

Board of Supervisors

February 9, 2022

Board Members Present: Scott Lambert, Chair; Rich Orlow, Vice-Chair; and Peter Fixler, Member

Staff Present: John Nagel, Township Manager; Steve Brown, Assistant Township Manager; Donna Wikert, Operations Manager, Board Secretary; John Neild, Direct of Public Work; Zach Barner, Director of Planning and Development; Ted Locker, Zoning Officer; Usha Hogan, Direct of Finance Chris Yeager, Police Chief; Joe McGrory, Bernadette Kearney and Steve Anella, Solicitor

Mr. Lambert called the Zoom meeting to order at 7:15 P.M.

Pledge of Allegiance

**Board Briefings:**

Executive Session(s) were held on February 9 at 4pm (legal, personnel and real estate)

East Whiteland Township mourns the passing of Former Chief Fred Rosato. Chief Rosato began his 35-year career in East Whiteland in 1967 as a patrolman and was promoted to Sergeant in 1970. Rosato was the primary Criminal Investigator until being promoted to Lieutenant in June of 1974. Rosato was promoted to Chief of Police in June of 1994 where he led the Department until his retirement in 2002.

Matt Barnes was a 2009 Great Valley High School Graduate as well as an Emergency Medical Technician in New Mexico. Matt Barnes recently passed away

Moment of Silence for former Police Chief Rosato and GVHS graduate Matt Barnes.

Commendation for Fire & EMS Division – Chief Lewis spoke about the tractor trailer accident on January 31 on Route 202, southbound near Route 29. The truck was hauling scrap metal when it lost control and landed on its driver side. The driver of the truck was trapped, and it took just over an hour to extricate him. The driver was transported to Paoli Hospital with non-life-threatening injuries. Chief Lewis presented highlights of the accident and pictures showing how serious this call was. He took a few minutes to recognize and thank the crew on the call that morning.

The Board wanted to acknowledge and thank the first responders for putting themselves in harm's way to save the lives of others.

PA Gaming - New Statewide Local Share Account Program: Steve Anella lead the discussion. This is a grant program administrated byT Common Wealth Finance Authority. They are distributing revenues from taxes on gambling, horseraces, etc. through multiple local share accounts. East Whiteland Township is eligible to take advantage of this grant. The grant applications close date is March 15, 2022 and it requires a board resolution if you apply.

East Whiteland Township received \$500,000 (TASA) Grant Transportation Alternative Set-Aside Award for construction of sidewalk and pedestrian improvements on Conestoga, Moore's, and Church Roads. All funds from the State will be used for the construction, the Township will be responsible for the Design, and Engineering Permits. This project will allow children coming from Bryn Erin the ability to safely cross Conestoga Road.

DeVault Trail introduction – TMAcc's Tim Phelps and John Meisel briefly discussed the continued work on the proposed trail connecting the Great Valley Corporate Center Atwater area to the Phoenixville Bough. The project team is currently working on specific recommendations for the acquisition, ownership, management, and

maintenance of the DeVault Trail. These specific recommendations are being reviewed with the municipalities along the trail corridor.

Mr. Martin Lutz asked if there is a graphic showing the proposed trail. Mr. Phelps advised that project updates and maps can be viewed on the TMACC website [www.tmacc.org](http://www.tmacc.org).

COVID Vaccine Booster Clinic – Mr. Nagel announced that Chief Lewis is working with our HR Manager Nivine Rihawi to set up a free vaccine and booster clinic event for employees, their families, along with residents of EWT. This event will be hosted at the Firehouse, 205 Conestoga Road. Check our website for details.

### **Board Motions & Resolutions:**

Establish Board of Supervisor Liaisons to Volunteer Boards & Commissions.

Chairs of Voluntary Boards & Commissions can brief Board Liaison, as needed:

Planning Commission - Peter Fixler

Zoning Hearing Board - No Liaison Needed

Park & Recreation - Scott Lambert

Historical - Scott Lambert

Fire - Rich Orlow

Environmental - Peter Fixler

Pension - Rich Orlow

Finance - Rich Orlow

Open Space - Scott Lambert

Transportation - Staff Provides Monthly Briefing

Planning & Development – Staff Provides Monthly Briefly, Quarterly Cycle of Board Members

Great Valley School Board & Municipalities - Staff Provides Quarterly Briefing

No motion necessary

Approve Promotion of Donna Wikert to Operations Manager:

Mr. Orlow made a motion to approve the promotion of Donna Wikert to Operations Manager. Mr. Fixler seconded the motion; the motion was approved 3-0.

