



BOARD OF COMMISSIONERS

PUBLIC MEETING

AGENDA-MINUTES

December 7, 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
Commissioner Jacob Roth
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
Tricia Dickert, Director of Finance
Glenn Dorney, Chief, PD
Dave Manhardt, Director, Community Development Dept.
Chris Strohler, 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 ****

President Kelly extended a warm welcome to Commissioner Jacob Roth, who was appointed to the BOC at the November 30th BOC's Special Meeting.

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: None

4. COURTESY OF THE FLOOR: Public Comment on Non-Agenda Items: NONE.

5. MINUTES:

a. November 16, 2022 – Board of Commissioners Minutes

A MOTION was made by Commissioner Kennedy, which was seconded by Commissioner Hodges, to approve the November 16, 2022, BOC 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.)*

b. November 30, 2022 – Board of Commissioners Special Meeting Minutes

A MOTION was made by Commissioner Kennedy, which was seconded by Commissioner Kelly, to approve the November 30, 2022, BOC 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.)*

PRESENTATIONS:

- a. **Public Hearing - A Resolution of the Board of Commissioners of South Whitehall Township, Lehigh County, Pennsylvania, Approving the Transfer of Restaurant Liquor License No. R-7726 into the Township of South Whitehall** – A Court Stenographer, c/o Esquire Solutions, was in attendance for this hearing to take minutes. Township Solicitor, Joseph Zator, presided over this hearing.

Purpose of the hearing was to determine whether the transfer of the liquor license would adversely affect the health, safety, and general welfare of the community. The hearing closed at 7:16P. A vote was taken at this time to approve/disapprove said resolution.

A MOTION was made by Commissioner Kennedy, which was seconded by Commissioner Kelly, to approve the resolution approving the transfer of restaurant liquor license no. R-7726 into the Township of SWT. All in favor; none opposed. Vote 5:0. Motion carried.

- c. **Hotel Hamilton, LLC (Major Subdivision #2015-107) - Update on Current Project Status**

Dave Manhardt, Director, Community Development Department, explained this was last before the BOC at the September 7, 2022, BOC Meeting, where a six-month extension was granted, with a condition of approval that Applicant appear before BOC at the December 7, 2022, BOC Meeting to give a three-month progress update on the project. Applicant's team was in attendance this evening.

Mr. Harold (Bud) Newton, c/o Newton Engineering, presented a spreadsheet listing all the Conditions of Approval w/corresponding Newton/Developer Response for each condition. There was one item that fell through the cracks, which they are trying to handle in the next few weeks, which is with PennDOT and is a Traffic Signal Easement Agreement, which he would like the Township to proceed with the execution of a.s.a.p. Applicant is ready to sign that as soon as the Township is ready to sign. Additional agreements are also being worked on in the Township Solicitor's office at this time. Bud will again be back before the BOC in three months to give another status check.

- d. **The Pidcock Company - Review of Proposed 2023 Professional Fee Schedule**

Tony Tallarida, Township Engineer/Sr. Engineer for The Pidcock Company, explained that based on their predictions of what they will be doing in the upcoming year, and current status of the economy, TPC is respectfully requesting an increase across the board of 2.8%. He said he hopes the Township understands and they would like to continue their partnership with the Township. Action on this fee schedule will be taken at the first meeting in January. This item is informative in nature. Their rate schedule has a hard stop at the end of the year, and the new rates would go into effect 1st of the new year.

- e. **Spotts, Stevens and McCoy (SSM) - Review of Proposed 2023 Professional Fee Schedule (30:02)**

Jason Newhard, SSM, Tech Manager, explained that they are the Utility Engineer for Water and Sewer. Explained they have a similar situation as The Pidcock Company. Got hit hard with Benefit Increases—also the need to replace people at a decent rate. SSM increase is almost 6% across the Board, which is a composite average as well. He explained that if they open a project in 2022 and it runs into 2023, they will be paid at the 2022 rates. The rate sheet presented this evening is the same one they use for all municipalities.

6. **ORDINANCES:**

a. **Direction/Discussion - Review of Recommendation from Planning Commission regarding a Zoning Ordinance Text Amendment Submitted by Shree Mata 4365, LLC**

Dave Manhardt explained two memos were provided, the first one being a more broad explanation. Impetus for this text amendment is a request from Shree Mata, which is the Dorneyville Shopping Center requesting some changes/modifications to the zoning ordinance to help with parking as required for any land development. Currently land development is running through the ZHB, as well as this text amendment running concurrently. Appeared at PC with a sketch plan. Staff worked with Applicant on text amendments.

