



## **TOWNSHIP OF DERRY**

### Board of Supervisors Meeting Minutes

#### **Tuesday, October 24, 2023**

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**EXECUTIVE SESSION: 5:30 PM**

#### **CALL TO ORDER**

Chairman Abruzzo called the October 24, 2023 Regular Meeting of the Township of Derry Board of Supervisors to order at 7:02 p.m. in the meeting room of the Township of Derry Municipal Complex, 600 Clearwater Road, Hershey, PA. He advised that all public meetings are recorded for providing accurate notes. An Executive Session was held before the meeting where land and legal issues were discussed. After the Pledge of Allegiance, a roll call was performed.

#### **ROLL CALL**

##### **SUPERVISORS PRESENT:**

E. Christopher Abruzzo  
Natalie L. Nutt  
Carter E. Wyckoff  
Michael P. Corado  
Richard D. Zmuda

##### **ABSENT:**

##### **ALSO PRESENT:**

Christopher S. Christman, Township Manager  
Patrick Armstrong, Township Solicitor  
Chuck Emerick, Director of Community Development  
Tom Clark, Director of Public Works  
Zachary Jackson, Director of Parks & Recreation  
Julie Echterling, Recording Secretary  
Becky Sweigart, Public Outreach Coordinator  
Robert Demmel, Lieutenant, Police Department  
Jeff Cothren, Asst. Director, Hershey Public Library  
Ryan Cummings, HRG Engineer

#### **Public in Attendance:**

Michael Postick, Erica Wible, Christine Drexler, Dave Getz, Amy Bell, Erin Mariano, Jonathan Crist, Jan Raul, John Foley, Chris Brown, Ken Gall, Mark Hackenburg, Zane Geist, Rich Gamble, John Osmolinski, Jim Gainer, June Umberger, Kathy Cerullo Frick, Lynette Falmestok, Steen Falmestok, Richard Olsenter, Jessica Demopoulos, Timothy Demopoulos

#### **VISITOR/PUBLIC COMMENTS**

Mr. Rich Gamble, 39 Hockersville Road, spoke in favor of the Cocoa Packs plan. He spoke of the services they provide for meeting the needs of the community.

#### **CONSENT CALENDAR**

**Adoption of the Board of Supervisors Meeting Minutes for the September 7, 2023, 6:00 PM Public Hearing.**

**Adoption of the Board of Supervisors Meeting Minutes for the October 10, 2023, 7:00 PM Regular Meeting.**

**Approval of October 24, 2023, Accounts Payable of \$376,900.78 and Payroll of \$346,857.96.**

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Secretary Wyckoff made a motion to approve all items on the Consent Calendar. Supervisor Zmuda seconded the motion. **carried 5-0.**

### NEW BUSINESS

#### **Ordinance 2023-07 - Providing for a Lease Rental Debt Guarantee for the Derry Township Municipal Authority (DTMA) To Undertake Certain Capital Projects in the Maximum Principal Amount of \$4 million:**

Mr. Christman stated that DTMA is preparing to secure lease rental debt through Dauphin County's DCIB program in the maximum principal amount of \$4 million for the purpose of completing a capital project consisting of (1) the design, planning and construction of a new stormwater system on Ridge Road from West Caracas Avenue through the Chocolate Avenue intersection to safely convey storm flows away from the areas experiencing wet weather flooding and ponding in the area, (2) related design, planning and construction including, but not limited to, traffic control, excavation, concrete and HDPE storm sewer installation, inlet installations, headwall/endwall installation and pavement restoration. Due to pending Commonwealth Court litigation regarding Stormwater Impact Fees, the DCIB program is requiring Derry Township to provide a financial guarantee for the funds borrowed by DTMA for this project. Derry Township has previously provided financial guarantees in the past for similar issuances for DTMA projects.

