



TOWNSHIP OF DERRY

Board of Supervisors Meeting Minutes

Tuesday, October 10, 2023

CALL TO ORDER

Chairman Abruzzo called the October 10, 2023 Regular Meeting of the Township of Derry Board of Supervisors to order at 7:03 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. He announced there was an executive session at 4:00 p.m. until 6:30 p.m. Land, legal and personnel matters were discussed.

PLEDGE OF ALLEGIANCE

ROLL CALL

SUPERVISORS PRESENT:

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

ALSO PRESENT:

Christopher S. Christman, Township Manager
Peter Nelson, Township Solicitor
Chuck Emerick, Director of Community Development
Tim Roche, Lieutenant, Police Department
Zachary Jackson, Director of Parks & Recreation
Alison Jacobine, Director of Hershey Public Library
Marie Sirkot, Administrative Assistant
Robert Piccolo, Asst. Director of Public Works
David Sassaman, Hershey Volunteer Fire Department
Becky Sweigart, Public Outreach Coordinator
Eric Stump, HRG Engineer

ABSENT:

Public in Attendance:

See attached Attendance Sheet.

[October 10, 2023 Attendance Sheet](#)

VISITOR/PUBLIC COMMENTS

There were no public comments offered.

CONSENT CALENDAR

Adoption of the Board of Supervisors Meeting Minutes for the September 26, 2023 5:30 PM Public Hearing.

Adoption of the Board of Supervisors Meeting Minutes for the September 26, 2023 7:00 PM Regular Meeting.

Approval of October 10, 2023 Accounts Payable of \$1,334,799.44 and Payroll of \$340,086.35.

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

NEW BUSINESS

Proposal to Move Agenda Item H to Agenda Item A

Chairman Abruzzo made a motion to amend the order of agenda items to move Agenda Item "H" - Consideration of a proposal for a mural on the property at 1669 East Derry Road - to the first Agenda Item "A". Supervisor Zmuda seconded the motion. **Motion carried. 5-0.**

Consideration of a proposal for a mural on the property at 1669 East Derry Road. (C. Emerick)

Mr. Emerick explained that the zoning regulations contain provisions for the authorization of murals and street art to enable an orderly method and review process for the establishment of such displays. Section 225-428 allows murals and street art within all zoning districts of the Township but requires authorization from the Board of Supervisors. Mr. Emerick helped the students understand what a sign is and what a mural is and the differences. Maya Darowish, 14, of the mural titled "Maya's Narrative", explained the mural is a showcase of how artists work together to come up with, create and share new ideas using several different art forms.

Chairman Abruzzo asked if this is going to be painted on a fence already in existence. Ms. Meg Walter, SPLAT Studio, explained that the wooden panels will be replaced with new panels using the same material. We are going to create a paint by number. The six panels are in the yard and will be painted in the backyard that is fenced in. Vice Chairwoman Nutt asked when the project is done, how will it be kept looking beautiful in a few years since it will be out in the elements. Ms. Walter explained that they anticipate there will be longevity with good quality Benjamin Moore exterior paint, and it can be repainted over time. Chairman Abruzzo asked if the fence is too close to the road. Mr. Emerick stated the fence is taller than our zoning ordinance allows, but it is grandfathered. Chairman Abruzzo asked if there will be ongoing maintenance? Mr. Emerick explained that a Condition of Approval can be required that it be maintained. Supervisor Corado asked about lighting. No lighting is involved, and it will not be lit up. Supervisor Zmuda suggested putting an ultraviolet coating on it. Secretary Wyckoff asked what is the length of the fence? The mural will be the six panels and the entire length of the fence.

Vice Chairwoman Nutt made a motion to grant conditional approval for the SPLAT Studio mural as proposed, it being generally in compliance with the requirements of the Township's Zoning Ordinance, with the condition that elements of the mural are not later used for logos for the business operating on the property so that it remains in compliance with our regulations and that it is contingent on a satisfactory maintenance plan, agreed upon with Community Development Staff. Secretary Wyckoff seconded the motion. **carried 5-0.**

Appointment of One (1) Member to the Parks and Recreation Advisory Board for an unexpired five-year term. (Unexpired term of Jack Bishop) (C. Christman)

Mr. Christman explained that we received the resignation of Mr. Bishop in early September which vacates his seat on the Parks and Recreation Advisory Board. There are three years remaining on this term and it expires on December 31, 2026. The Board of Directors for the Leader Center for Active Life appointed Betsy Hancock to replace Jack Bishop on the Board.

Chairman Abruzzo explained that Mr. Bishop was the president of the Mohler Senior Center Board. When the Senior Center became part of the Derry Township Community Center, we thought it made good sense to have one member of that organization serve on the Parks and Recreation Advisory

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Board since they are a major tenant and contributor of the building.

