

TOWNSHIP OF DERRY
BOARD OF SUPERVISORS MEETING MINUTES
JANUARY 24, 2023

CALL TO ORDER

Supervisor Abruzzo called the January 24, 2023 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 role call was performed. He announced that an Executive Session was held at 6 p.m. and legal matters were discussed. He noted Supervisor Corado was absent with excuse.

IN ATTENDANCE:

SUPERVISORS

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

ALSO PRESENT:

Christopher Christman, Township Manager
Patrick Armstrong, Solicitor
Chuck Emerick, Director of Community Development
Thomas Clark, Director of Public Works
Lt. Timothy Roche, Police Department
Alison Jacobine, Director of Hershey Public Library
Amy Walker, Parks & Recreation
Eric Stumpf, HRG Engineer
Julie Echterling, Recording Secretary

Public in Attendance:

Tracy Brown, Craig Smith-RGS, Mary Driscoll, Tom Petrisko, Kenny Hinebaugh, Kevin Sassaman, Diana Cerminara, James St. John, Steve Myers

VISITOR/PUBLIC COMMENTS:

Mr. James St. John, 1585 Brookline Drive, is concerned with the medians in Walton Spring Hills. He is disappointed that the Township has not taken care of them. He spoke about the trees in the development and the damage that has been caused by dead trees. He spoke about the tree that fell recently and caused damage. He stated the Township agreed to take down trees that are 18 inches in diameter but one that is six inches could cause damage. He discussed the current ordinance and expected the Township to live up to that. He noted that the medians are to be cared for 2-3 times a year and have only been done once this year. He asked if they could do one big cleanup of the construction materials and median issues and then perform regular maintenance. He would like to work with the Township on a solution for this issue.

Mr. John Fornadley, 1650 Brookline Drive, spoke of the potential danger and safety issues with the trees. He stated they cannot take care of the trees themselves and were they were told not to. He asked the Township to come and look at it and come up with a plan.

Ms. Melissa Kaminski, 1518 Brookline Drive, is concerned. She spoke about the soil when it rains and the concern for the trees. She mentioned the tree that fell on a house. She spoke about the poison ivy and safety issues. She noted that if one of the trees falls, it will block access to the development and cause damage. She invited them to come to their community and look at the issue.

Ms. Diana Cerminara stated she tried to follow the process and reached out and received one response two months ago. The trees are dangerous, the Township owns the trees, and the ordinances support the maintenance that needs to be done. She asked what needs to be done for this to be take care of.

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Chairman Abruzzo stated this has been an issue for 30 years. He stated they spent six months going through records and legal documents. He responded to each of those who reached out to them. He stated they will do what the law allows them, keeping in mind the rest of the Township and taxpayers. He stated there are restrictions on what they can do. They have come up with a plan that is defensible to the rest of the taxpayers. He invited them to sit down with the Township Manager and talk about the letter that outlines the plan they have. He noted that none of the trees that fell are in the median. He noted this development was built in a forest. Other residents in the development have come to the Board and did not want the trees to be taken care of or sprayed for poison.

Mr. Kevin Sassaman, 1775 Brookline Drive, asked if they have been to the development and spoke about the dead trees on the median that have not been removed. He is concerned that their road could be blocked. He stated they are here because of the neglect. Chairman Abruzzo spoke of the issue with ownership of the medians and are open to talk about a solution. He agreed they need to work on the dead trees. He encouraged them to contact Mr. Christman and thanked them for coming.

CONSENT CALENDAR:

Supervisor Wyckoff made a motion to approve action on the following items on the consent calendar:

1. Adoption of the Board of Supervisors Meeting Minutes for the January 3, 2023.
2. Approval of January 24, 2023 Accounts Payable of \$787,586.31, January 6, 2023 Payroll of \$330,160.30 and January 20, 2023 Payroll of \$355,124.00.