Approve Conditional Job Offer to Jean Ryle for Executive Assistant to Chief of Police:

Mr. Fixler made a motion to approve the Conditional Job offer to Jean Ryle. Mr. Orlow seconded the motion; the motion was approved 3-0.

Consider Authorizing Advertisement for Workshop Session of the Board of Supervisors on March 16, 2022 to Discuss Residential Zoning Considerations for the Route 30 Corridor:

Mr. Orlow made a motion to approve the Workshop Session for March 16, 2022, at 7:00PM and to advertise for the session. Mr. Fixler seconded the motion; the motion was approved 3-0.

Consider Acceptance of Proposal from Thomas Comitta Associates for Planning and Technical Assistance Services for Route 30 Corridor Residential Zoning Workshop meeting (for a price not to exceed \$1,500)

Mr. Fixler made a motion to approve the proposal not to exceed \$1,500. Mr. Orlow seconded the motion; the motion was approved 3-0.

Consider Acceptance of Proposal from McMahan Associates for Engineering and Project Delivery Services related to Moores Road Sidewalk Extension (for a price not to exceed \$189,180). Construction to be funded via TASA Grant Program.

Mr. Orlow made a motion to accept the proposal from McMahon not to exceed \$189,180. Mr. Fixler seconded the motion; the motion was approved 3-0.

### **Ratify Acceptance of Pennsylvania Opioids Settlement Participation:**

Bernadette Kearney, East Whiteland Township solicitor, gave an overview of the Opioids settlement participation. The Opioids Trust & Allocation Order indicates that the Commonwealth has negotiated two settlements related to the opioid crisis. One involves distributors MKeeson Corporation, Cardinal Health, Inc., Amerisource Bergen (“Distributors”); the other involves manufacturers such as Johnson & Johnson, Janssen Pharmaceuticals, Inc., Ortho-McNeil Pharmaceuticals, Inc. (“Janssen”).

Pursuant to the Opioids Trust & Allocation Order, the distributors and manufacturers are going to pay up to \$1,070,609,642.00 into the Pennsylvania Opioid Misuse and Addiction Abatement Trust over 18 years. The trust is divided into three funds. Fifteen percent (15%) of the funds will be held in a Commonwealth Account; seventy percent (70%) will be held in a County Abatement Account; and fifteen percent (15%) will be held in a Litigating Subdivision Account. The Commonwealth Account is for the state’s use. The Litigating Subdivision Account is for use by counties and municipalities with existing litigation against the settling defendants.

The County Abatement Account is for all Pennsylvania counties. A county’s allotment is based on population. Chester County’s share will be roughly \$15,512,000.00. A county gets a “bonus” allotment (10%) if all of its municipalities with a population over 10,000 sign three (3) settlement participation forms: a Distributor Settlement Participation Form, a Janssen Settlement Participation Form and a Pennsylvania Subdivision Intrastate Allocation Participation Form. The Distributor and Janssen forms essentially say that, if the Township participates in the settlements and takes the money, then the Township forever waives its rights to sue the distributors and manufacturers. The PA Subdivision form basically says that the Township will use any such money in accordance with the other agreements and the Order. The Order says that a municipality may only use the funds for the purposes set forth in Exhibit E of the Distributor and Janssen Settlement Participation Forms.

Question from Barbara Ann Thav, she is curious if the Township had any financial statics on the opioid crisis in the community? Mr. Lambert wasn’t clear on her question but said the Township is in no position to be involved in a settlement of this magnitude, so we are following the expertise of the county solicitors.

Mr. Fixler made a motion to accept the Pennsylvania opioids settlement participation. Mr. Orlow seconded the motion; the motion was approved 3-0.

### **Motion to Advertise:**

Municibid

2014 Dodger Charger (car # 42-17)

2015 Dodge Charger (car #42-02)

Mr. Orlow made a motion to advertise on Municibid. Mr. Fixer seconded the motion; the motion was approved 3-0

### **Planning & Development:**

Consider Rendering a Decision on the Following Development Applications:

WLD-14-2021 for Modular “Data Pods” at Swedesford Road Data Center (Green Fig Land Company – Request for Waiver of Land Development Process

As part of the larger data center proposal along Swedesford Road, the Applicant is proposing to install twelve (12) modular “data pod” structures on the eastern portion of the tract. This area was previously remediated through the EPA and has been overlain with a protective membrane (or “quarry cap” as it is noted on the plan).

This portion of the property was previously approved for a large solar panel array of approx. 8,000 panels, which is no longer proposed.

