

TOWNSHIP OF DERRY
BOARD OF SUPERVISORS MEETING MINUTES
OCTOBER 11, 2022

CALL TO ORDER

Chairman Abruzzo called the October 11, 2022 Regular Meeting of the Township of Derry Board of Supervisors to order at 7:05 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 completed. He noted the Board met in executive session at 6:00 p.m. to discuss legal and land matters.

IN ATTENDANCE:

SUPERVISORS

E. Christopher Abruzzo, Chairman
Natalie L. Nutt, Vice Chairwoman
Carter E. Wyckoff, Secretary
Richard D. Zmuda
Michael P. Corado

ALSO PRESENT:

Christopher Christman, Township Manager
Patrick Armstrong, Solicitor
Chuck Emerick, Director of Community Development
Robert Piccolo, Assistant Director of Public Works
Chief Garth Warner, Police Department
David Sassaman, Hershey Volunteer Fire Department
Zachary Jackson, Director of Parks & Recreation
Alison Trautmann, Director of Hershey Public Library
Matthew Bonanno, HRG Engineer
Julie Echterling, Recording Secretary

Public in Attendance:

Dave Getz, Tim Horstmann, Ryan Gander, Marvin Smith, Keith Sunderman, Phil Jurus, Rich Gamble, Jonathan Crist, Lou Paoletti, Wayne Tulli, John Marcucci, George Pichini, Jennifer Pichini, Valerie Tulli

VISITOR/PUBLIC COMMENTS:

Mr. Phillip Juris, 58 Locust, showed the Board a sign that is on the Governor Crossing property. The sign stated a bank that was funding the project. He asked how this could be up when the project had not been approved. He visited 85 homes and found that many people are not informed about the project. He spoke about the comment that all the requirements were met. He noted that the Board needs to have a dialogue with the residents versus the one that took place with the developer. He noted the one notification of the project was impossible to find on Sand Hill Road. He spoke about the current traffic issues surrounding this project and how it will be nightmare with the development.

Mr. Jonathan Crist, 2865 Church Road, filed a Right-to-Know that was denied by the Township. He asked for minutes of the Transportation meeting that is being held and was denied for two reasons. One was the Transportation Committee is not required to take notes and does not have notes to share. He noted that developers and companies are allowed to be part of the meeting and asked why it is private. He said transportation is a big issue in the town and these meetings should be advertised and minutes available as he believes it acts like an advisory board and should be public. He is appealing their decision.

CONSENT CALENDAR

Supervisor Zmuda made a motion to approve the following items on the Consent Calendar:

1. Adoption of the Board of Supervisors Minutes for the September 21, 2022 Public Hearing 6 p.m.
2. Adoption of the Board of Supervisors Minutes for the September 27, 2022 Regular Meeting.

TOWNSHIP OF DERRY
BOARD OF SUPERVISORS MEETING MINUTES
OCTOBER 11, 2022

3. Authorized the full release of financial security in the amount of \$7,203.00, which had been provided in the form of Harco National Insurance Company Bond No. 0795419 for the Post Construction Stormwater Management Plan for 64 Lucy Avenue, S-2021-025.
4. Authorized the full release of maintenance security in the amount of \$4,793.10, provided as cash for the Preliminary/Final Land Development Plan and Stormwater Management Site Plan for the Hershey Wastewater Treatment Plant Relocation, Plat 1273.
5. Approved October 11, 2022 Accounts Payable of \$297,656.95 and Payroll of \$314,557.39.

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

NEW BUSINESS:

ADD AGENDA ITEM: SPECIAL COUNSEL

Solicitor Armstrong spoke about the need for the Board to discuss and add an item to the agenda tonight. He stated the item was for the Board to appoint special counsel for the conditional use hearings at the end of the month. Vice Chairwoman Nutt made a motion to add the agenda item to consider action for considering, requesting, and hiring special counsel for the conditional use hearing at the end of the month. Supervisor Zmuda seconded the motion. **Motion carried 5-0.**

ORDINANCE 2022-05-\$3MILLION DEBT FOR APPARTUS & VEHICLES:

Mr. Christman stated Ordinance 2022-05 is for authorization and incurrence of non-electoral debt not to exceed the maximum amount of \$3,000,000 for the purpose of purchasing fire apparatus, public works, and police vehicles. Mr. Louis Verdelli, Raymond James, spoke about going out to bid and the requirements of flexibility and no prepayment penalties. He discussed the proposals and how S&T Bank proposal worked the best for the Township. The offer was for 4.30% interest rate for 10 years with a maximum rate of 6.5% for the life of the loan. He went over the debt schedule. He discussed the payment the Township made for the apparatus and how this loan would draw down money to reimburse the Township for that payment. Mr. Tim Horstmann, bond counsel, discussed the ordinance and how it would allow this debt to be taken. Discussion ensued.