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

NEW BUSINESS:

SPONSORSHIP FOR OPIOID REMEDIATION GRANT APPLICATION:

Mr. Christman stated as part of the \$26 billion national settlement, which is intended to resolve several thousand lawsuits against drug manufacturer Johnson & Johnson, and the country's three major pharmaceutical distributors: AmerisourceBergen, McKesson, and Cardinal Health, the state will receive an allocation of funds. The companies have not admitted any wrongdoing under the settlement agreement and will make payments over 18 years. The total dollars allocated to Pennsylvania is \$1,070,609,642 with 70% allocated to counties based on metrics with 15% to Litigating Counties, Subdivisions, DAs, and Special Districts, and 15% controlled by the Legislature. The anticipated allocation to Pennsylvania Counties is \$700 million and the value to Dauphin County is approximately \$11,206,674 over the course of the settlement. The County process for consideration of eligible applicants requires a "Letter of Sponsorship" from Derry Township. The Township is considered a "sponsor" because the grant criteria list Derry Township as a community with 10,000 residents or more. Two non-municipal applicants are seeking Township sponsorship for their projects - Penn State Hershey Medical Center and A New Start For You, Inc. He noted there is no financial impact to the Township. He explained the criteria and the process. The final application is due to Dauphin County by February 15. Solicitor Armstrong stated the support letter should just sponsor them instead of supporting their project. Supervisor Zmuda expressed disappointment that the applicants were not present tonight.

Supervisor Zmuda made a motion to authorize the Township Manager to prepare and execute letters of support for the two opioid remediation projects in conformance with the guidelines for the Dauphin County Opioid Remediation Grant Program. Vice Chairwoman Nutt seconded the motion. **Motion carried 4-0.**

ORDINANCES – AMENDING OCCUPATION & LST COLLECTION:

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Solicitor Armstrong spoke about the request from Keystone to consider and adopt two ordinance amendments that will revise the Township's Occupation Tax and Local Services Tax provisions. Derry Township has appointed Keystone as the collector of Occupation and Local Services Taxes within the Township effective January 1, 2023. Keystone has provided the Township with two draft ordinance amendments which were advertised. He asked if there were any comments from the public on either ordinance. There were no comments offered by the public.

Vice Chairwoman Nutt made a motion to adopt Ordinance 2023-01 amending the Township's Occupation Tax Ordinance. Supervisor Zmuda seconded the motion. **Motion carried 4-0.**

Vice Chairwoman Nutt made a motion to adopt Ordinance 2023-02 amending the Township's Local Services Tax Ordinance. Supervisor Zmuda seconded the motion. **Motion carried 4-0.**

TAX ASSESSMENT APPEALS:

Solicitor Armstrong spoke about two tax appeals to consider. The Stipulation and Joint Motion for Agreed Upon Order in the tax assessment appeals of Anil Saini under Docket No. 2022-CV-7924-TX and Jayanth Franklin under Docket No. 2022-CV-7922-TX are up for consideration. The properties that are the subject of the above-referenced tax assessment appeals are located at 290 Dunham Drive (Saini) and 1064 Woodridge Drive (Franklin), both of which are residential properties. The county proposed the stipulation and the School District has agreed to them.

Chairman Abruzzo made a motion to approve and authorize the Township Solicitor to execute the attached Stipulation and Joint Motion for Agreed Upon Order in the tax assessment appeal of Anil Saini for the property located at 290 Dunham Drive. Vice Chairwoman Nutt seconded the motion. **Motion carried 4-0.**

Vice Chairwoman Nutt made a motion to approve and authorize the Township Solicitor to execute the attached Stipulation and Joint Motion for Agreed Upon Order in the tax assessment appeal of Jayanth Franklin for the property located at 1064 Woodridge Drive. Supervisor Zmuda seconded the motion. **Motion carried 4-0.**

ORDINANCE-PARKING – SPRING HILL DRIVE:

Lieutenant Roche spoke about the complaint received from a resident regarding the parking of vehicles along the south side of Spring Hill Drive in the area of 1612 Spring Hill Drive. Concerns were raised that anyone exiting 1612 Spring Hill Drive was unable to see around parked vehicles and unable to safely exit the driveway. It was also a concern that vehicles traveling east on Spring Hill Drive needed to travel in the path of oncoming vehicles due to a right turning curve in the roadway. The curve, in conjunction with the vehicles parked along the south side of Spring Hill Drive creates a traffic hazard for oncoming (westbound) traffic as eastbound vehicles have to travel into the path of oncoming vehicles to safely navigate the curve in the roadway. A study was completed by the DTPD Traffic Safety Unit, and warrants were met for the establishment of parking restrictions in this area. The required advertising was completed.

In discussion today with Mr. Emerick and Chief Warner it appears that every road in the development is no parking. He spoke about the signs being missing and may just need to replace the signs. He spoke of one area that was unclear about no parking and how the ordinance would take care of this area. Mr. Christman asked that warnings for parking violations be given for the first 30 days.

