

**Board of Supervisors  
July 8, 2020  
Minutes**

Board Members Present: Scott Lambert, Chair; Rich Orlow, Vice-Chair; and Susan Drummond, Member

Staff Present: John Nagel, Township Manager; Donna Wikert, Board Secretary; Zach Barner, Director of Planning and Development; Ted Locker, Zoning Officer; Chief Yeager, and Joe McGrory, Solicitor

Mr. Lambert called the regular meeting to order at 7:15 P.M. Pledge of Allegiance

**Board Briefings:**

Mr. Orlow announced with great sadness the passing of Tommy Cockerham, a Longtime Fire Official, Resident and Friend. A moment of silence was held in honor and remembrance of Tommy Cockerham.

Police Affirmation - Letter from Chief Yeager is posted on the website.

Mr. Lambert announced the Township is following the PA. State Association of Township Supervisors Recommended Best Practices Protecting Township Employees and the Public, and the (Virtual) Meeting Guidelines. As for the virtual meetings, we will continue to monitor the situation. Mr. Nagel announced that the Township building is currently not open to the public. We are working with full staff but still not ready to open our doors.

The Township is strongly encouraging restaurants put in place Contact Tracing. This can be done by taking the name and phone number of 1 person in a party to be notified if an outbreak should happen.

Executive Session(s) were held on June 30 at 5pm (legal) and July 8 at 6pm (real estate, personnel and legal). Mr. Nagel announced on June 30 real-estate issues were also discussed.

**Public Hearings:**

[CU-06-2020](#) for 17 Spring Road – Conditional Use Application pursuant to §200-57. E. (4) of the Township Code to disturb areas of very steep slopes in order to construct a sanitary sewer connection. This application is associated with a 2 lot subdivision plan at the same property ([SD-05-2020](#)). Both the existing and proposed dwelling would be connected to public sewer via the proposed sewer line.

Full details of the hearing are contained with the transcript prepared by a court reporter. The transcript is available to view at the Township Building. The hearing ended and Mr. McGrory suggested due to the simplicity of this, he would have no objection to the Board voting on this tonight, the Board agreed.

Mr. Lambert made a motion to accept the Condition Use application for CU 06-2020, 17 Spring Road as well as SD-05-2020. Both Ms. Drummond and Mr. Orlow seconded the motion; the motion was approved 3-0.

Mr. McGrory mentioned the applicant also has a 2-unit Subdivision & Land Development Application under Planning and Development; would the Board like to Consider Authorizing the Solicitor to Draft a Resolution for consideration next month. The Board agreed.

Ms. Drummond made a motion to authorized Mr. McGrory to draft a resolution for SD-05-2020; Mr. Orlow seconded the motion. The motion was approved 3-0.

## **Board Motions & Resolutions:**

Ratify Letter of Support for Joint Grant (Automated Red-Light Enforcement) Application with Charlestown Township for Transportation and Stormwater Improvements to Intersection of Phoenixville Pike, Sidley Road & Yellow Springs Road.

Ms. Drummond mentioned this topic has been talked about for some time now, left turn lane addition at the intersection of Sidley and Yellow Springs, and partnering with Charlestown Township on a letter of support to apply for this ARLE Grant.

Mr. Orlow made a motion to ratify the letter of support for the joint grant application. Ms. Drummond seconded the motion; the motion was approved 3-0.

Connector Trail in Valley Creek Park (Two Proposed Options) – Approve Location and Use of Developer Impact Fee (\$38,000 - \$43,250)

Mr. Lambert introduced the subject of the trail connector at Valley Creek Park. It connects the trail into Valley Creek Park and will tie into Patriots path from Atwater development.

The Board of Supervisors should consider and decide if they want to construct a connector trail from 1 Country View Road, in the Great Valley Corporate Center, to the Patriots Path in the Valley Creek Park. The connector trail will serve two purposes; first, it will replace the stairs from 1 Country View Road that are used for the summer concerts and second, it will provide a better means of access for office workers to the park.

At the direction of the Board, ARRO has prepared a plan with two options. Option 1, which is slightly less costly to build, is approximately 30' from the Atwater property line, but is steeper at 19% grade. Option 2 is \$5,000 more to construct, is approximately 10' from Atwater property line, and is less steep at 13% grade. The Park and Recreation Board recommend that option 2 be constructed. The Board should also consider the use of a portion of recreation fees still due from Atwater for the construction of the connector trail. Option 1 is \$38,000 and Option 2 is \$43,250.

The main advantage to the Township is we would not have to bid the project, thus increasing its cost and using current Township funds. The Park and Recreation Board recommended that the developer's recreation fee be used for this project.

Ms. Drummond made a motion to approve option 2 for \$43,250. For the record, she wanted it noted she would prefer the trail be 6ft wide and not 8ft but will not hold the project up because of that. Mr. Orlow seconded the motion; the motion was approved 3-0.

