



TOWNSHIP OF DERRY
Board of Supervisors Meeting Minutes
Tuesday, May 23, 2023

CALL TO ORDER

Chairman Abruzzo called the May 23, 2023 Regular Meeting of the Township of Derry Board of Supervisors to order at 7:07 p.m. in the meeting room of the Township of Derry Municipal Complex, 600 Clearwater Road, Hershey, PA. After the Pledge of Allegiance, a roll call was performed. He advised that all public meetings are recorded for providing accurate notes. An Executive Session was held at 6:30 p.m. where land and legal issues were discussed.

ROLL CALL:

SUPERVISORS PRESENT:

E. Christopher Abruzzo
Natalie L. Nutt
Carter E. Wyckoff
Michael P. Corado
Richard D. Zmuda

ALSO PRESENT:

Patrick Armstrong, Township Solicitor
Chuck Emerick, Director of Community Development
Tom Clark, Director of Public Works
Garth Warner, Chief of Police Department
David Sassaman, Hershey Volunteer Fire Department
Alison Jacobine, Director of Hershey Public Library
Zachary Jackson, Director of Parks & Recreation
Julie Echterling, Recording Secretary
Becky Sweigart, Public Outreach Coordinator
Eric Stump, HRG Engineer
Marie Sirkot, Administrative Assistant
David Habig, Assistant Director of Community Development

Public in Attendance:

Matthew Plant, Paige Dalto, Kenny Hinebaugh, Josslyn Howard, Michael Angello, Louis Paoletti, Ambrose Heinz, Holly Evans, Krupal Desia

VISITOR/PUBLIC COMMENTS

There were no public comments offered.

CONSENT CALENDAR

Adoption of the Board of Supervisors Minutes for the May 9, 2023 Regular Meeting.

Release of financial security provided for the Stormwater Management Plan for 1068 Fairdell Drive, S-2022-018.

Authorize the release of financial security in the amount of \$20,027.00, which had been provided as cash for the Stormwater Management Plan for 1068 Fairdell Drive, S-2022-018.

Reduction of the performance security provided for the Preliminary/Final Subdivision Plan for Woodland Hills, Plat 1203.

Authorize the release of \$11,106.70 from the performance security provided in the form of Bank Letter of Credit No. 696883 for the Preliminary/Final Subdivision Plan for Woodland Hills, Plat 1203, resulting in a new balance of \$44,694.66.

Approval of May 23, 2023 Accounts Payable of \$735,250.53 and Payroll of \$326,486.83.

Secretary Wyckoff made a motion to approve the above items on the Consent Calendar. Supervisor Corado seconded the motion. **Motion Motion carried. 5-0.**

NEW BUSINESS

Authorization-Keystone Grant for air conditioner replacement for the Hershey Public Library.

Mrs. Jacobine stated The Keystone Grant is a matching grant that reimburses up to 50% of eligible costs to plan, acquire, construct or rehabilitate public library facilities with grant funds. The application must be submitted by a sponsoring municipality developed cooperatively with the library's board. In 2023, \$4.1 million in funds were awarded as part of this grant program. The current plan is to apply for the grant again in October of 2023 to cover costs related to replacement of the library's failing 25-year-old air conditioning system. Anticipated costs for replacing the air conditioning system are in excess of \$250,000 and soft costs such as engineering design of the biddable project are being determined but are reimbursable under the grant's guidelines. Current funding priorities for the grant money are addressed in this project since the grant is specifically looking to fund projects that address energy efficiency and non-routine maintenance.

Supervisor Corado made a motion to authorize the Township Manager to apply for the Keystone Grant for the Public Library Facilities.

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

The Sketch Plan for Park Village Plaza Quick Serve Restaurant, Plat 1374:

Mr. Emerick stated a sketch plan was filed by KND Holdings, LLC and represents the further development of the Park Village Plaza. The site is in the General Commercial zoning district. The plan proposes the construction of a one-story, 1,500-square-foot "Quick Serve Restaurant" with a patio. No new access is proposed to the site; however, the internal traffic flow of the site will be modified. The proposed use is being considered by the Township as "Food Services Without Drive Through", which is a permitted use in the General Commercial zoning district. The applicant is not proposing any new sidewalks or bike paths as part of this development. The applicant indicates that this project will increase the vegetative coverage and reduce the impervious coverage for the parcel. They indicated in their narrative that this project will displace 25 parking spaces that will be replaced with 28 new spaces elsewhere on the property, giving the property a net of three new parking spaces. As the restaurant will only contain three indoor seats and 12 outdoor seats, parking is neither improved nor worsened by this development. He noted that the Planning Commission has reviewed it and provided comments just as HRG has done for this plan.

