



## BOARD OF COMMISSIONERS

**PUBLIC MEETING**

**AGENDA-MINUTES**

**October 5, 2022**

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

**Attendees:**

Commissioner Diane Kelly, President  
Commissioner David M. Kennedy, Vice President  
Commissioner Monica Hodges, Assist. Twp. Secretary  
Commissioner Michael Wolk  
Commissioner Brad Osborne  
Joseph Zator, Solicitor, Zator Law  
Anthony Tallarida, Twp. Engineer, The Pidcock Co.

Tom Petrucci, Township Manager  
Herb Bender, Dir. of Twp. Operations  
Mike Elias, PW Utility & MS4 Coordinator  
Mike Kukitz, Parks & Rec Manager  
Tricia Dickert, Assist. Director of Finance  
Glen Dorney, Chief of Police  
Dave Manhardt, Director, Community Development Dept.  
Chris Stroehler, Long-Range Planner, CD Dept. \*  
Gregg Adams, Planner, Community Development Dept.  
Chris Kiskeravage, Twp. Fire Commissioner \*  
John Frantz, Fire Marshal, Building Code Official  
Tom Harper, Code Enforcement Program Manager  
Rob Fehnel, IT Projects Manager \*  
Tracy Fehnel, Exec. Assistant  
**Absent\***      **Attended Virtually \*\***

**2. PLEDGE OF ALLEGIANCE**

**3. ANNOUNCEMENTS:**

- a. **All Public sessions of the South Whitehall Township Board of Commissioners are electronically recorded, filed, and posted to the website for Public access.**
- b. **Public/Virtual Meeting Rules**
- c. **Board of Commissioners Met in Executive Session on the following date(s) to discuss Legal and/or Personnel Matters: October 5, 2022.**

**4. COURTESY OF THE FLOOR: Public Comment on Non-Agenda Items.**

Joan Cadden, 4209 Oakley Road, Allentown. Subject: PennDOT is taking the building she is in and she came before the Board to talk about a Low-Income Home-Based Business in relation to her dog grooming business, which she has done for 44 years in SWT. Cannot afford to go elsewhere because of the cost of rent. Her timeline is approximately 6 months. Staff and Township Manager will look into and advise Board.

**5. MINUTES:**

**a. September 21, 2022 – Board of Commissioners Minutes**

A MOTION was made by Commissioner Kennedy, which was seconded by Commissioner Kelly, to approve the September 21, 2022, BOC Minutes as presented. All in favor; none opposed. Vote was 4:0. Motion Carried. (*Commissioner Osborne refrained from voting since he was not at the September 21<sup>st</sup> meeting.*)

**6. PRESENTATIONS: None.**

**7. ORDINANCES:**

- a. For Discussion Only: An Ordinance Reenacting, Amending, And Restating Chapter 144 Article III (Fire Code) Of The Codified Ordinances Of South Whitehall Township In Its Entirety And Adopting The 2018 Edition Of The International Fire Code With Local Amendments; Providing That State Law Controls Where Requirements Are In Excess Of This Ordinance; And Providing For A Repealer, Continuation And Saving Clause, Severability Clause And Effective Date**

Mr. John Frantz, SWT Fire Marshal/BCO, explained that normally this would have been done when we previously adopted the Building Code, Residential Building Code, Commercial Building Code, and the Plumbing Code; however, because of the information discovered regarding Open Burning, this was tabled, and Staff worked/researched this issue. This information is now contained in this ordinance. We are carrying forward everything we did when we adopted the 2015 International Fire Code, in Chapters 1, 5, 57, 58, 61 where we inserted/added things; also changes to the “as code written, open burning” Section 307. Review is not complete as of yet by Township Solicitor’s office, as Mr. Frantz just completed this. Per Township Manager Tom Petrucci, verbiage needed to be included regarding the prohibition of burning recyclables, since the Township is a mandated recycling community. Township Solicitor’s office will also deal with language regarding the repealing of the old open burning sections in the ordinance. Mr. Frantz explained this ordinance is a life-safety ordinance, not a quality of life ordinance, as it relates to smoke. Mr. Frantz said this ordinance will come back to the BOC on the October 19<sup>th</sup> Agenda.

