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# **MINUTES**

## **February 11, 2013**

### **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, February 11, 2013, in the Public Meeting Room of the Whitehall Township Municipal Building, 3219 MacArthur Road, Whitehall, PA, with the following in attendance:

#### **COMMISSIONERS**

Linda K. Snyder, President  
Philip J. Ginder, Vice President  
Paul F. Geissinger, Secretary  
Dennis C. Hower  
Clair Hunsberger  
Gerard F. Palagonia  
Thomas Slonaker

#### **TOWNSHIP PERSONNEL**

Edward D. Hozza, Jr., Mayor  
John D. Meyers, Deputy Mayor  
Charles Fonzone, Attorney  
Frank Clark, Keystone Engineering  
Lee Rackus, PZ&D  
Linda Kulp, Police Chief  
Diane Hunsicker, Treasurer  
Carl Lagler, Township Surveyor  
Patricia Sweeney, Executive Secretary

The meeting was formally opened with the Pledge of Allegiance to the Flag and a moment of silence for our troops.

#### **2) APPROVAL OF MINUTES**

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

Special Public Meeting – January 7, 2013

Commissioner SNYDER asked that it be noted that a moment of silence was held for the children and teachers massacred in Newton as it was showing our respect.

Seven Commissioners were present with five voting “yes” with the addition and Commissioners PALAGONIA AND GEISSINGER abstained. Motion carried.

Commissioner PALAGONIA moved, seconded by Commissioner HUNSBERGER to approve the minutes of the following meeting:

Regular Public Meeting – January 14, 2013

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

**B. COURTESY OF THE FLOOR**

Mario SPAGNOLETTI, 351 Sumner Avenue, Whitehall, asked about the metal plates with “No Waste – Drains to River” on the storm sewers around Wal-Mart. Frank CLARK stated they are the new standard, are required with any new installation and are part of the casting by the manufacturer. Mr. SPAGNOLETTI stated the County no longer does hazardous waste collection and asked how you would prosecute someone who dumps something like a pesticide in there. Mr. CLARK stated it would start with the police and depending on the danger as to what it was, would then go higher. Mayor HOZZA noted the Fire Department puts down speedy dry on spills but if it escalates the Fire Chief will call in DEP who makes the determination as to what course of action needs to be taken based on the gallons that may have gotten into the storm drain.

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

**1. BILL NO. 2-2013 (First Reading)**

TITLE: AN ORDINANCE AMENDING CHAPTER V OF THE CODIFIED ORDINANCES OF WHITEHALL TOWNSHIP, CODE ENFORCEMENT, ARTICLE VIII, UNIFORM CONSTRUCTION CODE AND THE 2009 INTERNATIONAL RESIDENTIAL CODE FOR ONE AND TWO FAMILY DWELLINGS, APPENDIX “G” – SWIMMING POOLS, SPAS AND HOT TUBS, AND ARTICLE IX, ADOPTING THE UNIFORM CONSTRUCTION CODE OF PENNSYLVANIA, BY REVISING CERTAIN STANDARDS FOR SUCH INSTALLATIONS. (DEVELOP)

President SNYDER read Bill No. 2-2013 to the Board.

There were no questions or comments.

**2. BILL NO. 3-2013**

TITLE: AN ORDINANCE PURSUANT TO CHAPTER 21, PART 4, SECTION 405 OF THE 2006 CODIFIED ORDINANCES OF THE TOWNSHIP OF WHITEHALL PROVIDING FOR A WAIVER FROM THE REQUIREMENT OF INSTALLING MISSING SIDEWALKS ALONG THE NORTH SIDE OF PENNSYLVANIA STREET (FROM VIRGINIA AVENUE TO 5<sup>TH</sup> STREET) AS PROVIDED FOR IN SECTION 405 OF THE AFOREMENTIONED CHAPTER, FOR THE TOWNSHIP’S YEAR 2013 STREET PAVING PROGRAM. (DEVELOP)

President SNYDER read Bill No. 3-2013 to the Board.

Commissioner PALAGONIA moved to approve, second by Commissioner HOWER.

Commissioner GEISSINGER asked why they are getting a recommendation to piecemeal a street since the ordinance states that “each year the Department of Operations shall submit to the Board of Commissioners a list of proposed street reconstruction for the following calendar year together with recommendations from the Township staff as to the necessity for the installation of curb and/or sidewalk in connection with all streets

proposed to be constructed or reconstructed and thereafter, the Board of Commissioners will make a determination which streets, if any, shall be exempt from installation of sidewalk or curb” and doesn’t think a determination is to be made piecemeal but on the street entirely.

