

MINUTES

BOARD OF COMMISSIONERS

LOWER ALLEN TOWNSHIP

REGULAR MEETING

September 11, 2023

The following were in ATTENDANCE:

BOARD OF COMMISSIONERS

TOWNSHIP PERSONNEL

Dean W. Villone, President

Thomas G. Vernau, Township Manager

H. Edward Black, Vice President

Erin G. Trone, Comm. & Economic Dev.
Director

Jennifer Caron

Richard A. Grove, Finance Director

Joshua Nagy

Rebecca K. Davis, Public Works Director

Charles Brown

David Holl, Public Safety Director

Steven P. Miner, Township Solicitor

Michael Knouse, P.E. Township Engineer

Barbara Arnold, Environmental
Coordinator

Nathaniel Sterling, Administrative
Secretary

Renee' Greenawalt, Recording Secretary

President Villone called the September 11, 2023 Regular Meeting of the Board of Commissioners to order at 6:02 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 August 28, 2023 Regular Meeting. Vice-President **BLACK** requested a change to his comments during the discussion of Tommy Car Wash to indicate that he was referring to the intersection closest to Gettysburg Road.

Commissioner **BROWN** made the motion to approve the minutes with amendment. Commissioner **NAGY** seconded. The motion was 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.

Mr. Joe Swartz, 1706 Letchworth Road, indicated intent to speak on Agenda Item #10B – Tommy Car Wash Subdivision and Land Development Plan, and Agenda Item #11B – Refuse Collection Service

Mr. Barry Kindt indicated his intent to speak on Agenda Item #10A – Kindt Properties Land Development Plan.

Mr. Josh Weider indicated intent to speak on Item #10B.

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, they could do so at that time. There were none.

Items on the Consent Agenda:

- a. The Check Register of September 8, 2023 in the amount of \$123,578.08.
- b. Resolution 2023-R-36 to dispose of specific documents in accordance with the PA Municipal Records Manual.

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

PRESIDENT VILLONE:

Defined Benefit Plan Advisory Services

President Villone requested a motion to approve an agreement between AndCo Consulting, LLC, and Lower Allen Township to provide investment performance monitoring and advisory services for the Township's Defined Benefit Pension Plans. Villone noted that Board members had discussed the issue at a prior meeting.

Commissioner **BROWN** made the motion. Commissioner **NAGY** seconded. The motion passed 5-0.

Defined Benefit Plan Custodian Services

President Villone requested a motion to approve agreements between PNC Bank and Lower Allen Township to provide custody services for the Township's Defined Benefit Pension Plans.

Commissioner **BROWN** made the motion. Commissioner **CARON** seconded. The motion passed 5-0.

Defined Contribution Plan Custodian Services

President Villone requested a motion to adopt **Resolution 2023-R-37**, a resolution of the Commissioners of Lower Allen Township, Cumberland County, Pennsylvania, approving National Public Pension Fund Association (NPPFA) as custodian of the Township's Defined Contribution Pension Plan.

Vice President **BLACK** made the motion to adopt **Resolution 2023-R-37**. Commissioner **BROWN** seconded. The motion passed 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.

Mr. Mike Manning, resident at 1520 Slate Hill Road, noted that he was commenting on behalf of Trinity High School regarding the Board's June 2023 approval of the Land Development Plan for an auxiliary gymnasium to be constructed at the high school. They are seeking relief for the permit costs related to the project, noting that the actual contract costs for supplies and construction are well below the estimated costs calculated by the Township to determine the fee.

President Villone asked Director Trone to explain the justification for the fees quoted by the Township. Director Trone explained the model used to calculate the permit fee was based on the standard Building Valuation Data Table (BVDt), which is a best practice recommended by the International Codes Council. It is used for all new buildings and based on use and construction type. It was evaluated as an assembly use and stick build, which is the lowest cost category. The tables are based on a national average.

Mr. Manning indicated that Township staff estimated the building cost at \$189 per square foot, but \$65.89 per sq foot is the actual cost. They are looking for relief for the permit cost. His costs are based on actual contracts for supplies and construction. This method is applied for all new building permits whether commercial or residential.

Mr. Miner noted that the use of this system has been litigated in Cumberland County and the best practice upheld by the courts.