Mr. Matt Plant, Engineer for the applicant, stated he was here to answer any questions the Board may have. Vice Chairwoman Nutt expressed concern about the parking and getting in and out based on the location of the restaurant. She noted that tourists will not know to park in the

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back. She expressed concern about the parking spaces. Mr. Plant stated they actually are cleaning spots up for easier access.

Chairman Abruzzo spoke about how poorly designed the parking lot is and his concerns with traffic especially on a Friday night when traffic increases three-fold. He expressed concerns with the location of the restaurant with Sheetz and the entrance. Mr. Plant stated they could push back the restaurant; however, it would cause issues with the setbacks. Supervisor Zmuda asked why they chose that location and have they considered moving it to the other side of Papa John's. Mr. Plant stated they chose that location because of the visibility. Discussion ensued.

Mr. Krupal Desia, owner of the property, stated he holds all the leases on the property and that they can consider moving it to a different location on the property. He wants to bring a healthy option to the area. He understands the traffic concerns but is looking to see how they can put a restaurant in the Plaza. They will take the Board's comments and do their best.

Plan for Hershey Square Proposed Outparcel Development, Plat 1353:

Mr. Emerick stated in December the Board granted conditional Preliminary Plan approval for Plat 1353, but deferred action on the Final Plan element due to concerns for traffic. The applicant has since completed and submitted a traffic impact study, which has been reviewed by HRG. The applicant continues to revise some of the plan sheets related to the proposed improvements and their attorney is working with Solicitor Armstrong on details for an agreement between the applicant and the Township related to the submission of the PennDOT permitting plans. Tonight the applicant is seeking assurances from the Board that the Township will be the applicant for the PennDOT permitting plans for the associated intersection improvements after the agreement between the developer and the Township is completed and any modifications to the permit plans, as recommended by HRG, have been completed.

Solicitor Armstrong stated that if the Board wants to move forward authorizing the submission of the HOP, it will need to be acceptable to the Township Engineer with the May 8th HRG letter. Attorney Ambrose Heinz, Stevens & Lee, attorney for the applicant, stated they did receive the letter from HRG. He spoke about the stacking on Hershey Park Drive and plan on adding just one car to the stacking and did not feel it was necessary to extend it the additional 25 feet being requested from their plan. Township Engineer Stump spoke about the review letter and the stacking in the left hand lane. He spoke about the increased peak time traffic and the impact of traffic in this area including Saturday. Mrs. Holly Evans, Evans Engineering, spoke about the impact of the development and wanted to clarify the impact of the plan.

Solicitor Armstrong stated that extension of the left-hand turn lane will be part of the agreement. Mrs. Evans stated part of the extension is from their plan. Attorney Heinz spoke about adding an additional 25 feet to the left-hand turn lane and if the cost should be the applicants. They asked for a short break to discuss the impact of this request and come back later in the meeting. Their request was granted.

After discussing it as a group and one agenda item being completed, they came back and addressed the Board.

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Attorney Heinz stated the applicant is willing to add the recommendation of extending the turning lane but have requests about timing and cost. Mrs. Evans spoke about the delays of this project and the timeline. She asked if they could proceed with the HOP without the extension of the turning lane. When PennDOT comes back with their comments, they would add the extension of it during that time of resubmission. Solicitor Armstrong and the Board were okay with the request as long as HRG is okay with this request. Mr. Stump stated it is not uncommon to add things after the first PennDOT review.

Mrs. Evans stated the applicant is willing to pay for the survey, engineering costs, permit and design but asked the Township to carry the cost of the construction for extension of the left lane. Solicitor Armstrong stated that is a heavy request and stated the extension is needed based on their development. Attorney Heinz stated they would push back if PennDOT asked for this also. He noted that without this project, the traffic issues will continue in this area. They feel it is reasonable to ask the Township to pay their fair share for this improvement.

Chairman Abruzzo stated he still is not convinced that this will fix the traffic problem at this location. Engineers are not able to accurately predict what the tourist traffic is and the impact it has on the area. There is no baseline for their unique community situation, and it does not reflect what happens here in the summer. He spoke of living and driving in this community and the traffic backups. If they want to build, then the improvements need to be made by them. Attorney Heinz stated they are okay with the improvement if they can move forward. Solicitor Armstrong spoke about the timing and the HOP.