- b. For Discussion Only/Motion to Proceed with Advertising: An Ordinance of the Township of South Whitehall, County of Lehigh, and Commonwealth of Pennsylvania, Amending the Amount of the Compensation Payable to the Board of Commissioners as Referred to in Part I ("Administrative Legislation"), Chapter 50 ("Officers and Employees"), Article III ("Commissioners") of the Codified Ordinances of South Whitehall Township, and Providing for a Repealer Clause, Severability Clause and Effective Date**

Township Manager Tom Petrucci explained that Article 7, Section 703, of the First Class Township Code was amended by Act 96 of 2020—specifically Section 703-A, to increase the maximum allowable salary of each Township Commissioner to adjust for inflation. Salary amount commissioners can receive is based upon population of SWT, based on census (21,080), with the tiered amount of \$6,915. Any change in salary, compensation would become effective beginning of next term of any newly-elected Township Commissioner—current Commissioners are not allowed to set their own compensation. This would not take effect until after the November 7, 2023, election. Current salary is \$4,124. This is following up on State Legislation the Township needs to adopt.

A MOTION was made by Commissioner Kennedy, which was seconded by Commissioner Hodges, to move forward with advertising of said ordinance. Vote was 4:1. Commissioner Osborne voted NO. Motion carried.

**c. For Discussion Only: Proposed Zoning Ordinance Amendment – Requiring Planning Commission Review of Non-Residential Special Exception Zoning Appeal (39:32)**

Gregg Adams explained that at least two commercial land developments have required Special Exception approval by the ZHB with regard to the “reasonable conditions and safeguards” that the ZHB may attach to the Special Exception approval. Staff noticed there is no mechanism in our Zoning Ordinance currently to allow for additional information to be given to the ZHB, specifically from the PC who is well versed in land development implications. The ZHB itself, when they review a special exception approval, it is a permitted use, but they are allowed to add reasonable conditions and safeguards to that. Other municipalities in the LV do have this requirement, and Staff feels through their experience that SWT should have this as well. Draft ordinance (1<sup>st</sup> Draft) put together by Gregg to achieve this. When the Board feels it is ready, it will be sent to PC, as it is a Zoning Ordinance amendment, for their review/recommendation, before coming back before the BOC.

Joseph Zator, Twp. Solicitor, explained that under the Municipalities Planning Code, the jurisdiction for decisions on Special Exceptions lies exclusively with the ZHB. It is not a matter for the BOC. If you do not like what you see, it is going to the ZHB, then as Gregg suggested in this document, you could voice an objection, and the usual way to do that is sending the Township Solicitor.

A MOTION was made by Commissioner Hodges, which was seconded by Commissioner Kennedy, to move forward with this zoning ordinance amendment and send it over to the PC for review to work on this process. All in favor; none opposed. Vote is 5:0. Motion carried.

**8. RESOLUTIONS:**

**a. A Resolution Amending Resolution 2020-18, Which Granted Conditional Preliminary/Final Approval To A Major Subdivision Plan Entitled “KRE Spring View Commercial II,” Extending Conditional Approval A Further 180 Days**

49:09. Gregg Adams, Planner, Community Development Department, explained this is an application to further develop the properties at 559 & 569 Cetronia Road, as well as 4590 Broadway. The plan proposed to consolidate these three parcels into one tract. On January 15, 2020, BOC approved the KRE Spring View Commercial II Plan via Resolution 2020-18. Applicant has been working through Conditions of Approval. Their most recent extension is up in two days, October 7<sup>th</sup>. Applicant is here to request an additional 180-day extension. Applicant’s attorney Ed Murphy was in attendance. Applicant’s team is collectively continuing to try and figure out a solution, which is not readily apparent. Asking for more time to do so. Per Gregg Adams, Applicant would have to return by the November 19<sup>th</sup> BOC meeting.

A MOTION was made by Commissioner Kennedy, which was seconded by Commissioner Kelly, to amend above resolution, to approve extension 45 days, not 180 days. All in favor; none opposed. Vote 5:0. Motion carried.

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**b. Resolution Appointing Patrick M. Hitchens, Esquire, as Special Tax Counsel for South Whitehall Township's Business Privilege Tax Collection, and Establishing Compensation**

Township Manager Tom Petrucci explained this resolution would appoint Patrick M. Hitchens, Esquire, c/o Kilkenny Law, as the Special Tax Counsel for BPT collection, and sets compensation.

A MOTION was made by Commissioner Kelly, which was seconded by Commissioner Wolk, to approve said appointment. All in favor; none opposed. Vote 5:0. Motion Carried.

