

**Board of Supervisors**  
**August 12, 2020**  
**Virtual Meeting Minutes**

Board Members Present: Scott Lambert, Chair; Rich Orlow, Vice-Chair; and Susan Drummond, Member

Staff Present: John Nagel, Township Manager; Steve Brown, Assistant Township Manager; Donna Wikert, Board Secretary; Zach Barner, Director of Planning and Development; Ted Locker, Zoning Officer; Chief Yeager, Joe McGrory, Solicitor; and Elaine Parish, Court Stenographer

Mr. Lambert called the regular meeting to order at 7:15 P.M. Pledge of Allegiance

**Board Briefings:**

**Executive Session(s)** were held on July 16 at 11am (legal), July 23 at 11am (legal) and August 12 at 5pm (legal, personnel, and real estate)

**Briefing from U.S. Representative Chrissy Houlahan by John Kern, Constituent Advocate:**

Mr. Kern provided the Township with a brief update on what Representative Chrissy Houlahan has been up to for the people. Representative Houlahan voted for all the COVID aid packages. Her office reaches out to the community connecting with partners in the community, business, agricultural, schools, non-profit, local government, and assist with Federal Grants. The office hours are Monday thru Friday, the staff is working from home but respond to emails and calls with 48 hours.

Ms. Drummond asked if Chrissy was in Washington or the District now, John said she is in the district now working on cleaning up the medal of honor grove. Ms. Drummond said tell her we think she is doing a great job and we will work on her re-election. Mr. Kern wanted to remind us to participate in the 2020 Census and to stay updated on <https://houlahan.house.gov>

**Special Thanks for Storm Response**

Mr. Lambert thanked our first responders for doing a great job last week during the storm. Chief Yeager also wanted to thank everyone on such a good job, everyone pulled together, and the efforts were seamless.

**Property Maintenance Codes**

Mr. Brown read a statement on recent activities about the township maintenance property program. At this current time, the township does not have a dedicated Code enforcement officer or program focused on property maintenance issues. It is the responsibility of the Zoning officer and Codes and Life Safety. The Township does review the need for such a program and would need additional employees to implement a full-fledged property maintenance program. With that said, we do enforce the 2009 international property maintenance codes, which regulates the upkeep and maintenance of the exterior and interior of the properties, so basic livability and safety standards are met. This system of enforcement is complaint driven; in light of recent events the Township is determined to make proper maintenance a priority. The Zoning officer will focus on the most egregious violations of the code throughout the township. These efforts have been underway throughout the summer. Further communication between the Police and Codes has already begun and a plan will be put into place for extra resources being dedicated to property maintenance in our 2021 budget meetings.

## **Public Hearings: Mr. McGrory opened the hearing at 7:45 pm**

Continued Conditional Use Hearing for Oakwood WaterWalk Hotel c/o WaterWalk RE Development Services, LLC, who seeks approval under Section 200-57.F of the Township Code to disturb areas of steep slope for road and parking lot uses for the property located at 85 Matthews Road.

Mr. McGrory closed the record convene into the public meeting portion of the agenda. This application is now in a position to vote tonight and the decision has already been drafted signifying an approval if you so desire. Mr. Orlow made a motion to approve the conditional use request for Oakland Water Walk Hotel. Ms. Drummond seconded the motion; the motion was approved 3-0.

Inter-Municipal Restaurant Liquor License Transfer Hearing for Malvern CPC, LLC, who seeks Township approval for transfer of a liquor license from Thornbury Township to “The Grove” for a new Chickie’s & Pete’s to be located at 10 Liberty Boulevard.

Mr. McGrory closed the record reconvene into the public meeting portion of the agenda. The resolution has already been prepared by the attorney for the applicant.

Mr. Orlow made a motion to approve the Inter-Municipal Liquor License transfer. Mr. McGrory said the motion would be to pass the resolution to approve the transfer, Mr. Orlow said so moved. Ms. Drummond seconded the motion; the motion was approved 3-0.

Full details of the hearing are contained with the transcript prepared by a court reporter. The transcript is available to view at the Township Building.

## **Board Motions & Resolutions:**

Motion to Advertise:

Amendment to Historical Commission Ordinance – Tabled, further review needed  
2020-2021 Heating Oil and Diesel Fuel Bid annual request

Ms. Drummond made a motion to approve the motion to advertise. Mr. Orlow seconded the motion; the motion was approved 3-0.

