



TOWNSHIP OF UPPER UWCHLAN  
BOARD OF SUPERVISORS MEETING

November 18, 2019

7:00 p.m.

Approved

LOCATION: Temporary Township Administration Office  
415 Eagleview Boulevard, Suite 116  
Exton, PA 19341

In Attendance:

Board of Supervisors

Guy A. Donatelli, Chair

Sandra M. D'Amico, Vice-Chair

Jamie W. Goncharoff, Member

Township Administration

Shanna Lodge, Acting Township Manager

Gwen A. Jonik, Township Secretary

John DeMarco, Police Chief

Al Gaspari, Codes Administrator

Mike Heckman, Director of Public Works

Dave Leh, P.E., Gilmore & Associates

Matthew Brown, P.E., ARRO

Chris Williams, P.E., McMahon Associates

Kristin Camp, Esq., Township Solicitor

Mr. Donatelli called the meeting to order at 7:08 p.m., led the Pledge of Allegiance, offered a moment of silence. No one planned to video or audio record the meeting.

Approval of Minutes

Mrs. D'Amico moved, seconded by Mr. Goncharoff, to approve the minutes of the October 8, 2019 Board of Supervisors and Draft 2020 Budget Workshop. The Motion carried unanimously.

Mrs. D'Amico moved to approve the minutes of the October 14, 2019 Board of Supervisors Meeting. Mr. Goncharoff seconded and requested an amendment to Page 5 regarding the Sunoco pipeline route in Meadow Creek Lane, to include his question and the residents' affirmative reply about the Township seeking monetary compensation for public purposes if the revised route in the roadway is allowed over the Township's opposition. The Motion to approve the minutes with the revision carried unanimously.

Approval of Payments

Mrs. D'Amico moved, seconded by Mr. Goncharoff, to approve the payments to all vendors as listed November 14, 2019. The Motion carried unanimously.

Treasurer's Report

Shanna Lodge requested, on Jill Bukata's behalf, that the Board authorize the transfer of \$150,000 from the General Fund to the Capital Fund, in accordance with the 2019 Budget. Mr. Goncharoff moved, seconded by Mrs. D'Amico, to authorize the transfer of funds. The Motion carried unanimously.

Ms. Lodge reported that the balance sheet remains strong, year-to-date revenues are at 94.3% of the budget and year-to-date expenses are at 80.6% of budget, and as of October 31<sup>st</sup>, earned income tax receipts are \$333,000 ahead of October 2018, and \$48,000 over the 2019 Budget.

### Supervisor's Report

Mr. Donatelli noted the Board has reviewed and discussed the Police Chief's 2020 Employment Agreement and requested a Motion for approval. Mr. Goncharoff moved, seconded by Mrs. D'Amico, to approve the 2020 Employment Agreement with Chief DeMarco. The Motion carried unanimously.

Mr. Donatelli announced an Executive Session was held earlier this evening regarding personnel, and he read the following calendar: November 21, 2019 Chester County Association of Township Officials Fall Conference; November 28-29, 2019 Office Closed for Thanksgiving; November 30, 2019 5:00 PM 3<sup>rd</sup> Annual Township Tree Lighting at Upland Farms Park; December 10, 2019 4:00 PM Board of Supervisors Workshop; December 16, 2019 7:00 PM Board of Supervisors Meeting; December 25, 2019 Office Closed - Christmas Day; January 1, 2020 Office Closed - New Year's Day; yard waste collections November 20, 27, December 4, 18.

### Administration Reports

#### Township Engineer's Report

Dave Leh reported that site construction continues at Chester Springs Crossing (Jankowski) and they hit rock while boring under Route 100 for the sewer main crossing, causing delays.

#### Building and Codes Department Report

Al Gaspari reported 38 building permits were issued last month, totaling \$42,927.52 in permit fees, a couple new single-family homes are under construction, 2 Zoning Hearings are scheduled – one is regarding outside storage tanks for Frontage and the other seeks several variances for 'Little Harvard', a proposed daycare on Byers Road.

Mr. Goncharoff asked about CVS correcting the time on their clock. Mr. Gaspari has spoken with Managers at CVS and they've requested their maintenance department to fix the clock. Following previous discussions on the topic, our Solicitor may draft an ordinance or amend the property maintenance code regarding clocks displaying the correct time.

#### Police Chief's Report

Chief DeMarco reported that 1,183 calls were handled last month, and he encouraged all to be good neighbors and watch out for suspicious activities with deliveries at this time of year.

