

**SOUTH WHITEHALL TOWNSHIP
LEHIGH COUNTY, PENNSYLVANIA
BOARD OF COMMISSIONERS**

PUBLIC MEETING

MINUTES

March 18, 2015

A public meeting of the South Whitehall Township Board of Commissioners was held at 7:00 p.m. on March 18, 2015 in the township municipal building located at 4444 Walbert Avenue, Allentown, Lehigh County, Pennsylvania.

Commissioners attending:

Christina Morgan, President
Glenn Block, Vice President
David Bond-Secretary
Dale Daubert
Thomas Johns

Staff attending:

Howard Kutzler, Township Manager
Randy Cope, Parks & Recreation Manager
Gerald Harbison, Community Development Manager
Lenore Horos, Finance Manager
Robert Ibach, Public Works Manager
Peter Pineda, Board of Authority Manager
Chief Tom Toth, Police Department
Chris McLean, Assistant Township Solicitor
Ralph Russek, Jr., Township Engineer

AGENDA ITEM #1-CALL TO ORDER

President Morgan called the meeting to order at 7:04 p.m.

AGENDA ITEM #2-PLEDGE OF ALLEGIANCE

At the President's request, all rose to recite the Pledge of Allegiance to the flag.

AGENDA ITEM #3-NOTIFICATIONS

President Morgan informed all present that all public sessions of the South Whitehall Township Board of Commissioners (BOC) are electronically recorded and that the recording will be destroyed when the minutes of the meeting are approved. The BOC met in Executive

Session following the March 4, 2015 regular meeting to discuss legal issues and again on March 18, 2015 to discuss legal and personnel matters.

AGENDA ITEM #4-MINUTES

The Board was provided with draft minutes of the March 4, 2015 public meeting minutes. Commissioner Daubert moved to approve the minutes. Commissioner Block seconded the motion and it passed unanimously.

AGENDA ITEM #5-PRESENTATIONS/DISCUSSIONS - None

AGENDA ITEM #6-PUBLIC HEARINGS - None

AGENDA ITEM #7-ORDINANCES - None

AGENDA ITEM #8-RESOLUTIONS

a. A Resolution Appointing Rex D'Agostino to the South Whitehall Township Board of Authority

Commissioners Block and Bond along with the BOA Chairman interviewed Rex D'Agostino to serve on the BOA. His background will benefit the BOA and he will replace Richard Klotz, who will retire effective April 1, 2015. Commissioner Block moved to approve the resolution. Commissioner Bond seconded the motion and it passed unanimously.

b. A Resolution Eliminating the Contributions by the Police Officers to the South Whitehall Township Police Pension Plan for the Year January 1, 2015 to December 31, 2015

This annual resolution is subject to collective bargaining. Commissioner Johns moved to approve the resolution. Commissioner Daubert seconded the motion and it passed unanimously.

AGENDA ITEM #9-MOTIONS

a. Request to Enter into Memorandum of Understanding (MOU) with Lehigh County Conservation District

This MOU would replace the Agreement of Cooperation that was signed in July 2014 and will maintain the Township's requirements under our NPDES permit for construction site storm water runoff control in new developments and redevelopments. Mr. Ibach said that the Public Works and Community Development departments would like to formalize this agreement. This document has been reviewed by the solicitor's office and there are no comments. Mr. Ibach said that the MOU does not expire. Attorney McLean noted that either party can terminate

with 60 days' notice. Commissioner Bond moved to approve the proposal. Commissioner Morgan seconded the motion and it passed unanimously.

b. Request to Advertise – Zoning Ordinance Service Pack 1A

Manager Kutzler noted that the Zoning Ordinance and Map Amendments were adopted in September 2014. Updates on any zoning inconsistencies are included in Service Pack 1A. Staff is looking to advertisement these amendments. Commissioner Daubert moved to approve the request to advertise. Commissioner Block seconded the motion and it passed unanimously.

