



BOARD OF COMMISSIONERS

PUBLIC MEETING

AGENDA-MINUTES

September 1, 2021

1. CALL TO ORDER: 7:00 p.m.

Roll Call taken as follows:

Commissioner Wolk:	HERE
Commissioner Long:	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
Commissioner Ben Long
Joseph Zator, Twp. Solicitor, Zator Law
Anthony Tallarida, Twp. Engineer, The Pidcock Company
Randy Cope, Interim Township Manager/Dir. of Twp. Operations
Herb Bender, PW Superintendent
Mike Elias, PW Utility & MS4 Coordinator
Mike Kukitz, Parks & Rec Manager
Scott Boehret, Finance Manager
Chief Glen Dorney, SWT Police Department
Dave Manhardt, Director of Community Development
Tom Harper, Enforcement Program Manager

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)**

At this time, President Morgan advised that the Board did meet in executive session on August 26th re-legal & personnel matters, and on August 27th re-personnel matters, and prior to this evening's BOC meeting re-personnel matters.

4. MINUTES

a. August 18, 2021 - BOC Meeting Minutes – TABLED

Commissioner Kelly read excerpts from the Auditor's report which she will pass on to Randy and Tracy for the minutes, to be included.

Commissioner Wolk said that he has one item that he would like added also, which will be forwarded to Randy and Tracy, to be included.

A MOTION was made by Commissioner Kelly, which was seconded by Commissioner Setton, to TABLE the meeting minutes, so that the above-mentioned comments can be inserted, and brought back to the Board for a vote.

Roll Call vote as follows:

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

Motion carried.

5. **PRESENTATIONS:** None.

6. **ORDINANCES:**

a. **Public Hearing - An Ordinance Amending the South Whitehall Township Zoning Ordinance to Delete Section 350-48(n)(9)(E)(vi) (7:54)**

Dave Manhardt, Director, Community Development Department explained, applicant went to the PC December 2020 and requested that a section of the motor vehicle service facility use-schedule be removed. the specific section to be remove was gas stations within 1,500 feet of another facility. At that meeting, the PC discussed it and came up with a recommendation to allow motor services facilities within 1,500 feet, as long as they were separated by a road—you can have them as long as they were on the opposite side of the road.

Attorney Erich J. Schock, from Fitzpatrick, Lentz & Bubba, P.C., was in attendance on behalf of the applicant. He explained they have been before this Board several times. The applicant is a property owner in the Township. South Whitehall Township ordinance and Municipalities Planning Code permits person who is a property owner in the Township to propose a change to the zoning ordinance. Applicant originally proposed a change that would have removed the 1,500 foot separation distance requirement between service stations—this was the original request. As was stated, when we (applicant) went to the PC, there were requested changes. Those changes were agreed to in their entirety. Exactly what the PC asked, is exactly what the applicant revised the proposed amendment to say. This was reviewed by SWT Staff. This, therefore, makes an exception to the limitation, but it is significantly less of a change to the ordinance than we had proposed originally. Where we are today then is that the Board, under the proposed amendment, can have one service station within that 1,500-foot restriction, and you would be separated by a road of higher classification. Attorney Schock went on to say that in the Lehigh Valley and elsewhere it is not uncommon at major commercial intersections, along a highway, to have a gas station on one side of the road, and a gas station on the other side. This is a fairly common situation. Last time when we were asking for this to be advertised, we said we would be glad to go into more detail at the public hearing. He said there were two questions which people were looking for a bit more information. There are several locations within the Township where

they are within 1,500 feet of one another or within the 500 feet of a school or hospital. If the ordinance was amended as requested by the applicant, in theory, at most there might be land available for potentially another service station on Cedar Crest Blvd. and possibly one on 15th Street. The expert witness was able to determine what properties might be affected, and this would not be a significant amount or impactful to the Township. Attorney Schock said other than a zoning ordinance that might have a restriction, have you ever had a project where the proximity of another gas station to your proposed gas station created a violation of any municipal, state, or federal rule?—in other words, unless the zoning restriction was in, there is no environmental rule that would ever prevent two gas stations from being at opposite corners—Attorney Schock asked the expert witness if that is the case. Expert witness/engineer said that is correct. *(Tracy will get name of this expert witness from Dave Manhardt and insert in minutes)*

