

Board of Supervisors
June 8, 2022
Minutes

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; Usha Hogan, Direct of Finance Chris Yeager, Police 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 held on June 8 at 4pm (legal, personnel and real estate)

July 13, 2022, Board Meeting – Mr. Lambert announced he will be present via Remote

September 14, 2022, Board Meeting Rescheduled to Tuesday September 13, 2022

Route 30 Corridor – Mr. Nagel made two quick points we will be reaching out to the legislators in Washington and Harrisburg with respect to the application for 25-million-dollar re-development Route 30 Grant. The other matter is under Boards and Motions considering the proposal from McMahon Associates for the engineering project management in the amount of \$212,790. Mr. Lambert mentioned we applied for a 25-million-dollar federal grant for redevelopment of route 30 we should be notified in mid-August of the decision.

Sewer System Sale – Mr. Nagel said on May 10 the Administrative Law Judge recommended denial of the AQUA application to buy East Whiteland Townships sewer system. May 20 to 27, the Township and AQUA filed jointly an exception to the recommend decision by the Administrative Law Judge. On July 14 the PUC public meeting will occur, and a vote will be taken on the sale. We should receive written notice sometime between August 3 thru the 9.

Campus Master Plan (Jerry Gorski)

Update by Jerry Gorski, received updated plans from Bernarden, and have been able to re estimate the job and things are on track. Mr. Gorski does not see anything new or that stands out differently after looking at the new plans. Things appear to be on track.

Board Meeting Workshop - Route 30 Corridor Zoning – Wednesday June 29 at 6:30pm Mr. Barner said the purpose of this meeting is to continue the conversation from the first workshop where we talked about some of the options for residential develop specially on the corridor. Examples of dwelling types and examples of neighboring communities are doing. Provide mini visual preference survey and help

decide what is appropriate for East Whiteland and how we may want to go about future ordinance amendments.

MS4 presentation from ARRO (Andrew Tuleya) click below for presentation:

<https://www.eastwhiteland.org/DocumentCenter/View/2779/East-Whiteland-Twp-Public>

Mr. Miles, resident asked how involved ARRO is with public works and the flooding issue on Malin Road, he said they along with neighbors get about 4 ft. of water on their property every time it rains. Mr. Tuleya explained that flooding is not per say covered directly by MS4, water quality is the target. MS4 does not directly deal with individual properties.

Fire & EMS Citizens Academy – Mr. Brown gave a brief overview. This is an initiative for the fire department, and for members of the community to learn about the Fire and EMS services it is a 7-to-8-week course open to the residents, those that participate will receive a certificate. NO date at this point.

Sidley Mill trail connection to Chester Valley Trail consultant – Mr. Brown said this trail has been identified in different plans of the township and Spring Mill farms development asked for an update. Three years ago, the township received a grant from DCED to move ahead with design and survey work for the trail. We are finally at the point where we are asking for Request of Qualification, fourteen engineering firms attend ten submitted responses. Staff has review and have identified the top four. We would like to move ahead by interviewing each firm to discuss the scope of work and the project, get a feel for their capabilities after their interview we would pick one for the project. The four firms in no particular order, McMahon, Traffic Planning and Design, Michael Baker International and the Wilson Consulting group. This is for survey and design work only, not construction.

Zoning Ordinance update consultant – Mr. Brown mentioned this is a project that has been talked about and worked on for the past 5 years. Our comprehensive plan was adopted 6 years ago. Mr. Brown suggests along with staff that we prepare a (RFP) Request for Proposal to solicit professional consultant to work with our planning commission.

Commendation – Township Data & Voice Infrastructure Mr. Nagel explained about 5 years ago there was construction surrounding the entrance to the Township complex. Every time we had a bad storm either our voice or data or both went down. Mr. Nagel thanked Donna Wikert for working with Verizon on this long overdue communication issue between the two buildings.

