
MINUTES

JUNE 19, 2023
Special Public Meeting

Board of Commissioners

Township of Whitehall

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, June 19, 2023 held at the Whitehall Township Public Meeting Room, with the following in attendance:

COMMISSIONERS

Joseph J. Marx, Jr., President
Philip J. Ginder, Vice President
Thomas Slonaker, Secretary
Jeffrey J. Warren
Charles G. Fisher
Randy Atiyeh
Andy Roman (Absent)

TOWNSHIP PERSONNEL

Michael P. Harakal, Jr., Mayor
John D. Meyers, Deputy Mayor
Jack Gross, Esq., Township Solicitor
Larissa Bruder, Executive Secretary

The meeting was formally opened with the Pledge of Allegiance to the Flag and a moment of silence will follow to honor our men and women in uniform, our first responders and the people of Ukraine.

President MARX read the statement on fair housing as required.

President MARX announced that due to procedural issues, the agenda will be rearranged, starting with hearing and voting on resolutions, followed by the ordinance and courtesy of the floor will be managed as the meeting proceeds.

B. PUBLIC HEARING AND VOTING ON RESOLUTIONS

1. RESOLUTION NO. 3266

TITLE: RESOLUTION ACKNOWLEDGING THE MUNICIPAL PARTNERSHIP BETWEEN THE COUNTY OF LEHIGH AND THE TOWNSHIP OF WHITEHALL FOR THE PURCHASE OF AGRICULTURAL CONSERVATION EASEMENTS IN 2023-2024, SPECIFICALLY THE WEINHOFFER FARM FARMLAND PRESERVATION EASEMENT

President MARX read Resolution No. 3266 to the Board

At this time Donna Wright from the Lehigh County Farmland Preservation explained the reason for having a special meeting was due to not being able to meet advertising deadlines for the Board's regular meeting on June 12, 2023. She then proceeded to explain that an Agricultural Security Area (ASA) can be established in places where agriculture is the primary

land use by farmland owners in cooperation with local governments. Participating farms and landowners benefit from local and state programs and policies that help to protect farmland and maintain the viability of agricultural businesses. The ASA program was started in 1981 with the passage of Act 43. Landowners who have their farmland enrolled in an ASA of at least 500 acres are eligible to apply to preserve their farms by selling agricultural conservation easements to the Commonwealth and/or Lehigh County, which is the basis of what is trying to be accomplished this evening. Since North Whitehall already has an established ASA and this property adjoins North Whitehall, Whitehall Township can piggyback with North Whitehall.

Agricultural Conservation Easement is a legal restriction on land development that limits all future uses of the land to agriculture. Qualifying farmland owners can apply to sell perpetual conservation easement to the Commonwealth of Pennsylvania, Lehigh County and to local municipalities. The following is minimum criteria for properties to be eligible:

- farmland must be located in an agricultural security area consisting of 500 acres or more
- have contiguous acreage of at least 35 acres or be at least 10 acres and adjoin a property that is preserved with a perpetual conservation easement
- have at least 50% of soils which are available for agricultural production and are of capability classes and this property has been determined to have class 1 soil which is the richest soil for farming
- contain the greater of 50% or 10 acres of harvested cropland, pasture and grazing land

Local governments are not permitted to enact laws or nuisance ordinances that will unreasonably restrict farm structures and farm practices within their ASAs.

It is also more difficult for local and state governments to take land in ASAs by eminent domain for schools, parks, highway and other public uses. Unless a landowner has chosen to preserve their farm with an agricultural conservation easement, ASA does not add any restrictions to the use of the property.

Lehigh County is offering approximately \$900,000 and \$375,000 coming from the Township. Mr. Weinhofer has already purchased the property which is adjacent to land already owned by him.

Jack Weinhofer of 4547 Spruce Street is concerned about preserving what is left of open space in the Township. This property would be difficult to develop as 95 acres of the 155 is tillable land and Donna Wright noted again that this land has been tested and found to have class 1 soil which is the best for farming.