The “data pods” are similar in size and appearance to a shipping container and house computing hardware (such as servers) that serve as smaller scale data centers for cloud storage, financial calculations, and similar activities. Each unit contains its own self-contained cooling apparatus due to the heat generated by the computing hardware. The “pods” would be placed at-grade on top of the remediated/membrane area and would be served by an access road to be constructed of pervious paver materials.

The Board raised concern over potential visibility from the surrounding properties and roadways, as well as the need to review the proposed restrictive covenant related to the previous remediation of the site.

There was a discussion of whether the data pod use was included in the recent approval from the Zoning Hearing Board related to the larger data center use on the adjacent parcels.

The Township will compile additional comments and questions for the Applicant to review and respond to prior to the next meeting of the Supervisors.

Deb Mobile had a few comments, she thinks it is wise of the Board to put this decision off until they have all questions answered. Not once has security been mentioned, is there fencing, security cameras, on site patrol?

Mr. Lyddane applicant explained there is currently a barbed wire fence around the area, and they plan to have electric security around the fencing area and onsite and offsite patrolling.

Barbara Ann Thav is concerned about the view from Bacton Hill Park and thinks this is possibly a flooding area. Mr. Robinson said it is the highest part of the Township and will not flood.

Mr. Orlow said after given the opportunity to see this for the first time, he is not prepared to say yes or say no. He wants to go out and walk the property. And asks the applicant to come back next month. Mr. Orlow wants to make sure if we do a waive land development, do we still have the right to impose conditions on the waiver as if it was going through full land development.

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

LD-12-2021 for Office / Flex Building at 9 Malin Road (Evergreen Landscaping, Inc.) – extension on preliminary plan to May 31, 2022

Mr. Fixler made a motion to accept the extension of time. Mr. Orlow seconded the motion; the motion was approved 3-0.

**LD-13-2021 for Knickerbocker Redevelopment (DP Whiteland, LLC)** – extension on preliminary plan to May 31, 2022

Mr. Fixler made a motion to accept the extension of time. Mr. Orlow seconded the motion; the motion was approved 3-0.

**Consider Resolution to Accept Modifications to Previously Approved Development Applications:**

Uptown Worthington – Modification to Phasing Plan for Phase 4 to create sub-phases (4a and 4b) for the proposed medical office building and movie theater (respectively)

Mr. Orlow made a motion to approve the resolution to accept the modifications. Mr. Fixler seconded the motion; the motion was approved 3-0.

**70 Three Tun Road (Lot 3)** – Modification to Land Development Plan to all smaller building footprint, along with revisions to the proposed Grading, Stormwater Management, and Landscaping Plans.

Mr. Orlow made a motion to approve the Resolution to accept the modifications. Mr. Fixler seconded the motion; the motion was approved 3-0.

**Zoning:** Property Maintenance Codes – Recent Activity:

Mr. Locker mentioned several properties were being cleaned up since they had been reported.

**Consider Sending Township Solicitor to Zoning Hearing Board to Support or Oppose:**

**ZHB- 1-2022** - Application of Tina Daibagya and Sachin Shrestha for a variance from Section 200-21, 200-20B, and Attachment 3, to allow the addition of a sunroom, in excess of the allowable building coverage by +/- 84 square feet. The subject property is located at 15 Accord Drive, Malvern.

The Board agreed no need to send the Solicitor.

Barbra Ann Thav wanted to report to Ted Locker several areas she has noticed issues that need to be looked into.

1. Very large truck parked at the Importer on Route 30
2. House renovation on 66 Sproul Road has excess of water running off onto Route 352
3. Cigar Place on Route 30 has cars parked over night and was wondering if this is allowed

**Public Comment:**

Barbara Ann Thav wanted to mention that Malvern Public Library is hosting a virtual tea and meet the author event with Eric Larson March 9, 2022. This is a fund-raising event. Go to the following link to sign up.

<https://www.malvern-library.org/>

**Consent Agenda:**

Approve Meeting Minutes from January 12, 2022

Ratify Payment of Bills: \$466,426.00 (January 2022)

Accept Treasurer's Report as of December 31, 2020

Proposal from ARRO to Prepare & Submit Annual MS4 Report through June 30, 2022

(\$35,000)

Ratify 2022 Summer Camp fees and scholarships

Authorization to release Request for Qualifications for Sidley Road-Mill Lane Chester Valley

Trail (\$250,000 Grant Received from DCED)

Mr. Orlow made a motion to approve Consent Agenda as read. Mr. Fixer seconded the motion; the motion was approved 3-0.

Mr. Lutz asked what the purpose of \$250,000 grant from DCED is for. Mr. Brown said it is for design, surveying, and engineering permits.

**Meeting Adjournment – 9:20 PM**

**Donna Wikert**

**Board Secretary**

**Operations Manager**