Mr. Lambert added two items: Update on the Great Valley School District KD Markley trail connection to the Chester Valley Trail. A trail in this general location has been shown in various plans and studies undertaken by the Township over the years, including the Comprehensive Plan from 2016 and the recently adopted Parks Recreation and Open Space Plan (PROS) which was officially adopted earlier this year. In 2019, the Township adopted updated requirements within the Subdivision and Land Development Ordinances for sidewalks, paths, trails, bicycle facilities, and transit stops. As part of that ordinance amendment, the Township adopted its “Multimodal Transportation Map” – which shows a planned system of trails and other amenities to connect community facilities throughout the Township. This map (and the corresponding ordinance) requires that any facilities shown on a property which is the subject of a subdivision or land development application must be

constructed by the applicant as part of their project. In the case of the School District's 5/6th Grade Center, the plan shows a trail connection from the Chester Valley Trail, through the GVSD property, southward to a future trail extension along the PECO right of way. The intent of the trail was to create future connections between the Chester Valley Trail and the School District property to points further to the south (like residences and businesses along Lancaster Avenue) and east such as People Light, Down East Park, and Uptown Worthington. Mr. Lambert stressed that safety is important, and we value your opinions when you write to us. Following feedback from the residents and following a meeting with Police Command, Staff, School District and School Board we are reviewing potential alternatives to the location of that trail and appreciate you coming tonight.

Jaime Damiani resident has concerns about the trail. She asked if the Township was aware that two random men were found on KD Markley property a few weeks ago. What will happen if we bring a trail to the elementary playground area. The proximity is extremely dangerous, as a mother I am worried about child predators. Is the playground going to be paroled daily? Mr. Lambert said most likely not other than what the school currently has in place. She also asked why we are looking into an 8 ft. wide trail this is going to create storm water runoff why would we not look into a more natural type of path. She also is asking who is going to maintain this, the Township or is it now the responsibility of the GVSD. Mr. Orlow said it has been brought up but not decision yet. She also said she is a resident of East Whiteland Township if the school district pays for this then you are asking nonresidents to pay for this as well and feels this is unfair. She also mentioned the revitalizing of Route 30 she understands making connection to the trail but please wait till after the revitalization is complete to make those connections. Her last point is concerning the accessibility for select residents in the area. She is a 19-year resident, and she herself has to drive to an access point, but we are giving a few dozen people access to this trail why?

Mr. Lambert said the number one question of residents is about connections to the trail. We understand your points we hear you.

Second item Mr. Lambert addressed is several requests what the Township can do regarding guns. Mr. Lambert read a statement put together by our solicitor Bernadette Kearney.

With the recent deadly shooting in Texas and gun violence in Philadelphia, we wanted to address gun regulation questions that residents may have.

The Pennsylvania Uniform Firearms Act of 1995, shortened to the "UFA", vests the Pennsylvania General Assembly with the sole power to legislate in the field of firearm regulation and preempts or prohibits municipalities from enacting local laws that encroach into that area. The specific language in the law states:

- (a) General rule.**--No county, municipality or township may in any manner regulate the lawful ownership, possession, transfer or transportation of firearms, ammunition or ammunition components when carried or transported for purposes not prohibited by the laws of this Commonwealth.

Many court cases have been brought over the years and recently 2 Commonwealth Court cases from May 2022 have upheld this section of the UFA.

The UFA creates uniform procedures and requirements for the selling and licensing of firearms and designates which firearms, ammunition, and ammunition components will be or will not be lawful at the state level. The UFA is designed to guarantee consistency in firearm regulation from county to county, city to township, county to city, etc. The Pennsylvania Courts have found, in crafting the UFA, it is readily apparent that it was the

intention of the Pennsylvania General Assembly to ensure that the citizens of the Commonwealth would not be subjected to varying and differing firearm regulations as they travel from town to town. The Courts note that it would be difficult for a citizen to learn, memorize, or otherwise keep track of the firearm laws of every municipality in the Commonwealth. It would also be somewhat anomalous for a citizen to lawfully carry a concealed firearm on his/her side of the street, but to have that same firearm be deemed unlawful and/or improperly licensed when the citizen travels across the road and into another municipality to obtain groceries.

Because the ownership of firearms is constitutionally protected, its regulation is a matter of statewide concern. The Pennsylvania Courts repeatedly state that the General Assembly has expressed its unambiguous intention to preempt the entire field of firearm regulation and the General Assembly has sole regulatory power in this field. It is the legislative body of the Commonwealth that must address the issues of gun control reform.

We do expect that there will be appeals of the recent cases to the Pa. Supreme Court but the Court has discretion whether to take an appeal.

We urge you to contact your state legislators, your State Representative and State Senator, to address gun control.

