

**WHITEMARSH TOWNSHIP BOARD OF SUPERVISORS  
PUBLIC MEETING MINUTES**

**OCTOBER 13, 2022**

The Regular Monthly Meeting of the Whitemarsh Township Board of Supervisors was held on Thursday, October 13, 2022 at 7:00 PM, in the Whitemarsh Township Building, 616 Germantown Pike, Lafayette Hill, PA.

Supervisors Present: Laura Boyle Nester, Chair; Fran McCusker, Vice-Chair; Vincent Manuele; Jacy Toll and Patrice Turenne (virtually)

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

**PLEDGE OF ALLEGIANCE**

**ANNOUNCEMENTS**

Supervisor McCusker announced:

The Township's curbside leaf vacuum collection program begins Monday, October 17th and runs through the week of December 2nd. Residents are asked to pile their leaves curbside - LEAVES ARE NOT TO BE BAGGED. Please remember to remove all sticks and debris from leaf piles for the safety of Public Works employees.

Wells Street Clean Up on Saturday, October 15th from 8am-11am. Come and join our team of "Enviroteers" and help continue to restore this naturally beautiful area to a space that everyone in Whitemarsh Township can enjoy! All "Enviroteers" will be provided with a Whitemarsh Township "Enviroteer" shirt, tools, trash bags, and gloves. Long pants and long sleeves are recommended.

Teenie Halloweenie, a treat for children ages 2 to 6, is this Tuesday, October 18th. It's music, games, snacks and more. Pre-registration by October 14 is required. Call Parks and Recreation or register on the Township website.

Supervisor Toll said on September 24 the Township had their 2<sup>nd</sup> Tree Giveaway. She explained they gave away 250 trees. She thanked the volunteers that helped prepare from the Shade Tree Commission, the Environmental Advisory Board and John Hosbach (Township Arborist). She said it was exciting to see the enthusiasm for the trees. She thanked the volunteers on the day of Jim Tone Gerhart from Sustainable Land Solutions, Christian Fassbender and Dave D'Amore (Shade Tree Commission), Karen Kabnick and Deborah Harris from the EAB as well as Sean Halbom, former Assistant Township Manager. She said all of the trees were given away.

## Commendation for Response to Tropical Depression Ida

Chair Nester provided certificates of recognition to Whitemarsh Community Ambulance Association, Barren Hill Volunteer Fire Company and Spring Mill Fire Company for their response and assistance during Tropical Storm Ida on September 1, ,2021. In addition, she presented certificates of appreciation to the Whitemarsh Township Police Department and the Whitemarsh Township Public Works Department for their dedication in the ongoing recover from Tropical Storm Ida that is still enduring to this day.

## Fire Company's Service Years Recognition

Supervisor McCusker presented the following members of the fire companies with certificates acknowledging their years of service:

### Barren Hill Volunteer Fire Company

Pablo Leiva	5 years
Joseph "Bucky" Swider	25 Years
Jay Jablokov	30 Years
Don White	35 Years
Craig Walter	40 Years
James Behr	45 Years
Paul Stanish	45 years

### Spring Mill Fire Company

Juan Contreras	10 years
Joe Heil	15 years
Vince Messantonio	20 years
Jeff Heil	25 years
John Warner	30 years
Ann Waters	35 years
Marvin Haines	55 years

## APPROVAL OF MINUTES

### 1. September 8, 2022

On a motion by Supervisor Manuele, seconded by Supervisor McCusker (Vote 5-0) the Board of Supervisors approved the September 8, 2022 meeting minutes.