Gregg Adams, Planner, Community Development Department, explained it is his understanding Applicant did submit an application to the ZHB, which was reviewed at the November ZHB Meeting, and which was continued—no action taken. Along a parallel path it went to the PC, who reviewed it at the November meeting, and recommended adoption of the proposed ordinance with a 4:2 vote, w/1 abstention. Background info was given in the packet on parking ordinances in the township with numerous amendments since the early 2000s. The most serious one occurred in 2014 ZH update, which took the shopping center and provided it a single calculation. Previously it was part of a coordinated development, which means you had to basically go through all the uses there, calculate the off-street parking requirements for each use, and then add up the total for the entire center. In 2014 we basically said the shopping center should have one calculation based on the square footage of the entire parcel. We are learning that shopping centers are changing/evolving over time. For example, restaurants are becoming more prominent, as well as recreational facilities—gyms, etc. When Applicant came in to update the ordinance, we discussed and found two tracks—1. To update the definition of Shopping Centers, to include these new uses taking up more space in a shopping center; and 2. To review the actual calculation itself. Right now it is a 1 space for every 225 SQF of primary use space within the shopping center. We then looked at coordinated developments, which do have reductions for size—the larger the coordinated development the greater the reduction for size, to account for shared parking. The Applicant has suggested we incorporate that into shopping centers as well. Reduction for size is second path. Staff feels the Zoning Ordinance would benefit, as well as the shopping centers benefit from change of definition. Parking was also looked at and we notice how full the parking lots are and we believe we are overparked, which means we have more spaces than cars generally see during the day.

Shopping Center Owners would be the ones to bear the brunt of any overuse of the parking regulations. If they cannot bring in the customer base they need, their tenants would suffer.

Questions – What happens if we are not providing sufficient parking? Is there available parking near the shopping centers that can be utilized. If there is nearby parking, would people use it or would they leave to find another place to frequent? There are pros and cons to having too much or too little parking.

A MOTION was made by Commissioner Osborne, which was seconded by Commissioner Kennedy that we as a Board, direct staff to present to the Board at a future meeting, a text change they support, which they would like us to consider. Commissioners Osborne and Kennedy approved said motion; Commissioners Kelly, Roth, and Hodges voted NO. Vote 2:3. Motion DID NOT carry.

b. Direction/Discussion - Possible Amendment to Parks and Recreation Board Ordinance

Township Manager Tom Petrucci explained that we are requesting direction/discussion, followed by a request to remit enclosed draft ordinance to Township Solicitor for legal review, if deemed appropriate by the BOC.

In order to align the composition of the P&RB w/the First Class Township Code requirements, it is suggested to restructure the current membership, with terms staggered, so that no more than two members will expire annually. It is also recommended that appointments should run on a full calendar year basis (January to December), for a five-year term. Two members of the PSD may serve on the P&RB, if BOC deems it necessary/appropriate, which appointment would be made by BOC.

Board was in agreement that Mr. Petrucci make changes to the ordinance, specifically Section 17-10, last two paragraphs with regard to the submission of reports to the BOC. Additionally, Section 17-12, which refers to Officers—in that an election be held each year, when they reorganize. Township Manager Petrucci said he had the information he needed and will make the changes per BOC request.

7. RESOLUTIONS:

a. Parkland Manor Phase 4 Senior Living Land Development Plan - Approval of Alternate Form of Security for Public Improvements

Dave Manhardt, Director, Community Development Department, explained this is for Parkland Manor, along Crackersport Road, who are requesting a resolution to change banks for their security. Applicant was in attendance. Joel Weiner, Attorney for Applicant, Crackersport Racquet Ball, LP, which owns Parkland Manor. They were previously granted permission to have M&T Bank issue a letter of credit, which is in Baltimore. SWT Ordinance requires that when financial security is placed in the nature of a letter of credit, the place for presentation of the letter of credit must be within 60 miles of the Township Office or BOC approval needs to be granted for a greater distance. Any cost of travel would be covered by

