

WHITEMARSH TOWNSHIP BOARD OF SUPERVISORS
PUBLIC MEETING MINUTES
May 26, 2016

A Regular Monthly Meeting of the Whitemarsh Township Board of Supervisors was called to order on Thursday May 26, 2016 at 7:00PM in the Whitemarsh Township Building, 616 Germantown Pike Lafayette Hill, Pennsylvania.

Supervisors Present: Amy Grossman, Chair; Missy Sterling, Vice Chair; Michael Drossner; Laura Boyle Nester; and James A. Totten

Also present: Richard L. Mellor, Jr., Township Manager; Sean P. Kilkenny, Esquire, Township Solicitor; Charles L. Guttenplan, AICP and Krista Heinrich, Township Engineer.

PLEDGE OF ALLEGIANCE

Chair Grossman asked the Plymouth Whitemarsh High School seniors who were in attendance at the meeting to lead the Pledge of Allegiance.

ANNOUNCEMENTS

Supervisor Sterling announced:

In observance of Memorial Day trash and recycling collection regularly scheduled for Monday, May 30, 2016 has been rescheduled for Wednesday, June 1. Yard waste collection will remain on Wednesday as regularly scheduled. More information can be found on the Township websites Trash and Recycling page.

The 4th of July Parade planning has begun. Registration to participate in the parade is now open. Visit the township's Park & Recreation page for the registration form and more information on this and other up-coming events.

Prescription Drug Drop-off - The Whitemarsh Police Department in cooperation with the Montgomery County District Attorney's office and the Pennsylvania District Attorney's office now offers a drug collection box available in the lobby of the Police Department. It is available 24 hours/day, 365 days/year. There is no paperwork or questions asked. Just drop-off your unused, expired medication in the collection box for safe disposal at the Whitemarsh Police Station.

Road Closures -

Flourtown Road will be closed for construction beginning Tuesday, June 14 through early August 2016. The road closure will be from Joshua Road to Butler Pike. This is a 24 hour, 7 day/week road closure. More information can be found at our website.

Expect traffic increase from June 9 to June 12 for the PGA Tournament at the Wissahickon Course of the Philadelphia Cricket Club.

APPROVAL OF MINUTES

1. **May 12, 2016**

On a motion by Supervisor Nester, seconded by Supervisor Sterling (Vote 5-0) the Board of Supervisors approved the May 12, 2016 meeting minutes.

PUBLIC HEARINGS

BOARD PUBLIC DISCUSSION ITEMS

1. **SLD #03-13; The Hill at Whitmarsh/4000 Fox Hound Drive; Phase 2 Revised Conditional Preliminary/Final Plan**

Ross Weiss, attorney for the applicant, made a brief presentation of the Phase 2 Revised Conditional Preliminary/Final Plan. Phase II includes five multi-family buildings of independent units (total of 54 dwellings), with parking within each building, as well as additional surface parking. Phase II also includes a new club house for this section and a swimming pool. There are minor changes and additions to the congregate building as well. Phase II was originally going to be developed as cottages and attached cottage units but with market preference changes, 'The Hill' changed the dwelling type for this phase. The total number of approved dwelling units for the entire development has remained constant at 352. The Planning Commission reviewed this application at their meeting on March 22, 2016. After a very thorough discussion and listening to public comments, the Commission unanimously passed a motion to recommend approval of the amended preliminary plan and final plan for Phase II in addition to the waivers requested (except the two pertaining to traffic impact and park and recreation fees, that would be addressed by the Board of Supervisors), conditioned upon the applicant's compliance with the March 16, 2016 Zoning review letter and the March 15, 2016 Township Engineer review letter.

Vernon Feather, architect for the applicant, gave a short description on the appearance of the new buildings.

Mr. Weiss spoke about the construction access road and the opposition of the residents that live on Fountain Green Road and the proximity of the road to their properties. He explained the construction access road has been moved further into the farm property, the applicant has offered to take vibration tests and have agreed to reduced hours of operation.

