



TOWNSHIP OF DERRY

Board of Supervisors Meeting Minutes

Tuesday, November 14, 2023

EXECUTIVE SESSION 6:00 PM

CALL TO ORDER

Chairman Abruzzo called the November 14, 2023 Regular Meeting of the Township of Derry Board of Supervisors to order at 7:10 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 a public hearing at 6:55 p.m. An Executive Session was held prior to the hearing where legal matters were discussed. After the Pledge of Allegiance, a roll call was performed.

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
Tim Roche, Lieutenant, Police Department
David Habig, Assistant Director of Community Development
Robert Piccolo, Asst. Director of Public Works
Alison Jacobine, Director of Hershey Public Library
Amy Walker, Assistant Director of Parks & Recreation
Becky Sweigart, Public Outreach Coordinator
David Sassaman, Hershey Volunteer Fire Department
Eric Stump, HRG Engineer
Julie Echterling, Recording Secretary

ABSENT:

Public in Attendance:

Matt Hitchcock, Doug Miller, Anne Newman, John Foley, Phil Jurus, Tracy Brown, Dave Teller, Stephanie DeDonatis, Louis Paoletti, Brian Cleary, John Art, Rich Gamble, Bob Welsh, Erin Gattens, Robert Smith, Lisa Kurum, Paul Lotier, Tia Lotier

VISITOR/PUBLIC COMMENTS

Mr. Richard Gamble, 39 Hockersville Road, reminded the Board that they are elected officials that represent the community. He stated they are to protect the interest and property of the residents. He said the community does not need another gas station. He asked the Board to consider the affect it will have on the people in the surrounding community. He does not believe the outsiders trying to build this should succeed.

CONSENT CALENDAR

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Adoption of the Board of Supervisors Meeting Minutes for the October 24, 2023 Regular Meeting.

Financial security provided for the Stormwater Management Plan for 402 Roseland Drive, S-2021-006.

Authorize the release of financial security in the amount of \$20,775.00, which had been provided as cash for the Stormwater Management Plan for 402 Roseland Drive, S-2021-006.

Approval of November 14, 2023 Accounts Payable of \$1,440,923.36 and Payroll of \$334,987.71.

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

NEW BUSINESS

Adoption of Adjudication and Order for Conditional Use Application No. 2022-06 as filed by Linlo Governor Crossing, LLC (“Applicant”) and Sheetz, Inc. (“Co-Applicant”), regarding a Master Plan Development for redevelopment of approximately 7.42 acres of land generally located in the southwestern quadrant of the intersection of West Governor Road and Fishburn Road to include a series of nonresidential and residential uses consisting of a convenience store with fuel service; a mixed-use building with ground floor food service (i.e., restaurant) and small-scale retail and two upper floors containing multifamily apartment dwellings; a healthcare practitioners office/office building (originally shown as a dialysis center); and a group child care facility.

Solicitor Nelson stated the Board discussed this issue in Executive Session that was announced in November and he prepared an adjudication that is 46 pages based on the deliberations of the Board. He read the order. Upon consideration of the foregoing findings of fact, discussion and conclusions of law, and at a publicly advertised meeting, the Board of Supervisors hereby deny Linlo Governor Crossing, LCC's Application for Conditional Use approval for a Master Plan Development, Application for Conditional Use approval of a Fuel Service - Major, Application for Conditional Use Approval of Multifamily Apartment Dwellings, and Application for Conditional Use Approval of a Group Child Care Facility on lands located at the southwest corner of West Governor Road and Fishburn Road, otherwise known as the Property as defined in the Findings of Fact. The Basis for these denials is set forth fully in the Findings of Fact, Discussion, and Conclusion of Law which is laid out in the Adjudication.

He read the summary of the adjudication. In summary, the Board denies the Master Plan development conditional use application and thus the other three conditional use applications filed by Linlo due to Linlo's failure to properly prove ownership and control over all the lands proposed to be included in the project, for failure to prove compliance with subsection D and E of Section 225-501-19 of the Township Code concerning the Fuel Service - Major Use; and for failing to prove compliance with Subsections 225-501.58.A.4.g and 225-501.58.A.7.e of the Township Code concerning parking. In addition, the Board denies the application for having a substantial and profound impact upon the public's health, safety, and welfare due to the unusual negative impact the Project will have on traffic congestion in the area and the use of the Alley, such impact being significantly greater than would normally be expected from a Master Plan Development, or from a Fuel Services-Major, Multifamily Apartment Dwellings, or Group Child Facility Use.