President Villone affirmed also that the best practice was used broadly as a standard practice. Director Trone confirmed and noted that the Board adopts the table annually and is part of the fee schedule. President Villone asked if an exception had ever been granted. Manager Vernau replied there had not. President Villone noted he would not be in favor of granting an exception. Mr. Miner also recommended against making discretionary decisions, which would set a bad precedent.

President Villone addressed Mr. Manning and said there was nothing compelling to justify the provision of relief. The permit costs are determined by a policy that is used consistently and in accordance with standard best practices.

PUBLIC WORKS

2023 BMP Basin Retrofit Bid Results

Director Davis introduced the item for discussion and possible action. She explained that the bids were opened on September 8, 2023 at a publicly advertised meeting. The bid amounts were significantly higher than the estimated amounts provided by the engineer, and likely due to the short time frame for the project completion and increased difficulty in obtaining materials in the limited time frame. Staff are recommending the rejection of all bids, and to readvertise the projects in 2024 as separate bids, to allow for additional bidders and more time for securing materials, with hopes of reducing the overall project costs.

Commissioner Nagy asked for the original estimated cost. Director Davis said that when the stormwater fee was created, the engineer had estimated the project to cost about \$400,000. All three bids came in at over one million dollars. She also noted that assumptions were made to not have underdrain and no liner, which are now both required. There is additional infrastructure now required that was not assumed when the projects were developed, which was in 2017.

President Villone expressed concern that costs would continue to rise over time. Director Davis said when the fee was developed it was based on a five-year permit cycle. The current cycle was extended for two years. There are several factors involved that may impact the stormwater fee to determine if it is covering the cost of the program.

Vice President **BLACK** moved to reject all bids. Commissioner **CARON** seconded. The motion passed 5-0.

Easement Agreement with Highpoint Neighborhood Association, Arcona Master Association, Inc.

Director Davis introduced the item for discussion. The Township accepted a portion of Market House Lane in the Arcona Development as a Township road. There is a landscaped island at the intersection of Strong Road and Market House Lane that the Arcona Homeowner's Association will maintain in perpetuity. To establish the maintenance obligations for this, an easement agreement must be entered into declaring the island as a controlled facility. The easement agreement has been reviewed by the Solicitor. This is the first set of streets that have been accepted for dedication.

PUBLIC SAFETY

Appointment of Township Training and Volunteer Coordinator

Director Holl introduced for discussion a staff recommendation to appointment Tom Rigling, part-time PSO, as the Township's first Training and Volunteer Coordinator (TVC), the full-time position created to assist the Public Safety Department with onboarding, training, mentoring, and the support of all career and volunteer fire members. He noted that Mr. Rigling was well qualified for the critical position, which if approved, would become effective October 9, 2023, at a starting probationary salary of \$59,000 and a post-probationary salary of \$61,360.

Board members expressed consensus to move forward with the hiring process.

Request to Activate Civil Service Commission

Director Holl introduced the item for discussion and possible action, explaining that with an anticipated vacancy in the police department resulting from Cpl. Tamanosky's upcoming retirement, the police department must establish a renewed hiring eligibility list and is seeking approval from the Board to activate the Civil Service Commission and to waive the requirement for Act 120 certification as a prerequisite to prepare a new list of certified, eligible candidates.

Commissioner **NAGY** moved to activate the Civil Service Commission and to waive the Act 120 requirement. Commissioner **CARON** seconded. The motion passed 5-0.

COMMUNITY AND ECONOMIC DEVELOPMENT

Subdivision and Land Development Plan for Kindt Properties

Director Trone presented the item for discussion and possible action, explaining the proposed plan was to consolidate six lots into one and to document a building that was constructed without permit in 2020. That building has now been inspected, permitted, and issued a certificate of occupancy. There have been no other changes to the plan since it was presented in April.

Commissioner Nagy referred to the inspection report and expressed concern about a portion of it which describes non-visible entities as not inspected. Director Trone noted that what was visible was inspected and acceptable, but what wasn't visible was unable to be inspected and noted as such on the certificate of occupancy.

Commissioner Brown asked if there was any liability related to the limited inspection. Ms. Trone replied their liability is with the property owner and not the Township.

President Villone asked if staff was comfortable with the revised plan. Ms. Trone said the plan is an improvement. It documents non-conformities and eliminates some non-conformities.

Commissioner Nagy reiterated concern about the existing building that was constructed without adherence to the proper process. Ms. Trone noted that the staff goal was to work with the applicant to reach compliance absent from removal of the building.

