



Wednesday, August 2, 2023

Board of Commissioners AGENDA-MINUTES – 7:00 PM

1. CALL TO ORDER

A. Roll Call

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, Twp. 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 *
Glen Dorney, Chief-PD
Dave Manhardt, Director, Community Development Dept.
Chris Stroehler, Long-Range Planner, CD Dept.
Gregg Adams, Planner, Community Development Dept.*
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 on the Township's Website for Public access.

B. Public /Virtual Meeting Rules

C. Board of Commissioners Met in Executive Session on the following dates to discuss Legal and Personnel Matters: August 2, 2023

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

- (2:27) J. P. Mascaro, III – he was in attendance to speak to the Board with regard to the recent solicitation for the trash and recycling contract renewal.

5. MINUTES

A. August 2, 2023 - Board of Commissioners Meeting Minutes

(6:09) A MOTION was made by Commissioners Kennedy and Osborne to approve the August 2, 2023, BOC Meeting Minutes as presented this evening. All in favor; none opposed. Vote 5:0. Motion carried.

6. ORDINANCES

A. An Ordinance Amending the South Whitehall Township Zoning Ordinance by adding Section 350-13(f) Zoning Certificate of Use; And, Providing for a Severability Clause, Retention of Rights to Enforce Clause, a Repealer Clause, and an Effective Date.

(6:35) Township Manager Tom Petrucci, explained that when staff has to issue a Certificate of Occupancy under the Building Code, this does not take into account any zoning related issues. Meaning, once the Township confirms compliance with the Building Code, we are required by State law to issue a Certificate of Occupancy within a certain time period. If there are any outstanding zoning issues at that time, we do

not currently have a mechanism in place to address that. Staff did some research and found that other municipalities instituted what is called a Zoning Certificate of Use. This would then certify that a building structure, project is in compliance with the municipal zoning ordinance and all other applicable ordinances. This would be a final checks and balances of achieving compliance with the zoning ordinance. This has been reviewed by BOC, Twp. Solicitor, PC, as well as the LVPC who submitted a comment letter saying this ordinance demonstrates evolution and adaptability of government as part of the original plan. At this time Staff would recommend that we move forward with all requirements under the Municipalities Planning Code to adopt this ordinance, including the advertising of a public hearing.

A MOTION was made by Commissioners Kennedy and Roth granting permission to move forward with advertising of said Ordinance regarding a hearing on September 6th for possible adoption of said ordinance. All in favor; none opposed. Vote 5:0. Motion carried.

B. 457B Ordinance Amendment - Motion Requesting Permission for Pension Solicitor, Eckert Seamans, to Prepare Ordinance Amendment, as well as Plan Document.

(9:45) Township Manager Tom Petrucci explained that earlier this year the SWT PD Union inquired whether it would be possible to allow for alternative investment plan managers for the Township's 457(B) Deferred Compensation Plan. Currently, Nationwide and VALIC are the approved investment managers for the plan. The 457B Deferred Compensation Plan is a voluntary plan, where employees can make contributions that are not matched by the Township if they so choose.

The current 457B Ordinance (adopted February 3, 1993) is no longer consistent with the current plan documents in use and the investment managers that are utilized. Township Manager Tom Petrucci is requesting to work with Labor Attorney Eckert Seamans to produce a revision to Chapter 58-14 and a 457(B) Plan Document that is specific to SWT and consistent with IRS requirements.

Projected Outcomes:

- A 457 (B) plan document that is specific to South Whitehall Township and not provided by an investment manager.
- A 457 (B) plan document that allows for additional investment managers to be approved by the Township as determined to be appropriate.
- A revised Ordinance (Chapter 58-14) that accurately reflects current Township practices.
- A 457 (B) plan document that provides clear and concise guidance to both the Plan Administrator (Township Manager) and plan participants (former and current employees), as applicable, on what is permitted in terms of plan administrative actions (including but not limited to plan withdrawals, plan emergency withdrawals, contribution limits, and loans, as applicable and in accordance with relevant IRS regulations).
- A 457 (B) plan document that provides clear regulations on requirements for investment managers, including custody of records, fiduciary authority, and fees.
- Project is expected to cost approximately \$4,000 as confirmed by Labor Legal Counsel.

