

## AGENDA MONTGOMERY TOWNSHIP BOARD OF SUPERVISORS JUNE 27, 2016

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Robert J. Birch Candyce Fluehr Chimera Michael J. Fox Jeffrey W. McDonnell Joseph P. Walsh

Lawrence J. Gregan Township Manager

#### **ACTION MEETING - 8:00 PM**

- 1. Call to Order by Chairman
- 2. Pledge of Allegiance
- 3. Public Comment
- 4. Announcement of Executive Session
- 5. Consider Approval of Minutes of June 13, 2016 Meeting
- 6. Consider Volunteer Committee Member Appointment CRC Steering Committee
- 7. Consider Cooperation Relationship Request Hamyung County, South Korea
- 8. Public Hearing for Conditional Use #C-65 Hawthorn Development LLC Doylestown Pike
- 9. Consider Authorization to Accept Proposal to Perform Cable Franchise Renewal Services
- Consider Authorization to Advertise Proposed Ordinance#16-295 Approving Participation in Intergovernmental Cooperation Agreement Wissahickon Creek Alternative TMDL Study
- 11. Consider Payment of Bills
- 12. Other Business
- 13. Adjournment

#### **Future Public Hearings/Meetings:**

07-11-2016 @ 8:00pm - Board of Supervisors

SUBJECT:

**Public Comment** 

MEETING DATE:

June 27, 2016

ITEM NUMBER: #3

MEETING/AGENDA: WORK SESSION

ACTION XX

NONE

REASON FOR CONSIDERATION: Operational: XX

Information:

Discussion:

Policy:

INITIATED BY: Lawrence J. Gregan

Township Manager

BOARD LIAISON: Joseph P. Walsh, Chairman of the Board of Supervisors

#### BACKGROUND:

The Board needs to remind all individual(s) making a comment that they need to identify themselves by name and address for public record.

The Board needs to remind the public about the policy of recording devices. The individual(s) needs to request permission to record the meeting from the chairman and needs to identify themselves, by name and address for public record.

#### ZONING, SUBDIVISION OR LAND DEVELOPMENT IMPACT:

None.

PREVIOUS BOARD ACTION:

None.

ALTERNATIVES/OPTIONS:

None.

BUDGET IMPACT:

None.

RECOMMENDATION:

None.

MOTION/RESOLUTION:

None.

DISTRIBUTION: Board of Supervisors, Frank R. Bartle, Esq.

SUBJECT:

Announcement of Executive Session

MEETING DATE:

June 27, 2016

ITEM NUMBER: #4

MEETING/AGENDA: WORK SESSION

ACTION XX

NONE

REASON FOR CONSIDERATION: Operational: XX Information:

Discussion:

Policy:

INITIATED BY: Lawrence J. Gregan

Township Manager

BOARD LIAISON: Joseph P. Walsh, Chairman of the Board of Supervisors

#### **BACKGROUND:**

Frank Bartle will announce that the Board of Supervisors met in Executive Session prior to this Public Meeting and will summarize the matters discussed at these meetings.

## ZONING, SUBDIVISION OR LAND DEVELOPMENT IMPACT:

None.

PREVIOUS BOARD ACTION:

None.

**ALTERNATIVES/OPTIONS:** 

None.

**BUDGET IMPACT:** 

None.

RECOMMENDATION:

None.

MOTION/RESOLUTION:

None.

DISTRIBUTION: Board of Supervisors, Frank R. Bartle, Esq.

Policy:

SUBJECT: Consider Approval of Minutes for June 13, 2016 ITEM NUMBER: #5 June 27, 2016 MEETING DATE: MEETING/AGENDA: WORK SESSION ACTION XX NONE REASON FOR CONSIDERATION: Operational: XX Information: Discussion: INITIATED BY: Lawrence J. Gregan BOARD LIAISON: Joseph P. Walsh, Chairman Township Manager of the Board of Supervisors **BACKGROUND:** Please contact Deb Rivas on Monday, June 27, 2016 before noon with any changes to the minutes. ZONING, SUBDIVISION OR LAND DEVELOPMENT IMPACT: None. PREVIOUS BOARD ACTION: None. ALTERNATIVES/OPTIONS: None. **BUDGET IMPACT:** None. RECOMMENDATION: None.

MOTION/RESOLUTION:

DISTRIBUTION: Board of Supervisors, Frank R. Bartle, Esq.

None.



## MINUTES OF MEETING MONTGOMERY TOWNSHIP BOARD OF SUPERVISORS JUNE 13, 2016

At 7:00 p.m. Chairman Joseph P. Walsh called to order the executive session. In attendance were Vice Chairman Candyce Fluehr Chimera, Supervisors Robert J. Birch and Michael J. Fox. Supervisor Jeffrey W. McDonnell was absent. Also in attendance were Lawrence Gregan, Frank Bartle, Esquire, Police Chief Scott Bendig and Anthony Shearer, Police Recruit.

Chairman Joseph P. Walsh called the action meeting to order at 8:05 p.m. In attendance were Vice Chairman Candyce Fluehr Chimera and Supervisors Robert J. Birch and Michael J. Fox. Supervisor Jeffrey W. McDonnell was absent. Also in attendance were Frank Bartle, Esquire, Lawrence Gregan, Chief Scott Bendig, Rick Lesniak, Ami Tarburton, Ann Shade, Stacy Crandell, Bruce Shoupe, Kevin Costello, Floyd Shaffer, Rich Grier and Deb Rivas.

Following the Pledge of Allegiance, Chairman Joseph P. Walsh called for public comment from the audience.

Clifford Fitzgerald of 601 Ellison Drive requested a status on the time frame to complete the unfinished portions of Montgomery Pointe and the joining communities. Township Solicitor Frank Bartle, Esquire stated that the Township Engineer has just forwarded to the Cutler Group's engineer a list of all of the improvements that need to be made and the issues with respect to the posting of additional security to cover these improvements. Mr. Bartle further stated that arrangements are being made to do the work that is necessary and to move forward with respect to the items that are not yet completed. At this time no actual completion date exists and it will take few weeks to complete all the steps necessary to obtain an agreement and specific dates. At that time, Mr. Bartle stated, more final time parameters will be available. It is the Boards intention to continue to push this issue to the forefront and it remains a top priority. Mr. Fitzgerald also questioned the Township's long-standing relationship with the Cutler Group and the many developments that have been built in the Township. The Board assured Mr.

Fitzgerald and the other residents present that they are putting as much pressure on the Cutler Group as possible it there is no conflict regarding any past development in the Township.

Ravi Patel of 606 Ellison Drive expressed his concern about statements made regarding the installation of trees and basins and walking paths prior to the other surrounding developments being completed. Mr. Bartle stated that the Township was going to request that the Cutler Group do everything that is necessary to be done and what should be repaired and remediated to this point. Mr. Bartle explained that the Township is not going to allow the Cutler Group to say that they are not going to do anything until such time as all the houses are completed.

Jeff Wenner of 146 Addison Lane stated that he wished to express his views on the naturalization of the water retention basin in his neighborhood. Mr. Wenner stated that he noticed that the basin had not been mowed and shortly after, he received a notice from the Township explaining the reason for the change of status to a naturalized basin. Mr. Wenner stated that he has concerns about the basin, including weeds, wildlife, insects, especially mosquitos. Mr. Wenner said that he was not in favor of the decision to turn this basin into a natural state and he would prefer if the Township focused its efforts on basins that were not in residential areas. Supervisor Michael J. Fox stated that the project is really a mandate coming down from the Environmental Protection Agency (EPA) to the PA Department of Environmental Protection (DEP) to the Township and that we need to naturalize the basins. The project was done to help meet the Township's requirements of its MS4 permits. The Township does review and monitor each basin in the program to make sure that the goals are being met. The Township currently owns 64 basins and of those, 47 are naturalized. The project is now moving into the residential areas. Mr. Wenner stated that the weeds around the fence are an issue and the fence itself is crumbling and in a state of disrepair. Township staff will determine if the fence is required to be installed at that basin and the Public Works Department will mow the weeds outside the basin fence area.

Solicitor Frank Bartle announced that the Board had met in an executive session prior to this meeting and discussed one personnel matter and two matters of potential litigation. The litigation matters discussed included RD Management vs. Montgomery Township, the Zoning Hearing Board application for a parking variance for 741 Bethlehem Pike and a Zoning Hearing Board appeal for 110 Bellows Way. Mr. Bartle stated that these matters are legitimate subjects of executive session pursuant to Pennsylvania's Sunshine Law.

Chairman Joseph P. Walsh made a motion to approve the minutes of the May 23, 2016

Board of Supervisors meeting, and Vice Chairman Candyce Fluehr Chimera seconded the motion. The minutes of the meeting were unanimously approved as submitted.

Township Manager Lawrence J. Gregan stated that the Board of Supervisors previously established the Community & Recreation Center Advisory Committee. The committee was established to assist with identifying the needs of the Community and Recreation Center, recommend activities and programming, and recommend plans and policies regarding the programs and services of the Community and Recreation Center. Township residents Thomas Alesi, Otto A. Gaylord, Anthony Ruggieri and Audrey Schrader have expressed an interest in becoming members of the Montgomery Township Community & Recreation Center Advisory Committee. Resolution #1 made by Supervisor Michael J. Fox, seconded by Vice Chairman Candyce Fluehr Chimera, appointed the new members to serve one year terms on the Montgomery Township Community & Recreation Center Advisory Committee.

Chairman Joseph P. Walsh opened a public hearing at 8:35 p.m. to consider the application for a Liquor License Transfer for #LL-16-05, Turtle Time, JRP1, LLC. Notes of testimony were taken by Court Reporter, Tim Kurek. Township Solicitor Frank R. Bartle, Esquire presented the application, legal advertisement and exhibits into the record. Matthew Goldstein, Esquire, the attorney representing Turtle Time, JRP1, LLC presented a brief summary of the operations for the proposed restaurant and answered questions regarding the application that was submitted for a liquor license transfer for the proposed Green Turtle Sports

Bar and Grille to be located in the building that housed the former Pizzeria Uno. The public hearing was closed at 8:45pm. Resolution #2 made by Chairman Joseph P. Walsh, seconded by Supervisor Michael J. Fox and adopted unanimously, approved the liquor license transfer for Turtle Time JRP1, LLC.

Director of Public Works Kevin Costello reported that the Township is able to purchase petroleum products from the cooperative purchase contract through the Southeastern PA Counties Cooperative Purchasing Board. The current contract was awarded to Riggin's Inc. and was set to expire in June of 2016, but has since been extended for a period of one year. Resolution #3 made by Chairman Joseph P. Walsh, seconded by Vice Chairman Candyce Fluehr Chimera and adopted unanimously, approved the participation in the extended Southeastern PA Counties Cooperative Purchasing Board Fuel Contact for a period of one year ending on June 30, 2017.

Director of Public Works Kevin Costello reported that his Township vehicle, a 2007 Ford Expedition was declared a total loss by DVIT as a result of a vehicle accident in May 2016. The salvage value of the vehicle was \$10,932.00, which has been received by the Township's insurance carrier. The Expedition was scheduled for replacement in 2017 as part of the Capital Equipment Replacement Plan. The proposal is to replace the vehicle by downsizing from an Expedition to an Explorer which reduces the replacement cost and provides for a more fuel efficient vehicle. Resolution #4 made by Chairman Joseph P. Walsh, seconded by Supervisor Robert Birch and adopted unanimously, approved the purchase of a 2017 Ford Explorer from Whitmoyer Auto Group of Mount Joy, PA under Co-Stars Contract #26-053 for a total cost of \$31,200.00.

Township Manager Lawrence J. Gregan reported that he is proposing to purchase a 2017 Ford Escape to replace the 2006 Chevrolet Impala used by the Township Manager. The Impala currently has 66,000 miles on it and was scheduled and budgeted to be replaced in 2016 as part of the Capital Equipment Replacement Plan. Resolution #5 made by Supervisor Robert



Birch, seconded by Vice Chairman Candyce Fluehr Chimera and adopted unanimously, approved the purchase of a 2017 Ford Escape from Whitmoyer Auto Group of Mount Joy, PA under Co-Stars Contract #26-053 for a total cost of \$30,800.00.

Director of Administration and Human Resources Ann M. Shade reported that the Township maintains an employee handbook of personnel policies that is provided to all employees. As laws, practices and procedures change, the Township determines the need to update existing policies or to add new policies. The Substance Abuse Policy, Drug and Alcohol Policy for Employees with Commercial Driver's License (CDL) and Post-Offer, Pre-Employment Medical Examination and Substance Abuse Policy are being presented for approval. These policies have been reviewed by the Risk Control Department of Delaware Valley Insurance Trust, labor attorneys of Eckert Seamans and Montgomery Township staff. Resolution #6 made by Chairman Joseph P. Walsh, seconded by Vice Chairman Candyce Fluehr Chimera and adopted unanimously, approved the policies for distribution to employees and inclusion in the Montgomery Township Employee Handbook.

Township Manager Lawrence J. Gregan reported that the Local Tax Enabling Act is the law that governs the township authority to assess and collect earned income tax (EIT) from residents and non-residents in the Township to support the operation of the Township. Under the provisions of this act, EIT revenues generated by non-residents employed in the Township are remitted to the municipality in which they reside if their municipality has the EIT.

Conversely, the Wage Tax enacted by the City of Philadelphia pursuant to the Sterling Act of 1931, does not require Philadelphia to remit any portion of the wage tax collected from non-residents to their home municipality. As a result, Montgomery Township does not receive any portion of the EIT revenue from the taxes paid by its residents to the City of Philadelphia while employed in the city. The net result is a loss of over \$688,000 in Earned Income Tax revenues per year. The Board is requested to consider adoption of a resolution requesting that the State Legislature pass, and that the Governor adopt, an amendment to the "Sterling Act" to require



that up to one percent of the Philadelphia Wage Tax Paid by Non-Residents of Philadelphia be remitted to the municipality/school district in which the taxpayer resides. State Representative Todd Stephens is currently looking to introduce legislation to amend the Sterling Act to eliminate this special taxing authority of the City and is seeking co-sponsors for this legislation.

Resolution #7 made by Supervisor Michael J. Fox, seconded by Vice Chairman Candyce Fluehr Chimera and adopted unanimously, approved the resolution in support of the amendment to the Sterling Act of 1932.

Resolution #8 made by Chairman Joseph P. Walsh, seconded by Supervisor Robert J. Birch and adopted unanimously, approved the start of maintenance period and construction escrow release #4 for LDS#667 – for Goodwin Tract at 131 Stevers Mill Road in the amount of \$18,993.50.

Director of Planning and Zoning Bruce Shoupe reported that an application for a text amendment to the BP Business Office and Professional District has been received from Hawthorn Development LLC. The applicant is proposing to develop the property, located on Doylestown Pike, as a Congregate Care/Independent Senior Living facility, including a main building with 144 suites, 2 manager units and 12 cottage units and associated improvements. This is designed exclusively for persons 62 years of age or older. The applicant is proposing to modify Section 230-83.E of the Zoning Ordinance to increase the permitted height of outdoor lighting for Congregate Care/Independent Senior Living uses to fourteen (14) feet. They feel that this is necessary to ensure that they can provide uniform and safe lighting in accordance with the IESNA lighting safety standards. Resolution #9 made by Chairman Joseph P. Walsh, seconded by Vice Chairman Candyce Fluehr Chimera and adopted unanimously, authorized the advertisement for a public hearing for the text amendment to BP Business Office and Professional District for Hawthorn Development LLC – located on Doylestown Pike, to be held on July 25, 2016.



A motion to approve the payment of bills was made by Chairman Joseph P. Walsh, seconded by Supervisor Michael J. Fox, and adopted unanimously, approved the payment of bills as submitted.

There being no further business to come before the Board, the meeting adjourned at 8:56 p.m.

