

The stated meeting of the Board of Commissioners of the Township of Abington was held on Thursday, August 11, 2016 at the Township Administration Building, Abington, PA., with President Luker presiding.

**CALL TO ORDER:** 7:40 p.m.

**ROLL CALL:** Present: Commissioners SPIEGELMAN, SANCHEZ, ROTHMAN, MYERS, MARKMAN, SCHREIBER, BOWMAN, DiPLACIDO, FARREN, GILLESPIE, HECKER, KALINOSKI, KLINE, LUKER  
Excused: ZAPPONE

Township Manager LEFEVRE  
Assistant Township Manager WEHMEYER  
Township Tax Collector BLUMENTHAL  
Finance Director BARRON  
Township Solicitor CLARKE  
Deputy Chief LIVINGOOD  
Township Engineer POWERS  
Planning & Zoning Official PENECALE  
Director of Parks and Recreation WENDELL  
Director of Public Works MICCIOLO  
Director of W.W.T.P. WRIGLEY  
Fire Marshal CLARK

**PLEDGE OF ALLEGIANCE**

**ANNOUNCEMENT – EXECUTIVE SESSION**

President Luker announced that on July 14<sup>th</sup> at 8:10 P.M. and August 1<sup>st</sup> at 8:00 PM as well as this evening, August 11<sup>th</sup> at 7:00 PM, the Board of Commissioners met in Executive Session regarding the matter of Old York LLC vs. Abington Township, Docket Number 2016-11116 in the Montgomery County Court of Common Pleas.

**PRESENTATION:**

Presentation of Award to the Board of Commissioners – 3 STAR ACHIEVEMENT

Dr. Damian J. Fernandez, Chancellor, Penn State Abington College/STAR Communities University Affiliate, said he is honored to present this achievement. The fact that Abington Township earned 3 Stars on its first try is unusual and needs to be celebrated, and this is a real citizenship grassroots movement. It would not have happened without the support of the Board of Commissioners and the phenomenal leadership of Cakky Evans. Penn State is a STAR Affiliate and Penn State Abington is committed to continuing to improve our community together.

Emily Costello, AICP, Star Communities Technical Advisor/DVRPC Senior Planner, said she has been working as a Star Technical Advisor for a few years and Abington Township is the first community in the entire Delaware Valley Region to receive this certification.

In achieving the level 3 STAR Achievement Certification, Abington has taken a huge step forward in preserving things that make it special and moving towards a more sustainable future. This achievement took many, many hours of work and she congratulated President Luker, the Board of Commissioners, Township staff, volunteer commissions as well as the citizens of Abington for making this designation.

President Luker said the STAR Community rate system is the nation's first comprehensive framework and certification program for evaluating local sustainability encompassing economic, environmental and social performance measures. Local leaders use the rating systems evaluation measures to assess the current level of sustainability setting targets for moving ahead and measure progress along the way. For communities that pursue the Star Certification the rating system encompasses economic, environmental and social performance measures for both local governments and the broader community.

Abington's certification is for four years and this assessment can serve as a path for economic, social and environmental progress.

We, the Board of Commissioners, look forward to working with you in any way possible to achieve this award for future generations. Abington now stands as the highest rated 3 Star Community in the tri-state area, and he thanked Cakky Evans and members of the EAC on behalf of the Board of Commissioners of the Township of Abington.

**APPROVAL OF MINUTES:**

Vice President Kline made a MOTION, seconded by Commissioner Spiegelman to approve the minutes of Board of Commissioners meeting of July 14, 2016.

MOTION was ADOPTED 14-0.

**PUBLIC WORKS COMMITTEE:**

Ordinance No. 2122 – Intergovernmental Agreement – Alternative TMDL – Wissahickon Creek Watershed

Commissioner Hecker made a MOTION, seconded by Commissioner Kline to adopt Ordinance No. 2122 to approve the Intergovernmental Agreement between the Wissahickon Watershed Municipalities and Wastewater Treatment Plants to work together in developing an Alternative TMDL Plan for the Watershed.

Commissioner Luker asked for any comments from Commissioners or staff. There were none.

Commissioner Luker asked for any public comments. There were none.

MOTION was ADOPTED 14-0.

**ORDINANCE NO. 2122**  
**Township of Abington**  
**Montgomery County, PA**

**An Ordinance of Township of Abington, Montgomery County, Pennsylvania**  
**adopting the Intergovernmental Agreement for the completion of the Alternative**  
**TMDL Plan for the Wissahickon Creek Watershed**

**Section 1. Conditions of Agreement.**

The Intergovernmental Agreement (Agreement) is made by and among each of the Wissahickon Creek Watershed Municipalities and Wastewater Treatment Plants executing the Agreement for the preparation of the Wissahickon Watershed Alternative TMDL Plan (Plan), collectively, the "Parties", each Party shall individually be referred to as a "Party" and shall collectively be referred to as the "Parties". The list of the Parties is as follows, and shall be updated by Addendum as necessary.

**Municipalities**

Abington Township	Philadelphia County
Ambler Borough	Springfield Township
Cheltenham Township	Upper Dublin Township
Horsham Township	Upper Gwynedd Township
Lansdale Borough	Upper Moreland Township
Lower Gwynedd Township	Whitemarsh Township
Montgomery Township	Whitpain Township
North Wales Borough	Worcester Township

**Wastewater Treatment Plants:**

Abington Township Wastewater Treatment Plant  
Ambler Borough Wastewater Treatment Plant  
Upper Gwynedd Township Wastewater Treatment Plant  
Upper Dublin Township Wastewater Treatment Plant (Bucks County Water & Sewer Authority)

**Section 2. Duration of the Term of the Agreement**

The duration of the term of the Agreement (Term) shall be two years. The Agreement may be extended by those Parties desiring to participate for an additional term or terms, by resolution.

**Section 3. Purpose and Objectives of the Agreement**

The Agreement is the document by which the Parties signify their commitment to participate in the preparation of the Plan. The goal of the Plan is to improve water quality standards in water bodies throughout the Wissahickon Creek watershed. Further, the Agreement establishes the role and duties of the Parties, the Consultant, the Legal Services Representation, and the Expert Panel Services, and the scope of the Plan, as defined in the Agreement and further outlined in Attachment A of the Agreement.

