

**WHITEMARSH TOWNSHIP BOARD OF SUPERVISORS
PUBLIC MEETING MINUTES**

JANUARY 28, 2021

The Regular Monthly Meeting of the Whitemarsh Township Board of Supervisors was held on Thursday, January 28, 2021 at 6:00 PM, a virtual ZOOM meeting, due to COVID-19 pandemic.

Supervisors Present: Laura Boyle Nester, Chair; Fran McCusker, Vice-Chair; Michael Drossner; Vincent Manuele and Jacy Toll.

Also Present: Richard L. Mellor, Jr., Township Manager; Sean Kilkenny, Township Solicitor; James Hersh, P.E. Township Engineer and Charles L. Guttenplan, AICP

PLEDGE OF ALLEGIANCE

ANNOUNCEMENTS

Supervisor McCusker announced:

- The Montgomery County Office of Public Health is offering COVID-19 vaccine pre-registration for persons age 65 and older. Those interested can register online at the County's website (montcoPA.org). To be eligible, you must live or work in Montgomery County.
- Winter weather reminder: with snowfall forecasted for this weekend and early next week, please be mindful to park on the odd-numbered side of your street, or in your driveway, and shovel sidewalks within 24-hours of snowfall ending.
- From the Fire Marshal: Remember to keep space heaters at least three feet from anything flammable. With fireplaces, be sure to allow ashes to completely cool and place them in a metal container. Your fireplace should be cleaned and checked every fall.

PUBLIC HEARINGS

1. CU#04-20 Germantown Pike Associates, LLC and Zachary Dillow/606 and 608 Germantown Pike - Conditional Uses for Apartments in VC-1 District

On a motion by Supervisor Drossner, seconded by Supervisor Manuele (Vote (5-0) the Board of Supervisors opened the public hearing for Liquor License Transfer - 531 E. Germantown Pike/The Market at Lafayette Hill, Inc.

A court reporter was present, and the notes of testimony are available for review at the Township Building.

The following individuals presented information/testimony/comments/questions at the Public Hearing:

Sean Kilkenny, Township Solicitor
Joe Kuhls, Applicants Attorney
Joshua Reibstein
Spencer Yablon
Alex Tweedy, Landcore Engineers

On a motion by Supervisor Toll seconded by Supervisor McCusker (Vote 5-0) the Board of Supervisors continued the public hearing until 2/11/2021.

MOTIONS

1. CU#04-20 Germantown Pike Associates, LLC and Zachary Dillow/606 and 608 Germantown Pike Conditional Uses for Apartments in VC-1 District

On a motion by Supervisor Toll, seconded by Supervisor Manuele (Vote 5-0) the Board of Supervisors CONTINUED the Conditional Use #04-20; Germantown Pike Associates, LLC and Zachary Dillow/606 Germantown Pike for Apartments in the VC-1 District until February 11, 2021.

APPROVAL OF MINUTES

1. December 10, 2020 and January 4, 2021

On a motion by Supervisor Drossner, seconded by Supervisor Manuele (Vote 5-0) the Board of Supervisors approved the December 10, 2020 and January 4, 2021 meeting minutes.

BOARD PUBLIC DISCUSSION ITEMS

None

CONSIDER ACTION ITEMS

Ordinances

None

Resolutions

1. Corporate Authorization Resolution - Opening and Closing Certificates of Deposit

Mr. Mellor stated due to the separation of the previous Finance Director the Township needs to do a new Corporate Resolution for authorization to open and/or closing a Certificate of Deposit. The resolution requires 2 signatures to have a Certificate of Deposit open and/or closed. The township works with brokers and bank personnel to find the best CD's available to receive the highest yield for our money. Currently the rates are not that great for example a CD purchased a year ago had a yield of

1.87% for a 12-month CD. Today if we purchased a CD the rate would be .30% for the same time frame. It shall be the responsibility of the Finance Director to maximize investment revenues consistent with applicable laws and minimum investment risk. Such investments shall be made only in securities backed by the full faith and credit of the United States government, by the Federal Deposit Insurance Corporation (FDIC) or by the Federal Savings and Loan Insurance Corporation. Temporary investments may also be made in bank certificates of deposit supported by fully pledged collateral and repurchase agreements for the United States government or other allowable securities.

On a motion by Supervisor Toll seconded by Supervisor McCusker (Vote 5-0) the Board of Supervisors adopted **Resolution #2021-07** authorizing Kevin S. Barron and Richard L. Mellor, Jr. as signers for opening and closing certificates of deposit on behalf of Whitemarsh Township.

