

**WHITEMARSH TOWNSHIP BOARD OF SUPERVISORS  
PUBLIC MEETING MINUTES  
November 14, 2019**

A Regular Monthly Meeting of the Whitemarsh Township Board of Supervisors was called to order on Thursday November 14, 2019 at 7:00PM in the Whitemarsh Township Building, 616 Germantown Pike Lafayette Hill, Pennsylvania.

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

**Supervisor Absent:** Missy Sterling, Chair

**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 Nester announced:

Chair Sterling would not be at the meeting tonight due to a death in her family.

The Whitemarsh Police Department will be participating in seat belt enforcement activities as part of the "Click it or Ticket" Thanksgiving Enforcement Mobilization from November 25th through December 8th. A link to additional information is available in this week's newsletter, our Facebook page, and the Township website homepage.

Construction on the current phase of Stenton Avenue is expected to be completed by month's end, weather permitting. Work on this phase of the intersection improvements to Stenton Avenue continues. PECO and Aqua are completing significant sections of the work on Stenton Avenue that has allowed our general contractor to start the storm water installation followed by the road reconstruction. Work at this intersection involves the installation of designated left turn lanes in both directions from Stenton Avenue and a designated right turn lane from Flourtown Road. Stormwater improvements will also be made at the intersection. This is one of the five intersections the Township must improve by Court Order

Donations for the Colonial Neighborhood Council will continue to be accepted until next Friday, November 22nd. Thank you to everyone who has donated so far!

Join our Parks and Recreation Department for the Annual Gingerbread House Decorating Party on Sunday December 1st from 10am until noon, or 1:00pm until 3:00pm. This event will take place at the Cedar Grove Barn.

**PUBLIC HEARINGS**

- 1. Conditional Use #01A-19 - Wijaya/551 Germantown Pike – Retail Use in VC-1 District**

On a motion by Supervisor Nester, seconded by Supervisor Drossner (Vote 4-0) the Board of Supervisors opened the Public Hearing for Conditional Use #01A-19 - Wijaya/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 Kilkenny, Solicitor  
 John Pak, Attorney for the Applicant  
 Angela Ang, Applicant  
 Heidi Meiers, Resident  
 Nany Lee Walter, Resident  
 Jeff Horrow, Resident

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

## **Motions**

### **1. Conditional Use #01A-19 - Wijaya/551 Germantown Pike**

On a motion by Supervisor McCusker, seconded by Supervisor Nester (Vote 4-0) the Board of Supervisors approved Conditional Use #01A-19, Wijaya/551 Germantown Pike for a retail use in the VC-1 Zoning District subject to the following conditions: there shall be no sale of tobacco or tobacco products, vaping or vaping products, alcohol, or adult-oriented materials and the Applicant shall withdraw its current appeal from the denial of the conditional use for the Lafayette Tobacco Outlet within five (5) business days of the date of this approval and submit proof thereof to the Township and the Township Solicitor.

## **APPROVAL OF MINUTES**

### **1. October 10, 2019**

On a motion by Supervisor Drossner, seconded by Supervisor McCusker (Vote 4-0) the Board of Supervisors approved the October 10, 2019 meeting minutes.

## **BOARD PUBLIC DISCUSSION ITEMS**

## **ACTION ITEMS**

## **Ordinances**

## **Resolutions**

## 1. Distribution of 2019 Act 205 State Aid

Mr. Mellor explained each year Whitemarsh Township receives from the Commonwealth of Pennsylvania ACT 205 funds that are put towards the municipal pension. Due to the obligation the 2019 Minimum Municipal Obligation (MMO) with the Police Pension Plan (A Defined Benefit Plan) which the Township is recommending that the entire Act 205 in the amount of \$573,495.89 be allocated to the 2019 Police Pension Plan.