Supervisor Corado made a motion that the Board of Supervisors approve the appointment of Betsy Hancock to the Parks and Recreation Advisory Board for a term that will expire on December 31, 2026. Supervisor Zmuda seconded the motion. **carried 5-0.**

Request to close West Caracas Avenue between Cocoa Avenue and Linden Road for the Choctoberfest 2023. (G. Warner)

Lt. Roche stated that the Downtown Hershey Association (DHA) is requesting to hold the annual event, Choctoberfest, in and around the Chocolatetown Square Park and the area surrounding it, to include the first block of West Caracas Avenue on October 14, 2023, from 11 a.m. to 6 p.m. The first block of West Caracas Avenue would be closed at 6:00 am to facilitate vendor load-in and set-up and reopen at 8:00 pm, when the vendors have been cleared of the area. Chairman Abruzzo asked if there is a plan in place to take care of the trash receptacles outside the area. Mr. Emerick stated that there will be a dump truck that will be coming from Public Works to empty the trash. The truck will be located behind the fire house. Public Works will come on Monday and empty it.

Chairman Abruzzo made a motion that the request to close West Caracas Avenue between Cocoa Avenue and Linden Road for the Choctoberfest 2023 on Saturday, October 14, 2023, from 6:00 a.m. to 8:00 p.m. is hereby approved. Supervisor Corado seconded the motion. **carried 4-0-1 (abstained: Supervisor Zmuda).** Supervisor Zmuda recused himself because he is a member of the Downtown Hershey Association Board.

Proclamation Declaring Friends of Libraries Week. (A. Jacobine)

Mrs. Jacobine explained that in conjunction with Friends of the Library Week on October 15 to 21, 2023, the Hershey Public Library is celebrating its 60th year of operation this year. Chairman Abruzzo read the proclamation and thanked the Friends of the Library for all the work they do.

Secretary Wyckoff made a motion that the Board of Supervisors approve the proclamation declaring October 15-21, 2023 "Friends of Libraries Week" in Derry Township.

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

Adoption of Decision for Conditional Use Application No. 2023-01 for 267 and 339 West Chocolate Avenue, as filed by Hershey Lumberyard, LLC. (C. Emerick)

Mr. Emerick explained that this Conditional Use application has been filed by Hershey Lumberyard, LLC, seeking authorization for the establishment of a Dwellings for Employees & Students use in accordance with Section 225-501.56 of the Zoning Ordinance. The tracts are generally located north of West Chocolate Avenue and west of the Hershey Plaza apartments and are generally known as the Lumberyard Tract, the Powerhouse Tract, and Lucy's restaurant tract. The four tracts, once combined, will contain a total gross area of 4.952 acres. Tonight's meeting is the last regular meeting of the Board of Supervisors prior to the expiration of the time within which a Decision must be rendered, which is October 22, 2023. I am recommending the decision be adopted as written.

Solicitor Nelson asked to make sure that the applicant is aware that the decision is to grant the conditional use with a set of over 26 conditions. The applicant said that they are aware.

Supervisor Corado made a motion that the Decision for Conditional Use Application No. 2023-01 is hereby adopted. Vice Chairwoman Nutt seconded the motion. **carried 5-0.**

Consideration of time extension for conditional approval of the Preliminary/Final Land Development Plan for U-Haul Moving & Storage of Hershey, Plat 1370. (C. Emerick)

Mr. Emerick stated that Plat 1370 proposes the redevelopment of the property at 1000 Old West Chocolate Avenue. The existing 13,873-square-foot building and all other surface features of the

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1.7912-acre site will be demolished so that a new building with a 29,152-square-foot footprint can be constructed. The final lot area will be 1.5662 acres, after right-of-way dedication. The applicant has requested an extension of time until February 15, 2024, to address the remaining outstanding conditions of approval. The applicant has also requested approval to be able to record the plan prior to receiving PennDOT Highway Occupancy Permit approval, which needs to be addressed under the Development Agreement as a supplement. They are going to coordinate the language with Pat Armstrong if the Board is willing to allow the supplement. I am recommending that the Board extend the approval of Plat 1370 until February 15, 2024, conditioned upon the 16 conditions of approval noted in the Staff comments.

Charlie Suhr, Stevens Lee, stated that they are looking for more time to satisfy the conditions. The holidays may slow it down a little bit toward the end of the year. We would like to get started on the project a little bit before the HOP, which would allow us to record our plan.

