

**Board of Supervisors**  
**February 10, 2021**  
**Minutes**

Board Members Present: Scott Lambert, Chair; Rich Orlow, Vice-Chair; and Sue 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; Chris Yeager, Police Chief; Joe McGrory, Solicitor; and Krista Stefkovic.

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

Pledge of Allegiance

**Board Briefing:**

Executive Session(s) were held on February 10 at 5:30pm (legal, personnel and real estate) January 28, 2021 at 2:30pm (real estate).

Property Maintenance Codes – Recent Activity – Ted Locker, Zoning Officer spent yesterday in District Court, where the Judge gave a few residents 30 days to clean up their property. The Township also filed a lien on a property owner; the township hired an outside contractor to come in and clean up this particular property.

Chief Yeager – Recent Activity – Chief wanted to reiterate not to give any personal information to anyone that you do not know. There are a lot of new scams out there and people are falling for these and losing a lot of money. Please do not give any information. Call the Police department and we will advise you what to do.

Chief also announced that the Township will be hiring up to 3 more Police Officers. They are trying to collect from a larger pool by possibly allowing someone who is still in the Police Academy to apply and they have reached out to area such as Allentown, Harrisburg, Philadelphia, and Delaware. Please go the website for more information and an application.

**Public Hearings:**

**Approve Fees for Certifications & Duplicate Bills for Elected Real Estate Tax Collector**

Mr. McGrory introduced the following into the hearing as exhibits 1 thru 4.

Letter to the paper  
Proof of publishment  
Ordinance  
Lega notice

Mr. McGrory closed the record reconvene into the public meeting portion of the agenda. The resolution is now in a position to vote on.

Ms. Drummond made a motion to accept and approve the fees for certification & duplicate bills for Real Estate tax certs from \$15 to \$18 and the Duplicate Tax bill from \$3 to \$5. Mr. Orlow seconded the motion; the motion was approved 3-0.

**Amend Ordinance #189-7 to reduce speed limit from 30mph to 25 mph on Malvern Hunt Way**

Mr. McGrory introduced the following into the hearing as exhibits 1 thru 4.

Letter to the paper  
Proof of publishment

Ordinance

Lega notice

Mr. McGrory closed the record reconvene into the public meeting portion of the agenda. The Amended Ordinance is now in a position to be voted on.

Mr. Orlow made a motion to accept and approve the amended Ordinance to reduce the speed limit on Malvern Hunt Way. Ms. Drummond seconded the motion; the motion was approved 3-0.

**Planning & Development:** Mr. Lambert suggested hearing 4B before 4A.

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

[Bishop Tube Redevelopment](#) (Constitution Drive Partners, LP) – Preliminary Subdivision & Land Development Consider Authorizing Solicitor to Draft a Resolution for the following Subdivision & Land Development Applications.

Mr. Lambert mentioned the Township Public comment mailbox received over 75 emails asking the Board to please vote No on Bishop Tube Redevelopment. Mr. McGrory outlined the purpose of this request for Preliminary Subdivision & Land Development. Mr. McGrory explained that the Board has one purpose here and that is to decide based on review letters, does the plan comply to the existing ordinance. This is not based on public opinion, or whether they agree with the plan, their function is to look sticky at what has been proposed as compared to existing ordinances and does it comply. Mr. McGrory recommends the Board put a motion on the floor before they open for Public Comment.

Ms. Drummond made a motion to accept and authorize the solicitor to draft a Resolution following Subdivision & Land Development for Bishop Tube Redevelopment. Mr. Orlow seconded the motion; the motion was approved 3-0.

For the record, Mr. McGrory wanted to announce that the Board received over 70 emails from residents urging the Board to vote no for the Bishop Tube Redevelopment.

Opened the floor for public comment, Ms. Debra Mobile spoke first. She asked the Board, do you stand with the residents, with the future residents, do you stand by your oath of office or do you stand with the developer, who is not a resident of the township? She asked the Board and the developer, would you purchase a home here, would you want your grandchildren living here? We are Bishop Tube Clean and Green, Mom's and Dad, grandparents, singles, some of us work, so retired. We are a force to be reckoned with we will continue to oppose homes being developed on this property and advocate for green open space. My hope is that you the board of Supervisors will join us in endeavor. Thank You.

Mr. Tyron Baker asked if the developer is Constitutional Drive and when would construction start? Mr. Colagreco answered yes that is the developer and explained there are a lot of conditions with this approval and it is going to take some time.

Mr. McGrory asked Mr. Colagreco, are you and your client in agreement to the conditions of the resolution, he answered yes.

Mr. Lambert said at this time we will call for a vote and give each Supervisor a chance to make a comment. Mr. Orlow said he will vote to approve as he feels with all the conditions in place, this is the only way to secure control of this project. He does so largely because of what he considers more of a risk if the plan is denied and appeal is

overturned the Township would lose the ability to impose the even more stringent conditions, we have included in the Resolution over and above what was included with the Zoning Hearing Board order, that moves him to approve, so we can obtain as much control as we can.