Carl LAGLER, Township Surveyor, stated he provided a memo on January 23<sup>rd</sup> to the Board noting this was an additional street for resurfacing this year since we were fortunate to obtain additional CDBG funds from the County. He stated piecemeal construction is not out of the norm where streets have unique characteristics, looks at each street project individually to its characteristics be it vehicle or pedestrian volumes or unique topography and feels his memo states why he is recommending waiving the sidewalks on the north side since it has steep topography, minimal traffic on the street, was an additional street that wasn’t anticipated last October when we went through our street program for 2013, would be glad to answer any questions but did make a presentation showing pictures along that street at the workshop meeting. Commissioner GEISSINGER asked why we are not following the ordinance since ~3 years ago, when the Board overruled his recommendation, it was lost in court and feels it needs to be changed. Commissioner GEISSINGER stated he is not going to have a paid Township employee tell him how to vote because he does not want the Township to go to court and lose in court since they are basically being told how to vote and the court will find in the favor of the recommendation. Attorney FONZONE stated it is two separate things and on the first point they are being consistent with the ordinance because are basically saying the street needs sidewalks but are giving exemptions to certain properties based on the traffic, topography, etc., is a consistency and is not prepared to answer on the second point because there are some problems with that system.

Lee RACKUS, Bureau Chief of PZ&D, stated Carl is doing what he has done for the past 30 years at the direction of the previous Board and this is different because we were not aware we would get these additional funds. She noted it is not the way CDBG works, can put sidewalks in but will get much less of a street product and have to decide whether the sidewalks are more important than resurfacing of the road. Commissioner GEISSINGER stated this goes back to the same situation with 4<sup>th</sup> Street where 2 homes did not have curb and we voted against it but the interest of the ordinance is to complete the street and has nothing to do with individual properties on the street. Attorney FONZONE stated they have the authority to grant exceptions and that makes it consistent. Commissioner GEISSINGER stated its a recommendation that will hold up in court for one individual property owner, feels property owners on one side of the street are getting screwed to put sidewalk in when people on the other side of the street do not, is it a safety issue or not because people have to cross the street to get to the sidewalk and questioned who is at liability because we said they do not need to put sidewalk in and are allowed to walk in the street. Attorney FONZONE stated he is making a third issue, is confusing it to apples, oranges and eggs and noted the ordinance itself is consistently applied and can give exceptions. He stated no ordinance says you have to install sidewalks on property where you can’t do it, there will be streets where there are properties like that, is a judgment made but agrees that once someone from the staff says something, it becomes evidentiary in a court hearing. Commissioner GEISSINGER stated in the past we have instructed homeowners, where there were terrible situations, to build retaining walls, so we are picking and choosing and because these homes across the street will need retaining walls, it’s okay to put them on one side of the street and this recommendation will mostly likely hold up in court should this body find otherwise. Attorney FONZONE stated the statute is uniformly applied as far as making decisions

and there is no question that when a decision comes from the staff it has a certain weight that he would have to argue against in court and is why he does not give opinions when asked questions when he feels it may go to court. Commissioner GEISSINGER stated it is up to the elected officials to make that decision, is what is wrong with the recommendation and asked if they should change the ordinance to not get recommendations. Attorney FONZONE stated he has a different interpretation of that part. Lee RACKUS stated these particular sidewalks requested to be installed are being done with the federal dollars and not at the expense of the property owner.

Commissioner SNYDER stated they are not talking about where the money is coming from but if they get a recommendation for or against, cannot go against what the employee tells us because we will lose in court. Lee RACKUS stated she has told Carl that after a strenuous meeting like this, not to make any recommendations. Commissioner SNYDER stated maybe that is the way it should be. Lee RACKUS stated then the Board will have to visit every street and decide and notify every property owner. Commissioner GEISSINGER stated he made the choice to run to make those decisions and doesn't want a Township employee forcing him to make those decisions because down the line the court is going to rule differently and in this instance understands where she is coming from but would Carl's recommendation been any different had this not been federal funds. Mr. LAGLER responded in the negative, has 30 years of experience, gives his recommendation as to what he sees out in the field, works with it every year, knows the difficulties, challenges and agonizes over his recommendations but does not have the wisdom of Solomon, every street is unique, everyone can see a different feature he may not see, is not perfect but is giving his best recommendation, the final decision is theirs. Commissioner GEISSINGER asked if he would not agree that his recommendation has a lot of weight after the fact of what the Board votes. Mr. LAGLER stated he would hope so.

