



TOWNSHIP OF DERRY

Board of Supervisors Meeting Minutes

Tuesday, October 22, 2024

CALL TO ORDER

Chairwoman Nutt called the October 22, 2024, Regular Meeting of the Township of Derry Board of Supervisors to order at 7:04 p.m. in the meeting room of the Township of Derry Municipal Complex, 600 Clearwater Road, Hershey, PA. She advised that all public meetings are recorded for providing accurate minutes. An Executive Session was held before the meeting where Human Resources and legal issues were discussed. After the Pledge of Allegiance, a roll call was performed.

ROLL CALL

SUPERVISORS PRESENT:

Natalie L. Nutt
Carter E. Wyckoff
Richard D. Zmuda
Michael P. Corado
Dominic V. Giovanniello

ALSO PRESENT:

Christopher S. Christman, Township Manager
Patrick Armstrong, Township Solicitor
Zachary Jackson, Assistant Township Manager
Garth Warner, Chief of Police Department
Chuck Emerick, Director of Community Development
Thomas Clark, Director of Public Works
Alison Jacobine, Director of Hershey Public Library
Amy Walker, Director of Parks & Recreation
David Sassaman, Hershey Volunteer Fire Company
Becky Sweigart, Public Outreach Coordinator
Eric Stump, HRG Engineer
Lynn Dawson, Recording Secretary

Public in Attendance:

Linda Weller, Tracy Robinson, Mark Ovsak, Piotr Switalski, Kathy Campbell, Diane Procaccini, Samuel Procaccini, Martha Mannix, Craig Smith, Jerry Mannich, Christine Drexler, Eric Holt, Bryan Holt, Rich Gamble, Lisa Ginder, Tracy Brown

VISITOR/PUBLIC COMMENTS

Diane Procaccini, Martha Mannix, Linda Weller, Tracy Robinson, and Rich Gamble shared their concerns relating to the fees associated with the Aqua fit classes offered at the Derry Township Community Center. All who spoke are members of the Derry Township Community Center and noted exercise classes are included with the membership, with the exception of the Aqua fit class.

Chairwoman Nutt noted communication was made via email relating to the operating costs of the

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Community Center and that the nominal fee for the aqua classes are required for budgetary reasons. Chairwoman Nutt offered to meet with the residents after the meeting to further discuss this issue.

Mark Ovsak, spoke of his concerns relating to the road construction on Governor Road due to the water main replacement project by PA American Water. Mr. Ovsak noted the condition of the road has created loud noise, vibration, and shaking within his home, during what he feels has been a slow-moving project.

Richard Gamble shared his concern that any type of discussion relating to the aqua class issue should be discussed during the meeting as opposed to after the meeting. Solicitor Armstrong noted that Chairwoman Nutt offered to discuss the concern on her own as opposed to a Board discussion.

CONSENT CALENDAR

Adoption of the Board of Supervisors Meeting Minutes for the October 8, 2024 Regular Meeting.

Release of the performance security provided for the Preliminary/Final Land Development Plan for Penn State University College of Medicine Comparative Medicine Facility Expansion, Plat 1360.

The Board of Supervisors authorize the release of performance security in the amount of \$135,890.00, which was provided in the form of PNC Bank Letter of Credit No. 18137071-00-000 for the Preliminary/Final Land Development Plan for Penn State University College of Medicine Comparative Medicine Facility Expansion, Plat 1360.

Approval of Accounts Payable of \$2,167,884.22 and Payroll of \$391,804.27.

Supervisor Wyckoff made a motion to approve all items on the Consent Calendar. Supervisor Zmuda seconded the motion. **Motion carried 5-0.**

NEW BUSINESS

Requesting authorization to advertise Ordinance 2024 - 07 - Amending Chapter 189, Taxation, Article VII, Occupation Tax, of the Derry Township Code of Ordinances, Reaffirming and Levying an Occupation Tax and Amending certain provisions governing the Occupation Tax.

Mr. Christman shared Keystone Collections, through the Township Solicitor's Office, recommended the Township consider amending its Occupation Tax Ordinance. The proposed ordinance provides the following:

- A stronger definition for "Occupation". This definition combines the Supreme Court of Pennsylvania's description of the occupation tax in Crosson v. Downingtown Area SD and Black's Law Dictionary.
- Language is included in the exemption portion closing a loophole

He noted, if approved the ordinance is in a position to be advertised and considered at a future meeting, specifically Tuesday, November 26, 2024. Solicitor Armstrong stated this is to clarify the definition of the verbiage itself.