the Applicant. The original letter of credit needs to go to the bank. You cannot give a copy. The original must make it to the place of presentation. FedEx/UPS can be used. Currently, virtually all letters of credit are presented at a money center which today is Wilmington, Baltimore, NY, Washington, etc. Applicant's request is two-fold. To allow Applicant to have a presentation, not at the M&T Office in Baltimore, but at the Morgan Stanley private bank, National Association Office in Baltimore where they receive letter of credit draws, which is from one side of Baltimore to the other. Applicant's second request is because in all likelihood they will switch banks again given the nature of what is happening in the world, is that they also have the ability to change to another bank within the 200-mile radius without having to come back to the BOC. The form of the letter of credit would still be to the satisfaction of the Solicitor, cost of travel would be covered by Applicant, and may be part of the draw request if needed. This is complete request of Applicant.

A MOTION was made by Commissioner Kelly, which was seconded by Commissioner Hodges, to approve said resolution, however, with the removal of paragraph 1., (ii). Additionally, Solicitor Zator added—1.(i) to read as follows... *Thames Street Wharf; or other address of Morgan Stanley Private Bank, National Association, located within a 200-mile radius of the Township Offices at 4444 Walbert Avenue, South Whitehall Township.*

At this time, Acceptance of Conditions was signed by Applicant.

All were in favor of the above motion, as amended by President Kelly and Solicitor Zator. Vote 5:0. Motion carried.

b. A Resolution Approving Sewer Planning Module - My Salon Suites, Village West Shopping Center

Mike Elias, PW Utility & MS4 Coordinator, explained that My Salon Suites (Brixmore) is re-tenanting two retail spaces at the Village West Shopping Center totaling 6,500 SQF for a spa/salon. They are requesting 713 GPD or 3.2 EDUs of sewer allocation. Staff is before the Board this evening recommending approval.

A MOTION was made by Commissioner Roth, which was seconded by Commissioner Kennedy, approving above said resolution as explained by Mr. Elias for the approval of 3.2 EDUs of sewer allocation. All in favor; none opposed. Vote 5:0. Motion carried.

c. A Resolution of the Board of Commissioners of South Whitehall Township, Lehigh County, Pennsylvania, Authorizing the Township Manager to execute a Utility Reimbursement Agreement with the Pennsylvania Department of Transportation for the Highway Improvement Project of State Route 0309, Section 12M.

Township Manager Tom Petrucci said that he wanted to clarify he would be the one signing the agreement, however, the credit goes to Director of Township Operations Herb Bender—he was able to work out with PennDOT where the Township will only be paying 25% of the costs associated with relocating and adjusting our sewer for the Highway Improvement Project of State Route 309. Mr. Petrucci wanted to thank Herb for his efforts—which is a tremendous action. We do not know all the costs that will be associated with this project, but thankfully we will only be paying 25% of those costs as opposed to all of them. Staff is

seeking a motion to approve said resolution as presented. On behalf of the Board, President Kelly thanked Herb Bender for making this arrangement with PennDOT.

A MOTION was made by Commissioner Kennedy, which was seconded by Commissioner Roth, to approve said resolution. All in favor; none opposed. Vote 5:0. Motion carried.

d. A Resolution Extending Conditional Offer Of Employment To The Entry-Level Position Of Patrol Officer In The Township's Police Department To Candidates #48231 and #86119, Conditioned Upon The Individual Satisfactorily Completing Medical And Psychological Examinations To Confirm Their Fitness For Duty

Chief Glen Dorney explained that the PD is going through the hiring process—working our way through the Civil Service List, for open positions on the PD. The next two candidates on the list are Candidates #48231 & 86119. This gives PD the opportunity to start the background process. Staff is requesting that these candidates move forward in the hiring process.

A MOTION was made by Commissioner Osborne, which was seconded by Commissioner Hodges, approving above-said resolution extending conditional offer of employment to candidates #48231 & 86119, as explained by Chief Dorney. All in favor; none opposed. Vote 5:0. Motion carried.

8. MOTIONS:

a. Motion to Proceed with Award of Towing Operator Services Contract

Chief Glen Dorney explained that Staff went through the Bid Packets which were submitted on November 7th for Tow Operator Services—four proposals were received. This was advertised two times as required, and made accessible on the Township Website. All four proposals reviewed by Donna Zackeru, Purchasing, and Chief Dorney. Three of the four proposals had missing information. The Township reserves the right to waive any irregularities/informalities and feels we can exercise this right and to award these services with the information being supplied by the contractor prior to executing the contract. Staff is respectfully requesting contracts be awarded to Ironton Towing and Stew's Tire Center to be used in rotation for the Township's towing needs. The RFP was for up to two towing contracts. These were the two best responses based on the towing tabulation sheet as presented in the packet. On behalf of the Board, President Kelly thanked Donna Zackeru for putting together the Towing Tabulation Sheet, which was very helpful.