Mike Spiegel, Real Estate Project Engineer, Wawa, Inc., was the next expert witness. He was at the PC regarding this matter, along with Attorney Schock. Attorney Schock asked Mr. Spiegel to clarify that there is no restriction rule, Federal, State, Industry guideline that covers this type of restriction. Mr. Spiegel said that is correct. He researched this thoroughly. He went on to say that he did look to see what regulations, what Federal and State entities, require us to register our operations in primarily the fuel operations side of our business—understanding what it takes to basically install our fuel and sell our fuel. He explained that there are a variety of items and applications and agencies that inspect and perform the requirements and basically say this is everything you need to do to install and operate a fuel station. Attorney Schock said in that regard, with respect to your, or any other gasoline station, obtaining those permits, is there any inquiry made and do you need to supply any information relating to the location of the nearest other gasoline service station? Mr. Spiegel said that there is nothing that says are you within a certain distance from a gas station. Attorney Schock asked, in the course of your investigations, did you speak with individuals who are in charge of that and ask the same question—Is there any restriction they are aware of that would prevent a gas station, other than a zoning restriction that exists, from being located within 1,500 feet. Mr. Spiegel said he checked with several people, and none said there were any regulations or applications from any of the regulatory agencies, that they have that requirement. Attorney Schock as if he had any facilities located within 1,500 feet within another gas station. Mr. Spiegel said they have several. Attorney Schock asked, If that would have been a restriction under some other regulations would you have been aware of it?—So you are convinced that restriction does not exist by virtue of what I call an outdated, a holdover, carryover and old zoning ordinance. Mr. Spiegel said, Yes, that he does a lot of research both locally and in other states. Attorney Schock asked, Does that lead you to the conclusion that there is not a safety concern—for example that ordinance could not have been designed—to be safe you have to be 1,500 feet—if it was a safety issue, one of these agencies would be regulating that? Mr. Spiegel said he believes that.

All questions from Board were answered at this time. Questions from Public were answered at this time.

President Morgan said the hearing was now closed—the time was 7:58 p.m. A vote took place next as follows.

A MOTION was made by Commissioner Long, which was seconded by Commissioner Setton, to move forward to amend the ordinance to delete Section 350-48(n)(9)(E)(vi).

Roll Call vote as follows:

Commissioner Wolk:	NO
Commissioner Long:	AYE
Commissioner Setton:	AYE
Commissioner Kelly:	NO
Commissioner Morgan:	AYE

Motion carried.

7. **RESOLUTIONS:**

a. **A Resolution Granting a Waiver of Certain Review and Approval Requirements of the South Whitehall Township Subdivision and Land Development Ordinance for a Plan Entitled "3810 & 3830 Huckleberry Road"**

Dave Manhardt, Director, Community Development Department explained this is an application to adjust the common property line between 3810 Huckleberry Road and 3830 Huckleberry Road. The plan proposed to transfer approximately 0.6535 acres (25,521 SQF) of property from 3830 Huckleberry Road (currently 4.8131 acres) to 3810 Huckleberry Road (currently 5.1006 acres). The subject property is zoned RR Rural Residential. Clair N. Stahley Restated Trust/Judith A. Hockenson et al is the owner. Michael Prokup is the Successor Co-Trustee and applicant. The background of this application is that at the July 19, 2000 BOC Meeting, the Board approved via Resolution 2000-30 this re-subdivision. All conditions of approval were met, but plan was never recorded. Property owner recently passed away and the estate has expressed an interest in completing the lot line adjustment. The estate has withdrawn the 1999 plan and submitted an updated plan to address the newer requirements. We have received a letter from our Township Engineer, Mr. Tallarida, The Pidcock Company, with regard to the waiver request and the Community Development Department does recommend approval of the plan. Mr. Tallarida is recommending engineering approval at this time.

