

## MINUTES

### BOARD OF COMMISSIONERS

### LOWER ALLEN TOWNSHIP

### REGULAR MEETING

January 23, 2023

The following were in ATTENDANCE:

### BOARD OF COMMISSIONERS

### TOWNSHIP PERSONNEL

Dean W. Villone, President

Erin Trone, Assistant Township Manager

H. Edward Black, Vice President

Steven P. Miner, Township Solicitor

Jennifer Caron

David Holl, Public Safety Director

Joshua Nagy

Richard Grove, Township Finance Director

Charles Brown

Rebecca Davis, Public Works Director

Renee' Greenawalt, Recording Secretary

President Villone called the January 23, 2023 Regular Meeting of the Board of Commissioners to order at 6:00 PM. He announced that Proof of Publication for the meeting was available for review. This was followed by a prayer and the Pledge of Allegiance.

### MEETING MINUTES:

President Villone requested a motion to approve the minutes of the January 9, 2023 Regular Meeting. Commissioner **NAGY** made the motion. Commissioner **CARON** seconded. The motion carried 5-0.

**AUDIENCE PARTICIPATION:** Any item on the agenda.

President Villone advised the audience that if there were any item on that evening's agenda that they wish to comment on, to please indicate as such.

Three members of the audience, Mr. Joseph Swartz, Mr. Scott Staiger, and Mr. Josh Bovender all indicated their intent to comment on item 11 – LD Plan #2022-09 – Cloud 10 Carwash.

### CONSENT AGENDA:

President Villone stated that any Commissioner, staff member, or anyone in attendance who would like to have an item on the Consent Agenda removed for further discussion, he could do so at that time. There were none.

Items on the Consent Agenda:

- a) Department Reports for the month of December for Community Development, Fleet Maintenance, Facility Maintenance (November and December), Public Works, and Public Safety.
- b) Check Register of January 13, 2023, in the amount of \$520,507.33.

President Villone requested a motion to approve the items on the Consent Agenda. Vice President **BLACK** moved to approve the items on the Consent Agenda. Commissioner **CARON** seconded. The motion carried 5-0.

### EXECUTIVE SESSION

At 6:05 PM, President Villone recessed to Executive Session for discussion of a personnel matter. The meeting was reconvened at 6:14 PM.

### PRESIDENT VILLONE:

**Ordinance 2023-01, ICC Code Update**

President Villone requested a motion to enact **ORDINANCE 2023-01**, the 2023 Omnibus ICC Code Update, amending the Code of Lower Allen Township at Chapter 70, Building Construction and Safety Standards, Chapter 103, Fire Prevention, and Chapter 162, Property Maintenance for the purpose of updating code editions and administrative matters.

Commissioner **NAGY** moved to enact **ORDINANCE 2023-01**. The secretary called the roll:

Commissioner NAGY – **AYE**  
Commissioner BROWN – **AYE**  
President VILLONE – **AYE**  
Vice President BLACK – **AYE**  
Commissioner CARON – **AYE**

The motion carried 5-0.

#### **Resolution 2023-R-05, UCC Regulations**

President Villone requested a motion to adopt **RESOLUTION 2023-R-05** adopting a table of technical and procedural regulations necessary for local agency administration and enforcement of the Pennsylvania Uniform Construction Code authorized by Lower Allen Township Code Chapter 70, Building Construction and Safety Standards, and the Pennsylvania Construction Code Act.

Vice President **BLACK** moved to adopt **RESOLUTION 2023-R-05**. Commissioner **CARON** seconded. The motion carried 5-0.

#### **Resolution 2023-R-06, Honoring Marshall F. Quartmon**

President Villone requested a motion to adopt **RESOLUTION 2023-R-06**, commending and honoring Marshall F. Quartmon, Maintenance Specialist in the Parks Division of the Public Works Department, for 26.5 years of service with the Township.

