



TOWNSHIP OF DERRY

Board of Supervisors Meeting Minutes

Tuesday, August 13, 2024

EXECUTIVE SESSION 6:00 PM

CALL TO ORDER

Vice Chairwoman Nutt called the August 13, 2024, Regular Meeting of the Township of Derry Board of Supervisors to order at 7:04 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. An Executive Session was held before the meeting where legal matters were discussed. After the Pledge of Allegiance, a roll call was performed. Chairman Abruzzo arrived at 7:06 p.m.

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
Zachary Jackson, Assistant Manager
Chuck Emerick, Director of Community Development
Garth Warner, Chief of Police Department
David Habig, Assistant Director of Community Development
Greg Watts, Assistant Director of Public Works
Alison Jacobine, Director of Hershey Public Library
Amy Walker, Director of Parks & Recreation
Becky Sweigart, Public Outreach Coordinator
David Sassaman, Hershey Volunteer Fire Department
Lynn Dawson, Recording Secretary
Corrinne Cook, HRG Engineer

ABSENT:

Public in Attendance:

Michelle Emerick, Dave Getz, Mike Leonard, Diane Leonard, Craig Smith, Eric Holt, Bryan Holt, Tammy Drager, Tony Roland, Marybeth Lavery, Geoffrey Crout, Cliff Myers

VISITOR/PUBLIC COMMENTS

There were no public comments offered.

CONSENT CALENDAR

Adoption of the Board of Supervisors Meeting Minutes for the July 23, 2024 2024 Regular Meeting.

Reduction of the performance security provided for the Preliminary/Final Subdivision and

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Land Development Plan for Chadds Ford East, Plat 1357.

The Board of Supervisors authorizes the release of \$28,159.00 from the cash performance security provided for the Preliminary/Final Subdivision and Land Development Plan for Chadds Ford East, Plat 1357, resulting in a new balance of \$26,654.00.

Release of the financial security provided for the Stormwater Management Plan for 1806 East Chocolate Avenue, S-2022-017.

The Board of Supervisors authorizes the release of financial security in the amount of \$27,685.00, which had been provided as cash for the Stormwater Management Plan for 1806 East Chocolate Avenue, S-2022-017.

Approval of August 13, 2024 Accounts Payable of \$691,836.93 and August 2, 2024 Payroll of \$428,585.08.

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

NEW BUSINESS

Requesting authorization to execute a Cooperative Services Agreement with the USDA for the mitigation of vulture activity in Derry Township. (C. Christman)

Mr. Christman noted the Township has been in consultation with USDA and ZooAmerica, attempting to mitigate the black vulture activity within the Township. As of July 30, 2024, 876 vultures have been removed from Derry Township due to the efforts put forth by USDA. He confirmed this is a one-year agreement (for the FY2025 budget) with the USDA, for \$18,000. This is the fourth consecutive contract, without any type of financial increase in the contracted amount since 2021. Hershey Entertainment & Resorts has a separate agreement with USDA. Their agreement is specifically for those areas within the confines of ZooAmerica.

Tony Roland, with the USDA, provided the Board of Supervisors with an update and background on the program. Mr. Roland reported Zoo America staff completes daily surveys on black vulture activity with noted significant reduction in sighting numbers as well as reduced complaints from those who reside near ZooAmerica. He shared ongoing remediation is needed because the black vulture population is showing a steady increase and expansion into the northeast.

Supervisor Zmuda made a motion that the Board of Supervisors authorize the Township Manager to execute an agreement with the United States Department of Agriculture for the purpose of mitigating vulture activity in Derry Township. Supervisor Corado seconded the motion. **Motion carried 5-0.**

Discussion on proposed Wave 2 Opioid Settlement Agreement. (P. Armstrong)

Mr. Nelson provided an overview of two agreements (Wave 2 Settlements) with the companies and pharmacies involved in the opioid settlement. The settlement is nationwide and the exact amount will be determined by the number of municipalities who sign the agreement and abide by the settlement. By signing the agreement, it does extinguish the township from the ability to be involved in any large class action lawsuits. Supervisor Nutt confirmed that the township signed on with Wave 1 as well. Supervisor Zmuda shared his overall concern with how the money would be spent, noting funds from Wave 1 were not fully utilized towards opioid abuse and mitigation.