Mr. Nagel is pleased to announce the promotion of Acting Public Works Director to Public Works Director, Mr. John Neild.

Ms. Drummond made a motion to approve the promotion of Mr. Neild. Mr. Orlow seconded the motion; the motion was approved 3-0.

Ratify Conditional Job Offer to Full Time Public Works Laborer

Mr. Nagel announced the hiring of Jason Chairs to the public works department.

Mr. Orlow made a motion to ratify the hiring of Jason Chairs. Ms. Drummond seconded the motion; the motions was approved 3-0. Ratify Conditional Job Offer to Part Time Firefighter & Emergency Medical Technician (Replacement) Ms. Drummond made a motion to ratify the job offer to Jacob Baily. Mr. Orlow seconded the motion; the motion was approved 3-0.

Ratify Employee Vacation – Temporary Policy – Travel out State - expires December 31, 2020

Temporary Polices, trying to make sure we spread the vacations to staff evenly due to the pandemic.

Ratify Employee Travel & Quarantine – Temporary Policy – expires December 31, 2020

The township is not restricting any employee's travel, but if they travel to a state that Pennsylvania deems to have dangerous covid levels and trends, they are required to more actively monitor their temperature. Thank you to the employees who are following the rules and being considerate of others.

Mr. Orlow made a motion to ratify the employee vacation temporary policy and the travel and quarantine policy.

Ms. Drummond seconded the motion; the motion was approved 3-0

Consider Authorizing Proposal from ARRO (\$9,965) for Structural Design, Surveying, and Coordination of Bidding Process for Wall and Foundation Work Related to Gunkle Spring Mill Wheel Project.

Mr. Barner explained that this is part of the original quote approved. This is for ARRO to do some additional survey work, some design work for a retaining wall, support pier to cradle the wheel, and revise plans. It also includes draft and coordinate the bidding process

Ms. Drummond made a motion to approve proposal. Mr. Orlow seconded the motion; the motion was approved 3-0

### **Ratify Solicitations During Pandemic – Temporary Policy**

Any solicitation that you would have needed a permit for, prior to the pandemic, you will not be approved for a permit at this time. Temporarily NO permits issued at this time.

Mr. Lambert asked if this would also include the Census Bureau. Mr. McGrory confirmed that the Census Bureau solicitation is an exception. This will be in effect until further notice or until the emergency declaration is over.

Mr. Orlow made a motion to ratify the solicitation temporary policy prohibiting or eliminating the ability to issue solicitation permits for as long as the emergency declaration is in place, with the exception of the Census.

Ms. Drummond seconded the motion; the motion was approved 3-0.

### **Planning & Development (ZB):**

Consider Rendering a Decision on the Following Subdivision & Land Development Applications:

[SD-10-2018](#) for HP Flanagan on Bacton Hill Road – Final Subdivision & Land Development

Mr. Barner explained that HP Flanagan discussed the replacement tree requirements and offered to plant half of their 82 replacement trees at a township facility, in this case Bacton Hill Park will receive 41 trees, as part of the conditions of approval. Also, the applicant will maintain the AME church and cemetery. The applicant will repair the fence around the perimeter of the cemetery, remove decaying trees and maintain the lawn area for the duration of the construction.

Ms. Drummond made a motion to approve the final subdivision and Land Development application. Mr. Orlow seconded the motion; the motion was approved 3-0.

[SD-05-2020](#) for 17 Spring – Preliminary / Final Subdivision

Mr. Orlow made a motion to adopt Resolution 2020-05SD. Ms. Drummond second the motion; the motion was approved 3-0.

Consider Extension of Time to Render a Decision on the Following Applications:

[LD-15-2019](#) for WaterWalk Hotel to September 30, 2020

Ms. Drummond made a motion to approve exertion of time. Mr. Orlow seconded the motion; the motion was approved 3-0.

This was not on the Agenda. Mr. Orlow mentioned appointing a new member to the historical board, Mark Keilbaugh.

Mr. Orlow made a motion to appoint Mark Keilbaugh to the Historical Commission. Ms. Drummond seconded the motion; the motion was approved 3-0. Mr. McGrory said we had to specify what terms.

Mr. Orlow said we do not know at the moment but will follow up at the next meeting on this. Mr. Lambert asked can we just amend the terms next meeting, Mr. McGrory said yes.