A MOTION was made by Commissioner Osborne, which was seconded by Commissioner Kelly, granting approval of awarding contracts to Ironton Towing and Stew's Tire Center, to be used in rotation for the Township's towing needs, as presented by Chief Glen Dorney. All in favor; none opposed. Vote 5:0. Motion carried.

b. Motion to Award Bid - Tilghman Street Bridge Utility Relocation Project, Bid #2022-07

Herb Bender, Director of Township Operations, explained that on Monday, November 28th, at 10A, four bids were received/opened for the Tilghman Street Bridge Utility Relocation project. This was advertised as required. Bid documents were downloaded from the PennBid website by 71 companies. Looking to award the bid to Joao Bradley Construction in the amount of \$473,060. PW set aside funds in the amount of \$250,000 from cast in place repairs line item for 2022, and the 2023 portion of this project is budgeted for another \$250,000. PW will do the restoration of the paving work at the Commerce Center once we get the easement. To keep the cost down, we will do the actual pavement work in-house. With this project, the Turnpike has agreed to a 50/50 cost share with the Township. We will pay it out and once the project is complete, the Turnpike will reimburse us 50%. These monies will go back into the sewer fund. We do have to finalize the two easements as of yet. These agreements are with their solicitors, and once we have these agreements back, we will come back and let BOC know we have everything finalized.

A MOTION was made by Commissioner Hodges, which was seconded by Commissioner Roth, approving motion to award bid contract to Joao Bradley Construction as explained by Mr. Bender. All in favor; none opposed. Vote 5:0. Motion carried.

9. CORRESPONDENCE AND INFORMATION ITEMS:

a. Upcoming Meeting Dates

CURRENT VACANCIES ON BOARDS/COMMISSIONS:

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

UPCOMING MEETINGS: Details posted on website.

- Thursday, December 8, 2022 - Emergency Management Services Meeting, 7P
- Tuesday, December 13, 2022 - Planning Commission Comprehensive Plan, 7P
- Wednesday, December 14, 2022 - Civil Service Commission, 10A
- Thursday, December 15, 2022 - Planning Commission, 7:30P
- Monday, December 19, 2022 - Landscape and Shade Tree Commission, 10A
- Monday, December 19, 2022 - Green Advisory Council, 6P

11. OLD BUSINESS

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

Herb Bender explained, they met with contractor today. Have run into some issues, so were in a holding pattern. We were working with PADEP to get everything resolved. Delay due to waiting for new rebar to come in—dam is thicker than originally anticipated, causing an additional cost to be incurred (for the rebar and concrete). Barring no other changes, we

will be at \$357,086.50. \$850,000 was put aside for this project. We are still currently under budget for this project.

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

Dave Manhardt explained, CP Workshop is scheduled for this Tuesday, the 13th. What we are working on is that we finalized the land use, and will bring those changes back to the Boards for discussion. Also, will be covering the implementation plan at the Workshop. Comments received were gone through; had internal staff meeting to simplify and clarify those comments, and will be presenting those. Additionally, changes sent to graphic designer to be incorporated into the plan and should be available to go out in Friday's agenda packet, which represents a final draft. Any minor changes beyond that can be handled in-house.

12. DIRECTION/DISCUSSION ITEMS:

a. Farm Lease between South Whitehall Township and Donald Newhard t/a Newhard Farms

Township Manager Tom Petrucci explained that as the Board of Commissioners is aware, the Township acquired approximately 26.87 acres located at 1036 Springhouse Road from David T. Davis and Joanne S. Davis; this land has been subsequently classified as "Davis-Smith Open Space". The Agreement of Sale required the Township to deliver at closing a lease agreement to permit the continued and uninterrupted farming of the property by the current tenant and the tenant's heirs, successors and assigns. The agricultural operator has provided notification to the Township that they will continue to utilize the property for the 2023 calendar/fiscal year, pursuant to the requirements of the current Lease Agreement. No action by the Board. Mr. Petrucci will make sure the proper insurance is in place as required by agreement.