2. Representative for Montgomery County Tax Collection Committee

Mr. Mellor explained in accordance with Act 32, it requires the governing bodies of school districts, townships, boroughs, and cities that impose an earned income tax to appoint one voting delegate and one or more alternate delegates to be their Tax Collection Committee (TCC) representatives. The TCC meets periodically to review collection matters as well as evaluate the performance of the County wide tax collector, Berkheimer. He said the township needs to update their delegates and replace Nate Crittendon as the voting delegate with Kevin Barron our current Finance Director. Mr. Mellor stated he would continue to serve as the first alternate.

On a motion by Supervisor McCusker seconded by Supervisor Drossner (Vote 5-0) the Board of Supervisors adopted **Resolution #2021-08** authorizing Kevin S. Barron as the Voting Delegate for the Montgomery County Tax Collection Committee.

Motions (continued)

2. Stormwater Facilities Maintenance and Easement Agreement - 31 Copper Beech Drive

Ms. Heinrich explained the record plan for the residential subdivision shows this stormwater detention basin as being located within nearly the entirety of the rear yard of the subject property. The deed grant of easement for the area on which the stormwater facility is located indicates that ownership and maintenance across the basin easement is not a Township responsibility. She said at the request of the property owner, Township Staff visited the site and recommended clarification of ownership and maintenance responsibilities related to the detention basin. The following recommendations were made and agreed upon by the subject property owner, which would be established upon execution of the agreement: the detention basin, being located on private property, will continue to be owned and maintained by the property owner, in accordance with the original recorded grant of easement; Whitemarsh Township will mow the facility once annually; Whitemarsh Township will Monitor for and Clear Debris as part of the regular Department of Public Works (DPW) maintenance schedule and Whitemarsh Township will maintain the outfall structure and pipe extending to the street, which connects to the Township's Municipal Separate Storm Sewer System

(MS4). She explained these recommendations will allow Whitemarsh Township to appropriately maintain the Township's MS4 infrastructure, while respecting and preserving private property.

Supervisor Drossner thanked Ms. Heinrich and Jack Fields, Director of Public Works for reaching out to the resident and arranging this agreement.

On a motion by Supervisor Drossner seconded by Supervisor Toll (Vote 5-0) the Board of Supervisors approved the Stormwater Facilities Maintenance and Easement Agreement for Shindell/31 Copper Beech Drive.

3. Real Estate Tax Collector - Berkheimer – Collection of Township and County Real Estate Taxes

Mr. Mellor explained on December 16, 2020, a Request for Proposals for the collection of the Real Estate tax bill was issued and posted on the Township's web site. The Township received proposals from Keystone Collection Group and Berkheimer. A third company Elite Solutions did respond to the RFP but we received the quote a day after the RFP was due back to the Township. He summarized their proposals: Keystone Collection Group - \$3.50 per tax duplicate, plus actual Postage and reminder notice at \$.50 per piece plus actual postage; Berkheimer - \$3.00 per tax duplicate, plus actual Postage and reminder notice at \$1.50 per piece plus actual postage. He explained a review of the Township's Real Estate tax bill from previous years the cost to print and mail the bill would be Keystone - \$26,534 and Berkheimer - \$23,317. The cost to print and mail the reminder notice would be Keystone = \$ 75.00 and Berkheimer -= \$225.00. These prices are all approximate based on the 2020 bill.

Eli Glick (Whitefield Drive) asked how residents could get a paid receipt. Mr. Mellor explained Berkheimer will be able to provide receipts to any residents who request them.

On a motion by Supervisor Manuele seconded by Supervisor Drossner (Vote 5-0) the Board of Supervisors appointed Berkheimer as the Township's Real Estate Tax Collector for the Collection of Township and County Real Estate Taxes.

4. Board/Commission Appointments

Chair Nester thanked them for wanting to be involved and serve on the Boards.

Eli Glick stated his comment is to the Board of Supervisors. He complained there was no advertisement about the openings on the Boards and the way the Board of Supervisors chooses the individuals they appoint. He stated the Board owes it to the Township to put a diverse group of people on the Boards and Commissions.

Debra Harris (Pilgrim Road) stated she agreed with Mr. Glick about other townships advertising about the openings on their various Boards and Commissions. She stated she would like the Township to advertise to give residents the opportunity to apply.

Supervisor Drossner rebuked some of the comments made by Mr. Glick. He stated he advertises the positions on his social media. He explained the process the Board goes thru in choosing residents for the open positions.