**Section 4. Manner and Extent of Financing the Agreement**

A fee not to exceed \$6,250 per year shall be provided by each Party. This fee is to cover the costs of Legal Services and Expert Panel Services.

**Section 5. Organizational Structure**

The Plan shall be prepared by the Consultant, with guidance and input provided through a Stakeholder Group and a Management Committee, whose roles are defined in the Agreement.

**Section 6. Real or Personal Property**

The Agreement does not empower any of the Parties, the Consultant, Legal Services Representation, or Expert Panel Services to acquire, manage, license or dispose of any real or personal property related to or in conjunction with the preparation of the Plan.

**Section 7. Contracts**

The Parties entering into the agreement shall be empowered to contract with the Consultant, Legal Services Representation, and Expert Panel Services for services pertaining to the preparation of the Plan and securing approval of the Plan from the US Environmental Protection Agency and the Pennsylvania Department of Environmental Protection.

**Section 8. Effective Date**

The Effective Date of this Ordinance shall be August 11, 2016

**ORDAINED AND ENACTED** by the Board of Commissioners of Abington Township, Montgomery County, Pennsylvania, this 11<sup>th</sup> day of August, 2016.

TOWNSHIP OF ABINGTON  
BOARD OF COMMISSIONERS

Attest:

Michael LeFevre  
Michael LeFevre, Secretary

By: Wayne C. Luker  
Wayne C. Luker, President

Ordinance No. 2124 – Old Welsh Road – Sanitary Sewer Project

Commissioner Hecker made a MOTION, seconded by Commissioner Farren to advertise Ordinance No. 2124 adding 1908 Paper Mill Road to the Old Welsh Road Sanitary Sewer District.

Commissioner Luker asked for any comments from Commissioners or staff. There were none.

Commissioner Luker asked for any public comments. There were none.

MOTION was ADOPTED 14-0.

LED Traffic Signal Bulbs

Commissioner Hecker made a MOTION, seconded by Commissioner Farren to accept the lowest responsible bid and enter into a contract with General Traffic Equipment for the purchase of LED Bulbs as per bid specifications.

Commissioner Luker asked for any comments from Commissioners or staff. There were none.

Commissioner Luker asked for any public comments. There were none.

MOTION was ADOPTED 14-0.

Resolution No. 16-026 – Automated Red Light Enforcement (ARLE) Agreement Authorization

Commissioner Hecker made a MOTION, seconded Commissioner Spiegelman to adopt Resolution No. 16-026 authorizing the Township Manager to enter into an Automated Red Light Enforcement (ARLE) project funding agreement.

Commissioner Luker asked for any comments from Commissioners or staff. There were none.

Commissioner Luker asked for any public comments.

Lora Lehmann, 1431 Bryant Lane, asked for the details of this item.

Manager LeFevre replied this is a grant received under this program approved by the Board last month and the grant program requires a resolution authorizing him to sign the documentation associated with it.

MOTION was ADOPTED 14-0.

RESOLUTION 16-026

**BE IT RESOLVED**, by authority of the Board of Commissioners of the Township of Abington, Montgomery County, does hereby designate Wayne C. Luker, President of the Board of Commissioners and Michael LeFevre, Township Manager, as the official(s) authorized and directed to sign the attached Automated Red Light Enforcement (ARLE) project funding agreement on its behalf.

ATTEST

Abington Township

*Michael LeFevre*  
Michael LeFevre  
Secretary

By: *Wayne C. Luker*  
Wayne C. Luker  
President,  
Board of Commissioners

(SEAL)

I, Wayne Luker, President, Board of Commissioners of the Township of Abington, do hereby certify that the foregoing is a true and correct copy of the Resolution adopted at a regular meeting of the Board of Commissioners of Abington Township held the 11<sup>th</sup> day of August, 2016.

DATE: August 8, 2016

*Wayne C. Luker*  
Wayne C. Luker  
President,  
Board of Commissioners



**CODE ENFORCEMENT AND LAND DEVELOPMENT COMMITTEE:**

**Subdivision SD-16-05-Patrick Deacon-2661 Mt. Carmel Avenue**

Commissioner Sanchez made a MOTION, seconded by Commissioner Kline to approve the subdivision application of Patrick Deacon, applicant of the property located at 2661 Mount Carmel Avenue, Abington Township. The applicant seeks approval to subdivide the property into two parcels. Lot No. 1 will contain the existing dwelling and is listed at 13,313 square feet. Proposed Lot No. 2 is plotted at 7,500 square feet and the existing barn is marked "To Be Removed." The properties are zoned in the (R-4) Residential District in Ward No. 6 of the Township of Abington. (This application was submitted as a preliminary as final plan; however, due to DEP requirements for either an approved Planning Module or an approved ACT 537 Exemption Application, this application will be reviewed for preliminary approval only.)

This motion is subject to the following conditions:

1. Sanitary sewer service is available for this development. However, flows from this property are through Cheltenham Township and requires their approval. An ACT 537 Exemption Application has been submitted and has been recommended for approval.
2. The items listed within the Staff Review letter dated July 13, 2016 are to be taken under consideration by the Board of Commissioners of the Township of Abington.
3. This recommendation is for preliminary plan approval only. If the Board of Commissioners elects to approve this application as a final plan, a condition must be added to address the Planning Module or ACT 537 Exemption Certificate that is required.

This motion is subject to the following waivers:

1. Waiver from Section 146-11.A – Property Identification Plan – The plan is required to supply the tax parcel information, owner's name and lot area for all properties within 400 feet of the site involved in this application. Staff supports this waiver.
2. Waiver from Section 146-11.B – Existing Features Plan – The plan is required to plot the location of all utilities on the sites and within 400 feet of the properties involved in this application. Staff supports this waiver.
3. Waiver from Section 146-11.C – Proposed Layout Plan – The plan is required to plot the location of all existing utilities, to include the size, type and depth of all existing improvements proposed to remain and be removed. Staff supports this waiver.

4. Waiver from Section 146-11.L – Architectural Plan – The applicant has submitted a rendering of the exterior finishes of the proposed alterations. Architectural plans have not been submitted at this time. Staff is in favor of this waiver.
5. Waiver from Section 146-39 – Street Trees – The applicant is required to plant one street tree five feet inside the front property line every 50 feet. Staff supports this waiver.

