



## BOARD OF COMMISSIONERS

**PUBLIC MEETING**

**AGENDA-MINUTES**

**May 5, 2021**

1. **CALL TO ORDER:** Due to a technical difficulty, the meeting came to order at 7:30 p.m.

Public/Virtual Meeting Rules were read.

**As this is a virtual GoTo Meeting, Township Manager, Renee Bickel took a Roll Call for attendance purposes as follows:**

Commissioner Wolk:	HERE
Commissioner Setton:	HERE
Commissioner Kelly:	HERE
Commissioner Morgan:	HERE

Attendees: Commissioner Christina (Tori) Morgan, President  
Commissioner Diane Kelly, Vice President  
Commissioner Michael Wolk, Assist. Secretary  
Commissioner Joe Setton  
Joseph Zator, Twp. Solicitor, Zator Law  
Anthony Tallarida, Twp. Engineer, The Pidcock Company  
Renee Bickel, Township Manager  
Randy Cope, Director of Twp. Operations  
Herb Bender, PW Superintendent  
Mike Elias, PW Utility & MS4 Coordinator  
Scott Boehret, Finance Manager  
Chief Glen Dorney, SWT Police Department  
Dave Manhardt, Director of Community Development  
Tracy Fehnel, Exec. Assistant

2. **PLEDGE OF ALLEGIANCE**

3. **NOTIFICATION:** All Public sessions of the South Whitehall Township Board of Commissioners are electronically recorded, filed, and posted on BoardDocs for the Public's access.

**\*(boarddocs.com; USERNAME: swhitehall; PASSWORD: swtpublic)**

The Board did not have any Executive Sessions since the last meeting.

4. **MINUTES**

- a. **April 21, 2021 - BOC Meeting Minutes**

These minutes have been TABLED. Amendments to be made as instructed. Will be placed on the next agenda.

5. **PRESENTATIONS: None.**

6. **ORDINANCES: None.**

**7. RESOLUTIONS:****a. A Resolution Extending the Conditional Final Approval Granted to a Major Subdivision Entitled "Hotel Hamilton"**

Dave Manhardt, Director, Community Development Department, explained that the application is for properties along Hamilton Boulevard—a 5-acre parcel surrounding the King George Inn. Received preliminary approval 2016. There were a series of extensions of that preliminary approval to get their final plan in order. Final Plan approved May 2020. Here this evening for a four-month extension for that final plan approval. Applicant was in attendance to answer any questions.

Both Attorney Malkames and Engineer Bud Newton were in attendance to answer any questions, as well as Mr. Atul. Bud Newton said they have talked with PennDOT with regard to how they are going to work out the permits within the Township. Still awaiting PADEP to come back with the planning module approval and still need PennDOT permits, which they will be resubmitting. Would like to have this wrapped up in the next four months. Will be working with staff to wrap up issues with developers' agreements.

Board questions were answered at this time. No questions by Township Engineer/Solicitor at this time either. No questions by Public.

Motion to move forward with extending the conditional final approval granted to a major subdivision entitled Hotel Hamilton by Commissioner Kelly, which was seconded by Commissioner Setton.

Roll Call vote as follows:

Commissioner Wolk:	YES
Commissioner Setton:	YES
Commissioner Kelly:	YES
Commissioner Morgan:	YES

Motion carried.

**b. A Resolution of the Board of Commissioners of South Whitehall Township, Lehigh County, Pennsylvania, to Appoint \_\_\_ as Successor Commissioner to fill Newly Vacant Seat of Matthew Mobilio**

President Morgan explained that the interviews were completed for the vacancy that currently exists on the BOC. The above mentioned resolution was brought before the BOC this evening. The following individuals were interviewed: Jamal Ahmed, Bill MacNair, Tom Utsch, Tom Johns, Lee Solt, Ben Long, Dean Browning, Andy Flagg, and Mark Leuthe. They were interviewed for the 7-month position, which would run until January 3, 2022 to fill the position of vacant seat of Matt Mobilio.

Solicitor Zator explained the requirements are: If the Board would appoint a successor Commissioner to fill the empty seat it will be by resolution. The candidate must be a registered elector/voter, and must be a resident of SWT for at least one year. Under the

first-class township code, that under such appointment, the commissioner would hold that office until Monday, January 3, 2022. The law does not describe specific procedures that the BOC goes through in trying to arrive at an appointment. The law is clear that the Board establish its own procedures, which the Board has done so.