Vice President **BLACK** moved to adopt **RESOLUTION 2023-R-06**. Commissioner **CARON** seconded. The motion carried 5-0.

President Villone read the resolution for the record. President Villone expressed comments of appreciation to Mr. Quartmon for his 26.5 years of service to Lower Allen Township.

#### **Resolution 2023-R-03, Hiring EMT Tyler Rotelle**

President Villone requested a motion to adopt **RESOLUTION 2023-R-03**, appointing Tyler Rotelle to a full-time EMT/PSO hybrid position, effective Tuesday, January 24, 2023.

Vice President **BLACK** made the motion, seconded by Commissioner **NAGY**. The motion carried 5-0.

#### **Resolution 2023-R-04, Hiring Paramedic Ben Shearer**

President Villone requested a motion to adopt **Resolution 2023-R-04**, appointing Ben Shearer to a full-time paramedic position, effective Monday, February 13, 2023.

Commissioner **NAGY** made the motion, seconded by Commissioner **CARON**. The motion carried 5-0.

#### **Resignation of EMT Joseph Peters**

President Villone requested a motion to accept the resignation of EMT Joseph Peters effective January 29th, 2023. Commissioner **BROWN** made the motion, seconded by Commissioner **NAGY**. The motion carried 5-0.

#### **ANY BUSINESS PERTINENT TO THE TOWNSHIP:**

President Villone noted that if anyone wished to speak at that time, there would be 10 minutes allotted per person to speak at the podium. There were none.

#### **PUBLIC SAFETY**

##### **Advertisement to hire full-time EMT**

Director Holl introduced the item for discussion and possible action, to consider the Authorization to advertise for the hiring of a full-time EMT for the vacancy resulting from the resignation of EMT Joseph Peters.

Commissioner **NAGY** motioned to authorize the advertisement to hire a full-time EMT. Commissioner **CARON** seconded. The motion carried 5-0.

#### **PUBLIC WORKS**

##### **Adoption of PPC Plan**

Director Davis presented the item for discussion and consideration to adopt the Preparedness, Prevention, and Contingency (PPC) Plan for the Public Works Facility. She explained the plan was updated annually for the purpose of being prepared for any accidental discharge of pollution to the MS4, since there are hazardous materials and chemicals stored at the facility. The plan also addresses a notification process if there were to be such a discharge.

Commissioner **NAGY** moved to adopt the Preparedness, Prevention, and Contingency (PPC) Plan for the Public Works Facility. Commissioner **BROWN** seconded. The motion carried 5-0.

### **Bids for Bioretention Projects**

Director Davis presented the item for discussion and consideration to authorize staff to prepare and solicit bids for the United Methodist Home for Children and the Bethany Village West Bioretention Retrofit Projects.

Commissioner **NAGY** moved to authorize the bids. Vice President **BLACK** seconded. Responding to an inquiry from President Villone, Director Davis noted the projects were being funded through the MS4 program fees. The motion carried 5-0.

## **COMMUNITY AND ECONOMIC DEVELOPMENT**

### **Approval of LD 2022-09, Cloud 10 Carwash**

Assistant Manager Trone presented the item for discussion and possible action. The proposed plan is for redevelopment of a site, formerly a bank, into an automated carwash. The lot is located at 3556 Gettysburg Road, which is at the corner of Gettysburg Road and Lower Allen Drive.

### ***Presentation by the Applicant***

Adam Davis with Hyland Engineering presented details of the proposed plan and explained that the automated carwash would include three lanes, with one limited to members only. Customers will pay at kiosks. There is also a bailout lane. Once through the automated tunnel, vehicles can exit into a vacuum area available only to carwash customers. The primary access points include one off Gettysburg Road and another off Lower Allen Drive. Both points of access are restricted to right-in/right-out movements. Zimmerman Drive is internal to the site and has shared access easements. Addressing concerns raised by neighboring residents, the applicant is proposing additional signage to direct carwash traffic and proper internal circulation.

