

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

AUGUST 13, 2020

The Regular Monthly Meeting of the Whitemarsh Township Board of Supervisors was held on Thursday, August 13, 2020 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 Library has re-opened for limited services and hours Wednesdays through Saturdays. Details are available at www.JeanesLibrary.Org

The Census Deadline for self-responses has been extended until September 30, 2020. Residents should visit 2020census.Gov for additional details.

All Storm-related road closures have been repaired and are now open for vehicle traffic. Help is available for MontCo residents with damage caused by Hurricane Isaias. The Montgomery County Department of Public Safety has partnered with neighboring agencies to create the Home Cleanup Hotline to support residents in need. Residents should call 1-844-965-1386 to provide details that will be shared with volunteers from local disaster relief organizations. Common requests include help cutting fallen trees, removing affected drywall, flooring, or appliances; tarping roofs, and mold mitigation. These services are being provided free from volunteers. Efforts will be made to support as many residents as possible, but assistance cannot be guaranteed.

Supervisor McCusker introduced Staff Sergeant Chase Crump who is an Army Recruiter and is the Staff Commander at the Plymouth Meeting Mall. He explained the work he is doing with recruiting and that he and the other recruiters speak with individuals about pushing their education further and towards their career moving forward. Chair Nester asked for contact information. Supervisor Drossner asked if under aged children who are interested in possibly joining the military can come in to the recruiting office. Staff Sergeant Crump said absolutely they are welcome to come in and discuss a possible future in the military.

PUBLIC HEARINGS

None

APPROVAL OF MINUTES

1. July 9, 2020

Eli Glick asked that his comments made at the July 9, 2020 be reflected in these minutes. He stated the minutes do not reflect his statement that through photographs he provided and the Shade Tree Commission motion that the shade tree protection at Whitemarsh Knolls does not follow Act 55 and failed to meet the requirements of the Ordinance and those protections at Whitemarsh Knolls are not being followed.

On a motion by Supervisor Toll, seconded by Supervisor McCusker (Vote 5-0) the Board of Supervisors approved the July 9, 2020 meeting minutes, with amendments.

BOARD PUBLIC DISCUSSION ITEMS

1. Police Department Liaison - Supervisor Michael Drossner

Supervisor Drossner stated he met with Chief Ward and that the Chief has spoken with residents about injustice in the police world. Supervisor Drossner said they will continue to meet quarterly but that can talk whenever needed. He congratulated the Police Department on their recent Re-Accreditation and stated that it is their 12th year of accreditation. Supervisor Drossner spoke about the difficulty of the accreditation process. He said Whitemarsh Police Department did the extra work for accreditation and he is proud of them. He stated Chief Ward released internal policies and drafted Duties to Intervene Policy wherein if officers are acting in an unsafe manner is empowers officer to intervene with each other. He explained statistics (ie. Arrest, car stops, etc.) are being released annually for public review. He stated in 2019 there were 5 use of force reports and 5 internal affairs investigations, 4 of which were initiated internally. He his role as a liaison, he has the ability as a non-law enforcement officer to be approached by residents who may have a concern they are reluctant to speak with an officer about.

Chief Ward stated that he completely agreed with Supervisor Drossner and moving forward things will evolve as needed.

2. SLD#01-20; Kevin and Donna McBurney/4013 Crescent Avenue - Preliminary/Final Minor Subdivision Plan; Lot Line Change

Mr. Guttenplan explained SLD #01-20, is a Preliminary/Final Minor Subdivision Plan (Lot Line Change) for Kevin and Donna McBurney at 4013 Crescent Avenue, Lafayette Hill. The plan proposes to shift the lot line with neighboring 4009 Crescent Avenue approximately 28 feet, resulting in an increase of just less than 4,100 square feet for the McBurney lot, with the commensurate decrease in the 4009 Crescent Avenue lot (owned by Michael and Melissa Toman). No other changes are proposed; both lots are improved with single-family detached homes and related improvements and will continue to comply with applicable zoning requirements. The Planning Commission reviewed this plan and after a very brief discussion to understand the reason for the lot line change (to provide a more reasonable back yard to the McBurney lot), the Commission passed a unanimous motion recommending approval of the preliminary/ final plan and recommending approval of the waivers requested.