Hearing no further discussion, President Villone recommended acting on the waivers associated with the plan and then the plan itself.

Commissioner **CARON** moved to approve a waiver of Section 192-57.C.9 requiring sidewalks along adjacent streets. Commissioner **BROWN** seconded. The motion passed 5-0.

Commissioner **CARON** moved to approve a waiver of Section 182-57.C.8 requiring curbing along adjacent streets. Commissioner **BROWN** seconded. The motion passed 5-0.

Commissioner **CARON** moved to approve a waiver of Section 192-57.C.1 requiring the widening of adjacent streets to provide additional right-of-way and cartway. Commissioner **BROWN** seconded. The motion passed 5-0.

Commissioner **CARON** moved to approve a waiver of Section 192-58.C requiring street trees to be planted. Commissioner **BROWN** seconded. The motion passed 5-0.

Commissioner **CARON** moved to approve a waiver of Section 192-61 requiring utility connections for individual buildings. Commissioner **BROWN** seconded. The motion passed 5-0.

Commissioner **CARON** moved to approve the Land Development Plan for Kindt Properties with the following conditions:

- a) All existing non-conformities on the property are documented with the proper ordinances referenced.
- b) Financial Security and Developers agreement is provided.
- c) Approval for earthmoving is given by Cumberland County Conservation District.
- d) A stormwater operation and maintenance plan and agreement is provided.
- e) Post-construction maintenance and monitoring inspection agreement has been provided.
- f) All remaining comments listed in Rettew's letter dated April 19, 2023.

Commissioner **BROWN** seconded. The motion passed 4-1, with Commissioner **NAGY** opposed.

Tommy Car Wash Subdivision and Land Development Plan

Director Trone introduced the item for discussion and possible action, explaining the Subdivision and Land Development plan calls for the redevelopment of three properties to become an automated carwash. The carwash will be located at the corner of Gettysburg Road and Hartzdale Drive.

President Villone reminded Board members that the plan had been tabled at the prior meeting and requested that discussion start where it left off previously.

Mr. Josh Weidler with BL Companies, who is the project engineer for the applicant, described the revisions to the plan that were made since the last meeting. Addressing the intersection of concern, he noted the following additions to the plan:

- Addition of stop bar at the upper exit.
- Addition of Don't Block the Box and pavement markings to direct traffic.
- Addition of striping at entrance and exit to delineate the lanes to clarify turning lanes.
- Maintain paint gore markings versus rumble strips as a visual to indicate not entering that area.
- Rearranged some vacuum spots away from the entrance.
- Widened the entrance.

Commissioner Comments

Commissioner Brown asked what percentage of customers were anticipated to be subscribers to the service. The applicant affirmed that they anticipate most customers would be subscription-based. Commissioner Brown questioned the site distance analysis for Gettysburg Road to the entrance. The applicant indicated that the site distance analysis showed 155 feet from Gettysburg Road to the entrance and noted it met the standard.

Next, Commissioner Brown asked if the access easement with the neighboring property owner had been supplied to Township staff. Ms. Trone noted had not yet been reviewed by staff.

Commissioner Brown sought clarification on the data from a Chambersburg location that was used to conduct a traffic impact study that was cited as the basis for some of the volume projections, noting that Chambersburg was not necessarily comparable to this location. Commissioner Brown also asked if the applicant had conducted a projected revenue study for the site. Mr. Tanner Brandt, with Christianson Companies, noted he was unsure about a projected revenue study, but explained the analysis was performed based on projected population and growth. Commissioner Brown indicated he had lingering questions about whether using data from the Chambersburg location was the best way to determine projections and assumptions for the traffic study.

Commissioner Brown cited concerns that were expressed by the Planning Commission and asked for staff input regarding whether the applicant met the zoning ordinances relevant to the site.

Mr. Michael Knouse, Township Engineer, noted the applicant had met the intent of the concerns expressed by the Planning Commission as they related to potential back-ups along Hartzdale Drive. He noted the ordinances focus primarily on emergency access for internal circulation. Ms. Trone noted that the applicant's addition of the turning lane and other improvements to the plan have gone about as far as they could go.

President Villone asked Director Holl to speak to the plan from a public safety standpoint. Director Holl indicated he had surveyed local municipalities which had similar carwashes constructed in recent years. There does not appear to have been any reported issues from a public safety standpoint.