## PUBLIC HEARINGS

None

## BOARD PUBLIC DISCUSSION ITEMS

### 1. SLD #09-18 601 Washington Street Associates, LP/601 Washington Street; Conditional Preliminary Plan

Mr. Guttenplan explained SLD #09-18, Preliminary Land Development Plan for 601 Washington Street Associates, LP is for a 270-unit apartment project at 601 Washington Street on just over 9 acres. This is being developed based on Riverfront Development District, Sub-district 1 (RDD-1) requirements; it is also in the Floodplain and Riparian Corridor Conservation Districts. The plan is essentially two separate buildings connected by a commons area. Parking is proposed below both apartment buildings and is supplemented with surface parking. For a prior version of the plan, the applicant requested relief from the Zoning Hearing Board. In ZHB #2019-21, the applicant requested some relief related to development within the floodplain and other relief related to deviations from general development requirements, as well as some specific requirements of the RDD-1 district. The Zoning Hearing Board denied all of the relief requested. The 2019 ZHB decision was appealed; Common Pleas Court reversed the denial of two items of floodplain-related relief which has the effect of allowing development to proceed within the floodplain. The Township Solicitor has since determined that those two items would allow the development as currently proposed, to proceed. The remaining items of relief were further appealed; that appeal is currently 'on hold' in Commonwealth Court. The applicant has confirmed that if the current plan is approved, that appeal will be withdrawn. The current plan needs no additional zoning relief. The Planning Commission initially reviewed this proposal at its April 26, 2022 meeting. At the conclusion of the review and extensive discussion, the Commission requested that the applicant come back with additional information, specifically: an Emergency Evacuation Plan; more information about the site's environmental history and remediation; information about preservation and replacement of trees; a comparison of traffic impact between the applicant's 2019 study and revised 2022 calculations; and showing plan modifications made in response to the various professional reviews provided at that time. The applicant provided the requested information and this project was again reviewed by the Planning Commission at their July 26, 2022 meeting. After presentation and discussion of the new material, the Commission passed two motions, one to approve the requested waivers and the second to recommend approval of the preliminary land development plan. Subsequent to the Planning Commission, the applicant's landscape plan was reviewed by the Shade Tree Commission; the STC recommended approval of the plan along with certain waivers.

Ed Campbell, the attorney for the applicant introduced the project team: Kevin Kyle, Gary the Landscape Engineer, Rick Roseberry the site civil engineer, Brad Garrison the traffic engineer and Mike Buckley the architect. He went through the waivers requested and explained the reasons for the requests:

Section 105-30.A.: from the requirement that the cartway width be 36 feet and that a tree zone be provided along Washington Street, to allow a cartway width of less than 36 feet and to allow no tree zone, conditioned on the Applicant matching planned improvements along Washington Street to provide a continuous and consistent roadway cross section;

Section 105-39.A.: from the requirement that all parking areas shall have at least one 3-inch caliper tree for every two parking spaces, to allow the Applicant to provide a portion of the required trees as shrubs with a minimum size of 24 inches in height at a ratio of six shrubs for every one required 3-inch caliper shade tree for every two parking spaces;

Section 105-47.K.2.: from the requirement that there must be at least one access to the Schuylkill River and that access points must be located no more than 500 feet apart, to allow access points to be more than 500 feet apart;

Section 105-48.E.: from the requirement that street trees shall be planted within a tree planting zone of lawn area or other material approved by the Shade Tree Commission, situated between the

sidewalk and curb and measuring a minimum of five feet in width from the planting edge of the curb to the planting edge of the sidewalk, to allow the Applicant not to provide a tree planting zone between the curb and sidewalk along Washington Street, conditioned on the Applicant matching the planned frontages along Washington Street to provide a continuous and consistent roadway cross section;

Section 105-52: from the requirement that perimeter buffer yards, be a minimum of 50 feet in width to allow perimeter buffer yards to be less than 50 feet in width;

Section I.B.(4)(K): from the requirement that edges of slopes shall be a minimum of five feet from the property lines to allow grading within five feet of the property lines;

Section 55-4.B.(6): from the requirement that replacement trees be planted to allow 47 of the 132 required 3" caliper trees to not be planted, but rather that a fee-in-lieu of the planting of those trees be accepted as site conditions do not allow for the planting to be installed in a reasonable manner.