Mr. Mike Postick, DTMA, spoke about the project, including how it grew to be a \$6 million venture. He spoke about the need for a guarantee for the loans. Mr. Lou Verdelli, spoke about the loan and that it has a reduced interest rate from the County using the gambling revenues. The reduced loan interest rate will be at 3.11%. He spoke about the terms and need for the loan. Discussion ensued. Secretary Wyckoff made a motion to adopt Ordinance No. 2023-07 - Providing for a Lease Rental Debt Guarantee for the Derry Township Municipal Authority To Undertake Certain Capital Projects in the Maximum Principal Amount of \$4,000,000. Supervisor Corado seconded the motion. **Motion carried. 5-0.**

#### **New Year's Eve Celebration in the Square of Hershey on December 31, 2023:**

Supervisor Corado made a motion to approve the request to hold the New Year's Eve Celebration in the Square of Hershey on December 31, 2023, along with the associated road closings. Supervisor Zmuda seconded the motion. **Motion carried. 5-0.**

#### **Plan for Hershey Hills Preserve and Estates, Plat 1373:**

Mr. Emerick discussed the plan proposing the subdivision of land and construction of seven single-family detached dwellings. The land is located on the south side of Stauffers Church Road, approximately 1,200 feet east of the Stauffers Church Road and Felty Mill Road intersection. He described the location of the site bordering the Dauphin County and Lebanon County line, the makeup of the property, and the zoning districts. He noted the lots will be served by private wells and on-lot sanitary sewer facilities. In order for the site to be developed as proposed, approval of a Conditional Use for a Cluster Development was necessary. This was approved in August 2021 with several conditions. He outlined the waivers and noted there are 21 conditions of the plan. Attorney Dave Getz, applicant's attorney, stated they are working with Solicitor Armstrong on the HOA declaration.

Vice Chairwoman Nutt made a motion to grant the waivers from the Subdivision and Land Development Ordinance as noted under items 2 through 7 in the *Explanation* section of this agenda

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item for the Preliminary/Final Subdivision and Land Development Plan for Hershey Hills Preserve and Estates, Plat 1373. Supervisor Zmuda seconded the motion. **Motion passed 5-0.**

Vice Chairwoman Nutt made a motion to approve the Preliminary/Final Subdivision and Land Development Plan for Hershey Hills Preserve and Estates, Plat 1373, subject to compliance with items 1 through 21 in the *Department Head Recommendation* section of this agenda item. Supervisor Corado seconded the motion. **Motion passed 5-0.**

### **Resolution 2023-17 for Act 537 Plan Revision for Hershey Hills Preserve and Estates, Plat 1373:**

Mr. Emerick discussed the requirement for a resolution for on-lot sanitary sewers. These types of sewers require the processing of a planning module as an amendment to the Township's 537 Plan. He spoke of Plat 1373 which will have an on-lot sanitary sewer for the plan.

Chairman Abruzzo made a motion to adopt Resolution No. 2023-17. Secretary Wyckoff seconded the motion. **Motion carried. 5-0.**

### **Time extension for conditional approval of the Preliminary Land Development and Stormwater Management Site Plan for Hershey Square Proposed Outparcel Development, Plat 1353:**

Mr. Emerick spoke of the third time extension request for the Hershey Square Proposed Outparcel Development. They are asking for an extension until January 31, 2024, to address the outstanding time sensitive conditions for the plan.

Vice Chairwoman Nutt made a motion that the approval of the Preliminary Land Development and Stormwater Management Site Plan for Hershey Square Proposed Outparcel Development, Plat 1353, is extended to January 31, 2024, subject to compliance with items '1' through '8' in the *Department Head Recommendation* section of this agenda item.

Supervisor Zmuda seconded the motion. **Motion carried. 5-0.**

### **Preliminary/Final Land Development Plan for Cocoa Packs, Plat 1379:**

Mr. Emerick discussed the plan filed by Cocoa Packs, Inc. This plan represents the development of an approximately 35-acre tract of land fronting on East Main Street and Route 322. The land is owned by Hershey Trust Company and Mr. Emerick spoke of its location with zoning districts. The plan proposes the construction of a one-story, 19,604-square-foot "retail" facility for Cocoa Packs on a 2.91-acre condominium tract (Unit A) and the creation of a 1.30-acre undeclared condominium tract (Unit B). Access to the site is proposed to be by way of a private common access drive having a minimum width of 28 feet. The Cocoa Packs building and grounds will have multiple related facilities to serve their clients. His belief is that the principal use will be the food market and clothing market, which are meant to support under-served children. Those two features are accompanied by a receiving, inventory, and processing area; a café serving visiting families and volunteers in addition to providing themed sit-down meals, cooking classes, special speakers, and other such activities. These amenities will not be open to the public. Also proposed is an education center with a computer corner and lending library; garden plots to support the café and educate families in gardening; an area designated for seasonal gifts; a small chapel; and an events space. There will be other events centered around Cocoa Packs' mission that are also planned for the site. The proposed use is being considered "Small-Scale Retail" which is a permitted use in the Planned Campus West zoning. He spoke about the sidewalks, public sewer, water, stormwater and traffic for the site. He discussed the waivers and deferments being requested and noted there are 21 conditions of the plan.