Solicitor Nelson stated that Pat Armstrong has not approved the amended Development Agreement, and this is not the normal course of action for the Township. What has been done in the past, has been minor compared to the overall project. This is different from what has been approved in the past. Mr. Nelson and Mr. Armstrong recommend that the Board do not approve the supplement to the Development Agreement.

Mr. Suhr added that they are not anticipating any changes to the Land Development plan. It was a request so that we could get started on it while we have favorable conditions.

Chairman Abruzzo added that he is uncomfortable with it based on the recommendations of our solicitor.

Vice Chairwoman Nutt made a motion that the approval of the Preliminary/Final Land Development Plan for U-Haul Moving & Storage of Hershey, Plat 1370, is extended to February 15, 2024, subject to compliance with items 1 through 16 in the *Department Head Recommendation* section of this agenda item. Supervisor Zmuda seconded the motion. **carried 5-0.**

Consideration of third time extension for conditional approval of the Preliminary Land Development and Stormwater Management Site Plan for Hershey Square Proposed Outparcel Development, Plat 1353. (C. Emerick)

Mr. Emerick stated that Plat 1353 represents the expansion of the existing Hershey Square Shopping Center. It includes the addition of a 7,500-square-foot freestanding commercial building and associated improvements, to be located along Hersheypark Drive. The area proposed for development is separated from the main shopping center by a private access road to the Comfort Inn. The applicant has requested a third extension of time until November 15, 2023, to address the outstanding time sensitive conditions. The third extension request proposes no changes to the details of the previously approved Preliminary Plan or to the waivers and deferment that were granted; however, the plan submitted on September 21, 2023, now clearly labeled as “Preliminary Land Development and Stormwater Management Site Plan”, does show substantial modifications related to traffic improvements that were NOT conditionally approved by the Board of Supervisors as part of their conditional Preliminary Plan approval in December 2022. This has generated additional comments in my recommendations related to the conditions of approval of the Preliminary Plan. The condition that is added is Number 5. I am recommending that the Board extend the approval of the Preliminary Plan of Plat 1353 until November 15, 2023, subject to the 8 conditions of approval noted in my Staff comments.

Mr. Charlie Suhr stated we are still proceeding with PennDOT and just received comments back today from our HOP submission.

Holly Evans, Evans Engineering, stated that we received our comments from PennDOT, and they are very minor comments. We will need to submit one more time extension for the project.

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Vice Chairwoman Nutt made a motion that the approval of the Preliminary Land Development and Stormwater Management Site Plan for Hershey Square Proposed Outparcel Development, Plat 1353, is extended to November 15, 2023, subject to compliance with items ‘1’ through ‘8’ in the *Department Head Recommendation* section of this agenda item. Secretary Wyckoff seconded the motion. **carried 5-0.**

Construction modifications to the Preliminary/Final Subdivision and Land Development Plan for Towneplace Suites Hotel, Plat 1328. (C. Emerick)

Mr. Emerick stated that Plat 1328 and the associated design plans (collectively “Settlement Plans”) represent plans 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 demolition of six dwelling units and the construction of a hotel in the 500 block of West Chocolate Avenue, originally proposed under Plat 309.

The Settlement Plans, consistent with the plans that preceded them, represented the subdivision (lot consolidation) and land development of the properties addressed as 554-574 West Chocolate Avenue (Tax Parcel numbers 24-013-045 through 24-013-050). The Settlement Plans were ultimately approved under the 2017 Zoning Ordinance, which was in effect when Plat 1309 was submitted.

Under the Settlement Plans, the applicant proposed to combine the six lots into a single development tract having a gross area of 0.8082 acres, with no new street right-of-way being dedicated. The property had contained six dwellings and associated accessory structures, which were razed earlier this year to make way for a five-story, 60-foot-high, 80-room hotel.

The applicant is now proposing an alteration to the Settlement Plans which involves relocating some of the parking spaces, including some of the parking lifts; relocating the dumpster area; and modifying the retaining wall. The modifications are minor in impact on the overall development. HRG has reviewed the modifications, and they have no engineering comments to offer. The Settlement agreement says no modifications can be made to the plan without consent by both parties.

Solicitor Nelson requested that the applicant send a formal letter explaining what you are proposing for the Board to approve at a future meeting. A letter would be a sufficient modification.

Mr. David Getz, Wix, Wenger & Weidner, P.C., stated that they are fine with that request. We believe these changes make it better, especially for our neighbor next door. Mr. Getz asked if it needs to be recorded. Solicitor Nelson said it does not need to be recorded.

Secretary Wyckoff asked if there is a plan to use Zagstar? Mr. Getz explained that it was the plan at the time of the settlement agreement. Now that they are no longer in business, will you use another bikeshare program. Mr. Emerick stated that there is a note on the plan, that in the event that Zagster is no longer in business, the applicant shall offer another bikeshare program.

