

**WHITEMARSH TOWNSHIP BOARD OF SUPERVISORS**  
**PUBLIC MEETING MINUTES**  
**June 13, 2019**

A Regular Monthly Meeting of the Whitemarsh Township Board of Supervisors was called to order on Thursday June 13, 2019 at 7:00PM in the Whitemarsh Township Building, 616 Germantown Pike Lafayette Hill, Pennsylvania.

**Supervisors Present:** Missy Sterling, Chair; Amy Grossman, Vice Chair; Michael Drossner, Laura Boyle Nester and Fran McCusker

**Also present:** Richard L. Mellor, Jr., Township Manager; Sean Kilkenny, Township Solicitor; Krista Heinrich, P.E. Township Engineer; and Charles L. Guttenplan, AICP

**PLEDGE OF ALLEGIANCE**

**ANNOUNCEMENTS**

Supervisor Grossman announced:

Online registration is open for the Fourth of July Parade scheduled for Thursday, July 4th, from 10am until 1pm. Hard copy forms are also available at the Parks and Recreation Building located at Koontz Park, and the Administration Building located at 616 Germantown Pike.

Flourtown Road will be closed between Stenton Ave. and Thomas Road beginning Monday, June 17th through mid-July. This work is part of the intersection improvement plan for Stenton Avenue.

Road Paving will begin on Monday, June 17th. Residents can find a list of the roads scheduled for repaving on the Township's website.

Chair Sterling made an announcement regarding the Zoning change included in the housekeeping amendment adopted in October 2018. She explained housekeeping amendments that occur every few years. She stated the area of Butler and Skippack Pikes were changed to the VC4 district in 2011. In order to keep consistent with the other VC districts in the township the housekeeping amendment added the same 11 conditional uses to the VC4 district that were already permitted in the other VC districts in the township. She explained the conditions were added to the ordinance after it was approved by the Planning Commission and the Township Solicitor advised the ordinance was not legally required to go back to the Planning Commission to review these uses. She stated the Board of Supervisors was not made aware of the change. The final ordinance, containing the 11 conditional uses was sent to the Montgomery County Planning Commission which had no comment and to the law library for public inspection. She said it was also advertised twice in *The Times Herald* newspaper in accordance with the Pennsylvania Municipalities Planning Code and made available at the township building for public review. She stated the Board and Staff agree that even though the process followed complied with the law there are improvements that can be made. Those include sending all ordinance changes back to the Planning Commission even if not required by law. All substantive changes to the zoning code will not be referred to as housekeeping but rather zoning code amendments. Also prior to the advertisement of a public hearing the Board will review zoning amendments as a discussion item at a public meeting to provide additional opportunity for public engagement. She stated the Board is looking to find more ways to engage the public, she stated they want

the public involved in the process. She stated the Board has directed Staff and the Township Solicitor to draft a new ordinance removing the 11 conditional uses from the VC4 district and send that ordinance back to the Township Planning Commission for its review. She stated the Board appreciates all the public comments on this matter.

Mr. Kilkenny stated this afternoon Mr. Karabots attorney filed with the Township a Conditional Use application and a plan application for townhomes on Skippack Pike, in the VC4 district, which complies with the current ordinance. He said therefore the applicant's rights to have a conditional use hearing whereby townhomes are a permitted use has vested. He stated any changes to the VC4 district the Planning Commission or the County Planning Commission may or may not recommend and the Board of Supervisors act on will apply going forward.

### **Motions**

#### **AMEND AGENDA**

On a motion by Supervisor Nester, seconded by Supervisor Grossman (Vote 5-0) the Board of Supervisors amended the agenda.

### **Motions**

#### **1. Sending a Zoning Amendment back to the Township and County Planning Commission for their review and comment**

On a motion by Supervisor Grossman, seconded by Supervisor McCusker (Vote 5-0) the Board of Supervisors approved sending a Zoning Amendment back to the Township and County Planning Commission for their review and comment that removes the 11 Conditional Uses from the VC-4 Zoning District included from the Housekeeping Zoning Amendment approved by the Board of Supervisors on October 25, 2018.

Eli Glick (Whitefield Drive) asked that part of the statement be re-read. He stated that he didn't believe the statement read was the one that was on the township website. Chair Sterling re-read two paragraphs.

Frank Scarpello (Arlingham Road) asked does it mean that if the zoning amendment is changed the developer's rights have been vested to what the zoning code is today. Mr. Kilkenny agreed. Mr. Scarpello asked if the Board know when the change was made and a discussion ensued.