SUBJECT:

Consider Appointment to Township Board/Commissions

MEETING DATE:

June 27, 2016

ITEM NUMBER:#6

MEETING/AGENDA:

**ACTION** 

NONE

REASON FOR CONSIDERATION: Operational: xx

Policy:

Discussion:

Information:

INITIATED BY:

Lawrence J. Gregan

Township Manager Town

BOARD LIAISON: Robert J. Birch & Joseph P. Walsh Liaisons to the Comm & Rec Ctr. Advisory Committee

#### BACKGROUND:

On November 9, 2015, the Board of Supervisors established the Community & Recreation Center Advisory Committee. The committee was established to assist with identifying the needs of the Community and Recreation Center, recommend activities & programming, and recommend plans and policies regarding the programs and services of the Community and Recreation Center.

The Committee will meet on a monthly basis. The Recreation and Community Center Director will serve as the staff liaison for the committee. Bylaws for this committee were also approved on November 9, 2016.

Township resident Karin Bayer expressed an interest in becoming a member of the Montgomery Township Community & Recreation Center Advisory Committee. Ms. Bayer will be considered for appointment to the committee this evening.

## ZONING, SUBDIVISION OR LAND DEVELOPMENT IMPACT:

None.

#### PREVIOUS BOARD ACTION:

Committee was established on November 9, 2015.

#### ALTERNATIVES/OPTIONS:

None.

#### **BUDGET IMPACT:**

None.

## **RECOMMENDATION:**

Consider the appointment of Karin Bayer to the Montgomery Township Community & Recreation Center Advisory Committee.

#### MOTION/RESOLUTION:

BE IT RESOLVED by the Board of Supervisors of Montgomery Township that we hereby appoint Karin Bayer to serve as a member of the Montgomery Township Community & Recreation Center Advisory Committee with a one year term to expire on January 1, 2017.

MOTION:	SECOND:

## **ROLL CALL:**

Robert J. Birch	Aye	Opposed	Abstain	Absent
Candyce Fluehr Chimera	Aye	Opposed	Abstain	Absent
Michael J. Fox	Aye	Opposed	Abstain	Absent
Jeffrey W. McDonnell	Aye	Opposed	Abstain	Absent
Joseph P. Walsh	Aye	Opposed	Abstain	Absent

DISTRIBUTION: Board of Supervisors, Frank R. Bartle, Esq.

## MONTGOMERY TOWNSHIP BOARD OF SUPERVISORS

## BOARD ACTION SUMMARY

SUBJECT: Consider Cooperation Relationship Request - Hamyang County, Republic of Korea

MEETING DATE:

March 14, 2016

ITEM NUMBER:#7

MEETING/AGENDA:

WORK SESSION

ACTION XX CONSENT NONE

REASON FOR CONSIDERATION: Operational: xx

Policy: Discussion: Information:

INITIATED BY: Lawrence J. Gregan BOARD LIAISON: Joseph P. Walsh, Chairman Township Manager Thurs

Board of Supervisors

#### BACKGROUND:

Master Bong Pil Yang, owner of Yang's Martial Arts School, Inc. in Montgomery Township and a member of the association proposing the construction of a Korean War Memorial/American-Korea Alliance Peace Park in the Township will be present at the meeting to propose a "Sister City" relationship between the Township and Hamyang County in the Republic of Korea program.

Master Yang has reached out to the Mayor of the County who has submitted the attached letter in support of this request. The proposed relationship would focus on establishing cooperation relationship between the Township and Hamyang County for mutual prosperity in areas of cultural and economic exchange.

ZONING, SUBDIVISION OR LAND DEVELOPMENT IMPACT: None.

PREVIOUS BOARD ACTION: None

ALTERNATIVES/OPTIONS: None.

**BUDGET IMPACT:** None.

RECOMMENDATION: It is recommended that the Board approve the proposal by Master Yang and direct the Township Manager to respond to Chang-ho Lim, Mayor of Hamyang County agreeing to participate in a "Sister City" program with the County.

#### MOTION/RESOLUTION:

BE IT RESOLVED by the Board of Supervisors of Montgomery Township that we hereby direct the Township Manager to respond to Chang-ho Lim, Mayor of Hamyang County, Republic of Korea agreeing to participate in a "Sister City" program with the County.

#### ROLL CALL:

Robert J. Birch	Aye	Opposed	Abstain	Absent
Candyce Fluehr Chimera	Aye	Opposed	Abstain	Absent
Michael J. Fox	Aye	Opposed	Abstain	Absent
Jeffrey W. McDonnell	Aye	Opposed	Abstain	Absent
Joseph P. Walsh	Aye	Opposed	Abstain	Absent

DISTRIBUTION: Board of Supervisors, Frank R. Bartle, Esq.



# 대한민국 함양군



June 2, 2016

Township Manager Lawrence J. Gregan Montgomery Township Building 1001 Stump Road, Montgomeryville PA 18936 Montgomery County, Pennsylvania

Dear Township Manager Lawrence J. Gregan:

It is a great pleasure for me to extend my warmest greetings on behalf of Hamyang County.

Hamyang County is a small city with population of 40,000 and area size of 724km but it is the traffic hub in the southern inland area of Korea. The county is famous for cultivation of wild ginseng and has unlimited potentials. This year, Hamyang will be hosting the \*\bigcap\*13th Wild Ginseng Festival\_a(July 29th - August 2nd), which is designated by the nation as a promising cultural and tourist festival that attracts many domestic and foreign visitors by offering diverse programs such as Wild Ginseng Symposium, exhibition, market, and dynamic programs. Also, as aging society is being an issue worldwide, we are also preparing for the \*\bigcap\*Hamyang Wild Ginseng Anti-Aging Expo 2020\_a to explore potentials for the growth of the anti-aging industry.

Our county is also doing its utmost to propel international exchange in the era of fierce competition and glocalization where the rapid development of transportation and communication has made the world become one global village.

In this aspect, Hamyang county would like to establish cooperative relationship with Montgomery Township for mutual prosperity of both regions in areas of cultural and economical exchange and further expand the cooperation.

Further information of Hamyang is enclosed to this letter for your reference.

Thank you for your consideration and look forward to your kind response.

Sincerely,

Chang-ho Lim Mayor of Hamyang County

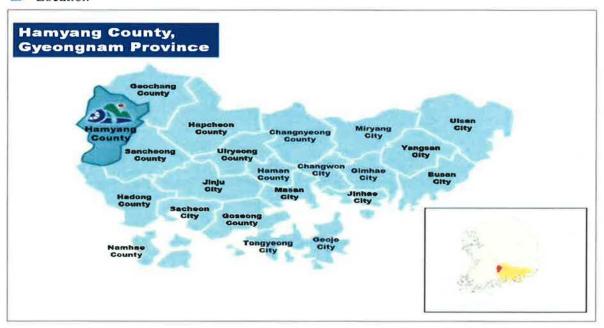
## Hamyang-gun Status

# General Status

- Location: 35, Goun-ro, Hamyang-eup, Hamyang-gun, Gyeongsangnam-do, Korea
- Area: 724,88km (Forest area accounts for 78% of the total area.)
- Population: 40,584 people (19,213 households)
- Website: http://www.hygn.go.kr/main/

# Regional Characteristics

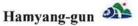
Location



- Climate: Four distinct seasons and abundant sunshine. Hamyang is a mountainous region with relatively moderate temperatures. The annual mean temperature is 11.6□ max. 34.0□ and min. -15.6□. The temperature difference between winter and summer is large. The monthly mean precipitation is 132mm.
- Traffic Conditions: Hamyang-gun is the center of the southern inland area in which three expressways cross. In addition, it is an important traffic hub that can be reached within three hours from Seoul and one hour from large cities nearby.
- Soil: Germanium zone (with effects of anti-cancer and heavy metal detoxification)

# Administrative Organization

- Administrative District: 1 Eup, 10 Myeons, 259 RisAdministrative Organization: 2 offices, 10 divisions, 2 direct institutions, 2 business places
- Administrative Personnel: 611 people
- Budget Scale: 331.5 billion won (general accounts 305.0 billion won; special account 26.5 billion won)



# County Governor Profile



#### Personal Data

- Name: Im chang-ho (林昌浩)
- Date of Birth: October 30, 1952 (64 age)

### Career

- Member of the 7<sup>th</sup> Gyeongsangnam-do Province Council
- Chairman of the Economy, Environment and Culture Committee in the 8<sup>th</sup> Gyeongsangnam-do Province Council
- 40<sup>th</sup> Hamyang County Governor
- Now, 41<sup>st</sup> Hamyang County Governor

## County Council

- County Council Member: 10 people
- Chairman: Hoang Tei-jin (黃泰鎮)

## Chairman Profile



## Personal Data

- Name: Hoang Tei-jin (黃泰鎭)
- Date of Birth: February 21, 1960 (56 age)

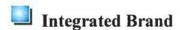
#### Career

- Consultant of Hamyang County Council in the National Unification Advisory Council
- 6<sup>th</sup> vice-chairman in the first half of the Hamyang County Council

# Overseas Friendship Exchange City

- Hui-namhyeon, Tonghua City, Jilin Province, China
- Namjja Mihyeon, Quang Man, Vietnam
- Xianyang City, Shaanxi, China









# Regional Economy

- Gross Regional Domestic Product (GRDP): 834.3 billion won; 20 million won per capita
- Agro-industrial Complex Status

(Unit: 100 million won)

Description	Area (m²)	Company	Employee	Sales	Remarks
Ieun Agro-industrial Complex	40,479	7	90	70	
Sudong Agro-industrial Complex	102,777	11	225	170	
Wonpyeong Agro-industrial Complex	136,170	2	310	780	
Anui Agro-industrial Complex	146,749	4	144	400	
Anui Agro-industrial Complex 2	275,462	7	97	220	
Hamyang Jungbang Agro-industrial Complex	99,351	3	25	12	
Hamyang Industrial Complex	815,652	1			Under

Corporate Status: 126 places 2,470 people

# Specialties (rice, apple, onion, dried persimmon, wild ginseng)



Rice – Participating Farms: 5,542 ea, Cultivation Area: 3,742h a, Yield: 20,290 ton



Apples – Participating Farms: 572 ea, Cultivation Area: 760 ha, Yield: 14,110 ton



Onion – Participating Farms: 1,056 ea, Cultivation Area: 796 ha, Yield: 62,088 ton



Dried Persimmon – Participating Farms: 1,170 ea, Cultivation Area: 511 ha, Yield: 374,220 bundle



Wood-cultivated Ginseng – Participating Farms: 452 ea, Cultivation Area: 700ha, Yield: 900kg

# What is Hamyang Wood-cultivated Ginseng?

- Hamyang is a typical, clean mountainous region that has more than 15 mountains having a height of more than 1000m at the foot of Baekdudaegan Mountain Range including Jirisan Mountain and Deokyusan Mountain. Abundant wild ginsengs and mountain herbs grow naturally there.
- The production traceability system of wood-cultivated ginseng was performed first across the nation in 2006.



- This is to disclose detailed information regarding eco-friendly cultivated wood ginseng including producers, farm location, cultivation process, agricultural pesticides, and heavy metals results.
- Quality certification tags attached. (Products without the tag are not certified as Hamyang Wood-cultivated Ginseng.)
- The product is cultivated in soil that contains abundant leaf mold to the northeast over 500m above sea level.
- Germanium, and elvan are found at high levels and an organic germanium component is detectable.
- Farms: Produced in 700ha by 452 farms
- Yield: 900kg; sales revenue: 8.8 billion won
- Vision of Hamyang Wood-cultivated Ginseng
  - Hamyang Wood-cultivated Ginseng Festival held every year (12th in this year)
  - 2020 World Hamyang Wood-cultivated Ginseng Expo will be held.
  - Development of Wild Ginseng Resort Valley for Eternal Life



BOARD ACTION SUMMARY SUBJECT: Consider- Conditional Use #C-65 - Hawthorn Development, LLC - Doylestown Pike ITEM NUMBER: # X MEETING DATE: June 27, 2016 MEETING/AGENDA: WORK ACTION XX NONE REASON FOR CONSIDERATION: Operational: XX Policy: Discussion: Information: Joseph P. Walsh INITIATED BY: Bruce Shoupe BOARD LIAISON: Director of Planning and Zoning, Chairman BACKGROUND: Attached is an application for conditional use from Hawthorn Development, LLC. The applicant is proposing to develop the property, located on Doylestown Pike, as a Congregate Care/Independent Senior Living facility, including a main building with 144 suites, 12 cottage units and associated improvements. This is designed exclusively for persons 62 years of age and older. This use is permitted by conditional use within the BP-Business Office and Professional District. Consultant review letters are attached. ZONING, SUBDIVISION OR LAND DEVELOPMENT IMPACT: None. PREVIOUS BOARD ACTION: The Board approved an amendment to the BP Zoning District, which provides for Congregate Care/Independent Senior Living on March 28, 2016. ALTERNATIVES/OPTIONS: Approve or not approve the conditional use application. BUDGET IMPACT: None. RECOMMENDATION: That the conditional use application be approved. MOTION/RESOLUTION: The resolution is attached. MOTION SECOND ROLL CALL:

Opposed

Opposed

Opposed

Opposed

Opposed

Abstain

Abstain

Abstain

Abstain

Abstain

Absent

Absent

Absent

Absent

Absent

<u>DISTRIBUTION:</u> Board of Supervisors, Frank R. Bartle, Esq.

Aye

Aye

Aye

Aye

Aye

Robert J. Birch

Michael J. Fox

Joseph P. Walsh

Candyce Fluehr Chimera

Jeffrey W. McDonnell

Resolution #

WHEREAS, Hawthorn Development, LLC, has submitted an application to the Township of

Montgomery for Conditional Use approval to develop the property, located at 416 and 418 Doylestown

Pike, as a Congregate Care/Independent Senior Living facility, including a main building with 144 suites,

12 cottage units and associated improvements. This is designed exclusively for persons 62 years of age

and older. This use is permitted by conditional use within the BP-Business Office and Professional

District; and

WHEREAS, said application was submitted in compliance with Section 230-156.2, Section 230-5,

Article XIV, Section 230-80.A and Table 230-A of the Zoning Code; and

WHEREAS, the Board has considered said application, the evidence presented at this hearing,

and compliance with the recommendations of the Township staff and consultants, and the opinions of the

citizens of the Township.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of Montgomery

Township that we hereby approve the Conditional Use Application for Hawthorn Development, LLC.

MOTION BY:

SECOND BY:

VOTE:

DATE:

xc: Applicant, F. Bartle, R. Dunlevy, B. Shoupe, M. Stoerrle, MCPC, MTPC, J. Goldstein,

K. Amey, K. Johnson, Minute Book, Resolution File, File

# APPLICATION FOR CONDITIONAL USE

MONTGOMERY TOWNSHIP 1001 STUMP ROAD MONTGOMERYVILLE, PA 18936

REVISED: 1-2015

## Check Off Sheet for Appeal for Conditional Use

Check off each item that accompanies this appeal. If the item is not applicable, put n/a.

