

August 19, 2015
Curtis Hall

A regular meeting of the **BOARD OF COMMISSIONERS** was held this evening, President Harvey Portner presiding. Members present were Commissioners Holland, McKeown, Norris, Rappoport, Sharkey and Simon.

Staff present were Charlyn Battle, Human Resources Director; Christopher Clewell, Public Works Superintendent; Alyson Elliott, Assistant Township Manager; Michael Fleming, Public Works Coordinator; Nancy Gibson, Public Information Officer; Joseph O'Neill, Fire Marshal; Bruce Rangnow, Director of Fiscal Affairs; Henry Sekawungu, Director of Planning and Zoning; Lt. John Weed; and Bryan T. Havir, Township Manager. Also present was Joseph M. Bagley, Esq., Township Solicitor. A Public Attendance List is attached.

1. The meeting commenced at 7:30 p.m. with the Pledge of Allegiance being led by Commissioner McKeown.
2. Each member having received a copy of the Commissioners' Regular Meeting Minutes dated July 15, 2015, upon motion of Mr. McKeown, the Minutes were unanimously approved by the Board of Commissioners.
3. Each member having received a copy of the Executive Summary Financial Report of the Manager/Secretary for the month of July, 2015, upon motion of Mr. McKeown, the Report was unanimously approved by the Board of Commissioners.
4. Each member having received a copy of the Accounts Paid Report for the month of July, 2015, upon motion of Mr. McKeown, the Report was unanimously approved by the Board of Commissioners.
5. Review of the Public Works Committee Minutes dated August 12, 2015:
 - a. Upon motion of Mr. Sharkey, the Board of Commissioners unanimously approved Cheltenham Township Development Application #15-08, Cheltenham Mall, 2385 W. Cheltenham Avenue, Philadelphia, PA 19150 for the proposed preliminary/final subdivision plan of the existing 53.7 acre lot, Units 10, 43 & 44 of Block 160, into seven (7) separate lots encompassing existing uses, subject to all conditions, notes, and waivers.
 - b. Upon motion of Mr. Sharkey, the Board of Commissioners unanimously awarded a Contract for Demolition and Removal of Homes located at 225, 227, 229 and 231 Bickley Road, Glenside, and 101 Rices Mill Road, Wyncote, to BRB Contractors of King of Prussia in the amount of \$108,800.00, being the lowest responsible bidder meeting Township specifications and being within budgetary limitations.

c. Upon motion of Mr. Portner, unanimously approved by the Committee, it was recommended that the Board of Commissioners reject the original bid submitted by All Seasons Landscaping in the amount of \$357,577.55 for the High School Park Phase II Development Project due to the contractor being the sole bidder with a higher than projected budgeted bid.

d. The rebidding of the High School Park Phase II Development Project was discussed. Ms. Rappoport suggested amending the the rebid to include that there be no change order and that the consultant charge no additional funds for the rebid since the initial bid was inadequately formulated. Discussion ensued. Mr. Simon doubted that the legal standing the Township would have in doing so especially if the consultant claimed he acted in good faith and cannot control what the contractors do. Ms. Rappoport believed that the consultant was being hired for their expertise. Mr. Havir stated that Staff will need to go back to the consultant and rewrite the technical specifications in the bid documents. Mr. Holland believed that that consultant should rewrite the bid at no additional cost.

Upon motion of Mr. Sharkey, the Board of Commissioners unanimously approved the rebid for the High School Park Phase II Development Project after the consultant and Township Staff modify the scope of work in the bid document and that this be done at no additional cost to the Township by the consultant.

e. Upon motion of Mr. Sharkey, the Board of Commissioners unanimously awarded a Professional Services Contract in the amount of \$10,550.00 to BAU Architecture for architectural design services and project oversight for the Elkins Park Library Restroom Facilities Upgrade Project.

f. Upon motion of Mr. Sharkey, the Board of Commissioners unanimously received the Public Works Committee Regular Meeting Minutes dated August 12, 2015.

6. Review of the Public Safety Committee Minutes dated August 5, 2015:

a. Upon motion of Sharkey, the Board of Commissioners unanimously adopted **Ordinance No. 2310-15** amending Chapter 285 of the Traffic Code entitled "Vehicles and Traffic" (see attached).

b. Upon motion of Mr. Sharkey, the Board of Commissioners unanimously received the Public Safety Committee Regular Meeting Minutes dated August 5, 2015.