On a motion by Supervisor Drossner, seconded by Supervisor Nester (Vote 4-0) the Board of Supervisors adopted **Resolution #2019-20** allocating the 2019 Act 205 State Aid distribution in the amount of \$573,495.89 to the police pension plan in accordance with Resolution #2018-19.

### Motions (continued)

## 2. Conditional Use #03-19 - Argos Associates/Adelphi Land Associates/Polergodom Group; Longfield Farms/Butler Pike

Christopher Miller (Butler Pike) spoke about storm drain issue he has, the storm drain that starts at the farm and crosses Butler Pike into Whitpain. He asks that it be addressed before development. Ms. Heinrich stated the County owns the pipe and they are aware of the issue. Robert Downs (Argos Associates) stated the pipe was replaced by the County in 1992 at the request of Mr. Miller's neighbor.

Peter Lantos asked about a traffic study being done for the development. Supervisor Grossman stated there was a traffic engineer at a previous meeting.

Sydelle Zove (Harts Ridge Road) asked about the appraisal the Township was going to get for Longfield Farm. She asked about the status. Supervisor Drossner stated he doesn't anticipate the Township purchasing the property with Open Space Funds. Mr. Mellor stated the appraisal was completed. Ms. Zove was directed to submit a Right to Know request.

Supervisor Nester asked about the size of the provided defined and reasonably level open or green space, exclusive of the stormwater management facilities for recreational facilities suitable to residents of this development condition in the agreement. Mr. Downs stated the size will be as big as they can make it. There was a discussion about the size of the Open Space.

Judy Mesirov (Fountain Green Road) asked how this can be approved with the stormwater issues when County is involved and there is no solution yet. There was a discussion regarding stormwater and development.

Sydelle Zove (Harts Ridge Road) spoke to the Open Space and the basin. There was a discussion of the approval and the calculation of open space.

Mr. Downs stated that he believes the open space calculation being provided is above the Township's minimum requirement.

Pat Sheinman (Butler Pike) spoke about the recreational space. There is a discussion about the recreational space.

Lynn Hoffman (Butler Pike) asked of the possibility of underground cisterns instead of detention basins.

On a motion by Supervisor Grossman, seconded by Supervisor McCusker (Vote 3-1, Supervisor Nester voted no) the Board of Supervisors approved a Conditional Use #03-19 Argos Associates/Adelphi Land Associates/Polergodom group; Longfield Farms/Butler Pike with the following conditions:

1. That within 90 days of the date of issuance of the certificate of occupancy for the 58th home, there be an evaluation of the traffic signal timing at the intersection of Butler and Skippack Pikes to determine whether the signal is operating in accordance with the traffic signal permit and whether any timing changes are required to accommodate the proposed development.

2. That the Applicant shall provide access to the development from both Butler and Skippack Pikes.

3. That any land development approval of this project shall include a requirement of compliance with the Montgomery County-initiated Act 167 Stormwater Management Study that was approved by the Pennsylvania Department of Environmental Protection In July 2015 as to any stormwater released, directly or indirectly, to Whitpain Township from the Property.

4. That the rate and volume of stormwater shall be no more than predevelopment with respect to stormwater released to Whitpain Township from the Property.

5. That the Applicant develop its proposed townhome units In substantial accordance with the architectural features shown on the three (3) renderings depicting townhome units that the Applicant presented at the Hearing, which are attached hereto as Exhibit "A" and Incorporated herein by reference.

6. To the extent not restricted by existing easements and/or other restrictions, that the Applicant Install pedestrian walkways (which shall Include concrete sidewalks and/or macadam paths) on the full frontages of its property along Butler and Skippack Pikes.

7. That the Applicant provide a defined and reasonably level open or green space, exclusive of the stormwater management facilities for recreational facilities suitable to residents of this development. The open space allocation/basin shall be reviewed to the satisfaction of the Township Engineer to make sure the basin is appropriately sized (amended).

8. That the Applicant use Its good faith, commercially reasonable efforts to design and build townhome units which contain energy-efficient features, such as LED lights, energy efficient windows, and lower VOC (volatile organic compound) paints and stains.