1.	(6) six paper copies of appeal; (1) one pdf			
2.	(6) six paper copies of plans showing proposed locations of all lots, roads, easements, water courses, tree masses, and areas for open space; (1) one pdf			
3.	(6) six paper copies of tax map; (1) one pdf			
4.	(6) six paper copies of deed; (1) one pdf			
5.	(6) six paper copies of agreement of sale or lease agreement; (1) one pdf			
6.	(6) six paper copies of detailed plan of proposed structure; (1) one pdf			
7.	(1) one paper copy of owners of record of all adjoining properties, and those directly across the street (including block and unit number); (1) one pdf (x)			
8.	(1) paper copy of exhibits if any. (x) Exhibits would include but not be limited to pictures, diagrams, changes, etc; (1) pdf			
9.	application must be notarized			
10.	paper copies of application and all required material to be stapled in pack form as follows:	(x)		
	<ul> <li>a. appeal</li> <li>b. plan</li> <li>c. tax map</li> <li>d. deed</li> <li>e. agreement of sale or lease agreement if</li> <li>f. applicable</li> <li>g. detailed plan of proposed structure</li> <li>h. list of property owners</li> <li>i. exhibits</li> </ul>			

11. All information must be submitted in pdf version.

## PAGE 2

12. Fees - Payable to Montgomery Township

Residential Fee

\$1,000.00

Non - Residential Fee

\$1,500.00

Escrow

\$1,500.00

13. Fees - Payable to Montgomery County

Fee

\$ 260.00

## **Application for Conditional Use**

# Township of Montgomery, Montgomery County, Pennsylvania

## Notice Of Appeal

Appellant:	Name:	ne: Dan Roach, Architect OBO Hawthorn Development LLC		
Address		3150 Kettle Court SE		
		Salem, OR 97301		
	Phone:	Fax:	_	
	E-Mail		_	
Owner: Name:		Fairway 202 Associates, LP	_	
Add	Address:	1690 Sumneytown Pike, Suite 240		
		Lansdale, PA 19446		
	Phone:	(215) 855-5100 Fax:	_	
	E-Mail		_	
Attorney:	Name:	James J. Garrity, Esquire	_	
	Address:	460 Norristown Road, Suite 110		
		Blue Bell, PA 19422		
	Phone:	(610) 825-8400 Fax: (610) 828-4887	_	
	E-Mail	jgarrity@wispearl.com		

Page 2
Interest of appellant, if not owner (agent, lessee, etc.):
Equitable owner (Hawthorn Development LLC)
Brief Description of Real Estate Affected:
Block and Unit Number See addendum
Location See addendum
Lot Size See addendum
Present Use See addendum
Present Zoning Classification See addendum
Present Improvements Upon Land See addendum
Deed Recorded at Norristown in Deed Book Page See addendum
Specific reference to section of the Zoning Ordinance upon which application is based.      Chapter 230 (Zoning), Article II (Definitions), Section 230-5 (Word Usage; Definitions); Article XIV (BP - Business Office and Professional District), Section 230-80.A.(Use Regulations); and Table 230-A (Table of Permitted Uses).      Action desired by appellant or applicant (statement of proposed use)
Development of the properties to construct a Congregate Care/Independent Senior Living Facility.  further explanation is provided in the addendum attached hereto.
Reasons appellant believes Board should approved desired action (refer to section(s) of Ordinance under which it is felt that desired action may be allowed, as well as regulations contained
in Article XVII, Signs, Article XIX, Off Street Parking and Loading and Article XXI, Miscellaneous Provisions. See addendum

Notice of Appeal Page 3

Has previous application for conditional use b     Yes X No	een filed in connection with these premises?
NOTE:  If more space is required, attach a separate she being answered.	eet and make specific reference to the question
I, hereby depose and say that all of the above spapers or plans submitted herewith, are true to the SWORN TO AND SUBSCRIBED BEFORE MET DAY OF MAY 2016	ne best of my knowledge and belief.
Notary Public  COMMONWEALTH OF PENNSYLVANIA  Notarial Seal	Appellants or Owner's/Signature James J. Garrity, Esquire Wisler Pearlstine, LLP Blue Bell Executive Campus 460 Norristown Road, Suite 110
Jili A. Budney, Notary Public Whitpain Twp., Montgomery County My Commission Expires June 11, 2017 MENSER, PERINSYLVANIA ASSOCIATION OF NOTARIES	Blue Bell, PA 19422

416 Doylestown Pike, ±2.02 acres; Block 46003, Unit 022; Parcel No. 46-00-00817-00-1 418 Doylestown Pike, ±2.26 acres; Block 46003, Unit 071; Parcel No. 46-00-00820-00-7 Elm Place, ±27,200 square feet; Block 46003, Unit 058; Parcel No. 46-00-00940-00-4 Portion of 697 Bethlehem Pike; ±5.0 acres, Block 46003 Unit 012; Parcel No. 46-00-00223-00-1 All properties are zoned BP – Business Office and Professional District

## **ADDENDUM**

On March 28, 2016 the Montgomery Township Board of Supervisors passed Ordinance No. 15-293Z, amending the Montgomery Township zoning ordinance the ("Zoning Ordinance") to permit "Congregate Care/Independent Senior Living" as a conditional use in the BP – Business Office and Professional District of the Township. Consistent therewith, and pursuant to Sections 230-5, 230-80.A and Table 230-A, Dan Roach, Architect on the behalf of Hawthorn Development, LLC (the "Applicant") respectfully submits this conditional use application.

As the Board is aware, the Applicant is the equitable owner of four (4) parcels of land with frontage on Doylestown Road, northeast of the intersection of Doylestown Road and Bethlehem Pike (S.R. 309) in Montgomery Township (collectively the "Property"). The Property is located in the BP — Business Office and Professional District and consists of approximately 9.91 acres of land which is largely unimproved, with the exception of a single-family dwelling and paved driveway. The Applicant is proposing to develop the Property as a Congregate Care/Independent Senior Living facility, including a main building with 144 suites, 12 cottage units (in six "twin" units), and associated improvements, including 110 all-weather paved parking spaces, activities areas and an access road to be known as Montgomery Glen Drive (the "Proposed Use"). The Applicant is requesting conditional use approval to develop the Property as a long-term housing community designed exclusively for persons 62 years of age or older, or persons at least 55 years of age who have similar needs for congregate care and assistance with living, which facility may include a number of amenities intended for residents with congregate care needs.

The Applicant believes that the proposed redevelopment of the Property with a Congregate Care/Independent Senior Living facility complies with the express standards and criteria contained in the Zoning Ordinance applicable to the Proposed Use and to the development of properties in the BP – Business Office and Professional District. Specifically, the Proposed Use complies with the area, height, building and impervious surface coverage, lot width and depth and yard regulations set forth in Sections 230-79 to 230-84 of the Amended Zoning Ordinance. The Proposed Use not only complies with the impervious coverage and green area coverage provisions, but it goes far beyond the required 75% impervious to 25% green area breakdown and will have approximately 58% green area coverage. In fact, the Applicant's proposal includes an area in the north-eastern portion of the Property free of any development which will act as a buffer to many of the nearby properties. In addition, the Proposed Use would substantially exceed the yard setback requirements. However, in an abundance of caution, the Applicant has treated the Property as a corner lot due to the proposed construction of Montgomery Glen Drive. Since the main entrance to the primary building will be facing Montgomery Glen Drive, the Applicant has treated the yard abutting Montgomery Glen Drive as the front yard instead of the yard abutting Doylestown Road. Since Doylestown Road is a heavily trafficked road, especially as compared to the expected use of Montgomery Glen Drive, setbacks from Doylestown Road are of much more importance and the Applicant plans on providing a 110 foot side yard setback from the legal right-of-way line of Doylestown

Road. In addition, the Property is comprised of approximately 9.91 acres, more than doubling the four (4) acre minimum lot size required by Section 230-5 of the Zoning Ordinance. To the extent that such requirements apply, the proposed redevelopment of the Property as an Congregate Care/Independent Senior Living facility will comply with the special requirements contained in Articles XVIII (Signs), XIX (Off-Street Parking and Loading, and XXI (Miscellaneous Provisions) of the Zoning Ordinance, including the requirements related to the permitted signage, required off-street parking, corner vision obstructions, landscaping and screening and any other applicable provisions.

Additionally, the Proposed Use will not be contrary to the public health, safety and welfare. Specifically, the proposed redevelopment of the Property will not be detrimental to the appropriate use of adjacent properties and is suitable for the character of the area. The rear yard of the Property abuts a golf course and the other properties surrounding the Property are commercial in nature. As the Proposed Use typically caters to the senior population, there are no activities that are expected to infringe on the adjacent golf course, in contrast to other residential developments (i.e. ball-play, child encroachment, loose pets). Similarly, due to the nature of the intended senior population and the design of the facilities, the Proposed Use is not expected to negatively impact the nearby businesses. In fact, the nearby establishments may see an increase in business from the senior residents living on the Property.

The Proposed Use will not cause undue congestion or danger to pedestrian or vehicular traffic, or endanger the safety of any persons or property as a result of the location of points of ingress or egress for several reasons. First, the Proposed Use is specifically designed to include a variety of on-site amenities for its residents, such as housekeeping, dining facilities, linen/laundry, gardening areas, and organized social and recreational activities. This wide variety of on-site amenities significantly reduces the need for the residents to leave the Property. Moreover, in the Applicant's experience, a significant number of the senior residents living on the Property will not own vehicles. Instead, the Applicant provides shuttle services to its residents in order to access the community, thereby greatly reducing the number of trips to and from the Property. As stated above, the Applicant also plans on extending Montgomery Glen Drive, which will connect the parking areas to Doylestown Road as part of the Proposed Use. Montgomery Glen Drive will supply motorists with points of ingress and egress from the parking areas onto a lightly used street, instead of directly on Doylestown Road. redevelopment of the Property will also not overcrowd the land, create an undue concentration of population, be contrary to the Township Comprehensive Plan, or impair the adequate supply of light and air to adjacent properties. Further, the Proposed Use will not adversely affect transportation or unduly burden water, sewer, school, park, or other public facilities, or be contrary to the preservation and conservation of natural resources. In light of the above, the Applicant believes that the Proposed Use will not adversely affect the public health, morals, safety, or general welfare, or be contrary to the spirit, intent, and purpose of the Zoning Ordinance.

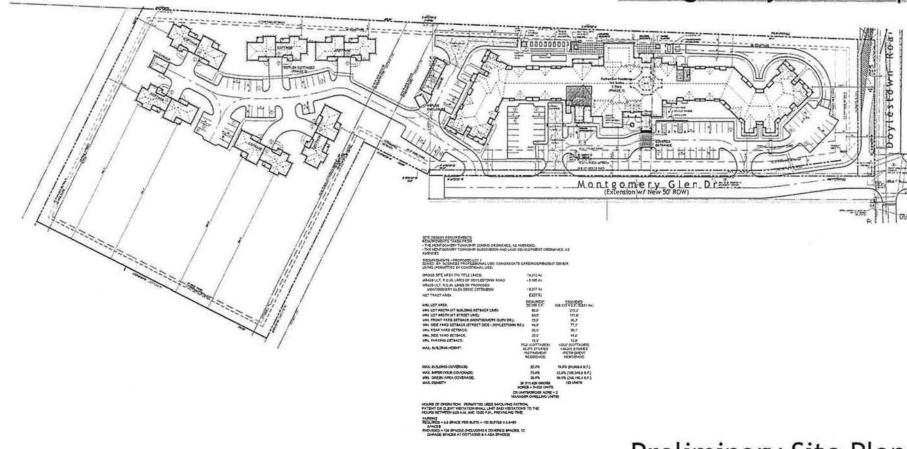
Based on the foregoing, the Applicant believes that it has satisfied all applicable conditions and criteria of the Zoning Ordinance, and respectfully requests that the Board of Supervisors grant the requested Conditional Use pursuant to Sections 230-5, 230-80.A and Table 230-A.

## PLAN SHEET 1

(See also 24" x 36" Plan Set)

REQUIRED ITEM No. 2

# **Montgomery Township**



Preliminary Site Plan

DATE: APRIL 20, 2016
SCALE: 1" = 50:0"

SCALE: 1" = 50'-0"

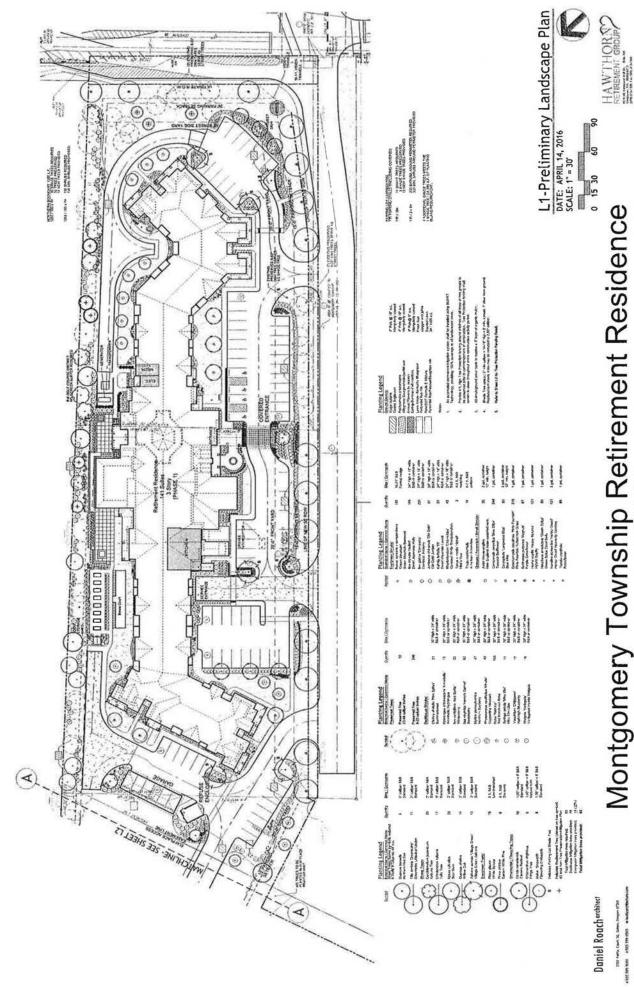
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Daniel Roacharchitect

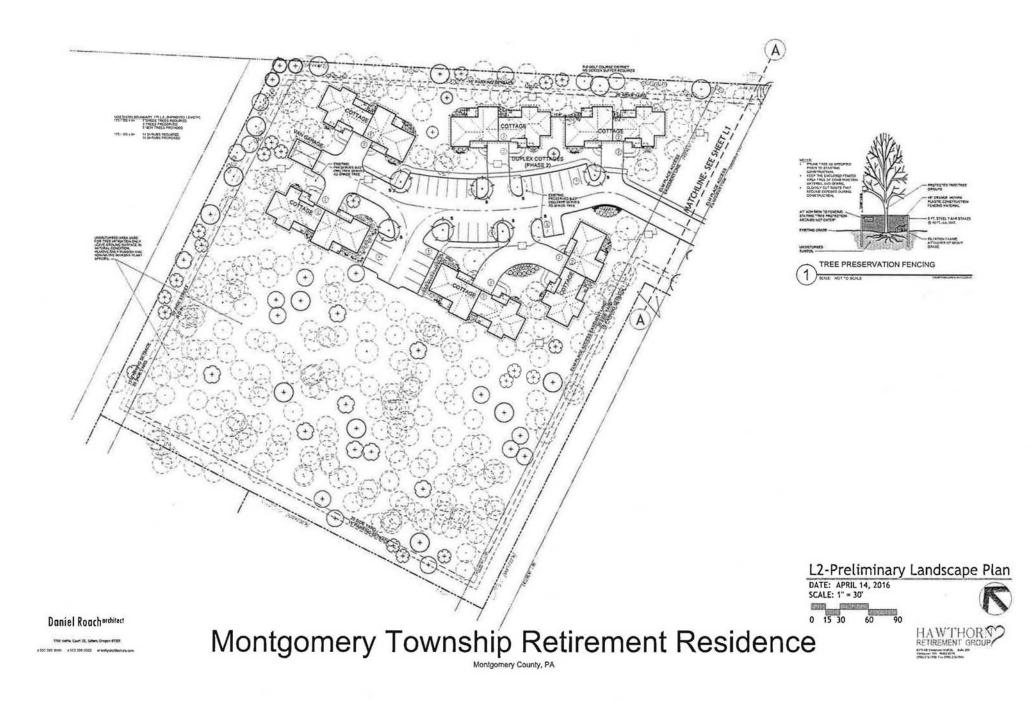
250 Ferry David SE, Selfers, Chryson 87307 #300 2450 #300 3700 2540 A Management Annual Annua Montgomery Township Retirement Residence



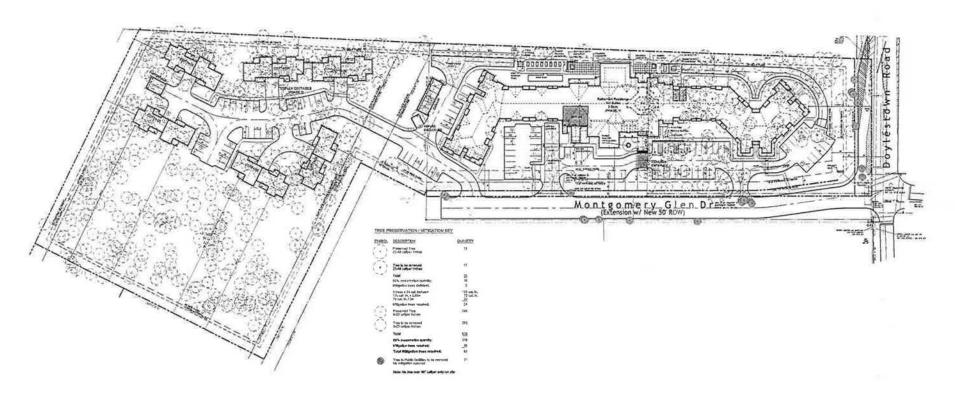


Montgomery Township Retirement Residence

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# Montgomery Township



L3-Preliminary Tree Preservation/Mitigation Plan

Date: APRIL 14, 2016
SCALE: 1" = 50"