AGENDA ITEM #10-CORRESPONDENCE & INFORMATION ITEMS

- a. **Public Notice – Board of Commissioners Meeting – Public Hearing, Wednesday, April 1, 2015 regarding on-premises signage regulations, etc.** – Mr. Harbison said that this hearing is for Macada Properties and Coordinated Heath's Cedar Crest Campus signage.
- b. **Public Notice – Zoning Hearing Board Meeting – Public Hearing Wednesday, March 25, 2015**-The meeting will have two cases including the continuation of the Peter Cooper sign variance and the Cetronia Fire Company request for a shed.
- c. **Public Notice – Planning Commission Meeting on Thursday, March 19, 2015**- Mr. Harbison said there is one item on the agenda with changes for the submission of land development project.

AGENDA ITEM #11-DIRECTION/DISCUSSION ITEMS

- a. **Wehr's Dam on Jordan Creek Report – Study and Conceptual Design for the Restoration of Jordan Creek**

President Morgan shared her thoughts about Wehr's Dam and the Jordan Creek report and thanked everyone for their participation and patience during this process. The topic originally introduced in the CBP Master Plan in November 2013. During the past months, we've looked at many aspects of Wehr's Dam. She thanked everyone for the petition and the professional study done by WC and KCI. There were other reports from Pidcock Engineering, Park & Recreation Board, PA DEP, State Historical Museum Commission and other agencies. Setting aside the emotion, her conclusions include the cost to repair and maintain the dam which is estimated at \$1.1 million for up to 5 years with continuing maintenance costs and no guarantee of the dam lasting. The overall cost of maintaining the dam must be covered by the taxpayers. State and Federal funding could only be used toward the removal of the dam. Wehr's Dam serves no structural service nor is the dam a historic landmark but it does bring a sense of beauty to the park. Although there has been numerous public supporters for saving the dam, there have been comments to remove the dam. At the March meeting, the Park & Recreation Board voted unanimously in favor of its removal. Commissioner Morgan said that it is fiscally and environmentally prudent to remove the dam.

Commissioner Bond said that as an elected official and regardless of how the Board votes tonight, the BOC has a fiduciary responsibility to the taxpayers and not an emotional one. If the vote is to keep the dam, he encourages all BOC members to acknowledge their responsibility that this decision has of maintaining and repairing the dam because it cannot continue to be left in its current state or ignored. Regardless of the Wehr's Dam estimate, the Township does not have funds for this project. The BOC must explore all options prior to funding this project. If the decision is to move forward on the repairs, the Township taxpayers must have a say in this decision by a referendum. The taxpaying community should decide if their taxes can be spent to cover the dam restoration.

Commissioner Block said that he has spent a lot of hours researching his decision. He has five issues on his mind and spoke about how easy it is to remove the dam but once it is down it is gone forever. There has never been an incident in its 111 years. He is not convinced that removal is the right decision to make. The BOC had discussed having a referendum to use taxpayer money for restoring the dam. If dam is removed, the Township does not know what will happen with the creek and potential flooding. In addition, we do not know what will happen to the bridge and what effect will the flow of the water have on the footers. Commissioner Block visited Lehigh Parkway and commented that the rubble was left at the side of the creek where a dam once stood. We heard from several officials that removal of the dam will not increase the spawning of the fish and may not benefit aquatic life. Removal of the dam will cost the Township money in staff wages. Commissioner Block encouraged the advocates from the "Save Wehr's Dam" committee to form a 501 3C organization to protect their interests in preservation of the dam. In addition, the Township will need to put funds in the budget for the maintenance of the dam.

Commissioner Block moved to keep the dam as is. Commissioner Daubert seconded the motion.

Public comments are as stated:

Manly Offutt, 1991 Molinaro Drive, asked about the Township engineer report and Mr. Kutzler said that the report was not completed in time for tonight's meeting. Commissioner Block said that it did not make sense to spend more money on another report other than the KCI report.

Mike Molovinsky, 3530 Congress Street, thanked the BOC who will vote in favor of retaining the dam and he assures everyone that the dam can be repaired for less money. He reminded everyone that when the DEP did their report two years ago, the dam was in good condition.