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He stated the Board can approve or deny the adjudication.

Chairman Abruzzo made a motion that the Adjudication and Order for Conditional Use Application No. 2022-06 is hereby adopted. Vice Chairwoman Nutt seconded the motion. **Motion carried 5-0.**

Preliminary/Final Land Development Plan for Taco Bell, Plat 1375:

Mr. Habig stated the Hummelstown Investors, current owners of the Taco Bell on Walton Avenue are seeking to remove the existing building and construct a new Taco Bell on the property. They are proposing to replace the current 2,350 square foot building with a new 2,455 square foot building and reduce the seating from 44 to 30 seats. In addition, they will provide dual drive-through lanes. He noted the stormwater from the site is being treated as a reduction from the current conditions. He noted the requested waivers and there are conditions to the plan. Bryan Cleary, Engineer for the project, spoke about their rebuilding on the current lot. Engineer Stump noted that traffic would be the same for the lot.

Solicitor Nelson asked about the waiver from Section 185-12.D.(4).(b). regarding submission of a DEP planning Module or appropriate waver request form. Mr. Habig explained the reason for the waiver and the Township's position. Solicitor Nelson understood the logic, but would rather see a letter from the DEP.

Chairman Abruzzo made a motion to grant waivers 1, 2, 3, 4, and 6 from the Subdivision and Land Development Ordinance as noted in the *Explanation* section of this agenda item for the Preliminary/Final Land Development Plan for Taco Bell, Plat 1375. Supervisor Corado seconded the motion. **Motion carried 5-0.**

Chairman Abruzzo made a motion to approve the Preliminary/Final Land Development Plan for Taco Bell, Plat 1375, subject to compliance with items 1 through 9 in the *Department Head Recommendation* section of this agenda item.

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

Resolution 2023-21 authorizing the Derry Township Police Department to request grant funding from the Commonwealth Local Share Account Fund (DCED Gaming Funds) and to designate township officials to execute all documents associated with the application and any awards therein:

Lieutenant Roche spoke about the need to replace equipment on the mobile command and communication vehicle. The estimate for the manufacturer to replace the required equipment is \$183,128. They would request grant funding from the Commonwealth Local Share Account Fund (DCED Gaming Funds). There is a \$100 submission fee.

Chairman Abruzzo made a motion to adopt Resolution No. 2023-21 to authorize the Derry Township Police Department to submit a request for grant funding totaling \$183,128.00 from the Commonwealth Local Share Account Fund to retrofit an existing command & communication vehicle with upgraded equipment and to designate Supervisor Carter Wyckoff and Township Manager Christopher Christman as authorized Township officials to execute all associated grant documents and awards therein. Supervisor Zmuda seconded the motion. **Motion carried 5-0.**

Resolution 2023-22 - Establishing the Meeting Dates of the Board of Supervisors of the Township of Derry for the Year 2024:

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Mr. Christman discussed the meeting dates for the Board of Supervisors in 2024. He asked the Board if they would like to move the budget hearing from November 19 to November 12 at 5:30 p.m. Once these dates are approved, they will be advertised. The Board agreed to move the budget hearing to the November 12 meeting.

Supervisor Corado made a motion to adopt Resolution No. 2023-22 establishing the meeting dates for the Board of Supervisors for Calendar Year 2024. Secretary Wyckoff seconded the motion. **Motion carried 5-0.**

Resolution 2023-23 authorizing the adoption of the Dauphin County Emergency Operations Plan for use as the Township of Derry Emergency Operations Plan:

Lieutenant Roche spoke about the statute that requires the Emergency Operation plan be reviewed and readopted every two years, whenever there is a revision to the plan. He stated Dauphin County adopted and reissued their plan in December, 2022. This created the need for the Board to readopt the Township plan.

