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# **MINUTES**

**April 10, 2017**  
**Regular Public Meeting**

**Board of Commissioners**

**Township of Whitehall**

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**A. CALL TO ORDER**

- 1) The regular Public Meeting of the Whitehall Township Board of Commissioners was called to order at 7:00 p.m. on Monday, April 10, 2017, in the Public Meeting Room of the Whitehall Township Municipal Building, 3219 MacArthur Road, Whitehall, PA, with the following in attendance:

**COMMISSIONERS**

Phillips M. Armstrong, President  
Dennis C. Hower, Vice President  
Thomas Slonaker, Secretary - absent  
Jeffrey L. Dutt  
Philip J. Ginder  
Joseph J. Marx, Jr.  
Linda K. Snyder

**TOWNSHIP PERSONNEL**

Edward D. Hozza, Jr., Mayor  
John D. Meyers, Deputy Mayor  
Charles Fonzone, Attorney  
Lee Rackus, PZ&D  
Frank Clark, Township Engineer  
Michael Marks, Police Chief  
Brian Cuth, Police Officer  
Patricia Sweeney, Executive Secretary

The meeting was formally opened with the Pledge of Allegiance to the Flag, a moment of silence for the school teacher killed and students wounded.

President ARMSTRONG read the statement on fair housing as required.

2) **APPROVAL OF MINUTES**

- a) Commissioner MARX moved, seconded by Commissioner DUTT to approve the minutes of the following meeting:

Regular Public Meeting – March 13, 2017

Six Commissioners were present and voted “yes”. Motion carried

**B. COURTESY OF THE FLOOR**

Monica and Tony COCCA, 414 New York Avenue, Whitehall, on problem with ATV's from a club driving back and forth on New York Avenue to Sumner Avenue to access area by the Jordan Creek, doing wheelies, are very loud, start around dinner time to dusk, have little children along with no helmets and street has become a recreation area. Mayor HOZZA asked for the address of the home and noted part of the land at the Jordan is owned by Abe ATIYEH who should be notified about the trespassing. Mr. COCCA stated Mr. ATIYEH did have it posted but now they cut thru the woods. Mayor HOZZA

stated it would be brought up with his attorney, needs to be secured again because of the liability if someone has an accident on the property. President ARMSTRONG asked if we can have more of a police presence. Chief MARKS stated he spoke to Mr. COCCA prior to the meeting, if they see something need to call, someone will come down or give the address and will try to pre-empt it by sending a messenger down. It was noted the vehicle code prohibits anyone from riding on the street or any public road with an ATV and there is an ordinance also. President ARMSTRONG suggested taking a picture with their cell phone.

Mario SPAGNOLETTI, 315 Sumner Avenue, Whitehall, stated he knows about the situation with the ATV's, had asked Mr. ATIYEH not to post because of fishing at the Jordan. He asked about the Crime Watch. Chief MARKS stated Crime Watch will continue, cannot guarantee what the turnout will be, only have ~4-6 people at a meeting, is a different society, people are not into meeting, want to get their news thru social media. Mr. SPAGNOLETTI stated people don't come because there are no guest speakers or crime watch records to hand out. Chief MARKS stated guest speakers are great, is not what they are there for, are there to discuss what is going on in neighborhoods, what the problems are, what they can do to help, is the true basis of Crime Watch, got off the track with guest speakers, people don't want to call the police but come to a meeting and talk about what the issues are like the ATV problem, is why they are trying to do proactive things like going out on social media. Mr. SPAGNOLETTI stated he feels it is important to have one, could be a block captain and warn those people with the ATV's. Chief MARKS stated that is what they do and doesn't want anyone endangering themselves by confronting people.

