

Board of Supervisors

March 8, 2023

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

Staff Present: Steve Brown, Township Manager; Donna Wikert, Operations Manager, Township Secretary; Usha Hogan, Direct of Finance; Zach Barner, Director of Planning and Development; John Mateja, Zoning Enforcement Officer; John Neild, Direct of Public Work; John Nagel, Special Projects; Chris Yeager, Police Chief; Greg Lewis, Fire Chief; Bernadette Kearney, Township 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 15 at 9:30 am (legal, personnel and real estate)

March 7 at 5:00 pm (legal, personnel and real estate) and March 8 at 5:00 pm (legal, personnel and real estate)

These two items will be presented during the meeting by Chief Yeager.

Introducing Joel Buccialia as new police officer

Presentation of the plaque for the Accreditation by Jim Adams from the Pa. Chiefs of Police Accreditation Division to East Whiteland Police

Sewer Sale - John Nagel provided an update on the Sewer sale. The sale went through in August of last year, it has been appealed and the funds are in a fund due to appeal. Aqua owns and operates the system, plans are continuing for the Spring Valley Road and Plain Brook Road project. Waiting for DEP to approve the ownership change. Aqua is projecting a late spring start.

Route 30 Corridor – 2023 submission for 23-million-dollar federal grant for road improvements was submitted on February 28, 2023. Results are due sometime in June. There has been tremendous support from Federal level, State and Regional levels, Septa, County Commissioners, Neighboring Municipalities, Penn State, Immaculata, Peoples Light, Saint-Gobain, Paoli Memorial Hospital and Aqua. Business and Community leaders, Staff, Delta Team, McMahon and TMAC.

Campus Master Plan – No update

MS4 presentation for work at Great Valley Creek Park, Ecology Park, and Township Building Working Lands – Robert Maiden

<https://www.eastwhiteland.org/DocumentCenter/View/3175/2gValley-Creek-MS4-work>

Questions: from Board:

Mr. Fixler mentioned this is a good opportunity for the township. Mr. Orlow reiterated to Robert Maiden, this program is where you do the work you get paid for by PennDOT and we get the credits. The number of credits year is 338,000 credits, it's a permit cycle and we have a few years to get this work one. Mr. Lambert asked, can the credit requirements in the future move up, Mr. Neild said yes, they will move up, you can bank credits, it would pay to get done sooner than later. Kathleen Stauffer asked what an MS4 is. Mr. Neild explained an MS4

is a DEP program where you reduce your pollutant load going into the water ways, every Township is falling into this. The work being done at Valley Creek Park is stream bank restoration, drainage channel off Route 29, and creating buffers. Mr. Orlow said there are many basins in our Township, if every HOA routinely maintains their basin, we get credit for that also. Mr. Neild said yes, we want to do what is best for the Township not just meet goal. If it is going to be a real improvement no matter the cost, it would be worth it.

### **Public Hearings:**

Zoning Map Amendment for the Following Properties:

164 Conestoga Road (Parcel 42-4-42.2) from OS (Open Space) to PO (Professional Office)

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. Ms. Kearny opened the 164 Conestoga Road hearing and asked to continue this on the record to April 12, 2023. Ms. Kearney reconvened into the regular Board meeting to vote upon the continuance. Mr. Fixler made a motion to continue this hearing on April 12, 2023. Mr. Orlow seconded; the motion was approved 3-0.

800 Swedesford Road (Parcel 42-3-127) from R-2 (Residential) to OS (Open Space)

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. Ms. Kearny opened the 800 Swedesford Road hearing. The hearing ended and Ms. Kearney reconvened into the regular Board meeting to vote upon 800 Swedesford Road. Mr. Orlow made a motion to approve the Zoning Map Amendment to change from R-2 to OS. Mr. Fixler seconded; the motion was approved 3-0.

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

Consider Approval to purchase Backhoe for Public Works.