Supervisor Wyckoff made a motion to adopt Ordinance 2022-05 - authorization and incurrence of nonelectoral debt not to exceed the maximum principal amount of \$3,000,000 for the purpose of purchasing fire apparatus, public works, and police vehicles. Supervisor Corado seconded the motion. **Motion carried 5-0.**

RESOLUTION 2022-18 – REIMBURSE GENERAL FUND-APPARATUS PAYMENT:

Mr. Horstmann stated the Township needed a resolution allowing the general fund to be reimbursed for the amounts paid for the cost related to the purchase of fire trucks, police vehicles and public works equipment for use by the Township. He stated this is required by the IRS and is related to the Ordinance 2022-05 with the debt.

Supervisor Wyckoff made a motion to adopt Resolution 2022-18 - a Resolution of the Board of Supervisors of the Township of Derry, Dauphin County, Pennsylvania declaring its intent to reimburse its general fund for amounts paid therefrom for costs related to the purchase of fire trucks, police vehicles and public works equipment for use by the Township. Supervisor Zmuda seconded the motion. **Motion carried 5-0.**

TOWNSHIP OF DERRY
BOARD OF SUPERVISORS MEETING MINUTES
OCTOBER 11, 2022

THIRD TIME EXTENSION-TOWNEPLACE SUITES HOTEL-PLAT 1328:

Mr. Emerick stated the Board approved Plat 1328 in April 2020 and granted two extensions until October 2021 and October 31, 2022. By way of their legal counsel they are requesting a third extension until February 28, 2022. He read the outstanding issues for the plan. Mr. David Getz, Wix, Wenger & Weidner, attorney for the developer, spoke about the documents need to record the plan including the financial security. They are hoping to have it recorded this fall and spoke about the construction timeline taking about a year. Supervisor Zmuda noted they do not have their demolition permit and it has been two years. Mr. Getz noted that they need to record the plan prior to a demolition permit being issued. Supervisor Zmuda noted this would be the last extension for which he will vote.

Mr. Jonathan Crist, attorney for the business next to the proposed development AIS, spoke about concerns with the proposed development and the setbacks. He noted the limited space between the properties. He stated that his client will not be providing a construction access easement while they are building. He noted that with the size of machines and scaffolding, it will be impossible not to trespass on his client's property. He stated his client had an engineer evaluate the property and created a video diary of the whole inside. They believe it is not if, but when the damage appears to their property/building. He stated he would be appealing any building permit issued.

Chairman Abruzzo made a motion that the approval of the Preliminary/Final Subdivision and Land Development Plan for Towneplace Suites Hotel, Plat 1328 is extended until February 28, 2023, subject to compliance with 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 February 28, 2023.
2. The applicant provides calculations indicating that the fire hydrant flow rates 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 February 28, 2023.
3. The plan is signed by Bears Creek Hershey Hotel II, LLC, no later than February 28, 2023.
4. The Stormwater Best Management Practices Operation and Maintenance Agreement is recorded concurrently with the plan.
5. The property consolidation deed referencing the Stormwater Best Management Practices Operation and Maintenance Agreement is recorded concurrently with the plan.
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 plan.

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

PLAN FOR PSU COLLEGE OF MEDICINE COMPARATIVE MEDICINE FACILITY EXPANSION PLAT 1360:

Mr. Emerick stated Plat 1360 represents the expansion of the Comparative Medicine Facility located on the main campus for Penn State Health Milton S. Hershey Medical Center. The expansion is to take place in two phases. The first phase, which has been completed, was to demolish the existing kennels and install two new research trailers. The second phase is to expand the building in two places, resulting in an increase of floor area of roughly 10,000 square feet. This project will not generate additional traffic and no new employees will be added. He discussed the waivers and conditions for the plan.

TOWNSHIP OF DERRY
BOARD OF SUPERVISORS MEETING MINUTES
OCTOBER 11, 2022

Vice Chairwoman Nutt made a motion to grant the following requested waivers from the Subdivision and Land Development Ordinance for the Preliminary/Final Land Development Plan for Penn State University College of Medicine Comparative Medicine Facility Expansion, Plat 1360:

1. Waivers from Sections 185-12.D.(2) and 185-13.E.(3) to be permitted to depict the remainder of Lots 1, 2, and 3 at a scale that is smaller than 1" = 50'. "
2. Waivers from Sections 185-12.D.(3).(a).[9] and 185-13.E.(4).(a).[9] regarding showing existing features within 200 feet (for a preliminary plan) and 50 feet (for a final plan) of the tract.
3. Waivers from Sections 185-12.D.(3).(a).[10] and 185-13.E.(4).(a).[10] regarding showing the location of various sensitive environmental areas that are outside of the project's limit of disturbance. Sensitive environmental areas shall be shown within the project's limit of disturbance.
4. Waiver from Section 185-12.D.(3).(a).[16] regarding showing the location of known sinkholes.
5. Waivers from Sections 185-12.D.(3).(a).[22] and 185-13.E.(4).(a).[20] regarding showing profiles of existing, unaffected sanitary sewers.
6. Waivers from Sections 185-12.D.(3).(a).[23] and 185-13.E.(4).(a).[21] regarding showing profiles of existing, unaffected gas and water systems.
7. Waivers from Sections 185-12.D.(3).(a).[35] and 185-13.E.(4).(a).[36] regarding showing topographic land contours within 200 feet (for a preliminary plan) and 50 feet (for a final plan) of the perimeter.
8. Waivers from Sections 185-12.D.(3).(a).[38] and 185-13.E.(4).(a).[42] regarding providing the purpose of existing rights-of-way and easements.
9. Waiver from Section 185-12.D.(3).(a).[39] regarding providing a statement from utilities indicating conditions attached to easements and rights-of-way.

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

Vice Chairwoman Nutt made a motion to approve the Preliminary/Final Land Development Plan for Penn State University College of Medicine Comparative Medicine Facility Expansion, Plat 1360, 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 November 25, 2022. 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 in the amount of \$135,890.00 to guarantee the completion of the proposed improvements depicted on the Plan in a manner and form acceptable to the Township no later than April 11, 2023, and the Applicant shall agree to and execute a Development and Financial Security Agreement in a manner and form acceptable to the Township no later than April 11, 2023.
3. The Applicant shall add Section 185-12.D.(3).(a).[39] to the Requested Modification of Requirements list on Sheet C0.1 of the plan no later than April 11, 2023.
4. The Applicant shall comply with and/or otherwise satisfy the comments in the Township Engineer's review letter dated October 3, 2022, a copy of which is attached hereto and specifically incorporated herein by reference, no later than April 11, 2023.
5. The Applicant shall comply with and/or otherwise satisfy the comments in DTMA's review letter dated October 5, 2022, a copy of which is attached hereto and specifically incorporated herein by reference, no later than April 11, 2023.

TOWNSHIP OF DERRY
BOARD OF SUPERVISORS MEETING MINUTES
OCTOBER 11, 2022

6. The Applicant shall provide a CD of a DXF or AutoCAD digital file of the final plan no later than April 11, 2023.
7. The Applicant shall provide the completed BMP Inventory Form as an Excel file via e-mail to jenelles@derrytownship.org no later than April 11, 2023.
8. The Applicant shall provide 2 originals of the signed and notarized Development and Financial Security Agreement no later than April 11, 2023.
9. The Applicant shall agree to, execute, and have notarized 2 originals of a Stormwater Operation and Maintenance Agreement and Access Easement in a manner and form acceptable to the Township no later than April 11, 2023.
10. The Applicant shall agree to and execute a property Declaration referencing the Stormwater Operation and Maintenance Agreement and Access Easement in a manner and form acceptable to the Township and provide a copy of the same no later than April 11, 2023.
11. The Applicant shall comply with all outside agency requirements, including, but not limited to, PennDOT, PADEP, FAA, and EPA, if applicable.
12. The Applicant shall record the Development and Financial Security Agreement, or a Memorandum of the same, 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.

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

OCTOBER-ITALIAN AMERICAN HERITAGE MONTH PROCLAMATION:

Chairman Abruzzo read the full proclamation to celebrate October as the Italian American Heritage month. Members from the Hershey Italian Lodge were in attendance, accepted the proclamation and thanked the Board.

Supervisor Corado made a motion to approve the proclamation naming the Month of October - Italian American Heritage Month in the Township of Derry. Chairman Abruzzo seconded the motion. **Motion carried 5-0.**

AMEND ORDINANCES-TRAFFIC-PARKING OF CERTAIN VEHICLES IN TOWNSHIP:

Chief Warner spoke about the complaints they received about parking along residential streets in the Briardale area of Derry Township. Some of these vehicles are commercial vehicles, including, but not limited to truck-tractor, trailer combinations. Some of these vehicles, when parked along the street, remain running and sometimes have refrigeration units that remain running as well. This has created a quality-of-life issue for residents in the area. The noise of the running engines can happen at all hours and has disturbed the peace of the nearby residents. Exhaust fumes from the running engines have also become an issue and on at least one occasion, were taken in by the HVAC system of a nearby house, setting off the carbon monoxide alarm in the house. These large vehicles have also created sight distance issues for other motorists and pedestrians driving or walking in these areas. The cost of this change would be \$4,000-\$8,000 for signs.