Solicitor Nelson stated that a vote is not needed at this time. After we have a letter from Mr. Getz, a vote can occur at that point in time.

Consideration to authorize the advertisement of sale of Township owned property, namely a motor vehicle decommissioned from public safety use by the police department, in accordance with the Pennsylvania Second Class Township Code. (T. Roche)

Lt. Roche stated that during the 2023 calendar year, the police department decommissioned three patrol cars as a result of age depreciation and increase in the frequency of repairs along with the lack of available replacement parts to maintain their serviceability as emergency vehicles. All three vehicles are operable. One vehicle was transferred to the Public Works department, and one vehicle is pending donation to a nonprofit. The third vehicle is a 2012 Chevrolet Tahoe Sports Utility Vehicle,

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the last six digits of the VIN is 313486. I am requesting that this vehicle be advertised for sale via online public auction.

Supervisor Zmuda made a motion to approve advertisement for sale of a 2012 Chevrolet Tahoe by way of online public auction. Supervisor Corado seconded the motion. **Motion carried. 5-0.**

SUPERVISOR BOARD/COMMITTEE REPORTS

Supervisor Zmuda shared that this Saturday, October 14 is Choctoberfest from 11 a.m. to 6 p.m. Dress for rain. There were no reports for the remaining Board of Supervisors.

DEPARTMENTAL REPORTS

Police Department

Lt. Roche stated that their department accepted grant money from the 2022-23 Local Share Gaming Grant from Dauphin County. We were able to successfully acquire and implement a new training theatre computer system that is going to help our agency with deescalation practices, use of force application and training. We are going to extend the availability of our instructors to our local partners. We are very pleased to have this equipment.

Hershey Volunteer Fire Department

Mr. Sassaman stated that we had 86 calls for the month of September. We had a very successful Cook Off. We did the Antique Auto Show, and we were there every day. The Company just entered into their second week of an apparatus pump class that will be a state fire academy approved class. We are ready for the Halloween Parade.

Public Works

Mr. Piccolo stated they have two trucks out doing leaf season pick up of all of the routes. He asked residents to only put leaves in a pile and no foreign material or branches. We are also asking residents to start trimming their trees back for clearances.

Library

Mrs. Jacobine stated they had a very successful ChocolateTown Book Festival. 600 people attended, and we had 56 authors. The library will close at 5 p.m. on October 18 for the Halloween Parade. We will be holding the Edible Books Contest on October 21.

Parks & Recreation

Mr. Jackson stated the Halloween Parade will be on October 18 and start at 7 p.m.

The community center will close at 5 p.m. Chairman Abruzzo thanked the departments for the clean-up after the parade event.

Township Manager

Mr. Christman stated that there was a request from DTMA to seek twp. guarantee for a DCIB loan to complete the Ridge Road stormwater project. Because of pending litigation with Westchester Borough and the university regarding the impact of stormwater fees, DCIB and Dauphin County are looking for the projects to have guarantees from the municipalities. At the last meeting, the four supervisors in the Chairman's absence, granted concurrence to move the process forward because the County was looking to get into the marketplace quickly to secure the best financing. The letter was executed on September 27 and has gone out. We will be providing that guarantee for the \$3.2 to 3.3 million project.

VISITOR/PUBLIC COMMENTS

Mr. Jonathon Crist is representing Brayson Services Inc. and their tenant AIS insurance. They adjoin on the east side of the proposed TownePlace Suites Hotel project. Pennsylvania adopted the 2015 version of the International Building Code within the Uniform Construction Code, and it became effective on October 1, 2018. This became effective 10 days before the first of 4 plans were filed by Bears Creek. The Code requires a minimum of 15 ft side yard setback for any property that is on a slope of 33% or more, which the AIS Insurance building is. The plan has been approved for a 5-yard setback. It is our position that they cannot get a building permit for this reason, and we will be appealing any building permit that is granted. Our position is also that the motion made earlier for the amendment for this project, should really belong under the Uniform Construction Code Board.

Mr. Rich Gamble, 39 Hockersville Road, stated that he is bringing attention again to the entertainment tax. We are seeing more and more visitors utilizing more of our services. It is time to start generating revenue for our schools particularly.

ADJOURNMENT

Supervisor Zmuda made a motion to adjourn the meeting at 8:35 p.m. Vice Chairwoman Nutt seconded the motion. **Motion carried. 5-0.**

SUBMITTED BY:

Carter E. Wyckoff, Township Secretary



**Township of Derry
Board of Supervisors
Meeting Attendance 7:00 PM**

Meeting of: October 10, 2023

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