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Chairman Abruzzo made a motion to authorize amending the Code of the Township of Derry (Ordinance No. 553) Chapter 210, Section 210- 38, Parking Prohibited at All Times in Certain Locations - by establishing the south side of Spring Hill Drive from the convergence of the two single lanes to a two-lane roadway to a point 170 feet east as a No Parking zone. Supervisor Wyckoff seconded the motion. **Motion carried 4-0.**

FLASHING DEVICE -COCOA AVE & BROOK LANE PEDESTRIAN CROSSING:

Mr. Clark stated Public Works received three proposals for the installation of a flashing warning device for a pedestrian crossing at Cocoa Avenue and Brook Lane. Out of the three proposals received Herr Signal & Lighting Company, Inc., was the low bidder at \$38,750. Bids from C.M. High and Signal Service were higher. Installation costs will be paid for out of the American Rescue Plan Act (ARPA) funds. Chairman Abruzzo noted the bids were higher than expected and that they should follow the procurement requirements.

Supervisor Wyckoff made a motion to authorize Staff to prepare, solicit and advertise for bids for the installation of a flashing warning device for a pedestrian crossing at Cocoa Avenue and Brook Lane. Supervisor Zmuda seconded the motion. **Motion carried 4-0.**

NEW JOB DESCRIPTION – HERSHEY PUBLIC LIBRARY:

Mrs. Jacobine discussed the Library staffing and needs after COVID. With library operations returning normal, they noticed areas where service could be improved as well as staff being stretched thin on the front desk. She discussed the proposed job description changes.

Chairman Abruzzo made a motion to approve the revised job descriptions for Cataloging/Collection Development Librarian and the new job descriptions for the Library Assistant - Teen and School Aged Services, Library Assistant - Marketing and Communications, and Library Assistant - Children's Cataloger. Vice Chairwoman Nutt seconded the motion. **Motion carried 4-0.**

PLAN-MARY'S HEALTH AND FITNESS-PLAT 1366:

Mr. Emerick stated Plat 1366 proposes to join 971 Bullfrog Valley Road and 1550 Sand Hill Road together, to contain an existing dwelling unit and develop a health and fitness center, as permitted by Conditional Use Application No. 2022-04. The parcels of land are owned by Driscoll Rentals, LLC. The final lot is proposed to contain 3.5 acres. The proposed building will contain approximately 35,864 square feet, with space for a weight room, conference room, training office, recovery room, and a 180-foot by 180-foot indoor turf facility. All existing improvements will be razed except for the dwelling. The original proposal was to create a new lot around the single-family dwelling; however, it was discovered that the new lot could not meet the required minimum lot depth. As a result, the dwelling is still being retained but will be located on the same lot as the health and fitness center. The Trip Generation Evaluation & TIS Warrant Evaluation report will result in 240 average weekday trips, with 9 trips occurring during the AM peak hour and 24 trips occurring during the PM peak hour. Stormwater will be controlled on the site through a conveyance system leading to an infiltration BMP.

Chairman Abruzzo asked about the driveway being too close to the intersection. Mr. Craig Smith, RG Associates, spoke about evaluating the site and spoke of the slopes and the distance being more than the ordinance required.

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Vice Chairwoman Nutt made a motion that the following waivers and deferments are granted from the Subdivision and Land Development Ordinance for the Preliminary/Final Subdivision and Land Development Plan for Mary's Health and Fitness, Plat 1366:

1. Waivers from Sections 185-12.D.(3).(a).[9] and 185-13.E.(4).(a).[9] – Location of all existing structures, wooded areas, water courses, rock outcrops, culverts, utilities above or below ground within 200 feet and 50 feet (respectively) of the site.
2. Waivers from Sections 185-12.D.(3).(a).[35] and 185-13.E.(4).(a).[36] – Topographic land contours at minimum vertical intervals of two feet on the tract of land to be developed or subdivided and within 200 feet and 50 feet (respectively) of the perimeter.
3. Waivers from Sections 185-12.D.(3).(a).[21], [22], [23] and 185-13.E.(4).(a).[19], [20], [21] – Plans and profiles of existing stormwater sewer, sanitary sewer, and gas and water systems and other related structures at a scale of one inch equals 50 feet horizontal and one inch equals 5 feet vertical.
4. Waivers from Sections 185-13.E.(4).(a).[19], [20], [21] – Plans and profiles of proposed and existing stormwater sewer or conveyance systems with grades, pipe sizes and location of all inlets, manholes and other related structures at a scale of one inch equals 50 feet horizontal and one inch equals 50 feet vertical.
5. Waiver from Section 185-22.D.(3).(c) – Widening of existing streets which do not meet the requirements of this section.
6. Deferment from Section 185-22.E.(5) – Curbing along Bullfrog Valley Road, Roush Road, and Sand Hill Road, subject to and conditional on the property owner agreeing to and executing a Declaration of Covenants, in a manner and form acceptable to the Township, to be recorded against the property, that would allow the Township to require the installation of curbing along Bullfrog Valley Road, Roush Road, and Sand Hill Road in the future if deemed necessary.
7. Deferment from Section 185-34.A – Sidewalk, subject to and conditional on the property owner agreeing to and executing a Declaration of Covenants, in a manner and form acceptable to the Township, to be recorded against the property, that would allow the Township to require the installation of sidewalk along Bullfrog Valley Road, Roush Road, and Sand Hill Road in the future if deemed necessary.