9. That the Applicant offer solar panels as an option to its homebuyers where the orientation of the townhome and other characteristics make solar panels feasible.

10. That the Applicant shall develop the Property in substantial compliance with the exhibits, plans, and testimony submitted to the Board of Supervisors at the Hearing.

11. That the Applicant shall install one (1) electric car charging station In the Water Tower Office Complex.

### **3. 2020 Preliminary Budget**

Mr. Mellor explained the Township held two budget workshop meetings on October 7th and 28th to review budget requests. The 2020 preliminary budget projects general fund expenditures of

\$22,916,554 exceeding revenues of \$22,193,628 resulting in a deficit of \$722,926. The 2020 Preliminary Budget is showing an increase of 5.1% in expenditures and 1.7% increase in revenues compared to 2019 final adopted budget. The increase is due to several budget stressors. Revenues from Earned Income (EIT) and Local Services (LST) Taxes have continued another year of strong returns. The Township is able to increase our projects based on the latest estimates coming from the Townships Earned Income Tax Collector Berkheimer. They estimate EIT will once again exceed \$6,250,000 and LST will be over \$700,000 for 2019 adding an additional \$350,000 in revenue for 2019. With new homes sales at The Oaks and Creekside Commons the Real Estate deed transfer tax will exceed the 2019 budget projection by \$100,000. We expect to see this revenue line decrease over the next few years. Also, we continue to see a rise in the Township's assessed value which reflects positively on an increase to our real estate tax revenue. We have seen our Business Privilege Tax collections exceed \$2,000,000 this year. The Township's 3-year Capital Improvement Plan will help address the equipment and infrastructure needs in the Township. The \$8.6 million plan is funded by current reserves, a 2014 and new 2018 borrowing. This is the second year we are not projecting a capital fund transfer which will impact the ability to continue an array of projects. This plan has been used to alleviate the budget expenses previously included in the General Fund through equipment purchases, completing infrastructure projects and improving Township owned property. With three full months of financial information to consider since the work budget was issued, staff will more accurately depict the revenue and expenditures for 2019. The Board will continue to consider and review department requests and outside agency funding. Mr. Mellor spoke about working with the Health Trust for saving the Township a large expense. Mr. Mellor stated he appreciates the work of Nate Crittendon, his staff and all the Departments in contributing to the budget process.

Sydelle Zove (Harts Ridge Road) asked questions regarding the business tax. There was a discussion regarding the business tax.

On a motion by Supervisor Drossner, seconded by Supervisor McCusker (Vote 4-0) the Board of Supervisors approved the 2020 Work Budget as the 2020 Preliminary Budget with revenues of \$22,193,628 and expenditures of \$22,916,554 resulting in a deficit of \$722,926.

#### **4. Cooperation Agreement with Montgomery County Redevelopment Authority**

Mr. Mellor explained Whitmarsh Township has been requested to enter into a Cooperation Agreement with the Montgomery County Redevelopment Authority (RDA) to allow their administration of a Redevelopment Assistance Capital Program (RACP) Grant for AIM Academy. AIM has received \$500,000 RACP grant for the AIM Careers for the Future High School and Collaborative Capital Project located at 1200 River Road. Since Whitmarsh Township is the host municipality the State requires the Township to enter into a Cooperation Agreement with the County RDA and they will be responsible for overseeing the grant for AIM Academy. The Solicitor has reviewed the document and recommends its approval.

On a motion by Supervisor McCusker, seconded by Supervisor Nester (Vote 4-0) the Board of Supervisors approved the Cooperation Agreement between Whitmarsh Township and Redevelopment Authority of Montgomery County (RDA) for AIM Academy's Careers for the Future High School and Collaborative Capital Project located at 1200 River Road.