Official action is being requested by way of a motion to authorize the Township Manager to work with the Labor Attorney (Eckert Seamans) to produce a revision to Chapter 58-14 and a 457 (B) plan document that is specific to SWT and consistent with IRS requirements.

A MOTION was made by Commissioners Kennedy and Kelly authorizing Mr. Petrucci to work with Labor Attorney Eckert Seamans to produce a revision to Chapter 58-14 and a 457(B) Plan Document specific to SWT and consistent with IRS requirements. All in favor; none opposed. Vote 5:0. Motion carried.

Noted for the record that Pension Committee Meeting met on July 26th—Tom Petrucci, Herb Bender, Commissioners Kennedy and Osborne, as well as the Actuary, were in attendance.

7. RESOLUTIONS

A. A Resolution of the Board of Commissioners of South Whitehall Township Authorizing the Execution of an Intergovernmental Cooperation Agreement Pursuant to 53 Pa. C.S.A. §2307 ("Intergovernmental Cooperation") by and between South Whitehall Township and the County of Lehigh, and Further Authorizing the Execution and Delivery of said Document by the Township Manager

(14:05) Township Manager Tom Petrucci explained that back on November 6, 2013, SWT and LC entered into a 10-year Tower License Agreement that provided for the mutual use of properties owned by the Township (Huckleberry Reservoir) and LC (Cedarbrook Senior Care and Rehabilitation) to store radio equipment at each of these properties. The Agreement is mutually beneficial and reciprocating; for reference purposes, previous Agreement was in meeting packet.

The Agreement provides for each entity to have space at the respective properties for access to and storage of telecommunications equipment. Both Township and County officials have reviewed the inventory list and determined it to be acceptable. With this Agreement due to expire in November of this year, we felt it appropriate to execute a new Tower License Agreement, along with corresponding Resolution. Said Resolution meets the requirements for intergovernmental cooperation pursuant to Chapter 23 of Title 53 of the Pennsylvania Consolidated Statutes.

The Agreement has been reviewed by the County Solicitor's Office, the Township Solicitor, and the Emergency Management Coordinator, as well as Public Works and Administration. Staff feels it is ready to be adopted at this time. Once we adopt the resolution, the County will then have to adopt a similar resolution meeting the Inter-governmental Collaboration Act. We will then be good for another 10 years, in which we are sharing equipment, at no cost to either one.

A MOTION was made by Commissioners Kelly and Roth approving said Resolution to Execute and Deliver Tower Usage License Agreement to the County. All in favor; none opposed. Vote 5:0. Motion carried.

B. REQUEST TO TABLE - A Resolution Granting A Waiver Of Certain Subdivision And Land Development Ordinance Review And Approval Requirements For A Plan Entitled "Proposed ATM Kiosk Tilghman Square Shopping Center"

(16:40) Township Manager Tom Petrucci explained that upon review of the outstanding engineering comments that were provided by the Township Engineer, Township Staff is respectfully requesting to TABLE this matter at this time until the Applicant can address those comments to the satisfaction of the Township Engineer and SWT CD Staff.

A MOTION to TABLE was made by Commissioners Kelly and Kennedy. All in favor; none opposed. Vote 5:0. Motion carried.

C. REQUEST TO TABLE - A Resolution Granting A Waiver Of Certain Subdivision And Land Development Ordinance Review And Approval Requirements For A Plan Entitled "Broadway Sidewalk Grading Plan For Tilghman Square Shopping Center"

(17:25) Township Manager Tom Petrucci explained that upon review of the comments issued by the Township Engineer, we are requesting that this item be TABLED at this time until the Applicant can address those comments to the satisfaction of the Township Engineer and the SWT CD Staff.

A MOTION to TABLE was made by Commissioners Kelly and Roth. All in favor; none opposed. Vote 5:0. Motion carried.