Commissioner SLONAKER stated we have somebody with experience who has been doing this and wants his recommendation and noted he was on the Board when we had people that didn't go out to do things and is not going to go ahead and have the Board make a decision where they may not be qualified because they talked to Mrs. Smith or Mr. Jones. He stated it would be like we are never going to hire anybody having any type of experience or intelligence to make decisions that are informed and feels it is foolish not to use what you have, it's a tool. Commissioner GEISSINGER stated Carl made recommendations to tear trees down. Commissioner SLONAKER stated he has seen where we built around so a tree is saved and has been on it too long. Commissioner GEISSINGER stated maybe that is the problem. Commissioner SLONAKER stated when you have somebody making decisions based on what he sees rather than the emotional pleas we get, it does become something and feels like he is the only one on the Board that gets just what the ordinance says, that everyone gets sidewalks but consistently the Board has voted to let some go and there was a workshop once where we talked an hour just on this, then had a meeting and it didn't mean anything, was a small section by a developer that had to be completed and it really brought him down because it seemed an hour of his life was wasted talking that didn't mean anything.

Commissioner PALAGONIA stated we have ordinances, laws in Pennsylvania, vehicle and criminal laws, all to protect the public and Commissioners, Police, and judges are all here to make sure we treat every individual case on their own merits, do not have to go to the letter of the law, have to use our judgment and personally get as much information as you can to make decisions as a Commissioner and appreciates Mr. LAGLER doing his

job and giving some knowledge because he is very experienced and then going out himself to see if he has a good point. Commissioner GEISSINGER asked if he is willing to take taxpayers money to court to fight the disagreement and lose it because of that opinion because that is what is going to happen. Commissioner GEISSINGER stated what is happening is an ordinance being written as it is, the determination of how we vote and how the final outcome is being determined not by an elected official but by a Township employee.

Commissioner GINDER stated the same thing happens with the Zoning Board when they make a decision we feel is exactly against the better judgment of our ordinances and we end up in court against our Zoning Board, is all part of government and why you have a legal system to straighten things out. He noted the key word here is "recommendation" is not saying my ruling is or this is the only way we can possibly do this, is giving a recommendation and as a Commissioner appreciates Carl's recommendations because John RACKUS and Carl know where the flooding problems are, don't know that as a Commissioner, is not part of my job, my job is legislative and finance, is not privy to the everyday goings on of every street in this Township, that is Administrative, Carl and John's job since they know where the problems are, what goes on in the neighborhood, where the storm sewer problems are, where water is running off and a homeowner is complaining that every time it rains they are getting flooded. They know those things, I don't as a Commissioner. I have to listen to them, take their best recommendations and say is this going to fit, is a hard call but is what the people expect you to do, make the hard calls using your best judgment. Commissioner GINDER stated the whole sidewalk thing gets beyond ridiculous because there is no perfect with it. There is no way you can write one ordinance, even if it was a million pages and cover everything that could possibly come up on sidewalks especially because of the diversity in Whitehall Township where things have been built over the years, new homes against old homes, against commercial, against industrial and there is no way to write an ordinance to conceivably cover all of it. Therefore, as Commissioners, when you really read into that ordinance and it comes before the Board, you are suppose to use your best judgment, make the hard decisions and can't sit and worry if we will get drug into court because we can go to court for anything we do, anybody can go to court today for anything but in the meantime we cannot sit back and hold up progress in this community even if it might be less than perfect but at least we are getting something done, rather than getting nothing done.

Commissioner HUNSBERGER stated about 3-4 years ago ~1 ½ hours were spent going over sidewalks and here we are again and has voted against Carl's recommendations but need to make your own judgment.

Attorney FONZONE stated he has been here a substantial period of time and can only remember one challenged opinion over that period of time. Commissioner GEISSINGER stated the reason was that a waiver was suggested by the Township staff and the Board voted against it. Commissioner GINDER stated there was more to it and if you read the transcript, we actually sat as a Board and debated if our ordinance was valid in the middle of voting on it and feels that is where the Judge got nutty since we were debating whether our ordinance is valid or not in the middle of voting on it instead of taking it back to Legal and Legislative where it belongs and not debating on it while we are voting on an ordinance and is where we lost that one.