Board questions were answered at this time. There were no questions from Public.

A MOTION was made by Commissioner Kelly, which was seconded by Commissioner Setton, to move forward with granting a waiver of certain review and approval requirements of the SALDO for plan "3810 & 3830 Huckleberry Road, adding a note, and in compliance with Mr. Tallarida's engineering letter dated August 13, 2021 and August 31, 2021 waiver letter.

Roll Call vote as follows:

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

Motion carried.

b. A Resolution Extending the Conditional Final Approval Granted to a Major Subdivision Entitled "Hotel Hamilton"

Dave Manhardt, Director, Community Development Department explained that this is an extension to the Hotel Hamilton approval. Applicant was here last at the May 5, 2021 meeting and was granted a four-month extension at that time. The applicant is now requesting an additional six-month extension.

Harold "Bud" Newton, Jr., President, Principal Engineer/Surveyor, The Newton Engineering Group, was in attendance on behalf of the applicant this evening. He explained that when he was here earlier this year, they had thought they would have everything wrapped up by this time. We did not expect to be dealing with COVID, still be dealing with State offices not being back, and not being able to get meetings scheduled with the State. We have most of the items resolved for these plans, and working out the final details with the Township right now, and trying to finalize things with PennDOT. We have all the major issues resolved and are at a point where PennDOT will eventually put in a new culvert across Cedar Crest. We need a few months to get things finalized with PennDOT and hopefully, get things done.

President Morgan said that if the Board is willing to honor this request—ultimately it is up to the Board, she explained that she feels we should go back to the original plan and put some parameters around checking in. I think we need to have some report-out to see where we stand on this project, because it has been a very long time. It is important to keep the ball rolling, and that the Board and Staff are updated periodically on the status of the project, which will keep everyone on their toes, so that this project gets done in a timely process. Mr. Newton was agreeable to give updates every two months on this project, since they are asking for a six-month extension.

Mr. Patel, the Applicant said there is no change in the plan. To date he has spent close to \$1.2M to save the King George.

All Board questions were answered; no questions from the public.

A MOTION was made by Commissioner Kelly, which was seconded by Commissioner Morgan granting a six-month extension for the Hotel Hamilton Project, with the two-month interval-progress reports on the project to Board/Staff. Randy will give the feedback to Board.

Roll Call vote as follows:

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

Motion carried.

c. A Resolution Of The Board Of Commissioners Of South Whitehall Township, Lehigh County, Pennsylvania Appointing Randel Cope As Interim Township Manager And Increasing The Base Compensation For The Interim Township Manager

President Morgan explained that this will be for the interim role of Township Manager, as our previous Township Manager Renee Bickel has moved on. Randy Cope (currently Director of Township Operations) has agreed to take on this interim role, which we are very grateful for.

Commissioner Wolk said that he feels it is essential that we have excellent communication during this four-month period and asked that Randy provide weekly written reports to the Board, or if not a weekly report, then let's have all commissioners receive all information. He said that he supports Randy totally, and encourages that he keep the full Board informed.

Commissioner Wolk said that Chapter 50.9 was instituted last year, we are aware that we are to contact Randy for all matters. That we should not assign action items without speaking to Randy. This ordinance also says that commissioners are allowed to ask Staff questions and Staff allowed to answer questions. Before this meeting, he said he asked Randy what his thoughts were around this.

Randy said that his person opinion on this is that I would love for the Board to start with me, keep the lines of communication open, respect the chain of command. If I am unable to provide that answer to the Board, I have no problem whatsoever getting our staff involved. But, when it comes down to engaging them in additional work which may require additional research, that is something I will need to be aware of. Nobody like surprises or wants to get blindsided by another commissioner or another staff member, member of the media, or anything like that. All I ask is that I am kept informed about the conversations with the staff members, and I prefer it start with me, so that I am informed from the get-go. Other than that, I have no problem with a general question being asked of Staff.

Board questions answered at this time, as well as public comment/questions.

Commissioner Morgan made a MOTION to move forward with naming Randy Cope as our Interim Township Manager and increasing his base compensation for Interim Township Manager. The motion was seconded by Commissioner Kelly.