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

Consider Approval of the 2023 Non-Uniform Employee Pension Ordinance #348-2023

Consider Approval of the 2023 Non-Uniform Employee Pension Resolution #16-2023

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

Consider Approval of the 2023 OPEB Ordinance #349-2023

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

MOVED 9F from Consent Agenda: Consider Approval of the Comprehensive Revisions to the Employee Manual

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

Consider Approval of the IAFF International Association of Fire fighter Union Contract:

Nivine Rihawi mentioned several changes, this is a 4-year contract from 2023 to 2026. One major change was the percent increase to 3.75 for the 4 years of the contract. We streamlined it and cleaned up the language.

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

Consider Approval of ARPA grant program:

Mr. Brown explained that we have received approximately 1.3 million dollars to date. The Township has allocated 800 thousand dollars to the HVAC system in the administration building and or committed funds to Peoples Panty for 2023 and 2024 \$36,000 and provided five summer camp scholarships. There is approximately \$500,000 available for use, we have to the end of 2024 to obligate the funds and fully expend till 2026. The guidelines have changed considerably. We can use the money for general fund purposes or identify specific projects, we can use it as fit. The Board has discussed providing the money to human service agencies, staff have guidelines in place. Staff have made contact with five different agencies. Mr. Lambert would like to see it expanded to the community and all Board members agreed. If anyone in the community has an idea, please call the Township. Ms. Stauffer asked what ARPA stands for, Mr. Lambert said American Rescue Plan Act. There is an application form and guidelines we can provide the public with. Ms. Mobile asked how will and who makes the decisions on who will get the money. Mr. Brown said there is an outline of qualifying conditions, and the agencies must have a physical presence in the Township or Great Valley School district. It must be recognized by the Non-profit IRS recognized; they must have been in existence for a year prior to the pandemic. They must meet the purposes such as food access, education, healthy childhood environment, housing, mental health, and behavioral health prevention. These are broad categories, there will be an internal ad hoc committee set up, likely Township staff and Board member, it's not yet determined. That committee will make recommendations to the Board. Mr. Lambert said we will place information on the Township website and Facebook. The recommended number is a maximum of \$50,000.

Mr. Orlow made a motion to approve the ARPA grant program as described and authorize advertisement and form a committee of staff and Board members to review applications. Mr. Fixler seconded the motion; the motion was approved 3-0.

### **Back to Board Briefings:**

Introducing Joel Buccialia as new Police Officer

Chief Yeager introduced our new East Whiteland Township Police Officer Joe Buccialia, he has been sworn in on Monday. Joel comes to us from West Chester. He worked at Chester County Sheriff's department, and Sadsbury Township Police Department. The Board welcomed him to the Township.

Consider Approval to purchase 2022 Ford F-150 for 41,500 plus upfit, for Police Department.

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

### **Back to Board Briefings:**

Presentation of the plaque for the Accreditation by Jim Adams from the Pa. Chiefs of Police Accreditation Division to East Whiteland Police

Mr. Adams talked about Accreditation and how much work is put into this, it is a long process. There are 125 standards or best practices that a Police department must comply with providing professional law enforcement services. Within those standards they are broken down into multiple standards when you add them all up to its 370 best practices that the Police department had to look at the policy manual and make sure they comply with the standards and proof of compliance. They went before the Board of Commissions, and they were successful.

There are 1100 Municipal Police departments in the Commonwealth of Pa., and only 150 are accredited, and your Township is one of them. Mr. Adams said job well done and presented the Chief with a plaque and thanked all the Police Officers for a job well done. Chief Yeager thanked his Police Officers for all their continued hard work. He then thanked Lieutenant Kopacz and presented him with a certificate award in recognition of successfully leading the department to the Pa. Accreditation process. He also thanked detectives Doyle, Logan and Greenwalt for being instrumental in doing their proofs. The Board thanked Mr. Adams and the entire Police Department, and it is a fantastic achievement for the Township.

Consider Approval of 2023 DCNR Grant Applications - Bacton Hill Park Resubmission Resolution

Mr. Brown said this is landscaping, trail connections and restroom intending to build.