Kelly ZAHRADNIK, 5033 Foxdale Drive, Whitehall, asked about the status of a meeting with Senator BOSCOLA. Attorney FONZONE stated he has been in contact with her office, wants to meet with DEP as well but will be delayed because we are in court against DEP on June 13<sup>th</sup> and DEP is reluctant to meet until that is over. Ms. ZAHRADNIK asked if they can help to provide any information requested. Attorney FONZONE stated to provide anything she feels they should have. Ms. ZAHRADNIK asked about the loader. Frank CLARK stated a track loader was brought in to collect the broken up asphalt because the grinder is not allowed.

Pete and Kate MCFADDEN, 422 New York Avenue, Whitehall, stated are here about the ATV annoyance, noted on the weekends it can go all day long, cannot be outside and is dangerous to residents.

Nicole MORBER, 5016 Fox Run Lane, Whitehall, asked why we can't follow up on the quarry before June 13<sup>th</sup>. Attorney FONZONE stated because we are in litigation with them. Ms. MORBER stated then will then go thru a whole summer with the same issues. Attorney FONZONE stated the need to realize what we can do is limited, the UGI problems were basically solved. Mayor HOZZA stated violations were brought to the forefront, UGI and the property owner responded, the local DEP reported the violations brought to their attention were addressed and asked if the goal of the neighbors is to shut down the facility. Ms. MORBER stated it is to stop having her property damaged.

Attorney FONZONE stated they have grandfathered rights, two Supreme Court cases say in their reclamation status, they are answerable only to DEP, we can control certain things like UGI but do not have authority beyond that. Attorney FONZONE stated to clarify the letter from Lisa BOSCOLA, if it is a reclamation project, it is controlled by the DEP, the Township does not have jurisdiction. Ms. MORBER stated she built her home before that was there, her property value has decreased because of it. President ARMSTRONG stated the major point is that DEP is a state agency, already taking them to court, if he lived there would be at his State Representative's office every day asking why they aren't getting action from the DEP since we cannot control air pollution, are trying to do whatever we can and the letter was misleading, it stated land development which they are not doing.

Kelly ZAHRADNIK, 5033 Foxdale Drive, Whitehall, asked if DEP is a state agency how did they have the jurisdiction to let the quarry come into their development. Mayor HOZZA stated the quarries was there before Fox Hollow was built, it is completely surrounded by industrial zones. Ms. MORBER stated before she built 15 years ago, asked the Township what else could happen in that area, was told it would be a park. Mayor HOZZA asked if that included the Lafarge property on Coplay Road in existence for 100 years. Commissioner SNYDER noted they burn millions and millions of tires there yearly. Ms. ZAHRADNIK stated DEP said it is not coming from them. Mayor HOZZA noted they were here for the conditional use hearing of the Ranger Lake/Reliance Street quarry which was very similar. Commissioner SNYDER stated there were told there is only so much they can do as a Board. Ms. ZAHRADNIK stated the money came rolling in and you went with it. Commissioner SNYDER, the MAYOR and other Board members asked what money, nobody ever paid them and do not want to be accused of that. Mayor HOZZA noted the owner pays his property tax, and not to forget with the Supreme Court decision that corporations are now considered people. Commissioner SNYDER stated at those hearings they are told strictly what they can and cannot enforce them to do and if we do not approve with conditions, will go to court and will lose and everyone in this Township would foot the bill with their taxes because there are rules and laws they have to follow. Ms. ZAHRADNIK stated the Township got paid for that quarry to be there, with a negative response. Mayor HOZZA stated the Township gets the assessed value of that vacant piece of property as well as the School District and Lehigh County in taxes. Ms. ZAHRADNIK stated they are property owners also who are being affected. President ARMSTRONG reiterated there was a misunderstanding of the letter, is why we need the meeting, would have been great to have it last week but because we are in litigation with DEP, they are postponing it.