Commissioner Luker asked for any comments from Commissioners or staff.

Commissioner Sanchez questioned whether the applicant was present, in which the applicant was not, so he asked for further explanation from staff.

Mr. Penecale explained that the Board may wish to consider giving final approval of the plan in which Condition No. 3 – the recommendation is contingent upon the applicant receiving approval by DEP. The plan could be recorded and no permits could be issued until after the applicant receives their allotted EDU. Flows do go through Cheltenham Township, so that process would be about 60-90 days additional before being sent to DEP, and the applicant is aware of it.

The Board has two options; approve this as a preliminary plan and then following DEP approval, the plan goes back through the entire process again or the Board can adopt it as a final plan with the condition that the plan not be recorded until the applicant receives DEP approval.

Commissioner Gillespie clarified with Commissioner Kalinoski that he is in favor of this plan as it is in his ward.

Commissioner Kalinoski replied yes; Mr. Deacon is a reputable contractor.

Commissioner Sanchez noted there is a waiver request by the applicant for the planting of street trees, and unless there is a compelling reason not to plant a few trees within the property line, he would like to press for that. Also, there were recommendations from County Planner of the MCPC one of which was a suggestion of a crosswalk to enhance pedestrian safety including those who walk to Penbryn Park that is nearby.

Commissioner Luker questioned why the applicant was not present, and since the applicant is not present to answer questions, should the Board move forward with it.

Mr. Penecale replied the applicant was aware that this matter was on the agenda tonight, although he does not know why the applicant was not present this evening. The reason for waiver of street trees was due to the slope and retaining wall located on the front of the property and the issue with the crosswalk is that it would be at the Township's expense. This property does not have frontage on both of the streets to facilitate a crosswalk.

This is not a land development application where there would be additional public improvements required. It is a subdivision application relocating an existing lot line.

Commissioner Luker questioned whether the Board should vote on this item as these questions should have been addressed long before tonight.

Solicitor Clarke asked for the timeline for taking action on this application.

Mr. Penecale replied the application was submitted on June 23, 2016.

Solicitor Clarke recommended that the Board table this motion until the next committee meetings in September as there is time.

Commissioner Markman made a MOTION, seconded by Commissioner DiPlacido to TABLE the motion on the floor.

Commissioner Sanchez rescinded the motion on the floor.

MOTION to TABLE the MOTION on the floor – PASSED 14-0.

Ratification of Colonade (Old York LLC) Consent Order

Commissioner Sanchez made a MOTION, seconded by Commissioner Markman to ratify the August 1, 2016 decision of the Board of Commissioners to grant actual authority to the Township Solicitor to enter into a consent order submitted to the Honorable Richard P. Haaz in the matter of the Old York LLC vs. Abington Township, Montgomery County Court of Common Pleas Court, Docket Number 2016-11116.

Commissioner Luker called on Township Solicitor, Michael Clarke for an explanation for those who were in attendance this evening.

Solicitor Clarke explained that for the past several years there have been ongoing issues with the renovations being done at the property known as the Colonade.

Late April, early May of this year, a Federal lawsuit was filed against the Township regarding occupancy of the building, and shortly thereafter, the property owner filed a State-Court action seeking emergency declaratory relief from the Montgomery County Court of Common Pleas to permit occupancy of the building. Shortly thereafter, the Township filed a motion for an injunction seeking emergency relief in the Montgomery County Court of Common Pleas attempting to prevent occupancy in the building.

Prior to both lawsuits being filed, sometime in 2015, the Township retained two experts to aid his firm in dealing with issues with the Colonade and dealing with the Federal lawsuit and State-Court action that had originally been filed back in 2015. When the most recent actions had been filed, he consulted with experts and relied on their opinions regarding occupancy of the building and regarding a proposed timetable for certain improvements and upgrades.

Based on the expert's opinions, the building was safe for occupancy and that the timetable layout for certain upgrades and certain improvements were reasonable and that the building could be occupied.

Due to the fact that there was going to be a hearing before Judge Haaz, which was originally scheduled for the 16<sup>th</sup> of this month, at that point, the Township would need to submit our expert's opinion and also the Colonade was going to submit their experts' opinion, and it was his recommendation that in-lieu-of a judicial determination by the court regarding occupancy, that the Township enter into a consent order and that we lay out the timetables in this consent order. Essentially, when both parties enter an action, they consent to having a judge enter an order.

On August 1<sup>st</sup>, an Executive Session was held with the Commissioners and we discussed the issues relating to our expert's opinions and the possibility of entering into a consent order. At that time, he asked those Commissioners who were in attendance to give him the authority to go to Judge Haaz and indicate that the Township was agreeing to enter into this consent order. The majority of those Commissioners who were in attendance that evening gave him actual authority to go to Judge Haaz and ask him to execute this consent order. Judge Haaz entered the order on the 13<sup>th</sup> after both parties gave him their consent.

So what we are doing this evening is ratifying the actual authority that the majority of the Board gave him on that evening to have the court execute this consent order. It was his recommendation at that time to those who were present that all of the facts and circumstances and all of the issues that the Township is facing and based on our experts' reports that the proper course of action was to enter into this consent order.

It is still his opinion, and this is an order that if the Township did not enter into, Judge Haaz, based on our experts' reports and based on the experts' reports of the other side's witnesses, would have entered that order on the 16<sup>th</sup> of this month. He is recommending that the Board ratify the authority that was given to him on August 1, 2016.

Commissioner Luker asked for any comments from Commissioners.

Commissioner Myers offered an amendment to this motion that the Board rescind or reverse the consent order as there are compelling reasons for doing that.

Commissioner Luker questioned whether that is legally possible.

Solicitor Clarke replied it is appropriate for Commissioner Myers to say that she is opposed to this. There is a motion on the table and Commissioner Myers is making a motion now to not ratify the consent order.

Commissioner Kalinoski seconded the amended motion made by Commissioner Myers.

Solicitor Clarke clarified that now there is a motion and a second, so when the vote is called, there will be two options; however, essentially the Board will vote "yes" to ratify or "no" to ratify, so essentially it is the same motion.