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Chairwoman Nutt made a motion that the Board of Supervisors authorize the Administration to advertise proposed Ordinance 2024 - 07 - Amending Chapter 189, Taxation, Article VII, Occupation Tax, of the Derry Township Code of Ordinances, Reaffirming and Levying an Occupation Tax and Amending certain provisions governing the Occupation Tax for consideration at the Board's November 26, 2024 meeting. Supervisor Corado seconded the motion. **Motion carried 5-0.**

Consideration of approving a collective bargaining agreement between The Township of Derry and AFSCME Council 90 and Local Union 2944 for FY2025-FY2027

Mr. Christman noted as the Board is aware, the current Collective Bargaining Agreement between the Township and AFSCME is set to expire December 31, 2024. The Township's bargaining team Supervisors Abruzzo (former) & Nutt, C. Christman, Z. Jackson, C. Lontz, and D. Habig, met during the summer of 2024 to negotiate a successor collective bargaining agreement. AFSCME members met on Wednesday, October 16, 2024 to vote on the proposed tentative agreement. That vote was in the affirmative (16-5) to ratify the agreement. The tentative agreement is in a form acceptable to the Township Administration and can now be considered by the Board of Supervisors for final ratification.

The proposed tentative collective bargaining agreement can be summarized as follows:

- Three-Year Contract from 2025 to 2027
- General Wage Increase will be set at: 9.00%, 0.00%, and 0.00%.
- Longevity Payments will increase by \$125.00
- Health care benefits remain with Capital Blue; new vision and dental will be provided through the Township's broker - Benecon at a cost equivalent to the prior carrier - Loomis.
- Total net change - compensation costs: FY2025 - \$276,332.76; FY2026 - \$16,185.71; FY2027 - \$19,488.78

Supervisor Zmuda made a motion to move that the Board of Supervisors approve a successor collective bargaining agreement between The Township of Derry and AFSCME Council 90 and Local Union 2944 for FY2025-FY2027 and authorize the proper signatories to execute the same. Supervisor Corado seconded the motion. **Motion carried 5-0.**

Request to close North Hockersville Road (SR2011) from Old West Chocolate Avenue to Hersheypark Drive from 7:00am to 5:00pm on Saturday, November 9, 2024, for the National Intercollegiate Running Club Association Cross Country Championships being held on the grounds of the Hershey Entertainment Complex.

Chief Warner stated all events of this nature, which require state road closures, must be approved by the Board of Supervisors. The National Intercollegiate Running Club Association Cross Country Championships is scheduled for Saturday, November 9, 2024, on the grounds of the Hershey Entertainment Complex, with the design of the course having runners crossing North Hockersville Road two times during each race. For the safety of the runners and spectators, Hershey Entertainment Complex Safety & Security has requested the closure of North Hockersville Road.

He noted as part of the closure, Hershey Entertainment & Resorts will place the appropriate road closure signs and barricades and will also staff each closure point. If approved, there will also be a variable message board placed on North Hockersville Road 5 days in advance of the event to warn motorists who routinely use this roadway. Chief Warner noted this will not impact the Township as far as resources.

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Chairwoman Nutt made a motion that the request to close North Hockersville Road (SR2011) from Old West Chocolate Avenue to Hersheypark Drive from 7:00 am to 5:00 pm on Saturday, November 9, 2024, for the National Intercollegiate Running Club Association Cross Country Championships being held on the grounds of the Hershey Entertainment Complex be hereby approved. Supervisor Zmuda seconded the motion. **Motion carried 5-0.**

Request to close State Route 743 from State Route 422 to Caracas Avenue and the eastbound right straight-through and right turn lanes of State Route 422 from Linden Road to State Route 743 for the opening ceremony of the Veterans Memorial at Chocolatetown Square Park on Monday, November 11, 2024, at 10:00 am.

Chief Warner stated in order to facilitate safety for the guests, attendees and participants of the Opening Ceremony of the Veterans Memorial at the east side of Chocolatetown Square Park, it will be necessary to limit motor vehicle traffic around the site of the event. It is proposed that State Route 743 from State Route 422 to Caracas Avenue be closed and the eastbound right straight-through and right turn lanes of State Route 422 from Linden Road to State Route 743 be closed off, with the left straight-through and left turn lanes of State Route 422 scheduled to remain open for eastbound traffic. The closure will take effect at 10:00 am and remain in effect until the end of the event and the clearing of pedestrians from the roadway (about 1:00 pm-1:30 pm). We will have traffic control points, staffed by Derry Township personnel. We will make scheduling adjustments to reduce the impact on the budget.

Chairwoman Nutt stated all within the community are invited to attend the event, which will be communicated shortly in The Sun as well as the Township social media channels.