Commissioner Caron asked for confirmation from Township staff, whether there were any remaining concerns to be addressed to mitigate the concerns raised. Mr. Knouse replied that from an ordinance perspective, there were none.

Commissioner Nagy prefaced his comments by noting he was addressing the public. He explained that the Board of Commissioners faced a complicated decision and had limited options in how to act on the plan. If they oppose the plan, it is subject to a law that indicates such denial must be based on specific criteria and if those are not present, the applicant has the right to sue the Township and then taxpayer dollars must be spent on a lawsuit. If the Board approves the plan, and there is a poor internal design, it essentially becomes a business problem. He recognized that the applicant had made a good faith effort to make changes to the plan in response to concerns raised.

Vice President Black referred to the minutes of the prior meeting and noted his comments were reflected accurately.

Commissioner Brown expressed his respect for the opinions of staff. He asked the applicant to consider additional improvements to the right-in, right-out access.

Public Comment

Mr. Joe Swartz noted that regardless of what the Board decides, the plan is not popular and does not align with the vision for the community as expressed by the Township in its Gettysburg Road Corridor and Comprehensive Plan. He urged a renewed focus on the effort to update zoning codes and land development and subdivision ordinances, which would enable PennDOT to make proper assessments, would bring more productive redevelopment into the Township, and would make conditions better for the residents and taxpayers. He noted that the effort to complete the updates had been included in the Township budget for the past two years.

President Villone expressed appreciation for Mr. Swartz's comments and noted the need to prioritize the zoning updates. He also noted that although there is hesitation and concern about the site, the Board has had the space to fully discuss the plan, to seek improvements from the applicant, and have worked to achieve the best possible outcome within the existing limitations. He noted that the applicant had done a good job at making modifications to the plan.

Ms. Michelle Musser, 2925 Morningside Drive, said she was speaking on behalf of a neighborhood child who asked why there are so many carwashes so close to their house.

Ms. Diane Good, 965 S. 29th Street, asked whether the agreement with the adjacent landowner would be recorded as a condition of the plan. Ms. Trone affirmed that it was a condition of approval.

Action on the Plan

Commissioner Caron noted that the Board must rely upon the information provided to them by the staff and the professionals, who have indicated that satisfactory mitigation has occurred with respect to the concerns expressed and that she was unable to find a basis upon which to deny the plan. She noted that would regrettably move forward with action on the waivers.

Commissioner **CARON** made a motion to approve waiver from Section 192-30.A Submission of a Preliminary Plan. Commissioner **NAGY** seconded. The motion passed 4-1, with Vice-President **BLACK** opposed.

Commissioner **CARON** made a motion to approve waiver from Section 192-58E.10 requiring parking lot planting islands to collect stormwater. Commissioner **NAGY** seconded. The motion passed 4-1, with Vice-President **BLACK** opposed.

Commissioner **CARON** made a motion to approve waiver from Section 192-59C.2 requiring parking spaces located next to parking lot island to be larger. Commissioner **NAGY** seconded. The motion passed 4-1, with Vice-President **BLACK** opposed.

Commissioner **CARON** made a motion to approve deferment of Section 192-63C.2 Sidewalk Construction for only the section noted on plan and that the deferment live on in perpetuity and be recorded as such. Commissioner **NAGY** seconded. The motion passed 4-1, with Vice-President **BLACK** opposed.

Vice President **BLACK** made a motion to deny approval of the plan. There was no second. The motion did not stand.

Commissioner **NAGY** made a motion to approve the plan Subdivision and Land Development Plan for Tommy Carwash with the following conditions:

- A Highway Occupancy Permit (HOP) is obtained from PennDOT.
- The plans are signed and sealed.
- The Financial Security and Agreement are provided.
- A Cross-Access and Parking Easement Agreement is executed and recorded prior to or with the plan recording.
- A Stormwater Maintenance and Monitoring Agreement is provided.
- The NPDES permit is amended.

Commissioner **CARON** seconded the motion, with regret. Commissioner Caron asked whether it was possible or permissible to request that the applicant provide evidence that all the changes requested are implemented. Mr. Knouse replied that the evidence is held with the financial security and when the Township inspects the completed project, the security docket will come before the Board for approval.

Hearing no further discussion, the motion passed 4-1, with Vice-President **BLACK** opposed.