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

Consider Approval of 2023 DCNR Grant Applications - GVCO Connector Trail Study Resolution

Mr. Brown said this is for a trail feasibility study connecting Bacton Hill park to the New GVCO facility to make it safe for back and forth traveling.

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

#### **Consider Motion to Advertise:**

Consider Approval to advertise on Municibid: Receptionist desk, pump station control panel, and riding lawn mower (JNeild)

Consider Approval to advertise on Municibid: 2014 Dodge Ram P/U 100,000 miles and 2015 Ford.

F-150 86,000 miles (CY)

Consider Approval to advertise on Municibid: 5 Kenwood P25 Portable Radios (GL)

Mr. Neild spoke on behalf of the Chief on these items, Ms. Wikert added to the list a 2015 Ford 150 truck for sale which was added yesterday.

Mr. Orlow made a motion to approve of the advertisement. Mr. Fixler seconded the motion; the motion was approved 3-0.

#### **Planning & Development:**

Consider Rendering a Decision on the Following [Development Applications](#):

#### **LD-12-2021 for Preliminary / Final Land Development for 9 Malin Road Office / Flex Building**

Mr. Barner explained what is before the Board, it was discussed in length last month and the Board authorized the solicitor to draft an approval resolution. It is standard language, a few minor conditions that references previous conditional use decisions and Zoning hearing Board decisions, and language regarding easements on the property one for cross access for the property next door if that moves forward and for use of the easements to construct future trail if that moves forward. It is in a position to vote upon. Mr. Lambert asked if this is identical to what was discussed at last month's meeting, Mr. Barner said yes, not changes to the plan, but two minor comments in review letter they would need to comply with prior to recoding the plan.

Mr. Orlow made a motion to approve LD-12-2021. Mr. Fixler seconded the motion; the motion was approved 3-0.

**Consider Authorizing Solicitor to Draft a Resolution for the following Development Applications:  
LD-05-2022 for Amended Final Land Development for GVSD 5/6th Grade Center with Recreation**

Mr. Barner gave a brief overview, this is an Amended Final Land Development Application to create a multi-purpose athletic field, garden area, and future trail amenities on the property adjacent to the KD Markley Elementary School and 5/6<sup>th</sup> Grade Center. This plan has been prepared in accordance with Conditional Use Application CU-03-2022. The property, located at 348 Swedesford Road, is within the R-1 (Low-Density Residential) Zoning District. Chris Jensen said in addition to Planning Commission approval there have been two reports from arborists, one by the school district and the other provided by the township. Minor technical comments we will comply with and additional waivers.

Mr. Jensen discussed the waivers and discussed the request for a deferral to push the construction of the trail connection down the road. The intention would be to construct the trail once there is further clarity on the design of the portion that is intended to run along the PECO right of way. The District has submitted their plans to PECO and their review is ongoing. Mr. Fixler asked why a handrail was there to be added on the pathway. Mr. Jensen explained there is a small culvert pipe there the handrail would provide additional safety accessibility.

There was a discussion of the existing trees that are proposed to be removed on the recreation property. The District and Township each hired an arborist to assess the health of the existing trees. Mr. Fixler stated that he and Mr. Lambert had hoped to retain the larger of the two existing Pin Oaks on the site. Charles Peterson, the Business Manager for the District, expressed that his professionals have advised that the tree is in decline and that the District's resources would be better spent on planting new trees.

Mr. Fixler asked that the District install a taller fence around the proposed garden to help prevent issues with deer. The fence could be a deer exclusion fence as opposed to a chain link.

Mr. Lambert asked that the District save the mature holly tree near the edge of the proposed playing field. Mr. Jensen stated that the alignment of the proposed trail creates an issue for the holly but that they would attempt to adjust the alignment of the trail to save the holly.

Mr. Orlow asked that the District confirm that the replacement tree requirements are satisfied if the additional Pin Oaks are removed.

Mr. Lambert asked the District to explore the possibility of the retaining the large deciduous tree along the property line with the KD Markley parcel, about midway along the playing field. Mr. Jensen stated that he believes the grading associated with the playing field would be a challenge but that they will review in more detail.