Commissioner SNDYER stated she has no problem with what Mr. LAGLER does, is doing his job but agrees if you go to court it is beneficial for that person if our employee



says yes or no, feels it holds a lot of water, does not see another solution but maybe we can figure another way, has disagreed with the Attorney, has been in court and knows what it's like. Commissioner GINDER stated they go through this every time, it ends up back at Legal & Legislative at least once a year, there is nothing we can really do with it because of what it is, there is no perfect, then it gets kicked back here and we say we got the best we can at this point and can defend our ordinance because it is about as good as it gets. Commissioner GEISSINGER stated his point was twofold, the ordinance says you base your decision on the street, not to take a look at each individual property owner, so whether the street is owned by one or fourteen individuals, it's the street. Secondly, the recommendation bears a lot of weight even if the Attorney's interpretation is that we can pick out each individual property and decide. Attorney FONZONE stated the street is the accumulation of properties and you have the right to give relief. Commissioner GEISSINGER stated he is bringing it to the forefront because it bothers him. Commissioner SNYDER stated it is a different issue other than what Commissioner GINDER was talking about, this part we haven't thrown around but the other part has been for years. Commissioner GINDER stated it is no different when this Board a year ago went against the advice of the Solicitor. It was noted the Board won. Commissioner GINDER stated but you can't use that as a frame of reference if you are going to stay awake at night worrying about everyone. Commissioner GEISSINGER stated he is not lying awake worrying about it but as an elected official brought it to the forefront.

Seven Commissioners were present with five voting "yes" and Commissioners GEISSINGER and SNYDER voting "no". Bill No. 3-2013 was approved.

3. BILL NO. 4-2013 (First Reading)

TITLE: AN ORDINANCE AUTHORIZING THE MAYOR OF WHITEHALL TOWNSHIP TO ENTER INTO A RIGHT-OF-WAY GRANT WITH UGI UTILITIES, INC. CONFERRING UPON GRANTEE, ITS SUCCESSORS AND ASSIGNS, THE EXCLUSIVE, PERPETUAL RIGHT, PRIVILEGE AND AUTHORITY FOR THE PURPOSE OF CONSTRUCTING, MAINTAINING, OPERATING, EXTENDING, REPLACING, CHANGING THE SIZE OF AND REMOVING A PIPE LINE, SERVICE LATERALS AND RELATED FACILITIES FOR THE CONVEYANCE, TRANSMISSION AND DISTRIBUTION OF GAS (HEREINAFTER REFERED TO COLLECTIVLY AS "SERVICE FACILITIES") ON, IN, OVER AND ACROSS A STRIP OF LAND IDENTIFIED IN EXHIBIT "A" WHICH IS ATTACHED HERETO, MADE A PART HEREOF AND INCORPORATED HEREIN BY REFERENCE. SUCH STRIP OF LAND BEING GRAY IN COLOR AND TOTALLING 729 SQUARE FEET LYING ADJACENT TO THE IRONTON RAIL-TRAIL AND BEING A PART OF THE TOWNSHIP OF WHITEHALL PROPERTY FOUND IN DBV 1597, PG. 1043. (ADMIN)

President SNYDER read Bill No. 4-2013 to the Board.

Commissioner GINDER asked if we are receiving \$2,000 for this. Carl LAGLER stated he feels it is a fair offer by UGI for a minimal easement underneath the IRT pedestrian bridge, they have agreed to pay an additional \$500 for our legal and administrative costs and is comparable to other right-of-way acquisitions we have had.

4. BILL NO. 5-2013 (First Reading)

TITLE: AN ORDINANCE AUTHORIZING THE TOWNSHIP MAYOR TO ACCEPT A DEED OF EASEMENT FOR A SIDEWALK THROUGH LANDS OF BETHANY BILE FELLOWSHIP CHURCH, WHITEHALL TOWNSHIP, LEHIGH COUNTY, PENNSYLVANIA. (DEVELOP)

President SNYDER read Bill No. 5-2013 to the Board.

Commissioner GEISSINGER asked for an explanation since he wasn't at the workshop.

Frank CLARK stated it is the cul-de-sac on Crescent Court West where they connected a small piece of sidewalk but the right-of-way wasn't wide enough to accommodate the sidewalk under the old standards, needed another 6 inches to contain it within a public right-of-way, so instead of giving up the public right-of-way are giving them an easement.

**D. PUBLIC HEARING AND VOTING ON RESOLUTIONS**1. RESOLUTION NO. 2794

TITLE: A RESOLUTION OF THE BOARD OF COMMISSIONERS, TOWNSHIP OF WHITEHALL, LEHIGH COUNTY, PENNSYLVANIA, ESTABLISHING CAMP WHITEHALL RATES FOR THE YEAR 2013. (BOC)

President SNYDER read Resolution No. 2794 to the Board.