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Supervisor Nutt made a motion that Derry Township authorize and agree to, opt in, and execute the proposed Pennsylvania Subdivision Intrastate Allocation Participation Form for Wave 2 of the Settlement Agreements with Teva, Allergan, CVS, Walgreens and Walmart, and further approve and authorize the execution of any and all other documents and/or agreements related thereto in order to participate in Wave 2 of the national opioid settlement agreements associated with the above-referenced participating defendants. Supervisor Corado seconded the motion. **Motion carried 5-0.**

Request for Authorization to Execute (1) a Temporary Construction Easement and (2) a Right-of-Way and Easement Agreement for Parcel ID: 24-016-045 situated at 21 West Caracas Avenue (C. Christman)

Mr. Christman shared the township is currently in the process of renovating Chocolate Town Square Park in order to include a Veterans Memorial. As part of the project, both a temporary Construction Easement and a right-of-way and easement agreement would need to be executed between the Hershey Volunteer Fire Company, Derry Township and Derry Township ICDA (Industrial and Commercial Development Authority). The Hershey Volunteer Fire Company approved and executed the agreements. This matter is also scheduled for consideration by the ICDA Board at its upcoming meeting on August 15, 2024.

Supervisor Nutt confirmed this will not impact the mission of the Hershey Volunteer Fire Company.

Supervisor Corado made a motion to authorize the Chairman of Board to execute both a temporary construction easement agreement and a right-of-way and easement agreement for Derry Township Parcel ID: 24-016-045 situated at 21 West Caracas Avenue. Chairman Abruzzo seconded the motion. **Motion carried 5-0.**

Adoption of Decision for Conditional Use Application No. 2024-03, as filed by Creekview Lawn and Landscapes, LLC, regarding establishing a landscaping and garden center use on the property located at 970 Bullfrog Valley Road. (C. Emerick)

Mr. Emerick provided background relating to Creekview Lawn and Landscapes, LLC filing a Conditional Use Application on May 7, 2024, seeking approval from the Derry Township Board of Supervisors for a landscaping and garden center use on the applicant's property located at 970 Bullfrog Valley Road. The hearing was held on June 25, 2024. The Board of Supervisors discussed this item at their July 23, 2024 meeting and tabled action to determine the best way to address their concerns regarding traffic generated by retail sales of products, with a focus on Saturday sales. The applicant granted a time extension for action on the application and provided additional information related to operation of the retail portion of the business. Mr. Emerick noted the decision prepared by Pat Armstrong would grant conditional use approval for the proposed landscaping and garden center use. This was revised slightly to address the Board's concerns that were discussed at the July 23, 2024 meeting.

Chairman Abruzzo made a motion that the Decision for Conditional Use Application No. 2024-03 is hereby adopted. Supervisor Nutt seconded the motion. **Motion carried 5-0.**

The Preliminary/Final Land Development Plan for Leonard's Plumbing, Plat 1388. (D. Habig)

Mr. Habig shared background details of the proposal, referencing plat 1388 proposes the development of 1066 Old West Chocolate Avenue (Tax Map Parcel No. 24-008-004), owned by Clifford and Sue Myers and equitably owned by Mike and Diane Leonard. The land development is located within the Industrial zoning district, with the lot containing 34,579 square feet. The land development plan proposes a new building with a footprint of 4,787 square feet for a plumbing business and other

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associated improvements. The proposed plumbing business is a permitted use in the Industrial zoning district. Mr. Habig confirmed this project does not require a transportation impact study and the stormwater will be controlled onsite through a conveyance system leading to a stormwater management basin.

Mr. Habig also confirmed that on March 20, 2024, the Derry Township Zoning Hearing Board granted relief to allow a minimum lot depth of 100 feet, a minimum lot area of 0.794 acres, 20-foot setbacks for the principal structure, a four-foot rear setback for an accessory shed, parking in the front and rear setbacks, and a loading space in the front setback. Mr. Habig reviewed additional waivers, with the consensus of recommending that the waivers be granted. Supervisor Zmuda initiated a discussion relating to the DEP requirements. Mr. Emerick clarified that the expected sewer system flows from the facility will not meet the DEP minimum processing requirements.