Ken Snyder of 4272 Abigail Lane was thankful for the information that was provided to him on this matter. He then stated the following:

- This property is under Act 319 which the Township receives \$450 in taxes for the whole parcel which is not revenue producing for the Township.
- Based on the appraisal, the value of the easement is \$923,000 and with the County contribution being \$930,000, with the Township's proposed contribution, we would be overpaying. Ms. Wright explained that there was a 12 acre parcel that was not included in the appraisal.
- His opinion is that the Township is being asked supplement the Weinhofer business. The Township has over 525 acres that is in the process of being determined what should happen with it and instead of \$375,000 being spent on a right to preserve land that isn't the Township's, he feels that money should be invested in land the Township owns. This matter should be handled through a referendum where the Township residents would

- decide, which is how many other municipalities handle this type of issue.
- Mr. Snyder clarified that the County and the State Dept of Agriculture control what can be done on this property. It was also clarified that the easement is permanent once the land is preserved and cannot be removed from the Ag Security Area. Commissioner Warren noted that the program was previously known as the Green Futures Fund and was also previously approved by referendum by over 75% of Whitehall tax payers who paid into that fund that is no longer benefitting the Township but has been revamped to benefit the whole County.
 - Lastly, Mr. Snyder noted that there is little land to develop higher-end homes that are quickly becoming more sought after and would provide a lot more tax revenue.

Grant Weinhofer of Northampton. He is Jack Weinhofer's son and has been farming land with his family all his life. He lived in Whitehall growing up and moved to Northampton before all the warehouses were built there and does not want to see Whitehall lose this opportunity to preserve one of the last pieces of farmland.

Karen Poshefko of 3303 Musselman Court commented that farming was a big part of Whitehall's culture and we are slowly losing that as there is very little farmland left. She noted it helps with climate change mitigation, stormwater and it shouldn't be left to the County to contribute all the funds when this will benefit the Township. She feels it is prudent to act on this situation now.

George Makhoul of 4314 Abigail Lane verified that if this land was eventually sold for a profit, the Township would not get any funds returned. Also noted was that County would still offer their monies if the Township does not, so the land can still be preserved. He would prefer to see this as a referendum. The Township is losing opportunity to develop property for additional tax income. The Township is also losing money to tax appeals from businesses.

President MARX questioned if the Township would receive MS4 credits for preserving the land. Deputy Mayor MEYERS noted that there would be no credits as the land is remaining as is.

Deb Rosene of 4408 N. Church Street noted that residents already decided it was needed and disagrees that we don't need additional homes, we need to preserve what remaining farmland is left.

Ribello Bertoni of 4450 Sanibel Drive is in favor of the proposal as it will be good for the community to have a mixture of uses. When the Northern Tier Open Space Study was compiled, a community survey was done and 57% agreed on preserving open space with taxing themselves.

Bill Fonzone of 2634 Sean Drive he believes that \$375,000 from the Township is needed elsewhere in the community. The Weinhofer's can still proceed without Township funds.

Craig Snyder of 2629 Augusta Drive noted the possibility of the property owner subdividing a lot (which is allowed) and building a large home and selling it for a large profit, which the Township nor the County would see any of the initial funds returned.

Lisa Weinhofer of 4547 Spruce Street stated that she and her family have been farming all their lives and that is what their intention is to continue to do. They are not interested in making money, only to preserve the little farmland that is left in the Township.

Phyllis Ward of 4613 Main Street is in favor of the proposal as the Egypt section has rich soil for farming and where will we get our food from if there is no more farmland. This area has been overly developed with residential districts which has increased traffic tremendously. The Township will need to add more police and fire personnel as well as teachers if more land is developed.

Rob Piligian of 415 Oakwood Drive is concerned on how the Lafarge fund is going to be repaid. Commissioner WARREN commented that he would propose to utilize funds from the sale of Township land of over \$500,000 and compared it to the way funds were obtained for the Public Safety Building, by utilizing the Lafarge fund until grant money came through.

Commissioner GINDER explained that the LaFarge fund was only to be utilized for emergency reasons. As he understand the situation and finds it commendable what the Weinhofer's are wanting to do, he feels that open space can be also defined in many ways, not only as a farm, but space that a municipality buys that will always remain open space for the use of the residents.

Commissioner WARREN added that during the pandemic, budgeted recreation monies were not utilized and there were hundreds of thousands of dollars that were not spent.

Anthony Kopeck of 3763 Dogwood Drive commented no farms, no food. He asked for an explanation of the Lafarge Fund. Commissioner GINDER explained that when the new quarry on Church Street was opened, Bridge Street was moved for full access to quarry. Value of the stone/mineral under existing Bridge Street was set at a million dollars which is now known at LaFarge Fund. The Township was behind on public works replacing of equipment. Interest on that money was utilized to pay for equipment that was desperately needed. It was understood that this fund was not used as "candy" money. Commissioner SLONAKER added over time that fund was used to get projects started, knowing that it was going to be reimbursed promptly, and its where "emergency" usage of the fund came from.

