



## TOWNSHIP OF DERRY

### Board of Supervisors Meeting Minutes

Tuesday, February 27, 2024

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#### CALL TO ORDER

Vice Chairwoman Nutt called the February 27, 2024, 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. She advised that all public meetings are recorded for providing accurate minutes. After the pledge of allegiance, a role call was performed. Chairman Abruzzo was absent with excuse and Supervisor Corado attended via phone.

#### ROLL CALL

##### SUPERVISORS PRESENT:

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

##### ABSENT:

E. Christopher Abruzzo

##### ALSO PRESENT:

Christopher S. Christman, Township Manager  
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  
Peter Nelson, Township Solicitor  
Eric Stump, HRG Engineer

##### Public in Attendance:

Dominic Giovanniello, Barry Buck, Don Isabella, Rich Gamble, Paul Schroeder, Megan White, John Osmolinski, Kevin Ember, Drake Lenker, Jason Mitchel, Charlie Courtney, Tracy Brown

#### VISITOR/PUBLIC COMMENTS

Mr. Barry Buck spoke about his concerns on Division Street. He gave kudos to DTMA for taking care of the sewer cover but is upset about the patching that was done on the street. He talked to Mr. Clark, and they patched parts of it. He stated tractor trailers coming out of the school, use Division. He spoke about the daily bus traffic and would like to see Division Street resurfaced. He encouraged the Board members to come out and see the street themselves. He suggested the Board approach Lower Dauphin School District for money for the street repair since it is so heavily used by them.

#### CONSENT CALENDAR

**Adoption of the Board of Supervisors Meeting Minutes for the February 13, 2024 - 6:00 and 6:30 PM Public Hearings.**

**Adoption of the Board of Supervisors Meeting Minutes for the February 13, 2024 - 7:00 PM Regular Meeting and Public Hearing.**

## **Board of Supervisors Meeting Minutes – February 27, 2024**

### **Reduction of the financial security provided for the Post-Construction Stormwater Management Plan for 1131 Edgewood Drive, S-2022-004.**

Authorize the release of \$25,056 from the cash financial security provided for the Post-Construction Stormwater Management Plan for 1131 Edgewood Drive, S-2022-004, resulting in a new balance of \$9,334.

### **Reduction of the performance security provided for the Preliminary/Final Subdivision and Land Development Plan for Mary's Health and Fitness, Plat 1366.**

Authorize the release of \$183,136 from the performance security provided as Fulton Bank Letter of Credit No. STB820 for the Preliminary/Final Subdivision and Land Development Plan for Mary's Health and Fitness, Plat 1366, resulting in a new balance of \$92,463.

### **Approval of February 27, 2024 Accounts Payable of \$181,221.67 and February 16, 2024 Payroll of \$354,856.85.**

Supervisor Zmuda made a motion to approve all items on the Consent Calendar. Secretary Wyckoff seconded the motion. **Motion carried 4-0.**

## **NEW BUSINESS**

### **Waste Management Update on Collection Services:**

Mr. Christman spoke about the issues that have occurred with Waste Management in the Township this year. He noted that all major haulers are having setbacks. Mr. Don Isabella, Waste Management, stated the concerns are widespread because the snow set everyone back. He noted in 2023, they had no snow events and in the past five weeks they have had four. He spoke of their process and how they make the decision early in the week based on concerns with snow and safety. He stated most of the issues have occurred on Fridays. This has resulted in not having garbage picked up for two weeks.

The District Manager is responsible for the safety of 92 employees, and he makes the decision. He noted some employees drive 60 miles to work. There are many factors including weather, drivers being regulated by PennDOT on their hours and disposal site hours. Trash trucks cannot let trash sit in them for more than 24 hours. This plays a role in pickup and disposal hours on the weekends. He also noted that PennDOT can restrict empty trucks on the highways, which affects them. He discussed the one incorrect message that was sent out, and it was corrected. This was regarding the delayed pickup of two weeks. He closed by saying they are doing their best and communicating with the Township. Going forward, they may try not to delay everyone by one week, but rather, pick up the next day on Saturday for missed Fridays.