#### **5. Awarding Contract - Refuse, Recycling and Disposal**

Mr. Mellor explained Whitemarsh Township recently published bid specifications 02-2019 (Collection, Transportation, and Disposal of Municipal Solid Waste [MSW]) and bid 03-2019 (Collection, Transportation, and Disposal of Single Stream-Recycling [SSR]) for a total of 6,500 residences. Those bids were made public on October 4, 2019 and a pre-bid meeting was scheduled on October 15, 2019. A total of five prospective bidders attended, including; J.P. Mascaro, Advanced Disposal, Allied Republic, Waste Management, and Whitetail. On November 1, 2019 the bids were opened publicly. The Township received one bid from J.P. Mascaro. Waste Management and Advanced Disposal sent correspondence indicating they did not intend to bid for this contract. Whitetail and Allied Republic did not submit a bid or respond.

MSW Bid Specifications: Bid "A": details a three-year contract for collection, transportation, and disposal of MSW with an option for two, one-year extensions at the Township's pleasure. This specification requires that bidders use only PA-DEP approved landfills. Mascaro's bid response indicates that MSW would be transported to the Birdsboro landfill by way of the Bridgeport transfer station. MSW Bid "B": details a five-year contract for collection, transportation, and disposal of MSW with an option for two, one-year extensions at the Township's pleasure. This specification required that bidders use only PA-DEP approved landfills. Mascaro's bid response indicates that MSW would be transported to the Birdsboro landfill by way of the Bridgeport transfer station. MSW Bid "C": details a three-year contract for collection and transportation only of MSW with an option for two, one-year extensions at the Township's pleasure. This specification requires that bidders use the Covanta facility located in Plymouth Meeting for disposal of MSW. This bid assumes the Township exercises its three-year contract extension with Covanta. MSW Bid "D": details a five-year contract for collection and transportation only of MSW with an option for two, one-year extensions at the Township's pleasure. This specification requires that bidders use the Covanta facility located in Plymouth Meeting for disposal of MSW. This bid assumes the Township exercises its three-year contract extension with Covanta and would require the Township to re-bid disposal contracts for the remaining two years of the MSW contract.

One of the four MSW bid specifications above will need to be combined with options "A" or "B" of the SSR bid below. Please note, Appendix A displays the SSR figures twice so that they may be added under the four columns showing MSW pricing.

SSR Bid "A": details a three-year contract for the collection, transportation, and disposal of SSR with an option for two, one-year extensions at the Township's pleasure. This specification requires that bidders use a PA-DEP recycling facility. Mascaro has indicated they will continue to use TotalRecycle, Inc. for disposal of SSR. SSR Bid "B": details a five-year contract for the collection, transportation, and disposal of SSR with an option for two, one-year extensions at the Township's pleasure. This specification requires that bidders use a PA-DEP recycling facility. Mascaro has indicated they will continue to use TotalRecycle, Inc. for disposal of SSR.

It is recommended the Township not stagger the MSW and SSR bids on separate three or five year contracts. Doing so would eliminate future options that are financially beneficial to our residents and would increase the burden of preparing, advertising, and selecting future bids. Additionally, the volatility in the current recycling market leads me to believe that selecting a three-year option may be best in the hopes that the recycling market will improve, thereby decreasing our overall costs. Currently, the most cost-effective combination of bid specifications is combining the three-year MSW contract, with the three-year SSR contract, and extending our Covanta contract (MSW option "C" + SSR option "A"). This would still result in an annual refuse fee of \$290/household, an increase of \$60.00/household/year.

There was a discussion of the increase in taxes for trash hauling.

Al Deginero, Deputy General Counsel with JP Mascaro spoke about the disposal option. He spoke about disposal at one of their four landfills. He spoke about incineration vs. landfill. After a question by the Township Solicitor, Mr. Deginero stated he is suggesting as an alternative to the Covanta motion to make a motion for collection, transportation and disposal. Sam Augustine, spoke about the cost to the Township for hauling and disposal. There was a discussion about the landfill can handle if more municipalities go to their landfill. Supervisor Nester stated she has been discouraged with the service provided especially over the last year. Mr. Augustine agreed there were issues this last year. He stated they have put 25% more trucking into this contract. Supervisor McCusker asked about additional training to new employees. There was a discussion about the problems with co-mingling trash and recycling that occur.