Commissioner PALAGONIA moved to approve, seconded by Commissioner HUNSBERGER. There were no questions or comments.

Seven Commissioners were present and voted "yes". Resolution No. 2794 was approved.

2. RESOLUTION NO. 2795

TITLE: A RESOLUTION OF THE BOARD OF COMMISSIONERS, TOWNSHIP OF WHITEHALL, LEHIGH COUNTY, PENNSYLVANIA, ESTABLISHING POOL PASS RATES FOR THE YEAR 2013. (BOC)

President SNYDER read Resolution No. 2795 to the Board.

Commissioner HUNSBERGER moved to approve, seconded by Commissioner SLONAKER.

Commissioner GEISSINGER asked where we are in relation to others around us.

Mayor HOZZA responded in terms of resident family are about \$20 under the lowest but five years ago were about \$40. He noted Allentown is the lowest because they are subsidized by the Trexler Trust.

Commissioner GINDER asked about the non-resident family. Mayor HOZZA stated when it was instituted ~ 3 years ago the first summer was not encouraging but is picking up a bit every year and the majority is from North Whitehall since they never opened the Neff's pool. Commissioner GINDER asked how it compares with the Bethlehem or Allentown non-resident rate. Mayor HOZZA noted we are higher.

Seven Commissioners were present and voted "yes". Resolution No. 2795 was approved.

3. RESOLUTION NO. 2796

TITLE: A RESOLUTION OF THE COMMISSIONERS OF THE TOWNSHIP OF WHITEHALL, LEHIGH COUNTY, PENNSYLVANIA (HEREINAFTER "THE MUNICIPALITY") FOR A PLAN REVISION TO THE OFFICIAL WHITEHALL TOWNSHIP ACT 537 (SEWAGE FACILITIES PLAN). (BOC)

President SNYDER read Resolution No. 2796 to the Board.

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

Seven Commissioners were present and voted "yes". Resolution No. 2796 was approved.

4. RESOLUTION NO. 2797

TITLE: A RESOLUTION APPROVING THE COST OF LIVING ADJUSTMENT FOR ELIGIBLE RECIPIENTS OF THE POLICE PENSION FUND. (ADMIN)

President SNYDER read Resolution No. 2797 to the Board.

Commissioner SLONAKER moved to approve, seconded by Commissioner PALAGONIA. There were no questions or comments.

Seven Commissioners were present and voted "yes". Resolution No. 2797 was approved.

5. RESOLUTION NO. 2798

TITLE: A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE TOWNSHIP OF WHITEHALL TO ESTABLISH THE POLICE PENSION CONTRIBUTION RATE FOR MEMBERS OF THE FUND (ADMIN)

President SNYDER read Resolution No. 2798 to the Board.

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

Seven Commissioners were present and voted "yes". Resolution No. 2798 was approved.

6. RESOLUTION NO. 2799

TITLE: A RESOLUTION APPROVING THE AMOUNT OF INTEREST RETURN TO BE CREDITED TO POLICE PENSION FUND MEMBER CONTRIBUTIONS FOR FISCAL YEAR 2012. (ADMIN)



President SNYDER read Resolution No. 2799 to the Board.

Commissioner HUNSBERGER moved to approve, seconded by Commissioner SLONAKER.

Seven Commissioners were present and voted “yes”. Resolution No. 2799 was approved

7. RESOLUTION NO. 2800

TITLE: A RESOLUTION OF THE COMMISSIONERS OF THE TOWNSHIP OF WHITEHALL, LEHIGH COUNTY, PENNSYLVANIA AUTHORIZING SUPPORT OF CITY OF ALLENTOWN BALLOT QUESTION IN MAY 2013 AND URGING THE CITY COUNCIL OF THE CITY OF ALLENTOWN TO TAKE NO FURTHER ACTION ON THE MAYOR OF ALLENTOWN'S PROPOSAL TO LEASE THE CITY'S WATER AND SEWER OPERATIONS PENDING THE RESULT OF THE BALLOT QUESTION. (BOC)

President SNYDER read Resolution No. 2800 to the Board.

Commissioner GINDER moved to approve, seconded by Commissioner HUNSBERGER.