On a motion by Supervisor Toll, seconded by Supervisors Drossner approved the appointment of the following individuals to Boards/Commissions:

Carly Greis – Library Board term ending December 31, 2023

Lisa Litzinger-Drayton – Environmental Advisory Board term ending December 31, 2023

Jim Tone - Environmental Advisory Board term ending December 31, 2022

5. Hold Harmless Agreement - 505-1/2 Germantown

Mr. Guttenplan explained the Hold Harmless Agreement is to allow a monument sign within the ultimate right-of-way in front of 505½ Germantown Pike. The sign is for the dental office to occupy the building at this location, approved by the Board as a Conditional Use at your September 10, 2020 meeting. The Township Engineer's office was asked to conduct a site visit to determine if the sign would create any sight distance issues from adjacent driveways. Krista Heinrich, Township Engineer explained that there are no sight distance issues; she recommends approval of the Hold Harmless Agreement.

On a motion by Supervisor Manuele seconded by Supervisor Drossner (Vote 5-0) the Board of Supervisors approved a Hold Harmless Agreement for sign in the ultimate right-of-way at 505 ½ Germantown Pike.

6. Authorization for Public Bid - 2021 Road Paving Program

Ms. Heinrich stated the preparation of the contract documents for the 2021 Road Program is nearing completion and approval is needed so that the bid process can begin with a bid opening scheduled for Spring 2021. She explained the project completion should occur sometime in July or August. The estimated bid construction cost for the project is \$400,000.00 which is funded by the Township's Liquid Fuels Allocation. The following roadways have been scheduled for resurfacing: E. 9th Avenue, Righter Street, Revere Road, 13th Avenue, Harts Lane, Hunter Road, Tara Court, Cardinal Drive, Penn Road, Friends Lane, Church Road, Park Avenue. Additional Roads may be added as identified by the Township Engineer and Director of Public Works, subject to availability of funding.

On a motion by Supervisor Manuele seconded by Supervisor McCusker (Vote 5-0) the Board of Supervisors authorized the public bid for the 2021 road paving program.

7. Authorization for Public Bid - Westaway Stormwater Improvements

Ms. Heinrich explained the preparation of the contract documents for the Westaway Drive Stormwater Improvements Project is nearing completion and with approval the bid process can begin

with a bid opening scheduled for Spring 2021. Project completion should occur sometime in July or August. The estimated bid construction cost for the project is \$760,000.00. This project, identified in the "Stormwater Task Force Report", consists of a stormwater collection and conveyance system along Westaway Drive, from Fields Drive to Germantown Pike. There is currently no stormwater infrastructure in this area, and this system would help to collect stormwater originating on Germantown Pike directed through the 'Knolls of Whitemarsh', and from the 'Whitemarsh Woods' basin that currently discharges directly onto Fox Lane. The new system would consist of approximately 2,550 linear feet of stormwater piping, 8 Manholes and 27 Inlets.

Supervisor McCusker stated it has been a long time coming. He stated the residents of Westaway Drive have struggled with flooding for many years. He said the residents of Westaway and Fields Drive are looking forward to the alleviation of the flooding.

Eli Glick said some of the flooding occurs from the basins at Whitemarsh Woods. He said the basins in Whitemarsh Woods fail. He said the improvements will not change the basin overrun at Fox Lane. He also spoke about the current stormwater system in the Whitemarsh Valley Farm below Westaway and Fields not being able to handle the water. He said it will not solve all of the flooding. He said Whitemarsh Woods should be encouraged to put in trees and the residents of Whitemarsh Valley Farm should be encouraged to put in rain gardens.

On a motion by Supervisor McCusker seconded by Supervisor Toll (Vote 5-0) the Board of Supervisors authorized the public bid for the Westaway Stormwater Improvements.

8. Escrow Release #5 - The Knolls at Whitemarsh/Germantown Pike

Eli Glick commented about the tree protections were not per plan.

On a motion by Supervisor Manuele, seconded by Supervisor McCusker (Vote 5-0) the Board of Supervisors authorized escrow release #5 for The Knolls at Whitemarsh/Germantown Pike in the amount of \$202,148.15.

9. Escrow Release #2 - The Hill at Whitemarsh – Phase 2

Emmitt Miller (Fountain Green Road) stated his property backs up to the project. He asked about the status of the temporary construction access road and the road's fence that was built behind his property. He explained when they were built and their purpose. He said people are residing in the building and there has been no construction since July 2020. He asked why the road and fence are still there.