Prior to any motions and votes, each commissioner will have an opportunity to identify a candidate he or she wants to suggest as the appointee to the Board of Commissioners. Each Commissioner will have an opportunity to give their reasons of support. It has been agreed that it will not be an opportunity to say why another candidate should not be selected. It will be an opportunity to advocate, not an opportunity to criticize.

After each commissioner has had an opportunity to speak about his/her preferred candidate, proceeding in the usual order of roll call voting, each commissioner will have an opportunity to make a motion to adopt a resolution to appoint his/her preferred candidate, recognizing that the first candidate to receive a majority vote by 3 or 4 commissioners will be the person appointed by the board. This means that if the preferred candidate of a particular commissioner receives a majority vote, then any commissioner who has not yet had the opportunity to make a motion, will have no such opportunity to make a motion. In other words, once we get to a majority in favor of a single candidate, that is the conclusion of the motion and voting.

After a motion has been made and seconded, there will be an opportunity for public comment. The public can comment on that candidate only. Everyone is expected to act with respect or will be shut down by the meeting host.

If no candidate receives a majority vote, Commissioners will have an opportunity to repeat the process by putting forth another candidate should they wish to do so. Similarly, as soon as a candidate receives a majority vote, that candidate will be deemed having been selected as the replacement commissioner.

Following this protocol, if no candidate receives a majority vote, then the Board will be considered deadlocked. The statutory 30-day time clock for appointment by this Board expires this Friday, May 7<sup>th</sup> and there is no other scheduled public meeting of the Board of Commissioners after tonight. Should a deadlock occur, then the Vacancy Board process would be pursued. If that should happen, the public is encouraged to stay tuned for future announcements regarding the Vacancy Board. The Board is unanimous in its hope that pursuing the Vacancy Board process will not be necessary.

When a candidate has been appointed, before that person can effectively join the Board as a Commissioner, he/she must be sworn in per the legal required process.

President Morgan explained that the Board will begin the process of each giving their recommendation, followed by a motion. The order will be Commissioner Setton, Commissioner Wolk, Commissioner Kelly, and Commissioner Morgan and followed by a motion to be considered.

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**Commissioner Wolk** recommended Lee Solt.

**Commissioner Setton** recommended Ben Long.

**Commissioner Kelly** recommended Andy Flagg.

**Commissioner Morgan** recommended Ben Long.

Solicitor Zator said there is now an opportunity for a motion, and if there is a second, followed by opportunity for public comment on that particular candidate.

**Commissioner Wolk** made a MOTION that we adopt a resolution that **Lee Solt** fill the Commissioner vacancy for a term ending January 3, 2022. The motion was seconded by Commissioner Kelly.

Public comment occurred at this time.

Roll Call Vote as follows:

Commissioner Wolk:	YES
Commissioner Setton:	NO
Commissioner Kelly:	YES
Commissioner Morgan:	NO

Motion did not carry.

**Commissioner Setton** made a MOTION that we adopt a resolution that **Ben Long** fill the Commissioner vacancy for a term ending January 3, 2022. The motion was seconded by Commissioner Morgan.

Public comment occurred at this time.

Roll Call Vote as follows:

Commissioner Wolk:	NO
Commissioner Setton:	YES
Commissioner Kelly:	NO
Commissioner Morgan:	YES

Motion did not carry.

**Commissioner Kelly** made a MOTION that we adopt a resolution that **Andy Flagg** fill the Commissioner vacancy for a term ending January 3, 2022. The motion was seconded by Commissioner Wolk.

Public comment occurred at this time.

Roll Call Vote as follows:

Commissioner Wolk:	YES
Commissioner Setton:	NO
Commissioner Kelly:	YES
Commissioner Morgan:	NO

Motion did not carry.

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**Commissioner Morgan** made a MOTION that we adopt a resolution that **Ben Long** fill the Commissioner vacancy for a term ending January 3, 2022. The motion was seconded by Commissioner Setton.

Public comment occurred at this time.

Roll Call Vote as follows:

Commissioner Wolk:	NO
Commissioner Setton:	YES
Commissioner Kelly:	NO
Commissioner Morgan:	YES

Motion did not carry.

