

**MINUTES**  
**REGULAR MEETING**  
**June 1, 2015 7:15 PM**

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**MARSHALL TOWNSHIP BOARD OF SUPERVISORS**  
**525 PLEASANT HILL ROAD**  
**WEXFORD, PA 15090**

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The following persons were present:

SUPERVISORS:        Thomas Madigan, Chairman (Absent)  
                         Philip Troy, Vice Chairman (Acting Chairman)  
                         Jason Bragunier  
                         Richard Scavo  
                         Anthony (Jack) Candek

MANAGER:            Neil D. McFadden  
ENGINEER:            Art Gazdik, P.E.  
PLANNING DIR:        Nicole Zimsky, AICP  
SOLICITOR:            Blaine Lucas, BCCZ  
TWP. SECRETARY:     Sheryl Snyder

OTHERS                Heidi Hawk, Court Reporter and 8 Others

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1. Call to Order - The meeting was called to order at 7:15 p.m.
2. Pledge of Allegiance - All rose to recite the Pledge of Allegiance.
3. Public Comment – None.
4. Consent Agenda
  - 4a. Minutes

Regular Meeting May 4, 2015 – No corrections or additions were made.  
Agenda Meeting May 26, 2015 – No corrections or additions were made.
  - 4b. Expenditures

Month of May 2015 – No corrections or additions were made.
  - 4c. Announcements

None.
  - 4d. Reports

Police – Report forthcoming.  
Police Board Liaison – Mr. Candek indicated Mr. McFadden will be reporting on the police contract negotiations later in the agenda.

Firemen – Written report submitted.

Fire Company Liaison – Mr. Candek requested discussing an issue when the full Board is present.

Public Works Director – Written report submitted.

Zoning Officer – Written report submitted.

Building Inspector – Written report submitted.

O.E.M. – Written report submitted.

Recreation Director – Written report submitted.

Recreation Liaison – Mr. Troy indicated the Altmyer Park issue will be discussed at the agenda meeting and Community Day preparations are underway.

Northland Library Board – Nothing to report at this time.

MTMSA Liaison – Nothing to report at this time.

COG Liaison – Mr. Troy stated a discussion took place regarding paving materials and a COG representative from West View was talking about the material, the acceptability of the material, and the lifetime of the material. Mr. Troy provided the input to Mr. Gazdik.

ACATO – Nothing to report at this time.

Police Pension Board – Nothing to report at this time.

Mr. Troy recommended a motion to approve all items on the Consent Agenda as submitted/amended. Mr. Candek moved to approved, seconded by Mr. Bragunier; vote in favor was unanimous [3-0]. Mr. Scavo abstained from the vote on the minutes.

#### 5. Engineer's Report

- Bond Status
  - No bond reduction requests.
- 2015 Road Project(s)

Mr. Gazdik mentioned that the 2015 road improvement project has been awarded by the Board and the Notice to Proceed letter has gone out to Youngblood Paving. Youngblood anticipates starting work as soon as school lets out.
- Municipal Sewer Program - At the Agenda Meeting, Mr. Gazdik would like to have a short session to discuss the progress that the Township is having with the Municipal Separate Storm Sewer Program (MS4 Program), which is a water quality program relative to permit requirements and for the public to be aware of it.

#### 6. Manager's Report

- Cable Franchise Renewal: Consolidated Communications. Status – Mr. McFadden indicated he met with Natasha Horton, an attorney from Dan Cohen, and six other municipal managers for a preliminary status conference. Cohen's office is an expert in the area and well-versed. Cohen has notified Consolidated Communications of their representation and the contract does not expire until the end of the year. The new contract is in preliminary stage.
- Northern Regional Joint Police Force: Contract Negotiations. Status - Mr. McFadden stated he attended a session with the officers today. The process is in its infancy. Proposed terms were exchanged and responses are due back from the officers by June 15, 2015.

7. Legal Matters

Mr. Lucas indicated he had one legal matter. As a result of the Board's actions in April denying the applications by Thorn Hill Associates for the four-hotel complex, Thorn Hill Associates has filed an appeal with Allegheny County Common Pleas Court. Nothing is moving very quickly on anything on land use matters there. It may or may not become a moot point in light of the revised application that is filed and on the agenda for tonight. Mr. Lucas mentioned the law is they can pursue alternative plans. Mr. Bragunier suggested discussing this legal matter in a quick Executive Session prior to discussing the new plan on this evening's agenda. Mr. Lucas responded it is a litigation matter so the Board can do that.

8. Unfinished Business

8a. Resolution to Approve the Amended and Restated Loan and Security Agreement Between the Marshall Township Municipal Sanitary Authority and the Township of Marshall. Motion to Adopt. – Mr. McFadden indicated the Authority, at their last monthly meeting, decided to again delay entering the bond market and recommended a motion to table this item. Mr. Troy made a motion to table. Mr. Scavo moved to approve, seconded by Mr. Bragunier; vote in favor was unanimous [4-0].