Mr. Kilkenny explained the issues that Township Staff and the applicant have been discussing the past few months. These included the Traffic Impact Fee, Fee in Lieu of Open Space and the Township's requirement that the applicant get written approval from the PA DCNR for the location and use of the access road. He further explained the Township is requiring the applicant to maintain the following hours of operation: Monday – Friday, 7:00AM to 5:00 PM for two-axle vehicles and 7:00AM to 4:00PM for vehicles with more than two axles. Saturday the hours are 9:00AM to 5:00PM for two-axle vehicles and 9:00AM to 4:00PM for vehicles with more than two axles.

Supervisor Sterling asked Mr. Kilkenny to explain the process of going to the DCNR to request their approval. Mr. Kilkenny stated the DCNR are very aware of the issue and Mr. Weiss will need to speak with DCNR to obtain the written approval for the location of the access road.

Mark Danek, attorney representing 31 property owners on Fountain Green, Barberry Lane and Pheasant Lane spoke about the 2008 Covenant between the Township, Montgomery County, Colonial

School District and the Whitemarsh Foundation and the Review Committee. He asked that the results of voting by the Review Committee be a condition of approval. He spoke about compliance with the review letters and stated a recommendation regarding the placement of the access road from both the traffic engineer and the County is not being considered as part of the review letters.

Paul Gouvreau (Barberry Drive) spoke of his concern about the construction access and offered different options.

Richard Adler (Pheasant Lane) spoke of his concerns regarding water run-off and asked about water retention.

Ms. Heinrich explained the applicants engineer has incorporated stormwater improvements that will mitigate water from the new impervious surfaces.

Jayne Dambman (Flourtown Road) talked about water issues on their property and the possible impact additional development would have.

Bob Dambman (Flourtown Road) spoke about the easement access and continued use. He explained there is a 100' easement between the homes on Fountain Green and the farming activities currently going on. He spoke about the use of the current farm road.

Joe Kim (Fountain Green Road) spoke of the traffic the construction trucks will make and put the children at bus stops in danger.

Arnold Nuspandee, an architect and spoke about the history of the farm and the historic lack of use of the farm road. He also spoke of the water issues at his home.

Judy Mesirov (Fountain Green Road) stated she has lived there for 40 years. She spoke of the lack of safety of using the farm road for construction vehicles.

Casmir Seweryn (Fountain Green Road) spoke of his concern about the health, safety and welfare of the proposed construction road with the proximity to the intersection at Joshua Road and all the traffic. He suggests the better and safer entrance would be the Hill entrance off of Thomas Road. He also spoke of the dust and vibrations caused by construction vehicles.

David Broman (attorney representing The King's from Fountain Green Road) also requested the traffic safety study be included in the record. Additionally he stated the King's oppose the use of the farm road.

Peter Ernst (representing Erdenheim Farm) spoke about his concern about stormwater management. He stated the farm, after the completion of Phase I of the Hill, has been negatively impacted by stormwater.

Lee Sheppard, Wrightstown, Bucks County, stated he grew up on Erdenheim Farm and remembers the water issues of the houses near the access road on Flourtown Road.

John King (Fountain Green Road) asked if the Supervisors have walked on the proposed construction road. Chair Grossman stated they had. He explained his concern about all of the types of trucks and the amount of trucks that will be passing behind his house.

Joe Meyo (Jackson Drive) stated it is important to think about this project in historical context. He spoke about the Whitmarsh Valley Farm Community Association which began when the original project was being discussed and the concern residents in the Whitmarsh Valley Farm area had at that time. He stated the Hill at Whitmarsh and the preservation of Erdenheim Farm is one of the best things to happen to this area. He spoke about the community agreement that was in place.

Chris Taylor (Fountain Green Road) spoke about public safety and health issues which could be raised during the construction. She stated she would like to maintain the quality of life she and her family have become accustomed to living on Fountain Green Road.

David Broman introduced the aforementioned Community Agreement. He spoke about the Community agreement.

Mr. Weiss spoke to the issues raised by the residents and defended the development.

Bob Hart (Flourtown Road) spoke of the success of the preservation of the farm. He stated he felt there was one group of people who will be affected who are being forgotten. He stated he feels if the residents of The Hill knew the trucks were going to be so close to the back of the homes they would say don't put it there.