Lee RACKUS stated she has been here for 30 years, that property was zoned R-6 for multi-family dwellings for many years. When Fox Hollow was proposed they did not meet lot area and width requirements of the zone, the developer went to the Board of Commissioners to request relief to build smaller lots, got approval because the whole area and the mobile home park was zoned for multi-family. The quarries were there, the homes are on once quarry land, was auctioned off in the early '80's, like many other parcels in the Township. Prime Group was a partnership of 3 individuals, Mr. HOBEL was one of them, it was a good development and the hole was there. Every property

owner has the right to use their property, the hole is a quarry and under state law they have certain abilities to deal with quarries, reclamation is one of them. That land has been zoned industrial probably since the zoning ordinance was established in 1962. When we tried to take anything not being used as a quarry and turn it into residential or some other open space, received letters from owner's attorney's not to because we were devaluing their property and will go to court. The HOBEL quarry came thru the conditional use process because there was not an active permit for it but our rights were still limited because it is in an industrial zone, they are allowed to do quarrying and related uses in that zone, have been since the '60's and refilling a quarry is considered a related use which DEP encourages because it is reclamation of the land. The filling of the quarry happened a lot faster than what they represented at the conditional use hearing because the explosion happened in Allentown and UGI was sued, so it is on hyper speed. We are allowed to regulate land development and things regulated by the zoning ordinance but things permitted by the state as the sentence stated in Senator BOSCOLA's letter which says we can regulate as long it is not preempted by the state's regulations. UGI did go thru the process, is the process we are trying to get Coplay Aggregates to do, is why we are in court because we want to regulate for the health, safety and welfare of the residents and cannot anticipate everything that will happen. Ms. ZAHRADNIK stated its happening now and need action on what is happening in that quarry. Ms. RACKUS stated the thing with Coplay Aggregates is huge, been trying to work with them, had a meeting and not two weeks after it had depositions. The Public Works Director contacted DEP because we have a permit for the Cameron Tract and wanted their guidance on something. DEP's counsel contacted our Solicitor immediately stating not to contact them because we are in litigation. Mayor HOZZA noted once the reclamation project is completed, the land is going to be reused and a hearing would be necessary for anything that is contrary to the current zoning. Commissioner SNYDER noted they could use it as an industrial site. Frank CLARK stated at the meeting with DEP, the air quality specialist stated cement dust was found in the cylinders, UGI is not bringing in cement and the Township cannot regulate air pollution. DEP has closed the case and if they are not satisfied with the results can ask for a new case to be opened. DEP is the only place to go with an air quality issue.

Nicole MORBER, 5016 Fox Run Lane, Whitehall, stated she thought the DEP stated in a report it was not Lafarge but came from what was behind their homes. Frank CLARK stated what they found in the canisters was cement dust. Ms. MORBER cited the number of trucks coming in are affecting the roads, their property, and her children and doesn't want to keep coming to the meetings. Commissioner MARX stated what they can enforce are the hours of operation, the gate closing, days of the week and to see if they can be more diligent with the dust control. Mr. CLARK stated under dry conditions they have to sweep and water it more. Commissioner DUTT suggested to do it on a random basis. President ARMSTRONG stated they all understand the problem but have to work within the parameters. Ms. ZAHRADNIK stated they did contact Representative MAKO who told them to contact Senator BOSCOLA and just want a meeting sooner than June. President ARMSTRONG stated at the federal level programs are being reduced or eliminated, so people at the local level need to let the people above us know by cutting taxes they are eliminating programs our citizen's needs. Ms. ZAHRADNIK asked after

the quarry is done, if the residents have a say if something is to come in, with an affirmative response. Commissioner SNYDER stated anything they do is open to the public.