Sydelle Zove (Harts Ridge Road) stated she understood that if all that has been submitted by the developer has been a sketch plan then the township is under no obligation. Mr. Kilkenny stated the plan was submitted today. She spoke about the Township Zoning Code and the Pennsylvania Municipalities Planning Code that zoning amendments must go before the township Planning Commission.

Marshall Pepper (Red Rambler Drive) asked who recommended the changes originally. He asked if Mr. Karabots will be developing the property and if any of the Township Solicitor's ever represented Mr.

Karabots and Mr. Kilkenny stated he has never represented him. Chair Sterling stated she is not aware of anyone representing Mr. Karabots.

Louise Kaplan (Black Walnut Lane) asked that the Board answer the question of who made the recommendation of the changes.

Bob Sague (Kottler Drive) spoke about the recommended changes and who he felt was behind the change. A discussion ensued.

Marshall Pepper asked Mr. Kilkenny if he recommended the changes to the Board. Mr. Kilkenny stated he did not.

Frank Scarpello stated he know when the change occurred, after he researched it.

Supervisor Drossner spoke to the changes that occurred.

## **PUBLIC HEARINGS**

### **1. Conditional Use #01-19 - Lafayette Tobacco Outlet, Inc/551 Germantown Pike**

On a motion by Supervisor Grossman, seconded by Supervisor Drossner (Vote 5-0) the Board of Supervisors continued the Public Hearing for the Conditional Use #01-19 Lafayette Tobacco Outlet, Inc./551 Germantown Pike.

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 P. Kilkenny, Solicitor  
 Charles L. Guttenplan, AICP  
 Catherine Harper, attorney for the applicant  
 Angela Ang, applicant  
 David Wijaya, applicant  
 Mary McGonagle, resident  
 Jeff Horrow, resident

On a motion by Supervisor Nester, seconded by Supervisor Drossner (Vote 5-0) the Board of Supervisors closed the public hearing until June 13, 2019.

On a motion by Supervisor Drossner, seconded by Supervisor Grossman (Vote 5-0) the Board of Supervisors moved to deliberate.

On a motion by Supervisor Drossner, seconded by Supervisor Nester (Vote 5-0) the Board of Supervisors re-opened the Public Hearing for the Conditional Use #01-19 Lafayette Tobacco Outlet, Inc./551 Germantown Pike.

On a motion by Supervisor Drossner, seconded by Supervisor Nester (Vote 5-0) the Board of Supervisors closed the public hearing until June 13, 2019.

### **Motions (Continued)**

#### **2. Conditional Use #01-19 - Wijaya/551 Germantown Pike – Tobacco Shop (retail use) in VC-1 District**

On a motion by Supervisor Grossman, seconded by Supervisor McCusker (Vote 5-0) the Board of Supervisors to approve Conditional Use #01-19, Lafayette Tobacco Outlet, LLC/551 Germantown Pike for a retail use in the VC-1 Zoning District.

On a motion by Supervisor Grossman, seconded by Supervisor Nester (Vote 5-0) the Board of Supervisors to dis-approve Conditional Use #01-19, Lafayette Tobacco Outlet, LLC/551 Germantown Pike for a retail use in the VC-1 Zoning District.

Supervisor Drossner spoke about education of children and adults about smoking/vaping.

Supervisor Nester stated she didn't feel like the shop is a good fit for the area. Chair Sterling agreed with Supervisor Nester.

Supervisor Grossman spoke about the dangers of vaping.

Supervisor McCusker stated he has spoken to a lot of residents about this and the majority of people stated they would feel unsafe with this type of a shop.

### **PUBLIC HEARINGS (continued)**

#### **2. Conditional Use #02-19 - Toyosu Sushi & Poke Bowl c/o Doonark and Myung-Jean Song/428 Germantown Pike**

On a motion by Supervisor Nester, seconded by Supervisor McCusker (Vote 5-0) the Board of Supervisors opened the Public Hearing for Conditional Use #02-19 - Toyosu Sushi & Poke Bowl c/o Doonark and Myung-Jean Song/428 Germantown Pike Restaurant Use in VC-1 District

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 P. Kilkenny, Solicitor

Charles L. Guttenplan, AICP  
 Julie Von Spreckleson  
 Doonark Song

On a motion by Supervisor Drossner, seconded by Supervisor Nester (Vote 5-0) the Board of Supervisors closed the public hearing.