Supervisor Drossner asked Mr. Kilkeny about a meeting Mr. Weiss spoke of with Township Staff. Mr. Kilkeny stated members of Township Staff have been talking for months about these issues. He said not knowing where the Board of Supervisors would go and knowing there was legal counsel on both sides, what was done, knowing this decision could possibly get appealed by one party or the other Staff tried to get the strongest conditions from Mr. Weiss's office that was possible and would be agreed to in the Resolution.

Matthew Sullivan (Barberry Drive) appealed to the Board to find a suitable compromise. He provided his ideas for causing the least and nuisance to all residents.

Mr. Kilkeny stated he appreciated the comments. He stated the Township and Staff have to review the ordinances as is. He stated perspectives were heard from both Mr. Weiss and the neighbors. He said the Township attempted to find compromise many times. There was a discussion about the use of waivers and the ordinances.

Maggie Wrightson (Barberry Drive) asked if the use of the farm road is because it is a continuation of use.

Mr. Kilkeny explained it is an existing road that is still in use. He explained it was analyzed by the Township Engineer's office and was found to be suitable for construction purposes.

Eleanor Klatt (Barberry Drive) said this is an issue between people and cows. She said the temporary inconvenience should be for the cows not the residents. She also spoke about the current traffic situation and the intersection of Flourtown Road and Joshua Road.

Bob Sague (Kottler Drive) stated the access road was never a road it was a driveway to the dump. He said he agreed the access road should be through the farm, not the existing access road.

Supervisor Sterling asked Mr. Kilkenny if the Supervisors would have the opportunity to review the approval from the DCNR with the residents of the neighborhood and the residents of the Hill, before reaching a resolution. Mr. Kilkenny stated the resolution the Board is approving is subject to the approval from the DCNR for the use of the farm road as a temporary access.

Supervisor Nester thanked the residents for coming out and giving their comments.

Supervisor Drossner stated the Supervisors job is to determine if the application is consistent with the law. He said it is not an easy decision to make.

Mr. Kilkenny explained to the residents the resolution, should the Board of Supervisors decide to approve it, would be subject to the approval of the DCNR approval of the access road.

Supervisor Nester asked Mr. Kilkenny to explain the steps after hearing from the DCNR.

Mr. Kilkenny stated it depends on what the DCNR says. Mr. Weiss stated they will wait to hear from the DCNR and dependent on their response they will follow the recommendations.

Chair Grossman asked for an explanation of the review committee. Mr. Mellor explained the Review Committee is made up of all the members that are a part of the Declaration Agreement. The Review Committee is required to meet annually. The committee has done that and there have been no votes on anything related to this application. He stated as a member of the committee he takes his direction from the Board of Supervisors and any direction given to him would be how he would react during the Review Committee. He explained the review committee includes the Township, Montgomery County, the School District and the Whitmarsh Foundation.

Mr. Weiss explained the review committee does not review the access road location and duration unless they seek more than 6 months or an extension after the first building permit.

Mr. Broman spoke and stated the neighbors disagree. They believe the committee has the initial say in where the location should be, according to the Declaration.

Supervisor Drossner asked to clarify there was no specific agreement as to where the easement would be. Mr. Kilkenny agreed.

Supervisor Drossner asked Mr. Kilkenny his position on whether the review committee should have an initial say. Mr. Kilkenny agreed stated in his opinion the review committee does not review the access road location and duration unless they seek more than 6 months or an extension after the first building permit.

Bob Sague stated the entire night everyone has talked about the access road, not the buildings.

Bob Hart stated he agreed having the Review Committee comment at this time would be premature. However, he feels the DCNR may appreciate the views of the Review Committee.

Matthew Sullivan asked if it is premature to ask the Board of Supervisors to approve the plan as submitted prior to getting the DCNR's input. Mr. Kilkenny stated the DCNR won't look at it until the plan is approved.

Mr. Danek stated he disagreed with Mr. Kilkenny's stand that the Board of Supervisors does not have the authority to impose conditions on a land development.

Linda Doll (Fairway Road) asked what weight the DCNR puts on the Board's decision when looking at the plan. Mr. Kilkenny stated they will take into consideration what happened at the hearing and the decision the Board makes.