Commissioner Myers said it is not the same motion. The original motion is to ratify the consent order and the consent order is already in progress. Her motion is to go back to the judge and rescind or reverse the consent order as she feels there are compelling reasons to do that. One being that the experts whose letters were submitted never, to her knowledge - she asked Fire Marshal Clark, to his knowledge, whether the experts ever entered the building?

Fire Marshal Clark replied on advice of counsel he has been advised not to make any comment about this issue.

Solicitor Clarke noted that was not advice that he gave to Fire Marshal Clark.

Commissioner Myers asked Manager LeFevre to his knowledge did the experts ever enter the building?

Manager LeFevre replied he has no knowledge of it, but he was not involved directly, so he has no way of knowing whether they were in the building or not.

Commissioner Myers asked if there is anyone who knows whether the experts entered the building.

There was no response.

Commissioner Myers said she will take that as a "no," and she feels the Township has compelling reasons to rescind or reverse this consent order.

Commissioner Sanchez commented that he does not know that the experts necessarily had to be in the building to make a determination if they had all of the facts in front of them.

Commissioner Myers said she does not know if the judge has all of the facts in front of him and she is sure that members of the Township's Fire Department would be happy to testify.

Commissioner Luker clarified that two motions cannot be on the floor at the same time. Is that correct?

Solicitor Clarke replied Commissioner Myers' motion is not to ratify the consent order as well as to seek having the court rescind it, so her motion is not timely at the moment as the Board needs to vote on the original motion to ratify the vote on the consent order. If that fails or not, and if Commissioner Myers wants to make the second motion to go to the judge to rescind the consent order, that would be timely at that point in time.

Commissioner Hecker asked Solicitor Clarke for his best legal opinion as to what would happen with the court should the Township move forward with an authorization to get this rescinded.

Solicitor Clarke replied the essence of a consent order is that both parties have consented to the entry of the order and that both parties have indicated to Judge Haaz that they agree to the entry of the order.

In order to rescind the consent order, it would have to be by both sides seeking to ask the judge to rescind the consent order. Due to the circumstances of what the Township has been through for over the last two or more years, he finds it highly unlikely that the other side would agree to rescind the consent order.

Commissioner Luker asked for any public comments.

Marlene Sellers, 1250 Greenwood Avenue, expressed concern that, as a former tenant of the Colonade Apartments, Old York LLC, and former President of Colonade Tenants Association, when we lived in the Colonade we had constant failure of all of the major systems such as failure of fire alarms; failure of safety equipment; failure of elevators, generators, electrical systems, and heaters, and those failures had the ability to constantly endanger our lives.

She urged that there shall be no future occupancy until all of the codes are in operation and enforced. She urged that we listen to the staff of volunteer fire department and staff of all of the other Township departments whose duty it is to protect us and insure our safety. She also urged that all of the land development and zoning codes of the Township be enforced.

Raymond Bell, 2076 Parkview Avenue, commented that he fully agrees with Commissioner Myers' observation, and if the Township gives authority to Township Solicitor to enter into a consent order and then tell the judge, "We want to change that," he feels that will be difficult. So he agrees with Commissioner Myers.

Lora Lehmann, 1431 Bryant Lane, commented that the consent order is another "MOU" and the "MOU" is what she believes is the cause of the lawsuits and all of the problems. This particular developer was not required to tell the Township what was needed and instead he argued with every code, every law, and then the two attorneys wrote something up that could not be enforced by code and by that document.

This property never ended up in land development and it should have and that is where the public gets to talk and everyone else gets to talk about the entire project and the codes have been "skirted." That is not acceptable and this Township should not go forward this way and it should have full scrutiny about what is going on and this property should "get itself to land development immediately."

Walter Draving, 1431 Bryant Lane, commented that after this is all said and done, it will be pretty tough for some future project to maintain in accordance with the code and fire regulations. "What are you going to say to them, that the last time when a big money person came to us, we caved and accepted whatever pittance we could get out of it."

Commissioner Myers requested that a roll call vote be taken.

Commissioner Kline recused himself from voting on this motion.

Roll Call vote was taken on the original motion as listed on the agenda as follows:

Commissioner Zappone was absent.

Commissioner Spiegelman voted yes.

Commissioner Sanchez voted yes.

Commissioner Rothman voted yes.

Commissioner Myers voted no.

Commissioner Markman voted yes.

Commissioner Schreiber voted yes.

Commissioner Bowman voted yes.

Commissioner DiPlacido voted yes.

Commissioner Farren voted no.

Commissioner Gillespie voted no.

Commissioner Hecker voted yes.

Commissioner Kalinoski voted no.

Commissioner Luker voted yes.

MOTION was ADOPTED 9-4.

Commissioner Luker questioned whether a vote on a second motion can be taken at this time or is it a mute point.

Solicitor Clarke replied he does not want to stop Commissioner Myers from making a motion, but essentially it is a mute point. The Board just voted to ratify giving him actual authority to enter into a consent order, but he does not want to tell Commissioner Myers that she cannot make a motion.

Commissioner Myers said her motion stands.

Commissioner Luker clarified that Commissioner Myers' motion was seconded by Commissioner Kalinoski. Is that correct?

Commissioner Kalinoski replied yes.

Commissioner Kline recused himself from voting on this motion.

Roll Call vote was taken on the amended motion made by Commissioner Myers, seconded by Commissioner Kalinoski to rescind or reverse the consent order as follows:

Commissioner Zappone was absent.

Commissioner Spiegelman voted no.

Commissioner Sanchez voted no.

Commissioner Rothman voted no.

Commissioner Myers voted yes.



Board of Commissioners Meeting

August 11, 2016

Commissioner Markman voted no.

Commissioner Schreiber voted no.

Commissioner Bowman voted no.

Commissioner DiPlacido voted no.

Commissioner Farren voted yes.

Commissioner Gillespie voted yes.

Commissioner Hecker voted no.

Commissioner Kalinoski voted yes.

Commissioner Luker voted no.

MOTION FAILED 4-9.

Manager LeFevre said Commissioner Zappone is out-of-state and could not be here this evening, and he asked that the minutes reflect that his vote is a “no,” which is in opposition of the consent order as discussed in Executive Session held on August 1<sup>st</sup>.