Vice Chairwoman Nutt thanked him for coming and noted that since customers are paying more, they are upset about the interruptions.

Mr. Barry Buck stated he answered a lot of his questions. He has a long uphill driveway, and he has taken his trash down to the street and then called Waste Management. He was reassured they were coming, and they have not collected his trash. He has spent an hour on the phone trying to get an answer. Houses around him have been picked up and his was missed. He encouraged the Township to put penalties on the contract for these issues.

### **Consideration of Decision for Conditional Use Application No. 2023-03, as filed by Mary Driscoll, amending previously approved Conditional Use Application No. 2022-04 regarding the**

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### property located at 981 Bullfrog Valley Road:

Solicitor Nelson stated there was a public hearing on this matter on January 23, 2024, and the Board has deliberated. The applicant applied two years ago for a conditional use approval to establish her business at her location. The Board approved the request and put conditions on the approval to ensure the impact would not be too inconvenient for the neighbors. The conditions imposed were based on testimony during the conditional use hearing two years ago including the activities, hours and number of people based on the testimony of the owner. Now, she is moving forward with the construction of the building and asked for revisions in two of the conditions. He noted he would read part of the decision, pertaining to her requests, as it is a long written decision.

He stated the proposed order is granted, with conditional use limited amendments of conditions F and K of the original decision. Subject and conditional upon applicant satisfying and complying with additional and supplement conditions and requirements along with the conditions of the original decision. Supplemental conditions are A-V, which he noted but did not read them all. He stated the following amended conditions:

- F. The hours of operation for the proposed use shall be limited to 6:00 a.m. to 9:00 p.m., Monday through Saturday, and 12:00 p.m. to 6:00 p.m. on Sunday.
- K. The proposed use shall be limited to one-on-one training, small group training not to exceed a 1 trainer/instructor to 6 client ratio, ACL recovery programs, physical therapy, a 'return to play after injury' program, sports psychology, a nutritionist, a Sportsmetrics™ Injury Prevention Program, and space rental for small group instructional clinics. The total of patrons, occupants, participants, at the property at one time shall never exceed 64 clients. No other activities, events and/or uses shall be permitted as part of the proposed use on the Property.

He noted that there were conditions C-V, in addition attached to this decision.

Supervisor Zmuda made a motion to approve Conditional Use Application 2023-03 as written and vocalized by Solicitor Nelson. Supervisor Corado seconded the motion. **Motion carried 4-0.**

### **Ordinance No. 2024-01, amending Chapter 225 (Zoning) of the Code of Ordinances of Derry Township by revising the definition of Outpatient Medical Treatment Facility and adding new definitions for Massage Therapy and Physical, Occupational or Speech-Language Therapy Facility and further adding Physical, Occupational or Speech-Language Therapy Facility as a use permitted by right in the General Commercial, Planned Campus West, Medical Campus Central and Commercial Recreation zoning districts:**

Mr. Emerick stated a public hearing was held earlier tonight about proposed Ordinance No. 2024-01. The ordinance was initiated by Zoning Ordinance Amendment Petition No. 2023-02, as filed by LHM Physical Therapy Institute, LLC, and Middletown Wood Road Partners, LP. This ordinance has been properly advertised for adoption this evening. The Derry Township Planning Commission and Dauphin County Planning Commission recommended adoption.

Vice Chairwoman Nutt made a motion to adopt Ordinance No. 2024-01 as written. Supervisor Zmuda seconded the motion. **Motion carried 4-0.**

### **Sketch Plan for 1245 Cocoa Avenue, Plat 1383:**

Mr. Kevin Ember, Rettew Engineering, stated they are here to receive feedback on the plan. He spoke about the next steps with conditional use application and the agencies that they would need approval from or a permit. He stated the location is at the intersection of Fishburn and Coco Ave. They are

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proposing a 5,585 square foot Wawa Store. In addition, it would have a total of 16 fuel pumps, which would require a conditional use application. He spoke about the entrance being a right in and right out onto Fishburn Road. He stated the store would generate a 6% increase in traffic. They have received the letters from the Township, HRG and DTMA. They are looking for general comments from the Board. Vice Chairwoman Nutt stated this is the first time the Board has seen this and there will not be any action taken tonight.