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

Vice Chairwoman Nutt made a motion to approve the Preliminary/Final Subdivision and Land Development Plan for Mary's Health and Fitness, Plat 1366, subject to compliance with following items:

1. The Applicant shall reimburse the Township for all costs incurred in reviewing the Plan no later than March 6, 2023. 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 \$537,217 to guarantee the completion of the proposed improvements depicted on the Plan in a manner and form acceptable to the Township no later than July 24, 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 July 24, 2023.
3. The Applicant shall comply with and/or otherwise satisfy the comments in the Township Engineer's review letter dated January 16, 2023, a copy of which is attached hereto and specifically incorporated herein by reference, no later than July 24, 2023.
4. The Applicant shall comply with and/or otherwise satisfy the comments in the DTMA review letter dated January 18, 2023, a copy of which is attached hereto and specifically incorporated herein by reference, no later than July 24, 2023.

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5. The Applicant shall provide a CD of a DXF or AutoCAD digital file of the final plan no later than July 24, 2023.
 6. The Applicant shall provide 2 originals of the signed and notarized Development and Financial Security Agreement no later than July 24, 2023.
 7. The Applicant shall agree to, execute, and have notarized 2 originals of a Declaration of Covenants, in a manner and form acceptable to the Township, to be recorded against the property, that would allow the Township to require the installation of curbing and sidewalk along Bullfrog Valley Road, Roush Road, and Sand Hill Road in the future if deemed necessary, no later than July 24, 2023.
 8. 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 July 24, 2023.
 9. The Applicant shall provide a draft Deed of Consolidation for the combined properties no later than July 24, 2023. The deed shall reference the Stormwater Operation and Maintenance Agreement and Access Easement by including the following language: “UNDER AND SUBJECT to the Stormwater Operation and Maintenance Agreement and Access Easement dated _____, recorded in the Office of the Recorder of Deeds of Dauphin County, Pennsylvania, at Instrument No. _____, regulating the BMPs associated with this lot.”
 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 Plan.
 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 Declaration of Covenants for the deferred improvements regarding the installation of curbing and sidewalk along Bullfrog Valley Road, Roush Road, and Sand Hill Road concurrently with the Plan.
 14. The Applicant shall record the Stormwater Operation and Maintenance Agreement and Access Easement concurrently with the Plan.
 15. The Applicant shall record the Deed of Consolidation concurrently with the Plan.
- Supervisor Zmuda seconded the motion. **Motion carried 4-0.**

THE HERSHEY CO. DEVELOPMENT AGREEMENT REVISIONS - PROJECT MILTON, PLAT 1362:

Mr. Emerick stated the Board conditionally approved Plat 1362, which plan represents the further development of a 55.24-acre tract of land fronting on Reese Avenue. The Hershey Company is requesting revisions to Plat 1362’s Development Agreement, regarding the restriction of construction hours to weekdays from 6:00 AM to 6:00 PM. They are requesting:

- Permission to begin pouring concrete floors prior to 6:00 AM. for eight consecutive weeks, sometime during the summer of 2023 with a minimum of 48 hours advance notice of the first activity and notice upon completion.
- Permission to complete an individual three-foot, in-depth floor pour after 6:00 PM.
- Permission to conduct overnight work on the sewer relocation for approximately four consecutive days, with a minimum of 48 hours advance notice of the first activity and notice upon completion.

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- Permission to construct on Saturdays from 7:00 AM to 5:00 PM. They noted that the requests are consistent with industry standards for construction activities and aim to minimize the length of time that will be required to complete work on the site.