Mr. Barner suggested that the District's attorney meet with Township Staff to revise the landscape plan to reflect the conversation at this evening's meeting. The revised plan could be referenced in the approval resolution to document the more recent changes.

Mr. Orlow made a motion to authorize the Solicitor to Draft a Resolution for LD-05-2022 to include all conditions discussed tonight. Mr. Fixler seconded the motion; the motion was approved 3-0.

**LD-08-2022 for Preliminary / Final Land Development for Shouldice Hernia Repair**

This plan was submitted as a Preliminary / Final Land Development Application to construct an approximately 3,200 s.f. building addition and associated improvements to house a "specialty hospital" for surgical and

rehabilitative care for hernia operations. The property, located at 330 Lancaster Avenue, is within the FC (Frontage Commercial) Zoning District.

**Stormwater Management:**

The plans propose to reconfigure an existing rain garden / basin in order to provide increased stormwater management beyond what the site currently handles. The site is underlain with significant rock outcroppings which complicate the ability to manage and infiltrate stormwater. As part of its latest review, ARRO requested additional information regarding off-site drainage onto the property. The Applicant's engineer recently resubmitted plans in response to these comments. This submission is currently under review to confirm satisfaction of the previous comments.

Mr. Barner said between now and the next Board meeting if the Board is comfortable with the big picture items, staff and ARRO working thru the finer details we will make sure that all waivers will adequately reflect in the Resolution and ARRO is comfortable with the way it is designed. Mr. Orlow said if ARRO does not agree then this will not be part of the Resolution.

Mr. Orlow made a motion to approve the Solicitor to prepare a Resolution for LD-08-2022 including only waivers that ARRO engineers recommend approval for. Mr. Fixler seconded the motion; the motion was approved 3-0.

**LD-12-2022 for Preliminary / Final Land Development for 280 Great Valley Parkway**

Ms. Zarro spoke on behalf of the applicant and gave an overview of the project. The parking lot will be reconfigured to provide the required parking quantity as well as ADA accessible spaces and an accessible route to the front of the building. As part of the project, a driveway connection will be provided to the property to the west (260 Great Valley Parkway) to facilitate movement of support services for the research labs (both operated by Janssen). The front of the building will have four (4) handicap spots available with an ADA ramp connecting directly from the parking lot to the entrance of the building. The ramp can also be used for transportation of lab materials.

The project also includes improvements to provide enough space for loading trucks to maneuver their way in and out of the site. There will be another ramp added in the back of the site for additional methods of lab cart transportation. The site will also benefit from its new stormwater management system that will consist of a drainage basin and additional pipe networks from the roof of the building. The water will be collected from either side of the building and flow to the right or left side of the site.

The Applicant is requesting a waiver to allow the removal of more than 20% of the existing trees. The Applicant is proposing to remove seventeen (17) trees on site (out of a total of 48) to perform the proposed improvements. As outlined in the LandConcepts review, the Applicant has met the replacement tree requirement of 8 trees. Aside from this waiver request, the Applicant has satisfied the landscaping requirements within various sections of the Township Code. The Applicant is requesting to defer construction of the required sidewalk along the frontage of the property. This could be accomplished through plan notes (and conditions of approval) which require the Applicant to construct the trail within one year following written notice from the Township. The Applicant is requesting to defer construction of the required sidewalk along the frontage of the property. This could be accomplished through plan notes (and conditions of approval) which require the Applicant to construct the trail within one year following written notice from the Township.

The Board had no questions.

Mr. Fixler made a motion to approve the Solicitor to prepare a Resolution for LD-12-2022. Mr. Orlow seconded the motion; the motion was approved 3-0.

Consider Extension of Time to Render a Decision on the Following [Development Applications](#):

LD-02-2022 for Preliminary / Final Land Development for 10 Malin Road Office / Flex Building – extension to April 30, 2023

Mr. Barner said they are currently working on a sketch to modify their plan.

Mr. Fixler made a motion to approve LD-02-2022. Mr. Orlow seconded the motion; the motion was approved 3-0.