**Motions (continued)**

**3. Conditional Use #02-19 Toyosu Sushi & Poke Bowl c/o Doonark and Myung-Jean Song/428 Germantown Pike Restaurant Use in VC-1 District**

On a motion by Supervisor Drossner, seconded by Supervisor Grossman (Vote 5-0) the Board of Supervisors approved Conditional Use #02-19, Toyosu Sushi and Poke Bowl c/o Doonark and Myung-Jean Song/428 Germantown Pike for a restaurant use in the VC-1 Zoning District.

**PUBLIC HEARINGS (continued)**

**3. Verizon Franchise Agreement Renewal**

On a motion by Supervisor Nester, seconded by Supervisor Grossman (Vote 5-0) the Board of Supervisors opened the Public Hearing for Verizon Franchise Agreement Renewal.

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 P. Kilkenny, Solicitor

On a motion by Supervisor Nester, seconded by Supervisor Grossman (Vote 5-0) the Board of Supervisors closed the public hearing.

**APPROVAL OF MINUTES**

**1. May 9, 2019**

On a motion by Supervisor Grossman, seconded by Supervisor McCusker (Vote 5-0) the Board of Supervisors approved the May 9, 2019 meeting minutes.

**BOARD PUBLIC DISCUSSION ITEMS**

**ACTION ITEMS**

## Ordinances

### Resolutions

#### 1. **SLD#10-06 Squires Ridge, LLC/Ridge Pike - Amended Conditional Final Minor Subdivision Plan**

Mr. Guttenplan explained the (amended) resolution for Squires Ridge development, proposed in Springfield Township, because a small open space parcel associated with it, is located in Whitemarsh Township. The Board approved an identical amended resolution as the one proposed now, in July 2018. Unfortunately, the developer's deal did not materialize at that time and the resolution was never executed. That has been resolved; the same developer is now moving forward with this project and therefore a new resolution is necessary since the 2018 resolution is legally null and void. He explained there is a 2.6503-acre parcel located in Whitemarsh Township included in this development, though no improvements of any kind are proposed on this parcel. It will remain in its current open space use. However, because it was used in calculations for the development's NPDES permit, the Township must re-approve this plan and sign it prior to its being recorded. The Township approved a minor subdivision plan in 2007 via Resolution #2007-14, when the original subdivision was approved; at that time, the plan showed 52 age-qualified dwelling units plus the retention of an existing dwelling, all in Springfield Township. The current plan shows 34 age-qualified dwelling units, also all within Springfield Township. He stated the only significant condition left is for the developer to pay a voluntary payment of \$10,000 to Whitemarsh Township in lieu of dedication of park and recreation land and in lieu of a Traffic Impact Fee. The developer has acknowledged that there are no records the payment has been made and therefore that obligation is contained in this resolution.

Joe Morrissey, Managing Member of Foxlane Homes, stated they are ready to buy Squires Ridge stated they are slated to buy the property and explained the development. There was a discussion regarding the development and verified that all of the buildings will be in Springfield Township and that they will not develop on the 2 plus acres in Whitemarsh.

A resident spoke about Manor Road and Ridge Pike intersection and asked if anything is being addressed to relieve the traffic in the area. Supervisor Grossman stated the County has a large plan for Ridge Pike Improvements. Mr. Mellor explained the plans put forth by the County for Ridge Pike.

Sydelle Zove asked if there is a way to adjust the timing at that intersection at this time. Mr. Mellor explained the process to get the timing adjusted.

Bob Sague asked about the manor house on the property. Mr. Morrissey explained the house is not going to be touched.

On a motion by Supervisor Drossner, seconded by Supervisor Grossman (Vote 5-0) the Board of Supervisors re-adopt **Resolution #2019-14** granting conditional Final Plan approval for SLD#10-16; Squires Ridge, LLC/Ridge Pike to re-approve 2.65 acres in Whitemarsh Township which remain undeveloped as is part of the development plan for thirty-four (34) new residential dwelling units in Springfield.

### Motions (continued)

#### 3. **Communication Strategy Proposal - Gailey Murray Communications**

Mr. Mellor explained Tom Gailey from Gailey Murray Communications has provided a proposal to help staff initiate and implement the recommendations from the communications strategy for \$3,500 per month. He stated the Township retained Gailey Murray Communications to perform a communications assessment focused on improving and growing the communications from the Township both externally and internally. Much of the staff was interviewed to hear their views on how communication occurs and what improvements could be made. Mr. Gailey identified several strategies in the attached proposal such as: a weekly newsletter to highlight and promote issues pertaining to the Township, coordinate social media outlets to promote message to the community, develop short messages through WTV to post on website and social media, update website to improve use and ease to find information and develop a monthly internal newsletter for employees. Mr. Mellor stated Tom Gailey and his firm will help develop and implement these strategies through their experience in working with other municipalities. They provide the templates and techniques on how to instruct staff to focus the message to the community. He will also be available in the event his services are required to consult on any communication matter for the Township.