Mr. Mark Hackenburg discussed the use for the center and how it would operate. He spoke of the

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purpose including providing basic needs and education. Chairman Abruzzo stated that it feels like it is more than a small retail use. He spoke about the number of services it will be offering. He asked if based on the number of services they are providing, do they meet the zoning requirements. Mr. Ken Gall, Hershey Trust, noted that a lot of the space will be storage for them.

Chairman Abruzzo noted the scrutiny the Board has put on traffic flow and studies as traffic is a major concern. He believes 29 AM and 64 PM peak trips seems small for the amount of services they provide. He noted they have been asking hard questions of all development in the past two years. Mr. Hackenburg spoke about the study they did based on Cocoa Packs knowing their clients and the hours they come to the facilities. Extensive discussion ensued including requiring a traffic study. It was noted that a full study is needed with June dates versus now. Mr. Emerick noted that there should be enough data from the development across the street. Township Engineer Cummings noted that signal timing for the PM peak hours could be needed, but it would not be dramatic.

Vice Chairwoman Nutt made a motion to grant the waivers and deferments from the Subdivision and Land Development Ordinance as noted in the *Explanation* section of this agenda item for the Preliminary/Final Land Development Plan for Cocoa Packs, Plat 1379. Supervisor Zmuda seconded the motion. **Motion passed 5-0.**

Chairman Abruzzo made a motion to approve the Preliminary/Final Land Development Plan for Cocoa Packs, Plat 1379, subject to compliance with items 1 through 20 in the *Department Head Recommendation* section of this agenda item. Supervisor Corado seconded the motion. **Motion carried 5-0.**

### **Agreement between The Hershey Company, Hershey Entertainment & Resorts Company (HE&R), and the Township regarding sidewalk lights along Park Boulevard and fencing adjustments:**

Mr. Emerick spoke about the Park Boulevard relocation project which included a wide pedestrian sidewalk, but lighting was not included in the budget for the project. In October 2019, HE&R agreed to pay for the design and installation of the lighting, as long as the lights could be turned over to the Township to own, operate, and maintain. The original agreement was approved by the Board. The parties to the agreement for the lighting are HE&R, The Hershey Company, and Derry Township. The Hershey Company's involvement was limited to the granting of a temporary easement for construction and permanent easements for the area of the sidewalk that is outside the public right-of-way. The agreement was signed, but not recorded. Since that time, HE&R, for safety and security reasons, would like to change the Hersheypark perimeter fence to provide a more uniform appearance along Park Boulevard. Their proposal will prevent trespassing onto The Hershey Company's property adjacent to the Park and allow them to have a gated entrance for the retained portion of the former Park Boulevard that serves this side of the Park. Since the agreement related to the lighting was never recorded, HE&R is proposing inclusion of terms and conditions related to the fencing in the lighting agreement. Solicitor Armstrong has been provided a copy of the revised agreement for review.

Mr. Chris Brown, HE&R, spoke of the urgency for this project as the fencing company can do this job this fall. Mr. Emerick showed the Board the area for the fence on the map. Solicitor Armstrong noted if the Board is okay, he will review the agreement and provide comments.

Secretary Wyckoff made a motion to authorize Christopher Christman to execute the Sidewalk Light and Fencing Agreement, conditional upon final review by Grim, Biehn, and Thatcher. Supervisor

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Zmuda seconded the motion. **Motion carried. 5-0.**

**Revisions to Documents 1 and 15 in the Agreements with PennDOT and MHS for the installation and maintenance of the improvements for the proposed Bachmanville Road Roundabout, deemed necessary for the Bachmanville Road Roundabout Project in accordance with HOP Application Nos. 270225 and 297724:**

Mr. Emerick stated PennDOT asked the Milton Hershey School (MHS) Engineer to have the Township pass a Resolution specifically authorizing the execution of the documents and agreements deemed necessary for PennDOT for the Bachmanville Road Roundabout project. He explained why this was necessary and what it covered. Solicitor Armstrong noted that if MHS defaults, then PennDOT would look to the Township.