Mr. Dambman asked if the DCNR would be looking at paper evidence or would they come for a discussion. Mr. Kilkenny stated he does not know what the scope of their work would be. Mr. Dambman asked what would happen if they Board denied the plan. Mr. Kilkenny stated it would most likely go to the Montgomery County Court of Common Pleas.

Judy Mesirov asked for clarification of what would be presented to the DCNR.

Eleanor Klatt asked why the vote has to take place. She voiced her displeasure with the Board not following the spirit of the law.

Ron Cione (Hillside Road) asked if anyone has contact the DCNR. Mr. Kilkenny stated the DCNR has been contacted.

Supervisor Drossner asked if Board was to approve the plan under the condition that the Review Committee would convene in a timely manner and for the Review Committee to submit a letter of recommendation to DCNR regarding their position.

Mr. Kilkenny stated that could be added as a condition to the approval. He stated the applicant could appeal that condition.

Mr. Weiss stated the Declaration says the DCNR requires unanimity and the Township is one of the four members of the Review Committee, the Township would be in a conflict.

Richard Adler said the trucks that will be turning off of Flourtown Road to the site would affect more than the neighbors, they would affect traffic. Mr. Kilkenny explained part of the approval is PennDOT signing off on the driveway. There was a discussion about traffic in the area and on Flourtown Road.

ACTION ITEMS

Ordinances

None

Resolutions

- 1. SLD #03-13; The Hill at Whitemarsh/4000 Fox Hound Drive; Phase 2 Revised Conditional Preliminary/Final Plan**

A motion to adopt **Resolution #2016-16** granted revised conditional Preliminary/Final Plan approval for SLD#03-13; The Hill at Whitemarsh/4000 Fox Hound Drive, Phase 2 for the construction of 5 multifamily units (54 dwellings), a clubhouse and improvements to the congregate building, was moved by Supervisor Totten but had no second to the motion. The motion did not move forward.

Chair Grossman asked if a condition could be placed to have the Review Committee, as in the Declaration would make a recommendation to the DCNR in a timely fashion. Supervisor Sterling said with the understanding that Mr. Mellor would have to recuse himself. Mr. Kilkeny stated the Township would recuse themselves. Supervisor Drossner stated the recusal does not have to be determined tonight.

On a motion by Supervisor Nester, second by Supervisor Sterling (Vote 5-0) the Board of Supervisors adopted **Resolution #2016-17** granted revised conditional Preliminary/Final Plan approval for SLD#03-13; The Hill at Whitemarsh/4000 Fox Hound Drive, Phase 2 for the construction of 5 multifamily units (54 dwellings), a clubhouse and improvements to the congregate building subject to a timely review by the Review Committee as contemplated by the Declaration Agreements to make a recommendation to DCNR.

Motions

1. Non-Disclosure Agreement Review Whitemarsh Township Business Privilege Tax with Potential Taxpayer

Mr. Mellor said the Township was approached by a business looking to possibly locate to Whitemarsh Township. He said this is a privately held business. Staff, the Township Solicitor's office and the Township Finance Department spoke with them. In order to determine the financial impact to the Township the company would have to turn over sensitive financial information. The Township agreed to have a Non-disclosure Agreement with them in order to obtain the necessary financial information to provide them with an accurate accounting of the Business Privilege Tax as well as other Act 511 taxes that would be impacting their firm.

On a motion by Supervisor Sterling, second by Supervisor Totten (Vote 5-0) the Board of Supervisors approved a non-disclosure agreement in order for the Township to review business privilege tax information with a potential future taxpayer.

2. Appointment of Labor Counsel

On a motion by Supervisor Nester, second by Supervisor Totten (Vote 5-0) the Board of Supervisors TABLED the appointment of a law firm as Whitemarsh Township labor counsel.