Section 55-4.B.(6): from the requirement that no more than 30% of replacement trees be ornamental trees to allow 31% of the proposed replacement trees to be ornamental trees.\*

Section 55-4.B.(6): from the stated replacement tree planting requirements to allow the use of 8-foot to 10-foot high ornamental trees, 8-foot to 10-foot high evergreen trees, 24-inch to 30-inch high shrubs, one-gallon groundcovers, and 1.25-inch by 2.5-inch plugs to count toward the required replacement plantings.

There was a discussion regarding the fees-in-lieu donations and staff had no objection to the waivers. Mike Buckley, architect explained the units that will be built in the apartment complex.

## Resolutions

### 1. **SLD #09-18 601 Washington Street Associates, LP/601 Washington Street; Conditional Preliminary Plan**

On a motion by Supervisor Toll, seconded by Supervisor McCusker (Vote 5-0) the Board of Supervisors adopted **Resolution #2022-25** granting Conditional Preliminary Plan approval for SLD #09-18 – 601 Washington Street Associates, LP/601 Washington Street for a 270-unit apartment complex including all waivers granted.

## BOARD PUBLIC DISCUSSION ITEMS (continued)

### 2. **SLD #04-22 Ashford Consulting LLC & Ashford Wealth Advisors, LLC/5-15 Germantown Pike; Conditional Preliminary/Final Plan**

Mr. Guttenplan explained SLD #04-22, Minor Land Development Plan for Ashford Consulting, LLC and Ashford Wealth Advisors, LLC at 5 and 15 E. Germantown Pike is a proposal involving the expansion of parking on the lot at 5 E. Germantown Pike to serve offices currently located in that building and to also serve offices proposed to be located in 15 E. Germantown Pike. The building at the latter location is to be expanded with an addition to the rear (after demolition of two dilapidated additions, which were recently removed). There is no parking on the 15 E. Germantown Pike lot. The applicants received certain relief from the Zoning Hearing Board in ZHB #2019-39 which was reaffirmed in ZHB #2021-39. One of the conditions of the latter decision was that a structural inspection of the building at 15 E. Germantown be conducted by the Director of Building and Codes; this was completed in November 2021 and concluded that the main structure was structurally sound but the

aforementioned additions needed to be removed. This development is within the VC-2 District and is also in the Plymouth Meeting Historic District. The Planning Commission initially reviewed this proposal at its April 12, 2022 meeting. At the conclusion of the review and substantial discussion, the Commission requested that the applicant come back after they had been to HARB for informal comments on their current plans and after they had been to the Shade Tree Commission for review of their landscaping, including what they were proposing along Germantown Pike as well as the buffering proposed against the adjacent Abolition Hall property. The applicant returned to the Planning Commission at their September 27th meeting with a plan that had been revised since the applicant appeared before HARB and STC. At the conclusion of the Commission's discussion, two motions passed unanimously by the members present. One was to recommend approval of all of the requested waivers (except the one waiver requesting that preliminary and final plans be approved simultaneously), subject to the applicant obtaining a karst study (geological and related considerations) to be reviewed and approved by the Township Engineer. The second motion was to recommend approval of the remaining waiver, and to recommend approval of the plan as currently presented.

Jim Banon, engineer from Nave/Newell, explained the area of the site, parking and electric charging station. He spoke about the landscaping and stormwater underground system. Supervisor Manuele asked about the stormwater management system. Mr. Banon explained it would hold the volume of water and would infiltrate over 7 days. There was a discussion about the water runoff in a larger than 100-year storm.

Sydelle Zove (Harts Ridge Road) stated she has the following concerns: fences, shed and hedgerow; front fence of historical value; screening buffer along rear of property and additional geotechnical testing of storm water for infiltration.