**c. Resolution to Implement Act 57 of 2022 Property Tax Penalty Waiver Provisions**

Tricia Dickert, Director of Finance explained that on July 11, 2022, the Commonwealth amended the local tax collection law to try an address issues when a property ownership changes hands. Currently when this occurs the property taxes are paid at a property settlement. When a real estate tax gets billed, sometimes confusion occurs in the event the title company does not make that payment, and perhaps it is sometimes the new property owner to submit payment. In most cases, because the deed is not changed timely by the county, the old owner gets the bill, then the deed gets changed, and the new owner is sometimes unaware that the bill has not been paid. This bill attempts to give the new property owner an avenue to request a waiver of the penalty assessed on the base amount of the R/E Tax bill. Also, Tax Collector Lynne-Ann Kocon is aware the Act 57 has been put into law. This resolution before us is to ensure that SWT is following the avenues for relief that are granted to the new homeowners, via this Act.

A MOTION was made by Commissioner Wolk, which was seconded by Commissioner Kennedy, to approve said resolution to Implement Act 57 as explained above by Ms. Dickert. All in favor; none opposed. Vote 5:0, Motion carried. 55:48

**d. A Resolution of the Board of Commissioners of South Whitehall Township to Authorize the Transfer of Unencumbered Moneys from One Township Account to Another Account within the 2022 Approved South Whitehall Township General Fund Budget**

Township Manager Tom Petrucci explained that the Township received its State Aid allocation on September 28, 2022, in the amount of \$699,361. The Township has 30 days from receipt of State Aid to deposit into the custodian bank for Township's pension plans. Although the State Aid helps offset the MMOs, it does not cover the entire MMO payments. MMO for 2022 was \$2,537,557. The Township will have to move forward allocating those funds accordingly. The recommended way to distribute the State Aid is to base it on the allocation for each plan.

The second part of this is that Ron Bittner, from Girard, explained the Township needed to close out two outstanding action items related to the Auditor General of the Pension Plan for the period January 1, 2017, to December 31, 2019. The only remaining items outstanding from that audit was paying interest into the plan in the amount of \$48,792. This \$48,792

payment to the pension fund will be transferred from General Government Materials (01430002-40240) to line item 01406001-040197. This will allow us to complete the MMO as required by law, move forward with depositing the State Aid, as well as completing the requirement for interest payments, all before the end of the year. If the BOC votes to approve this resolution, we will be able to close out a long-standing issue with the audit finding.

A MOTION was made by Commissioners Kennedy and Kelly to approve the resolution to transfer the unencumbered moneys:

- From 01430002-40240 (General Government Materials): Decrease General Fund Line Item from \$300,000.00 to \$251,208.00 (*Decrease of \$48,792.00*); AND
- To 01406001-40197 (Pension): Increase General Fund Line Item from \$2,537,557.00 to \$2,586,349.00 (*Increase of \$48,792.00*).

All in favor; none opposed. Vote 5:0. Motion carried.

**e. Resolution Requesting Permission to Proceed with Applying for Fall 2022 DCNR Grant, with Regard to Pavilion #3 Replacement and Parking Lot Improvements Project**

DCNR supports local park and recreation improvement projects. The 2022 Fall grant round is currently open and Staff is seeking permission to apply for a Fall 2022 DCNR grant to help offset the costs associated with replacing Pavilion #3 and making other site improvements in Covered Bridge Park. Staff is recommending that the BOC approve the DCNR-C2P2 grant resolution page entitled – Pavilion 3 Replacement and Parking Improvements.

A Budget was prepared to do so; PWs helped with preparing budget. Total amount of project is \$177,279.48. Under the DCNR-2P2 Program, there is a matching fund requirement of \$88,639.74. This would fall within the 2024 Budget cycle—possibly as late as 2025. If this is approved this evening, the Township is essentially signing up for the matching requirement.

A MOTION was made by Commissioner Hodges, which was seconded by Commissioner Kelly, granting permission to proceed with applying for Fall 2022 DCNR Grant, with regard to Pavilion #3 replacement and parking lot improvements project. All in favor; none opposed. Vote 5:0. Motion carried.

**f. Resolution Requesting Permission to Proceed with Applying for Pennsylvania Commission on Crime and Delinquency: Local Law Enforcement Support Grant Program**

Chief Glen Dorney explained that SWT PD would like permission to apply for the PA Commission on Crime and Delinquency: Local Law Enforcement Support Grant Program. The PD would like to utilize the eligible funds to upgrade and replace our Body Worn Cameras and In-Car Camera systems. The current system (Watchguard) was purchased from Motorola and is no longer being supported and will no longer be available in the coming years. The Department will be forced to upgrade these items in the next 2 years and would

like to seek the eligible funding under this grant to upgrade to the AXON System for an approximate cost of \$635,850 to pay for them. Chief said that one of the good factors in the new technology, in the in-car camera system, is that they have license plate readers built into the cameras themselves vs. having external cameras on the outside of the cars. We will have this in 23 cars vs. only the 10 cars we have now. This will also prevent us from having server failures, which results in potential loss of data. A much better product than we have now. Chief feels this is a great opportunity to do this now if possible. The storage of data is where the cost is. Grant is due next week; so potentially looking to get an answer by year end.