Ken Snyder of 4272 Abigail Lane noted he doesn't understand the statement in the resolution to utilize the LaFarge Fund for money, that it will "eliminate future maintenance responsibilities". Attorney GROSS advised that it was put in as he understood that by preserving the property it would eliminate maintenance of roads and other assets in the area. It is not fundamental to the ordinance, it can be removed.

Jack Weinhofer of 4547 Spruce Street wanted to note that he is currently paying \$14,000 interest payments and even after receiving the County and Township dollars proposed, he will still be paying \$7,000. He also stated that he will approximately make \$35,000 in profit once he farms. He's doing this not to make money but because he cares.

President MARX stated that at this time he is taking suggestions on the mechanism to pay back the money.

Commissioner WARREN noted as he previously suggested utilizing funds from the sale of Township property. Deputy Mayor MEYERS advised that in the capital budget there is a million dollars in sales of fixed assets that includes the Columbia and Lehigh Street properties, but those monies have been earmarked for storm sewer projects and others listed in the capital reserve fund.

Commissioner GINDER is concerned if capital funds are utilized then how will the Township

fund what is coming at us in the next few years - for instance, a recreation building for the rec crew since they are not utilizing the barn for work space, along with money needs to be put into the playgrounds. We also need to realize that at any time an emergency could arise where those funds will need to be utilized.

Donna Wright commented that settlement will not be till December and a payment could also be made in 2024 if that would help the Township with budgetary decisions.

Commissioner WARREN moved to approve Resolution No. 3266, seconded by Commissioner GINDER

SIX Commissioners were present 3 voting “yes” (Fisher, Warren, Slonaker) and 3 voting “no” (Ginder, Atiyeh, Marx). Resolution No. 3266 was defeated.

President MARX commented that the reason he voted no is that there was no time to figure out how to payback the money to the LaFarge Fund. He suggested that with the upcoming budget season around the corner, discussions can be held with the administration to see if there is a way to figure out repayment. In the mean time, as Donna Wright stated previously, the County will still provide their monies and hopefully the Township can come up the apparatus to move this proposal forward.

Donna Wright encouraged the Board to act on Resolution No. 3267 since that authorizes the security area and does not require any financing. She also noted that she has the ability to encumber the County funds for the Weinhofers for payment in 2024 so that will give the Township time to discuss this during the budget season. She also noted that they are grateful for the proposed \$375,000 and if something less is more feasible she’d like to see this work in some fashion.

2. RESOLUTION NO. 3267

TITLE: RESOLUTION ACKNOWLEDGING THE ACCEPTANCE OF WHITEHALL TOWNSHIP LANDS TO BE PART OF THE AGRICULTURAL SECURITY AREA IN NORTH WHITEHALL TOWNSHIP PURSUANT OT PROVISIONS OF PENNSYLVANIA’S AGRICULTURAL AREA SECURITY LAW, 3 PA.C.S.A. SECTION 901 ET SEQ.

President MARX read Resolution No. 3267 to the Board

Commissioner WARREN moved to approve, seconded by Commissioner FISHER

SIX Commissioners were present and voting “yes”. Resolution No. 3267 was approved.

*At this time - BILL NO. 25-2023

TITLE: AN ORDINANCE AUTHORIZING A LOAN FROM THE LAFARGE FUND FOR THE ACCEPTANCE OF THE WEINHOFER FARM FARMLAND PRESERVATION EASEMENT

This item was tabled.

3. RESOLUTION NO. 3268

TITLE: A RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH THE

PENNSYLVANIA COMMONWEALTH FINANCING AUTHORITY FOR ACCEPTANCE
OF A WATERSHED RESTORATION AND PROTECTION PROGRAM GRANT (WRPP).

President MARX read Resolution No. 3268 to the Board

Commissioner WARREN moved to approve, seconded by Commissioner SLONAKER

Commissioner WARREN stated that he did not see the map when this was proposed and is hoping that an accessible area will be maintained for the public.

SIX Commissioners were present and voting “yes”. Resolution No. 3268 was approved.

E. **ADJOURNMENT**

MOTION – Commissioner FISHER moved, seconded by Commissioner ATIYEH to adjourn the meeting at 10:00 p.m.