Ronald Roth, 5353 PA Route 309, Schnecksville is from North Whitehall and he asked about the purpose of removing the dam. He is worried more about the covered bridge and does not believe that the dam should be removed. He believes that the WC does not complete dam projects. Route 309 floods in several areas and he recommended removing the excess sediment from Jordan Creek and suggested that the WC assist with this clean-up project.

Lori Wehr Young, 967 Little Cedar Court, said that the last BOC meeting drew a large crowd and many spoke about the historic and aesthetic value of the dam. The WC report contained over 300 pages and the only thing that mattered was the \$1.1 million price to repair and maintain the dam. She appreciated that the Township and BOC has considered all alternatives. The KCI report, which suggests removing the dam, contained the **only** estimate to remove the dam. In the Lehigh Valley, the landmarks have been preserved to remind us of our history. Residents can still view the restored steel company blast furnaces and cement kilns. She took a walk down memory lane with a story from several valley locations including Hess's Department Store and she does not want to add the dam to that list. She asked the BOC to please save Wehr's Dam.

Bruce Idleman, 3942 Kilmer Avenue, is a geologist for Lehigh University spoke with his colleagues who work with dams. There are no benefits to leave Wehr's Dam in place and he is not in favor of keeping the dam. Regulatory agencies are applying more pressure on municipalities to remove dams. He believes that if the Township defers the decision, it may cost more money to repair the dam.

Ross Silverstein, 1800 Hemming Way, is concerned about his taxes being increased and he asked how much money was spent on the dam. He was told that the KCI study was no cost to the Township and funded with a grant. He thanked the Commissioners for their statements and asked for clarification on the referendum. Commissioner Block said that he does not oppose a referendum about financing of the dam. Commissioner Morgan said that there is not a guarantee on a referendum for the use taxpayer money. Attorney McLean noted that if cast appropriately; there would be ways to have a referendum for debt financing maintenance or restoration of the dam. Mr. Silverstein was concerned that BOC may vote based on whether they were going to be reelected to the BOC or not. Commissioner Daubert, who is completing 25 years on the BOC, would never turn down a referendum. He reminded everyone of the petition with more than 7,500 signatures. The "people should make the choice"

Ronald Roth spoke about the Parkland Library referendum which was directed to several townships. He asked that the Wehr's Dam referendum be included with all local municipalities.

Celia Turner, 2530 Wehr Mill Road, has lived next to the dam for 35 years and she doesn't want to muddy the waters any further and said that it's time to make a decision.

Dale Wehr, asked if there was a study done by the Township when the park was purchased.

Bill MacNair, 2716 Allison Lane, asked what the motion/vote is about. If the decision is made by the BOC to keep the dam, the option of a referendum will be reviewed. The vote is about maintaining the dam as is and Mr. MacNair said that he is in favor of the motion.

Mark Maulcci, 3204 Highland Street, said that he is favor of a small tax increase and he wants to open the flood gates. He does not want to see his creek dry up.

John Potack from Allentown spoke about using the dam for fishing with this location being very sentimental to him.

Ron Turner, 2530 Wehr Mill Road, said that he is astonished that we are spending so much time, effort and energy on something that the residents want to see preserved. He gives credit to the WC who created an issue that no one knew was an issue. He doesn't like being intimidated by outside groups. He said that the dam is holding up well even after this harsh winter. If the dam collapses, we can take the concrete and build a monument to it. He reiterated that the dam improves CBP and it deserves to be treated as one of our senior citizens.

Herbert Godshall Jr., President of Lehigh County Fish & Game, does not want to see the dam removed. He spoke about how repairs are made at the fish hatchery which was built in 1833. If something breaks things are fixed things one piece at a time. He has seen the changes in the creek which is the result of the contractor projects and removing water from the water table. The Little Lehigh was not cleaned up properly and it is not rated as high as it had been in the past. He does not want the quality of the Jordan Creek declining as the Little Lehigh did. He suggested repairing one section of the dam at a time and use community volunteers.