Supervisor Drossner asked if there is an idea of how long they would be onboard to assist the Township. Mr. Mellor over the course of the next six months with their guidance, staff would be able to take over implementing the communication.

Supervisor Nester stated a lot of residences are getting away from cable networks and streaming what they are watching. She stated she is concerned that people would not be able to watch the meetings if they do not have cable service, since WTV is on Verizon and Comcast. Mr. Mellor stated this issue was discussed. He stated there is also an idea to do a survey to find out how people get their information to make sure the Township is putting their resources in the right places. Supervisor Nester clarified that part of this is looking at how the website functions. She also asked when an update on the status would be available. She asked if by the next meeting an update would be available. Mr. Mellor concurred.

Chair Sterling stated that just because the Township has done things a certain way for so long it doesn't mean that it can't be changed. She said better communication with the residents is imperative. Mr. Mellor agreed.

Supervisor McCusker stated public support is important. He said it is important to find out how the residence will consume this. He said the Media communications Board will be vital to this.

Terence Martin (Basswood Drive) said he applauds the Board for pursuing this. He stated the cost is very high. He suggested an RFP be put out. He also suggested that the taped meetings be put on Utube.

Eli Glick stated in a Right to Know request at the end of 2018 he asked for the information about how many people watch WTV and the information is not available.

Sydelle Zove asked if the proposal submitted was the result of an RFP and if not how was it selected. Mr. Mellor explained there was no RFP but the company was brought in after recommendations from other municipalities who have worked with the company.

Frank Scarpello asked what other municipalities use this company. Mr. Mellor listed a few local municipalities. He also believes the cost is too high. He asked if the township thought of reaching out to the local high schools and provide internships to work for communications. Mr. Mellor explained the problem with the turn-over of interns and trying to keep the work consistent. Mr. Scarpello also stated that the information provided on the website needs to be timely.

Supervisor Drossner asked if there is a commitment to a certain number of months. Mr. Mellor stated it is on a month – to – month basis and as the township takes over different parts of the communication the cost can be reduced. Supervisor Drossner asked how much time the company would be working per month. Mr. Mellor stated he could get the information from Mr. Gailey.

On a motion by Supervisor Drossner, seconded by Supervisor Nester (Vote 5-0) the Board of Supervisors TABLED the communications strategy proposal from Gailey Murray Communications in the amount of \$3,500 per month until further information is provided.

#### **4. Hold Harmless Agreement -3034 Edmonds Road**

Mr. Guttenplan explained the Hold Harmless Agreement for the property at 3034 Edmonds Road is for a new post and rail fence in the ultimate right-of-way of Edmonds Road. The Police Chief has reviewed this application and finds that it poses no safety hazard. The adjacent property (corner of Edmonds Road and Germantown Pike) has a similar fence in the same location and this would be essentially an 'extension' of that fence.

On a motion by Supervisor Drossner, seconded by Supervisor Grossman (Vote 5-0) the Board of Supervisors approved a Hold Harmless Agreement for post and rail fence in the ultimate right-of-way at 3034 Edmonds Road.

#### **5. Authorization to Bid - Intersections Improvements**

T Ms. Heinrich explained the Pennsylvania Department of Transportation is preparing to issue a Highway Occupancy Permit (HOP) for Application #169798 for installation of major improvements to the intersection of Joshua Road and Flourtown Road and #06095132 for installation of major improvements to the intersection of Stenton Avenue and Joshua Road. The Township has secured the required Rights-of-Way and easements necessary for construction of the improvements. Preparation of the contract documents for this project has been completed and the project is ready for public bidding, pending issuance of the HOP. The bid process will take approximately 75 days and it is anticipated that the project will take about 6 to 8 months to complete.

On a motion by Supervisor Grossman, seconded by Supervisor Nester (Vote 5-0) the Board of Supervisors authorized the bid for intersections improvements at Stenton Avenue and Joshua Road as well as Joshua and Flourtown Roads.

#### **6. Escrow Release #1; DJB Properties, LLC/903 Spring Mill Avenue**

On a motion by Supervisor Grossman, seconded by Supervisor Drossner (Vote 5-0) the Board of



Supervisors authorized escrow release #1 for DJB Properties, LLC/903 Spring Mill Avenue in the amount of \$117,686.74.