ORDINANCES

None

RESOLUTIONS

1. SLD#01-20; Kevin and Donna McBurney/4013 Crescent Avenue - Preliminary/Final Minor Subdivision Plan; Lot Line Change

On a motion by Supervisor Toll, seconded by Supervisor McCusker (Vote 5-0) the Board of Supervisors adopted **Resolution #2020-16** granting Preliminary/Final Plan approval for SLD #01-20; McBurney/4013 Crescent Avenue for a lot line change to add approximately 4,100 square feet from 4009 Crescent Avenue.

MOTIONS

1. Ordinance Advertisement - Adopting the 2015 International Fire Code as the Township's Fire Prevention Code

Fire Marshal Nick Weaver explained the adoption of the 2015 International Fire Code will provide the legal authority to enforce the current fire code. The township's adopted fire code by ordinance is the 1982 edition of NFPA (National Fire Protection Association) 1 Fire Code. The Pennsylvania Uniform Construction Code presently utilizes the 2015 International Code Council Series, such as our 2015 International Building Code. Adopting the fire code will allow the township to legally enforce fire and safety requirements with current standards. He stated the adoption of a Fire Inspection Program would allow the township to enforce the fire code fairly and equally to all commercial properties of the township. The Program would also promote positive relationships with property and business owners with a shared mission of providing safe buildings. Visiting every commercial property annually would verify that all required permits are obtained for construction and operational purposes. A business list and emergency contact list would be able to be up to date constantly with the valuable information available readily.

Chair Nester asked to if this would cause new fees. Fire Marshal Weaver explained the ordinances are not enacting new fees, there currently are fees required for operational permits already adopted by ordinance that is not being done. This program would ensure the required operational permits are received. If the Board determines additional fees are necessary in the future if applicable. There was a discussion regarding building inspection and emergency contact lists.

On a motion by Supervisor McCusker, seconded by Supervisor Manuele (Vote 5-0) the Board of Supervisors authorized the Ordinance advertisement adopting the 2015 International Fire Code as the Township's Fire Prevention Code.

2. Board/Commission Resignation

On a motion by Supervisor Toll, seconded by Supervisor Manuele (Vote 5-0) the Board of Supervisors accepted the resignation of Kate Johnson from the Environmental Advisory Board.

3. 2020 Road Paving Program

Mr. Hersh explained the engineer's office reviewed the bids submitted to the Township and publicly opened on August 11, 2020 for the for the 2020 Road Paving Program. He stated based on the bid evaluation Allan Myers, L.P. is the lowest responsive bidder for the Total Bid for this project. It is therefore recommended that the Board of Supervisors authorize the Township Engineer's office to issue a Notice of Intent to Award to Allan Myers, L.P. for the Total Bid cost of \$396,000.00. He stated the final awarding of the contract is contingent upon a successful outcome to the required Responsible Contractor Determination that will be performed by our office and the majority of this project will be funded by PennDOT Liquid Fuels Funding which will help offset the cost of construction.

On a motion by Supervisor Drossner, seconded by Supervisor McCusker (Vote 5-0) the Board of Supervisors authorized the notice of intent to proceed and bid approval based on the successful review of the 2020 road paving bid to Allen Myers, L.P. for total base bid and alternate amount of \$396,000.00.

4. Change Order Request #2 - James D. Morrissey – Stenton/Flourtown/Cricket Intersection Project - \$67,708.38

Mr. Hersh explained the project scope was revised to include modifications related to delays and additional work resulting from PECO and Aqua main relocations through the project site. JDM had to demobilize from the site in order to permit PECO and Aqua to relocate large diameter utility mains.