Daniel Roacharchitect

Montgomery Township Retirement Residence



## TAX MAP OF AREA

**REQUIRED ITEM No. 3** 

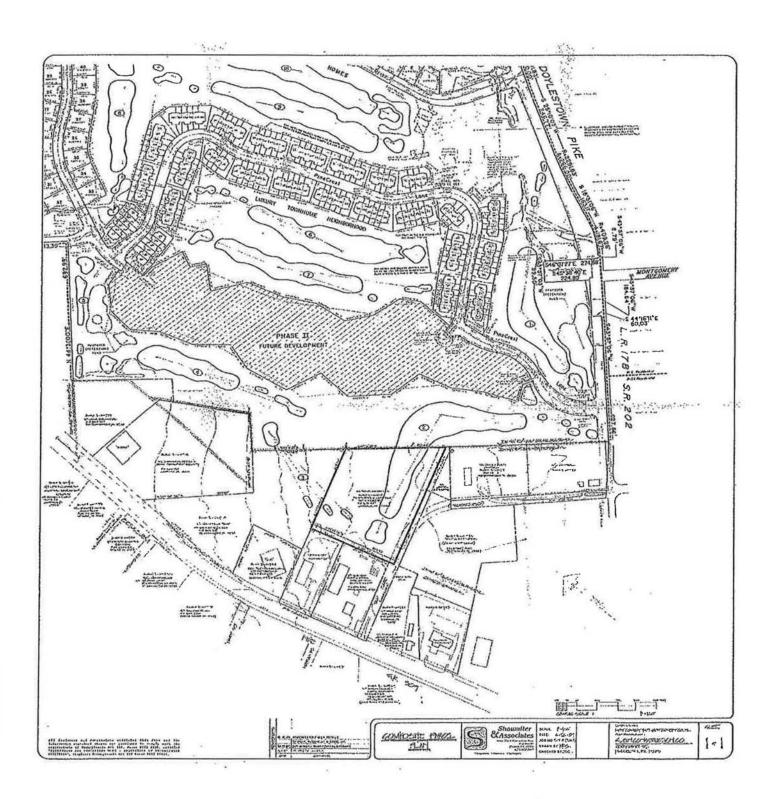
BROOKSHYRE WOODS
UNITS 72 8 89 - 100
DUT OF UNIT 72
PLAN BOOK A-67, PAGE 326 (ii) 0 (a) (b) (1) 0 (11) W A.TLA. SEE S.JA (1) (1) 2 53 AC. (x) (B) 10 (1) 12x GIAC EFE 8.2F, Q, !! (2) 1 B FATACT (1) (4) 4061 (ii) HATFIELD-HORSHAM (3) ESTIMAN. SER H. TF, O.H (0), @ | Q \*\*\* (1) 0 (0) HOAD MONTGOMERY TOWNSHIP (87) Œ) **BLOCK NO.3** BCALE: 1"- 250" DETRIL R

METALE

META

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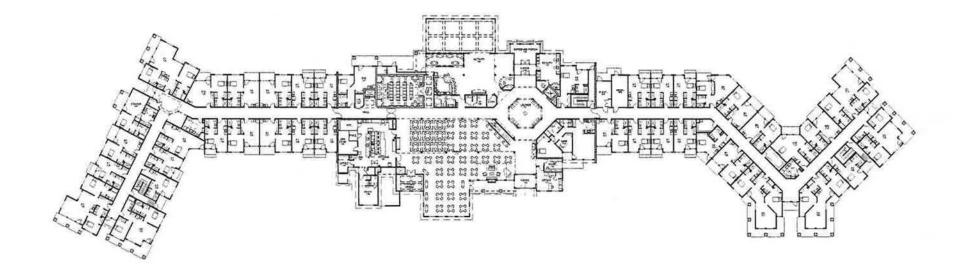
3



# DETAILED PLAN OF PROPOSED STRUCTURE

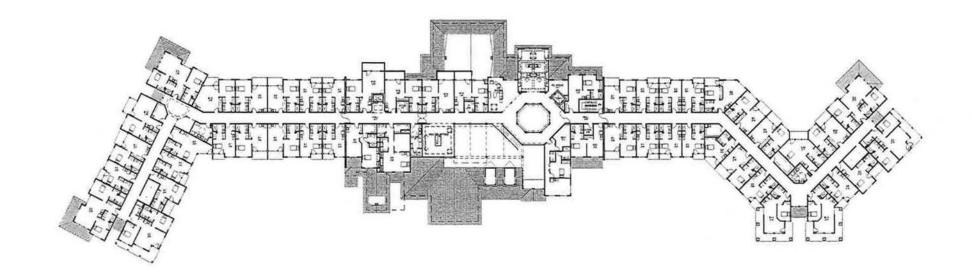
(See also 24" x 36" Plan Set)

REQUIRED ITEM No. 6



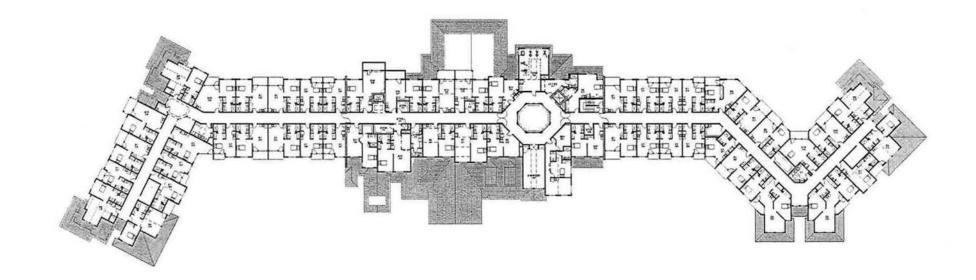
First Floor Plan
DATE: APRIL 16, 2016
SCALE: 3/64" = 1'-0"

Daniel Roacharchited



Second Floor Plan
DATE: APRIL 15, 2016
SCALE: 3/64" = 1'-0"

Daniel Roacharchitect



Third Floor Plan
DATE: APRIL 15, 2016
SCALE: 3/64" = 1'-0"

Daniel Roacharchitect

# Proof of Publication of Notice in The Reporter

COPY OF NOTICE IN PUBLICATION

# MONTGOMERY TOWNSHIP LEGAL NOTICE

On Monday, June 27, 2016, after 8:00PM, the Montgomery Township Board of Supervisors, during its regularly scheduled meeting, will conduct a conditional use hearing on the application of Hawthorn Development LLC for approval to construct a Congregate Care/ Independent Senior Living Facility on the following properties located in Montgomery Township within the BP-Business Office and Professional District: 416 Doylestown Pike, tax parcel number 46-00-00817-00-1; 418 Doylestown Pike, tax parcel number 46-00-00820-00-7; Elm Place, tax parcel number 46-00-00923-00-1. Applicant requests approval as a conditional use under Article XIV, Section 230-156.2, relating to conditional use standards; and Table 230-A, table of permitted uses.

All interested parties are

All interested parties are invited to attend. A copy of the application may be examined at the Township building, Monday through Friday, during normal business hours: 9:00AM to 4:00PM. Persons with disabilities wishing to attend the public meeting/hearing and requiring auxiliary aid or other accommodations to participate should contact the Montgomery Township Human Resources Coordinator 215-393-6900.

LAWRENCE J. GREGAN Township Manager LAN Jun 10, 17 - 1a State of Pennsylvania County of Montgomery

} ss

Maureen Schmid

designated agent of THE REPORTER, being duly sworn, deposes and says that THE REPORTER, a daily newspaper of general circulation, published at Lansdale, Montgomery County, Pennsylvania, was established in the year of 1870, and has been regularly issued and published in Montgomery County continuously thereafter and for a period of more than six months immediately prior hereto, the printed notice or publication attached is an exact copy of a notice published in the regular edition and issues of THE REPORTER on the following dates, viz

June 10, 2016

June 17, 2016

and that said advertising was inserted in all respects as ordered.

Affiant further deposes that he/she is the proper person duly authorized by THE REPORTER, a newspaper of general circulation, to verify the foregoing statement under oath and that affiant is not interested in the subject matter of the aforesaid notice or advertisement, and that all allegations in the foregoing statements as to time, place and character of publication are true.

Sworn to and subscribed before me this

bureen (

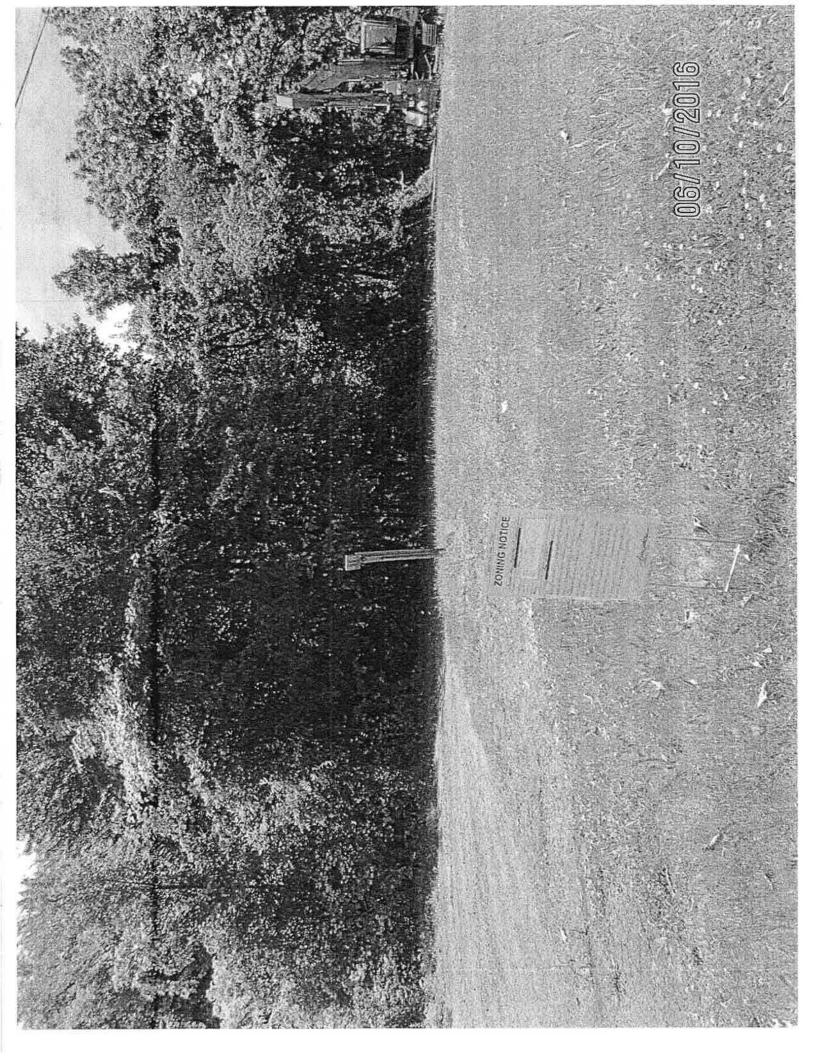
day of June, 2016

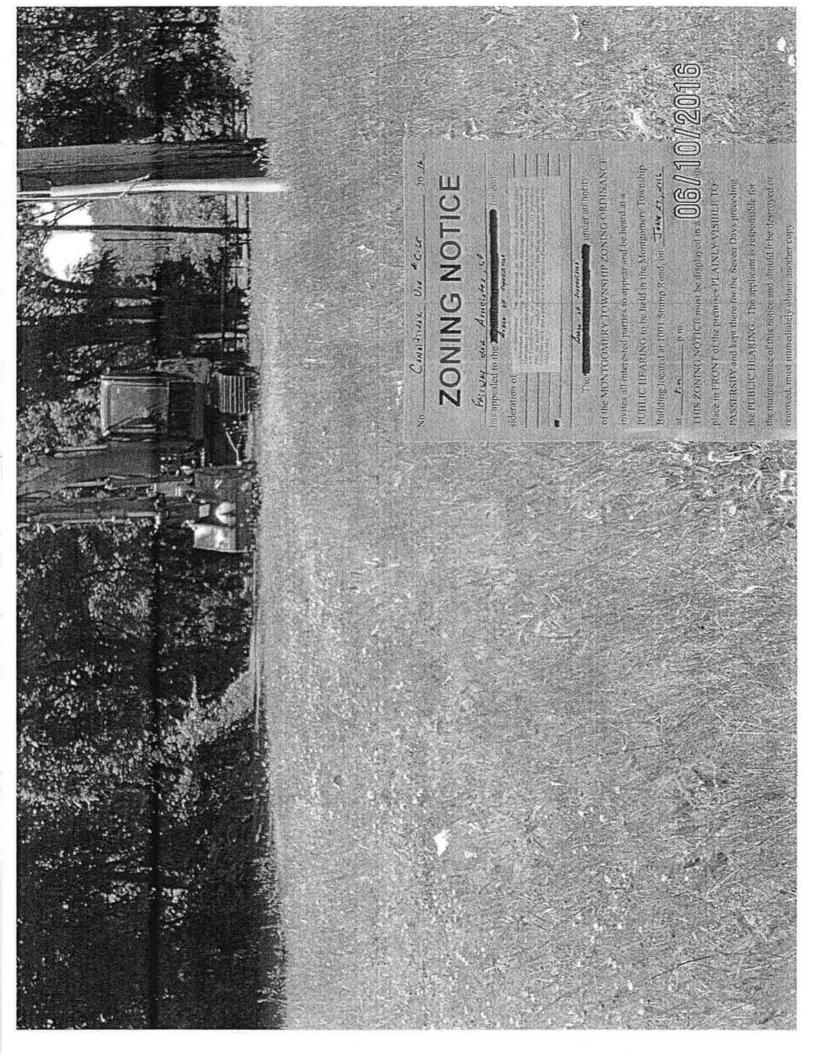
KK.

Notary Public

COMMONWEALTH OF PENNSYLVANIA

NOTARIAL SEAL MARCIA B. BURNS, Notary Public Lansdale Borough, Montgomery County My Commission Expires November 20, 2019







# MONTGOMERY TOWNSHIP BOARD OF SUPERVISORS

1001 STUMP ROAD MONTGOMERYVILLE, PA 18936-9605

Telephone: 215-393-6900 · Fax: 215-855-6656

www.montgomerytwp.org

ROBERT J. BIRCH CANDYCE FLUEHR CHIMERA MICHAEL J. FOX JEFFREY W. McDONNELL JOSEPH P. WALSH

LAWRENCE J. GREGAN TOWNSHIP MANAGER

June 3, 2016

RE:

Conditional Use Application #C-65

Fairway 202 Associates, LP 416-418 Doylestown Pike

Dear Property Owner:

This letter is to advise you that Fairway 202 Associates, LP, has applied to the Montgomery Township Board of Supervisors for a Conditional Use approval to construct a Congregate Care/Independent Senior Living facility at 416 and 418 Doylestown Pike. This facility will include a main building with 144 suites, 12 cottage units and associated improvements. This is designed exclusively for persons 62 years of age and older. This use is permitted by conditional use within the BP-Business Office and Professional District.

In order to receive public comment on this request, the Board of Supervisors has set Monday, June 27, 2016, after 8:00 p.m., in the Township Building, as the date, time and place for a public hearing.

This letter is being sent to you because you are either an adjacent or nearby property owner or have previously expressed an interest in the disposition of this application. Copies of the proposed map, conditional use application and deed are available for inspection during normal office hours.