Clarification of the Previous Motion by the Board of Supervisors at the February 8, 2023, meeting regarding the Request Waivers for 10 Malin Road.

Ms. Kearney read a Motion to Clarify that the denial of waiver from Section 175-41.C(4) at the 2/8/23 Board of Supervisors' meeting was not a decision pursuant to Section 53 P.S. 10508 of the Municipalities Planning Code but was only to provide the Applicant an indication if the Board was willing to grant the waiver. A motion to act upon the application pursuant to Section 53 P.S. 10508 of the MPC will be made by the Board and shall include the grant or denial of any requested waivers at such time as is required by Section 53 P.S. 10508.

Mr. Lambert made a motion to accept the motion as read by Ms. Kearney. Mr. Orlow seconded the motion; the motion was approved 3-0.

### **Zoning & Code Enforcement:**

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

ZHB-08-2022 for Application of 70-72 Lancaster Pike Irrevocable Trust at 14 E. Lancaster Avenue for a use variance from Section 200-30 to use the property as a commercial parking lot for short-long term parking of vehicles, as well as staging and storage of materials and equipment. The property is within the FC Zoning District.

Mr. Orlow asked Mr. Mateja if he attends the Zoning Hearing Board, and he answered yes. Mr. Orlow asked him to mention all these items as conditions and Mr. Mateja said yes that is correct. Mr. Fixler said he would like to send the Solicitor because he is not in complete support of this. Mr. Orlow said yes to object, Mr. Fixler does not agree with the use. The attended use of the spaces is for vehicles. Mr. Lambert asked Mr. Fixler what is your concern just the usage? Mr. Fixler said lights and vehicular impact on the adjacent business. Mr. Mateja said if you look at the lots behind there, the length of the property is only affronted by a vacant lot. Mr. Fixler said to the South is General Warren Inn, yes, it is said John. Mr. Fixler said that is where his point of contention is. Mr. Salamone, Property manager and owner of Century Plaza and 70 and 72 Lancaster Ave. This is just an extension parcel that leads to the back of Century Plaza, when in the wooded area in the back looking at the train tracks it is 25 to 30 ft above your head. WE are just trying to clean the property up the best we can. There is trash dumped back there and contractors dump things back there. We just want some manual use that we can get out of this. We will address all storm water issues. Mr. Lambert said you're saying the neighboring properties would use this for parking. The property has been like this for 40 years. Mr. Mateja said 70 & 72 parcels do wrap around with improved parking. During the course of the day, you see other vehicles parked back there. Mr. Brown said looks like the railroad is about 20 ft higher than their property. Then to the South is General Warren Inn. The lighting would match the existing codes.

Mr. Orlow said send the solicitor or send Mr. Mateja to speak for The Board of Supervisors. Mr. Mateja said he can get on the record all the concerns and conditions to make sure our interests are covered. Mr. Fixler said that sounds good. Mr. Salamone said you already have a buffer of trees.

Carol Rapp asked is this just an extension of the parking lot and why we would stage equipment. Is this going to be a parking lot. Mr. Mateja said yes it will look like a parking lot. Ms. Kearney said only 49 parking spaces, Mr. Salomon said most likely less.

Mr. Lambert made a motion to send Mr. Mateja to the ZHB with conditions and concerns the Board has in reviewing this application. Mr. Orlow seconded the motion; the motion was approved 2-0.

Ms. Mobile stated that open space is not useless. She asks why we are expanding the parking lot if they don't need any more parking. She is concerned with the flooding on Route 30 already. If people are dumping trash, then work with the Township to make sure they are prosecuted. Mr. Mateja said this is not open space, it's just a cleanup of the area and making it useable. This owner already said he will help with making storm water management improvements and he is not required to do this. Mr. Fixler announced he is a Nay on this as reflected in the motion.

ZHB-01-2023 for Application of AVIA PHI LINCOLN, LLC c/o PEG Companies at 20 Morehall Road for a variance from Section 200-70 to permit less than the required number of parking spaces for the multifamily residential dwelling, as well as a variance from Section 200-37.B., Section 200-30 and 200 Attachment 6 (Table of Permitted Uses for Mixed Use Districts) to permit the proposed multifamily residential dwelling use on the Property within the O/BPS District.