He explained the delays and additional work that was required. He stated approval will be effective immediately upon the withdrawal of James D. Morrissey, Inc.'s litigation with prejudice. Penn DOT has approved a closure of Stenton Avenue between Joshua Road and Flourtown/W. Valley Green Roads which started on August 3rd, 2020. James D. Morrissey, Inc. was issued a notice to proceed on July 22, 2020 and that construction activities must begin within 14 days from the date of that letter. The contract will be extended to require all work to be completed within 90 calendar days from the date in the notice to proceed. The date of completion of all work is therefore October 20, 2020.

Sydelle Zove (Harts Ridge Road) asked if it was able to anticipate this issue and was something overlooked in RFP preparation. Mr. Mellor explained nothing was overlooked. It wasn't until they started digging they discovered large amount of rocks and explained the amount of rock encountered. Ms. Zove asked in future if something to the Township can do to see what is going on underground. Mr. Mellor explained the utilities are responsible for themselves and the amount of rock uncovered was surprising. Ms. Zove asked if there is testing that could have located the rock. Mr. Hersh explained there is testing, but the money spent on testing would have cost more than the cost of the change order.

On a motion by Supervisor Drossner, seconded by Supervisor McCusker (Vote 5-0) the Board of Supervisors authorized the change order request #2 to James D. Morrissey for the contract at Stenton/Flourtown/Cricket in the amount of \$67,712.38 and by doing so James D. Morrissey has agreed to withdraw the lawsuit against the Township related the prompt payment act.

5. July 2020 Expenditures and Payroll and Pension Plan Paid Costs

On a motion by Supervisor Drossner seconded by Supervisor Toll (Vote 5-0) the Board of Supervisors approved expenditures totaling \$1,152,661.86; and payroll totaling \$631,169.90 and pension paid costs totaling \$7,577.52 for July 2020.

AMEND AGENDA

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

6. Certificate of Appropriateness – 105 Black Walnut Lane

Mr. Guttenplan explained the application is for replacing the roof (with same shingles as existing), adding a 6-foot wooden stockade fence along rear property line, and constructing a fire pit with river rock surround in the rear yard at 105 Black Walnut Lane. While the majority of homes on this street were constructed about 20 years ago, this is an original home built in 1937. HARB saw no issues with these improvements and passed a unanimous motion recommending approval of a Certificate of Appropriateness for all of them, as proposed.

On a motion by Supervisor Manuele, seconded by Supervisor Drossner (Vote 5-0) the Board of Supervisors approved the Certificate of Appropriateness for the installation of a roof, fence and backyard improvements to 105 Black Walnut Lane.

7. Certificate of Appropriateness – 3049 Spring Mill Road

Mr. Guttenplan explained the installation of a patio in the rear of the home at 3049 Spring Mill Road. This is one of the new homes in the 'Maple Hill' development (the one with the historic school house in the front yard). The total patio area is 940 square feet, with approximately half under a standing seam metal roof, matching other roof areas on the house. The patio will be constructed with two shades of gray pavers and an ebony cap on retaining walls at the patio's edge. HARB saw no issues with this proposal and noted that it is similar to what has been constructed at some of the other homes in this development and that it will be in the rear yard and not visible from the street. A motion was passed unanimously recommending approval of a Certificate of Appropriateness for the patio as proposed.

On a motion by Supervisor McCusker, seconded by Supervisor Manuele (Vote 5-0) the Board of Supervisors approved the Certificate of Appropriateness for the installation of a patio at 3049 Spring Mill Road.

8. Waiver of Conflict

Mr. Kilkenny explained the next day there will be hearing in the Court of Common Pleas where the Township filed an injunction against the Hill at Whitemarsh for the continued use of the Temporary Construction Access Road. He explained Robert Careless is the attorney for the Hill and he previously worked as an attorney for Kilkenny Law, LLC. He stated Mr. Careless did minimal work for the Hill when at Whitemarsh and recommends the waiver. He further explained neither Mr. Careless nor himself would testify only Mr. Mellor would testify. Supervisor Drossner stated it is the right decision.