Chair Nester said the plan has been thoroughly vetted by the Planning Commission, Shade Tree Commission and the Historical Architectural Review Board. She asked Mr. Banon to comment on the concerns of Ms. Zove. Mr. Banon said the shed goes over the property line and will be removed. He said as far as the fence in the rear it is going to stay as is. He said the historical fence on the front of the property will be kept but it is impossible to keep all of it, a tree grew through the fence and agreed to replace any part that has to come down. Mr. Guttenplan asked if that could be a note on the recorded plan or in the resolution. Mr. Kilkenny said the easiest would be to add it to the resolution. Mr. Banon agreed to the change. There was a discussion of the buffering in the back. Supervisor Manuele asked about the condition from the Zoning Hearing Board. Ms. Heinrich stated the revision to the stormwater plan and the findings are in the resolution – she stated that it would read any revisions needed to the stormwater system as a result of the findings would comply.

## **Resolutions (Continued)**

### **2. SLD #04-22 Ashford Consulting LLC & Ashford Wealth Advisors, LLC/5-15 Germantown Pike; Conditional Preliminary/Final Plan**

On a motion by Supervisor McCusker, seconded by Supervisor Turenne (Vote 5-0) the Board of Supervisors adopted **Resolution #2022-26** granting Conditional Preliminary/Final Plan approval for SLD #04-22 – Ashford Consulting LLC & Ashford Wealth Advisors, LLC/5-15 Germantown Pike to renovate the existing parking lot and building addition.

## CONSIDER ACTION ITEMS

### Ordinances

None

### Resolutions

## MOTIONS

### 1. Ordinance Amendment Advertisement - Act 57 of 2022, amending the Local Tax Collection Law

Mr. Mellor explained in July 2022, ACT 57 of 2022 amending certain provisions of the Local Tax Collection Law, 72 Pa. C.S. § 5511.1, et seq was enacted. The Local Tax Collection Law (the "Law") provides for collecting taxes levied by taxing authorities in addition to conferring powers and imposing duties on Tax Collectors. Before this amendment, no circumstances allowed a Tax Collector to abate penalties or interest if the taxpayer did not receive a real estate tax notice. Specifically, the law stated that the "taxpayer shall be charged with his taxes as though he had received notice." 72 Pa. C.S. § 5511.7 (amended 2022). Although the law still provides that "failure to receive notice shall not relieve any taxpayer from the payment of any taxes imposed by any taxing district" the amendment requires the tax collector to waive additional charges for real estate taxes beginning in tax year 2023 under limited circumstances. Specifically, if a taxpayer purchased a home within twelve (12) months and had not received their tax bill in the mail, this amendment requires the Tax Collector to waive the penalty. To qualify for the waiver, the taxpayer must (1) provide a waiver request, (2) attest that the notice was not received; and (3) provide a copy of the deed or title, in the case of a mobile or manufactured home, which shows the date of transfer. The Act also mandates that the Department of Community and Economic Development ("DCED") develop and make available "a form by which a taxpayer may request a waiver of additional charges under this section," including a space for attestation by the taxpayer<sup>2</sup>. The Act is effective on October 9, 2022. Municipalities must authorize such action by ordinance or resolution within ninety (90) days of the Act's effective date, no later than January 7, 2022. To comply with the Act, this Resolution should be passed no later than your last scheduled meeting in 2022.

On a motion by Supervisor Toll, seconded by Supervisor McCusker (Vote 5-0) the Board of Supervisors authorized the advertisement of an ordinance amending the Local Tax Collection Law in accordance with Act 57 of 2022.