Commissioner HOWER stated this was discussed last week, the intent was to support our Sewer Authority, fully supports the actions of our Sewer Authority to protect our residents but is not in favor of urging the City Council to take action since it is a resolution that has no bearing on what they do and would not want another municipality telling us what to do with our citizens. Commissioner HOWER stated he supports the Sewer Authority, commends them on the action they have taken, have previously approved a resolution urging them to take whatever action they can to protect the taxpayers who have that service from the City of Allentown but is not in favor of urging City Council to do anything because he does not want them urging us.

Commissioner SLONAKER stated after listening to Commissioner HOWER is pretty much reiterating what he said, we are definitely behind the Sewer Authority but feels this goes a bit too far, people are going to vote and make up their minds themselves.

Commissioner GEISSINGER asked if there is going to be a ballot question, with an affirmative response. He questioned the purpose of this resolution then. Commissioner GINDER stated the Sewer Authority sent a resolution to City Council and as liaison to the Sewer Authority brought a copy back for the Board since they asked us to consider writing a resolution giving our support so it goes on as a ballot question in Allentown as this will affect all of the signatories in the Valley, every household and every business in the Township of Whitehall because they all use sewage and water. He noted there is a lot of power grabbing going on, feels we have a right to let the City Council of Allentown know how we feel, is sure there is pressure from all over the Valley and does not feel we are telling them what to do. He stated it is the same if they came in here as has happened in the past, where we had adjoining issues on boundaries and someone wanted to build something and we asked Allentown for their opinion and they let us know their feelings and we let them know ours. He stated they have not told us how to vote on anything and does not believe we are telling them how to vote, just saying this is how we feel about

this, does not see anything wrong with it, our Sewer Authority has done it already and some might say that is enough but feels it comes with a lot more meaning when government stands behind their Sewer Authority, although it will not change anything that is happening. Commissioner HOWER stated he sees his point but stands by his comment and is not in favor of this sale or lease. Commissioner GINDER stated they will vote how they want too but this is just taking a stand and saying this is really important to us. Commissioner GEISSINGER noted the resolution already states they unanimously resolve.

Commissioner SNYDER stated she agrees with Commissioner HOWER to a certain extent, is not telling Allentown what to do, is just expressing her feelings and representing the ratepayers of Whitehall but noted the City of Allentown is facing financial difficulty due to their pension obligations and the ratepayers from surrounding communities should not be held hostage for their debt, it's wrong and would never tell anyone how to vote but to take the citizens of Whitehall and the surrounding communities into consideration when they make this decision because many people may not be able to afford the rates.

Commissioner GINDER asked should there be one or more "no" votes or if the whole thing fails, then it is mute but the word unanimous should be changed to a majority. Attorney FONZONE stated to remove the word entirely.

Seven Commissioners were present with 3 voting "yes" and Commissioners HOWER, GEISSINGER, PALAGONIA and SLONAKER voting "no". Resolution No. 2800 failed.

#### **E. OTHER**

1. Commissioner SLONAKER moved, seconded by Commissioner PALAGONIA to approve the appointment of Dale REITZ to serve on the Police Pension Board, term expiring, term expiring December 31, 2016.

There were no questions or comments. Motion carried.

2. Commissioner HOWER moved, seconded by Commissioner GINDER to approve the release of escrow for completed and withdrawn projects, per Deputy Mayor MEYERS memo dated January 21, 2013.

There were no questions or comments. Motion carried.

#### **F. REPORTS OF PUBLIC OFFICIALS**

1. Commissioner PALAGONIA noted the need for good and ambitious people to fill vacant slots on our Boards.
2. Commissioner HUNSBERGER asked that a branch sticking out that hits the cars and trucks by the bridge at Lehigh Street and Catasauqua Road be cut back and if a "dangerous intersection" sign could be placed by Jazz Circle. Carl LAGLER stated an "Intersection Ahead" sign would be fine and will check on it.

3. Commissioner GINDER stated there is only one item on the Legal & Legislative agenda and believes it is not worth holding a meeting. Commissioners GEISSINGER and HOWER agreed. Commissioner GINDER asked about a date for the next meeting with the School Board. It was noted it will be May 16<sup>th</sup> at 6:00 pm here at the Municipal Building. It was noted there is no liaison to the School Board because of this committee. Commissioner GINDER asked about the Essroc dam. Mayor HOZZA stated he will call the plant manager again. Commissioner GINDER stated the ICDA sent us a letter on how their committee's are going to work and have asked for two more members.