Joe Danello, Advanced Disposal, spoke about the reasons his company and others did not bid. There is a discussion regarding the reasons. Dominic Fulginetti, Republic Services stated they also had issues with the bid documents. There was a discussion about the issues the bidders had. Mr. Kilkenny explained where the process is.

M.J. Fisher (Farmer Lane) spoke about her issues with her trash service. Mr. Mellor stated there are fines and penalties in the contract for not doing what they were supposed to be doing. There was a discussion on when fines and penalties would be invoked.

Sydelle Zove (Harts Ridge Road) asked what the motion on the floor is. Supervisor Grossman read the motion. She said so the choice is the incinerator or the landfill. She suggested the option of using Covanta is not a good option. There was a discussion about the cost of municipal solid waste and recycling collection and disposal.

Lou Ann Merkle (Resident) member of the Environmental Advisory Board spoke about the 100% Renewable Energy the Township adopted and the emissions that come from the Covanta plant. She urged the Board to consider not using Covanta.

Anne LaPent (South Warner Road) spoke to the amount of time given to the bidders to provide their bid and the request for the insurance requirements.

Cheryl Doherty (Resident) spoke about the air pollution being emitted by Covanta and the close proximity to the schools in Colonial School District. She spoke about the incidents that occurred at Covanta over the past year. She spoke about Pay as you Throw/Pay as you Go.

Linda Doll (Fairway Road) asked for clarification of the motions. There was a discussion about the motions. She said it is the price of health.

Jessica Ram (Conshohocken resident) spoke against using Covanta. As an Air Quality Consultant she is concerned about the issues that Covanta doesn't have to monitor continually, only annually. She provided a list of violations Covanta had in 2018. There was a discussion about the Covanta violations.

Dave Sharp (Covanta Plymouth) stated he would refer to the EPA for the best way to dispose of waste. The EPA is clear reduce, reuse, recycle and recover – which is energy from waste, followed by disposal. He spoke for the incineration of trash and against landfills. He stated Covanta accepts responsibility when they have had malfunctions and they are working to correcting them. There was a discussion regarding people’s opinions about energy from waste. Supervisor Nester asked where Covanta stands in relationship to their building. She stated comments were made about having a shelf life. Mr. Sharp stated Covanta disagrees with the statement. Supervisor Grossman asked how many tons of trash Covanta gets per day. Mr. Sharp stated they process approximately 420,000 thousand tons per year.

Eli Glick (Whitefield Drive) stated he feels that using the landfill would be the right thing to our neighbors being subjected to the health effects. He complained about the current hauler and asked why the Township isn’t initiating the penalties.

Deb Shreero (Chair of Environmental Advisory Board) said waste disposal is an environmental problem. She stated she has a list of reasons for the environmental problems that are created from transportation to incinerators and landfill gases. She stated the way to begin to solve the issues is to reduce waste.

Supervisor Grossman thanked the representatives from Advanced Disposal and Republic Services as well as Anne LaPent and the Board will take into consideration time-lines and language in bids in the future.

On a motion by Supervisor Drossner, seconded by Supervisor McCusker (Vote 4-0) the Board of Supervisors approved the contract with municipal solid waste and recycling contract with J.P. Mascaro for a 3 year term with 2 one year renewal options.

On a motion by Supervisor Drossner, seconded by Supervisor McCusker (Vote 0-4 all Board Members voting against) the Board of Supervisors approved a (three year extension OR two year extension with one year renewal) option with Covanta 4Recovery, LLC for the disposal of trash.