Mr. Emerick stated they may need zoning relief for their proposed canopies with the location and the visual break. He spoke about the flood plan and showed it on the map and the location of the proposed site. He noted that the fuel tanks are directly on the edge of the flood plan. He believes there should be more separation. He has not received the revised flood plan. He stated the limited driveway (right in and right out) requires a median to prevent unlawful left turns from PennDOT. He would like them to explain the impact of the driveways on the opposite side of the road.

Vice Chairwoman Nutt is concerned about gas tanks being so close to the flood plain. She asked how this could be safe so close to a stream. Mr. Ember stated they will discuss with Wawa to move the pumps and they will be doing ground level water testing when it moves forward. He spoke about trying to move things around to be further outside sensitive areas. She stated the Board spent a year talking about traffic on 743 and how bad traffic is and heard about pass by traffic. Residents know how bad traffic can be in this area and she is concerned about traffic. He stated they would do a study knowing that the traffic into this will be more instead of its current use as a bank. She noted that all the exits do not come out at a light, which could add additional issues. He spoke about a median that would restrict left turns.

Mr. Drake Lenker, TPD, said that they have not completed the study and it's hard to say if a turn lane will be warranted. Vice Chairwoman Nutt stated they are concerned about the homeowners and how they could access their driveways. He stated they would look at options during the study.

Supervisor Zmuda asked if they would be selling alcohol and beer. Mr. Jason Mitchell, developer, stated it has not been finalized. Supervisor Zmuda asked if they were aware of the development of Cocoa Avenue for such a plan and it was abandoned. He noted this area has been looked at for this in the past. Vice Chairwoman Nutt stated she cannot wrap her head around putting a gas station next to a flood plan and stream. Mr. Ember stated they would have to look at the site and go through FEMA for the map revisions.

Supervisor Zmuda believes this is the worst spot to put the Wawa. He read a statement about the impact of fumes from gas stations and the air pollution they create. He spoke about the chemicals that could go into the streams, the proximity to the schools and neighbors, and other such environmental issues with the location of this proposed Wawa. He spoke about the idling trucks, health risks for those living so close, noise, light, crime, and traffic. The reasons he stated are why he cannot see this as a viable location for a gas station.

Attorney Charlie Courtney, McNees, Wallace and Nurick, stated they came for feedback and appreciate it. He said the site is a former bank, two access points, that can either be reused or redeveloped. He stated what they want to do to this site is redevelop and make the project better than it is now. He does not think it should be full movement. Their goal is that redevelopment will make the site better than it is now.

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Vice Chairwoman Nutt offered anyone to come up and talk about the plan. No one from the public made comments about the plan. Supervisor Zmuda spoke to the other Board members about zoning changes of moving back the set backs to 300 to 500 feet from wells, streams and other sensitive items to protect our resources. He would also like to see these set backs for homes, schools and medical centers. He would like to see enhanced vapor recovery measures for future and refurbished gas stations.

### **Proposal for a wall mural at 46 Outlet Square (Tanger Outlets):**

Mr. Emerick stated Milton Hershey School, in partnership with Tanger Outlets, is requesting approval for the installation of a 46.6-foot-wide by 17.8-foot-high mural on the exterior wall of the Michael Kors store, facing Starbucks. The proposed mural will be applied directly onto a banner material on a springboard to be mounted on the exterior face of the wall. The mural will be illuminated at night by an overhead gooseneck fixture. He went over the Zoning Ordinance which contains 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. A mural is defined as “...the application of paint, acrylic or other material directly onto, or on a changeable panel attached to the exterior surface of a building wall, or other structure, excluding signs and roofs, whose sole purpose is to create an aesthetic design to commemorate or depict a scene or event of natural, social, cultural or historic significance and including historical commercial messages and/or logos, but not including commercial messages and/or logos related to activities occurring on the premises. The name of the artist, sponsor, and year of installation/completion is permitted, but shall not exceed 3 square feet.”