Helen GOMEZ, 5476 North Coplay Road, Whitehall, asked who takes care of the wooded property when trees fall since one huge tree fell down recently and Mr. HOBEL had it pushed up on the bank but who handles the cleaning up of the bank from debris. Mayor HOZZA stated it is the property owner. Ms. GOMEZ stated she has been battling cement dirt for a lot of years, and to use white vinegar to get it off your cars. Ms. GOMEZ asked when Coplay Road will be fixed because of all the pot holes. Mayor HOZZA stated it is on the schedule for reconstruction, will be milled temporarily, is not the official detour route with the closure of the Coplay-Northampton Bridge and North Coplay Road is to be repaired by UGI. Ms. GOMEZ stated if you live in this area you are going to have sinkholes and quarries, is an adjustment but does agree what is coming out is not good because she had a breathing issue several months ago for no apparent reason. She stated the dust accumulation has gotten bad in the past 10 years and has gone down to Lafarge with no results.

**C. PUBLIC HEARING AND VOTING ON ORDINANCES**

1. BILL NO.12-2017

TITLE: AN ORDINANCE AUTHORIZING THE ACCEPTANCE OF A PROPOSAL FOR 2017 CONCRETE CURB AND SIDEWALK IMPROVEMENTS, CONTRACT NO. 17-01 IN ACCORDANCE WITH SECTION 3.20 IN THE HOME RULE CHARTER WHICH REQUIRES AUTHORIZATION OF ACQUISITIONS IN EXCESS OF \$25,000 BY ORDINANCE. (DEVELOP)

President ARMSTRONG read Bill No. 12-2017 to the Board.

Commissioner GINDER moved to approve, seconded by Commissioner HOWER. There were no questions or comments.

Six Commissioners were present and voted “yes”. Bill No. 12-2017 was approved

2. BILL NO. 13-2017

TITLE: AN ORDINANCE AUTHORIZING THE ACCEPTANCE OF A PROPOSAL FOR PERFORMANCE OF ULTRA-THIN BONDED WEARING COURSE SURFACING FOR THE PUBLIC WORKS BUREAU OF THE TOWNSHIP OF WHITEHALL, BID 17-09 IN ACCORDANCE WITH SECTION 3.20 OF THE HOME RULE CHARTER WHICH REQUIRES AUTHORIZATION OF ACQUISITIONS IN EXCESS OF \$25,000 BY ORDINANCE. (PUBLIC WORKS)

President ARMSTRONG read Bill No. 13-2017 to the Board.

Commissioner MARX moved to approve, seconded by Commissioner GINDER. There were no questions or comments.

Six Commissioners were present and voted “yes”. Bill No. 13-2017 was approved

3. BILL NO. 14-2017

TITLE: AN ORDINANCE AUTHORIZING THE ACCEPTANCE OF A PROPOSAL FOR PURCHASING ROAD BUILDING MATERIALS FOR THE PUBLIC WORKS BUREAU OF THE TOWNSHIP OF WHITEHALL IN ACCORDANCE WITH SECTION 3.20 OF THE HOME RULE CHARTER WHICH REQUIRES AUTHORIZATION OF ACQUISITIONS IN EXCESS OF \$25,000 BY ORDINANCE (PUBLIC WORKS)

President ARMSTRONG read Bill No. 14-2017 to the Board.

Commissioner SNYDER moved to approve, seconded by Commissioner DUTT. There were no questions or comments.

Six Commissioners were present and voted “yes”. Bill No. 14-2017 was approved

4. BILL NO. 15-2017

TITLE: AN ORDINANCE AUTHORIZING THE ACCEPTANCE OF A PROPOSAL FOR PERFORMANCE OF STREET RESURFACING FOR THE PUBLIC WORKS BUREAU OF THE TOWNSHIP OF WHITEHALL IN ACCORDANCE WITH SECTION 3.20 OF THE HOME RULE CHARTER WHICH REQUIRES AUTHORIZATION OF ACQUISITIONS IN EXCESS OF \$25,000 BY ORDINANCE. (PUBLIC WORKS)

President ARMSTRONG read Bill No. 15-2017 to the Board.

Commissioner GINDER moved to approve, seconded by Commissioner MARX. There were no questions or comments.