The Board now repeated the above process in order to make further recommendations.

**Commissioner Wolk** – No further recommendations.

**Commissioner Setton** recommended Mark Leuthe.

**Commissioner Kelly** – No further recommendations.

**Commissioner Morgan** recommended Mark Leuthe.

**Commissioner Setton** made a MOTION that we adopt a resolution that **Mark Leuthe** fill the Commissioner vacancy for a term ending January 3, 2022. The motion was seconded by Commissioner Morgan.

Public comment occurred at this time.

Roll Call Vote as follows:

Commissioner Wolk:	NO
Commissioner Setton:	YES
Commissioner Kelly:	NO
Commissioner Morgan:	YES

Motion did not carry.

**Commissioner Wolk** recommended that the Board reconsider **Lee Solt** at this time. He went on to say that Lee Solt does not have a conflict of interest of any kind. Commissioner Wolk made a MOTION that the Board reconsider and adopt a resolution that Lee Solt fill the Commissioner vacancy for a term ending January 3, 2022. The motion was seconded by Commissioner Kelly.

Public comment occurred at this time.

Roll Call Vote as follows:

Commissioner Wolk:	YES
Commissioner Setton:	NO
Commissioner Kelly:	YES
Commissioner Morgan:	NO

Motion did not carry.

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Solicitor Zator explained the next steps/actions to be taken are as follows: Given that this is Wednesday, May 5<sup>th</sup>, and the 30-day time period under the first-class township code will expire Friday, May 7<sup>th</sup>, and there is at least a 24-hour notice requirement for a special meeting with the Board of Commissioners, it would be impossible to conduct another Board of Commissioners meeting after tonight within the required time. Therefore, we are in a deadlock situation, which means this goes to the Vacancy Board, which consists of the four sitting commissioners and Keisha Champagnie. There is no specific protocol prescribed as to how the Vacancy Board will operate. It will be up to the Vacancy Board to make that determination. Solicitor Zator will explain to the BOC, presumably in Executive Session, and respond to any questions they may have. The Vacancy Board is an independent Board/Commission, just like any other agency at the Township, and therefore the actual voting of the vacancy board should be properly advertised and should be a public meeting and that process needs to conclude if it is to result in an appointed candidate, it needs to conclude within 15 days following May 7<sup>th</sup>, which is the 22<sup>nd</sup> of May.

President Morgan said that Staff will work with the Solicitor's office to make arrangements for said meeting.

**8. MOTIONS**

**a. Public Works - Motion Requesting Permission to Proceed with Purchase of Camera Truck**

Herb Bender, PW Superintendent, explained that South Whitehall Utilities division (Sewer Department) solicited three quotes. We are asking for permission to purchase a camera truck from Cues for \$328,998.00. This TV truck will be used to televise our sanitary sewer system. This truck will be compatible with the current camera truck that will be moving over to our stormwater division. This way if a camera would go down, we will have the capability to swap cameras back and forth from truck to truck. This new truck will run on the same software that the current truck runs on, thus making it easier on the camera operator. As it is the same software the grading of the pipes will remain the same between both trucks. This truck will give us the capability of also inspecting laterals that run from the sewer main to the house.

This Camera truck was budgeted in sewer major machinery and equipment fund for \$350,000.00 (08431003/40760).

Board questions were answered at this time. No public questions at this time.

A MOTION was made by Commissioner Kelly, which was seconded by Commissioner Wolk, granting permission to proceed with purchase of camera truck.

Roll Call Vote as follows:

Commissioner Wolk:	AYE
Commissioner Setton:	AYE
Commissioner Kelly:	AYE
Commissioner Morgan:	AYE

Motion carried.

**b. Public Works - Motion Requesting Permission to Proceed with Advertising for the Annual Road Paving Contract**

Herb Bender, PW Superintendent, explained that SWT PW is respectfully requesting permission to advertise a 2021 Roadway Paving bid. PW has identified the areas and streets which need resurfacing. Capital improvement funds have been approved and budgeted for the Clifford Park Annex and Woodlawn Manor areas. The budgeted amount is not to exceed \$1,285,455.