Roll Call vote as follows:

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

Motion carried.

President Morgan explained that the Board has agreed we will start the search process. The search process will start with determining where we will reach out for potential candidates. The timing on the search process will depend on where we will send out the Request for Resumes. We have some work to do first, but will keep the public informed of the process and the timing as we move through it. If this continues on into the election, we will certainly consider keeping the newly elected officials in that process as well.

8. **MOTIONS**

a. Motion Requesting Permission to Extend Towing Contract for One Year

Chief Dorney said they are respectfully requesting permission to extend the towing contract for one year with an increase in pricing of 25% above the original fee schedule. The Towing contract is with Stew's Tire Center and Yocum Towing and they have requested an increase in fees to cover rising costs of fuel, wages, and vehicle maintenance. These companies have been providing the Township with towing services for two years without an increase, therefore, we feel it is a justifiable request. Chief said he is in support of this. This contract ensures that our residents are not gouged and pay a fair rate. They've done a fantastic job for us. Chief Dorney feels this is our best option for our Residents. If we would go out to bid on this, a tow would come back at the very least \$300/tow and upwards given our current climate.

Board questions were answered. Public questions answered at this time.

A MOTION was made by Commissioner Kelly, which was seconded by Commissioner Setton, to extend the current towing contract by one year.

Roll Call vote as follows:

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

Motion carried.

b. A Motion to approve the tentative agreements reached between South Whitehall Township and the South Whitehall Township Police Bargaining Unit. This motion is also authorizing administration to take the steps necessary for its implementation, including executing a consolidated Collective Bargaining Agreement that incorporates the terms of the tentative agreement.

Chief Dorney explained he was not part of the negotiations of this contract. Township Renee Bickel and the Bargaining Unit negotiated over this for a period of several months. In his opinion—they went back and forth, and the process worked. We did not incur expansive legal fees to do this. Both parties came to the table with wants, needs, demands, and requests. It came out favorable for all parties. It is a five-year contract, with a 3% general wage increase each year starting January 1, 2022, going through January 1, 2026, ending December 31, 2026. A lot of the legwork, which went into the last extension was done two years ago, where substantial changes were made to the contract—a 12-hour shift, as well as a very substantial change to the sick-time policy, and allotment officers get, and it has been very beneficial to the Township and officers as well. Board has been briefed on this contract. Lieutenant Klinetop, Sergeant Dotter, and Sergeant Beaumont were also part of the negotiation team.

Board comments made at this time; followed by public comments.

A MOTION was made by Commissioner Morgan, which was seconded by Commissioner Long, to approve the tentative agreement between the Police Bargaining Unit and South Whitehall Township, regarding the agreement which is before us this evening.

Roll Call vote as follows:

Commissioner Wolk:	AYE
Commissioner Long:	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 - 1 vacancy, alternate position
2. Landscape Shade Tree Commission - 2 vacancies
3. Parks & Recreation Board – 2 vacancies
4. Zoning Hearing Board – 1 vacancy, alternate position

10. DIRECTION/DISCUSSION ITEMS: None.

11. OLD BUSINESS:

- a. Wehr's Dam – Status:** Nothing new to report.

12. COURTESY OF THE FLOOR: None.

- a. Brian Hite – Topic: Issues regarding the development around his residence, specifically the paving of Eck Road. The condition of Eck Road is in rough shape. His request is if the Developer is not going to pave the Road, he feels the Township should.

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 Setton, to approve the payment of all invoices.

Roll Call Vote as follows:

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

Motion carried.

14. EXECUTIVE SESSION: None.

- 15. ADJOURNMENT:** At 9:00 p.m. a MOTION was made by Commissioner Kelly, which was seconded by Commissioner Morgan, to adjourn. All in favor; none opposed.

- 16. APPROVED:** On **October 6, 2021**, a MOTION was made by Commissioner Long, which was seconded by Commissioner Kelly, to approve the September 1, 2021, BOC Meeting minutes as presented. All in favor, none opposed.
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