Motion 1 of 2 – WAIVERS:

Supervisor Nutt made a motion that waivers are granted from the Subdivision and Land Development Ordinance (Chapter 185) and Stormwater Management Ordinance (Chapter 174) as noted in the Explanation section of this agenda item for the Preliminary/Final Land Development Plan for Leonard's Plumbing, Plat 1388. Supervisor Zmuda seconded the motion. **Motion carried 5-0.**

Motion 2 of 2 - PLAN:

Supervisor Zmuda made a motion that the Preliminary/Final Land Development Plan for Leonard's Plumbing, Plat 1388, is approved, subject to compliance with items 1 through 16 in the *Assistant Department Head Recommendation* section of this agenda item. Supervisor Corado seconded the motion. **Motion carried 5-0.**

Authorization to notify applicant of possible Board of Supervisors action on the Final Land Development and Stormwater Management Site Plan for Hershey Square Proposed Outparcel Development, Plat 1353, at the 8/27/24 Board meeting. (C. Emerick)

Mr. Emerick shared background detail, specifically on December 6, 2022, the Board of Supervisors conditionally approved the preliminary land development and Stormwater Management Site Plan for this project, which any action was deferred pending the results of a traffic impact study and the applicant complying with numerous other conditions as originally stated in correspondence from the Township to the applicant dated December 20, 2022. He stated the traffic impact study indicated a level of service of D, with certain lanes of intersection areas dropping in the level of service, with this not noted in the proposed improvements.

Mr. Emerick further explained they have 12 items outstanding with the last revised submission submitted on November 20, 2023.

Mr. Emerick recommended the applicant be notified of the plan being placed on the Board of Supervisors agenda for the August 27, 2024 meeting for consideration and action based on the current submission/documentation that has been provided by the applicant. The applicant will also be notified of the potential rejection of the Final Land Development Plan for Plat 1353, based on the submissions and information in the Township's possession, and based on the latest Township Engineer review letter.

Mr. Nelson provided an overview of the need of 'in good faith' communication when communicating

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with applicants.

Supervisor Nutt made a motion that the Township notify the Applicant that this Plan will be on the Board's agenda at the August 27, 2024 meeting for consideration and action based on the current submission/documentation that has been provided by the Applicant, which may result in the rejection of the Final Land Development Plan for Plat 1353 based on the submissions and information in the Township's possession at that time and based on the latest Township Engineer review letter.

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

Authorization to conduct the 76th Annual Hershey Halloween Parade on Wednesday, October 16, 2024 at 7:00p.m. (A. Walker)

Ms. Walker presented background of the 76th annual Hershey Halloween parade, scheduled for Wednesday, October 16, 2024, at 7:00 p.m. This year's event will stage and end at the Derry Township Community Center at 605 Cocoa Avenue. This route has worked well in the past and provides both neighborhood and downtown exposure for this popular community event.

Ms. Walker and the Supervisors discussed various options to reduce overcrowding issues and concerns with those attending the parade. Chief Warner suggested having mountain bike police officers along the parade route. Ms. Walker confirmed they do not have a rain date scheduled, as it will be held rain or shine.

Chairman Abruzzo approved the authorization to conduct the 76th Annual Hershey Halloween Parade on Wednesday, October 16, 2024, at 7:00 p.m. is hereby approved. Supervisor Corado seconded the motion. **Motion carried 5-0.**

Resolution No. 2024-17 for Act 537 Plan Revision for Hershey West End development. (C. Emerick)

Mr. Emerick stated the Hershey West End project proposes the development of residential and commercial buildings requiring 634 EDUs of sewage capacity. This flow will be intercepted by the Bullfrog Valley/Highmeadow trunk line leading to the Highmeadow Pump Station and will then be treated by the Clearwater Sewage Treatment Plant. As a result, DEP required the processing of a planning module to amend the Township's 537 Plan. The sanitary sewer extension and the upgrade to the Highmeadow Pump Station require the processing of a planning module as an amendment to the 537 Plan, which requires the adoption of Resolution No. 2024-17. Mr. Emerick also noted the Derry Township Planning Commission, at their meeting on August 6, 2024, reviewed the planning module and had no comments.

Supervisor Corado made a motion that the Board of Supervisors adopt Resolution No. 2024-17. Supervisor Zmuda seconded the motion. **Motion carried 5-0.**

Request to hold the 2024 Choctoberfest. (G. Warner)

Chief Warner shared the 2024 Choctoberfest is a community event that will be held on Saturday, October 12, 2024, from 11:00 a.m. to 5:00 p.m., adjacent to Chocolate Town Square Park. This family friendly event will offer an array of activities for all ages and is free to the public. Live entertainment will be featured throughout the day and food and beverage options will be offered to include local craft beer and food from Hershey downtown restaurants. Chief Warner stated this event is produced by the Downtown Hershey Association, noting Michelle Emerick is in attendance to answer any questions. Admission to this event is free to the public.