A roll call vote was called and the following vote was recorded:

Commissioner Johns	Aye
Commissioner Block	Aye
Commissioner Daubert	Aye
Commissioner Bond	Aye
Commissioner Morgan	No

Commissioner Morgan thanked all parties including WC, KCI and the Wehr's Dam group.

b. 30 West Project – Pre-Development Agreement

In September 2014, Mr. Strauss received approval for the 4-lot subdivision for the 3 acres of land. The Zoning Ordinance changes and resident's concerns about the office building and two private/vacated streets led to a revised plan for 30 West. In October 2014, a new plan of 18 lots was presented to the Township which included residences on 16 lots (twin and single homes) and 2 lots for storm water management. North 31st Street will be connected to a public road. In addition, a 30 foot section of North Marshall Street will be opened up as a public road and create the entire street public. Both the single and twin homes will contain 2,000-2,200 square feet. Mr. Strauss will be waiving any rights to do commercial development on this property. Attorney McLean noted the agreement changes will be presented to staff, the engineer and to the Planning Commission before returning to the BOC for approval. Mr. Strauss will not seek any Township waivers or variances from the Zoning Ordinance. The agreement will outline the road widths, curbing, sidewalks and other conditions in the

development including one side of North Marshall declared no parking. For this plan to work, both roads must be declared public. The Township has agreed to acquire the right of way for the public road at Mr. Strauss's cost. In addition, Mr. Strauss will record a declaration of covenants which voluntarily restricts the use of the property going forward and designates two lots for storm water management with no commercial use permitted. Commissioner Block, who likes the updated plans for 30 West, asked about the barricade which will be used for emergency vehicles and the three residents who live near the barrier. Mr. Strauss noted that when the Township vacated N 31st Street, and in order to preserve their private rights the residents who live nearby need preserve their private rights. The gate's design must be acceptable to the Township. It was noted that fire trucks cannot easily exit this road and must back down the road without the gate. Commissioner Morgan believes that the updated plan meets the dynamics of the neighborhood. Paul Lees, 744 N. Marshall Street at the corner of Washington, asked why the proposed commercial development was never reviewed by the Planning Commission. Why would the Township agree to assist Mr. Strauss when there is no reason for him to come through on Marshall Street when he can get access to the lots through North 31st Street? Mr. Lees wants to preserve the neighborhood aesthetics and does not want the mature sycamore trees removed. Mr. Strauss said that his plan will use a narrower 26 foot wide car path street to preserve the trees. There was a discussion about the rights to North Marshall Street from Washington Street when access can be done through North 31st Street. Mr. Lees is concerned with potential commercial traffic in the neighborhood as well as the new homes connecting to sewer and water. Attorney McLean noted that the original 30 West plan included single family homes in the eastern section along with the commercial lot which was never submitted for approval. Mr. Strauss highlighted the map for public review. There were additional discussions about Mr. Strauss's rights on the Marshall Street to access to the proposed homes both in the original and the updated plans which maximize the lots. The zoning district is neighborhood commercial and not commercial. Commissioner Bond thought Mr. Lees should be pleased with the updated plan and he said that as a Commissioner he is unable to stop land owners to develop the land as long as he is following the law. Sally Mann Sieger, 3037 Washington Street, is a resident of the city and she is concerned with the excess storm water and possible flooding. She is also concerned about the traffic on Washington Street. Commissioner Morgan reminded her that all of these matters would be addressed by the planner and engineer. George Mulhern, 745 N. Marshall, said that he has Township services and both Allentown and the Township plow his street and he has had no problems with the Township. He asked who will build the homes for 30 West. Mr. Strauss would like to get his development through the planning phase before placing any deed restrictions or naming a builder and the cost of homes. He spoke with the city about the plows pushing the excess snow on N. Marshall Street. In addition, he would pay for cost the preserving the eight trees on Marshall Street which would beautify entrance to the subdivision. Mr. Kutzler asked about the draft agreement and architectural elevation for the plan. Attorney McClean noted that this is not specifically a part of the agreement but the BOC's approval of the agreement would include conditions and deed restrictions. Mr. Strauss had lived in the Township and graduated from Parkland High School and he believes that this property is a "little gem on the west end of Allentown". He also said that his plan would stipulate an architectural elevation in the plan. Mr. Lees asked about this pre-approval agreement and Attorney McClean said that the