Supervisor Zmuda made a motion authorizing the advertisement to amend the Code of Ordinances of the Township of Derry at Chapter 210, Vehicles and Traffic, Section 210-40, Parking of Trucks, Buses, and Certain other Vehicles Prohibited in Certain Locations, by establishing restrictions on the parking of

TOWNSHIP OF DERRY
BOARD OF SUPERVISORS MEETING MINUTES
OCTOBER 11, 2022

vehicles other than a passenger car and/or light truck at certain locations in the Township. Supervisor Corado seconded the motion. **Motion carried 5-0.**

AUTHORIZE GRANT APPLICATIONS -PCCD GRANTS-POLICE:

Chief Warner spoke about the grant funding program opened by Office of Justice Programs (OJP) of the Pennsylvania Commission on Crime and Delinquency (PCCD) for local law enforcement entities, as well as County agencies to apply for competitive grant money to fund implementation of information technology improvements, purchase or upgrade equipment, cover non-traditional law enforcement personnel costs, support retention and recruitment efforts, and provide necessary training and cover related expenses. They would like to apply for grant funding from PCCD in a few of the categories. There is no requirement for matching funds for the grant. He noted, when asked, that if awarded, the money would be used for digital forensic equipment, expand LPR, and for retention money for non-sworn employees.

Vice Chairwoman Nutt made a motion to authorize the Police Department to proceed in the application for grant money through the Pennsylvania Commission on Crime and Delinquency (PCCD), specifically the Local Law Enforcement Support Grant Program. Supervisor Corado seconded the motion. **Motion carried 5-0.**

FINANCIAL SECURITY-HERSHEY PARK WILDCAT-S-2022-024:

Chairman Abruzzo made a motion to accept a financial security in the amount of \$192,202, in the form of PNC Bank Letter of Credit No. 18136935-00-000 and enter into the Agreement to Provide Financial Security with Hershey Entertainment and Resorts Company for the Stormwater Management Plan for Hersheypark Wildcat Modifications, S-2022-024. Supervisor Zmuda seconded the motion. **Motion carried 5-0.**

FINANCIAL SECURITY-402 ROSELAND DRIVE-S-2021-006:

Supervisor Zmuda made a motion to accept a cash financial security in the amount of \$20,775 and enter into the Agreement to Provide Financial Security between Bryan M. and Mandy Lee Wehler and the Township for the Stormwater Management Plan for 402 Roseland Drive, S-2021-006. Supervisor Corado seconded the motion. **Motion carried 5-0.**

SPECIAL COUNSEL-CONDITIONAL USE HEARING:

Solicitor Armstrong spoke about seeking proposals for special counsel for the upcoming public hearings at the end of the month. He noted Solicitor Nelson would be with the Board but a special counsel could be appointed for the Township's interests. He noted a special meeting would be needed prior to the hearings to appoint such counsel if approved by the Board.

Chairman Abruzzo made a motion to authorize the Solicitor and Township manager to seek proposals for the selection and appointment of outside counsel to represent the Township's interest for the Governor Road Crossings hearings. Supervisor Zmuda seconded the motion. **Motion carried 5-0.**

Mr. Christman stated the special meeting can be held on October 24, 2022 at 5:30 p.m. right before the 6:00 p.m. public hearing.

CORRESPONDENCE BOARD/COMMITTEE INFORMATION:

There were no reports provided.

TOWNSHIP OF DERRY
BOARD OF SUPERVISORS MEETING MINUTES
OCTOBER 11, 2022

REPORTS:

<u>Fire:</u>	Mr. Sassaman spoke about fire prevention month. He stated they had 69 calls in September.
<u>Public Works:</u>	Mr. Piccolo stated leaf collection has started.
<u>Library:</u>	Ms. Trautmann noted that on October 19 the library will close early for the parade. She spoke about the edible book contest starting soon.
<u>Recreation</u>	Mr. Jackson stated the parade is set for October 19 and he thanked the local businesses that help with the parade.
<u>Engineer</u>	Mr. Bonanno stated they will be working with DTMA and Staff on their EPA audit for the MS4 permit which is scheduled for October 19.
<u>Manager:</u>	Mr. Christman reached out to HE&R and the Hershey Company. They have agreed to pay for the underpass inspections. He noted there will be a special meeting October 24 at 5:30 p.m. and it will be advertised.

VISITOR/PUBLIC COMMENTS:

There were no public comments offered.

ADJOURNMENT:

Supervisor Zmuda made a motion to adjourn the meeting at 8:41 p.m. Supervisor Corado seconded the motion. **Motion carried 5-0.**

SUBMITTED BY:

Carter E. Wyckoff
Township Secretary