3. Ordinance Amendment Advertisement - Extend No Parking – Germantown Pike adjacent Arbour Boulevard

Mr. Mellor stated the Traffic Safety Unit received several calls regarding sight line issues for traffic attempting to pull out from Arbour Boulevard onto Germantown Pike. The complaint was for traffic pulling out from Arbour Boulevard onto Germantown Pike had a difficult time seeing vehicles travelling westbound on Germantown Pike due to parked vehicles on the westbound shoulder. Currently the sight distance is posted according to the posted speed limit of 35 mph. PennDOT conducted a spot speed study for the area

to obtain the 85th percentile for westbound Germantown Pike traffic. The results were 38mph. The recommendation from PennDOT was to use the 40mph speed as a reference instead of the 35 mph and to move the "No Parking Here to Corner" sign further east.

The Traffic Safety Unit is recommending "No Parking here to Corner" sign on the northeast corner be moved 65 feet easterly. This will eliminate approximately 3 parking spaces on the shoulder at this location. This will however improve sight distance for vehicles exiting Arbour Blvd.

An unidentified resident stated it is very difficult pulling out of Arbour Boulevard making a left turn. He thanked the Police Department for the job they did at Fairway Road and Germantown Pike changing the parking on each side of Fairway Road on Germantown Pike. He said it would be great if the Township and the Police could do the same thing at Marianne Road and Joshua Road.

On a motion by Supervisor Sterling, second by Supervisor Totten (Vote 5-0) the Board of Supervisors authorized the advertisement in order to extend No Parking on Germantown Pike at the intersection of Arbour Boulevard.

2. April 2016 Expenditures and Payroll and Pension Plan Paid Costs

On a motion by Supervisor Sterling, second by Supervisor Drossner (Vote 5-0) the Board of Supervisors approved expenditures totaling \$858,090.59; payroll totaling \$630,176.12 and pension paid costs totaling \$8,406.62 for April 2016.

PUBLIC COMMENT PERIOD

Sydelle Zove (Harts Ridge Road) spoke regarding the Corson parcel and the Township's actions regarding the attempt to purchase the parcel. She also spoke about the historical marker, which has been removed. She stated the marker had been removed by Pennsylvania Museum and Historical Commission to be refurbished. She asked the Board to authorize the Township Manager to contact the Commission to see if they can refurbish the marker in a more timely fashion than 3 – 4 months. She spoke about the HARB Board and her disappointment in the actions of the HARB. She spoke about the cancelled Zoning Hearing Board meeting in which the developer of the Corson Tract had withdrawn its application. She spoke about the history of the property. She asked if the zoning for this property could be changed.

Le Shephard, Bucks County, he felt it was wrong that people couldn't get up at the meeting and state the same thing someone else said. Spoke about the corner of Germantown Pike and Butler Pike. He spoke of Open Space in Whitemarsh. Mr. Kilkenny asked if Mr. Shephard wanted the Township do an exhausting review of the Township's Open Space and Zoning Ordinances. Mr. Shephard stated the open space plan, zoning and traffic studies all effect the Abolition Hall and Spring Mill Road tracts.

Mr. Mellor stated the Board of Supervisors has commissioned a review of the Comprehensive Plan, which is the policy of land use in the Township. He said every single issue Mr. Shephard is bringing up is an issue each member of the Committee brought up with respect to development, traffic and stormwater. He stated the Board is very interested and they hear what the public is saying. Mr. Shephard said more needs to be done to save areas in the Township.

Bob Hart (Flourtown Road) thanked the Board for what they do.

Rob Cione (Hillside Road) said they want to see the plan for the work that will be done at Miles Park. He said the resident weren't notified of the planning of the work. He spoke about bordering resident issues such as drainage and the proximity of re-worked fields to their properties. The residents are concerned.

Mr. Mellor stated the AAA field where the backstop goes up to the property will be totally flipped to alleviate the concerns of children playing in the neighbor's properties and foul balls in the neighbor's property. It will help with stormwater management and player safety as well.

BOARD MEMBER COMMENTS

Chair Grossman thanked all of the residents for coming out and being a part of the meeting.

ANNOUNCE EXECUTIVE SESSION

Chair Grossman announced the Board of Supervisors held an Executive Session before the public meeting where the Board discussed real estate.

ADJOURNMENT

On a motion by Supervisor Sterling, seconded by Supervisor Totten, the meeting was adjourned at 10:30 PM.

Respectfully submitted,

Richard L. Mellor, Jr.
Township Manager