Commissioner Luker questioned whether Commissioner Zappone’s vote can be recorded.

Solicitor Clarke replied no. Commissioner Zappone’s vote cannot be recorded, although he understands that Commissioner Zappone’s vote is in opposition, but it does not change the vote.

Baederwood Residential Partners, L.P.

Commissioner Sanchez made a MOTION, seconded by Commissioner Kline to authorize the Township Solicitor to attend the Zoning Hearing Board meeting, as scheduled, in opposition to the application of Baederwood Residential Partners, L.P.

Commissioner Luker asked for any comments from Commissioners or staff. There were none.

Commissioner Luker asked for any public comments.

Lora Lehmann, 1431 Bryant Lane, asked for an explanation of the application.

Mr. Penecale replied that on Monday of this week, a Zoning Hearing Board application was filed that was an appeal to the actual zoning ordinance. Earlier this year, we received a conditional use application filed by Baederwood Partners, who are the developers of the residential tract that sits behind Baederwood Shopping Center. That conditional use application was reviewed and the application was found to be incomplete. A letter was forwarded to the applicant explaining what items the application was delinquent on and they appealed that letter to the Zoning Hearing Board.

The items contained in that letter will be brought before the Zoning Hearing Board and a decision will be rendered. If the decision is in the applicant's favor then we will move forward with the conditional use approval, and if not, then the applicant has the option to appeal to the Common Pleas Court.

This motion before the Board is that one or more of the Commissioners has elected to solicit their approval to have the Township Solicitor attend those Zoning Hearing Board meetings in opposition to the application.

Solicitor Clarke added that review of the ordinance and the relief requested by the applicant is significant from the TOD (Transit-Oriented Development) ordinance. There are certain requirements that if they develop the back-portions of this property, there are requirements for the front parcels. The applicant believes they are not required to adhere to those requirements of the ordinance. Township staff believes they are and there is a question regarding egress/ingress for firefighting equipment and there is an issue regarding steep slope.

Overall, there are a tremendous amount of variances the applicant is seeking and there have been several meetings with the applicant to discuss it; however, the applicant does not believe they need to do anything with the front parcel and Township staff believes that they do.

He will appear at the Zoning Hearing Board meeting in opposition of the application and in support of the determination made by the Township's Planning & Zoning Official.

Ms. Lehmann questioned whether these documents can be found online.

Mr. Penecale replied no, the application just came in and has not been posted on line yet, but he directed the speaker to file a "Right To Know" request through the Township Manager's Office.

Commissioner Kline clarified that the Zoning Hearing Board meeting will be held on September 20, 2016. Is that correct?

Mr. Penecale replied that is correct.

MOTION was ADOPTED 14-0.

**PUBLIC SAFETY COMMITTEE:**

Ordinance No. 2121 – To Amend Chapter 156 “Vehicles and Traffic” Article II “Traffic Regulations” Section 14 “Stop Intersection” and Article III “Parking Regulations” Section 25 “Parking Prohibited At All Times; No Parking Between Signs; No Parking Here To Corner; Parking Prohibited Except Certain Hours; No Stopping Or Standing”

Commissioner Schreiber made a MOTION, seconded by Commissioner Kalinoski to adopt Ordinance No. 2121 amending Chapter 156 “Vehicles and Traffic” Article II “Traffic Regulations” Section 14 “Stop Intersection” and Article III “Parking Regulations” Section 25 “Parking Prohibited At All Times; No Parking Between Signs; No Parking Here To Corner; Parking Prohibited Except Certain Hours; No Stopping Or Standing.”

Commissioner Luker asked for any comments from Commissioners or staff. There were none.

Commissioner Luker asked for any public comments. There were none.

MOTION was ADOPTED 14-0.

**TOWNSHIP OF ABINGTON  
MONTGOMERY COUNTY, PENNSYLVANIA**

**ORDINANCE NO. 2121**

**AN ORDINANCE AMENDING CHAPTER 156 – “VEHICLES AND TRAFFIC,”  
ARTICLE II – “TRAFFIC REGULATIONS”  
SECTION 14 – “STOP INTERSECTIONS”  
ARTICLE III – “PARKING REGULATIONS”  
SECTION 25 – “PARKING PROHIBITED AT ALL TIMES; NO PARKING BETWEEN  
SIGNS; NO PARKING HERE TO CORNER; PARKING PROHIBITED EXCEPT  
CERTAIN HOURS; NO STOPPING OR STANDING”**

**WHEREAS**, the Township of Abington is a Township of the First Class, duly organized and existing pursuant to the applicable laws of the Commonwealth of Pennsylvania; and

**WHEREAS**, pursuant to section 1502.44 of the First Class Township Code of the Commonwealth of Pennsylvania, 53 P.S. §56544, the Board of Commissioners has the authority to enact and amend provisions of the Abington Township Code (“Code”) at any time it deems necessary for the health, safety, morals, general welfare, cleanliness, beauty, convenience and comfort of the Township and the inhabitants thereof; and

**WHEREAS**, pursuant to section 1502.10 of the First Class Township Code of the Commonwealth of Pennsylvania, 53 P.S. §56510, the Board of Commissioners has the authority to take all needful means for securing the safety of persons or property within the Township; and

**WHEREAS**, pursuant to section 1502.49 of the First Class Township Code of the Commonwealth of Pennsylvania, 53 P.S. §56549, the Board of Commissioners has the authority to regulate parking; and

**WHEREAS**, the Board of Commissioners of the Township of Abington has determined that Chapter 156 – “Vehicles and Traffic,” Article II – “Traffic Regulations,” Section 14 “Stop Intersections” and Article III – “Parking Regulations,” and Section 25 “Parking Prohibited At

All Times; No Parking Between Signs; No Parking Here To Corner; Parking Prohibited Except Certain Hours; No Stopping Or Standing” should be amended for the health, safety, morals, general welfare, cleanliness, beauty, convenience and comfort of the Township and the inhabitants thereof.