Herb went on to say that the 5-10 year plan with regard to infrastructure of our roads will be handled in house. Every road in the township has been re-evaluated on a large map in PW. Herb will do a presentation at a future meeting using the map, and talk about the expenditure of paving/upkeep from a long-term perspective.

Board questions answered at this time. No public questions at this time.

A MOTION was made by Commissioner Kelly, which was seconded by Commissioner Wolk, to move forward with advertising for the annual road paving contract.

Roll Call Vote as follows:

Commissioner Wolk:	AYE
Commissioner Setton:	AYE
Commissioner Kelly:	AYE
Commissioner Morgan:	AYE

Motion carried.

**9. CORRESPONDENCE AND INFORMATION ITEMS:**

**a. Boards and Commissions – Informational Items**

**CURRENT VACANCIES ON BOARDS/COMMISSIONS:**

1. Civil Service Commission - 2 vacancies, alternate positions
2. Landscape Shade Tree Commission - 2 vacancies
3. Parks & Recreation Board – 2 vacancies
4. Planning Commission - 1 vacancy

Commissioner Kelly asked that the Board move to a full board interview process, and to hold them in public workshop so that the public may observe, and so that all the Commissioners have a full understanding of the applicants in the interview process. The second meeting of the month could be used since it is already advertised.

President Morgan said we need to do something since we have vacancies on these boards which need representation. If the Board wants to do away with the interview committee that is fine—we just need to fill these vacancies. Keeping in mind, these will have to be advertised meetings since the entire board is involved. She is fine either way, we just need to move forward with this so we can get things accomplished.

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Commissioners Morgan and Kelly will consult to see which vacancies are most urgent, and see if we have to do some with the interview committee, until we have the full board interview process figured out to keep things rolling.

Finance Committee – Will meet on May 20<sup>th</sup>.

**10. DIRECTION/DISCUSSION ITEMS: None.**

**11. OLD BUSINESS:**

**a. Wehr’s Dam** – Randy Cope, Director, Township Operations said that the DCNR Grant was submitted. Waiting on notification, whether it will be approved or not; should hear sometime in fall.

**b. Credit Cards** – Scott Boehret, Director of Finance, said we are in final stages of production for the credit card transactions. The bank account works—we are waiting on production team to go live so that we can finish up our testing to go live.

**12. COURTESY OF THE FLOOR:**

Jeff Ward, WFMZ – Subject: Vacancy Board and the filling of the BOC vacant spot.

Susan Grella, 2921 West Fairmont Street. Subject: Stonecrest Swim Club

JoAnn Markowicz, 833 South Hillview Road. Subject: Integrity of candidates/BOC members.

David Torrey, 1351 Deerfield Drive. Subjects: Stonecrest Swim Club and municipal planning compact. David Manhardt, Director, Community Development, in response to this discussion will be reaching out to LC Ag Preservation and the possibility of them doing a presentation for BOC. Commissioner Wolk looks forward to working with Dave Manhardt on this to see what we can do to reactivate the Homeland Preservation Committee.

David Kennedy, 3727 Pheasant Hill Dr. Subject: Vacancy Board

JoAnn Markowicz, 833 South Hillview Road. Subject: Speed display on Hillview Road.

**13. PAYMENT OF INVOICES:**

**a. Invoices and Purchasing Requisitions have been reviewed by the Township Manager and the Director of Finance, who authorize that checks be issued to pay bills as tabulated.**

A MOTION was made by Commissioner Kelly, and seconded by Commissioner Morgan, to approve the payment of all invoices.

Roll Call Vote as follows:

Commissioner Wolk: AYE

Commissioner Setton: AYE

Commissioner Kelly: AYE

Commissioner Morgan: AYE

Motion carried.



15. **EXECUTIVE SESSION:** No executive session after this meeting.

16. **ADJOURNMENT:** At 10:28 p.m. a MOTION was made by Commissioner Kelly, which was seconded by Commissioner Wolk, to adjourn. All in favor; none opposed.

17. **APPROVED: May 19, 2021**

A MOTION was made by Commissioner Kelly, which was seconded by Commissioner Setton, to approve the May 5, 2021, BOC Meeting minutes.

Roll Call Vote as follows:

Commissioner Wolk: AYE

Commissioner Setton: AYE

Commissioner Kelly: AYE

Commissioner Morgan: AYE

Motion carried.

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