Sincerely,

Bruce S. Shoupe Director of Planning

and Zoning

BORNEMAN BRENT R & MARIA R 101 ASHLEY CIR LANSDALE PA 19446 CIRAFISI JOSEPH & MICHELE 103 ASHLEY CIR LANSDALE PA 19446 PATEL CHANDRAKANT S & ARTI C 105 ASHLEY CIR LANSDALE PA 19446

CULBREATH ROBIN N 107 ASHLEY CIR LANSDALE PA 19446 FONTAINE AMELIA 109 ASHLEY CIR LANSDALE PA 19446 CLARKE KAREN 111 ASHLEY CIR LANSDALE PA 19446

JACOBUS HEATHER 113 ASHLEY CIR LANSDALE PA 19446 PATEL MAHENDRA U & ARPANA 115 ASHLEY CIR LANSDALE PA 19446 BLAHUT MICHAEL R & LESLEE M 117 ASHLEY CIR LANSDALE PA 19446

LAU CHUEN Y & LAM KIN S 119 ASHLEY CIR LANSDALE PA 19446 DABROW STACI L & CALLAHAN JOHN 123 ASHLEY CIR LANSDALE PA 19446 KING JOANNE E 122 ASHLEY CIR LANSDALE PA 19446

RAJARATNAM ARASU 711 BETHLEHEM PIKE MONTGOMERYVILLE PA 18936 TELFORD IDA
697 BETHLEHEM PIKE
MONTGOMERYVILLE PA 18936

KP DICKSON INVESTMENTS LP 412 DOYLESTOWN PIKE MONTGOMERYVILLE PA 18936

414 DOYLESTOWN ROAD 414 DOYLESTOWN PIKE MONTGOMERYVILLE PA 18936 PINECREST GOLF CLUB INC DOYLESTOWN PIKE MONTGOMERYVILLE PA 18936 202 MARKET PLACE 411 DOYLESTOWN PIKE MONTGOMERYVILLE NJ 18936

CONNELLY JAMES W
DOYLESTOWN PIKE
MONTGOMERYVILLE PA 18936

Marian Pinkerton 204 Hopkins Court North Wales, PA. 19454 215 361 7940

Mark McKenna 530 Country Club Drive Lansdale, PA 19446 267-549-1424

Pine Crest HOA (newsletter Editor)

Jim Vernot 225 Pine Crest Lane Lansdale, PA 19446 215-361-1568



June 17, 2016

File No. 2014-04125-01

Bruce S. Shoupe, Director of Planning and Zoning Montgomery Township 1001 Stump Road Montgomeryville, PA 18936-9605

Reference:

Conditional Use Application - #C65

Fairway 202 Associates, LP Hawthorn Development LLC

Hawthorn Retirement Group Congregate Care/Independent Senior Living Facility

#### Dear Bruce:

As requested, Gilmore & Associates, Inc. has reviewed the information listed below with regard to the conditional use application for the above-referenced project and offers the following comments for consideration by the Montgomery Township Board of Supervisors.

# SUBMISSION

- A. Conditional Use Application, prepared by Hawthorn Development LLC, dated May 5, 2016
- B. Preliminary Site Plan, prepared by Daniel Roach Architect, dated April 20, 2016

# II. GENERAL

The Applicant proposes the development of several lots at the intersection of Doylestown Road (S.R. 2202) and Montgomery Glen Drive as a Congregate Care/Independent Senior Living use. The proposed use is permitted as a conditional use in the BP Business Office and Profession District. The Applicant is the equitable owner of an approximately 9.9 acre area consisting of the following lots.

ADDRESS	BLOCK/UNIT	NET AREA (ac)
416 Doylestown Road	003/022	2.02
418 Doylestown Road	003/071	2.26
Elm Place	003/058	0.624
697 Bethlehem Pike	003/012	approx. 5 ac of 7.08 ac.
TOTAL		9.91

The proposed use includes development of 153 congregate care/independent senior living units consisting of a 141 suite, 3 story building and 6 duplex cottages along with associated improvements including parking, green space, site amenities, and detached garages. Access to the site is from a proposed extension of Montgomery Glen Drive.

# III. REVIEW COMMENTS

## A. Zoning Ordinance

Based on our review, the plans appear to comply with the Township Zoning Ordinance.

We defer review and comment regarding any proposed outdoor lighting (§230-83.E) is deferred to the

Township Lighting Consultant.

Review and comment related to ingress and egress (§230-83.F through H) is deferred to the Township Traffic Consultant.

We defer review of building facades and signage (§230-83.K(9) & (11)) to the Township Zoning Officer.

# B. General

- We note the gross site area and the value used in the maximum allowable density calculation of the Site Design Requirements table on the Preliminary Site Plan are not consistent. This does not impact the number of proposed dwelling units but the information should be consistent.
- 2. Development of the project as proposed will require subdivision of Block/Unit 003/012. The application includes an agreement with the owner of that lot

If you have any questions regarding the above, please contact this office.

Sincerely,

James P. Dougherty, P.E. Senior Project Manager

Gilmore & Associates, Inc.

JPD/

#### Enclosure

cc: Lawrence J. Gregan, Manager – Montgomery Township
Marita A. Stoerrle, Development Coordinator – Montgomery Township
Marianne McConnnell, Deputy Zoning Officer – Montgomery Township
Frank R. Bartle, Esq., Solicitor – Dischell Bartle & Dooley, PC
Kevin Johnson, P.E. – Traffic Planning & Design, Inc.
Judith Stern Goldstein, ASLA, R.L.A. – Boucher & James, Inc.
Ken Amey, AICP
James Garrity Esq. - Wisler Pearlstine, LLP
Russell S. Dunlevy, P.E., Senior Executive Vice President – Gilmore & Associates, Inc.

AN EMPLOYEE OWNED COMPANY

INNOVATIVE ENGINEERING

June 16, 2016

Lawrence Gregan, Township Manager Montgomery Township 1001 Stump Road Montgomeryville, PA 18936

SUBJECT:

HAWTHORN RETIREMENT GROUP

CONDITIONAL USE APPLICATION

TOWNSHIP LD/S NO. C-65 PROJECT NO. 1655303R

Dear Mr. Gregan:

Please be advised that we have reviewed the Conditional Use Application for Hawthorn Retirement Group, dated May 16, 2016. The application seeks Conditional Use Approval to place a Congregate Care/Independent Senior Living Facility within the BP Business Office and Professional District.

The site is located at the intersection of Doylestown Road and Montgomery Glen Drive, within the BP Business Office and Professional District. The plans propose the construction of a 144 unit Retirement Residence, 12 cottage units, and associated parking, activity area, and access road improvements.

As this current submission is for consideration of the Conditional Use Application only, we have conducted only a general review of the accompanying preliminary landscape plans at this time.

We offer the following comments for your consideration.

- 1. SLDO 205-49: landscape plans are required to meet a number of general requirement standards including plant material sizing and quality standards, installation details, specification and pruning standards, guaranty and inspection requirements, and size, species and quality standards for street trees. Notes and details demonstrating compliance with all provisions of this ordinance section must be provided.
- 2. SLDO 205-49.C: all landscape plans are required to be prepared by a landscape architect registered by the Commonwealth of Pennsylvania and familiar with Montgomery Township landscape requirements.
- 3. SLDO 205-51: information required on the landscape plan includes stormwater management features, existing and proposed utilities, size and species information for existing trees, specific plant schedule information, specific landscape details and specifications, natural site features, details and specifications for seeded areas, and limits of tree protection fencing. All required information must be shown in the landscape plan.
- 4. SLDO 205-52.A and Table 1: calculations shall be provided demonstrating compliance with the street tree requirements for Doylestown Road and Montgomery Glen Drive.

Fountainville Professional Building 1456 Ferry Road, Building 500 Doylestown, PA 18901 215-345-9400 Fax 215-345-9401

2738 Rinnrock Drive Stroudsburg, PA 18360 570-629-0300 Fax 570-629-0306

559 Main Street, Suite 230 Bethlehem, PA 18018 610-419-9407 Fax 610-419-9408

www.bjengineers.com

Mr. Lawrence Gregan, Township Manager Hawthorn Retirement Group June 16, 2016 Page 2

- SLDO 205-52.A and Table 1: it does not appear that Elm Place is to be extended onto the site at this time. A note should be provided indicating that should Elm Place be extended, street trees are to be provided in accordance with SLDO 205-52.A.
- 6. SLDO 205-52.B: softening buffers are required adjacent and parallel to the entire property perimeter including rights-of-way, except where screen buffers are required. Softening buffers shall be provided along all property boundary lines (with the exception of the boundary with the R-6 Golf Course District) including the Doylestown Road and Montgomery Glen Drive rights-of-way.
- SLDO 205-52.C and Table 2: a screen buffer is required between the proposed institutional use and the adjacent R-6 Golf Course District. Calculations demonstrating compliance with the ordinance requirements and the required quantity of screen buffer trees shall be provided.
- 8. SLDO 205-52.D and Table 1: institutional uses are required to provide 1 shade tree per 10 parking spaces within the entire lot and 6 shrubs for every 2 spaces around the entire parking lot perimeter, *plus* one shade tree per each 290 SF of planting island. Parking lot landscape calculations provided have double-counted shade trees to meet both of these requirements, which is not permitted. The calculations shall be revised to demonstrate compliance with the ordinance requirements, and the total quantity of required plant material shall be provided.
- SLDO 205-52.F and Table 1 require the provision of landscaping and seeding for stormwater management facilities. Calculations demonstrating compliance with the ordinance and the required quantity of landscape material shall be provided for any proposed stormwater management facilities.
- 10. SLDO 205-52.G and Table 1 require the provision of 1 tree per 5,000 square feet of gross floor area to meet individual lot landscaping requirements. Calculations demonstrating compliance with the ordinance requirement and the required quantity of individual lot landscaping trees shall be provided.
- 11. SLDO 205-53.B: during construction, trees and their root zones have a maximum permitted disturbance of ¼ of the total root area (dripline.) Existing trees encroached by more than this are not considered to be preserved and must be replaced. The plan shall be revised to show the required tree protection fencing around all trees proposed to be preserved, and to count any existing tree with more than ¼ root area disturbance as to be removed.
- 12. SLDO 205-53.C and 205-54: tree replacement requirements for trees over 23" to 48" are required to be calculated based on the total caliper inches of the trees in the size range. The plans calculate replacement trees for this size category on a tree-for-tree basis. The plans shall be revised to show existing trees on the site in accordance with the requirements of SLDO 205-51(9) and (10), to correct the tree replacement calculations, and to provide the required quantity of replacement trees.
- 13. SLDO 205-56: the Board of Supervisors may permit planting types other than those listed in the Recommend Plant List if they are hardy to the area, not subject to blight or disease, and are of the same general character and growth habit as those listed. At this time an indepth review of the proposed plant list has not been conducted. However, Ajuga reptans

Mr. Lawrence Gregan, Township Manager Hawthorn Retirement Group June 16, 2016 Page 3

and Nandina domestica should be removed from the proposed plant list due to their invasive tendencies.

- 14. Appendix C: the landscape plan shall be revised to provide notes and details demonstrating compliance with the planting standards and guidelines and details shown herein.
- 15. A note on Sheet 2 of the landscape plan indicates that the wooded area to the rear of the site is an "undisturbed area used for tree mitigation only. Leave ground surface in natural condition. Remove only rubbish and non-native invasive plant species." The plans should indicate whether this area is to remain undisturbed permanently and, if so, to provide notes on the record plan requiring that trees in this area remain undisturbed. If the area is to be developed in the future, notes should be provided on the record plan requiring compliance with SLDO Sections 205-53 through 54 as part of any future development, and that disturbed replacement trees are to be replaced one-for-one.

In addition, the plans should provide notes and details regarding what invasive plant species are to be removed, the methods by which they are to be removed, and ongoing maintenance methods for this area. We recommend that the plan include specifications for the planting of appropriate native plants upon the removal of invasives, in order to keep invasive species from re-infesting the area.

16. We recommend that a table be provided for all landscape calculations used to demonstrate compliance with the ordinance requirements, for the purposes of clarity.

Sincerely,

Judith Stern Goldstein, ASLA, R.L.A.

Managing Director

Valerie L. Liggett, ASLA, R.L.A.

ISA Certified Arborist®

Planner/Landscape Architect

Valein L. Liggett

JSG/vll/bpa

ec: Board of Supervisors

Planning Commission

Bruce Shoupe, Director of Planning and Zoning

Marita Stoerrle, Development Coordinator

Marianne McConnell, Deputy Zoning Officer

Frank R. Bartle, Esquire, Dischell Bartle & Dooley, PC

Kevin Johnson, P.E., Traffic Planning & Design

Ken Amey, AICP

James J. Garrity, Esquire

cc: Dan Roach

Fairway 202 Associates, LP

## MONTGOMERY COUNTY BOARD OF COMMISSIONERS

JOSH SHAPIRO, CHAIR VALERIE A. ARKOOSH, MD, MPH, VICE CHAIR JOSEPH C. GALE



# MONTGOMERY COUNTY PLANNING COMMISSION

MONTGOMERY COUNTY COURTHOUSE • PO BOX 311 NORRISTOWN, PA 19404-0311 610-278-3722 FAX: 610-278-3941 • TDD: 610-631-1211 WWW.MONTCOPA.ORG

> JODY L. HOLTON, AICP EXECUTIVE DIRECTOR

June 3, 2016

Mr. Bruce S. Shoupe, Director of Planning/Zoning Montgomery Township 1001 Stump Road Montgomeryville, Pennsylvania 18936-9605

Re: MCPC #16-0117-001

Plan Name: Hawthorn Retirement - Conditional Use Application

Situate: Doylestown Pike (E)/Montgomery Glen Drive (N)

Montgomery Township

Dear Mr. Shoupe:

We have reviewed the above-referenced conditional use application as you requested on May 16, 2016. We forward this letter as a report of our review.

## BACKGROUND

The application is a conditional use request to allow the development of a congregate care/independent senior living facility in the BP-Business and Professional Office District zone. The property in question is located on four parcels comprising 9.91 acres of largely unimproved land along Doylestown Road northeast of Bethlehem Pike. The proposed development would contain a main 144-suite building and six twin cottage units, along with associated improvements including activities areas, 110 parking spaces, and an extension of Montgomery Glen Drive which would serve as the property's access road. The ordinance permitting this type of conditional use was reviewed multiple times by the County, most recently on March 4, 2016, and was passed by the Montgomery Township Board of Supervisors on March 28, 2016.



# RECOMMENDATION

The Montgomery County Planning Commission (MCPC) generally supports the applicant's proposal, however, in the course of our review we have identified the following issues that the applicant and municipality may wish to consider prior to final plan approval. Our comments are as follows.

# REVIEW COMMENTS

#### BUFFERING

- A. Proper buffering of this site is important to the conditional use application to allow for the compatibility of uses in a developed area. While the Township zoning code states that no screen buffers are required with the R-6 Residential zone where a golf hole is used as a buffer (in this case, the 3<sup>rd</sup> hole at PineCrest Country Club), we recommend that a strong landscaped buffer be kept along the northern boundary, potentially greater than the minimum requirements of fifty shade trees and one hundred shrubs, to fully protect the proposed development from the golf course.
- B. The frontage of Doylestown Road should also be carefully considered by the Township and the applicant when it comes to proper screening and buffering. While most service trucks will use the reinforced service entrance directly attached to the second entry point off of Montgomery Glen Drive, some trucks may need to access the electrical and mechanical equipment on the northern side of the property, which would require use of the driveway passage along the inside of the "side yard" along Doylestown Road. We would recommend the Township work closely with the applicant to ensure that the side of the property facing Doylestown Road receives proper buffering and architectural treatments to ensure it is compatible with the image each entity wants to present to the rest of the community.

#### **ON-PROPERTY NAVIGATION**

- A. We note that the preliminary site plan shows sidewalks and crosswalks throughout much of the property, including from the front parking area to the main entrance, as well as leading to the duplex cottages in the rear of the property. We strongly encourage sidewalks to be installed whenever possible, especially along the frontage of Montgomery Glen Drive. The current intersection of Montgomery Glen Drive and Doylestown Road has two painted crosswalks crossing Doylestown Road that would serve this development, though they are not currently connected to sidewalks.
- B. Both Montgomery Glen Drive and the parking area driveway in the cottages area are currently shown as stub ends with the potential to be extended in the future. We recommend removable barriers be placed at the navigable ends of the newly constructed streets to aid in navigation for first-time visitors and elderly drivers.