### 2. Highlands Request - Authorization to Expend

Mr. Mellor explained the Highlands Historical Society Facilities Committee met and identified several capital projects that are of concern. He stated they are in the process of securing bids for a comprehensive Property Condition Report, after which they will prepare and submit a Capital Plan in accordance with the terms of the Agreement of Sale for the Conservation Easement. Accordingly, and in the interim, pursuant to Section 6.01(c) of the Agreement of Sale, they are requesting approval from the Board of Supervisors to expend \$22,900 on following projects: refinishing the floors in the veranda and repainting the walls and floors there. The plan includes continuing the checkerboard pattern from the entrance hall through to the veranda. Estimated cost: \$12,200 and repainting the bannisters, steps

and risers and replacing the carpet on the staircase, which is stained and cannot be cleaned. Paint on the staircase is chipped and faded. The staircase plays a prominent role in event photographs, but its current condition diminishes its assets. Estimated cost: Installation of stain-resistant carpeting (including banding and padding) \$10,700. Supervisor Manuele asked if the Highlands got multiple pricing on the estimates. Supervisor McCusker stated they did.

Sydelle Zove (Harts Ridge Road) said the Highlands made a commitment to being open and accessible to the public. She asked if there is some signage installation or effort to make it known to Whitmarsh Township residents that the property is fully accessible. Supervisor McCusker stated the Highlands needs to do a better job of getting the word out to the residents.

On a motion by Supervisor Manuele, seconded by Supervisor McCusker (Vote 5-0) the Board of Supervisors authorized the expenditure of \$22,900 by the Highlands Historical Society for building improvements at The Highlands, 7001 Sheaff Lane.

### **3. Fee Waiver Request - Colonial School District Permit Fee**

Mr. Mellor explained Colonial School District is requesting the township waive the permit fees for the upcoming Girls Softball Dugout installation scheduled to begin October 1st, 2022. The project is comprised of the installation of (2) softball dugouts and the installation of a new backstop located next to Victory Fields at the Colonial Elementary School at 230 Flourtown Road 19462.

On a motion by Supervisor Toll, seconded by Supervisor McCusker (Vote 5-0) the Board of Supervisors authorized the fee waiver for Colonial School District in the amount of \$1,279.50 in accordance with Chapter A121 Fees (f)(2).

### **4. Escrow Release #3 - Robbins/27 East Germantown Pike**

On a motion by Supervisor McCusker, seconded by Supervisor Manuele (Vote 5-0) the Board of Supervisors authorized the escrow release #3 for Robbins Gulph Holdings, LLC/27 East Germantown Pike in the amount of \$61,555.50

### **5. Escrow Release #26 - Reserve at Creekside/Stenton Avenue**

On a motion by Supervisor Manuele, seconded by Supervisor Turenne (Vote 5-0) the Board of Supervisors authorized the escrow release #26 for Reserve at Creekside/Stenton Avenue in the amount of \$63,855.96.

### **6. Escrow Release #2 (Final) - Holman-Audi/432 Pennsylvania Avenue**

On a motion by Supervisor Manuele, seconded by Supervisor McCusker (Vote 5-0) the Board of Supervisors authorized the final escrow release #2 for Holman-Audi/432 Pennsylvania Avenue in the amount of \$180,738.76.

## **7. September 2022 Expenditures and Payroll**

On a motion by Supervisor Toll, seconded by Supervisor McCusker (Vote 5-0) the Board of Supervisors approved expenditures totaling \$2,711,193.44; and payroll totaling \$986,230.31; and pension paid costs totaling \$9,491.56 for September 2022.

### **PUBLIC COMMENT PERIOD**

Sydelle Zove (Harts Ridge Road) congratulated the Board on the Karabots two million dollar donation towards the purchase of the Corson property/Abolition Hall. She stated she hopes all goes well with settlement in November.

### **BOARD MEMBER COMMENTS**

None

### **EXECUTIVE SESSION**

Chair Nester announced the Board of Supervisors held an Executive Session prior to the meeting to discuss real estate.

### **ADJOURNMENT**

On a Motion by Supervisor McCusker, seconded by Supervisor Toll the meeting for October 13, 2022 was adjourned at 8:20 PM.

Respectfully Submitted,

Richard L. Mellor, Jr.  
Township Manager