Ms. Drummond spoke and said this has been over everyone's head for over 15 years or so. We have to approve or we will lose all control, I urge everyone to read the resolution we incorporated everything the people have brought to our attention, Trust the resolution. Therefore, I vote yes.

Mr. Lambert explained that collectively they would rather not proceed with this action, but the applicant has met all 18 conditions we placed on this to protect everyone involved. For example, number 7, emergency access road will be limited to only emergency vehicles. I will vote yes, so we have this control.

Mr. Colagreco, applicant's attorney thanked the Board and plans to move forward and will clean up the site. Mr. Lambert asked him to stress how important the cleanup is to our residents and all of us. Mr. Colagreco agreed.

[LD-13-2020](#) for Parking Expansion at 45 Liberty Boulevard (Equus Capital Partners, LTD) Preliminary / Final Land Development

Mr. Barner gave a brief overview to the Board. The applicant has worked with the Township Engineers and received a favorable review from the Planning Commission and is ready to move forward with a draft resolution.

Ms. Drummond made a motion to accept and approve a draft resolution for 45 Liberty Boulevard preliminary, final land development. Mr. Orlow seconded the motion; the motion was approved 3-0.

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

[SD-12-2020](#) for Remnant Parcel Subdivision (Knickerbocker Lands, LLC) – extension to March 31, 2021.

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

[LD-13-2020](#) for Parking Expansion at 45 Liberty (Equus Capital Partners, LTD) – extension to March 31, 2021.

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

[SD-17-2020](#) for Three Lot Subdivision at 31 Coffman (Renehan Building Group) – extension to May 31, 2021.

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

[LD-18-2020](#) for Parking Expansion at 333 Technology Drive (MLR Technology LLC and 1201 Technology Drive LLC) - extension to May 31, 2021

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

[LD-19-2020](#) for 20 Moores Road Office Building (Mountain Laurel Funding Company, LLC) – extension to May 31, 2021

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

**Consider Final Release of Financial Security for the Following Developments:**

Swedesford Square Apartment Complex (LCOR)

GVCO New Recreation Center- Phase I Site Improvement

Ms. Drummond made a motion to accept and approve Final Release of Financial Security for both Swedesford Square and GVCO. Mr. Orlow seconded the motion; the motion was approved 3-0.

**Board Motions & Resolutions:**

Approve Appointments to Boards and Commissions: Be it hereby resolved that the Board appoints the following individuals to serve another term on the following Boards and Commissions: Resolution 2-2021:

Park & Recreation Board - Chuck Barbera and Tim Phelps

Historical Commission – Theresa Schatz

Pension & OPEB Board of Trustees – Steven Schmid

Mr. Orlow made a motion to approve and accept the appointments to the Board and Commissions. Ms. Drummond seconded the motion; the motion was approved 3-0.

**Approve Design of Bacton Hill Park Playground:**

Mr. Brown presented an overview with slides on the Design of Bacton Hill Park Playground. Tonight, is just to approve the design of the playground. The entrance to the playground is on Bacton Hill Road and Swedesford Road, with access to Chester Valley Trail. The design began about 2 -3 years ago. Once this phase is approved then we will move into releasing for bid process. Mr. Brown discussed the basis concept of the design; there are several phases to this park. There will be sectioned areas with age specific equipment, gathering section for families, and quite area for the public. This is considered an all-abilities playground. Action tonight is to accept the design, then next month move to the bidding process. The design is a collaboration from Staff, Park & Recreation Board, and Rick Tralies.

Ms. Drummond made a motion to accept and approve the Design of Bacton Hill Park. Mr. Orlow seconded the motion; the motion was approved 3-0.

Barbara Ann Thav commented how beautiful the park design looks, but the footprint looks like it shrunk. She wanted to point out that the foliage seen in the picture is not actually what will be in the park. She asked if the Park & Recreation Board has seen the new draft design? Also, she mentioned the Moms club had input regarding the all- abilities park. Barbara Ann also asked if the Public Works department will clean up the entrance once spring arrives.

Debra Mobile had a few concerns with the foliage in the design and asked whatever they decide on using to not let it outgrow the line of site to the areas of the park, so there is a clear view of everything and everyone. Ms. Drummond agreed.

Mr. Lambert clarified for the record that Mr. Barner has been working diligently with the developers that need to relocate trees, that those trees would be moved to Bacton Hill Park.

**Approve 2021 Summer Camp (Outdoor) at Battle of the Clouds Park**

Mr. Brown would like to have the Board approve Summer camp to be held at “The Battle of the Clouds” this year due to COVID-19 and indoor places not being available. There are several concerns, weather being the top one. They will cut the hours back by 1 hour ending at 2pm instead of 3pm.

Mr. Orlow asked if Valley Creek park was considered. They have a bigger playground, bigger pavilion for coverage. Mr. Brown said they did think about that, however, that park gets a lot of corporate use. Michelle Mariano-Fasano, Direct of Camp, prefers the Battle of the Clouds since it is connected to the trail which she intends to use and the gaga ball pit.