Board Motions & Resolutions:

Approve Heating, Ventilation & Air Conditioning Improvements to Municipal Building (Gorski)

Mr. Gorski updated the Board concerning the two separate contracts before the Board from BlueScope. This engineered system is a variable refrigerant flow which will get the building off oil and is 40% more efficient. The one contract for HVAC is \$765,233 and the second contract or Electrical is \$40,755. Mr. Nagle clarified the staff is asking for Board approval of two separate proposals from BlueScope. BlueScope is a "Source Well" price like "Co-Stars"

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

Approve Resolution Adopting Chester County Complete Streets Policy

Mr. Fixler made a motion to approve Resolution adopting Chester County Complete Streets Policy. Mr. Orlow seconded the motion; the motion was approved 3-0.

Approve proposals from ARRO to study methods to address storm drainage issues

Mr. Brown said we have proposals for four projects Spring Road \$7500 to \$1500, Raven Road stream bank \$72,500, Down East Park Culvert \$12,500 and 383 Three-ton Road \$12,000.

Mr. Fixler asked about Raven Road, will there be stream bank restoration. Al Vennettilli from ARRO said yes stream bank stabilization. Part of this is to stabilize and protect roadway from collapsing.

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

Consider Acceptance of Proposal from McMahon Associates for Engineering and Project Management Services related to the Patriots Path Sidewalk Extension at Lancaster Avenue and Old Lincoln Highway for a price not to exceed \$212,790

Mr. Lambert asked if there are any grants to apply for to help offset the costs. Mr. Barner said yes.

Mr. Orlow made a motion to accept proposal from McMahon. Mr. Fixler seconded the motion; the motion was approved 3-0.

Apply for a Chester County Preservation Partnership Program Grant (\$250,000) for Construction of Restroom Facilities at Mill Lane and Chester County Trail. Mr. Nagel said the application deadline expired in February, he recommends sending a letter to County Commissioners asking to partner with the County to get this funded and constructed.

The Board gave their consent to proceed with this request.

Accept Comprehensive Annual Financial Report for Fiscal Year Ended December 31, 2021

Ms. Hogan presented the CAFR [Microsoft Word - {9685D8DE-97DF-4825-A87A-EF54E9D801A3} \(eastwhiteland.org\)](#)

Approve Fund Balance Assignments as of December 31, 2021

[..\..\Downloads\2021-Fund Balance -Draft.pdf](#)

Mr. Orlow made a motion to allocate the currently unassigned \$621,445 equally to the pension stabilization and OPEB line items and accept the current proposed assigned line item. Mr. Fixler seconded the motion; the motion was approved 3-0.

Approve Invitation to Select Banks via Request for Proposals for Banking Services

Ms. Hogan would like to explore options outside of KeyBank. She has researched and sent to several banks RFPs. Ms. Hogan wants to meet with banks to discuss scope of work and collect data to make a decision for the best investment options. Mr. Fixler asked are you looking for multiple banks or one stop shop. Ms. Hogan wants to look at several and decrease the number of banks the Township currently uses. Mr. Fixler asked for a list of banks currently used by the Township.

Mr. Orlow made a motion to send select banks RFPs for Banking services. Mr. Lambert seconded the motion; the motion was approved 3-0.

Approve Amendments to Employee Manual for Paid Time Off Benefits

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

Approve Sanitary Sewer Easement Condemnation Resolution 2022-0013

Bernadette Kearney said this is in reference to the easements that need to obtain for the sewer sale.

Mr. Orlow made a motion to approve the Resolution 2022-0013. Mr. Lambert and Mr. Fixler both seconded the motion; the motion was approved 3-0.

RAISE proposal from McMahan – Brian DiBias

McMahan submitted a proposal to initiate the start of engineering the specially the survey of the corridors. Specially between 500 ft. West of Planebrook to 500 ft East of Church Road. This is required by PennDOT any project that has State or Federal funding. The scope of work will improve Route 30 including 352, widening the roads to two lanes in each direction, providing a left turn and sidewalks. High priority for this Township. Mr. Orlow said this is restricted to the area that is the subject of the RAISE grant application. Brian said the survey is scheduled in July. Preliminary to begin in September, the scope of work will take us into completion spring of 2023. Mr. Lambert said in the event we do not get chosen for this grant we are in the position for the following year to submit. Mr. Orlow said we will have a decent idea of how much land we will end up having to take. Brian said this will tell us what Right of way is existing and available.

Mr. Fixler made a motion to approve the funding for topographic survey engineering for Rt 30 corridor improvement project. Mr. Orlow seconded the motion; the motion was approved 3-0

Approve Reorganization of Codes & Life Safety Department into Codes Department and Fire & Emergency Medical Services Department.

Mr. Brown said this is just a reflection on how each department is currently working as two separate departments.