8b. Public Hearing: Ordinance amending the Marshall Township Code, Chapter 208, ZONING. Providing for definitions; establishing certain general and specific standards relating to the location, placement, construction and maintenance of tower-based and non-tower based wireless communication facilities; providing for the regulation of such facilities within the public rights-of-way and outside the public rights-of-way; providing for the enforcement of said regulation; and providing for an effective date. Consideration. – Heidi Hawk of Adelman Reporters swore in those wishing to testify.

The following is a summary of the hearing. Transcript of hearing to be provided by Adelman Reporters and placed in file for future reference.

Ms. Zimsky indicated a presentation was given at a COG meeting by the Cohen Law Group. At that meeting, they mentioned to everyone about services they could provide for updating tower ordinances. The reason for this update is new technology has come about. These are actually constructed and built in the right-of-way. The Township entered into a contract with Cohen Law Group and this ordinance is the result of that contract. This ordinance is identical to ordinances that were passed by the other COG members. Short discussion took place regarding the increase in height of any tower and the approval process of each tower. Short discussion took place regarding where towers are and are not permitted. The point of this ordinance is to create provisions for new poles going up in a right-of-way. Mr. Troy closed public hearing at 7:55.

Consideration: Mr. Troy recommended a motion. Mr. Bragunier made a motion to approve Ordinance 435, seconded by Mr. Candek; vote in favor was unanimous [4-0].

8c. Presentation of "Start-Up" Budget for Altmyer Park. Possible Motion to Appropriate Funds from the General Fund Balance - Mr. McFadden recommended a motion to table this item to June 8, 2015. Mr. Scavo made a motion to table this presentation of "Start-Up" Budget for Altmyer Park to June 8, 2015, seconded by Mr. Bragunier; vote in favor was unanimous [4-0].

9. PLANS

Executive Session - Board entered into Executive Session at 8:00 p.m. for the purpose of discussing the Thorn Hill Associates, LP versus Marshall Township statutory appeal at SA No. 15-346. Mr. Scavo made a motion to go into Executive Session, seconded by Mr. Bragunier; vote in favor was unanimous [4-0]. Board returned to Public Session at 8:20 p.m.

9a. Public Hearing: Thorn Hill Associates; (Conditional Use) CU 05-02; Brush Creek and Knob Road; plans dated 4/14/2015; deadline: 6/12/2015 - Mr. Troy opened the public hearing at 8:20 p.m. Heidi Hawk swore in those wishing to testify. Mr. Lucas noted for the record the Township Zoning Ordinance and Map, the posting of the property, the proof of publication, the legal notice for the Conditional Use. We will also include in the record the applicant's conditional use application, staff comment letters and the response from the technical consultants for the applicant, as well as the excerpts from the Planning Commission meeting reflecting Planning Commission recommendation on the conditional use hearing. In the interest of having the complete picture of the application, we will include similar application materials, staff comment letters, consultant responses and Planning Commission recommendation on both the subdivision plan and land development plan.

The following is a summary of the hearing. Transcript of hearing to be provided by Adelman Reporters and placed in file for future reference.

Ms. Zimsky indicated the applicant is seeking conditional use approval. The developer has submitted land development plans and intends to construct the following: Lot 1 / Hotel 1, 102-room Staybridge Suites and Lot 2 / Hotel 2, 94-room Holiday Inn Express. The developer is also proposing to construct 208 parking spaces to accommodate the parking needs on the site. This proposed project is located on Parcels 56 and 63R, along Brush Creek Road, in the Thorn Hill Industrial Park. The property is located in the Planning Industrial Park (PIP) District. Hotel, Motel and Hotel-Motel Complex and is a conditional use in the PIP District.

This conditional use was before the Planning Commission on May 18, 2015 and they voted unanimously to recommend approval for all three applications. Conditions placed on recommendation of approval was one being that instead of painted crosswalks that it actually be stamped concrete. With the dumpster enclosure, rather than being painted, it be a colored split face block structure to match and blend in with the hotels. Another condition they wanted to place was that the sidewalk meander through the trees. Finally, when Lot 3 comes in for land development for the third hotel they wanted a guarantee of a certain rating or higher. The applicant has stated that they are able to meet the requirements for the garbage enclosure and also for the stamped concrete walkways, crosswalks and are happy to try to meander the sidewalk along Brush Creek Road. Mr. Banner approached the Board and indicated they are seeking one modification request to allow a 6-foot asphalt sidewalk rather than a 5-foot concrete sidewalk. Short discussion took place regarding the planting of trees, along with a

brief discussion of the agreements needed lay out access, various utility and stormwater easements, sharing of dumpster, general landscape maintenance, maintenance of the stormwater system. Mr. Lucas questioned the applicant if they are willing to withdraw any appeal pending or contemplated as it relates to the denial of the previous hotel proposal if the Board were to act and approve the plans before them tonight. Ms. Giese indicated the applicant has agreed that they would withdraw the appeal if they were to receive approval tonight. Mr. Troy closed the public hearing at 9:17 pm.