Mrs. Rachel Lindsley from MHS and Megan White from Tanger Outlets spoke to the Board about their project. They answered questions from the Board and spoke of the upkeep and how they would keep the mural fresh and new each year.

Vice Chairwoman Nutt made a motion that authorization is granted for the wall mural at Tanger Outlets as proposed by Milton Hershey School, in partnership with Tanger Outlets, conditional upon the applicants obtaining building permits for the mounting of the springboard on the exterior face of the subject wall and the overhead gooseneck fixture. Supervisor Corado seconded the motion. **Motion carried 4-0.**

### **Financial security for the Stormwater Management Plan for 272 Elm Avenue, S-2023-024:**

Supervisor Zmuda made a motion to accept a cash financial security in the amount of \$13,427 and enter into the Agreement to Provide Financial Security between Nicholas and Kelly Steier and the Township for the Stormwater Management Plan for 272 Elm Avenue, S-2023-024. Secretary Wyckoff seconded the motion. **Motion carried 4-0.**

### **Request to close West Areba Avenue between Glen Road and Valley Road for the 50th annual St. Joan of Arc Church Festival:**

Vice Chairwoman Nutt made a motion that the request to close West Areba Avenue between Glen Road and Valley Road on the evenings of June 6, June 7, and June 8, 2024, from 5:00 pm to 10:00 pm for the annual St. Joan of Arc Festival be hereby approved. Supervisor Zmuda seconded the motion. **Motion carried 4-0.**

### **Request to conduct the 2024 Love INC 5K race on Saturday, June 22, 2024, starting at**

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### **approximately 8:00 am:**

Secretary Wyckoff made a motion that the request to conduct the 2024 Love INC 5K race on Saturday, June 22, 2024, starting at 8:00 am, over various Township roadways on a route approved by the Derry Township Police Department is hereby approved. Supervisor Corado seconded the motion.

**Motion carried 4-0.**

### **Request for the closure of Reese Avenue from Millard Street to the west entrance to the Reese's Plant on Saturday, March 30th, 2024, from 9:00am to 1:00pm for the annual Reese's Employees Family Easter Egg Hunt:**

Vice Chairwoman Nutt made a motion that the request to close Reese Avenue from Millard Street to the west entrance to the Reese's Plant on Saturday, March 30, 2024, from 9:00 am to 1:00 pm be hereby approved. Supervisor Zmuda seconded the motion. **Motion carried 4-0.**

## **SUPERVISOR BOARD/COMMITTEE REPORTS**

Supervisor Zmuda stated they had a Transportation meeting today. They talked about the upcoming concert season and Ridge Road, Hershey Theatre, Ridge Crossings and delay which is at PennDOT for approval, Chocolatetown Park and four upcoming pedestrian safety improvements that are coming. Vice Chairwoman Nutt also attended the meeting. Supervisors Corado and Wyckoff attended the DTMA meeting where they were provided project updates including Shank Park being completed.

## **DEPARTMENTAL REPORTS**

### **Public Works**

Mr. Clark stated Mr. Greg Watts started as the Assistant Department Manager.

### **Library**

Mrs. Jacobine spoke about three upcoming Saturday programs starting at 2 pm. She also said they were granted the Keystone grant to help with the cost of the air conditioners in the library.

### **Parks & Recreation**

Mr. Jackson said Shank Park is open and weather permitting, youth programs will start March 18.

## **VISITOR/PUBLIC COMMENTS**

Mr. Richard Gamble, 39 Hockersville Road, asked about receiving information on who is generating the entertainment tax and how much. He would like to see a breakout of the revenue. He spoke about his concerns with the concerts and how much revenue could be coming into the Township. Mr. Christman will look into his request and will report his findings at a future Board meeting.

## **ADJOURNMENT**

Supervisor Zmuda made a motion to adjourn the meeting at 8:42 p.m. Vice Chairwoman Nutt seconded the motion. **Motion carried 4-0.**

### **SUBMITTED BY:**

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Carter E. Wyckoff, Township Secretary