Ms. Wikert added there had been several questions come through Public Comment email that addressed the ARLE grant and Sidley Road.

Kevin Gaffney emailed in reference to the proposal for the intersection of Phoenixville Pike, Sidley Rd and Yellow Springs Rd, seeing that there has been no stand-alone study done on the intersection and the residents living on Phoenixville Pike are against this project, should this proposal go forward? Should there at least be a study done on the intersection to study the impact on safety to the local residents before proceeding? Given improvements in traffic technology with smart lights, a more thorough study of the intersection, including a potential right-hand turn lane on Sidley Rd, may be warranted to provide options to not only improve rush hour traffic but also maintain safety.

Mr. Tucholski also emailed a comment to our Public Comment mailbox. He is opposed to this plan because the plan is underthought. The affected residents oppose it, and the true cause of the congestion (the dump trucks) are

not considered. The part of the plan that was removed was the one part that would NOT take away a resident's land.

Ms. Drummond stated that this plan does not take any residents land the entire project is in the existing right away.

Ms. Drummond stated that maybe we need Chris Williams from McMann and Associates to address the intersection comments. There have been studies done previously, so she doesn't feel like the need to do another study to apply for the grant is warranted. Mr. Orlow mentioned the purpose of this project was to improve safety. Mr. Lambert mentioned we should also have a mark improvement on traffic flow on Moores Road which has become a traffic problem also. Ms. Drummond commented that the school district loves the idea.

### **Zoning:**

Appeal No. 2020-08: Application of Chris McCarthy for a special exception from Section 200-40. B and 200-41 to allow an ice hockey training facility in place of the former basketball facility. In the alternative, a variance to allow this use or a special exception from 200-105 to change the use from the existing non-conforming use to a similar non-conforming use. The property is located at 19 N. Bacton Hill Road and is within the Industrial Zoning District.

Appeal No. 2020-09: Application of Patrick and Diana Louden for a variance from Section 200-23.C Attachment 2 Development Standards to allow a front porch and second floor addition within the front yard setbacks. The property is located at 23 Woodview Road and is within the R-3 Residential Zoning District.

Appeal No. 2020-10: Application of James Carr, AIA, Trustee, Covenant Presbyterian Church for a variance from Section 200-44 Attachment 11 Development Standards to allow the addition of an accessory structure within the 25-foot minimum rear yard setback. The property is located at 400 Lancaster Avenue and is within the Institutional Zoning District.

No need to send the Solicitor to these hearings.

### **Planning & Development:**

Consider Authorizing Solicitor to Draft a Resolution for the following Subdivision & Land Development Applications:

[SD-10-2018](#) for HP Flanagan on Bacton Hill Road – Final Subdivision & Land Development

Final Subdivision & Land Development application for the construction of six (6) new single-family detached homes utilizing cluster development and open space design provisions. Each home will be served by individual driveways from the existing public streets, on-lot stormwater management, and public sewer. The properties, located at the intersection of N. Bacton Hill, Spring Valley, and Conestoga Roads, are within the R-1 (Residential) District.

Ms. Drummond made a motion to authorize the solicitor to draft a resolution for the Final Subdivision & Land Development for SD-10-2018. Mr. Orlow seconded the motion; the motion was approved 3-0.

[SD-05-2020](#) for 17 Spring – Preliminary / Final Subdivision. This matter was taken care of earlier this evening under the Hearing section of the meeting.

Consider Extension of Time to Render a Decision on the Following Applications:

[Bishop Tube](#) to January 31, 2021

Ms. Wikert read a letter that came in from several East Whiteland residents, including Deb Mobile, Jill Holsclaw, Mr. & Mrs. Miros, Barb Arnold and Sarah Casper. Constitution Drive Partners (CDP) is requesting yet another extension for your decision on the Bishop Tube development application from July 31 to January 31, 2021. Their letter notes a pending appeal decision from the PA Environmental Hearing Board but is vague about specifics. Please know CDP is appealing the Delaware Riverkeeper Network's (DRN) victorious legal challenge to the

Prospective Purchaser Agreement (PPA) between CDP and the PA Department of Environmental Protection (DEP) - an agreement that included a covenant not to sue, which the DEP voided because it determined that people working on CDP's behalf had engaged in activity that ultimately violated the PPA. The DRN is hopeful its previous win will be upheld. At past meetings, the Clean and Green Bishop Tube community action group had asked you to stop granting extensions to CDP, but your usual response is that your hands are legally tied. I ask you to keep East Whiteland Township's best interests at heart as this matter goes forward. Clearly, developing this highly toxic site would be a catastrophe for residents and the environment. Our group wants the contamination fully cleaned up and the land protected as natural open space. We are still here and still advocating on behalf of our community, with the invaluable assistance of the DRN. I hope the members of the Board are on our side as well. Thank you.