On a motion by Supervisor Manuele, seconded by Supervisor Drossner (Vote 5-0) the Board of Supervisors authorized the Board of Supervisors to provide informed consent to Kilkenny Law, LLC. to waive a conflict of interest with regard to a former attorney of Kilkenny Law, LLC, Robert Careless, Esq., who represents Whitemarsh Continuing Care Retirement Community D/B/A the Hill at Whitemarsh in connection with opposing Whitemarsh Township's Petition for a Preliminary Injunction with regard to the Hill's use of a Temporary Construction Access Road.

9. Petition to Intervene – Ambler

Mr. Kilkenny explained the township received correspondence from the Solicitor for Upper Dublin Township and additionally the Solicitor for Lower Gwynedd Township that they will be intervening in this matter. He explained Ambler Borough provides water service to parts of Whitemarsh Township. They are now going to the Pennsylvania Utilities Commission and asking to set up an Authority. The Township had some discussion with the Borough however have not heard anything for a while and did not know the Borough was now going to the Utilities Commission.

Chair Nester asked how many residents are provided water by Ambler. Mr. Mellor explained there are approximately 240 residences.

On a motion by Supervisor Manuele, seconded by Supervisor Toll (Vote 5-0) the Board of Supervisors authorized the Township Solicitor to intervene in Ambler Borough's petition to create an Authority before the Pennsylvania Utilities Commission.

PUBLIC COMMENT PERIOD

Sydelle Zove (Harts Ridge Road) thanked Chair Nester for comments made to Philadelphia Inquirer reporter about township interest in pursuing acquisition of Abolition Hall. She stated it's an important piece of property in the community. Chair Nester stated it is a team effort. They are all working on figuring it out and looking at it from all angles.

Justin Cadwell (Kottler Drive) spoke about the meeting with the developer at Whitemarsh Knolls, Rick Mellor,

Fran McCusker and Krista Heinrich. He thanked them for arranging it. He said he wanted to state the issues that he wants addressed. He asked for an exact timeline for the basin, fencing around the basin, the mosquito problem due to the basin and how it is going to be addressed, he asked for the developer to redrawn property lines to keep his land intact from washing into the basin, the issue of work hours – contractors working beyond 6PM and after the development is complete who will the residents contact about further issues with the basin.

Eli Glick (Whitefield Drive) stated he was also at the meeting. He spoke about the care of the trees. He said he believes if the trees had been properly cared for it would have been a first line of defense for the stormwater issues. He asked why the developer can't put trees and fencing up now. He also brought up the issue of stormwater in Whitemarsh Valley Farms.

Chair Nestor thanked him for his comments and spoke about the stormwater problems in the area. She stated she has been speaking with Mr. Mellor and Mr. Hersh about looking at it. She explained there were plans previously but the cost is immense, but it does need attention. Mr. Mellor explained it is a capital budget item and can be reconsidered during the upcoming budget time. He stated a lot has been done beginning in 2000's but there is more to do.

Mr. Hersh stated that the tree protection fence that is installed at the Knolls is as per the plan and the Shade Tree Ordinance. Eli Glick discussed what he believed the fencing should be per the code.

Eli Glick stated the stormwater problem is a man-made problem and downstream from development needs to be looked at.

Linda Doll (Fairway Road) spoke of her concerns stormwater management.

Sydelle Zove asked why the plan for the development approved if it doesn't meet Chapter 55 Tree Protection. She also asked about escrow releases for the project and she suggested before more funds are released, someone take a look at the plans and the actual conditions currently. Supervisor Manuele stated in response to her first question, were waivers granted in association with the plan and he stated it is a valid question. Mr. Mellor addressed this and answered Ms. Zove.

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. She announced the Board of Supervisors held an Executive Session on the morning of July 13, 2020 to discuss litigation and personnel.

ADJOURNMENT

On a Motion by Supervisor Manuele, seconded by Supervisor Toll the meeting for August 13, 2020 was adjourned at 7:30 PM.

Respectfully Submitted,

Richard L. Mellor, Jr.
Township Manager