7. Upon motion of Mr. Simon, the Board of Commissioners unanimously received the Building and Zoning Committee Regular Meeting Minutes dated August 5, 2015.

8. Review of the Public Affairs Committee Minutes dated August 5, 2015:

a. Upon motion of Mr. McKeown, the Board of Commissioners unanimously adopted **Ordinance No. 2311-15** amending the Personnel Code for Salaried Employees (see attached).

b. Upon motion of Mr. McKeown, the Board of Commissioners unanimously received the Public Affairs Committee Regular Meeting Minutes dated August 5, 2015.

9. Review of the Pension Board Minutes dated August 7, 2015:

a. Upon motion of Mr. Simon, the Board of Commissioners unanimously adopted **Ordinance No. 2312-15** amending the Pension Plan for Salaried Employees (see attached).

Mr. Simon noted that said Ordinance brings the pension plan for salaried employees into compliance with the Collective Bargaining Agreement reached with the Salaried Employees Association.

b. Upon motion of Mr. Simon, the Board of Commissioners unanimously received the Pension Board Regular Meeting Minutes dated August 7, 2015.

10. Under Old Business: The Commissioners considered the request for a waiver of costs related to curb and sidewalk replacement by Dorothy Stone, 221 Maple Avenue, Wyncote. This was a continuation of discussion held on this matter at the Public Works Committee meeting on August 12, 2015.

Mr. Havar reviewed the request for a waiver by property owner Dorothy Stone and Staff's review of the documentation and photos provided by Ms. Stone. Township records indicated that the prior Township Manager assisted in reaching an amicable arrangement to replace sections of broken curb and sidewalk along Ms. Stone's property in 2009 from the contractor that completed the Maple Avenue roadway reconstruction project. This was done after Ms. Stone brought this matter to the Township's attention. The contractor reimbursed the Township for a portion of the work, and Ms. Stone signed a release waiver. Additionally, Staff investigated police records and did not find any complaints filed about Township vehicles jumping curbs and sidewalks nor are there any documents on file with the Public Works Department and Administration from Ms. Stone complaining of such. Since Ms. Stone lives across from the Phoebe Church Home, it could be possible that vehicles from that facility are causing the damage. Mr. Havar stated that Ms. Stone's photos are not dated and do not show any Township vehicles in view. The tire/tread marks shown in the photos are difficult to distinguish and it cannot be ascertained whether or not they are from Township vehicles. It is Staff's opinion that there is no conclusive evidence that the Township is responsible for any damage to Ms. Stone's curb and sidewalk. Mr. Havar reported that all of the other Maple Avenue property owners who were notified that their curbs and sidewalks needed replacement have complied.

Ms. Stone addressed the meeting. She claimed that the Township's trash and recycling trucks and snow plows damaged her curb and sidewalk over time, and she witnessed the trucks and snow plows going over the curb. Her situation is different from the other neighbors since she her driveway is at a curve in the road.

Mr. Portner felt that the Township's Staff's analysis indicates that vehicular traffic at the Phoebe Church Home could have caused the damage to which Ms. Stone disagreed. She believed the evidence she presented showed all the damage. Mr. Portner noted that she never contacted the Township about its vehicles and the damage they were causing. Ms. Stone stated that when she called the police about noise and traffic from the Phoebe Church Home, they did nothing, the police officer told her she could move, so, since she did not expect much to be done with complaints by the police, she did not call police about the Township vehicles. She did not feel the police would take any action on residents' complaints about Township vehicles. She felt

that the Township never supports any residents who need help on curbs and sidewalks, and she claimed that Mr. Sharkey announced that for decades the residents who asked for financial help for their curb and sidewalk were denied because if the Township gave help to one, it would have to give help to all. Mr. Sharkey wanted the record clarified that he did not say "for decades" and that the Township does give leeway for sidewalk repair but the curb work is a priority and necessary to the paving of the road.

Ms. Rappoport was sympathetic to Ms. Stone's circumstances but the two lessons that she is hearing has to do with ambiguities where Ms. Stone feels that her complaints have not been heard and acted on. Ms. Rappoport had problems with the evidence presented and there was a lack of history of repeated complaints about the Township trucks. Ms. Rappoport advised that all residents report complaints immediately, and in writing, so that a paper trail is formed with copies to the Commissioners. It would help when trying to reach a conclusion. She noted that this matter will be discussed further at the Public Works Committee meeting on September 9, 2015. Ms. Stone responded that she felt complaints only work for a short time and then the employees go back to the way it was. Ms. Stone stated that she would take the matter to court.