Howard LIEBERMAN stated there are seven members and two resignations. Commissioner GINDER asked what they must do to change the charging of that authority to nine members. Attorney FONZONE stated he will need to research it. Commissioner SNYDER noted any increase to a board was always done by some type of legislation. Commissioner GEISSINGER stated there are currently 7 vacancies on either boards or commissions that have to be filled and two are resigning from the ICDA and you want to add 2 more, need to fill 4 positions. Mr. LIEBERMAN stated there are already five applicants who have submitted for the positions. Commissioner GEISSINGER asked if anyone not selected would be interested in the other positions. Mr. LIEBERMAN stated he cannot answer for them. Commissioner SLONAKER noted the people for that Authority do not need to reside in the Township. COMMISSIONER GEISSINGER asked when they meet. Mr. LIEBERMAN stated the Board is quarterly and there are six committee meetings a month and are reorganized now as far as committee's and board meetings are advertised but has been told committee meetings do not need to be advertised. Commissioner GEISSINGER asked if there isn't a discussion about something going on in another community about committees. Attorney FONZONE stated he will give them an opinion.

4. Commissioner GEISSINGER stated at the Rt. 145 and 22 construction zone, there are no lines going northbound. Mayor HOZZA stated the temperature needs to be above freezing all night but he can also reach out to PennDOT. Commissioner GEISSINGER stated there was a near accident today northbound at the Rt. 145 left turn onto Mechanicsville west since the stacking lane is inadequately short. Mayor HOZZA stated he can call Mr. HARMONASKY at PennDOT who is in charge of the project.
5. Commissioner SLONAKER asked what the rules are for private contractors who plow snow, where they can deposit the snow and what you need to do when they are in violation. Mayor HOZZA stated if they are pushing it into a public right-of-way they must clear it and John RACKUS would be the authority on it since he also worked for PennDOT. Commissioner SLONAKER noted the Police Pension Board will be meeting on Valentine's Day at 8:30 am and to come with candy.

Jeff WARREN, 4568 Pharaoh Street, Whitehall, stated he is disappointed PennDOT did not replace our sidewalk since there are situations when students walk down the municipal side, the new curb was made level to grade and questioned if that is so the runoff from MacArthur Road can run into our drainage swale which is so close to the curb that if someone did want to walk down along the grass, there is no room. He stated they did not provide a cart path to walk across when they installed the box culvert and by its title is the Route 145 Safety Project. Mr. WARREN stated there is an apartment complex on Mechanicsville Road where students walk and the way it is configured are encouraged to walk in the driving lines of Mechanicsville Road. He stated there is a public right-of-way from the wall into the property, understands it is probably costly to take out the wall and trees but PennDOT has a program called "Safe Routes to Schools"

where they spend millions of dollars to provide safe access for students and this is a few feet outside of their project and have turned a blind eye to it. He asked if the Township, along with the support of the Board and the School District, would write a letter to Mr. REBERT to consider approaching the property owner to grant an easement to install a sidewalk and if it is not done as part of this project, maybe in the future a "Safe Routes to School" grant could be applied for. Mr. WARREN stated this project has been downsized, are others in District 5 that have been upsized, they took out our sidewalk, scaled back the improvements and some of it was a federal earmark for this project, so what is not spent here in the Township is spent somewhere else and hears PennDOT is in financial woes and money is tight but they are installing sidewalks on both sides of the Route 412 project, so why not connect pedestrian access from MacArthur Road to our School District property where we have students walking since a student was hit while walking over to Wawa last year. Commissioner GEISSINGER noted there is a crosswalk at the intersection and sidewalk was installed on MacArthur Road but not completed along Mechanicsville Road. Mayor HOZZA noted the property on the corner of Mechanicsville Road is up for Sheriff's sale. Mr. WARREN stated sidewalk waivers are talked about, and doesn't think we look when the State is doing a project. Commissioner SNYDER agreed stating when the State does a project; we do nothing and commented about Main Street in Egypt. Mr. WARREN stated the 4500 block of Egypt has deplorable sidewalks. Commissioner GEISSINGER stated the State did put sidewalks on the west side by the vacant property and questioned why they didn't replace the ones on the east side. Mr. WARREN stated the sidewalks are uneven because of a storm drain and soil erosion. Commissioner GINDER noted that project went down quickly because it was one of those shovel ready jobs. Mayor HOZZA stated we now know what projects are coming up, the Chestnut Street intersection at Sheetz, improvements at Eagle Point but that one occurred so quickly and would have required the Board to act saying those sidewalks had to be replaced during the project. Mr. WARREN stated the need for a public presentation by PennDOT of their draft plans for the Cementon Bridge because of the trail and the need for two-way pedestrian traffic on the bridge. Commissioner SNYDER commented on the meeting they had with PennDOT regarding the 5<sup>th</sup> Street Bridge where a couple of Commissioners were told to leave because they didn't like the questions.