On a motion by Supervisor Nester, seconded by Supervisor McCusker (Vote 4-0) the Board of Supervisors approved the collection, transportation and disposal of municipal waste by J.P. Mascaro for a 3 year term with two one year renewal options.

## **6. Certificate of Appropriateness - 3033 Spring Mill Road**

Mr. Guttenplan explained the Certificate of Appropriateness is for replacement of the flat roof portions on the rear of the home at 3033 Spring Mill Road. The roof replacement had been completed prior to the HARB's October 16th meeting because of leaks. The roof sections replaced are not visible from the road and were replaced with like materials. This application was discussed by HARB at their meeting on October 16 A Certificate of Appropriateness was recommended.

On a motion by Supervisor McCusker, seconded by Supervisor Drossner (Vote 4-0) the Board of Supervisors approved the Certificate of Appropriateness for a roof replacement at 3033 Spring Mill Road.

## **7. Building Permit Fee Waiver - Whitemarsh Township Authority**

Mr. Mellor explained there is a contract with the Whitemarsh Township Authority to demolish the old trash incinerator building located at 2015 Joshua Rd, Lafayette Hill PA. Since this demolition work is being performed on a Whitemarsh Township municipal property, they are requesting the fees associated with the demolition permit application be waived.

Eli Glick (Whitefield Drive) opposed the Fee Waiver.

On a motion by Supervisor Drossner, seconded by Supervisor McCusker (Vote 4-0) the Board of Supervisors authorized the fee waiver for the building permit fee for the Whitemarsh Township Authority in the amount of \$2,699.50.

#### **8. September 2019 Expenditures and Payroll**

On a motion by Supervisor Drossner, seconded by Supervisor McCusker (Vote 4-0) the Board of Supervisors approved expenditures totaling \$1,521,500.38; and payroll totaling \$628,695.36 for September 2019.

#### **9. October 2019 Expenditures and Payroll and Pension Plan Paid Costs**

On a motion by Supervisor McCusker, seconded by Supervisor Nester (Vote 4-0) the Board of Supervisors approved expenditures totaling \$2,578,276.32; and payroll totaling \$603,550.85 and pension paid costs totaling \$7,666.64 for October 2019.

#### **AMEND AGENDA**

On a motion by Supervisor Nester, seconded by Supervisor McCusker (Vote 4-0) the Board of Supervisors amended the agenda.

#### **10. Certificates of Appropriateness for 9, 11 and 12 Catherine Lane**

On a motion by Supervisor Nester, seconded by Supervisor McCusker (Vote 4-0) the Board of Supervisors approved three Certificates of Appropriateness for paver patios at 9, 11 and 12 Catherine Lane.

#### **11. Certificate of Appropriateness for 19 Catherine Lane**

On a motion by Supervisor Grossman, seconded by Supervisor Nester (Vote 4-0) the Board of Supervisors approved the Certificate of Appropriateness for the pent roof access at 19 Catherine Lane,

#### **12. Certificate of Appropriateness for 3138 Spring Mill Road**

On a motion by Supervisor Nester, seconded by Supervisor McCusker (Vote 4-0) the Board of Supervisors approved the Certificate of Appropriateness for garage roof, siding repairs, and demolition of the porch in the rear at 3138 Spring Mill Road.

#### **PUBLIC COMMENT PERIOD**

Sydelle Zove (Harts Ridge Road) thanked the Board for making the right decision about the Township trash.

#### **BOARD MEMBER COMMENTS**

#### **ANNOUNCE EXECUTIVE SESSION**

Supervisor Grossman announced the Board of Supervisors held an Executive Session prior to this meeting to discuss real estate. An additional Executive Session will be held after this meeting to discuss litigation.

#### **ADJOURNMENT**

On a motion by Supervisor Grossman, seconded by Supervisor Nester, the meeting was adjourned at 11:15 PM.

Respectfully submitted,

Richard L. Mellor, Jr.  
Township Manager