8. MOTIONS

A. Motion to Proceed with Capital Improvements – Roof Replacements on Three (3) of the Water Stations

(18:30) Herb Bender, Director of Township Operations, explained that PW Utilities is respectfully requesting approval to move forward with replacing three water station roofs. The three roofs that will be replaced are Springhouse Station, Whitehall & Huckleberry Station, and Scherersville Water Station. The cost of this project for just the materials is \$4,572.67. Public Works will install the new roofs, along with tearing off the old ones. This project was not in the budget for 2023, but due to the savings from PW doing all the framework to Whitehall & Huckleberry Station, we had a savings of \$20,000.

PW is respectfully requesting a motion to approve the purchase of roof materials. Water Facilities Capital was budgeted for \$35,000 in 2023. After the new doors at Whitehall and Cedarbrook Stations (cost of \$14,120), there is a balance of \$20,880 in this account.

A MOTION was made by Commissioners Roth and Kennedy granting permission for the Purchasing of Roof Materials for Replacement of the Roofs of three Water Stations. All in favor; none opposed. Vote 5:0. Motion carried.

9. CORRESPONDENCE AND INFORMATION ITEMS

A. Meeting Dates and Current Vacancies (20:45)

10. DIRECTION/DISCUSSION ITEMS

A. Possible Scheduling of BOC "Special Meeting" for Purposes of Discussing and Consideration of Approval the Residential Municipal Solid Waste Collection Disposal and Recycling Services Contract for South Whitehall Township.

(21:55) On July 26, 2023, at 10:00 AM, the Township opened the bids for the Residential Municipal Solid Waste Collection, Disposal, and Recycling Services from January 1, 2024, through December 31, 2026 (or December 31, 2028, if five-year option selected by the Township). Three were received from three different firms (J.P. Mascaro, Waste Management, and Whitetail Disposal).

Per the specifications, the Township intends that the Contract shall be awarded within forty-five (45) days following the date the proposals are publicly opened and read.

To give staff adequate time to review the bids and to ensure that the public meeting in which the bids are reviewed and considered are given adequate time (in lieu of doing so during a regular public meeting in which there are other agenda items), it is recommended to schedule a special public meeting for this purpose. A special meeting is defined by the Sunshine Law as a public meeting in which a public agency conducts business that is not part of the regular scheduled meetings. Special meetings must be advertised.

Commissioners Kennedy and Kelly made a MOTION to Proceed with the Scheduling of a BOC "Special Meeting" for Purposes of Discussing and Consideration of Approval of the Residential Municipal Solid Waste Collection Disposal and Recycling Services Contract for South Whitehall Township for Monday, August 21, 2023, at 6PM. All in favor; none opposed. Vote 5:0. Motion carried.

Each of the three firms above will be notified of special meeting date, as well as the meeting being advertised and placed on the Township Website.

B. America 250 PA Legacy Project

(25:00) Township Manager Tom Petrucci explained that the Pennsylvania Commission for the United States Semi-quincentennial (America250PA) was established by the legislature and Governor in 2018 to plan, encourage, develop and coordinate the commemoration of the 250th anniversary of the founding of the United States, Pennsylvania's integral role in that event, and the impact of its people on the nation's past, present, and future.

At this time, the Committee for America250PA is seeking Legacy Projects, which would be funded as part of this overall project—specifically, projects which use history to encourage and inspire future leaders, celebrate the contributions of Pennsylvanians to the Commonwealth's/Nation's history, and those that leave a lasting impact on the next generation.

Proposals are being accepted until August 22nd.

Township Manager Tom Petrucci brought an Option for consideration before the Board. One program that has undergone a preliminary planning process, but has not been moved forward to any stage of post-planning implementation, is the Kohler Ridge Park Master Plan. The Township has developed a concept Master Plan, but the project has not yet undergone the required process for final engineered and architectural design drawings. Staff feels this project may fit under the umbrella of the America250PA Program; specifically, under the criteria of environment, government, legacy, and nature. All together, the ten Phases of this project would total \$3,543,287.22. There are four levels of funding; Level 4 ranges from \$2,500,000, plus.