Consideration - Mr. Troy made a motion to approve the conditional use subject to Ms. Zimsky's memo dated May 28, 2015 with the one clarification that conditional use also be subject to compliance with the land development approval and also with the added condition agreed to by the applicant that any appeal or future appeal of the prior plan would be withdrawn or not pursued. Mr. Scavo moved to approve, seconded by Mr. Bragunier; vote in favor was unanimous [4-0].

9b. Thorn Hill Hotel Complex REVISED; (Subdivision) SUB-FIN15-10; Brush Creek and Knob Road, plans dated 4/14/2015; deadline: 8/3/2015 - Ms. Zimsky stated this plan involves the consolidation of two properties and then the re-subdivision of the parcel into three (3) lots. The property, zoned Planned Industrial Park (PIP), is located on Brush Creek Road in the Thorn Hill Industrial Park. The developer has submitted land development plans and intends to construct the following: Hotel 1, 102-rooms and Hotel 2, 94-rooms. Mr. Troy made a motion to approve the subdivision subject to Ms. Zimsky's memo dated May 28, 2015 and with the added condition agreed to by the applicant that any appeal or future appeal of the prior plan would be withdrawn or not pursued. Mr. Bragunier moved to approve, seconded by Mr. Scavo; vote in favor was unanimous [4-0].

9c. Thorn Hill Associates, LP; (Site/Land Development) SP(LD)15-04; Brush Creek and Knob Road, plans dated 4/14/2015; deadline: 8/3/2015 – Ms. Zimsky indicated the applicant is seeking land development approval to construct two hotels and 208 parking spaces to accommodate the parking needs. The applicant is seeking two modifications. One, regarding sidewalks (applicant is requesting asphalt rather than concrete) and two, disturbance within 25 feet of the edge of any flowing stream, lake or wetland (applicant is requesting disturbance within 25 feet). Mr. Troy made a motion to deny the requested waiver from the concrete sidewalk requirement. Mr. Scavo moved to approve, seconded by Mr. Bragunier; vote in favor was unanimous [4-0]. Mr. Troy made a motion to approve the requested waiver to allow disturbance within 25 feet of wetlands. Mr. Scavo moved to approve, seconded by Mr. Bragunier; vote in favor was unanimous [4-0]. The last action is on the land development plan itself. Mr. Troy made a motion to approve the land development plan subject to Ms. Zimsky's memo dated 5/28, 2015 with the additional stipulation that there would a withdrawal of and no pursuit of any appeal on the prior plan and thirdly, a clarification that upon the development of Lot 3, the tree replacement/requirement will be met for all three lots in aggregate and individually for Lot 3 and the conditions which the developer consented to on the stamped cross walk, enclosure of the dumpsters and the sidewalk meandering through the trees. Mr. Scavo moved to approve, seconded by Mr. Bragunier; vote in favor was unanimous [4-0].

9d. The Kaiser Plan; Subdivision SUB-FIN 15-08; 99 Harmony Road; Plans dated 03/06/2015; deadline: 7/29/2015 – Ms. Zimsky indicated this plan was before the Board last month, but could not be a fast track subdivision because Lot 1 was changing more than the minimum lot size for the district. This went to the Planning Commission May 5, 2015 and they voted unanimously to recommend approval. Ms. Zimsky indicated she and Mr. Gazdik prepared a joint memo. Mr. Lee Tate with Tate Engineering and Mr. Kaiser, 154 Laurel Crest Drive approached the Board. Mr. Scavo questioned the use of new lot. Mr. Kaiser indicated he has no plans for this parcel. He has no desire to be in the landlord business, so he is subdividing to sell the house and keep the land to do something with it or sell it at a later time. Mr. Troy made a motion to approve the subdivision plan subject to the conditions in Ms. Zimsky's memo dated May 28, 2015. Mr. Scavo moved to approve, seconded by Mr. Bragunier; vote in favor was unanimous [4-0].