**NOW, THEREFORE,** the Board of Commissioners of the Township of Abington does hereby **ENACT** and **ORDAIN** as follows:

1. Chapter 156 – “Vehicles and Traffic,” Article II – “Traffic Regulations,” Section 14 – “Stop Intersections,” shall be amended to **add** the following restrictions:

<b>Stop Sign On</b>	<b>Direction of Travel</b>	<b>At Intersection Of</b>
St. James Road	Southbound	Patane Avenue

2. Chapter 156 – “Vehicles and Traffic,” Article III, “Parking Regulations,” Section 25 – “Parking Prohibited At All Times; No Parking Between Signs; No Parking Here To Corner; Parking Prohibited Except Certain Hours,” shall be amended to **add** the following restrictions:

<b>Name of Highway</b>	<b>Side</b>	<b>Location</b>
Cleveland Avenue	East	30 feet south of Moreland Road
Los Angeles Avenue	West	30 feet north of the stop sign at Gibson Avenue

3. All other ordinances, portions of ordinances, or any section of the Code inconsistent with this Ordinance are hereby repealed.

4. This Ordinance shall become effective five (5) days after enactment.

ORDAINED AND ENACTED this 11<sup>th</sup> day of August, 2016.

TOWNSHIP OF ABINGTON  
BOARD OF COMMISSIONERS

Attest:

*Michael LeFevre*  
Michael LeFevre, Secretary

By: *Wayne C. Luker*  
Wayne Luker, President

Ordinance No. 2125 – To Amend Chapter 156 “Vehicles and Traffic” Article II “Traffic Regulations” Section 14 “Stop Intersections” and Article III “ Parking Regulations” Section 25 “ Parking At All Times’ No Parking Between Signs; No Parking Here To Corner; Parking Prohibited Except Certain Hours; No Stopping Or Standing” and Section 28 “Special Purpose Parking Zones”

Commissioner Schreiber made a MOTION, seconded by Commissioner Kalinoski to advertise Ordinance No. 2125 amending Chapter 156 “Vehicles and Traffic” Article II “Traffic Regulations” Section 14 “Stop Intersections” and Article III “ Parking Regulations” Section 25 “ Parking At All Times; No Parking Between Signs; No Parking Here To Corner; Parking Prohibited Except Certain Hours; No Stopping Or Standing” and Section 28 “Special Purpose Parking Zones” for adoption at the regularly scheduled meeting of the Board of Commissioners on September 8, 2016 at 7:30 p.m.

Commissioner Luker asked for any comments from Commissioners or staff. There were none.

Commissioner Luker asked for any public comments. There were none.

MOTION was ADOPTED 14-0.

**PUBLIC AFFAIRS COMMITTEE:**

Resolution No. 16-025 – Multimodal Transportation Fund Program

Commissioner Spiegelman made a MOTION, seconded by Commissioner Rothman to adopt Resolution No. 16-025 approving Abington Township to submit an application to the Commonwealth Financing Authority (CFA) for the Multimodal Transportation Fund Program. The grant submission will support Phase 2 of the Old York Road/Susquehanna Road project.

Commissioner Luker asked Commissioner Spiegelman to provide a brief explanation on this item.

Commissioner Spiegelman explained that in the not too distant future, there will be a full presentation made to the Board outlining and updating this project; however, this is a project to acquire properties located at Old York Road/Susquehanna and address demolition, alignment and reconstruction at this intersection. This grant covers the next phase of alignment further down Old York Road to create a straight road with wide, safe sidewalks.

He suggested that in the future the Board have a policy in regards to funding of grants in which all grants require a match. This item is to give permission to apply for the grant with no commitment of Township funds at this time.

Commissioner Markman added that these grant funds will be used to improve the intersection of Old York Road/Susquehanna that is consistent with the vision of the Old York Road Corridor study.

Commissioner Luker asked for any comments from Commissioners or staff. There were none.

Commissioner Luker asked for any public comments. There were none.

MOTION was ADOPTED 14-0.



**ABINGTON TOWNSHIP  
RESOLUTION NO. 16-025**

**A RESOLUTION OF ABINGTON TOWNSHIP,  
COUNTY OF MONTGOMERY, COMMONWEALTH OF PENNSYLVANIA,  
REQUESTING A MULTIMODAL TRANSPORTATION FUND GRANT AND  
DESIGNATING AN OFFICIAL TO EXECUTE ALL DOCUMENTS**

**WHEREAS**, the Board of Commissioners of the Township of Abington desires to request a Multimodal Transportation Fund Grant in the amount of \$2,897,070.00, from the Commonwealth Financing Authority; and

**WHEREAS**, the Board of Commissioners of the Township of Abington intends to use the grant funds for the purpose of purchasing 1114, 1116, 1120 and 1124 Old York Road, Abington Township, Montgomery County, Pennsylvania, in order to support the vision of the Old York Road / Susquehanna Road project, which will address the demolition, alignment and reconstruction of the intersection of Old York Road and Susquehanna Road, enhance traffic flow, and provide better access in turning onto Old York Road; and

**WHEREAS**, the Board of Commissioners of the Township of Abington acknowledges that any grant awarded will require a 30% match; and

**WHEREAS**, the Board of Commissioners of the Township of Abington desires to designate an official to execute all necessary agreements and documentation related to the grant.

**NOW, THEREFORE, BE IT RESOLVED**, that the Board of Commissioners of the Township of Abington, Montgomery County does hereby request a Multimodal Transportation Fund grant of \$2,897,070.00 from the Commonwealth Financing Agency to be used for the purpose of purchasing 1114, 1116, 1120 and 1124 Old York Road, Abington Township, Montgomery County, Pennsylvania, as well as the demolition, alignment and reconstruction of the intersection of Old York Road and Susquehanna Road.

RESOLUTION NO. 16-025

**BE IT FURTHER RESOLVED**, that the Board of Commissioners of Abington township does hereby designate Wayne C. Luker, President of the Board of Commissioners and Michael LeFevre, Township Manager, as the official(s) authorized to execute all documents and agreements between the Township of Abington and the Commonwealth Financing Authority to facilitate and assist in obtaining the requested grant.