#### Public Works Department Report

Mike Heckman reported that the department: received and completed 194 work orders, repaired a broken stormwater pipe on Route 100 at Park Road, road markings are complete, began to service snow removal equipment, completed landscape plantings at Meadow Creek WWTF, cleared stormwater pipes and inlets, and performed preventive maintenance and inspections on Township-owned vehicles.

#### Land Development

Windsor Baptist Church Preliminary Land Development Plan. Tom Ludgate, Ludgate Engineering, presented the Preliminary Plan, which was used during their conditional use process, proposing a building addition for the Academy, to remove the classes from the Church building. A number of waivers are requested, regarding stormwater, sidewalks, street tree locations and size, landscaping in the parking areas, number of ingress/egress, and providing a traffic study.

Mrs. D'Amico asked the plan for the area when the modulars are removed; Mr. Ludgate advised the area will become grassy overflow parking. Mr. Goncharoff asked the status of the architectural

elevations. Working with the Historical Commission and Planning Commission to agree on the exterior is a condition in the Conditional Use Approval and they'll complete that during the Final Plan approval process.

Mr. Donatelli moved to grant Preliminary Land Development Plan Approval for the plans prepared by Ludgate Engineering Corporation dated January 22, 2019 and last revised April 18, 2019 for the school building and associated playgrounds, and grant waivers, conditioned as follows:

1. The plans shall be revised to comply with Gilmore & Associates, Inc. review letter dated July 3, 2019.
2. All conditions set forth in the September 16, 2019 Conditional Use Decision & Order shall be adhered to.
3. The church agrees to continue to work with both the Township Planning Commission and Township Historical Commission regarding the architecture of the addition.
4. A partial waiver is granted from §162-41.B. to not require providing sidewalks along Little Conestoga Road.
5. A partial waiver is granted from §162-57.C.(6) to not provide street trees along Little Conestoga Road.
6. A waiver is granted from §162-57.C.(6)(c) to allow street trees below a height of 14-16 feet at planting.
7. A waiver is granted from §162-57.C.(7) and §162-57.C.(7)(b) to not require landscaping in existing parking areas.
8. A waiver is granted from §162-57.D.(4)(a) to allow the caliper of shade trees at approximately 2.5".
9. A waiver is granted from §162-9.H to not require a traffic study at this time. Applicant shall be required to provide a traffic study in accordance with the terms of Condition 4 in the Conditional Use Decision & Order dated September 16, 2019.
10. A waiver is granted from §162-27.1 and §162-27-1.F to allow the existing driveways to remain.
11. A waiver is granted from §152-306.I.(2) to not require stormwater infiltration in certain areas where the soils do not allow infiltration based on Applicant's infiltration testing.

Mr. Goncharoff seconded and the Motion carried unanimously.

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Profound Technology Preliminary/Final Land Development Plan. (125 Little Conestoga Road) Alyson Zarro, Esq., Kevin Busza – Profound Technology and Chris Daily, P.E. were in attendance. Ms. Zarro presented the Plan proposing an addition to the existing building near the intersection of Little Conestoga Road and Route 100. The Applicant recently received Conditional Use Approval. Three waivers are requested regarding combining the preliminary and final Plan, allowing 2 accesses, and a 14' half-width of the cartway instead of 16'. Ms. Zarro sought the Board's relief from providing a pedestrian access from the roadside sidewalk to the front door as suggested by Brandywine Conservancy. It would be 90' in length, not the 35' as proposed, and due to the Use not being a retail store, it is unnecessary. The architectural elevations were reviewed and favored by the Historical Commission and the Planning Commission -- both would like to see samples of the exterior materials. Mr. Goncharoff wants the Historical Commission's Approval to be a condition of Plan Approval.

Mr. Goncharoff moved to grant Preliminary/Final Plan Approval to the Land Development Plan prepared by D.L. Howell & Associates dated November 8, 2018 and last revised October 14, 2019, and grant waivers, conditioned as follows:

1. The Plans shall be revised to comply with all outstanding comments in Gilmore & Associates, Inc. review letter dated November 6, 2019 except that the Board will not require Applicant to provide a sidewalk linking the proposed sidewalk along Little Conestoga Road with the entrance of the proposed addition as requested in paragraph VII.1 on page 6.
2. Applicant shall comply with all conditions in the Board's September 16, 2019 Conditional Use Decision & Order.
3. Applicant shall provide samples of the proposed exterior materials for the building addition to the Township Historical Commission for review and approval.
4. Applicant shall pay a traffic impact fee in the amount of \$18,672.00 at the time of building permit application.
5. Applicant shall install three village style streetlights along the frontage of the property on Little Conestoga Road.
6. A waiver is granted from §162-7-B(2)(b) & (c) to permit this submission to be approved as preliminary/final plans.
7. A waiver is granted from §162-27.1.F(1) to allow two driveways from Little Conestoga Road.
8. A partial waiver from §162-28.A & E to allow a 14-foot half-width cartway along Little Conestoga Road instead of the required 16-foot half-width cartway.

