat, effigies, inflatable air-filled blowup figures, lasers, and paint balls. He noted they need to be aggressive to make them uncomfortable, so they move on. Homeowners can bang pots, use a motion sensor water system and it should be a cooperative agreement with the stakeholder and all working together. The USDA could help with the understanding that they would need to be reimbursed for travel, services and any costs associated with their work. He noted for the vultures you see, there are probably three times that number in the area.

Mr. Jason White, HE&R, spoke about their agreement with the USDA when the problem started in 2018. He noted the Zoo personnel are just as frustrated as the residents. They feed the bears inside the cages, not outside. The Zoo has been there for 40 years and has not changed anything significantly to suddenly attract the vultures. Mr. Roland noted that the vultures will eat the bears' waste.

Chairman Abruzzo asked for a smaller group of stakeholders to meet and work through the issues and talk about partnering together on an agreement to get them to leave. Vice Chairwoman Nutt spoke with US Representative Perry's office. He has a staff member working on a bill that would change the 100-year-old bill. This bill should allow further mitigation of the issue. Mr. Christman was charged with working to get the stakeholders together and work to move this forward.

**RESOLUTION 2021-19-OPENING NEW ACCOUNT FOR TOWNSHIP DEPOSITORIES:**

Mr. Christman spoke about the Board approval needed to designate a new depository account for the Township. The account will be moved from BBT/Trust to Pennsylvania Local Government Investment Trust to save banking fees and to generate interest for the Township.

Vice Chairwoman Nutt made a motion to adopt Resolution 2021-19, authorizing the transfer of funds between township designated depositories and the opening of new accounts in accordance with

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Pennsylvania Second Class Township Code. Supervisor Zmuda seconded the motion. **Motion carried 5-0.**

**RFP-AUDITING SERVICES:**

Mr. Christman asked for the Board's approval for a request for proposals to solicit new auditing services. He stated auditing services are an important function of local government ensuring financial transparency. Proposals should be received in November with a recommendation to the Board for appointment by December 31, 2021.

Vice Chairwoman Nutt made a motion authorizing the solicitation of a request for proposals for township auditing services in accordance with Article IX, Section 917 of the Pennsylvania Second Class Township Code. Supervisor Cort seconded the motion. **Motion carried 5-0.**

**SUPPORT LETTER-HUMMELSTOWN-PENNDOT TASA GRANT:**

Mr. Christman stated the Township received a request for the attached support letter to include in Hummelstown Borough's application for a PennDOT TASA Grant for pedestrian improvements throughout the Borough.

Supervisor Wyckoff made a motion to authorize the Township Manager to execute the letter of support for Hummelstown Borough's application for a PennDOT TASA Grant for pedestrian safety improvements within the Borough. Supervisor Zmuda seconded the motion. **Motion carried 5-0.**

**PLAN FOR 323 EAST AREBA AVENUE, PLAT 1345:**

Mr. Emerick stated this plan represents the subdivision of a portion of land owned by Spring Creek Church of the Brethren to be conveyed to lands of the Norton's located at 323 East Areba Avenue. Spring Creek Church property fronts on East Areba Avenue, Meadow Lane, and East Granada Avenue, and the property owned by the Norton's fronts on East Areba Avenue. Since no new development is proposed under this plan, stormwater and traffic concerns do not exist. In 1991, Spring Creek Church provided Derry Township with an easement to extend the Jonathan Eshenour Memorial Bicycle Trail through their property. For that reason, coupled with the fact that this subdivision proposes no new lots or density, the applicant has requested a deferment of sidewalk installation along the frontage of the Spring Creek Church property. Sidewalk already exists along the frontage of 323 East Areba Avenue. He went over the requested waivers and conditions for the plan.