**RESOLVED** and **ADOPTED** this 11<sup>th</sup> day of August, 2016.

**ABINGTON TOWNSHIP**

Wayne C. Luker  
Wayne C. Luker, President  
Board of Commissioners

I, Michael LeFevre, duly qualified Secretary of the Township of Abington, Montgomery County, Pennsylvania, hereby certify that the foregoing is a true and correct copy of a Resolution duly adopted by a majority vote of the Board of Commissioners at a regular meeting held on August 11, 2016 and said Resolution has been recorded in the minutes of the Township of Abington and remains in effect as of this date.

**IN WITNESS WHEREOF**, I affix my hand and attach the seal of the Township of Abington this 11<sup>th</sup> day of August, 2016.

Michael LeFevre  
Michael LeFevre, Secretary

Name of Applicant: Township of Abington

County: Montgomery

Ordinance No. 2123 – No Smoking in the Township Parks and Playgrounds

Commissioner Spiegelman made a MOTION, seconded by Commissioner Rothman to adopt Ordinance No. 2123, which prohibits smoking in Township Parks and Playgrounds.

Commissioner Luker asked for any comments from Commissioners or staff.

Commissioner Rothman thanked Township Solicitor for working with him on this as well as the support from his fellow Board members.

Commissioner Farren questioned whether this ordinance includes vaping.

Mr. Wendell replied yes.

Commissioner Sanchez added that the ordinance includes all forms of smokeless tobacco.

Commissioner Luker asked for any public comments.

Raymond Bell, 2076 Parkview Avenue, questioned whether this ordinance includes a fine up to \$600.

Commissioner Rothman replied citation fee is \$50 that can be paid in-lieu-of going to court; however, the court could impose a fine up to \$600.

MOTION was ADOPTED 14-0.

**ORDINANCE NO. 2123**  
**AN ORDINANCE OF THE TOWNSHIP OF ABINGTON, MONTGOMERY COUNTY,**  
**PENNSYLVANIA, AMENDING CHAPTER 115 – “PARKS, PLAYGROUNDS AND SCHOOL**  
**DISTRICT GROUNDS” AT**  
**SECTION 5 – “SMOKING”**

**WHEREAS**, Abington Township is a Township of the First Class, organized and operating in accordance with the laws of the Commonwealth of Pennsylvania, and

**WHEREAS**, pursuant to the First Class Township Code of the Commonwealth of Pennsylvania, the Board of Commissioners of Abington Township (“Board of Commissioners”) has the authority to enact and amend provisions of the Abington Township Code (the “Code”) at any time it deems proper; and

**WHEREAS**, the Board of Commissioners has determined that portions of Chapter 115 – “Parks, Playgrounds and School District Grounds,” at Section 5 – “Smoking” of the Code should be amended for the health, welfare, and safety of the residents of Abington Township.


**NOW, THEREFORE**, be it and it is hereby resolved as follows:

1. The Board of Commissioners hereby amends Chapter 115 at Section 5 – “Smoking,” which shall be amended to repeal the existing provisions and enact the provisions as set forth in Exhibit A hereto.
2. All other ordinances, portions of ordinances, or any section of the Code inconsistent with this Ordinance, are hereby repealed.
3. This Ordinance shall become effective five (5) days after enactment.

ORDAINED AND ENACTED this 11<sup>th</sup> day of August, 2016.

ATTEST:

TOWNSHIP OF ABINGTON  
BOARD OF COMMISSIONERS

  
\_\_\_\_\_  
Michael LeFevre, Secretary

By:   
\_\_\_\_\_  
Wayne C. Luker, President

Exhibit

§115-5

A. Definitions. As used in this Chapter, the following terms shall have the meanings indicated:

FIRE OFFICIAL. The Township Fire Marshal or his designee.

PROHIBITED AREAS. Any Township owned Park or playground area.

SMOKING. Includes possession of a lighted cigarette, cigar, pipe, e-cigarette, vaporizer or other lighted smoking instrument or smoking alternative.

TOBACCO USE. Includes smoking and the use of smokeless tobacco or tobacco products in any form, including tobacco substations.

B. Prohibited conduct. Smoking, including the use of smoking alternative products such as e-cigarettes, and tobacco use in any form is prohibited in the Prohibited Areas upon the posting of a no-smoking and/or no use of e-cigarette sign, and such use shall be unlawful and a violation of this article.

C. No-smoking signs.

1. The Fire Official is empowered to post no-smoking in and around all Prohibited Areas. The content, lettering, size, color and location of required no-smoking signs shall be subject to the approval of the Fire Official.

2. It shall be unlawful for any person to obscure, remove, deface, mutilate or destroy posted no-smoking signs.

D. Violations and penalties.

Any person who violates or permits a violation of this article shall be subject to a civil enforcement proceeding and, upon conviction, shall be sentenced to pay a civil penalty of not more than \$600, plus all court costs, including reasonable attorney's fees, incurred by the Township in the enforcement of this article. Any individual receiving a summary offense violation and/or citation (ticket) may settle the charge by delivering or sending to the Police Department of the Township of Abington, within 72 hours,

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the sum of \$50 and thus avoid further prosecution. In the event that the violation's payment is not made within the required time, the officer who wrote the summary offense violation and/or citation shall proceed by filing a citation charging the individual with the violation committed before the local District Justice. Each day a violation exists shall constitute a separate offense. Further, the appropriate officers or agents of the Township are hereby authorized to file a complaint for summary violation and seek any other available relief at law or equity, including injunction, to enforce compliance with this article.

Crestmont and Penbryn Pools Feasibility Study – Consultant Approval

Commissioner Spiegelman made a MOTION, seconded by Commissioner Sanchez to approve KMS Design Group as the Consultant for the Crestmont and Penbryn Pools Feasibility Study.

Commissioner Luker asked for any comments from Commissioners or staff.

Commissioner Kline asked for an update on this item.

Mr. Wendell replied reps of five companies attended the pre-bid meeting and only three submitted proposals. Out of those three, KMS was chosen because of their experience working with the different components and their bid was the least expensive out of the three.

Commissioner Kline asked for the timeframe of the project. Also, was this partially funded from a grant received, and as part of their scope of work, a cost analysis will be provided. Is that correct?

Mr. Wendell replied the project will be no more than 12 months, but it should be done sooner. It was partially funded from a grant received and their scope of work was very comprehensive including recommendations for improvements to existing facilities. A cost analysis will be provided on facilities in the area as well as recommendations on efficiency in operation of those facilities.