Supervisor Wyckoff made a motion for the request to close State Route 743 from State Route 422 to Caracas Avenue and the eastbound right straight-through and right turn lanes of State Route 422 from Linden Road to State Route 743 for the Opening Ceremony of the Veterans Memorial at Chocolatetown Square Park on Monday, November 11, 2024, at 10:00 am, along with the associated road closures be hereby approved. Supervisor Corado seconded the motion. **Motion carried 5-0.**

Request from Hershey's New Year's Eve Celebration Committee to hold the New Year's Eve Celebration in the Square of Hershey on December 31, 2024. It will continue for an hour or so into January 1, 2025.

Chief Warner stated the main state roadway affected by the New Year's Eve Celebration Event is SR422 from Homestead Road to Hockersville Road, including SR 743 from Hersheypark Dr. to SR322. However, the size and magnitude of this event will involve other State roadways such as SR322 and SR39 for detour routing. If the Board approves this event, PennDOT will be contacted for permit approval. This event should last approximately sixteen (16) hours (10:00 am to 3:00 am). This includes the stage set up time, start time for detouring and the time for clean up at the end of the event. Chief Warner noted the start time for the event itself is approximately 7:30 pm. It will involve a yet to be determined amount of overtime for the Police and Public Works Departments. Scheduling adjustments for Police and from entity partners will reduce the budget impact for this event.

Supervisor Corado made a motion that the request to hold the New Year's Eve Celebration in the Square of Hershey on December 31, 2024, along with the associated road closings be hereby approved. Supervisor Zmuda seconded the motion. **Motion carried 5-0.**

Adoption of Decision for Conditional Use Application No. 2024-04, as filed by Piotr M. Switalski

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regarding establishing a Short-Term Rental use on the property located at 950 Mae Street.

Mr. Emerick provided a recap of Piotr Switalski filing a Conditional Use Application on July 19, 2024, to establish a Short-Term Rental use at 950 Mae Street, Hummelstown. The hearing was held on September 24, 2024. The Derry Township Planning Commission, at their meeting on September 3, 2024, recommended that the Conditional Use authorization be granted, with conditions. He confirmed the Board of Supervisors is required to render a written decision on Conditional Use Application No. 2024-04 within 45 days after the hearing. A decision has been prepared and if adopted as written, would grant authorization for the Short-Term Rental use while attaching reasonable and ordinary conditions to its operation.

Chairwoman Nutt made a motion that the Decision for Conditional Use Application No. 2024-04 is hereby adopted. Supervisor Corado seconded the motion. **Motion carried 5-0.**

Adoption of Decision for Conditional Use Application No. 2024-05, as filed by Jeffrey A. Fertig regarding establishing a Short-Term Rental use on the property located at 74 Sipe Avenue.

Mr. Emerick stated Jeffrey Fertig filed a Conditional Use Application on August 6, 2024, to establish a Short-Term Rental use at 74 Sipe Avenue, Hummelstown. The required hearing was held on September 24, 2024. The Derry Township Planning Commission, at their meeting on September 3, 2024, recommended that the Conditional Use authorization be granted, with conditions. He confirmed the Board of Supervisors is required to render a written decision on Conditional Use Application No. 2024-05 within 45 days after the hearing. A decision has been prepared, and if adopted as written, would grant authorization for the Short-Term Rental use while attaching reasonable and ordinary conditions to its operation.

Supervisor Corado made a motion that the Decision for Conditional Use Application No. 2024-05 is hereby adopted. Supervisor Zmuda seconded the motion. **Motion carried 5-0.**

The Preliminary/Final Land Development Plan for Creekview Lawn and Landscapes, Plat 1394.

Mr. Emerick provided background stating the Board held a hearing on June 25, 2024, and, by a decision adopted on August 13, 2024, granted the Conditional Use with certain conditions. During the hearing, the applicant noted that they intend to use the property for their landscaping operation and that there will be no more than 10 employees coming to the property per day, with the regular hours of operation set for 7:00 a.m. to 5:00 p.m. Monday through Friday and 8:00 a.m. to 2:00 p.m. on Saturdays. However, when they are performing snow removal operations, their operating schedule will likely be outside of their regular hours.

Mr. Emerick noted a traffic impact study was submitted with the plan and the study showed a useful result of 420 average weekday trips, with 19 trips occurring during the a.m. peak hour and 42 trips during the p.m. peak hour along with 42 trips during the Saturday peak hour. He noted stormwater management will be addressed onsite. He also reviewed the waivers and relief requested by the applicant.