Upon motion of Mr. Sharkey, the Board of Commissioners unanimously denied the request for a waiver of curb and sidewalk replacement from Dorothy Stone, 221 Maple Avenue, Wyncote.

11. Under New Business:

a. Upon motion of Mr. Simon, the Board of Commissioners unanimously accepted the reverse appeal settlement offer for the property located at 8000 High School Road for the market value from \$2,280,694 to \$3,875,000 as agreed to with the Cheltenham School District.

b. Upon motion of Mr. Portner, and in accordance with the Home Rule Charter, the Board of Commissioners unanimously appointed Christopher Earl Rhodes, Jr. to the Human Relations Committee to fill a term that expires on January 1, 2016.

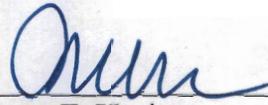
c. In response to a question from Mr. Sharkey, Mr. Havir advised that the hiring process for Public Works Department seasonal employees has begun.

d. Mr. McKeown announced that the final Concert in the Park is scheduled for Sunday, August 23, 2015, at 5 p.m. at the campus of Einstein Hospital/Elkins Park. Mr. Simon suggested that concert goers use the Church Road entrance since it is closest to the parking area.

12. Under Citizens' Forum:

Peter Cerebi, 300 Maple Avenue, believed that curb and sidewalk requirements were a problem for residents, especially the elderly, and needed to be addressed. He asked the Township to consider ways of defraying costs. Mr. Portner noted that the issue is prevalent for all municipalities. Mr. Norris noted that the Township is under legal constraints in this respect. Ms. Rappoport advised that the Commissioners are considering alternatives such as a two (2) year lead or liening properties.

There being no further business, upon motion of Mr. Portner, the meeting was adjourned at 8:30 p.m.



Bryan T. Havir
Township Manager

per Anna Marie Felix

ORDINANCE NO. 2310-15

AN ORDINANCE TO AMEND THE CODE OF THE TOWNSHIP OF CHELTENHAM,
CHAPTER 285 THEREOF, ENTITLED VEHICLES AND TRAFFIC, BY AMENDING CERTAIN
STREET AND PARKING REGULATIONS.

The Board of Commissioners of the Township of Cheltenham hereby ordains:

SECTION 1. The Code of the Township of Cheltenham, Chapter 285, Article IV, entitled
Schedule of Traffic Regulations, Section 285-43 thereof is hereby amended by **ADDING** the following:

SYCAMORE AVENUE (H) HANDICAPPED PARKING, east side; in front of
7329 Sycamore Avenue

SECTION 2. That in all other respects Chapter 285 of the Code of the Township of
Cheltenham is hereby approved and accepted as amended, and shall continue in full force and effect.

SECTION 3. This Ordinance shall take effect and be in force from and after its approval as
required by law.

ENACTED into an Ordinance this 19th day of August, 2015.

BOARD OF COMMISSIONERS
TOWNSHIP OF CHELTENHAM

Harvey Portner

By _____
Harvey Portner, President

Bryan T. Havir

ATTEST: _____
Bryan T. Havir, Township Manager and Secretary

ORDINANCE NO. 2311-15

**AN ORDINANCE AMENDING THE PERSONNEL CODE FOR THE
SALARIED EMPLOYEES OF CHELTENHAM TOWNSHIP,
CHAPTER 44, ARTICLE I, §44-18. GRIEVANCES AND COMPLAINTS**

SECTION I:

The Board of Commissioners of the Township of Cheltenham does hereby enact and ordain the following revision:

(1) §44-18. Grievances and Complaints

A. Grievances and complaints, which an employee may have, shall be handled as follows by adding an additional Step 5.

(5) Step 5: Arbitration. Either party shall have the ability to appeal any grievance decision of the Civil Service Commission to AAA Arbitration. The parties shall split the cost of any arbitration fees. Discipline up to and including discharge shall be for just cause and subject to all steps of the grievance procedure.

SECTION II: Severability

The provisions of this Ordinance are intended to be severable, and if any section, sentence, clause, part or provision hereof shall be held illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, sentences, clauses, parts or provisions of this Ordinance. It is hereby declared to be the intent of the Board that this Ordinance would have been adopted even if such illegal, invalid or unconstitutional section, sentence, clause, part or provision had not been included herein.

SECTION III: Failure to Enforce not a Waiver

The failure of the Township to enforce any provision of this Ordinance shall not constitute a waiver by the Township of its rights of future enforcement hereunder.