Mr. Donatelli seconded and the Motion carried unanimously.

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Starbucks – Eaglepointe Preliminary/Final Land Development Plan. Tim Townes, Adam Loew, and representatives from Starbucks were in attendance. Mr. Townes presented the Land Development Plan. The Applicant recently received Conditional Use Approval for a Starbucks store with a drive-through in the former Key Bank building in Eaglepointe Shopping Center. The Land Development Plan provides for the removal of 1-2 existing drive-through lanes; there's room for 10 vehicles to stack in the lane, which is more than typically provided; if that isn't adequate and cars back up on Simpson Drive, options are to widen Simpson Drive or alter as may be determined during a traffic study; they'll increase staffing for quicker order turnaround; as the store matures, efficiencies will increase; there is plenty of seating (78), and parking on-site or in the Acme parking lot. Mr. Townes expressed concern with the right-of-way along Route 100 as there is little room between the building and the right-of-way line. Chris Williams and Chief DeMarco commented on enhanced signage, pavement markings and lighting for pedestrian safety on the site and to the Acme parking lot.

Mr. Donatelli moved to grant Preliminary/Final Land Development Plan approval to the Plan prepared by E. B. Walsh and Associates dated September 18, 2019 and last revised September 25, 2019, and grant waivers, conditioned as follows:

1. The Plans shall be revised to comply with all outstanding comments in Gilmore & Associates review letter dated November 6, 2019 with the exception of comment 5 on page 4 which would have required Applicant to offer for dedication additional right of way along Pottstown Pike (Route 100). The Board will not require the dedication of this additional right of way and granted a waiver from §162-28.A.
2. Applicant shall comply with all conditions in the Board's July 24, 2019 Conditional Use Decision & Order.

3. Applicant shall pay a traffic impact fee in the amount of \$67,686.00 at the time of building permit application.
4. Applicant shall provide enhanced signage, pavement markings and lighting to allow safe pedestrian circulation from the Eaglepointe Village Shopping Center to the proposed Starbucks pad site, as recommended and approved by the Chief of Police and Township Engineer.

Mr. Goncharoff seconded and the Motion carried unanimously.

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DSM Biomedical Preliminary/Final Land Development Plan (Eagleview Corporate Center Lot 2). Neal Fisher – Hankin Group, Andrew Donohue and Karl Holden, Architect were in attendance. Mr. Fisher presented a Land Development Plan proposing a 486 SF outdoor building for the storage of chemicals that are currently housed inside and move them into a prefabricated building specifically made for such storage, as a safety measure for employees. Discussion included details of the size of the building and the safety measures associated with it.

Mr. Goncharoff moved to grant Preliminary/Final Land Development Plan Approval to the Plan prepared by Chester Valley Engineers dated October 2, 2019, and grant a waiver, conditioned as follows:

1. The Applicant shall revise the Plans to address all outstanding comments in Gilmore & Associates November 6, 2019 review letter.
2. A waiver is granted from §162-7.B.(b) & (c) to allow the Plans to be approved as preliminary/final land development plans.

Mrs. D'Amico seconded and the Motion carried unanimously.

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Eagle Village Parking Financial Security Agreement. Alyson Zarro, Esq., advised that a Letter of Credit has been established to replace the initial cash security posted by Mr. Gunther for his parking lot expansion at 160 Park Road. A cash escrow for construction inspection was also established. The Board is requested to approve replacement of the cash escrow with the Letter of Credit in the amount of \$168,300 for the site improvements.

Mr. Donatelli moved, seconded by Mrs. D'Amico, to accept the Letter of Credit in the amount of \$168,300 and return the cash escrow to Mr. Gunther for the Eagle Village Parking Expansion project at 160 Park Road. The Motion carried unanimously.