obligation is first on Mr. Strauss to obtain the ROW in an attempt to open those two roads as public roads. If he is unsuccessful, he would contact the Township to acquire the ROW. Mr. Strauss must pay future maintenance costs and subject to liquid fuels funds to supplement the costs. Mr. Kutzler noted that a benefit will be to extend North 31th Street. Corey Belleteri, 3050 Washington Street spoke about the emergency barrier which he would like to remain in the plan. Mr. Kutzler noted that what is allowed under this zoning district and will provide the transition between commercial use land and residential areas. There will be more cars, doors slamming, etc. and now the new plan shows higher quality housing with 2,200 square foot houses. He believes that this is a better development plan which will provide infrastructure and utilities are needed. Melinda Belleteri's backyard has become a swamp and Mr. Strauss's plan will help redirect the water flow into the storm water system with a swale. Commissioner Morgan asked him to look into this issue and Mr. Strauss will speak with Mr. Russek about the flooding problem. Commissioner Morgan moved to approve this pre-development agreement to clarify how the architectural elevation will work and a review of the sycamore trees by the preservationists. Commissioner Johns seconded the motion and it passed unanimously.

c. County Grant Project between South Whitehall Township and Upper Macungie Township – Portable Band Shell

The grant funds that were originally designated for the Incident Command Mobile may be used toward a portable band shell. The summer concerts can use this stage. Staff will speak with Lehigh County about this joint township project. An inter-municipal agreement regarding the storage and maintenance of the band shell will need to be done. Mr. Kutzler will speak with Upper Macungie regarding the next steps for this project. Commissioner Daubert moved to approve this action. Commissioner Block seconded the motion and it passed unanimously.

d. Public Safety Commission Bylaws

Attorney McLean presented the updated bylaws which were accepted by the Public Safety Commission (PSC) at the March 2015 meeting. The changes will be made before the bylaws are presented to the BOC for approval. Commissioner Bond said that there was language in the bylaws that was not true. Fire Marshall John Frantz said that antiquated issues were updated by both current and past BOC Commissioners. Attorney McLean noted changes will be made and the updated bylaws will be properly formatted and presented to the BOC for approval.

AGENDA ITEM #12-OLD BUSINESS

- a. Ordinance – *To Be Advertised At a Later Date For Possible Adoption* - An Ordinance Amending and Restating In Its Entirety South Whitehall Township Ordinance 748 (As previously amended), Known As the South Whitehall Township Floodplain Management Ordinance Providing Statutory Authorization, General Provisions, Including a Repealer, Severability Clause, Warning and Disclaimer of Liability and Administration Provisions Requiring All Persons, Partnerships, Businesses, and Corporations to Obtain a Permit For Any Construction or Development; Providing for**

the Application Process and Requirements for Issuance of Such Permits; Providing For Identification of Floodplain Areas, Technical Provisions and Setting Forth Certain Minimum Requirements for New Construction and Development Within Areas of the Township of South Whitehall Which Are Subject to Flooding, Including Elevation and Flood Proofing and Design and Construction Standards; Establishing Penalties For Any Persons Who Fail, Or Refuse to Comply With, The Requirements or Provisions of This Ordinance; Providing For Activities Requiring Special Permits, Regulations For Existing Structures In Identified Floodplain Areas, Variance Procedures, Definition of Terms and An Effective Date and Savings Clause for Prior Regulations.

Mr. Harbison announced that the public hearing will be held in April prior to the adoption.

- b. Motion to Authorize the Township Manager to Execute an Engagement Letter with Cohen Law Group for Cable Franchise Renewal Services for Service Electric Cablevision, Inc. and RCN Telecom Services, Inc.**

Cohen Law Group negotiated the Township's last round of franchise agreements about 10 years ago. This letter will authorize them to audit either RCN or Service Electric with a 20% discount. The franchise fee renewal is approximately \$25,000. Commissioner Block spoke with Attorney Zator about small changes to the agreement. The motion was tabled until the next meeting.