Vice President Black asked Mr. Davis if agreements were in place with the adjacent property owners regarding the shared access. Mr. Davis noted there were existing access easements in place.

Next, Mr. Davis presented the plans related to stormwater and utilities, noting there was no existing stormwater management in place, so the plan includes a stormwater management basin which will discharge into the existing storm sewer on site. The applicant noted the water reclamation process. Next, Mr. Davis also noted that the emergency access met the specifications as required by ordinance.

The process to obtain the Highway Occupancy Permit (HOP) is underway. The applicant's traffic engineer,

Ian Preston, from KCI Technologies, Inc. reported that representatives from the Township, the applicant, and PennDOT participated in the scoping meeting and that the applicant was currently working through the process, and that a traffic impact study was underway.

Vice President Black asked Mr. Preston about anticipated traffic backing up along Gettysburg Road. Mr. Preston noted that traffic entering the site would have to slow down but will flow freely into the shared access drive, and that there was stacking space for 21 vehicles in the kiosk lanes. Mr. Steve Sauce from Cloud 10 Carwash, noted that stacking into the street was not an issue at any of their other locations.

President Villone requested some commentary on why so many carwashes are being built so closely together. Mr. Sauce replied that market changes are driving the development, and that environmental protection laws that prevent or discourage driveway car washing has led to increasing demand for carwashes. He also noted that dirty cars are a safety issue.

Addressing operating hours and lighting, Mr. Sauce said that lighting would conform to code and that hours of operation at a maximum would be 7 AM to 9 PM and always attended by employees.

Commissioner Nagy raised a point about the Gettysburg Road Corridor Redevelopment Plan and the underlying mission to emphasize walkability and safety for pedestrians. Mr. Preston noted that there is existing sidewalk that would continue along Gettysburg Road.

Commissioner Caron asked what would happen if the access or the internal circulation plan changes significantly because of the HOP. Ms. Trone noted that if the land development plan is altered significantly to get HOP approval, the plan may need to go back through the land development process for approval again.

Township Engineer, Mr. Brian Engle, referred to the comments identified in his letter of January 12, 2023.

### **Public Comments**

Mr. Joe Swartz expressed concern regarding the proposed plan being inconsistent with the Township's comprehensive plan and speculated that development like this would ultimately present a financial burden to residents over time, caused by less redevelopment, less safety, less financial security, and less tax revenue. He also noted concern that pedestrian and bicyclist counts were not accounted for when conducting the traffic study for the site.

Mr. Preston noted that pedestrian and bikes were included in the traffic counts, which are documented in the full traffic impact study. President Villone asked if that study would take future pedestrian activity and the comprehensive plan into account. Mr. Preston said the study might make assumptions for a portion of traffic, but that bikes and pedestrians were not applicable for a carwash.

Commissioner Nagy noted that the carwash does not align with the vision of the Gettysburg Road Corridor and noted that the Development Authority has made great strides in working to conform to that plan. He asked how the law views the comprehensive plan against the zoning ordinance.

Ms. Trone noted that, currently the carwash is a permitted use in the C-4 district, so it complies with zoning, and after several revised submissions the plan complies with the Subdivision and land development ordinance save for a few outstanding comments which can be made as conditional approvals.

President Villone asked the solicitor to weigh in on the matter of the comprehensive plan versus the zoning and ordinances. Mr. Miner noted that legally a comprehensive plan is just an intention whereas an ordinance is a law. Compliance with an ordinance has more standing than compliance with a comprehensive plan. Mr. Miner added that concerns could be addressed through an update of the zoning and codes ordinances.

Joshua Bovender, attorney with Thomas, Thomas & Hafer, representing the property owner at 75 Zimmerman Drive, expressed several concerns, to include no consent by the adjacent land owner for the shared right of way and shared access point to the north of the proposed plan, location of the curbs at the access point if extended into the joint right of way, as well as degradation of the driveway, insufficient clearance to the existing dumpster pad, parking stalls for the applicant on the south side of the driveway, and questionable clearance for fire truck apparatus. He questioned how the board could vote on the plan with outstanding issues remaining.