C. A considerable area of the northwestern part of the parcel is left as undeveloped space and labeled on the preliminary landscaping plan as "for tree mitigation only". Since the proposal does not reach the upper limits for maximum unit density or impervious coverage, we recommend that the Township work with the applicant to define how access to the undeveloped part of the property would be achieved, whether it would be from the parking area or from an extended Montgomery Glen Drive.

#### TRANSIT ACCESS

Bus service in this area is currently provided by SEPTA's Route 132, which uses Horsham Road and Cowpath Road as it crosses Doylestown Road. The nearest stop is a third of a mile from the intersection of Montgomery Glen Drive and Doylestown Road, which could potentially make it an attractive commuting option for employees, even though the sidewalk network is not complete in this area. We recommend that the applicant coordinate with Mark Cassel, AICP, SEPTA Senior Operations Planner, at 215.580.7238 or mcassel@septa.org, to discuss potential service options for this site.

# CONCLUSION

We wish to reiterate that MCPC supports the applicant's proposal, but we believe that our suggested revisions will better achieve Montgomery Township's planning objectives for the property.

Please note that the review comments and recommendations contained in this report are advisory to the municipality and final disposition for the approval of any proposal will be made by the municipality.

Should the governing body approve a final plat of this proposal, the applicant must present the plan to our office for seal and signature prior to recording with the Recorder of Deeds office. A paper copy bearing the municipal seal and signature of approval must be supplied for our files.

Sincerely,

Matthew Popek

Matthew Popek, Transportation Planner mpopek@montcopa.org - 610-278-3730

c: Fairway 202 Associates, Applicant
James Garrity, Esq., Applicant's Representative
Lawrence Gregan, Twp. Manager
Jay Glickman, Chrm., Twp. Planning Commission
Mark Cassel, SEPTA

Attachments: Aerial Photograph of Site

**Preliminary Site Plan** 

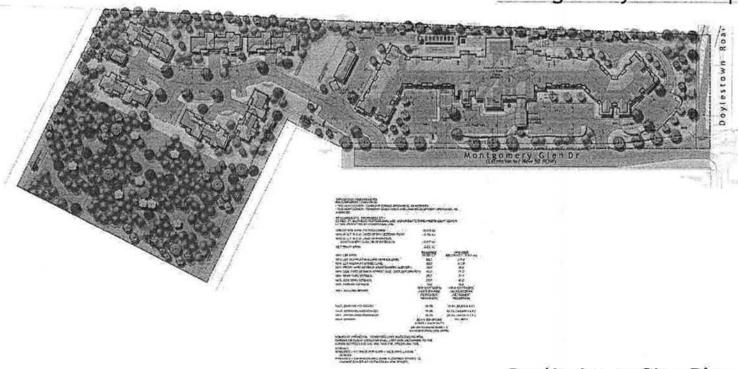
# Aerial – Hawthorn Retirement Residence, Montgomery Township



Hawthorn Retirement Montgomery Township Retirement Residence MCPC #160117001 Montgomery a tel 394 ello no County
Planning
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Preliminary Site Plan - Hawthorn Retirement Residence, Montgomery Township

# Montgomery Township



Preliminary Site Plan











# **MEMORANDUM**

TO:

**Board of Supervisors** 

FROM:

Planning Commission

Jay Glickman, Chairman

DATE:

June 16, 2016

RE:

Conditional Use Application #C65

**Business Office and Professional Zoning District** 

Hawthorn Development, LLC

The Planning Commission has reviewed the above application for Conditional Use and would like to recommend to the Board of Supervisors that this application be approved, subject to satisfactory compliance with all comments of the Township's review agencies.

# **AGENDA ITEMS**

- Conditional Use Application Hawthorn Retirement
- Text Amendment BP Zoning District Hawthorn Retirement

#### MONTGOMERY TOWNSHIP PLANNING COMMISSION

June 16, 2016

The June 16, 2016, meeting of the Montgomery Township Planning Commission was called to order by Chairman Jay Glickman at 7:30 p.m. In attendance were Commissioners Michael Lyon, Leon McGuire, Steven Krumenacker, James Rall and Ellen Reynolds. Also present was Bruce Shoupe, Director of Planning and Zoning, Candyce Fluehr Chimera, Supervisor Liaison.

The minutes of March 17, 2016, were approved as submitted.

There were no public comments.

Resident Andrew Terrari was introduced by Candyce Chimera. Mr. Terrari has expressed an interest in serving on the Planning Commission and was in attendance to observe.

# <u>Conditional Use Application – Hawthorn Retirement</u> Text Amendment – BP Zoning District – Hawthorn Retirement

James Garrity, attorney, Ron Klos, engineer, and Mark Lowen, Lenity Architecture, were present to discuss these proposals. Mr. Garrity presented a brief history of the project. He advised that they had first submitted the project in 2014. During the time since, there have been numerous changes based on discussions with the Township. He felt that the project was now something that the Township could appreciate. Mr. Garrity explained that this was a Conditional Use application for the construction of a Congregate Care facility along Doylestown Road, next to the Pine Crest Golf Course. Mr. Garrity explained the final revisions to this proposal. He advised that they had purchased the adjoining property to allow for a change in density from 30% to 20%. He stated that the building height had been changed from 48 feet to 40 feet and from 4 stories to 3 stories, as had been requested by the Township. It was also stated that the building coverage had been increased from 20% to 25% to accommodate this 3 story main building and the cottages within the project. The cottages were now twin dwellings. They were proposing 134 suites and 12 cottages. Mr. Garrity reminded the Planning Commission members that the Board of Supervisors had recently approved the Text Amendment to the BP Zoning District for Congregate Care facilities. This use was permitted as a conditional use. The proposal now being discussed was the Conditional Use application. He stated that they had been before the Planning Commission numerous times to discuss the project. This was the same proposal as had previously been discussed and recommended for approval. Mr. Garrity further advised that when preparing the engineering plans for the project it was also discovered that the lighting requirements of the ordinance

needed some revisions. Therefore, they had also submitted a text amendment to the ordinance. The applicant is proposing to modify Section 230-83.E of the Zoning Ordinance to increase the permitted height of outdoor lighting for Congregate Care/Independent Senior Living uses to fourteen (14) feet. They feel this is necessary to ensure that they can provide uniform and safe lighting in accordance with the IESNA lighting safety standards. The current ordinance allows for only ten (10) feet. Mr. Klos explained the significance of having the higher mounted lighting. It was stated that for safety reasons it is imperative to have uniform levels of lighting, rather than going from darker places to lighter places. Mr. Garrity advised that the Township Solicitor had specifically indicated that they should file the text amendment rather than apply for a variance. Some discussion of the differences occurred. There were no further questions. Chairman Glickman asked if there was a motion. Mr. Krumenacker made a motion, seconded by Mr. Rall, to recommend to the Board of Supervisors that the Conditional Use application be approved. Motion carried unanimously. A second motion was made by Mr. Lyon, seconded by Ms. Reynolds, to recommend to the Board of Supervisors that the text amendment to the BP-Business Office and Professional Zoning District be approved. Motion carried unanimously. Mr. Garrity thanked the members for their time.

A brief discussion of the Township's plan for naturalization of the detention basins occurred. Mr. Shoupe explained the process.

This meeting was adjourned at 8:30 p.m.

Respectfully submitted:

Marita Stoerrle
Development Coordinator/
Recording Secretary



WWW.TRAFFICPD.COM

June 20, 2016

Mr. Bruce S. Shoupe Township Director of Planning and Zoning Montgomery Township 1001 Stump Road Montgomeryville, PA 18936-9605

RE: Fairway 202 Associates, L.P.
Conditional Use Review
Montgomery Township, Montgomery County, PA
Montgomery Township #C-65

TPD No. MOTO.A.00108

## Dear Bruce:

In our role as Township Traffic/Street Lighting Engineer, Traffic Planning and Design, Inc. (TPD) has reviewed the Conditional Use Plans prepared by Daniel Roach, Architect, dated April 20, 2016. Based on our review, we offer the following comments:

- 1. A traffic impact study must be provided for the proposed use.
- 2. A turnaround/cul-de-sac with a minimum radius of 40 feet must be provided on the Montgomery Glen Drive extension in order for the road to qualify for liquid fuels funds. In addition, §205-10.D(2)(b) of the Montgomery Township Subdivision and Land Development Ordinance requires a paved turnaround with an outer radius of 50 feet.
- 3. The Montgomery Glen Drive extension exceeds 700 feet in length. However, §205-10.D(2)(b) of the Montgomery Township Subdivision and Land Development Ordinance limits the length of a cul-de-sac to 500 feet.
- 4. The plans show the egress radius for the Montgomery Glen Drive extension blocking the southbound Doylestown Road through lane. The radius must be revised to intersect Doylestown Road appropriately.
- 5. Easements should be provided for future access to the properties located south of the proposed Montgomery Glen Drive extension.

- 6. It appears that delivery vehicles will be required to make back-up maneuvers on the Montgomery Glen Drive extension to access the loading area. The loading areas must be designed to be accessed without backing into a public street in accordance with §205-10.H(6) of the Montgomery Township Subdivision and Land Development Ordinance. Truck tracking templates should be provided indicating how delivery vehicles will access the site.
- 7. An offset is provided on the Montgomery Glen Drive extension immediately adjacent to the intersection with Doylestown Road. An appropriate tangent should be provided on the approach to the intersection. The length of the tangent should be discussed with TPD, PennDOT, and the Township.
- 8. The site is served by a single access. The need for a secondary/emergency access should be determined by the Township's Fire Marshal.
- The purpose of the loop road around the back of the three story building is unclear.
   Tracking templates should be provided for the design vehicles intended to use the road (i.e. buses, fire trucks, delivery trucks.)
- 10. A covered entrance is proposed for the three story building. The clearance height should be specified. If the clearance height is less than 14'-6", it will need to be properly posted. In addition, the covered entrance must provide sufficient clearance to accommodate emergency vehicles, buses, etc.
- 11. Fire trucks entering the site from the Montgomery Glen Drive extension will need to make a sharp right turn which is effectively a U-turn to access the internal parking aisles. Truck tracking templates must be provided indicating that the access driveways and parking aisles are designed to accommodate Montgomery Township's largest fire truck without conflicts with curbing, signs, trees, parked vehicles, etc.
- 12. It is unclear why a striped gore area is provided between the southbound Doylestown Road through lane and the proposed right turn lane. The design will be thoroughly reviewed during the land development plan review, PennDOT Highway Occupancy Permit (HOP) plan review, and the traffic signal permit plan review.

There may be additional comments related to the design and construction depending on how the comments above are addressed and when more detailed plans are provided during the land development process. We reserve the right to make additional comments as additional information is submitted. Please call if you have any questions. Mr. Bruce S. Shoupe June 20, 2016 Page 3

Sincerely,

TRAFFIC PLANNING AND DESIGN, INC.

Kevin L. Johnson, P.E.

President

kjohnson@TrafficPD.com

cc: Larry Gregan, Township Manager
Marita Stoerrle, Township Development Coordinator
Kevin Costello, Township Public Works Director
Russ Dunlevy, P.E., Township Engineer
James Garrity, Esq., Wisler Pearlstine, LLP
Joseph Platt, P.E., TPD
Eric Hammond, TPD

# **MEMORANDUM**

TO:

Larry Gregan, Township Manager

FROM:

Ken Amey

DATE:

June 22, 2016

SUBJECT:

Hawthorn Retirement Group/Fairway 202 Associates, LP

Conditional Use Application - #C65

As requested, I have reviewed the Conditional Use application submitted by Hawthorn Development LLC, dated May 5, 2016. This application has been submitted pursuant to an amendment to the BP-Business Office and Professional Zoning District which was passed by the Board of Supervisors earlier this year. Hawthorn proposes development of a Congregate Care/Independent Senior Living facility on a 9.91 acre tract on Doylestown Road at the intersection of Montgomery Glen Drive.

The proposed development appears to conform to all of the specific requirements for this conditional use contained in the Zoning Ordinance. If conditional use approval is granted by the Board of Supervisors, a formal subdivision and land development application will need to be filed by the applicant; the requirements of the SALDO and any requested waivers from those requirements will need to be addressed by the applicant at that time.

Please let me know if there are any questions or comments.

# MONTGOMERY TOWNSHIP BOARD OF SUPERVISORS BOARD ACTION SUMMARY

SUBJECT:

Consider Authorization to Accept Proposal to Perform Cable Franchise Renewal Services

MEETING DATE:

June 27, 2016

ITEM NUMBER: #9

MEETING/AGENDA:

**ACTION** 

NONE

REASON FOR CONSIDERATION: Operational:

Policy:

Discussion: xx

Information:

INITIATED BY: Stacy Crandell

Assistant to the Township Manager,

BOARD LIAISON: Joseph P. Walsh, Chairman

Board of Supervisors

## BACKGROUND:

The Township's current twelve year Franchise Agreement with Verizon will expire on July 24, 2018. The Cable Communication Policy Act of 1934 (the "Cable Act") encourages the Township as the local franchising authority and the cable company to reach an agreement on a renewal agreement at any time through an informal process of discussion. However Section 626 of the Cable Act also provides for an alternative formal renewal procedure with substantive and procedural requirements. If either the Township, as the franchising authority, or the cable company do not initiate the formal process within a certain time frame, the protections of that process may be lost.

Verizon has provided the Township with notice to trigger the mandatory 36 month renewal period for our current agreement. The current agreement was negotiate with other members of the Montgomery County Consortium of Communities. In order to obtain legal services at a lower cost, Township Staff is recommending going with the Cohen Law Group Proposal that was presented at the Consortium Meeting on June 17, 2016.

Depending upon how many consortium members participate in this process, the Township's fee for services for both the compliance review and the negotiation of the franchise agreement would range from \$7,350-\$9,500. The Consortium is also going to provide a \$1,000 per participating municipality to offset the costs.

Attached is the letter from Verizon to commence the negotiation process, and the proposal from the Cohen Law Group that was presented to the Consortium. The process is expected to take two years to complete.

ZONING, SUBDIVISION OR LAND DEVELOPMENT IMPACT:

None.

PREVIOUS BOARD ACTION:

None.

**ALTERNATIVES/OPTIONS:** 

None.

# BUDGET IMPACT:

Depending upon the number of participants, the Township's fee would be \$7,350-\$9,500 and the fee would be discounted an additional \$1,000 with the contribution from Consortium.

# RECOMMENDATION:

Staff is recommending the Board approve the proposal from the Cohen Law Group that was presented to Montgomery County Consortium of Communities.

# MOTION/RESOLUTION:

BE IT RESOLVED by the Board of Supervisors of Montgomery Township that we hereby accept the proposal from the Cohen Law Group, dated June 13, 2016 to perform the Cable Franchise Renewal Services including the compliance review.

MOTION:	SECOND:			
ROLL CALL:				
Robert J. Birch	Aye	Opposed	Abstain	Absent
Candyce Fluehr Chimera	Aye	Opposed	Abstain	Absent
Michael J. Fox	Aye	Opposed	Abstain	Absent
Jeffrey W. McDonnell	Aye	Opposed	Abstain	Absent
Joseph P. Walsh	Aye	Opposed	Abstain	Absent

DISTRIBUTION: Board of Supervisors, Frank R. Bartle, Esq.



# REVISED PROPOSAL TO PERFORM VERIZON CABLE FRANCHISE RENEWAL SERVICES

submitted to the

# MONTGOMERY COUNTY CONSORTIUM

by the

**COHEN LAW GROUP** 

413 South Main Street Pittsburgh, PA 15215

www.cohenlawgroup.org

(412) 447-0130

June 13, 2016

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# I. INTRODUCTION

The Cohen Law Group ("CLG") welcomes this opportunity to submit a revised proposal for legal services to assist the applicable municipalities of the Montgomery County Consortium ("Consortium") in a cable compliance review and franchise renewal negotiations with Verizon of Pennsylvania, Inc. ("Verizon"). The franchise agreements between the Consortium municipalities and Verizon will be expiring soon. As such, now is the time to begin the franchise renewal process. Franchise renewal is the best opportunity for the municipalities to obtain significant benefits and to assert their legal rights with their cable company.