AGENDA ITEM #13-STATUS ITEMS

- a. Executive Department-**Mr. Kutzler's update on Mauch Chunk Road in the Mechanicsville section including a PennDOT package with several options. There is information about making Peachtree Road a "one way in" street which affects the package. The information about the Hamilton Boulevard corridor will be submitted to the Harrisburg office of the Department of Community and Economic Development (DCED). The DCED will offer grant options for this project. Staff will also meet with the LVPC for feedback on the corridor. Public Safety Commission has spoken with staff regarding the installation of warning signs for emergency service vehicles at the intersection of Cedar Crest Boulevard & Huckleberry Road. PennDOT will also be involved with this intersection.
- b. Community Development-**Mr. Harbison said that staff is easing into the construction season and there are several new house permits ready to go except for the NPDS approval. This will be a transitional year in terms of residential projects for new homes. John Frantz's white truck is more visible with the new "Fire Marshall" logo.
- c. Finance Department-**Ms. Horos said that the department is in the final stages of implementing Tyler Cashier which will use a hand held scanner for faster processing of invoices. All invoices will have barcodes that will be scanned when received. This software will put the Township one step closer to accepting credit cards for payments.

- d. **Human Resources/IT**-Mr. Cope and Mrs. Bickel are working to launch the new website by April 6th.
- e. **Park & Recreation Department**-Public works staff and volunteers including South Parkland Youth Association will gather to clean up the baseball fields at CBP on Saturday, April 18th (Volunteer in the Park Day) between 9:00 a.m. - 3:00 p.m. Mr. Cope announced that the 2015 summer playground registration is available on the website. There will be four locations for the children to enjoy.
- f. **Police Department**-Chief Toth provided the BOC with February 2015 crime reports. He thanked his staff and other agencies for their cooperation on a recent investigation.
- g. **Public Works Department**-Mr. Ibach noted that workers are patching pot holes and completing rehab work from water leak patches. The Jordan Road work will resume in April following the snow melt. North Whitehall Township will have work to complete. In South Whitehall Township, this project needs 75 feet of curbing, paving, guiderail and should be completed within 10 days. He spoke with City of Allentown about the attaching the final two traffic light preemptive devices to the city poles at Broadway/Springhouse and Broadway/Cedar Crest Boulevard.

A Township resident asked about Jordan Road and Mr. Ibach said the project will be done in 10 days. Manly Offutt asked if the pot holes that were filled need to be done again and Mr. Ibach told him that this work is completed because the blacktop plant opened this week. All pothole repair requests should be called into the Township Public Works Department.

AGENDA ITEM #14-PAYMENT OF INVOICES

Invoices have been reviewed by the Township Manager and the Finance Manager who authorized that checks be issued to pay bills as tabulated. Commissioner Daubert moved to approve the payment of invoices. Commissioner Bond seconded the motion and it passed unanimously.

AGENDA ITEM #14-COURTESY OF THE FLOOR

Tom Muller, Lehigh County Executive, thanked the Township water department and police for their recent assistance at Cedarbrook. Bob Schantz, 2209 Albright Avenue, thanked the BOC for the process. He said that this brought the Township together and we must work together. He said people have asked about donating funds. Mr. Wehr will be looking into grant options. Commissioner Morgan said that she would like the Township solicitor research referendum opportunities for debt financing and dam maintenance costs for taxpayers..

AGENDA ITEM #15-EXECUTIVE SESSION

AGENDA ITEM #16-ADJOURNMENT

At 9:30 p.m., Commissioner Bond moved to adjourn. Commissioner Daubert seconded the motion and it passed unanimously.

APPROVED: April 15, 2015

On April 15, 2015, a Motion was made by Commissioner Daubert, and seconded by Commissioner Bond, to approve the March 18, 2015 BOC Minutes. All in favor, none opposed.