Suggested Motion 1 of 2 – WAIVERS AND DEFERMENTS:

Supervisor Zmuda made a motion that waivers and deferments are granted from the Subdivision and Land Development Ordinance (Chapter 185) as noted in the Explanation section of this agenda item for the Preliminary/Final Land Development Plan for Creekview Lawn and Landscapes, Plat 1394. Supervisor Corado seconded the motion. **Motion carried 5-0.**

Suggested Motion 2 of 2 - PLAN:

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Supervisor Wyckoff made a motion that the Preliminary/Final Land Development Plan for Creekview Lawn and Landscapes, Plat 1394, is approved, subject to compliance with items 1 through 16 in the *Department Head Recommendation* section of this agenda item. Supervisor Zmuda seconded the motion. **Motion carried 5-0.**

Consideration of Hold Harmless Agreement to issue building and zoning permits for the structures associated with the Preliminary/Final Land Development Plan for Cocoa Packs, Plat 1379.

Mr. Emerick noted the Board of Supervisors approved plat 1379 on October 24, 2023, and the plan was recorded on June 4, 2024. Cocoa Packs has been working on getting public water to the site, which is an area of the Township that was not in the water service district of Pennsylvania American Water (PAW) or Veolia Water (VW), even though both systems serve other properties in the area. As a result, PAW petitioned the Pennsylvania Public Utility Commission to have the area included in their service area. However, VW has opposed the petition, causing complex hearings. While this has gone on for some months now, the Township is reluctant to issue the building and zoning permits until this issue is resolved, especially since the proposed building will be sprinklered. Mr. Emerick stated they are confident that the site will be served by public water, but by who and when is not known, so in order to keep their project moving, Cocoa Packs and Hershey Trust Company have agreed to execute a Hold Harmless Agreement.

Supervisor Zmuda made a motion that the Board of Supervisors accept the signed Hold Harmless Agreement and thereby enable the release of the building and zoning permits for the improvements associated with the Preliminary/Final Land Development Plan for Cocoa Packs, Plat 1379. Supervisor Wyckoff seconded the motion. **Motion carried 5-0.**

SUPERVISOR BOARD/COMMITTEE REPORTS

Supervisor Zmuda shared he and Chairwoman Nutt attended a transportation ad hoc meeting for a year-end review of the Hershey Entertainment events and any improvements that could be made relating to pedestrian safety. Derry Township Municipal Authority (DTMA) is still on schedule with their Ridge Road project to start early 2025. He also noted that pedestrian lights were recently installed at Fishburn and Harvey roads.

Chairwoman Nutt stated she and Supervisor Giovanniello attended the Industrial Commercial Development Authority (ICDA) meeting to approve updates to the Giant Center out of their capital improvement fund.

DEPARTMENTAL REPORTS

Police Department

Chief Warner provided an update relating to the recent road rage incident as well as the fraud scam calls (fraudulent calls relating to fines for not attending jury duty) occurring throughout the Township. Updates have been provided on social media.

Public Works

Mr. Clark shared Public Works has been assisting with the Veteran's Memorial project in addition to the Township leaf collection.

Library

Mrs. Jacobine stated the Hershey Art Association will be hosting their art show at the library on

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October 25-26, 2024. She provided an update on the pumpkin decorating contest as well as an upcoming program for teens to participate in the 'Bad Movie Club' on October 29, 2024, and Trick or Treat story time on October 31, 2024 at 10 a.m. and 1:15 p.m. for preschoolers to trick or treat in the library.

Parks & Recreation

Ms. Walker shared a reminder of the Halloween Parade scheduled for Thursday, October 24, 2024 at 7 p.m., reviewed the route of the parade and encouraged all to be mindful of safety guidelines for those attending the parade.

Assistant Township Manager

Mr. Jackson shared information relating to the upcoming Veteran's Memorial dedication on November 11, 2024. Communication will be forthcoming relating to all community members being invited to the event, especially those who are Gold Star families.

VISITOR/PUBLIC COMMENTS

Mr. Gamble thanked the Board for moving forward with the Cocoa Packs project. He acknowledged Christine Drexler for all of her work and dedication.

Tracy Brown thanked the Board for their proactive work on the Halloween Parade. She welcomed new Supervisor Giovanniello, thanked Chairman Abruzzo for his service, and welcomed Chairwoman Nutt to her new role.

ADJOURNMENT

Supervisor Zmuda made a motion to adjourn the meeting at 8:12 p.m. Supervisor Giovanniello seconded the motion. **Motion carried 5-0.**

SUBMITTED BY:

Michael P. Corado, Secretary