A MOTION was made by Commissioner Wolk, which was seconded by Commissioner Kelly, to approve said Grant Resolution, as explained by Chief Glen Dorney. All in favor; none opposed. Vote 5:0. Motion Carried.

## 9. **MOTIONS:**

### a. **Motion Granting Permission to Township Manager Tom Petrucci to Register Membership with International City/County Management Association (ICMA) and Association for Pennsylvania Municipal Management (APMM)**

A MOTION was made by Commissioner Kelly, which was seconded by Commissioner Kennedy, granting permission for Township Manager Tom Petrucci to Register Membership with ICMA & APMM. (The ICMA membership would start January 1, 2023.) All in favor; none opposed. Vote 5:0. Motion Carried.

### b. **Motion to Approve Proposed "Next-Steps" Outline Regarding Appointment of Candidates to the Current Vacant Positions – TABLED**

A MOTION was made by Commissioner Kennedy, which was seconded by Commissioner Kelly to TABLE this item. Township Manager Tom Petrucci will bring this back to the BOC with additional options. All in favor; none opposed. Vote 5:0. Motion Carried.

### c. **Motion to Approve Budget Transfers within the 2022 Emergency Management Services Budget**

Herb Bender, Director of Township Operations explained that Emergency Management is respectfully asking for a transfer of \$1,000 from the General Government Account into the Community Event Account.

A MOTION was made by Commissioner Kennedy, which was seconded by Commissioner Wolk, approving said budget transfer as explained by Mr. Bender. All in favor; none opposed. Vote 5:0. Motion Carried.

## 10. **CORRESPONDENCE AND INFORMATION ITEMS:**

### a. **Boards and Commissions – Informational Items/Vacancies**

CURRENT VACANCIES ON BOARDS/COMMISSIONS:

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1. Civil Service Commission - 2 Alternate Vacancies
2. Green Advisory Council - 3 Vacancy
3. Landscape Shade Tree Commission - 2 Vacancies
4. Park & Recreation Board - 1 Vacancy
5. Public Safety Commission - 1 Vacancy
6. Environmental Advisory Council - 3 Vacancies
7. Zoning Hearing Board - 1 to 3 Alternate Vacancies

**UPCOMING MEETINGS: Details posted on website.**

- Monday, October 10th - Parks & Recreation Board, 7P
- Tuesday, October 11th - Planning Commission Comprehensive Plan Workshop, 7P
- Wednesday, October 19th - Civil Service Commission, 10A
- Monday, October 17th - Budget Workshop Special Meeting, 4P
- Monday, October 17th - Green Advisory Council, 6P
- Wednesday, October 19th, Board of Commissioners Meeting, 7P

*Applications continue to be accepted.*

**11. OLD BUSINESS**

**a. Wehr's Dam – Explanation by Herb Bender, Director of Twp. Operations.**

Herb Bender explained, submittals are in and being reviewed. The Portadam was out and took some more measurements, so that submittal should be cleared up quickly. Before all the rain arrived this week, we were able to get in and get the measurements for the sluice gate. The measurements are being sent to the fabricator so it can start being built. Will not be built by EOY; however, we are trying to get concrete work done by EOY, and then will be relocated back to the Township in early spring to put new sluice gate in and wrap project up at that time.

**b. Comprehensive Plan Update - Explanation by Dave Manhardt, Director, Community Development Department**

Mr. Manhardt explained CP meeting next Tuesday, October 11<sup>th</sup>. Will be reviewing final version of the land-use plan; reviewing the implementation plan; and Draft of the CP.

**12. DIRECTION/DISCUSSION ITEMS:**

**a. Sidewalk Deferrals - Crackersport Road**

Dave Manhardt explained this is the first set of projects being called in for the Sidewalk Deferrals. Sidewalk Deferral Policy adopted in August 2022 which formalizes the process for us to call in deferrals. Process previously informal. The new policy ensures we are all following the same rules, which will help us go through the procedure, as topics are introduced.

The SWT PC recommended sidewalk deferrals be called in for the properties located adjacent to 4815 Crackersport Road at the August 19, 2021, PC meeting.

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Sidewalk Deferral Map included: 4845 Crackersport Road, 4731 Crackersport Road, and 4635 Crackersport Road. A notice was sent to these property owners.