6. Mayor HOZZA stated the Governor announced a proposal, given him from the PennDOT Study Commission, to increase funding to PennDOT by ~\$1.4 billion a year and the need for a commitment from every Lehigh Valley State Representative and Senator that the Route 22 widening, currently at the top of the TIP, will remain and be the priority for the Lehigh Valley for our future economic growth and stability. He noted some naysayers say widening Route 22 from Airport Road to 15<sup>th</sup> Street or Cedar Crest Boulevard will encourage sprawl but everything to the south and north has already been built upon and if you want to look at sprawl, go to Wiesenbergh Township to see the box warehouses that are eating up farmland at an alarming rate. Mayor HOZZA stated the majority of the traffic woes on Rte 22 are at the morning and evening rush as people are trying to get to their jobs and it's been studied and proven they travel between a maximum of six interchanges. He stated his goal is to keep reminding the State Rep's and Senator and even our legislators in Congress of the importance of Route 22 because the leadership of the State government right now is all western based and this money will flow to the west of the State unless we, on the eastern part of the State, wake up and demand our fair share.

Mayor HOZZA stated the legislative goal for the State Mayor's group this year is for our State Rep's and Senators to pass legislation allowing local municipalities to use radar since Pennsylvania is the only State that does not allow local municipalities to use radar. He noted we have an alarming problem on MacArthur Road between 6 am and 8 am

when speeds southbound from commuter traffic are thru the roof and if our Police Department had access to radar, could better enforce the traffic laws and speed limits. He stated he supports the increase of board members on the ICDA, they are moving in the right direction, have some positives coming with two tenants coming into the former Blockbuster video store, with a potential third, also have a potential tenant for the former Golf USA at Circuit City, things are moving forward on the economic development front and wants that momentum to continue. Mayor HOZZA thanked the Public Works crews because the comments again are that “when you drive thru Whitehall, they know how to plow snow” which is not the same in other municipalities.

Commissioner GINDER asked if the stores getting filled are thru the ICDA or with the Chamber office. Mayor HOZZA stated not necessarily but the Chamber office is doing well and recently on a visit met with a new franchise owner looking to open in the Township on MacArthur Road. The Township works with the Chamber when they get leads from people coming into their office, whether it is a resident looking for something or a potential business.

Commissioner HUNSBERGER asked about an abandoned car that has been tagged by the Wood Street playground. Mayor HOZZA stated it will be towed.

Jeff WARREN, 4568 Pharaoh Street, Whitehall, commented the traffic on Route 22 west of 15<sup>th</sup> Street has 75,000 vehicles a day, east of Airport Road there are 75,000 vehicles a day, between Airport Road and 15<sup>th</sup> Street there are upwards from 95,000 vehicles a day, with 100,000 during the shopping season and stated it is a mixing bowl of people on their way to valuable jobs, is the economic thruway of the Lehigh Valley and keeping Route 22 congested is only encouraging development to occur in our fertile farmland and improving Route 22 is only going to promote sprawl is a fallacy and noted they are widening Route 412 from 2 to 4 lanes for only 23,000 vehicles a day. He stated Sunday, January 27<sup>th</sup> marked twenty-four years that the Lehigh Valley Dairy vacated 270 walkable and sustainable family jobs and Vision Lehigh Valley got a \$3.4 million grant last year to invest in underutilized properties for walkable jobs, each of our 3 cities got a Keystone Project and most recently Monroe and Northampton Counties split up ~\$2M worth of grants to invest in industrial development coming from gaming, we do not receive any gaming money from Lehigh County but in the northern part of Northampton County you can get gaming money from Monroe County. He stated if enough people call PennDOT and our State Legislators and tell them it's a project they should support since it is one block outside of a third class City, sits a stone's throw from the busiest intersection in the Lehigh Valley and especially when he hears there is talk of NIZ type legislation for other communities and they shouldn't discriminate on municipal boundaries.

Mayor HOZZA stated the treasurer's office is in full gear going after those who are delinquent in garbage fees.

## G. ADJOURNMENT

1. MOTION - Commissioner HUNSBERGER moved, seconded by Commissioner PALAGONIA to adjourn the meeting at 8:30 p.m.