Summary - Recognizing that many of the options delineated in each of the phases of the Kohler Ridge Master Plan may not make it into any final build-out version of the facility, if the Board of Commissioners is inclined to seek funding through American250PA Program for this project, the recommendation is to submit a preliminary scoping application for the consideration of the American 250PA Committee using the overall budget figure of \$3,543,287.22, which would be subject to change once this project goes to the next phase of final engineering/design. In this way, the Township can ascertain if this project is aligned with the goals of the America250PA Program for possible inclusion of funding. As noted above, the deadline for submissions to this program is August 22nd. Township Staff views this initial scoping application as a way for the Committee to sort and vet through the voluminous amount of application submissions to this program. The Committee may not ultimately decide that this project is consistent with the goal of the America250PA program.

Township Manager Tom Petrucci said that realistically, this project would add an extra \$2-300,000 to the yearly budget, due to the hiring of extra personnel, and other ongoing maintenance cost factors associated with this project. President Kelly said this is important information to have when considering this or any project moving forward. She also mentioned she liked the idea of calling it Heritage Park—the Board has talked many times in the past about the importance of memorializing the history of SWT for future generations.

Township Manager Tom Petrucci said official action is being asked for, should the Board so choose, to allow for the submission of a preliminary scoping application to the America250PA Committee in the amount of \$3,543,287.22 (the overall budget figure) for consideration of funding for the Kohler Ridge Park Project. It is noted for the record that this is just preliminary, and we would simply be submitting to see if there is any interest. Township Manager Tom Petrucci explained there is no binding verbiage contractually in the application. This is just the initial vetting process. President Kelly was interested in submitting this project along the lines of a passive park/nature preserve park, which the Board was in agreement with.

A MOTION was made by Commissioner Hodges and Kelly to allow for the submission of a preliminary scoping application to the America250PA Committee in the amount of \$3,543,287.22 for consideration of funding for the Kohler Ridge Park Project. All in favor; none opposed. Vote 5:0. Motion carried.

Further details for the America250PA Legacy Project can be found in the meeting packet, posted to the Township Website.

C. August 8, 2023, Route 309 Betterment Project Meeting - General Information

(48:20) Township Manager Tom Petrucci explained that PennDOT has identified for the Betterment Project the need to provide a forum for impacted residents to view the plans and submit comments. SWT has agreed to allow for the project plans to be displayed here Tuesday, August 8th, 6-8PM. Also, you can find on the Township Website a link to all the relevant information for the plans/project. Mr. Petrucci encourages anyone impacted by this project to attend the meeting. Everyone—residents/businesses, in the affected area have already been notified by PennDOT.

Pidcock Co., Township Engineer, Tony Tallarida, said that recently the new Transportation Impact Plan came out and the Ridgeview Intersection was identified as an intersection to be studied—the Board said this was excellent news.

D. (53:00) Commissioner Roth thanked everyone who was involved in the National Night Out. The Police Department, as well as the four volunteer Fire Departments, Cetronia Ambulance, and Emergency Management who were all there. It was a great night/event.

Also, Commissioner Roth said tomorrow it will be one year since Tom Petrucci was selected to be South Whitehall's Township Manager. He thanked Mr. Petrucci for his leadership and professionalism, and the team he has assembled, and feels he built one of the best teams in the LV. The Board Members each thanked Mr. Petrucci and were in agreement with all Commissioner Roth said and that they all look forward to many more years of his service here at the Township. Mr. Petrucci thanked the Board for all their kind words and said it meant a lot to him.

11. OLD BUSINESS - NONE

12. COURTESY OF THE FLOOR - Public Comment on Non-Agenda Items – NONE.

13. MOTION TO AUTHORIZE PAYMENT OF INVOICES & DISBURSEMENTS ()

A MOTION was made by Commissioners Roth and Kelly to authorize the payment of Invoices & Disbursements. All in favor; none opposed. Vote 5:0. Motion carried.

14. EXECUTIVE SESSION

A. Scheduled Accordingly – NONE.

15. ADJOURNMENT

A. Motion to Adjourn – At 7:57P a MOTION was made by Commissioners Kennedy and Roth to adjourn. All in favor; none opposed. Vote 5:0. Motion carried.

16. APPROVED: On August 16, 2023, a MOTION was made by Commissioners Kennedy and Kelly to approve the August 2, 2023, BOC Meeting Minutes as presented. All in favor; none opposed. Vote 5:0. Motion carried.