Commissioner Luker asked for any public comments. There were none.

MOTION was ADOPTED 14-0.

Shade Tree Commission – TD Foundation Grant

Commissioner Spiegelman made a MOTION, seconded by Commissioner Gillespie to accept a TD Foundation contribution in the amount of \$2,500.00.

Commissioner Luker asked for any comments from Commissioners or staff. There were none.

Commissioner Luker asked for any public comments. There were none.

MOTION was ADOPTED 14-0.

**FINANCE COMMITTEE:**

Township Treasurer's Report:

Township Treasurer Jay W. Blumenthal reported for the month of July 2016, monies received from various departments deposited into Republic Bank totaled \$1,587,263 representing an increase over prior year in the amount of \$320,269; YTD \$51,477,955 representing an increase over prior year in the amount of \$6,311,892.

Real Estate Taxes collected for the month of July 2016 was in the amount of \$101,535 representing an increase in the amount of \$22,752; YTD \$25,690,881 with a balance to be collected in the amount of \$1,072,301. 96% has been collected leaving a balance of 4%.

Expenditures/Salaries and Wages

Motion to:

- (A) Approve the June expenditures as previously circulated to the Board, in the amount of \$2,766,012.16 and salaries and wages in the amount of \$1,830,418.62.
- (B) Authorize the proper officials to sign vouchers in payment of bills and contracts as they mature through the month of September 2016.

Commissioner Luker asked for any comments from Commissioners or staff. There were none.

Commissioner Luker asked for any public comments. There were none.

Roll call resulted in motion being passed 14-0. Commissioner Zappone was absent during roll call.

Training and Conference Expenses

Commissioner Kline made a MOTION, seconded by Commissioner Farren to approve the Advance and Travel Expense activity for June 2016 as previously circulated to the Board. Advance and Travel Expense reports were \$0.00 and \$3,465.00, respectively.

Six-month expenses totaled \$23,708.09.

Commissioner Luker asked for any comments from Commissioners or staff. There were none.

Commissioner Luker asked for any public comments. There were none.  
MOTION was ADOPTED 14-0.



Clearing Fund/Deferred Revenue and Expense/Petty Cash

Commissioner Kline made a MOTION, seconded by Commissioner Hecker to approve the Clearing Fund, the Deferred Revenue/Expense activity and Petty Cash balances for the month of June as previously circulated to the Board.

Clearing fund receipts and disbursements for the month of June 2016 were \$1,215.11 and (\$0.00), respectively.

Deferred Revenue/Expense receipts and disbursements for the month of June 2016 were \$35.00 and (\$10.00), respectively.

Commissioner Luker asked for any comments from Commissioners or staff. There were none.

Commissioner Luker asked for any public comments.

Lora Lehmann, 1431 Bryant Lane, questioned whether Colonade expenses are coming from petty cash.

Manager LeFevre replied legal fees associated with the Colonade are taken from administrative budget under legal fees.

MOTION was ADOPTED 14-0.

Funding for Legal Fees

Commissioner Hecker made a MOTION, seconded by Commissioner Sanchez to appropriate \$100,000.00 from Fund Balance for legal fees.

Commissioner Luker asked for any comments from Commissioners or staff.

Commissioner Hecker said Finance Director provided the Finance Committee with the legal fees to-date as 71% for Police Arbitration; 26% for activities related to the Colonade; and 3% miscellaneous for other items.

Finance Director Barron replied that is correct.

Commissioner Sanchez clarified that \$105,000 was budgeted for the year to begin with. Is that correct?

Commissioner Hecker replied that is correct.

Commissioner Luker asked for any public comments.

Lora Lehmann, 1431 Bryant Lane, commented that she feels the legal fees were largely caused by the writing of the MOU, and she is opposed to this motion.

Commissioner Kline recused himself from voting on this item.

MOTION was ADOPTED 13-0.

**COMMENTS FROM CITIZENS:**

Lora Lehmann, 1431 Bryant Lane, expressed concern about the approval of the consent order relating to the Colonade.

**REMARKS OF COMMISSIONERS:**

Commissioner Bowman thanked all the members of the Roslyn Valley Business Association for their efforts in beautifying Roslyn's field with the lighting program.

Commissioner DiPlacido announced the Angels in Motion will be having another Blessing Bags event on Friday, August 12<sup>th</sup> from 7-9 p.m. at the McKinley Fire House.

Also, "while driving through Abington Township, please drive like your kids lives here."

Commissioner Farren thanked Township staff for their help these past few weeks. He reminded everyone that school begins again soon and asked for everyone to get their children acclimated to the new schedule and remind your students this is an opportunity to grab their education and seize this opportunity to improve their lives with their experiences and relationships.

Commissioner Gillespie thanked the Fire Chiefs who attended this evening as well as all of the volunteer firefighters as we are so lucky to have them and we are so proud of them.

Commissioner Hecker congratulated all those who were involved with the Pre-Night Out event in Ward 10 as it was a spectacular evening and a special thanks to Dave Rondinelli, who organized the activities.

Commissioner Kalinoski announced that the American Legion Post 248 of Glenside is now moving their meetings to the North Penn VFW in Glenside.

Commissioner Sanchez thanked Deputy Chief Livingood and his staff on behalf of himself and Commissioners DiPlacido and Rothman for hosting a meeting on crime in the neighborhood at the McKinley Fire House.

Commissioner Rothman echoed sentiments made by Commissioner Sanchez. Also, the Iron Hill Brewery is now open; he does not know when Crunch Fitness will be opening and he does not know when the China Wok will be back.

Commissioner Myers said she hopes that a lesson was learned tonight for anyone that is considering moving into a multi-floor unit of any kind whether rental/buy and she really hopes they do their due diligence and ask about the fire protection in the building they would be moving into.

President Luker thanked Deputy Chief Livingood and echoed comments made by Commissioner Hecker as the Pre-Night Out event on crime was well done and he also thanked those Commissioners who collaborated on it.

**ADJOURNMENT:** 9:00 p.m.

Respectfully submitted,

Michael LeFevre, Township Manager

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*Approved  
September 8, 2016*