Preserve at Marsh Creek (Fetters/McKee) Land Development and Financial Security Agreements. Shanna Lodge advised that the Land Development Plan for the Preserve at Marsh Creek was approved by the Board in October 2017 and the Applicant has recently received required outside Agencies' approvals. There are 6 Agreements associated with this project for the Board to approve and execute, as follows: Deed of Dedication for right-of-way along Milford Road frontage; Land Development Agreement and Financial Security Agreement in the amount of \$10,381,661.79 for public improvements (plus an additional 2% cash security for construction inspections \$188,757.49); Land Development Agreement and Financial Security Agreement in the amount of \$1,017,495.00 for sanitary sewer improvements (plus an additional 2% cash security for construction inspections \$20,349.90); and a Stormwater Best Management Practices (BMPs) and

Conveyances Operation and Maintenance Agreement. These are all standard Agreements, prepared by Kristin Camp, Esq., and reviewed by Alyson Zarro, Esq. The only non-typical item in this case is that the Applicant is making improvements at the intersection of Milford Road and Little Conestoga Road.

Mr. Donatelli moved, seconded by Mrs. D'Amico, to approve and execute the six (6) Agreements. The Motion carried unanimously.

#### ADMINISTRATION

Shanna Lodge summarized the Route 100 Wastewater Treatment Plant Expansion Agreement (Phase 3) between the Township, the Municipal Authority and the Preserve at Marsh Creek LLC (McKee) to expand the Route 100 WWTP by another 300,000 gallons per day (gpd). Matt Brown advised that the Municipal Authority and the Solicitors had reviewed and approved the Agreement, which identifies all of McKee's obligations for the construction and expansion of the WWTP, with the only condition being McKee acquiring an Easement from the Reserve at Eagle Homeowners Association (HOA), which is an Exhibit to the overall Agreement presented today. The Easement will be an exclusive 20' to the Authority within a 30' easement. Kevin McLaughlin of McKee will work with the HOA to formalize the location of the Easement. This Easement is a requirement of the Agreement Approval.

Mr. Goncharoff moved, seconded by Mrs. D'Amico, to enter into the Agreement with the Municipal Authority and the Preserve at Marsh Creek LLC for the expansion of the Route 100 Wastewater Treatment Plant. The Motion carried unanimously.

Cathodic Protection Easement Agreement. Shanna Lodge advised that this Agreement is with Enterprise TE Products Pipeline Company to maintain-repair-replace an existing pipeline, not a new pipeline, for continued integrity. The Township will receive \$10,000 in consideration of granting the Easement. Kristin Camp, Esq., has reviewed the Agreement and confirmed that this is a best management testing to assure the pipe doesn't rust – there's currently no issue. Any construction would be in/out in 1 day.

Mr. Donatelli moved, seconded by Mrs. D'Amico, to approve the Cathodic Protection Easement Agreement with Enterprise TE Products Pipeline Company LLC. The Motion carried unanimously.

#### Open Session

Fred Bauman, Meadow Creek Lane, requested clarification on the Sunoco pipeline route discussion from the October 14 meeting, specifically the Township receiving money for the project, and potentially purchasing the Sunoco-owned property at 38 Meadow Creek. Mr. Goncharoff advised that he had asked the residents in attendance that IF, in the final analysis, after residents and the Township objected to the pipeline route in Meadow Creek Lane and we were overruled by DEP, would the residents want the Township to be monetarily compensated, for the benefit of the Township, and Mr. Goncharoff thought their collective response was Yes. Ms. Lodge added it was believed that the residents weren't in favor of the pipeline going in the road and the Township has no interest in the pipeline going in the road either.

The Township hasn't been offered the property and hadn't discussed purchasing the Sunoco-owned property. Mr. Donatelli advised that type of discussion would take place in an Executive Session but that hasn't happened because there's nothing to discuss. Any Agreements that would require signature by the Township would then have to be discussed in a public meeting. The Township plans to oppose open trenching within Meadow Creek Lane.

Henry Zawada, of Honey Brook, encouraged residents to operate within their rights, to not trust what Sunoco says, that residents do not have to allow Sunoco access to their property. Sunoco doesn't have eminent domain authority. The Township should carefully consider ordinances to fight pipelines.

John McHugh, of Honey Brook, commented that Western Chester County has formed a Council of Government (COG) of 13 townships and encourages the formation of more COGs, for regional cooperation and savings, which could be beneficial in cases such as the pipeline.

Adjournment

There being no further business to be brought before the Board, Mr. Donatelli adjourned the Meeting  
at 9:17 p.m.

Respectfully submitted,

Gwen A. Jonik  
Township Secretary