Six Commissioners were present and voted “yes”. Bill No. 15-2017 was approved

5. BILL NO. 16-2017 (First Reading)

TITLE: AN ORDINANCE REPEALING ORDINANCE NO. 2684 (BILL NO. 29-2007), WHICH VACATED A PORTION OF GREEN ALLEY FROM APPLE STREET (A.K.A. NORTH LEHIGH AVENUE) TO LEHIGH STREET (SR1010) BORDERING THE PROPOSED WHITEHALL FARMS SUBDIVISION NO. 1675-05, WEST CATASAUQUA AREA OF WHITEHALL TOWNSHIP, LEHIGH COUNTY, PENNSYLVANIA; AND VACATING A PORTION OF GREEN ALLEY FROM A POINT SIX (6) FEET NORTH OF THE EDGE OF EXISTING PAVEMENT APPROXIMATELY FIFTY-FIVE (55) FEET TO LEHIGH STREET (SR1010) BORDERING THE PROPOSED HAVEN RIDGE SUBDIVISION NO. 1675-05, WEST CATASAUQUA AREA OF WHITEHALL TOWNSHIP, LEHIGH COUNTY, PENNSYLVANIA. (DEVELOP)

President ARMSTRONG read Bill No. 16-2017 to the Board.

Josie SABELLA, 2404 Lehigh Street, Whitehall, asked if the Township is going to do the snow plowing of Green Alley, with an affirmative response and that includes the 4 visiting parking spaces. Mr. CLARK stated he would look at the agreement but the Township does not plow parking spaces.

George PAXOS, Developer of Haven Ridge, stated those spaces are private and are no different than a driveway. Mr. CLARK stated they were put in with the original plan and will check the Resolution. Mr. PAXOS stated those spaces are for the homes that back up to Green Alley, are not for the residents of Haven Ridge. Ms. SABELLA stated when Mr. ATIYEH purchased the property he put the 4 spaces there. Mr. CLARK stated he would check to see if there is any agreement as to who is to maintain those spaces. Lee RACKUS stated the Township does not plow any parking spaces. Commissioner SNYDER stated Ms. SABELLA is a wonderful lady, is an advocate, has done many things over the years, got to know her when they wanted to put an asphalt plant in her neighborhood.

**D. PULBIC HEARING AND VOTING ON RESOLUTIONS**

1. RESOLUTION NO. 2973

TITLE: A RESOLUTION AUTHORIZING THE DISPOSAL OF SPECIFIC TOWNSHIP RECORDS IN ACCORDANCE WITH THE TOWNSHIP'S RECORD RETENTION AND DISPOSAL SCHEDULE. (ADMINISTRATION)

President ARMSTRONG read Resolution No. 2973 to the Board.

Commissioner DUTT moved to approve, seconded by Commissioner MARX. There were no questions or comments.

Six Commissioners were present and voted "yes". Resolution No. 2973 was approved.

2. RESOLUTION NO. 2974

TITLE: A RESOLUTION AUTHORIZING AND DIRECTING THE MAYOR TO SUBMIT THE 7TH STREEET AND EBERHART ROAD APPLICATION FOR TRAFFIC SIGNAL IMPROVEMENTS APPROVAL TO PENNDOT AND TO SIGN THE APPLICATION ON BEHALF OF WHITEHALL TOWNSHIP (ADMIN/BOC)

President ARMSTRONG read Resolution No. 2974 to the Board.

Commissioner GINDER moved to approve, seconded by Commissioner DUTT. There were no questions or comments.

Six Commissioners were present and voted "yes". Resolution No. 2974 was approved.

3. RESOLUTION NO. 2975

TITLE: A RESOLUTION AUTHORIZING AND DIRECTING THE MAYOR TO SUBMIT THE MACARTHUR ROAD AND EBERHART ROAD APPLICATION FOR TRAFFIC SIGNAL IMPROVEMENTS APPROVAL TO

PENNDOT AND TO SIGN THE APPLICATION ON BEHALF OF  
WHITEHALL TOWNSHIP (ADMIN/BOC)

President ARMSTRONG read Resolution No. 2975 to the Board.