Supervisor Corado made a motion to authorize Christopher Abruzzo to execute Document 1, the First Amendment to Agreement for Roundabout Improvements and Highway Occupancy Permit Application between MHS and the Township, and Document 15, Revised Agreement for Maintenance of Roundabout and Lighting Improvements between the Township and PennDOT. Vice Chairwoman Nutt seconded the motion. **Motion carried. 5-0.**

**Construction modifications to the Plan for Towneplace Suites Hotel, Plat 1328:**

Mr. Emerick stated that at the October 10 Board meeting, the applicant proposed an alteration to the Settlement Plans. This involves relocating some of the parking spaces, including some of the parking lifts; relocating the dumpster area; and modifying the retaining wall. He read each of the modifications being requested. Chairman Abruzzo noted that they have not heard from the neighbors or had any questions asked, so it would seem there is not any opposition to the requested changes.

Vice Chairwoman Nutt made a motion to approve the modifications as proposed in the letter dated October 18, 2023 from Wix, Wenger & Weidner, including the attachment to the letter. Supervisor Corado seconded the motion. **Motion carried. 5-0.**

**Financial security-Stormwater Management Plan for 333 Beech Avenue, S-2023-010:**

Secretary Wyckoff made a motion to accept cash financial security in the amount of \$19,190 and enter into the Agreement to Provide Financial Security between Laure Veet and Carlos Garay and the Township for the Stormwater Management Plan for 333 Beech Avenue, S-2023-010. Supervisor Zmuda seconded the motion. **Motion carried. 5-0.**

**Financial security-Stormwater Management and Erosion and Sediment Pollution Control Plan for 2167 Bachmanville Road, S-2023-015:**

Vice Chairwoman Nutt made a motion to accept a cash financial security in the amount of \$17,690 and enter into the Agreement to Provide Financial Security between Dmitriy Y. Ryabyy and Jennifer M. Ryabyy and the Township for the Stormwater Management and Erosion and Sediment Pollution Control Plan for 2167 Bachmanville Road, S-2023-015. Supervisor Corado seconded the motion.

**Motion carried. 5-0.**

**Resolution 2023-20 authorizing the sale and transfer of municipally owned property, specifically two motor vehicles:**

Secretary Wyckoff made a motion to adopt Resolution No. 2023-20 awarding the sale of a 2012 Chevrolet Tahoe SUV to Dan Nguye of Cherry Hill, NJ for \$4,300. Supervisor Corado seconded the motion. **Motion carried. 5-0.**

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### **SUPERVISOR BOARD/COMMITTEE REPORTS**

Supervisor Zmuda and Vice Chairwoman Nutt attended the Transportation meeting. They discussed DTMA's Wood Road project, Ridge and Chocolate Avenue project, Tri-County Planning, pedestrian safety, grant options, and mitigation for crosswalks. Vice Chairwoman Nutt attended the ICDA meeting where they voted to remove and relocate a PPL pole in the Chocolatetown Square Park for the Veteran's project. Supervisor Wyckoff and Corado attended the DTMA meeting where project updates, 2024 payroll, and stormwater items were discussed.

### **DEPARTMENTAL REPORTS**

#### **Public Works**

Mr. Clark noted they are collecting leaves.

#### **Parks & Recreation**

Mr. Jackson spoke about the upcoming Arts & Crafts Show on November 4. He spoke about the Halloween parade and the departments that worked together to make it successful.

#### **Community Development**

Mr. Emerick spoke about Chocoberfest being cold and rainy. He asked for the stormwater ordinance to be on the agenda for November 28. He noted he is working on the zoning ordinance and hopes to have it to the Board in January.

#### **Township Manager**

Mr. Christman spoke of the Safe Streets for All that has money from the state to the County for projects. He asked to have a community work group and have the Board involved. Supervisor Wyckoff and Corado will be on the group representing the Board.

### **VISITOR/PUBLIC COMMENTS**

Mr. Rich Gamble thanked the Board for taking action on the Cocoa Packs plan. He asked the Board to come out and see what the volunteers do to help people in the community. Chairman Abruzzo stated they would like to see it and talk with Mr. Christman.

### **ADJOURNMENT**

Supervisor Zmuda made a motion to adjourn the meeting at 8:56 p.m. Vice Chairwoman Nutt seconded the motion. **Motion carried. 5-0.**

### **SUBMITTED BY:**

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Carter E. Wyckoff, Township Secretary