Mr. Orlow made a motion to accept and approve Summer camp being relocated to the BOC park. Mr. Drummond seconded the motion; the motion was approved 3-0.

Barbara Ann Thav asked if the Park and Recreation Board saw the scaled down plans for Bacton Hill Park. She mentioned she has concerns with camp and the Township not having Covid-19 prevention plans. Also, she asked if the fees were being raised to cover extra expenses. Mr. Brown explained that the CDC has published a 9-10 page document with readiness tools to help Townships through Camp. The Township will be practicing these guidelines. She also asked if the fees, in lieu of, planting trees have been received by the Township, Mr. Barner said yes.

Approve 2021 Summer Camp Fees:

Mr. Brown explained with all the new rules, comes extra costs. He is asking to raise the camp fee \$50 across the board.

The Board made it clear there are a lot of things to think about by having camp outside. There is rain, heat, mid-day storms, and drop off and pickup procedures for parents. These concerns need to be addressed sooner, rather than later, all in the hopes that East Whiteland can have summer camp this year

Ms. Drummond made a motion to accept and approve the cam fee increase of \$50 across the board. Mr. Orlow seconded the motion; the motion was approved 3-0.

**Motion to Award:**

Construction of Wheel Pedestal, Wheel Pit, and Sump Pump for Gunkle's Mill Wheel Project to Construction Masters Services, LLC for a price not to exceed \$53,938.56.

Mr. Barner explained that this is a 2<sup>nd</sup> bid with adjustments but will keep us on track with the timeline starting this year.

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

**Motion to Advertise:**

Project to Divert Flow from the Malvern Hunt WWTP Lagoons into the Sewer Trunk Line that runs along the Chester Valley Trail. This is the first phase of the decommissioning of the Malvern Hunt WWTP. The project involves the installation of approximately 350' of pipe.

Mr. Neild gave an overview on this project all permits in order and ready advertise.

Ms. Drummond made a motion to approve the advertisement for the first phase of decommissioning of the Malvern Hunt WWTP. Mr. Orlow seconded the motion; the motion was approved 3-0.

**Zoning:**

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

ZHB-3-2021 – Application of DeMarco Real Estate Holdings, Inc., for a Special Exception from section 200-30, 200-32, and attachment #6 to allow a State Farm Insurance office in the Linden Hall office building. The property is located at 433 Lancaster Avenue, Malvern, PA. and is within the VMX Village Mixed Use Zoning District.

ZHB-4-2021 – Application of Fisher Brothers Exteriors, for a variance from section 200-20.A, 200-21, and Attachment #2, to allow the construction of a rear deck with a portion of the deck encroaching into the 25 foot minimum side yard. The property is located at 1537 Morstein Road, Malvern, PA. and is within the R-1 Residential Zoning District.

Ms. Drummond said these are simple straight forward issues that the Zoning Board is capable of handling. No need to send the solicitor.

**Public Comment:**

**Martin Lutz**, requested the lease, covenant, and presentation from last month's meeting between the Township and East Whiteland land holdings LLC. He had filed a Right to Know request and was asking to see it before 30 days. Mr. McGrory said no problem and even though it was not executed yet, he could have a copy. He did mention he was surprised that this was approved before the public had access to it.

Barbara Ann Thav thanked John Neild and his crew for the fast snow removal service, great job! She invited the Chief to give a presentation at the Malvern Library about scams and mentioned to contact her. She asked about Linden Hall and the roofline on the building; wondering if it had been corrected. Mr. Barner said after much thought into the different alternatives, the Historical Commission decided the current configuration was preferable and the roof will remain as is.

Mr. Tyrone Baker asked if the State Farm was approved, he didn't hear the resolution. Ms. Drummond said they did not need to vote on sending the solicitor to that hearing because the Zoning Hearing Board could handle it.

Mr. Lutz asked Mr. McGrory to clarify the timeline of the covenant agreement. Mr. McGrory explained that the covenant only allows one billboard and nothing else on that property. It also requires open space and perpetuity on all the other properties. Mr. Lutz asked is this enforceable by any resident of the Township and Mr. McGrory said yes. It is already approved once the approved version is completed it will be released to the public.

**Consent Agenda:**

Approve Meeting Minutes from January 13, 2021 and February 1, 2021

Ratify Payment of Bills: \$986,806.27 (January 2021)

Approve Memorandums of Understanding for Township Manager, Police Chief and Police Lieutenant

Ratify Conditional Job Offer to Replace Full Time Firefighter & Emergency Medical Technician (Bryan Rachko)

Ratify Conditional Job Offer to Replace Full Time Public Works (Todd Trigger)

Approve Proposal from ARRO Engineering (\$35,000) for Annual MS4 Reporting & Resubmission of Pollution Reduction Plan

Ratify BSTI proposal (\$7,500)

Mr. Orlow made a motion to accept and approve the Consent agenda as read. Ms. Drummond seconded the motion the motion was approved 3-0.

**Other Business:**

**Meeting Adjournment – 8:45 pm**

**Donna Wikert**

**Township Secretary**

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