Jeff Edwards, owner of 4635 Crackersport Road. Received this notice last Monday. Wanted clarification of intent. Dave explained applicants were granted deferrals instead of waivers to construct sidewalks. This is a call-in of the deferral, which would mean construction of the sidewalk would commence. Mr. Edwards explained this was adopted by the previous owner, the expansion never completed, and now he has a tenant in there who has a long-term lease; so this is a project which comes out of my pocket, and he cannot defer this to the tenant. In the real estate market when you sign a lease, you've given them improvements—you've maximized that rent coming in, so at the end of the day, until that lease is completed, it will either come out of the owner's pocket, and it cannot be put back on the tenant for tenant improvements. This tenant is there until 2030, making it a long time to even recoup the costs that were put into the tenant. This is a two-fold situation where this resolution was adopted for a previous owner for a project that never happened and how do you do this case-by-case. Mr. Edwards said he is at this property often and never sees people walking on Crackersport Road. Mr. Edwards thanked the Board for their time.

George Bush, owner of 4845 Crackersport Road. The building was completed several years ago. Mr. Bush brought along his engineer, Bob Piligian of Bascom & Sieger, Inc. Mr. Bush explained that one of the concerns he had is that where they are located, there are a lot of obstructions to the east and west, which would not make a continuous sidewalk possible. Further to the east, there is a big concrete embankment, which actually goes to the carboid of the road, and then to the west of the property there is a bridge that crosses a stream that travels underneath the road. Mr. Piligian explained the engineering/technical aspects related to these obstructions. He did the design work for this project in 2014 and 2015, at which time they received a conditional approval with a deferral of sidewalk. He presented the plan to both the PC & BOC. He said the issue would be a patchwork of sidewalk at this location because there is a gap between the Covenant Transport Property westerly property line and Mr. Bush's easterly property line commonly referred to as Crackersport Ponds. To the west, as Mr. Bush indicated, there is a bridge over a tributary/Cedar Creek, which is subject to FEMA flood mapping. The south-west portion of this property still remains in the flood plain. Also, there are wetland issues around their site. It was determined by PA DEP, who was on site, and determined the wetlands located adjacent to their property—at Mr. Spinosa's property, which would create a gap. Also, Mr. Piligian said that he personally did the survey work out there and said the bridge that Crackersport Road traverses is nowhere large enough to support a sidewalk. You would literally have a sidewalk from nowhere to nowhere at 4845 Crackersport.

The Board thanked each of the property owners for coming in to speak to them. The Board was in agreement they need more information about each of these properties before making any kind of decisions. They will also do site visits to each property in order to help them understand the issues of each of these properties. The Board agrees that sidewalks provide safety; however, the issue is whether and how can this be practically achieved based on the



conditions. Again—site visits, more detailed information/drawings, further discussion, all of which are needed in order to see if the safety objectives can be achieved at all these properties. In light of all this, a MOTION was made by Commissioners Kelly and Kennedy to TABLE this agenda item in order to gather more information/visit sites. All in favor; none opposed. Vote 5:0. Motion carried.

Mr. Manhardt explained that we will then go back to step #3 in the deferral process where the property owners will get notified, and then come back to the BOC.

**b. Davis-Smith Open Space Sign**

Mr. Herb Bender presented several options for the Open Space sign and explained Staff would like to pick a sign that can be used as a standard going forward. The Board was in agreement to use some similar version to the last sign presented in the packet to use as a template for any open space property that the township may acquire in the future. The Board agreed that Herb can move forward with this project to bring it to completion.

**13. COURTESY OF THE FLOOR: Public Comment on Non-Agenda Items**

Tricia Dickert, Director of Finance – At this time the Board was presented with their Budget Packets in order that they had enough time to prepare for the October 17<sup>th</sup> Budget Workshop Sessions. The Board thanked Ms. Dickert, along with FN Staff, Tom Petrucci, Herb Bender, and Department Heads for all their hard work in making this happen and getting this information to them well in advance of the Workshop.

**14. MOTION TO AUTHORIZE PAYMENT OF INVOICES & DISBURSEMENTS:**

**a. Invoices and Disbursements**

A MOTION was made by Commissioner Hodges, which was seconded by Commissioner Kennedy, to approve the payment of all invoices. All in favor; none opposed. Motion carried. Vote 5:0.

**15. EXECUTIVE SESSION: None.**

**16. ADJOURNMENT: At 9:04 p.m. a MOTION was made by President Kelly to adjourn. All in favor; none opposed.**

**17. APPROVED: October 19, 2022**

A MOTION was made by Commissioner Wolk, which was seconded by Commissioner Kennedy, to approve the October 5, 2022, BOC Meeting Minutes as presented. All in favor; none opposed.

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