Chairman Abruzzo made a motion to grant the waivers and deferments from the Subdivision and Land Development Ordinance as outlined below for the Preliminary/Final Subdivision Plan for 323 East Areba Avenue, Plat 1345:

1. Waivers from Sections 185-12.D.(3).(a).[21] and 185-13.E.(4).(a).[19] – Stormwater sewer plans and profiles.
2. Waivers from Sections 185-12.D.(3).(a).[22] and 185-13.E.(4).(a).[20] – Sanitary sewer plans and profiles.
3. Waivers from Sections 185-12.D.(3).(a).[23] and 185-13.E.(4).(a).[21] – Water and gas line plans and profiles.
4. Waiver from Section 185-49.A – Wetland determination.
5. Waiver from Section 185-12.D.(3).(a).[9] – Location of existing structures, wooded areas, watercourse, rock outcrops, culverts, utilities, fire hydrants and streets within 200' of the tract of land to be subdivided or developed

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6. Waiver from Section 185-12.D.(3).(a).[35] – Topographic land contours at minimum vertical intervals of 2 feet on the tract of land to be subdivided and within 200 feet of the perimeter.
7. Waiver from Section 185-22.D.(2) – Cartway widths.
8. Partial waiver from Section 185-22.E – Curbs-granted for the portion of East Areba Avenue abutting 323 East Areba Avenue.
9. Waiver from Section 185-22.D.(3) – Additional right-of-way width.
10. Deferments from Sections 185-22.E – Curbs and 185-34.A.(1) – Sidewalks on abutting streets-with the stipulation that Spring Creek Church of the Brethren agrees to, executes, and records a Declaration of Covenants for the Deferment of Curbing and Sidewalk Installation.

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

Vice Chairwoman Nutt made a motion to approve the Preliminary/Final Subdivision Plan for 323 East Areba Avenue, Plat 1345, subject to compliance with following items:

1. The Applicant shall reimburse the Township for all costs incurred in reviewing the Plan no later than November 12, 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 comply with one of the following two options:
  - a. Install the proposed monuments and markers and have them inspected by HRG, Inc. no later than April 12, 2022. Additionally, the Applicant shall agree to and execute the Development Agreement no later than April 12, 2022; OR
  - b. Provide financial security to guarantee the installation of the proposed monuments and markers in an amount and manner acceptable to the Township no later than April 12, 2022. Additionally, the Applicant shall agree to and execute the Development and Financial Security Agreement in a manner and form acceptable to the Township no later than April 12, 2022.
3. The Applicant shall revise the list of waivers and deferments on the Plan and in the supporting information no later than April 12, 2022 to include the requests for deferments from Sections 185-22.E and 185-34.A.(1) to not be required to install curbs and sidewalk on abutting streets.
4. The Applicant shall comply with and/or otherwise satisfy the comments in the Township Engineer's review letter dated October 4, 2021, a copy of which is attached hereto and specifically incorporated herein by reference, in a manner and form acceptable to the Township no later than April 12, 2022.
5. The Applicant shall provide a CD containing a digital file of the final Plan in Auto CAD or DXF compatible format no later than April 12, 2022.
6. The Applicant shall comply with one of the following two options: a. Provide 2 originals of the signed and notarized Development Agreement (if the Applicant chooses to comply with Condition 2.a above) no later than April 12, 2022; OR b. Provide 2 originals of the signed and notarized Development and Financial Security Agreement (if the Applicant chooses to comply with Condition 2.b above) no later than April 12, 2022.
7. Spring Creek Church of the Brethren shall agree to, execute, and have notarized 2 originals of a Declaration of Covenants for the Deferment of Curbing and Sidewalk Installation in a manner and form acceptable to the Township no later than April 12, 2022.
8. The Applicant shall comply with all outside agency requirements, including, but not limited to, PennDOT, PADEP, FAA, and EPA, if applicable.
9. The Applicant shall record the Development Agreement (if the Applicant chooses to comply with Condition 2.a above) OR the Development and Financial Security Agreement (if the Applicant

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chooses to comply with Condition 2.b above), or a Memorandum of the same concurrently with the Plan.

10. The Applicant shall record the Declaration of Covenants for the Deferment of Curbing and Sidewalk Installation concurrently with the Plan.