Mr. Mellor explained the Township has submitted to the court to try and end the temporary construction access road. Unfortunately, the court did not rule in the township's favor. He stated the issue is currently in litigation. Mr. Kilkenny stated the Board of Supervisors has asked his office to push this forward.

On a motion by Supervisor Drossner, seconded by Supervisor McCusker (Vote 5-0) the Board of Supervisors authorized escrow release #2 for The Hill at Whitemarsh – Phase 2/4000 Foxhound Drive in the amount of \$572,955.30.

10. Escrow Release #2 Final - Mercedes Benz of Fort Washington/404 Pennsylvania Avenue

On a motion by Supervisor Toll seconded by Supervisor Manuele (Vote 5-0) the Board of Supervisors authorized the final escrow release #2 for Mercedes Benz of Fort Washington/404 Pennsylvania Avenue in the amount of \$64,374.65.

11. December 2020 Expenditures and Payroll and Pension Plan Paid Costs

On a motion by Supervisor McCusker seconded by Supervisor Toll (Vote 5-0) the Board of Supervisors approved expenditures totaling \$1,203,650.72; and payroll totaling \$712,273.41 and pension paid costs totaling \$9,764.82 for December 2020.

AMENDED AGENDA

On a motion by Supervisor McCusker seconded by Supervisor Drossner (Vote 5-0) the Board of Supervisors amended the agenda.

12. Property Assessment Appeal Settlements - Glenmont Associates LTD Partnership/10 Ridge Pike (Whitemarsh Shopping Center)

Mr. Mellor explained the property owner filed this appeal in 2016 claiming their assessment was too high, yet the case has remained stagnant until the recent efforts by the court to resolve older assessment appeal cases. Considering the additional costs of litigation, the School District's solicitor has decided it in its client's best interests to settle this matter. After considering the appraisals of the property owner and the School District, the parties agreed on a uniform decrease in the assessed value for all years of 947,360. Per the settlement, the assessed value for 2021 will remain at 7,921,500 as is standard in assessment appeal cases, unless otherwise appealed or reassessed by the Board of Assessment. If the stipulation is approved by the court, the Township is required to refund \$8,032 within 60 days of the court accepting the settlement stipulation. Of note, Colonial School District has agreed to refund the property owner \$84,747.

On a motion by Supervisor Toll seconded by Supervisor Manuele (Vote 5-0) the Board of Supervisors authorized the Order and Settlement Stipulation between Glenmont Associates LTD Partnership/10 Ridge Pike (Whitemarsh Shopping Center) v. MONTCO Board of Assessment Appeals resulting in the decrease in the assessment between 2017-2020 requiring a repayment of \$8,032 in Township real estate taxes.

13. Property Assessment Appeal Settlements - Green Valley Country Club/201 W Ridge Pike

Mr. Kilkenny explained on November 28, 2016, Green Valley appealed the Board of Assessment Appeals' determination that the property should remain assessed at \$5,380,440. In its appeal, Green Valley asserts the implied fair market value is higher than the actual fair market value, and therefore, the assessed value is excessive. On May 18, 2016, Frederick M. Lesavoy completed his appraisal of the property on behalf of the country club and determined the current market value of the property to be \$5,000,000. While the School District does not agree with this number, they have agreed to reach a compromise on the assessed value. He said the property's open space qualifies under Act 515, it is eligible for a preferential assessment. The parties have agreed that the preferential assessment should be approximately 5M. This assessment equates to a IFMV of the property for 2021 of \$10,354,051. Additionally, per the settlement, the assessed value for 2021 will be \$4,612,710 and will remain assessed at that amount, as is standard in assessment appeal cases, unless otherwise appealed or reassessed by the Board of Assessment. If the stipulation is approved by the court, the Township is required to refund \$3,565.19 within 60 days of the court accepting the settlement stipulation. Of note, by approving the stipulation, Colonial School District will refund the property owner \$37,070.99.

On a motion by Supervisor Manuele seconded by Supervisor McCusker (Vote 5-0) the Board of Supervisors authorized the Order and Settlement Stipulation between Green Valley Country Club/201 W Ridge Pike v. MONTCO Board of Assessment Appeals resulting in the decrease in the assessment between 2017-2020 requiring a repayment of \$3,565.19 in Township real estate taxes.