Cedar Run Business Park

Ms. Trone introduced the item for discussion and possible action, to accept a sixty-day extension for the Final Subdivision and Land Development Plan for the Cedar Run Business Park. She explained that the plan went before the Planning Commission in March and that there are still several comments to be addressed before consideration by the Board of Commissioners. The applicant requests the extension.

Commissioner **BROWN** made a motion to accept the sixty-day extension for the Final Subdivision and Land Development Plan for the Cedar Run Business Park. Commissioner **CARON** seconded. The motion passed 5-0.

MANAGER

Bid results for 2024-2026 Refuse/Recycling Contract

Mr. Vernau introduced the item for discussion. He reviewed the results for the bid packets, noting there was a successful low bidder, but he asked to table any action on awarding the contract until after discussion of the service level options. Three bids were received, from Penn Waste, Republic Services, and Waste Management. Penn Waste was the lowest bidder across all service levels. Staff recommend awarding the 2024-2026 contract to Penn Waste.

Level of refuse collection service

Township Environmental Coordinator, Ms. Barbara Arnold reviewed the bid specifications which were designed to request three levels of service. The Board of Commissioners must select the level of service among these options: 1) Unlimited Refuse or (2) Mandatory Toter Use (limited to a 96-gallon wheeled tote only, no loose trash/bags); and with option (2), whether to allow the Low Flow Refuse Option (a reduced fee for converting to a 35-gallon wheeled tote).

Each option was discussed in some detail. It was noted that all customers would continue to receive weekly pick-up, including bulk items.

Commissioner Nagy expressed strong support for an electronics recycling event for residents.

Commissioner Brown asked whether a low-flow option could be included with the unlimited plan. Ms. Arnold said that option was not included in the bid specifications, and that it was an educational opportunity for the Township to prioritize environmental best practices.

Commissioner Brown expressed some concern that residents with larger families would be challenged to reduce their refuse to fit everything for a week into one 96-gallon cart.

Public Comment

Mr. Joe Swartz asked whether any change to the types of materials would be collected for recycling. Ms. Arnold explained there would be no change to the collection of materials such as glass, plastic and paper, but also noted that options included yard waste service and bulk item pickup, as well as additional sites throughout the Township to collect cardboard and bulk items and that the contract included a clause to require one special event per year such as hazardous waste or electronics recycling.

Mr. David Good, 965 S. 29th Street, reminded the Commissioners that grass clippings will also be put into the refuse carts.

Hearing no further discussion, Commissioner **CARON** made a motion to award the contract to Penn Waste and to select Option 2, including the low-flow option. Specifically, bids 1A, 1B and 2A and 2B. Commissioner **NAGY** seconded. The motion passed 4-1, with Commissioner **BROWN** opposed.

COMMISSIONERS REPORTS

President Villone noted that the Board would adjourn to Executive Session following Commissioner Reports, and that no action would be taken afterward.

Director Trone announced that Clean Eats would be having its Grand Opening on September 20th at 11 AM. She also announced that Marcus Brandt had passed the International Maintenance Code test. She mentioned several surveys on the Township website to gather information for preparing budgets for next year. She also noted thank you notes for the summer interns would be circulated to Board members for signature.

President Villone asked Ms. Trone for a status update on zoning and codes process. Ms. Trone described the process which includes issuing an RFP for a consultant and establishing a committee. The vacancies over the past two years have presented challenges. Staff are also working with Rettew to update Subdivision and Land Development Ordinances. The project is on the horizon.

Mr. Miner suggested including the Township Engineer in the list of personnel in the minutes for meetings in which he is in attendance.

Director Davis announced Yappy Hour would be held on September 21st at Lower Allen Community Park beginning at 4:30 PM. She also noted the road rating data from McMahon would be available soon.

Commissioner Nagy recognized Ms. Helen Grundon for her efforts on coordinating the upcoming Yappy Hour.

Commissioner Brown noted the existing shortages of school bus drivers across many districts and urged community members to consider becoming a driver. He also recognized September 11th and thanked the public safety personnel for their ongoing commitment to serve.

President Villone thanked everyone for the healthy discussion on agenda items. He also thanked staff for their hard work and preparation, and the public for participating and providing feedback.

President Villone noted the Board would adjourn to Executive Session to discuss two items, (1) Solicitor's fee for 2024 and (2) Ogundere v. Lower Allen Township settlement.

ADJOURNMENT

The meeting was adjourned at 8:29 PM.