9e. The Kaiser Warrendale Plan; Subdivision SUB-FIN 15-09; 20 Warrendale Bayne Road; Plans dated 03/06/2015; deadline: 7/29/2015 – Ms. Zimsky indicated this proposed plan is a lot line change around an existing structure. The property is located at 20 Warrendale Bayne Road in the Town Center (TC) zoning district. For this subdivision, Lot 2 was landlocked, so Mr. Kaiser is adjusting the lot line to give Lot 2 frontage on Warrendale Bayne Road. Again, based on the last plan, it is his intent to sell Lot 2 with the house. So, he is creating the frontage to make it a conforming lot. There were some questions on this plan regarding the driveway for the house. The Board questioned if there would be an easement agreement and how was it accessed. Mr. Kaiser responded the intent is both lots would use same driveway with an easement agreement in place for Lot 2. Mr. Scavo indicated if the Board granted this subdivision, is the intent that both lots would use the same driveway and we would need an easement agreement in place for Lot 2 that Lot 1 has access. Mr. Kaiser indicated this easement is noted on the plans and will be made part of the deed. Board would like to stipulate shared maintenance – easement subject to shared maintenance - 50/50 shared. Mr. Troy made a motion to approve subject to Ms. Zimsky's memo dated May 28, 2015 adding clarification and note on the plan specifying in more detail the exact boundaries of the easement and stipulating that there will be 50/50 shared maintenance. Mr. Scavo moved to approve, seconded by Mr. Bragunier; vote in favor was unanimous [4-0].

9f. 12th Amendment to The Venango Trails Plan of Lots; (Fast Track Subdivision) SUB-FIN 15-13; Lots 177-182 and Lots 185-188; plans dated 5/12/15; deadline: 8/31/15 – Ms. Zimsky indicated because the letter from the County has not yet been received, this plan needs to be tabled. Troy made a motion to table the 12th Amendment to the Venango Trails Plan of Lots. Mr. Scavo moved to approve, seconded by Mr. Bragunier; vote in favor was unanimous [4-0].

9g. Pleasant Hill Estates Revision 2; (Fast Track Lot Consolidation); SUB-FIN 15-11; Sable Court; Plans dated 5/26/15; deadline: 8/31/15 – Ms. Zimsky indicated this proposed plan is a consolidation of Lots 6 and 7 in the Pleasant Hill Estates Plan. The lots are located on Sable Court. Ms. Zimsky and Mr. Gazdik prepared a joint memo dated May 28, 2015. The only comments are the name and address of the owner of record be added on the plan and the Owners Adoption and Dedication will need to be changed for recording. Mr. Troy made a motion to approve the lot consolidation subject to the conditions in Ms. Zimsky's memo dated

May 28, 2015. Mr. Scavo moved to approve, seconded by Mr. Bragunier; vote in favor was unanimous [4-0].

10. New Business

10a. Contribution Agreement between Penn Dot and Marshall Township for municipal reimbursement of certain costs relating to the improvement of SR 4052; Warrendale-Bayne Road. Motion to authorize chairman's signature – Mr. McFadden mentioned this is moving forward on the deal that we were hoping to get from PennDOT where for the widening of the Red Belt to create the turn lane into Innovation Ridge, PennDOT has agreed to make that part of a group job. Certain economies will be realized by having PennDOT make that part of a group job. In this, they handle the municipal contribution through this Contribution Agreement. Mr. Lucas' office has reviewed the agreement. As proposed, it looks like there is some cost saving for the municipality. And, there is an out clause if the bid cost exceeds the estimated cost by 10%, the Township can opt out. Mr. Troy made a motion to approve the Contribution Agreement in form acceptable to the solicitor. Mr. Scavo moved to approve, seconded by Mr. Bragunier; vote in favor was unanimous [4-0].

11. Correspondence

- Received Letter from Pennsylvania Department of Environmental Protection Re: Act 101 Recycling Program Performance Grant for Year 2013: \$61,393.00 - Mr. McFadden indicated this recycling grant went into the municipal waste fund.

12. Seminars

None.

13. Executive Session: Three personnel matters - Board entered into Executive Session at 9:55 p.m. to discuss three personnel matters. Upon return to public session, Mr. Bragunier moved to approve Mr. McFadden's letter as written, seconded by Mr. Candek; vote in favor was unanimous [4-0]; Mr. Scavo moved to approve offering position of Planning Secretary to Sandra Bauer, terms as described, seconded by Mr. Candek; vote in favor was unanimous [4-0]; Mr. Scavo moved to approve offering of part-time Receptionist position to Debra Meinert, terms as presented, seconded by Mr. Candek; vote in favor was unanimous [4-0]; and Mr. Candek moved to approve appointment of Brij Agarwal to the Zoning Hearing Board vacant seat of Betsy Zimmerman-Sinko, seconded by Mr. Bragunier; vote in favor was unanimous [4-0].

ADJOURN

Since there was no further business to come before the Board, at 10:09 p.m., the meeting adjourned. Motion by Mr. Candek, seconded by Mr. Bragunier; vote in favor was unanimous [4-0].

Respectfully submitted,

Sheryl Snyder