Chairman Abruzzo made a motion that the Board of Supervisors agrees to be the applicant for and authorizes the submission of the PennDOT permit application for public road improvements in and adjacent to the PennDOT right-of-way to include the left hand turn lane going south on Hershey Park Drive, conditioned upon HRG's concurrence with the design of the proposed improvements and the applicant entering into an agreement with the Township related to the submission of the PennDOT permitting plans, in a manner and form acceptable to the Township. Supervisor Corado seconded the motion. **Motion Motion carried. 5-0.**

Proposed modifications to the Zoning Ordinance related to Master Plan requirements, building setbacks in the Palmdale Mixed Use and Hershey Mixed Use zoning districts, and Downtown Core Design Standards:

Mr. Emerick stated he and Solicitor Armstrong have reviewed and provided comments on certain sections of the Derry Township Zoning Ordinance related to Master Plan requirements, adjustment of building setbacks in the Palmdale Mixed Use and Hershey Mixed Use zoning districts, and modifications to the Downtown Core Design Standards. Their "track changes" working copies for the Master Plan section and the Downtown Core Design Standards section of the Zoning Ordinance were provided to the Board along with a memo discussing the setback requirements. Since the discussions related to these changes would be expected to "get into the weeds", we are recommending that the Board consider scheduling a special "workshop" meeting specifically for these discussions. They felt it would be good to engage all five members of the Board at one time, which a special public meeting will allow. He suggested allowing three hours for the first meeting.

Mr. Emerick spoke of the sliding scale for setbacks in his proposed changes based on the lot size. He provided the history in the zoning ordinance of the setback numbers and the number of zoning hearing board meetings to deal with exceptions. Vice Chairwoman Nutt was concerned

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homes are being torn down and larger ones are being built on smaller lots. These larger homes are having an impact on the neighbors. Discussion ensued.

Chairman Abruzzo asked if it could be scheduled in the next 30 days. The Board discussed possible dates and times. They agreed to June 7 from 3 p.m. to 6 p.m. for a special meeting to discuss this.

No motion is necessary.

Resolution No. 2023-12, authorizing the execution of documents required for Highway Occupancy Permits associated with the Project Milton, Plat 1362, and entering into Agreements with PennDOT and The Hershey Company related to the same:

Mr. Emerick stated the Board approved Plat 1362, which plans represent the further development of a 55 acre tract of land fronting on Reese Avenue. The plan proposes the retention of the existing Reese manufacturing plant, the demolition of the former Friendly's Restaurant, and the construction of a manufacturing/warehouse facility. The facility is now under construction. The portions of that plan associated with this agenda item relate to the shared use path and the stormwater discharge from the site.

He spoke about the shared use path. A small portion of the shared use path is within PennDOT right-of-way, and they are asking the Township to enter into a Shared Use Path Right-of-Way Use Agreement with PennDOT for the maintenance of the path. The Hershey Company is presently required to install, construct, maintain, and repair the remainder of the path within an easement area on their property. Therefore, it makes sense that they would have the same responsibility for the small portion of the path within the PennDOT right-of-way. Any approval to sign the PennDOT Shared Use Path Right-of-Way Use Agreement should be conditioned on The Hershey Company accepting and agreeing to all requirements of the Township under the shared use path easement with PennDOT.

He spoke about the stormwater discharge. The stormwater design for Project Milton included provisions to discharge stormwater under the Norfolk Southern railroad line and under Old West Chocolate Avenue, ultimately going through the Hersheypark Camping Resort on its way to Swatara Creek. PennDOT requires the Township to be the permittee for the Highway Occupancy Permit, and they require a Resolution for this purpose if the applicant is a government unit. Additionally, PennDOT required a release from Hershey Entertainment & Resorts Company for the stormwater flow, which The Hershey Company was able to obtain. The Hershey Company will also need to sign an Agreement binding them to conditions mandated by PennDOT during the conduct of the Highway Occupancy Permit work, as done in prior instances where PennDOT required the Township to be the permit applicant.

Vice Chairwoman Nutt made a motion adopting Resolution No. 2023-12, authorizing the execution and submission of documents required for Highway Occupancy Permits associated with the Preliminary/Final Stormwater Management and Land Development for Project Milton, Plat 1362 and authorizes the requested signatures on the Shared Path Easement Agreement with PennDOT and PennDOT's form M-945RC (Document "Recording Copy"), conditioned upon The Hershey Company entering into an Agreement with the Township to take on the Township's obligations related to the same. Supervisor Zmuda seconded the motion. **Motion Motion carried. 5-0.**

Acceptance of Unilateral Declaration of Covenants, Easements, Conditions and Restrictions and release of financial security for the Stormwater Management Plan for 1108 Middletown Road, S-2022-008:

Vice Chairwoman Nutt made a motion accepting the Unilateral Declaration of Covenants, Easements, Conditions and Restrictions and releases cash financial security in the amount of \$19,428.00 that was provided by Thomas and Jamie Whye for the Stormwater Management Plan for 1108 Middletown Road, S-2022-008, conditional upon Thomas Whye, Jamie Whye, and RP Electric, LLC, signing and recording the Declaration and providing proof of recording to the Township. Supervisor Corado seconded the motion. **Motion Motion carried. 5-0.**

Security: Milton Hershey School Essential Employee Dwellings – Main Campus, Plat 1339:

Chairman Abruzzo asked if some of the smaller securities are worth the effort of keeping when its an established company.