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

**TRAIL EASEMENTS WITH HERSHEY TRUST:**

Mr. Emerick discussed the proposal from Hershey Trust for extensions on the Jonathan Eshenour Memorial Trail as part of the Preliminary/Final Subdivision Plan for Hershey Trust Company – Ridgeway, Plat 1338, and the Preliminary/Final Subdivision and Land Development Plan for Catherine Hershey School for Early Learning, Plat 1342. The trails will be within new easements to be dedicated to the Township. Solicitor Nelson spoke about the opportunity for these easements to be permanent. The Township would be responsible for the maintenance, liability insurance and indemnity for the trails. He noted prior easements were for 20 years at a time. Supervisor Zmuda asked about snow removal and Mr. Emerick stated it would be treated like the other trails. They are seasonal and do not require snow removal.

Chairman Abruzzo made a motion accepting the terms of the trail easements with Hershey Trust Company as proposed. Supervisor Cort seconded the motion. **Motion carried 5-0.**

**RESOLUTION 2021-17-DERRY TOWNSHIP TRANSPORTATION ENGINEER:**

Vice Chairwoman Nutt made a motion adopting Resolution No. 2021-17 authorizing E. Christopher Abruzzo and Carter Wyckoff to sign the Policy and Procedure for Consultant Selection form (Appendix 7A of PennDOT Publication 93) for approval by PennDOT for the selection of a Transportation Engineer. Supervisor Zmuda seconded the motion. **Motion carried 5-0.**

**SECURITY-MILLER ORAL SURGERY-PLAT 1294:**

Chairman Abruzzo made a motion authorizing the release of the remaining balance (\$32,491.00) of the performance security provided in the form of Fulton Bank Letter of Credit No. D007658 for the Preliminary/Final Subdivision/Land Development Plan for Miller Oral Surgery, Plat 1294, contingent upon the developer providing maintenance security in the amount of \$540.00 and executing the Township's standard Agreement to Provide Financial Security to Guarantee the Structural Integrity and Functioning of Improvements Constructed as Required by a Subdivision or Land Development Plan. Supervisor Cort seconded the motion. **Motion carried 5-0.**

**CORRESPONDENCE BOARD/COMMITTEE INFORMATION:**

Supervisor Zmuda spoke about the upcoming Choctoberfest and parade. Supervisor Cort spoke about the upcoming All Things Diversity tomorrow and November 10 meeting. Chairman Abruzzo asked that the ICDA meet in November to receive an update.

**REPORTS:**

<u>Police:</u>	Chief Warner spoke about their virtual CALEA assessment this week. He spoke about providing the drone for both the night and daytime to observe the vultures on top of the Silo building. He stated three officers will be retiring and the department will be looking to hire in the Spring of 2022.
<u>Fire:</u>	Mr. Sassaman stated they had 82 calls in September and spoke about the fire company being staffed for 12 hour shifts when it was needed.

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<u>Public Works:</u>	Mr. Piccolo spoke about the pond on Bullfrog Valley Road. They removed 60 loads and that will be used for the landfill. They closed the gate at 3 p.m. to allow the pond to refill.
<u>Library</u>	Ms. Trautmann stated the library will close at 5 p.m. tomorrow for the parade.
<u>Recreation:</u>	Mr. Jackson spoke about the work being done on the community center. The contractors are working on the dry wall, painting and water piping in the pool area. There will be a drive-in movie on October 23.
<u>Engineer:</u>	Mr. Bonanno spoke about the pond and DTMA with 90% of the plan completed. He spoke about the restoration which will happen in the Spring and how it would help erosion.
<u>Community Development:</u>	Mr. Emerick requested a public hearing on November 23 for a short-term rental for 731 East Chocolate.

**VISITOR/PUBLIC COMMENTS:**

Mrs. Tracy Brown, 319 Park Ave., thanked the Board and Mr. Christman for their help and for coming out to see the issue they are dealing with daily. She is hopeful that the Silo owner will join them and noted the neighbors are all united. Supervisor Cort thanked her and asked her to develop a list of the neighbors and their phone numbers to coordinate for future use with this issue. Mrs. Brown also suggested a public announcement about the parade asking parents to watch their children who walk out on the streets to receive candy and the safety issue this creates.

**ADJOURNMENT:**

Supervisor Zmuda made a motion to adjourn the meeting at 8:36 p.m. Vice Chairwoman Nutt seconded the motion. **Motion carried 5-0.**

**SUBMITTED BY:**

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Carter E. Wyckoff  
Township Secretary