#### **7. May 2019 Expenditures and Payroll and Pension Plan Paid Costs**

On a motion by Supervisor Grossman, seconded by Supervisor McCusker (Vote 5-0) the Board of Supervisors approved expenditures totaling \$1,250,435.30; and payroll totaling \$936,412.75 and pension paid costs totaling \$12,016.70 for May 2019.

#### **ANNOUNCEMENTS (continued)**

Chair Sterling stated that over the past few weeks the Township has been receiving numerous complaints about trash pick-up. Mr. Mellor said that the JP Mascaro Company has not been providing any kind of quality service over the approximately 4 weeks. He said this is due the previous route manager, who became ill, but the company did not replace this person and as a result the residents are suffering greatly. He said the Township has been inundated with phone calls which is now costing the Township the time and effort the employees have to put into this problem. He said there was a meeting with Mascaro's upper management and had several emails with their general counsel concerning this issue and explaining to them this needs to be corrected or the Township will need to go to the contract and look at fines and penalties. The general counsel for Mascaro's has assured Mr. Mellor that they would have an action plan in place which includes; a point of contact that would report to the township which would allow the township to communicate to the public what is going on, yard waste would be cleaned up by the upcoming Saturday and have the necessary manpower to get the trash and get it in a timely fashion. The township has been in daily contact with Mascaro's letting them know the amount of calls being received. Mr. Mellor stated he explained to Mascaro's if a substantial change does not take place in a timely fashion the township would be forced to go to the contract and take recourse as spelled out in the contract.

Chair Sterling asked that information be put on the website and social media letting residents know that the township is aware of the trash problems and are dealing with the issue.

#### **PUBLIC COMMENT PERIOD**

Terrance Martin asked when the contract is up with Mascaro. Mr. Mellor stated December 31, 2019. He explained the township will be going out to a public bidding process. He asked if there is a way to get information on the cost of a per trash pick-up compared to other municipalities. He spoke to the comment made about the cost to hire someone to work on the website, social media and communications and he agrees. He suggested that maybe there is a way to hire an outside person/group to handle the work and not have to deal with benefits, etc. Supervisor McCusker asked Mr. Mellor for clarification that the cost for the communication consultant wouldn't go on forever, that it would be handled internally after learning to deal with it. Mr. Mellor explained that after the initial launch period and the township gets up and acclimated with it the consultant could be let go or could be held on retainer.

Eli Glick spoke about the number of meetings the Supervisors have had in 2019, updates on the website, meeting cancellations posted on website, agenda postings and agenda item descriptions. He spoke about the Zoning Amendment in the VC4 district. He spoke about resident engagement and transparency. He provided his ideas on how to communicate better with residents.

Sydelle Zove thanked the Board for the decision on the Conditional Use. She spoke about a late posting of an agenda and the reason the agenda needs to be posted in a timely manner. Asked at the last Board of Supervisors meeting she stated she had filed an appeal with the Office of Open Records regarding a denial of one of her Right to Know requests. She asked if the suggestion she provided for the copyright issue that was the source of her denial had been considered. She spoke about the Zoning Amendment to the VC4 district.

Marshall Pepper spoke about the demeanor of the Board of Supervisors at the meeting. He spoke about the process of the Zoning Amendment in the VC4 district. He spoke about the transparency of the Board.

Frank Scarpello also spoke about transparency. There was a discussion about the change to the Zoning Amendment in the VC4 district.

Bob Sague spoke about the retention basin on Butler Pike off of Spring Mill Road and the fact that it does not appear to be draining and the one at Mitchell Court that will continue to drain for days after the rain. He asked the engineers to look into what the problems are with the basins. He spoke about so many trees and bushes over the streets that need to be trimmed so buses can go under them and about site line problems at intersections. He spoke about residents parking in the street and not in their driveways. He spoke about the sound when projecting the meetings on WTV and its distortion. He offered his condolences to all who knew Retired Office Terry Sztubinski who passed away.

G.G. Glendenning stated she was there to report what she witnessed at the LuLu Shrines Circus in May. Supervisor Grossman asked if the Board instructed Staff to research an ordinance banning these types of animal acts in the Township. Supervisor Nester offered her support.

#### **BOARD MEMBER COMMENTS**

#### **ANNOUNCE EXECUTIVE SESSION**

Chair Sterling announced the Board of Supervisors held an Executive Session prior to this meeting to discuss Litigation.

#### **ADJOURNMENT**

On a motion by Supervisor Grossman, seconded by Supervisor McCusker, the meeting was adjourned at 10:15 PM.

Respectfully submitted,

Richard L. Mellor, Jr.  
Township Manager

June 13, 2019