Chairman Abruzzo made a motion authorizing the release of performance security in the amount of \$675,573, provided in the form of Travelers Casualty and Surety Company of America Bond No. 107447763 for the Preliminary/Final Land Development Plan for Milton Hershey School Essential Employee Dwellings – Main Campus, Plat 1339, and waiving the requirement of the developer providing maintenance security in the amount of \$658. Supervisor Corado seconded the motion. **Motion Motion carried. 5-0.**

Security for the Plan for Hershey Developers, LLC, Plat 1290:

Chairman Abruzzo made a motion authorizing the release of performance security in the amount of \$66,162, provided as Merchants Bonding Company Bond No. NPA 92873 for Lot 1 of the Preliminary/Final Subdivision Plan for Hershey Developers, LLC, Plat 1290, and performance security in the amount of \$67,194, provided as Merchants Bonding Company Bond No. NPA 92874 for Lot 2 of Plat 1290, waiving the requirement for both lots for the developer to provide maintenance security in the amount of \$108 for Lot 1 and \$135 for Lot 2. Vice Chairwoman Nutt seconded the motion. **Motion Motion carried. 5-0.**

Security for the Stormwater Management Plan for 140 Elm Avenue, S-2023-004:

Supervisor Corado made a motion to accept a cash financial security in the amount of \$14,844 and enter into the Agreement to Provide Financial Security between Caylene L. Rippon and the Township for the Stormwater Management Plan for 140 Elm Avenue, S-2023-004. Supervisor Zmuda seconded the motion. **Motion Motion carried. 5-0.**

Security for the Stormwater Management Plan for 2455 Schoolhouse Road, S-2023-001:

Vice Chairwoman Nutt made a motion to accept a cash financial security in the amount of \$15,634 and enter into the Agreement to Provide Financial Security between Erik A. Nielson and Jana L. Nielson and the Township for the Stormwater Management Plan for 2455 Schoolhouse Road, S-2023-001. Supervisor Corado seconded the motion. **Motion Motion carried. 5-0.**

Security for the Stormwater Management Plan for Lenzo Property (820 Grandview Drive), S-2023-002:

Secretary Wyckoff made a motion to accept a financial security in the amount of \$88,470, in the form of First National Bank of Pennsylvania Letter of Credit No. 3919, and enter into the Agreement to Provide Financial Security with Leslie K. Lenzo and Justin D. Lenzo for the Stormwater Management Plan for Lenzo Property (820 Grandview Drive), S-2023-002. Supervisor Corado seconded the motion. **Motion Motion carried. 5-0.**

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SUPERVISOR BOARD/COMMITTEE REPORTS:

Supervisor Zmuda attended the Downtown Core Meeting where they discussed signage for the Fresh Market. They had their transportation meeting where they discussed event traffic, DTMA projects, concerns and potential solutions for some issues and speed humps in the Township.

Supervisor Corado attended the DTMA meeting. Updates were provided for projects. They will be having an open house on June 24.

Vice Chairwoman Nutt attended the Library Board meeting. At the ICDA meeting they approved improvements for the Giant Center. Chairman Abruzzo also attended the ICDA meeting.

DEPARTMENTAL REPORTS:

Police Department:

Chief Warner stated they had 1,671 calls for service in April including car crashes, domestic disputes, and for mental health calls. They performed traffic enforcement with 651 stops and 709 citations or warnings were issued.

Library:

Mrs. Jacobine stated the library will be closed on Memorial Day. June 1 starts the summer reading program.

Parks & Recreation:

Mr. Jackson stated the outdoor pool will open on Saturday.

Township Engineer:

Mr. Stump stated the slide show he presented last meeting is on the Township's website. He spoke about a project that is not eligible for a grant like previously thought.

Township Manager:

Chairman Abruzzo noted that Mr. Christman is out of town at a conference today.

VISITOR/PUBLIC COMMENTS:

Mr. Louis Paioletti, 156 West Areba Avenue, spoke about the Memorial Day Ceremony at the Italian Lodge starting at 8:30 a.m. He appreciates the Police helping to slow down traffic during the ceremony. He noted 80 soldiers from 50 homes were sent to war. He discussed the transfer of tax payments to the County and how flawless the process has been. He thanked the Board for their discussion on setbacks and would love to see an Architect Board to approve designs.

ADJOURNMENT

Supervisor Zmuda made a motion to adjourn the meeting at 9:07 p.m. Vice Chairwoman Nutt seconded the motion. **Motion Motion carried. 5-0.**

SUBMITTED BY:

Carter E. Wyckoff, Township Secretary

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