We anticipate that the renewal negotiations with Verizon will be more challenging than the last Verizon negotiations. When we negotiated the current agreements on behalf of the Consortium in 2005-2006, Verizon was just entering the cable television market and needed to obtain franchises from the municipalities to begin offering cable service. Now that Verizon is entrenched in the cable market with a solid subscriber base, we expect the company to take a more confrontational approach to renewal negotiations. Performing a cable compliance review and identifying non-compliance issues will help provide the Consortium with more leverage in these renewal negotiations.

There have also been dramatic changes in video technology since the inception of the current franchise agreements, including enhanced digital technology, increased high definition, expansion of video-on-demand, and internet-based video programming (sometimes referred to as video streaming or "over-the-top" technology). There have also been major changes in both Verizon's cable operations and the level of priority the company now gives to municipalities. Finally, there have been changes in federal law and regulations applicable to cable franchising.

Given that the Consortium municipalities are now eligible for renewal, we recommend that

they do the following: 1) perform a cable compliance review to determine whether the cable operator has complied with its obligations under the current agreement; and 2) negotiate a new agreement that addresses the changes since the last franchise and secures maximum benefits for Consortium municipalities. Our law firm had the privilege of assisting the Consortium in its last franchise negotiations with Verizon and would appreciate the opportunity to do so again.

Municipal officials have three critical roles when it comes to renewing (or, in the rare circumstance, not renewing) a cable franchise. First, municipal officials are effectively the landlords of their cable company. The cable company utilizes the municipality's public rights-of-way to operate its cable system. Municipal officials manage those rights-of-way as a public trust and are entitled to a fair return for the cable company's use of those public properties. This includes both financial and non-financial benefits for the municipality.

Second, municipal officials have an obligation to protect and advance the interests of their residents. This means not only getting the best services from the cable operator today, but also doing everything possible to prepare for the future. The field of telecommunications is changing so rapidly that it is difficult to predict with certainty the technologies that will be offered in the future. A cable franchise agreement must provide for the benefits available from existing technologies as well as those that may become available from future technologies.

Third and finally, municipal officials are consumers of telecommunications services in all three forms – television, internet, and telephone. From internet access at the Municipal Building to television service at the Fire Station, municipalities use a wide range of telecommunications services. They are entitled, therefore, to the most efficient, state-of-the-art services at the best possible prices.

CLG is uniquely qualified to represent the Consortium in cable franchise renewal negotiations. For over 18 years, our firm has specialized in cable franchise matters on behalf of

municipalities, and our attorneys have negotiated many more franchise agreements than any other law firm in Pennsylvania and surrounding states. We have represented over four hundred (400) municipalities in six states negotiations with their cable companies. Our firm has also negotiated numerous agreements with Verizon. We know Verizon's corporate policies and we know their negotiating tactics.

The principal of the firm is Dan Cohen. Aside from his credentials as a telecommunications attorney, Mr. Cohen is especially qualified to represent municipalities because he was a municipal official himself. As a member of the Pittsburgh City Council from 1990 to 2002, Mr. Cohen has first hand knowledge of the challenges and opportunities confronting municipal governments. With twelve years' experience in municipal government, he understands the practical needs and the financial constraints facing municipal officials. In addition, the Cohen Law Group includes attorney Phil Fraga, attorney Stacy Browdie, attorney Natausha Horton, law clerk Mike Roberts, and administrative assistant Akila lyer.

CLG has developed a three-step approach to cable franchise renewal projects. The first step is identifying the client's specific needs. Since these needs often become better defined as the negotiation progresses, our attorneys maintain flexibility throughout the process to achieve a cable franchise agreement that accomplishes the client's specific goals. Second, our attorneys negotiate firmly and deliberately in order to reach agreement in a timely fashion. Our franchise agreements achieve maximum benefits for our clients. Finally, our attorneys work efficiently in a manner that is cost effective for our clients. We are keenly aware of the fiscal constraints facing municipalities, and focus, therefore, on keeping attorneys' fees and costs as low as possible.

#### II. POTENTIAL FRANCHISE BENEFITS

There are significant benefits available to municipalities in a cable franchise renewal agreement. The key to receiving these benefits is to know the law and regulations relating to each benefit and to negotiate firmly to obtain them from the cable operator. The following is a list of some of the more important potential benefits:

- of up to five percent (5%) of the cable company's "gross revenues" for cable services derived from their municipality. The central subject of negotiation with the cable operator is the specific revenue sources to be included in the definition of "gross revenues". CLG has developed a comprehensive list of cable operator revenue sources to which municipalities may apply the franchise fee. Currently numbering 26 revenue sources, the list is expanded regularly depending on the increasing number of fees being charged by the cable operator. While the definition of "gross revenues" in the Consortium's current agreements was comprehensive in 2006, Verizon now charges additional fees that should be added to the definition of "gross revenues" in the new agreement.
- 2. Franchise Fee Accountability: In addition to franchise fee revenue, it is also essential for municipalities to require franchise fee protection and accountability. In a franchise agreement, these include detailed franchise fee verification reports, the right to conduct comprehensive franchise fee audits with penalties for underpayments, as well as new protections against franchise fee reduction due to bundled service packages (also referred to as the "triple play" of television, internet, and phone services).
- 3. Cash Franchise Grant: In addition to franchise fee revenue, we will attempt to negotiate for cash franchise grants from Verizon. The availability, amount, and distribution schedule of such grants depend upon the give-and-take of the cable franchise negotiations. Our firm was able

to secure a cash grant from Verizon for each of the participating municipalities in the last negotiation and it will be our goal to obtain a greater grant in this renewal.

- 4. Free Services: It is common in a franchise agreement for cable companies to agree to provide complimentary cable television and/or internet services to community facilities. The types and amount of free services are different for different cable operators. The major subjects of negotiation are the number of community facilities (including municipal buildings, public and private schools, and public libraries) that obtain the service, and the type and level of service obtained.
- 5. Cable System Upgrade: Depending on technical features of the current cable systems serving the Consortium, it may wish to negotiate a time frame for an upgrade or rebuild of the cable system. It is important to know the specifications of the cable system and whether or not it is technologically current. Even if the system is technologically current, it is important to include the technical specifications of the system in the franchise renewal agreement.
- 6. Customer Service Standards: In a franchise agreement, municipalities may impose customer service standards on the cable company to which the company must adhere. It is important to include comprehensive and enforceable standards, including but not limited to, telephone answering time limits for customer service representatives, refunds for service interruptions, rules for resolving customer billing disputes, time limits for cable technicians to arrive at your home, a prohibition against the premature application of late fees, and rules respecting subscriber privacy.
- 7. Public, Educational and Governmental (PEG) Channels: Municipalities have a legal right under federal law to dedicated channel space for public, educational and governmental ("PEG") programming. The PEG Channels may be used to inform citizens by broadcasting public safety alerts, announcements regarding local government activities, public meetings and/or community, educational and athletic programs. For municipalities that currently operate PEG

Channels or wish to activate them in the future, we will include protections regarding the municipality's control over the channel(s), distribution of PEG signals to all customers, installation of return lines, technical quality of the channel(s), and other related requirements.

- 8. Reporting Requirements: It can be helpful for municipalities to obtain periodic information from the cable operator related to financial and customer service issues. A franchise agreement may require the cable operator to provide written reports to the municipality on such matters as franchise fee verification, customer complaints, construction activity in the public rights-of-way, and the cable company's financial condition.
- 9. Legal Protections of the Rights-of-Way: Because cable companies place wires and equipment in the public rights-of-way, it is critical that a cable franchise agreement include legal protections for any damages or injuries that may occur. These protections include safety standards for construction and installation, requirements for repair and restoration of property damage, emergency removal of equipment, indemnification of the municipality, and full insurance coverage.
- 10. Enforcement: Once the cable operator agrees in a franchise agreement to provide certain benefits, the Consortium municipalities must be able to enforce these obligations. It is essential to include strict and practical enforcement tools to ensure the company's faithful performance of its obligations under the agreement. These tools may include, but are not limited to, monetary fines on a daily basis, a substantial performance bond, and the right to revoke the franchise in extreme circumstances.
- 11. Length of Term: Because telecommunications technology changes so rapidly, municipalities typically seek a shorter length of term in the franchise renewal agreement. On the other hand, cable companies typically seek longer terms to protect their capital investment in the cable system. The difference between these two positions is resolved through negotiation.

#### III. SCOPE OF SERVICES

The following is the scope of services that the Cohen Law Group will perform if hired to assist the municipalities of the Consortium in cable franchise renewal with Verizon.

#### A. Preliminary Setting of Priorities

We will arrange an initial client meeting with municipal officials from all participating municipalities. During the meeting, we will describe the cable franchise process, including both the formal and informal processes prescribed by Section 626 of the federal Cable Act, 47 U.S.C. §546. We will also advise the officials regarding their legal rights, including the substantive areas in which the Consortium municipalities have legal authority over the cable operator and those areas in which their legal authority is limited. In addition, we will outline the potential financial and non-financial benefits available to the municipalities as well as solicit the concerns and needs of the officials with respect to the cable operator.

In addition, we will provide the Consortium municipalities with public notice and written talking points for a public hearing on cable franchise renewal. Section 626 includes a "notice and comment" requirement, and we typically recommend that this requirement be satisfied by a public hearing inviting citizen input. We will also advise the municipalities with respect to any other legal and regulatory requirements pertaining to franchise renewal.

During this preliminary phase, we recommend that the municipalities perform a cable compliance review to determine whether Verizon has complied with its obligations under the current agreements. The current Verizon agreements contain numerous financial, legal, and technical obligations and vest the municipalities with the power to enforce these obligations. Franchise renewal is the single best time to perform such a review, because, if violations are discovered, the Consortium has more leverage to address and resolve them in the context of cable franchise renewal

and a better chance of obtaining more benefits in the renewal agreement. The scope of services for a cable compliance review is discussed in more detail below.

#### B. Cable Compliance Review

The federal Cable Act requires that municipalities, as part of cable franchise renewal, review the cable operator's past performance and identify their future cable-related community needs. A cable compliance review is a key component of assessing the cable operator's past performance. It is the best method to hold the operator accountable for requirements set forth in the agreement and to ensure that any violations are corrected. A compliance review will also increase the municipalities' leverage in franchise renewal negotiations.

CLG has extensive experience in performing cable compliance reviews on behalf of municipalities throughout Pennsylvania. We often find cable operator violations on a variety of issues ranging from build-out requirements to franchise fee underpayments to customer service violations. The major obligations that will be investigated through a cable compliance review include the following:

agreements with Consortium municipalities include a requirement that the entire geographical area of the municipality be built out for FiOS cable service, subject to certain density requirements, within specified time frames. Typically, there are two deadlines—an initial service area deadline and an extended service area deadline. The agreements further include liquidated damages (pre-determined monetary fines) if such construction has not occurred in a timely fashion. We will investigate whether Verizon has complied with this requirement and, if not, recommend enforcement measures.

- 2. Accurate Payment of Franchise Fees: The Consortium agreements include the requirement that Verizon apply the franchise fee percentage to 21 separate revenue sources (there are now, 10 years later, approximately 27 eligible revenue sources). We will investigate whether Verizon has accurately paid franchise fees to each municipality, including: 1) whether the company included all revenue sources (and sub-sources) in the computation of franchise fees; 2) whether it included both subscriber based and non-subscriber based sources; 3) whether it correctly allocated revenues from "triple play" revenue sources (encompassing cable, internet, and phone revenues); and 4) related franchise fee computation issues. Over the past 3 years, our law firm has performed over 100 franchise fee reviews and has found cable operator underpayments in 73% of them.
- 3. Accurate Payment of Cash Franchise Grants: Verizon committed to pay franchise grants to the participating municipalities in two installments—typically one in the 5<sup>th</sup> year of the franchise term and one in the 10<sup>th</sup> year of the franchise term. We will investigate whether Verizon has paid the grants on or before these due dates and whether the payment amounts were correct. We expect the upcoming negotiations to take a different approach to franchise grants.
- 4. Adherence to Customer Service Standards: The current Verizon agreement includes numerous customer service standards covering eight pages of the agreement. These include, but are not limited to, telephone answering time limits for customer service representatives, refunds for service interruptions, rules for resolving customer billing disputes, time limits for cable technicians to arrive at your home, and a prohibition against the premature application of late fees. We will investigate whether Verizon has complied with these customer service standards, including identifying and collecting customer service complaints from the municipalities and determining whether Verizon adequately resolved the complaints.

- 5. Provision of Free Services to Community Facilities: The current agreements include a requirement that Verizon provide complimentary cable services to municipal buildings, fire stations, schools, and public libraries, subject to setback requirements. They also include a list of eligible facilities in Exhibits A of the agreements. By obtaining information from Verizon and the municipalities, we will determine whether these complimentary services are being provided to all eligible facilities and, if not, which facilities need to be connected.
- 6. Satisfaction of Reporting Requirements: The Consortium agreements include several Verizon reporting requirements, including, in addition to franchise fee reports, reports regarding customer complaints, service outages, service calls, installations/reconnections, and service area maps. We will obtain this reporting information, review the findings, and determine whether there are non-compliance issues and whether the findings require specific provisions in the franchise renewal agreement.
- 7. Insurance, Indemnification, and Performance Bond Requirements: The Consortium agreements with Verizon include multiple insurance coverage, indemnification, and performance bond requirements. We will obtain information from Verizon confirming whether it has satisfied the insurance and performance bond requirements and whether it properly indemnified any applicable municipalities.
- 8. Educational and Governmental (EG) Channel Requirements: The Verizon agreements include multiple EG Channel requirements, including dedication of educational and governmental channels, interconnection of the Verizon system with the incumbent cable system, etc. For those municipalities and/or school districts that have activated channels, we will investigate whether Verizon has complied with these requirements. This portion of the compliance review will also give us an opportunity to investigate the future EG needs of the applicable municipalities.

The first step in the compliance review process will be to draft a Request for Information and Documents ("RFID") to Verizon for all relevant information and documents pertaining to the areas of inquiry outlined above. We will request five years' worth of compliance documentation, since that is the amount of time Verizon is required to maintain its records. We will also draft a separate compliance questionnaire to submit to the municipalities. Verizon will demand a non-disclosure agreement ("NDA"), which we will negotiate, prior to providing information and documents.

Based on past compliance reviews we have conducted, we will not receive all of the requested information in Verizon's first round of responses to the RFID. It typically requires two or three rounds of requests to obtain all the relevant information, as well as clarification of initial responses. We also expect that we will need to follow up with certain municipalities to obtain their questionnaire responses. We will carefully and systematically review the information received and ascertain Verizon's level of compliance with its obligations. We will identify any potential areas of non-compliance, as well as inconsistencies between the responses provided by the municipalities and the cable operator. We will then determine whether Verizon has committed specific, measurable and enforceable violations. If so, we will decide on the best course of action to enforce each violation, including possible penalties.

Finally, we will draft a compliance report containing a description of our investigation and an itemization of our findings. The report will include an introduction, procedural history, areas of inquiry, results of inquiry, specific recommendations, and conclusion. It will detail any and all areas of non-compliance and will reference the applicable sections in the Agreement. With respect to any areas of non-compliance, we will recommend a specific course of action to enforce the non-compliance, including possible penalties.

#### C. Drafting of Proposed Agreement

After the setting of priorities stage and the cable compliance review is completed, our attorneys will draft a proposed master franchise agreement with Verizon that provides the Consortium municipalities with all of the benefits and legal protections to which they are entitled under current law and current technology. The agreement will include the results of the setting of priorities and cable compliance review stages discussed above, as well as our judgment as to the legal provisions that would advance the Consortium's interests and meet the municipalities' future cable-related needs. We will then submit the draft agreement to each municipality for informal review and comment. Any suggested changes will be incorporated into the agreement and the proposed agreement will be presented to representatives of Verizon.

