



## BOARD OF COMMISSIONERS

**PUBLIC MEETING**

**AGENDA-MINUTES**

**November 30, 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 Brad Osborne  
Joseph Zator, Twp. Solicitor, Zator Law

Tom Petrucci, Township Manager  
Herb Bender, Dir. of Twp. Operations  
Rob Fehnel, IT Projects Manager  
Tracy J. Fehnel, Exec. Assist.  
**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**

**4. AGENDA ITEMS:**

**a. To discuss and possibly appoint an individual, by Resolution, to fill one (1) current Board of Commissioners vacancy, as a result of the resignation of Michael Wolk.**

President Kelly went on to explain, for the record, that the Board did accept the resignation of Michael Wolk at the November 2nd BOC Meeting. The BIC began the process to fill the vacancy by advertising a legal notice in the newspaper, which was also posted to the Township website announcing a two week application period. Applications were accepted via email, U.S. Postal mail, or hand delivery to the Township. Two submissions were received by the deadline of 4:00 p.m. on November 16<sup>th</sup>. The Board advertised, and held a public meeting to conduct interviews, with a virtual link for public access. On November 21<sup>st</sup>, the Board interviewed two applicants—Richard Wehr and Jacob Roth. President Kelly thanked both individuals for submitting an application and for giving of their time to interview with the Board, and for their willingness to offer themselves to serve our community as a commissioner.

At this point in the meeting, President Kelly opened the floor for commissioners to begin the nomination process. She asked if there was a nomination to fill the vacant position of South Whitehall Township Board of Commissioner.

Commissioner Osborne - Nominated Jacob Roth.

President Kelly – Seconded the nomination of Jacob Roth.

Each of the commissioners commented on the nomination of Jacob Roth at this time, as to why they support the nomination of Jacob Roth. All commissioner clarified for the record that they made their decision independently of the other commissioners.

Mr. Patrick Foose, from the public, spoke on behalf of Jacob Roth, and wanted to state how strongly he supported Jacob Roth.

President Kelly said there is a MOTION on the floor to nominate Jacob Roth to fill the vacant position of SWT Commissioner. Board and Public comment completed. A vote was called for. The Board was unanimous. All in favor; none opposed. Vote 4:0. Motion carried. Jacob Roth has successfully been appointed to fill said vacancy.

For the Record, Vote was:

Commissioner Kelly: YES

Commissioner Kennedy: YES

Commissioner Hodges: YES

Commissioner Osborne: YES

Motion carried.

- b. Discuss and consider official action to authorize the Township Solicitor, by Motion, to attend the hearing for Zoning Hearing Board Appeal 2022-10, which is scheduled for December 1, 2022 (7:00 PM) at the Township Municipal Building, and any subsequent hearing(s) on behalf of the Board of Commissioners as an Interested Party or Objector.**

Township Manager Tom Petrucci said, as noted, we are requesting official action by motion to authorize the solicitor to attend the hearing for ZHB appeal 2022-10, scheduled for tomorrow night at 7:00 p.m. The Township may attend as either an interested party or an objector. Background - The appeal of Moyer Construction LLC seeks a favorable interpretation from Section 350-23(b) Uses Not Specifically Listed, Similar Uses, where the Zoning Hearing Board may determine that a proposed Use is sufficiently similar in character and impact to that of a listed Use and that the proposed Use may be treated the same as the listed Use. The Applicant seeks to find a favorable interpretation for a Sober Living Residence to be sufficiently similar in character and impact to the permitted use of an Assisted Living Residence of which is permitted in the R5 Zoning District. The subject property is located at 3599 Broadway and is zoned R5 Medium Density Residential District. Tax ID No. 548643493992 1.

The Township takes the position that the proposed use is already provided for within the Zoning Ordinance in other districts as a "Treatment Center", which is not permitted within the R5 Zoning District. Therefore, the provision of 350-23 (b), which is recited below, would not apply. The full legal argument will be crafted by the Solicitor.

*Similar uses. The Zoning Hearing Board may determine that a proposed use is sufficiently similar in character and impact to that of a listed use and that the proposed use may be treated the same as the listed use.*

Mr. Petrucci clarified that the Board is being asked to authorize the Township Solicitor, via motion, to attend the ZHB meeting as an Objector, and attend any subsequent hearings on

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behalf of the BOC, specific to this specific case. If this needed to be continued, the Township Solicitor would attend those hearings as well.

A MOTION was made by Commissioner Hodges, which was seconded by Commissioner Kelly, for the Township Solicitor to attend the hearing for the ZHB Appeal 2022-10, which is schedule for December 1, 2022, at 7P, at the Township Municipal Building and any subsequent hearings on behalf of the BOC as an Objector. All in favor; none opposed. Vote 4:0. Motion carried.

**c. Consideration of Approval of a Resolution Appointing an Independent Auditor to Serve as Township Auditor and Conduct the Financial Audit for the Fiscal Year 2022**

Township Manager Tom Petrucci explained that Article V, Section 503 (3)(ii) of the First Class Township Code, as amended, permits for the appointment of an independent Auditor in lieu of providing for the election of three auditors. Chapter 50, Article II, Section 50-12 of the South Whitehall Township Code of ordinances, provides that the BOC shall annually by resolution, *at least 30 days prior to the close of the fiscal year*, appoint an independent auditor to serve as Township auditor, which auditor shall, in addition to other duties assigned to him by the BOC, make an independent examination of all accounts and accounting records of the Township for the fiscal year then closing. Said appointment shall commence on the first Monday of January succeeding the year of appointment, and such independent auditor shall have and possess all the powers and perform all the duties provided for in the First Class Township Code for elected auditors.

The Township has obtained a proposal from Herbein to conduct the audit for the 2022 fiscal year starting January 1, 2023. The engagement letter is dated November 28, 2022. For the general fund, cost is \$27,500; for the Authority, cost is \$17,600. Budget for 2023 does adequately provide for these figures. Seeking Motion to Approve said Resolution in order to align the Township with the requirements of both the First Class Township Code, as well as Township's code.

A MOTION was made by Commissioner Osborne, which was seconded by Commissioner Kelly, approving said resolution as explained by Mr. Petrucci. All in favor; none opposed. Vote 4:0. Motion carried.

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

Jacob Roth, newly elected Commissioner, said he was deeply humbled and honored to have been chosen to fill the vacancy and that he looked forward to working with everyone. He said that, most importantly, he will be most dedicated to the residents of South Whitehall. He thanked the BOC and Staff and said he looks forward to getting to know them all as well. He thanked his family and friends for their constant support as well. He thanked former Commissioner Michael Wolk for his service to the Township, and said he will be greatly missed. His goal is to be a voice for those in the Township who feel like they are not being heard. He thanked the residents of SWT and looks forward to getting to work.

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6. **EXECUTIVE SESSION:** None.

7. **ADJOURNMENT:** At 6:28 p.m. a MOTION was made by President Kelly to adjourn. All in favor; none opposed.

8. **APPROVED: December 7, 2022**

A MOTION was made by Commissioner Kennedy, which was seconded by Commissioner Kelly, to approve the November 30, 2022, BOC Special Meeting Minutes as presented. All in favor; none opposed. Vote was 4:0. Motion carried. *(Commissioner Roth abstained because he was not yet a member of the BOC.)*

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