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

Approve Conditional Job Offers to Firefighter Emergency Medical Technician Candidates

Mr. Fixler made a motion to approve. Mr. Orlow seconded the motion; the motion was approved 3-0. This should prevent overtime by filling the shifts it will not eliminate it. Please keep the Board updated monthly on the overtime.

Designate Terry Bechtel and Bryan Rachko as Acting Captains for Future, As Needed, Assignment

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

Motion to Award:

Award MuniBid Sale of 2012 Ford Escape for \$11,000

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

Motion to Advertise:

Grinder Pump Ordinance Amendment

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

Zoning: Property Maintenance Codes – Recent Activity

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

ZHB 4-2022 – Application of Jyoti Parameswaran & Arvindo Kinny for a variance from Section 200-21, 200-26, and Attachment 3, to allow the addition of a sunroom in excess of the allowable building coverage by +/- 101 square feet. The subject property is located at 102 Sweetwater Way, Malvern, and within the R-I Cluster Overlay Zoning District

ZHB 2-2022- Application of Michael S. Moore for a variance from Section 200 Attachment 2 to allow a building addition within twenty-two feet of the residential setback where thirty-five feet is required. The subject property is located at 514 Swedesford Road, Malvern and is within the R-2 Zoning District.

No need to send solicitor.

Public Comment:

Mr. Ray Braun is concerned with the trail crossing Bacton Hill road and Swedesford Road. These are extremely dangerous crossings asking the Township to speak to the County. He also wanted to know about the sewer sale and Plane Brook Road, will we have these lines in before the sale or after? Mr. Lambert stated he thought this

was included in the sale to be expedited. Mr. Nagel said yes within the year AQUA will have this service completed. We will follow up with you next week after meeting with AQUA. Mr. Neild said AQUA is aware this is to be expedited. Mr. Fixler asked if there is anyway to alert the County about the blind spots on those areas of the trails. Mr. Brown said yes, we should reach out to the county to address these concerns.

Debbie Mobile said it is more then 90 days since we submitted our comments to the State, and we were given only 90 days to respond. Any word yet? Mr. Brown said he has not heard from the Sate and has not reached out either. Back in April we were sent a letter that would conduct addition testing but not heard since, but I will reach out to Dustin Armstrong this week.

Consent Agenda:

Approve Meeting Minutes from May 11, 2022

Ratify Payment of Bills: \$664,091.93 (May 2022)

Accept Treasurer's Report as of April 30, 2022

Approve payments #4 in the amount of \$262,175.40 to Mecco Constructors for work performed at Bacton Hill Park for a total paid to date of \$763,808 out of a budget of \$1,488,789

Appoint Deputy and Interim Zoning Officer – Mark Moses

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

Opened floor for Public Comment:

Residents did not realize we already completed Public Comment:

Mr. Paul Evans property and Business owner in the Township. Police corruption in a nearby borough for the purpose of bringing to your attention for the lack of safeguard municipals have against innocent person. In 2013 a federal lawsuit was filed against several employees in a nearby borough, it accused the Police of wrongdoing. Criminal charges were all dismissed. If it had not been for the efforts of us all reaching out to Senator, this may have turned out differently. Before a prosecution against a resident of this township and a business owner with a great reputation that more investigation should be done.

Mr. Miles addressed the Board, unfortunately misconduct is going on in East Whiteland Township. It has been over 1,500 days since I have been falsely accused of a violation I did not commit. With little or no investigation of any party involved. I want it to be clear the last four years I have shown patience and respect for the process of resolution at one point I was offered an unofficial plea bargain of disorderly conduct. I decided I would not put something on my record that I did not commit. We must stand up for ourselves. Those that have taken an oath to serve and protect in courts and the constitution fails us we must be our own advocate. I have never asked for any special treatment I only ask for fair treatment. I want everyone to know I will continue to serve this Township with respect and fairness as I have done for the past 29 years. I ask for the same in return. I want to live in a township where when submitting a Right to know request you are not made to feel like you are the problem. It comes down to basic humanity and compassion treat people like you want to be treated. I know I will be exonerated of these charges. There has been a lot of damage to my personal and business life. In closing I have been blocked from the Historical Committee, there has been emails shutting down communication with

the Township. I want to end this on a positive note, I feel your uncomfortableness, but it is much greater pain to me to come up here and do this. I have no intention of giving up on this Township. I am not giving up on my business and not giving up on being a positive person in this township.

Adjournment –9:45PM

Donna Wikert – Board Secretary, Operations Manager