Mr. McGrory, Township Solicitor mentioned that the Township received a request from Constitution Drive Partners aka Bishop Tube requesting additional extension of time. The outcome of pending litigation will have direct impact on their plans, he recommends the extension of time but make it abundantly clear this is the last extension that will be granted. The Township will then vote to approve or deny pending plans as it exists at this time. The Township has been fair and given Constitution Drive Partners more than enough time to straighten the situation out. The Township will be prepared to take action January 31, 2021. The Board of Supervisors will vote to approve or deny 1/31/21.

Mr. Orlow made a motion to approve extension of time till 1/31/21, with the understanding to be communicated clearly with the applicant that this will be the last extension granted for this application. Ms. Drummond seconded the motion; the motion was approved 3/0.

[LD-15-2019](#) for WaterWalk Hotel to August 30, 2020

[LD-17-2019](#) for Ducklings Early Learning Center to September 30, 2020

[LD-02-2020](#) for 19 Bacton Hill Road to September 30, 2020

[LD-04-2020](#) for Uptown Worthington Master Plan to September 30, 2020

[SD-10-2018](#) for HP Flanagan / Bacton Way to September 30, 2020

[SD-05-2020](#) for 17 Spring Road to August 30, 2020

Ms. Drummond made a motion to grant extension of time to all of the above, as read by Mr. Barner.

Mr. Orlow seconded the motion; the motion was approved 3-0.

**Public Comment: Public Comment came in through email that was set up specially for Public Comment.**

Ms. Mudry inquired about the properties between Sloan Motor and the Wawa on Route 30 in Frazer. She would like to know who is responsible for rental inspections on these properties. Ms. Drummond said we do not have a rental inspection program other than fire safety. Mr. Orlow mentioned we have an inspection only when a property is sold. Ms. Mudry asked who owns these properties and Mr. Brown said he wasn't sure, but anyone can look this information up on Chescoviews. She also asked where the online meetings were located on our website, Ms. Wikert answered the question: you can find all the previous meetings on the home page, under quick links first item.

Kevin Gaffney sent a comment in concerning the ARLE grant, the project is going to be done and the right of way is used. The new right of way will be 10 feet closer to my house, taking away my land to create the new right of way! Currently we have shrubs, trees and greenery sheltering our house and giving us privacy. Can you assure us that you will not be cutting down this foliage? If you do, then our entire house will be not only be closer to the road but EXPOSED to the road. This is absolutely taking away and impacting the quality of our property. Additionally, the expansion of this intersection will increase the danger for anyone biking, walking, running along it. Whether you want them to or not children walk to school from the townhouses on Yellow spring Road and use the patch of grass to not have to walk in the road. You are going to increase the danger on the road for these

children! We are going to fight this grant. It will not improve this road. A SLOWER speed limit and NO TRUCKS will greatly improve this intersection along with a PROPER crosswalk for the KIDS.

The Board thanked him for his input.

**Consent Agenda:**

Approve Meeting Minutes from June 10, 2020

Ratify Payment of Bills: \$762,666.97 (June 2020)

Accept Treasurer's Report: As of May 31, 2020

Approve Continuity of Operations Plan – Purchase 13 Laptops (\$21,242) to Prepare for Second Surge from Pandemic

Approve Replacement of Municipal Complex Internal Lighting with LED through PECO Small Business Direct Install (\$3,730.24)

Ratify Conditional Job Offers - Part Time Firefighter & Emergency Medical Technician Candidates - Jake Bailey & Ashley Marchetti

Replace Fire Alarm Control Panel (\$11,138)

Renew Malvern Hunt Wastewater Treatment Plant Operations Contract for One Year with ARRO (\$4,050 Monthly; 30 Day Termination Notice)

Approve Both PA DEP Sewage Facilities Planning Component 3M Minor Act 537 Plan Update Revisions Planning Form for Planebrook Road Sewer Project and Resolution

Approve Sale of Police Vehicles (4) through MunicibiD:

2010 Ford Expedition (\$4,606)

2012 Ford Fusion (\$4,350)

2013 Dodge Charger (\$6,204)

2008 Ford E-350 (\$4,100) – Bid is still active till 7/10/20)

Mr. Nagel mentioned the 2008 Ford E-350 is still active on MunicibiD, so we can't vote on this till after Thursday July 9, 2020.

Mr. Orlow made a motion to approve Consent Agenda as read taking off the 2008 Ford E-350. Ms. Drummond seconded the motion; the motion was approved 3-0.

Ms. Wikert had one more comment from the public comment emails.

Barbara Ann Thav wanted to thank the Board for approving option 2 for the connector trail at Valley Creek Park. She also wanted to say, for the record, that she and two other Park & Rec members agreed with Ms. Drummond about 6ft instead of 8ft wide trail.

**Meeting Adjournment 8:40**

**Donna Wikert, Board Secretary**