b. Trexler Boulevard/Suncrest Traffic Calming - Recommendation from PennDOT Local Technical Assistant Program (Reviewed by Public Safety Commission on December 5, 2022)

Township Manager Tom Petrucci explained that the Township submitted a Technical Assistance Request through the Technical Assistance Program for PennDOT to exam Traffic Calming concepts for both Trexler Boulevard and Suncrest Drive. Township has received complaints regarding speeding on both roadways. Based on recommendations of LTAP, Trexler Boulevard would be appropriate for traffic calming measures. Suncrest was not recommend based on the speed report that came back. The Township does not have a traffic calming policy at this time. This was taken to the PSC Meeting (December 5th) and it was recommended by PSC that the next step be taken to set a public meeting to review possible traffic calming measures w/residents at the January 9th PSC Meeting. This is FYI and that we view this as a pilot program, in order to use this data, to see how these measures would be working. Installation would be handled by PW. Before we get to this point however, we want to review w/the neighborhood, and property owners on surrounding roads, which

would be done at the January 9th PSC Meeting. Mailer has already been put together, to be distributed by PW. The Board was in agreement with this.

c. Zero Balance Billing - Recommendation from Finance Department

Tricia Dickert, Director of Finance, explained that this is in follow up to direction/discussion conversation which took place at the November 16th BOC Meeting re-Zero Balance Bills. The first half of the year will be spent pushing electronic billing, putting a mailer with bills that go out 1Q23 which would ask:

1. Would you like to register for electronic billing?
2. Would you like to receive free emergency and community advisory alerts from the Township through the NIXLE system?
3. If you prepay, would you like to continue receiving invoices showing your zero balance?

At this point, Ms. Dickert, feels the mailer is a good idea to be included in the refuse bills, but if it is the desire of the Board to drop zero-balance bills, the Finance Department would then proceed with doing so. On the handout/insert a QR Code is given to assist residents when signing up for electronic billing. The second QR Code will allow for residents to sign up for Nixle. Tricia will add a space for resident's name to the insert, just in case it gets separated from the payment. With the newly designed insert, Ms. Dickert explained the question regarding zero balance billing will go away, once that button is turned off. However, if we find that many are requesting documentation showing their balance, this subject will need to be brought back to the board for further discussion.

Tree Lighting Event, December 3rd – President Kelly wanted to thank Township Manager Tom Petrucci and Director of Township Operations Herb Bender for overseeing this event. She said it was a great event for the community and was thankful to everyone who made it such a successful event. She thanked Finance who was there, PD, PW, the Volunteer Fire Departments, SWT Emergency Management, and especially Santa who made an appearance, and who was the highlight of the event.

Heroes for the Holiday – President Kelly also thanked Chief Dorney and the entire PD for sponsoring this event—33 PSD students who were adopted, and were able to buy/wrap presents so that they could give to their family members. A very special event. President Kelly asked Chief to pass the Board's appreciation on to everyone. Chief Dorney also thanked Lieutenant Brown and Sergeant Grozier for diligently putting together this incredible event. Chief thanked the Board for their support every year for this event.

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

Tricia Dickert, Director of Finance – explained that there will be a shift in schedule in the Lobby on December 30th, where payments will be processed only until 10A. This will allow for Finance Staff an opportunity to post all the batches and run all the year end reports so they can go celebrate with their families. Payments will still be taken after 10A, however,

they will be posted once we resume operations on Tuesday, January 3rd of the New Year. This information has been placed on the Website for Residents.

Herb Bender, Director of Township Operations – Explained that today they had a well go down. Kohl Bros. were called in to handle. They will be getting the parts needed. Everyone does have water at this time—no one will go without water. We are looking at a \$70,000 repair. This repair will be covered by monies that were budgeted in a 2022 line item.

14. MOTION TO AUTHORIZE PAYMENT OF INVOICES & DISBURSEMENTS:

a. Invoices and Disbursements

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

15. EXECUTIVE SESSION: None.

16. ADJOURNMENT: At 10:12 p.m. President Kelly made a motion to adjourn. All in favor; none opposed.

17. APPROVED: December 21, 2022

A MOTION was made by Commissioner Roth, which was seconded by Commissioner Kennedy, to approve the December 7, 2022, BOC Meeting Minutes as presented. All in favor; none opposed. Vote 5:0. Motion carried.