Secretary Wyckoff made a motion to adopt Resolution No. 2023-23 authorizing the adoption of the Dauphin County Emergency Operations Plan as the authorized Emergency Operations Plan of the Township of Derry. Supervisor Corado seconded the motion. **Motion carried 5-0.**

HRG Proposal for a Scope of Services related to the Downtown Hershey Gateway Improvement Project:

Mr. Christman spoke about the Commonwealth Financing Authority Multimodal and Local Share grant for \$500,000, which was received for the Downtown Hershey Gateway Improvement Project. HRG has provided a scope of services, which is estimated at \$139,065. The grant allows for a 10% reimbursement for design. This would require the Township to budget \$125,158.50 for 2024. Supervisor Zmuda spoke about increased pedestrian safety in this area, and residents will be happy with this project.

Vice Chairwoman Nutt made a motion authorizing the Township Manager to execute a scope of services with Herbert, Rowland and Grubic, Inc. for the Downtown Hershey Gateway Improvement Project as outlined this evening. Supervisor Zmuda seconded the motion. **Motion carried 5-0.**

Financial security- Stormwater Management Plan for 286 Elle Way, S-2023-013:

Supervisor Zmuda made a motion to accept cash financial security in the amount of \$10,244 and enter into the Agreement to Provide Financial Security between Danilo DeLima Gomes and Rosimara Cristina Martins Pena and the Township for the Stormwater Management Plan for 286 Elle Way, S-2023-013. Supervisor Corado seconded the motion. **Motion carried 5-0.**

Financial security- Stormwater Management and Erosion and Sediment Pollution Control Plan for 1110 Middletown Road, S-2023-011:

Chairman Abruzzo made a motion to accept cash financial security in the amount of \$19,833 and enter into the Agreement to Provide Financial Security between Raphael Peters and the Township for the Stormwater Management and Erosion and Sediment Pollution Control Plan for 1110 Middletown Road, S-2023-011. Vice Chairwoman Nutt seconded the motion. **Motion carried 5-0.**

Financial security-Stormwater Management and Erosion and Sediment Pollution Control Plan for 420 West Granada Avenue, S-2023-016:

Vice Chairwoman Nutt made a motion to accept cash financial security in the amount of \$7,223 and

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enter into the Agreement to Provide Financial Security between Joseph D. and Maureen G. Burke and the Township for the Stormwater Management and Erosion and Sediment Pollution Control Plan for 420 West Granada Avenue, S-2023-016. Supervisor Zmuda seconded the motion. **Motion carried 5-0.**

Financial security-Stormwater Management Plan for 835 Olde Trail Road, S-2023-020:

Secretary Wyckoff made a motion to accept cash financial security in the amount of \$14,770 and enter into the Agreement to Provide Financial Security between Brad E. and Lisa Zacharia and the Township for the Stormwater Management Plan for 835 Olde Trail Road, S-2023-020. Vice Chairwoman Nutt seconded the motion. **Motion carried 5-0.**

SUPERVISOR BOARD/COMMITTEE REPORTS

Supervisor Zmuda thanked the residents of the Township for giving him six more years to serve the community.

DEPARTMENTAL REPORTS

Police Department

Chief Warner spoke about the virtual training that allows the officers to do scenario based training.

Hershey Volunteer Fire Department

Mr. Sassaman stated they had 83 calls in October. They completed four weeks of pump training. He stated they will not have Thanksgiving dinner this year and Santa visiting next month.

Public Works

Mr. Piccolo stated they are working on leaves. He stated they are winterizing the parks bathrooms.

Library

Mrs. Jacobine spoke about the library hours during Thanksgiving.

Parks & Recreation

Ms. Walker thanked Public Works for winterizing the bathrooms. She spoke about the Santa Swimfest and the upcoming winter swimming lesson sessions.

Township Manager

Mr. Christman thanked Mr. Piccolo for his years of service as he is retiring on November 22. He spoke of his years of service and what an asset he has been to the Township.

VISITOR/PUBLIC COMMENTS

There were no public comments offered.

ADJOURNMENT

Supervisor Zmuda made a motion to adjourn the meeting at 8:06 p.m. Supervisor Corado seconded the motion. **Motion carried. 5-0.**

SUBMITTED BY:

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Carter E. Wyckoff, Township Secretary