SECTION IV: Effective Date

This Ordinance shall take effect and be in force from and after its approval as permitted by law.

SECTION VI: Repealer

All other ordinances and resolutions or parts thereof insofar as they are inconsistent with this Ordinance are hereby repealed.

ORDAINED AND ENACTED into an Ordinance this 19th day of August, 2015.

**BOARD OF COMMISSIONERS
TOWNSHIP OF CHELTENHAM**

Harvey Portner

By _____
Harvey Portner, President

Bryan T. Haver

ATTEST: _____
Bryan T. Haver, Township Manager and Secretary

ORDINANCE NO. 2312-15

AN ORDINANCE AMENDING THE PENSION PLAN FOR THE SALARIED EMPLOYEES OF CHELTENHAM TOWNSHIP, CHAPTER 40, ARTICLE III, §40-20 DEFINITIONS; §40-23 RETIREMENT DATES; §40-24 RETIREMENT BENEFITS; §40-28 TERMINATION OF EMPLOYMENT; §40-29 EMPLOYER AND EMPLOYEE CONTRIBUTIONS

SECTION I: the Township of Cheltenham, Montgomery County ("Employer"), has previously established the Cheltenham Township Salaried Employees Pension Plan ("Plan"); and

SECTION II: as the result of a collective bargaining agreement dated May 14, 2015, with the Cheltenham Township Salaried Association Employees Union (the "Union"), the Employer has agreed to amend the Salaried Employees Pension Plan Ordinance.

SECTION III: the purpose and intent of this Ordinance is to effectuate the agreed upon amendments to the Collective Bargaining Agreement between the Township and the Cheltenham Township Employees Union and approved by the Cheltenham Township Board of Commissioners on May 21, 2015, said amendments are to be ordained in compliance with Act 205 and are as follows for employees hired after January 1, 2015:

SECTION IV: The Board of Commissioners of the Township of Cheltenham does hereby enact and ordain the following revisions to the sections to read:

(1) §40-20.A. Definitions. Average Monthly Earnings ("AME"). An employee's monthly salary or wage paid or accrued as recorded by the employer to the Internal Revenue Service for income tax purposes, including any deferred compensation, averaged over the last three (3) years (36 consecutive months) of the employee's earnings.

(2) §40-23.B. Early retirement date. Upon written notice to the administrator, an employee may elect to terminate employment and retire on an early retirement date which may be the first day of any month within 10 years prior to his normal retirement date. For employees hired prior to December 31, 2014, the minimum age for early retirement shall be set at 55. For employees hired after December 31, 2014, the minimum age for early retirement shall be set at age 60.

(3) §40-24.A. Normal retirement benefit. The monthly amount of normal retirement benefit payable to an employee retiring on his normal retirement date shall be an amount equal to 2% of average monthly earnings for the last 36 consecutive months of the employee's earnings multiplied by the number of years credited service. For employees hired after December 31, 2014, the Township Pension Plan shall provide a benefit of 1½ times years of service times the average pay in the last 36 consecutive months of the employee's earnings. The Pension shall be capped at 100% of average salary.

(4) §40-28.B. If an employee hired prior to December 31, 2014 should terminate his employment after age 55, he will have a vested percentage of 100%. If an employee hired after December 31, 2014 should terminate his employment after age 60, he will have a vested percentage of 100%.

(5) §40-29.C. Effective January 1, 2015, each participating employee will be required to make regular contributions to this plan through payroll deductions equal to 5% of total annual wages. An employee's contribution shall be suspended until such time that the Commonwealth of Pennsylvania pursuant to Act 205, does not provide the necessary funds to actuarially maintain this pension plan.

SECTION V: Severability

The provisions of this Ordinance are intended to be severable, and if any section, sentence, clause, part or provision hereof shall be held illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, sentences, clauses, parts or provisions of this Ordinance. It is hereby declared to be the intent of the Board that this Ordinance would have been adopted even if such illegal, invalid or unconstitutional section, sentence, clause, part or provision had not been included herein.

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The failure of the Township to enforce any provision of this Ordinance shall not constitute a waiver by the Township of its rights of future enforcement hereunder.

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SECTION VIII: Repealer

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ORDAINED AND ENACTED into an Ordinance this **19th** day of **August, 2015**.

CHELTENHAM TOWNSHIP
BOARD OF COMMISSIONERS

Harvey Portner

By: _____
Harvey Portner, President

Bryan T. Havir

Attest: _____
Bryan T. Havir, Manager
and Secretary