### **Public Comment: Via E-mail**

Carla Mudry commented on her disapproval of Ms. Drummond's comment to John Kern, advocate for Representative Chrissy Houlahan. She felt it was not the time or place to talk about campaigning, but to hear about what is going on in Washington and what they could do for us, not the campaign.

BarbaraAnn Thav commented on how glad she is to see the Gunkle Spring Mill work continuing; it is such an important historical site. She also mentioned last month while talking about the Atwater, Valley Creek Park, Patriots Path connector, Rich asked that we collect the remaining fee in lieu of from Atwater and would like to know if it has been collected. Mr. Brown advised, no, but he has been in contact with the developer and the developer's attorney. Adjustments need to be made and once that is completed, he has been assured this will be paid. Mr. Orlow mentioned that the final cost will be subject to the Townships Engineer's review.

### **Consent Agenda :**

Approve Meeting Minutes from July 8, 2020

Ratify Payment of Bills: \$641,446.93 (July 2020)

Accept Treasurer's Report: As of June 30, 2020

Settlement Approval of Real Estate Assessment Appeal - Great Valley SD v. Chester County BOAA and Liberty Property Limited Partnership.

Approve Investment Policy Statements for the Township's three Pension Plans' Trust Funds and the OPEB Trust Fund, as recommended by the East Whiteland Township Pension & OPEB Board of Trustees

Mr. Orlow made a motion to approve the Consent Agenda as read. Ms. Drummond seconded the motion; the motion was passed 3-0.

**Another Public Comment came in after Consent Agenda:** Mr. Chipman, representative for Whitetail Disposal wanted to go on record with details of what unfolded as he saw it.

### **Whitetail Disposal**

August 7, 2020: 9 solicitation permits issued, rules and protocol for sales reps attached in original email. August 8, 2020: Sales reps started door to door signups with favorable results.

August 9, 2020: Sales reps resumed door to door sign ups with favorable results.

9 solicitation permits revoked due to resident complaints stating non-compliance of face coverings from sales reps. Sales reps met with police to turn in permits.

August 9, 2020: Police chief contacted by Whitetail Disposal representative (Devin) via voicemail. No return call or communication has happened between Whitetail and police.

August 10, 2020: Sales reps were coached regarding face coverings. Sales reps stated that they were in compliance during their sales neighborhood sales calls, but the resident was not happy with door to door interaction.

1 resident upset and threatened to have the permits revoked by the township.

Neighbor of that resident willing to vouch for sales reps since he (she) witnessed that they were wearing face coverings.

Mr. Lambert explained that we just passed an ordinance prohibiting soliciting during the pandemic. Chief Yeager had spoken with Mr. Chipman today and said he would call him after the meeting to let him know what happened. Ms. Drummond said we passed the ordinance tonight and should leave it in place for now; if they were properly wearing masks maybe we should reconsider. There are signs you can get that do not allow solicitors to come to your door you can put these on mailboxes or on a window out front of your home.

### **Mr. Chipman asked in an email the following:**

Do we have specific information on where the sales rep(s) were that did not have masks on and if we have any proof that they were not wearing masks. If permits are going to be revoked, since they are individual permits where each sales rep applied individually (it is not 1 company permit to Whitetail Disposal), shouldn't the guilty sales reps that were not following protocol have their permits revoked but NOT revoke permits to ALL 9 sales reps?

Is it legal to put a complete end to Soliciting? Shouldn't the proper method be to set strict guidelines for solicitors to follow instead of banning them completely?

Mr. Nagel suggested that the staff look into this matter and get back to the Board with a resolution. Mr. McGrory explained that the motion passed tonight was to not issue anyone permits for solicitation; you can reconsider or revoke anyone not following CDC guidelines. Mr. Nagel said the issue at hand is about the method of solicitation and if the company can do this without direct contact it may work. Mr. McGrory asked, "Do you want to revoke the motion?" It was decided, at this point, that the township would learn more about the situation before making any additional changes.

Carla Mudry commented that when she asked the person to leave her property and they did not leave; they pushed back. She found it uncomfortable to have people soliciting during COVID-19.

One final comment from BarbaraAnn Thav. She asked Chief Yeager to share with the public what ID the township requires solicitors to show homeowners. Chief said they receive an ID card after they show identification and pass a background check.

Mr. Lambert asked Chief Yeager to meet with the folks from Whitetail then get together with staff to make a recommendation for the Board. The ordinance will be left in place for now.

**Meeting Adjournment – 8:45PM**

**Donna Wikert, Board Secretary**