Ms. Yarnell spoke on behalf of the applicant. This project has been discussed for over a year. The Sonesta Hotel, converting to multi family. We need a use various for the use. We are requesting a variance to reduce the amount of required parking. This is Unit 1 and Unit 2. Using the required amount for the office the potential and for this use, the required parking would be more than the available parking. The study does show that there is adequate parking for this use. It is part of the condo association and as part the other tow Unit owners would be required t approve the change of use. We are working with the two owners. Mr. Lambert asked if you are still in need of approval from the two stake holders, is this the time to be going forward without that approval? Ms. Yarnell said we are hoping to resolve this before the Zoning Hearing Board. Ms. Kearney asked, can the multi family park at the medial parking lot or can you park anywhere? Ms. Yarnell said her understanding is that parking is a common area, but we would agree the parking will be where it's located. Mr. Orlow asked how many spaces by code are needed just for the apartments\multi family homes. Ms. Yarnell said 120 hotel rooms converted into 120 multifamily, 2 studios, 50 one bedrooms and 68 two-bedrooms. The ordinance requires 1 per studio, 2 per 1 & 2 bed. Ms. Yarnell said parking has been raised as an issue. If people park where they are not to park they will be towed, parking passes will be distributed. The school district is willing to come through that development and pick up. Mr. Lambert said the usage is much more attractive. The problem is parking, is this going to create people fighting over spaces. The applicant is not concerned. Mr. Orlow asked how the transition will be handled. The applicant said it would close down and bring back up after completed, Mr. Orlow would want this as a condition if the ZHB approves, Ms. Yarnell agreed this would be added as a condition. Ms. Kearney asked if they thought about charging for an extra spot. The applicant said no but investigated that. They find in general that people don't need more than 1 spot. Mr. Orlow asked for a copy of the minutes on this application before the ZHB.



Ms. Yarnell said they will add the two conditions, about the offsite parking and not having hotel and multi family exist. And attach the minutes to the ZHB application.

Mr. Fixler made a motion to send the minutes of both ZHB considerations for ZHB-08-2022 and ZHB-01-2023. Mr. Lambert seconded the motion; the motion was approved 3-0.

Mr. Branden Burken came forward, he represents the Valley Brooke the Medical Building unit #4, 22 Morehall Road. He mentioned Ms. Yarnell and her client have approached them on January 30, he was surprised to see there had been a discussion for over a year with the Township. His client has an issue with parking, they were told 157 238 were needed. They are not opposed to the use, but concerned with parking. They have owned this unit since 1990 and there have been problems with the parking. They do not want to be in a position where we are self-Policing on parking. We understand this is not in front of the Board of Supervisors. The issue is the parking. Change of use is a big deal and will affect parking.

Current Code Enforcement and Property Maintenance:

Mr. Mateja said he has contacted DEP concerning the Gas Station on Route 30 and Plain Brooke Road and waiting for a call back.

**Public Comment: None**

Deb Mobile are there any updates on the Bishop Tube site meetings. Mr. Brown said the state is looking for a venue in the Township. BSTI is ready to me with staff and our attorney Steve Han to review their comments and that is the first step. No dates yet have been determined.

**Consent Agenda:**

Approve Meeting Minutes from February 8, 2023

Ratify Payment of Bills: \$ (518,414.94)

Accept Treasurer's Report for January 2023

Approve Purchase of Office furniture from Harrisburg Furniture for new Lobby Furniture \$3114 and two chairs for the Police Lobby

Approve Comprehensive Revisions to the Employee Manual

Ratify Grant Contract (Contingent Upon Approval) for Chester County Trail Comfort Station

Approve payment to Rising Sun for Summer Concert series (\$7000)

Approve payment to DBS Audio Systems for Summer Concert series (\$6400)

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

Meeting Adjournment – 9:00pm

Donna Wikert