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Chief Warner confirmed it will be necessary to close the first block of West Caracas Avenue and a section of South First Street (in order to allow appropriate access for the Hershey Fire Department), prior to the event, with notifications being made to residents in the area in advance. Vendors will begin set-up at approximately 7:00 a.m., and will need to be off the street by 6:30 p.m.

From a financial impact, Chief Warner stated they will have a community officer present during the event.

Supervisor Wyckoff made a motion that the request to hold the 2024 Choctoberfest on Saturday, October 12, 2024, be hereby approved. Supervisor Nutt seconded the motion. **Motion carried 5-0.**

Authorization for a community banner to be located on the construction fence near the southwest corner of the intersection of Cocoa Avenue and West Caracas Avenue. (C. Emerick)

Mr. Emerick stated the zoning ordinance allows the Board of Supervisors to approve banners for community events. He stated the banner proposed is for The Hershey Partnership's Hershey Soup Cook Off. The 2024 fundraiser is scheduled for September 28, 2024. The banner will be placed on the construction fence near the intersection of Cocoa Avenue and West Caracas Avenue not more than 30 days prior to the event and removed within 2 days after the event.

Supervisor Nutt made a motion that the *Hershey Soup Cook-Off* banner is authorized to be placed on the construction fence near the southwest intersection of Cocoa Avenue and West Caracas Avenue. Supervisor Corado seconded the motion. **Motion carried 5-0.**

Acceptance of financial security for the Stormwater Management Plan for 7 Lucy Avenue, S-2024-005. (J. Stumpf/C. Emerick)

Mr. Emerick stated a plan was submitted to detail the design of stormwater management facilities for a dwelling, garage, driveway, walkway, porch, and patio at 7 Lucy Avenue. The applicant and property owner is Melvin King.

Supervisor Nutt made a motion that the Board of Supervisors accepts cash financial security in the amount of \$42,118.00 and enters into the Agreement to Provide Financial Security between Melvin F. King and the Township for the Stormwater Management Plan for 7 Lucy Avenue, S-2024-005. Supervisor Corado seconded the motion. **Motion carried 5-0.**

SUPERVISOR BOARD/COMMITTEE REPORTS

No updates to report.

DEPARTMENTAL REPORTS

Police Department

Chief Warner confirmed Halloween 'Trick or Treat' night in the township will be on October 31, 2024, from 6 to 8 p.m., and the National Night Out has been rescheduled to Tuesday, August 20, 2024, from 6 to 8:00 p.m.

Hershey Volunteer Fire Department

Mr. Sassaman stated the fire department had 100 calls for the month and they will be having a company meeting the evening of the Board of Supervisors meeting. They will be accepting five new members.

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Public Works

Mr. Watts stated roads (Boathouse, Kiefer, and Shopes Church) had excess stone swept earlier in the day from the township roadwork project. The recent cooler weather has allowed lawns and landscapes within the township to recover. The tree ordinance violation letters have been processed ahead of last year's pace.

Library

Ms. Jacobine confirmed the Friends of the Hershey Library raised over \$48,000 from the recent Hershey Library book sale.

Parks & Recreation

Ms. Walker shared there will be a drive-in movie (Encanto) at Shank Park on Friday, August 16, 2024. Concessions will be available for purchase. Ms. Walker also noted the outdoor pool hours will be extended through August 23, 2024.

Community Development

Mr. Emerick requested the scheduling of two public hearings (September 24, 2024, at 6:00 pm and 6:30 pm) for two conditional use applications for 950 Mae Street and 74 Sipe Avenue.

Township Manager

Mr. Christman shared a reminder of an upcoming ICDA meeting, scheduled for Thursday, August 15, 2024, at 6:00 pm. The agenda will include agreements for Chocolate Town Square Park and three projects Hershey Entertainment & Resorts will be seeking ICDA approval, all of which come from funds that are not associated with hotel tax dollars.

VISITOR/PUBLIC COMMENTS

There were no public comments offered.

ADJOURNMENT

Supervisor Zmuda made a motion to adjourn the meeting at 8:10 p.m. Supervisor Corado seconded the motion. **Motion carried 5-0.**

SUBMITTED BY:

Carter E. Wyckoff, Township Secretary