14. Property Assessment Appeal Settlements - Stonemor PA LLC/80 Stenton Avenue (George Washington Cemetery)

Mr. Kilkenny explained on October 28, 2016, Stonemor appealed the Board of Assessment Appeals' determination that the property should remain assessed at \$5,380,440. In its appeal, Stonemor asserts the implied fair market value is higher than the actual fair market value, and therefore, the assessed value is excessive. On June 30, 2018, the property owner's appraisal determined the current market value of the property to be \$3,500,000. The School District agrees with this appraisal value for 2021 and negotiated a 500K reduction in the assessed value each year to preserve tax revenue. As part of the negotiated stipulation, the assessment for 2017 remains unchanged. Additionally, per the settlement, the assessed value for 2021 will be \$1,951,700 and will remain assessed at that amount, as is standard in assessment appeal cases, unless otherwise appealed or reassessed by the Board of Assessment. If the stipulation is approved by the court, the Township is required to refund \$8,296.21 within 60 days of the court accepting the settlement stipulation. Of note, by approving the stipulation, Colonial School District will refund the property owner \$87,009.48.

On a motion by Supervisor Toll seconded by Supervisor McCusker (Vote 5-0) the Board of Supervisors authorize the Order and Settlement Stipulation between Stonemor PA LLC/80 Stenton Avenue (George Washington Cemetery) v. MONTCO Board of Assessment Appeals resulting in the decrease in the assessment between 2018-2020 requiring a repayment of \$8,296.21 in Township real estate taxes.

15. Property Assessment Appeal Settlements - CVS Pharmacy/7000 Butler Pike

Mr. Kilkenney explained the property at issue is the CVS Pharmacy located at 7000 Butler Pike (Parcel #:65-00- 10658-03-2) on the corner of Skippack and Butler Pike. The parcel is 12,977 SF and currently assessed at 1,016,300. Based on the 2021 STEB ratio of .469 and the current assessment, the implied fair market value (IFMV) of the property is \$2,166,951. On July 18, 2017, the property was sold to its current owner, 176 Bleeker Street Realty Corp. for \$9.65M. While four different entities have owned the property since the CVS was constructed in 2012, CVS is responsible, in accordance with its lease, to “timely pay all tax authorities for real estate taxes” and its attorneys have negotiated the settlement. Colonial School District filed this appeal in 2013 when it determined the assessed value did not equal their estimate of its value. The case has remained stagnant until the recent efforts by the court to resolve older assessment appeal cases. Considering the additional costs of litigation, the School District’s solicitor and CVS have decided it in its client’s best interests to settle this matter. After considering the property’s valuations by CVS and the School District, the parties agreed on the increase. For 2021, the Township will receive \$8,831.18 in property taxes. Additionally, per the settlement, the assessed value for 2021 will remain at 3,736,800 as is standard in assessment appeal cases, unless otherwise appealed or reassessed by the Board of Assessment. If the stipulation is approved by the court, the Township is should verify the amounts above and issue a tax bill for past taxes.

On a motion by Supervisor Manuele seconded by Supervisor McCusker (Vote 5-0) the Board of Supervisors authorized the Order and Settlement Stipulation between CVS Pharmacy/7000 Butler Pike v. MONTCO Board of Assessment Appeals resulting in the increase in the assessment between 2014-2020 requiring a payment of \$37,606.74 in Township real estate taxes.

PUBLIC COMMENT PERIOD

Debra Harris stated she was misquoted in the December meeting minutes. She stated she was speaking about a resolution sent from the Environmental Advisory Board to the Board of Supervisors. She stated the resolution was passed by the entire EAB Board.

Linda Doll (Fairway Road) thanked the Board of Supervisors for having patience listening to the resident’s comments regarding 606/608 Germantown Pike.

Eli Glick (Whitefield Drive) stated there is a problem with communication from the Board of Supervisors and the recording of the minutes and the inaccurate recording of what people say. He stated that the comments he made at the Reorganization Meeting regarding his opinion that Mr. Drossner’ s renting an office in Mr. Kilkenney’s building was a conflict of interest was not recorded in the minutes. He stated he wants to see action on the environment.

Sydelle Zove (Harts Ridge Road) thanked the Board of Supervisors for continuing the Conditional Use Hearing. She asked that the Board listen to the residents when the Conditional Use Hearing continues. It is important to the residents.

BOARD MEMBER COMMENTS

EXECUTIVE SESSION

Chair Nester announced the Board of Supervisors held an Executive Session on prior to the meeting to discuss real estate and litigation.

Chair Nester announced the Board of Supervisors held an Executive Session on January 12, 2021 to discuss real estate and litigation.

ADJOURNMENT

On a Motion by Supervisor Toll seconded by Supervisor Drossner the meeting for January 28, 2021 was adjourned at 8:15 PM.

Respectfully Submitted,

Richard L. Mellor, Jr.
Township Manager