Mr. Miner noted that there was a cross easement in place, and that issues expressed were a private matter between the two property owners.

Legal counsel for the applicant, James Strong, with McNeese Wallace, noted that the properties were provided with a common means of access, Zimmerman Drive, in place since a declaration in 1977 addressing maintenance and repair, as well as rights of access and private rights of easement for the roadway.

Mr. Preston also addressed other concerns raised, noting there was no waiver request for parking and that the truck turning movements had been demonstrated to have adequate distance to make the required turns. He also noted the dumpster had been proposed for the same location as it exists currently.

Mr. Rich Hilboky, property owner to the east, expressed concerns with traffic volume and related safety. He described what he sees as a likely scenario of traffic flowing behind the buildings along Zimmerman Drive. He also noted angled parking in front of the building, limiting the width of the roadway to provide for 2-way traffic and the restricted access to his property's entrance and exit. Finally, he noted concern about the maintenance and road condition of Zimmerman Drive.

Mr. Scott Staiger, property owner of Consolidated Properties, expressed concern regarding the lack of public notice to the neighboring properties. He also commented on the 1977 agreement, which directs that the property owner at the site of the proposed carwash would only be responsible for 7 percent of the maintenance costs on Zimmerman Drive, which is a concern since a carwash will produce significantly more traffic causing wear and tear to the road. Mr. Staiger also raised issues related to the Gettysburg Road corridor and the comprehensive plan, in contrast with the anticipated trip generation from the new development projects, which amounts to over a million new trips expected within a 1.2-mile radius.

Commissioner Caron asked when the traffic study would be completed. Ms. Trone said it was expected for completion in February.

Referring to condition #6 recommended by the Township's engineer, Commissioner Nagy asked Mr. Miner how the Board should determine whether "Appropriate Agreements and Easements" have been satisfied. Mr. Miner noted his opinion that the deed citing the cross easements have been provided and that issue has now been addressed. The easement grants that the parking that is provided is available to the adjacent property owner.

President Villone noted the Planning Commission did advance the plan with a recommendation for meeting the criteria but that there were many concerns and conditions to be met. He asked Ms. Trone to explain the timing requirements on approval of the plan. Ms. Trone noted that the Pennsylvania Municipalities Planning Code (MPC) allows Boards to approve plans conditionally while they await outside agency approvals. The Board must decide on a plan within 90 days after it comes to the Planning Commission, which in this case, would be by the next regular meeting, unless granted an extension by the applicant. President Villone summarized the potential options, to approve, deny or table the plan.

Commissioner **NAGY** moved to approve waiver from Section 192-30.A to submit a preliminary plan.  
Commissioner **CARON** seconded. The motion carried 5-0.

Commissioner **NAGY** moved to approve waiver from Section 192-58.A.10 to require planting islands be designed to collect stormwater runoff. Commissioner **BROWN** seconded. The motion carried 5-0.

Vice President **BLACK** moved to approve LD 2022-09 Cloud 10 Carwash with the following eight (8) conditions:

1. *Obtain Highway Occupancy Permits for the work within Gettysburg Road for access and drainage.*
2. *Provide an approved planning module, exemption request or notice that a planning module is not required.*
3. *Certification needs to be completed prior to recording.*
4. *Provide financial security, construction cost estimate and financial security agreement.*
5. *Easement and Access, Use and Maintenance Agreement needs to be provided showing shared access drive, parking spaces serving the adjacent property, utilities serving the adjacent property and new dumpster enclosure to be serviced from Zimmerman Drive.”*
6. *Cumberland County Conservation District approval and provide E&S/NPDES permit approval.*
7. *Provide signed Stormwater Operation and Maintenance agreement and plan.*
8. *Post-construction maintenance and monitoring inspections.*

Commissioner **NAGY** seconded the motion. He then noted the private property disputes and concern about the infliction of undue hardship onto the adjacent property owners.