Chairman Abruzzo has some concerns on the days and hours and would like more details about it. He spoke of the noise the trucks make when backing up. Mr. Kenny Hinebaugh, Hershey Company, spoke about the accesses to the site and the need for the cement to be poured with the plants starting at 3 a.m. The walls would be done prior to the pouring which should help with the sound. Once they start pouring, they cannot stop, and they may be outside the allowed hours. Chairman Abruzzo spoke about a plan and what can be done for the noise for the residents. He asked him to put together a plan for notification and come back next meeting for the Board to consider.

Chairman Abruzzo made a motion to **TABLE** action, until next meeting, on authorizing revisions to the Development Agreement regarding permitted construction hours, as requested in the January 18, 2023 letter from The Hershey Company, for the Preliminary/Final Stormwater Management and Land Development for Project Milton, Plat 1362, in accordance with the time limits and notification requirements contained therein. Supervisor Zmuda seconded the motion. **Motion carried 4-0.**

SIDEWALK PROJECT ALONG WALTONVILLE ROAD:

Mr. Emerick stated Waltonville Road has an existing sidewalk system that provides a corridor from many of the adjacent neighborhoods to Shank Park. There is a two-property gap in the sidewalk system that hinders residents in the Regency Hills area from safely accessing the sidewalk system. Derry Township has obtained easements from those two property owners to provide sidewalk along their frontages, outside the PennDOT right-of-way. This sidewalk project would be funded from the money collected for waivers of sidewalk installation out of the General Fund.

Vice Chairwoman Nutt made a motion authorizing the Community Development department to complete the design; obtain any necessary permitting; bid; and, upon receipt of an acceptable bid, construct a section of sidewalk along Waltonville Road. Supervisors Wyckoff and Zmuda seconded the motion. **Motion carried 4-0.**

STORMWATER MANAGEMENT PLAN FOR 1064 WOODRIDGE DRIVE, S-2021-011:

Mr. Emerick stated Jayanth J. and Cristen C. Franklin submitted the stormwater management plan for 1064 Woodridge Drive to detail the design of stormwater management facilities for a proposed pool house. Mr. Franklin has informed us that they are abandoning the project, and he has asked for the return of the cash financial security. To address the matter of a recorded stormwater management plan being on file, Pat Armstrong prepared the attached Unilateral Declaration of Covenants, Easements, Conditions and Restrictions, which states that the Franklins declare the stormwater management plan to be formally withdrawn and no longer a valid plan.

Supervisor Wyckoff made a motion to accept the Unilateral Declaration of Covenants, Easements, Conditions and Restrictions and releases the cash financial security in the amount of \$6,554.00 for the Stormwater Management Plan for 1064 Woodridge Drive, S-2021-011, conditional upon Jayanth J. and Cristen C. Franklin signing and recording the Declaration and providing proof of recording to the Township. Supervisor Zmuda seconded the motion. **Motion carried 4-0.**

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CORRESPONDENCE BOARD/COMMITTEE INFORMATION:

Supervisor Zmuda spoke about the Transportation meeting. HE&R was there and discussed the summer concert schedule and using the same traffic patterns from last summer. DTMA was also in the meeting and spoke about their projects. They also discussed traffic in the area.

Vice Chairwoman Nutt attended the Transportation meeting, Library Board meeting, and the ICDA reorganizational meeting. Supervisor Wyckoff attended the General Authority reorganizational meeting. At the DTMA meeting they reorganized, welcomed new members, received an update on projects, and spoke about public outreach. Chairman Abruzzo attended the Library Board meeting and reminded everyone of the hearing on January 31 starting at 6 p.m.

REPORTS:

<u>HVFD:</u>	Mr. Sassaman is hoping to publish the year-end report next week.
<u>Public Works:</u>	Mr. Clark stated they are collecting Christmas trees. They are working on maintenance issues inside and outside.
<u>Library:</u>	Mrs. Jacobine stated the Library has federal tax forms available.
<u>Recreation:</u>	Ms. Walker stated they are hiring seasonal and year round employees.
<u>Manager:</u>	Mr. Christman stated with the impending weather that Waste Management would be starting at 3 a.m. tomorrow.

VISITOR/PUBLIC COMMENTS:

There were no comments offered.

ADJOURNMENT:

Supervisor Zmuda made a motion to adjourn the meeting at 8:25 p.m. Vice Chairwoman Nutt seconded the motion. **Motion carried 4-0.**

SUBMITTED BY:

Carter E. Wyckoff
Township Secretary