Commissioner SNYDER moved to approve, seconded by Commissioner MARX. There were no questions or comments.

Six Commissioners were present and voted “yes”. Resolution No. 2975 was approved.

4. RESOLUTION NO. 2976

TITLE: A RESOLUTION AUTHORIZING THE DISPOSAL OF SPECIFIC  
TOWNSHIP RECORDS IN ACCORDANCE WITH THE TOWNSHIP’S  
RECORD RETENTION AND DISPOSAL SCHEDULE. (POLICE)

President ARMSTRONG read Resolution No. 2976 to the Board.

Commissioner DUTT moved to approve, seconded by Commissioner GINDER. There were no questions or comments.

Six Commissioners were present and voted “yes”. Resolution No. 2976 was approved.

***E. REPORTS OF PUBLIC OFFICIALS***

1. Commissioner HOWER stated he was out of town but heard the Senior Center opening was fantastic and thanked Commissioner DUTT for getting it all together.
2. Commissioner DUTT stated at the Senior Center grand opening had 175 people, have 6 new volunteers to run the facility, one new Board member and are offering 9 different classes, 7 different exercise classes, 1 history talk with other things in the works. He thanked everyone who was a part of the ceremony and everything over the past ~2 years to get it going. The official opening date is May 2<sup>nd</sup> and will be open Tuesday’s thru Friday’s between 9 am and 2 pm at the West Catty Playground building. Also received a certificate of recognition from State Representative Dan MCNEILL’s office and wants to congratulate MacArthur 75 for their opening ceremony tonight and hopes for a successful yearlong celebration.
3. Commissioner MARX asked if a new microphone system can be put into next year’s budget to replace the current antiquated system. Commissioner GINDER noted have been asking for three years and has been terrible since it was put in when the building burned. Mayor HOZZA stated in addition would like to change the dais set up as well. Commissioner HOWER asked for a video system since a wise Commissioner once told him that sunshine is the best disinfectant.
4. President ARMSTRONG congratulated Commissioner DUTT on the Senior Center opening, was well attended, he set out with a goal to make this a great option for our senior citizens and made it happen.



President ARMSTRONG stated Student Government Day is May 1<sup>st</sup>. Students will attend the Mayor's staff meeting, will shadow the various Department Heads and at 1:00 pm will take over and run the Township, every year it gets better and encouraged everyone to come and watch, is one of the best educational programs to get our students involved in local government.

5. Mayor HOZZA stated tonight is the kick-off of the MacArthur 75 celebration, introduced the Steering Committee of the celebration honoring General Douglas MacArthur. The MacArthur 75 banners are going up on MacArthur Road, shows the commitment of the community and the entire Lehigh Valley as it is an icon. He noted to check the website, Facebook and the display cases at the Whitehall Township Public Library. The timeline gives all the important dates about the history of MacArthur Road which is a constantly evolving and changing environment. The Lehigh Valley Business Journal published a wonderful story on MacArthur Road. He noted the assessed value of MacArthur Road by Lehigh County is almost \$600M. Retail sales generated are close to \$2B, the tax revenue to the Whitehall-Coplay School District, Lehigh County and the Township is substantial, ~\$7M. He noted retail is still alive despite the competition we face and the future is bright for MacArthur Road. It was noted the timeline will be at the Historical Society during the month of July. Mayor HOZZA read that on February 9, 1942, the then Board of Commissioners motioned to that the entire 7<sup>th</sup> Street Highway in Whitehall Township be given the name of MacArthur Road and on April 13, 1942, the Board of Commissioners passed Ordinance No. 394 which mandated that the public street known as legislative street Route 555 be designated as MacArthur Road.

***F. ADJOURNMENT***

1. MOTION – Commissioner HOWER moved, seconded by Commissioner DUTT to adjourn the meeting at 9:05 pm.