Mr. Miner noted that the MPC does not provide authority to become involved in private matters. The issues raised are not within the jurisdiction of the Board. He added that condition #6 appears to have been met.

Commissioner Nagy suggested the inclusion of a condition to make a good faith effort to reach agreements between the parties. Mr. Miner noted it was not necessarily appropriate to make as a condition.

Mr. Strong, attorney for the applicant, stated assurances that ongoing discussions between the applicant and the property owner to the east have occurred regarding the proposal and access, and the applicant has agreed to pave the entire width of the joint access easement and agreed to signage requirements. He noted they would continue to have those discussions in good faith with all adjoining property owners, including the property owner to the north.

President Villone expressed concern about this project and future redevelopment projects, over public safety and adherence to the pedestrian study and Gettysburg Road Corridor and Comprehensive Plan for the Township. Noting that with so much of the decision being left up to PennDOT, he recommended sending another letter to PennDOT, like the one the Board sent with the prior carwash plan, to emphasize that the concerns from a public safety standpoint, be taken into consideration. Commissioners expressed consensus with the suggestion.

The motion carried 5-0.

President Villone directed that staff send a letter to PennDOT to express the concerns the Board has about the proposed plan regarding public safety.

#### **MANAGER**

President Villone noted that the Township Manager was absent with excuse, and that the report would be given by Assistant Manager, Erin Trone.

#### **Firefighter tax credits for tax year 2022**

Ms. Trone presented the item for discussion and possible action. In 2017 the Board enacted an Emergency Volunteer Tax Credit program to award either Real Estate Tax or Earned Income Tax credits to qualified Fire Company volunteers.

Ordinance 2017-08 requires that the Board approve the credits before the tax credit certificates are distributed. Board members were supplied with the credit applicants who have qualified based on their service hours.

Commissioner **NAGY** moved to approve the credits. Commissioner **BROWN** seconded. The motion carried 4-0 with Vice President **BLACK** abstaining due to a relative being one of the eligible volunteers.

#### **Air Conditioner Replacement**

Ms. Trone introduced the item for discussion and possible action, to approve the purchase of a new, Daikin 2.5-ton split air conditioning system for the MSC server room, to replace the current system, which failed because of an electrical surge. The equipment is fourteen years old and replacement parts are no longer being made by the manufacturer. The cost for purchase and installation of the new system is \$8,521 and is not included in the 2023 budget.

Director Grove indicated that the emergency expense would cost more not to replace, and that the expenditure would not negatively impact the budget.

Commissioner **NAGY** moved to approve the purchase of the new air conditioning system. Commissioner **BROWN** seconded. The motion carried 5-0.

#### **COMMISSIONERS REPORTS**

Director Davis reported that the Public Works staff would be brining in anticipation of the impending inclement weather. Brining decreases the ability of the snow to adhere to the roadway and reduces the amount of salt needed.

Director Trone noted that new key fobs were distributed for access to the automated door locks, but cautioned the transition was still underway and that fobs may not work until the project is completed by the end of the week.

Commissioner Caron thanked Director Davis for the update on weather preparations.

Commissioner Nagy thanked Mr. Miner for indulging his questions regarding the land development plan.

Commissioner Brown thanked staff for helping him to get acclimated to his new role.

President Villone announced a change in liaison appointments. Commissioner Brown will serve as liaison to both the Lower Allen Township Stormwater Authority and Sewer Authority, with Commissioner Nagy serving as the back-up for both. Next, he provided an update on the Pension Committee, and encouraged members to contact Director Grove if they had questions. He noted the possibility of a future presentation from the Committee. Finally, he noted enthusiasm for future discussions on zoning updates, and he thanked staff in all departments.

#### **ADJOURNMENT**

The meeting was adjourned at 8:47 PM.