#### D. Negotiation with Cable Operator

The most important stage in the process is negotiating a franchise renewal agreement with representatives of Verizon. CLG has negotiated hundreds of agreements with Verizon on behalf of Pennsylvania municipalities. We know Verizon's company's policies and its negotiating tactics. The working document for these negotiations will be the draft franchise agreement informally approved by the clients. We will preserve the Consortium's legal rights under the formal process, but negotiate with Verizon under the informal process outlined in the federal Cable Act.

We anticipate that the renewal negotiations with Verizon will be more challenging than the last Verizon negotiations. When we negotiated the current agreements in 2005-06, Verizon was entering the cable television market and needed to obtain franchises from the municipalities in to begin offering cable service. Now that Verizon is entrenched in the cable market, we expect the company to take a more confrontational approach to renewal negotiations. That being said, this time we will most likely have non-compliance issues resulting from the cable compliance review which

will be helpful in the negotiations. We are confident that we will be able to negotiate strong renewal agreements with Verizon.

The negotiation typically consists of at least two face-to-face negotiation sessions with representatives of the cable operator, multiple conference call negotiations, status conferences with the clients, multiple revisions of the proposed franchise agreement, redrafting specific franchise agreement provisions, and editing the final draft of the master agreement. We will then proceed to customize the master agreement to each individual municipality, including substantive provisions requested by each of the municipalities.

#### E. Consideration by the Municipal Governing Bodies

After tentative agreement with Verizon has been reached, CLG will report to each municipality on the substantive provisions of the deal. Specifically, we will present each participating municipality with its final customized franchise agreement (and any side agreements) negotiated by the parties and recommended by CLG. We will also draft an executive summary of the major provisions of the final agreement. Finally, we will draft a customized short-form ordinance authorizing approval of the agreement for consideration by each Township Board and Borough Council.

Given the amount of work involved in the cable compliance review, the challenges inherent in obtaining information and documents from Verizon, the anticipated time frame for negotiating a master renewal agreement with Verizon, and the fact that the current agreements expire in 2018, we expect that this entire project will take approximately two years in duration.

#### IV. PROFESSIONAL BACKGROUND

The Cohen Law Group specializes in representing municipalities in cable and telecommunications matters. Collectively, our attorneys have worked on cable and telecommunications issues on behalf of municipalities for fifty (50) years. CLG has represented over four hundred (400) municipal clients in six states in negotiations with cable companies and telecommunications providers.

Our firm has negotiated with major national companies as well as smaller regional companies to obtain benefits for our clients. We have also negotiated many agreements with Verizon.

CLG's full array of legal services to municipal clients include the following:

- Drafting cable franchise agreements
- Review of current and proposed franchise agreements/ordinances
- Cable franchise renewal negotiations with cable companies
- Franchise fee audits
- Drafting of right-of-way ordinances and development of right-of-way fees
- Right-of-way management and enforcement
- Drafting pole attachment agreements
- Pole attachment negotiations with cable and telephone companies
- Transfer or sale of franchise ownership or control
- Cable compliance reviews
- Evaluation of public, education and governmental ("PEG") channels
- Identification and marketing of municipality's vertical assets to wireless firms
- Development of wireless facilities ordinances
- Negotiation with cellular tower and antenna companies
- Wireless facility litigation

As an active member of the National Association of Telecommunications Officers and Advisors (NATOA) and other professional organizations, CLG stays current with frequent changes in cable and telecommunications law. Dan Cohen has written articles on cable franchising and telecommunication matters that have been published in *Public Management Magazine*, *Government Procurement Magazine*, *Pennsylvania Township News* and *Pennsylvania Borough News*. He is also a frequent speaker at regional and national municipal conferences.

In addition to providing professional counsel to municipalities on cable and telecommunications matters, Mr. Cohen served as an elected municipal official for twelve (12) years. He served on the Pittsburgh City Council from 1990 to 2002. As a result, he has first hand knowledge of the challenges and opportunities confronting municipal governments. Mr. Cohen served as Chair of City Council's Cable Television Committee for ten years and also served on the Mayor's Telecommunications Committee. Mr. Cohen led Pittsburgh's efforts to regulate cable rates in the early 1990's. Those efforts resulted in a refund ordered by the Federal Communications Commission for all City of Pittsburgh cable customers. Mr. Cohen graduated from Yale University and Stanford Law School.

Attorney Phil Fraga brings significant private sector experience to his role in serving as outside counsel to municipalities. Mr. Fraga served as assistant general counsel to a major cable company and was counsel to two telecommunications companies prior to joining the firm in January of 2006. His industry experience and his understanding of the operations of cable and telecommunications providers have proven invaluable for our clients. Mr. Fraga has negotiated hundreds of cable franchise agreements with cable providers. Mr. Fraga has undergraduate degrees from Bethany College (finance) and Carlow College (accounting), an MBA from the University of Steubenville, and a law degree from the Duquesne University School of Law.

Attorney Natausha Horton served as a Law Clerk to the Pennsylvania Supreme Court prior to starting with the Cohen Law Group. Ms. Horton also served as the Law Clerk for the Chapter 13 Bankruptcy Trustee for the Western District of Pennsylvania. There she worked with debtors and creditors to establish bankruptcy repayment plans and monitored the accounting and computation of such payments to the Trustee. At CLG, Ms. Horton has concentrated primarily on franchise fee audits, cable franchise negotiations, and wireless facilities negotiations. She graduated *summa cum* 

laude from the University of Pittsburgh and received her law degree at the University of Pittsburgh School of Law.

Attorney Stacy Browdie has been an integral part of the firm since its inception. She has many years of experience working with municipalities in cable and telecommunications matters. While adept in many areas of the firm's practice, Ms. Browdie concentrates primarily in cable franchise agreements, franchise fee audits, right-of-way management and PEG channels. Ms. Browdie also oversees the business management of the firm. She graduated from the University of Pennsylvania and from the University of Pittsburgh School of Law.

#### V. COST OF SERVICES

The following represents CLG's cost of services to perform cable compliance review and cable franchise renewal services. We propose to perform these services on a flat fee basis, because our significant experience in performing cable compliance reviews and in negotiating cable franchise agreements lends predictability to our efforts on behalf of the Consortium. In addition, a flat fee provides "price certainty" to the municipalities.

As shown below, we are offering our services to the Consortium at a discounted rate depending on the population of each municipality and the number of municipalities that participate. We offer these discounts because there are economies of scale in representing a multi-municipal group and because the Consortium is a returning client to our firm. The following shows our standard flat fees followed by the discounted fees being offered to the Consortium.

# FLAT FEE PRICE SCHEDULE FOR CABLE COMPLIANCE REVIEW AND FRANCHISE RENEWAL NEGOTIATIONS WITH VERIZON\*

#### Standard Single Municipality Fees (by population prior to discount)

1-6,000	\$6,500
6,001-15,000	\$7,500
15,001-20,000	\$8,500
20,001-30,000	\$9,500
30,001+	\$10,500

### Consortium Discounted Fees (based on population and the number of participating municipalities)

2-10 Municipalities - 10% Discount from the fees shown above based on population

1-6,000	\$5,850
6,001-15,000	\$6,750
15,001-20,000	\$7,650
20,001-30,000	\$8,550
30,001+	\$9,450

11-20 Municipalities – 15% Discount from the fees shown above based on population

1-6,000	\$5,525
6,001-15,000	\$6,375
15,001-20,000	\$7,225
20,001-30,000	\$8,075
30,001+	\$8,925

21-30 Municipalities – 25% Discount from the fees shown above based on population

1-6,000	\$4,875
6,001-15,000	\$5,625
15,001-20,000	\$6,375
20,001-30,000	\$7,125
30.001+	\$7.875

30+ Municipalities - 30% Discount from the fees shown above based on population

1-6,000	\$4,550
6,001-15,000	\$5,250
15,001-20,000	\$5,950
20,001-30,000	\$6,650
30,001+	\$7,350

\*For those municipalities in which their current Verizon franchise agreements do not expire for several years, but that still wish to participate in the cable compliance review, the fee for the cable compliance review portion of the project is 50% of the applicable fee above. A municipality that participates only in the cable compliance review portion will be counted as 50% of a municipality for purposes of counting the number of municipalities for the discount categories above.

The flat fees above do not include the unlikely possibility of extraordinary services outside the scope of services contained in this proposal or any significant unforeseeable developments. In the event of such extraordinary or unforeseeable developments, CLG will contact the affected municipalities to discuss such developments prior to rendering services related to then. If such services are authorized, CLG would charge a fee of \$225 per hour, including travel time. Finally, the flat fee above does not include expenses, such as any travel, postage and copying expenses, which are kept to a minimum and divided among all participating municipalities.

Please note that our normal billing policy is to bill one-third of the fee at the commencement of the project, one-third at the middle of the project, and one-third at the conclusion of the project.

We expect this project to take approximately two years in duration. Thank you for the opportunity to submit this proposal.

verizon√

Adrian Copiz
Assistant General Counsel
1320 N. Courthouse Road, 9<sup>th</sup> Floor
Arlington, Virginia 22201
703-351-3133
adrian.copiz@verizon.com

#### By U.S. Postal Service Certified Mail

December 7, 2015

Township Manager Montgomery Township 1001 Stump Road Montgomeryville, PA 18936-9605

Re:

Franchise Renewal Notice Requesting Commencement of Formal Renewal Proceedings under Section 626 of the Communications Act

Dear Township Manager:

Verizon Pennsylvania LLC ("Verizon") appreciates the opportunity to provide competitive cable service in Montgomery Township (the "Township"). Our records indicate that the cable television franchise granted by the Township and held by Verizon expires on July 24, 2018. Section 626 of the Communications Act of 1934, as amended, delineates formal procedures to be followed to renew cable television franchises that must be invoked 30 – 36 months prior to franchise expiration or certain protections may be lost. As we are now in that time frame, by way of this letter Verizon gives notice that it seeks renewal of its cable television franchise and respectfully requests that the Township commence renewal proceedings pursuant to Section 626(a).

While Verizon seeks to preserve its rights under the formal renewal process, the Communications Act also authorizes franchise renewal through good faith, informal negotiations. Section 626(h) contemplates an alternative renewal process that also affords public notice and opportunity for comment but does not require strict adherence to the substantive and procedural requirements outlined in the statute. I have enclosed a copy of Section 626 of the Communications Act for your review. The informal approach may be mutually beneficial. With the understanding that proceeding in this manner will not waive any of the rights of the parties under the formal process, Verizon is agreeable to discussing the terms of a renewal agreement with the Township on an informal basis at a mutually convenient time.

Verizon is proud to serve the residents of Montgomery Township. We will contact you shortly to schedule a meeting to determine how best to proceed. We look forward to meeting with you and working with you on the franchise renewal.

Very truly yours,

Adrian Copiz

Enclosure: Communications Act Section 626 (47 U.S.C. § 546)

#### SEC. 626. [47 U.S.C. 546] RENEWAL.

- (a)(1) A franchising authority may, on its own initiative during the 6-month period which begins with the 36th month before the franchise expiration, commence a proceeding which affords the public in the franchise area appropriate notice and participation for the purpose of (A) identifying the future cable-related community needs and interests, and (B) reviewing the performance of the cable operator under the franchise during the then current franchise term. If the cable operator submits, during such 6-month period, a written renewal notice requesting the commencement of such a proceeding, the franchising authority shall commence such a proceeding not later than 6 months after the date such notice is submitted.
- (2) The cable operator may not invoke the renewal procedures set forth in subsections (b) through (g) unless--
  - (A) such a proceeding is requested by the cable operator by timely submission of such notice; or
  - (B) such a proceeding is commenced by the franchising authority on its own initiative.
- (b)(1) Upon completion of a proceeding under subsection (a), a cable operator seeking renewal of a franchise may, on its own initiative or at the request of a franchising authority, submit a proposal for renewal.
- (2) Subject to section 624, any such proposal shall contain such material as the franchising authority may require, including proposals for an upgrade of the

cable system.

- (3) The franchising authority may establish a date by which such proposal shall be submitted.
- (c)(1) Upon submittal by a cable operator of a proposal to the franchising authority for the renewal of a franchise pursuant to subsection (b), the franchising authority shall provide prompt public notice of such proposal and, during the 4-month period which begins on the date of the submission of the cable operator's proposal pursuant to subsection (b), renew the franchise or, issue a preliminary assessment that the franchise should not be renewed and, at the request of the operator or on its own initiative, commence an administrative proceeding, after providing prompt public notice of such proceeding, in accordance with paragraph (2) to consider whether--
  - (A) the cable operator has substantially complied with the material terms of the existing franchise and with applicable law;
  - (B) the quality of the operator's service, including signal quality, response to consumer complaints, and billing practices, but without regard to the mix or quality of cable services or other services provided over the system, has been reasonable in light of community needs;
  - (C) the operator has the financial, legal, and technical ability to provide the services, facilities, and equipment as set forth in the operator's proposal; and
  - (D) the operator's proposal is reasonable to meet the future cablerelated community needs and interests, taking into account the cost of meeting such needs and interests.
- (2) In any proceeding under paragraph (1), the cable operator shall be afforded adequate notice and the cable operator and the franchise authority, or its designee, shall be afforded fair opportunity for full participation, including the right to introduce evidence (including evidence related to issues raised in the proceeding under subsection (a)), to require the production of evidence, and to question witnesses. A transcript shall be made of any such proceeding.
- (3) At the completion of a proceeding under this subsection, the franchising authority shall issue a written decision granting or denying the proposal for renewal based upon the record of such proceeding, and transmit a copy of such decision to the cable operator. Such decision shall state the reasons therefor.
- (d) Any denial of a proposal for renewal that has been submitted in compliance with subsection (b) shall be based on one or more adverse findings made with respect to the factors described in subparagraphs (A) through (D) of subsection (c)(1), pursuant to the record of the proceeding under subsection (c). A franchising authority may not base a denial of renewal on a failure to substantially comply with the material terms of the franchise under subsection (c)(1)(A) or on events considered under subsection (c)(1)(B) in any case in which a violation of the franchise or the events considered under subsection (c)(1)(B) occur after the

effective date of this title unless the franchising authority has provided the operator with notice and the opportunity to cure, or in any case in which it is documented that the franchising authority has waived its right to object, or the cable operator gives written notice of a failure or inability to cure and the franchising authority fails to object within a reasonable time after receipt of such notice.

- (e)(1) Any cable operator whose proposal for renewal has been denied by a final decision of a franchising authority made pursuant to this section, or has been adversely affected by a failure of the franchising authority to act in accordance with the procedural requirements of this section, may appeal such final decision or failure pursuant to the provisions of section 635.
  - (2) The court shall grant appropriate relief if the court finds that-
  - (A) any action of the franchising authority, other than harmless error, is not in compliance with the procedural requirements of this section;
     or
  - (B) in the event of a final decision of the franchising authority denying the renewal proposal, the operator has demonstrated that the adverse finding of the franchising authority with respect to each of the factors described in subparagraphs (A) through (D) of subsection (c)(1) on which the denial is based is not supported by a preponderance of the evidence, based on the record of the proceeding conducted under subsection (c).
- (f) Any decision of a franchising authority on a proposal for renewal shall not be considered final unless all administrative review by the State has occurred or the opportunity therefor has lapsed.
- (g) For purposes of this section, the term "franchise expiration" means the date of the expiration of the term of the franchise, as provided under the franchise, as it was in effect on the date of the enactment of this title.
- (h) Notwithstanding the provisions of subsections (a) through (g) of this section, a cable operator may submit a proposal for the renewal of a franchise pursuant to this subsection at any time, and a franchising authority may, after affording the public adequate notice and opportunity for comment, grant or deny such proposal at any time (including after proceedings pursuant to this section have commenced). The provisions of subsections (a) through (g) of this section shall not apply to a decision to grant or deny a proposal under this subsection. The denial of a renewal pursuant to this subsection shall not affect action on a renewal proposal that is submitted in accordance with subsections (a) through (g).
- (i) Notwithstanding the provisions of subsections (a) through (h), any hw ful action to revoke a cable operator's franchise for cause shall not be negated by the subsequent initiation of renewal proceedings by the cable operator under this section.

#### MONTGOMERY TOWNSHIP BOARD OF SUPERVISORS **BOARD ACTION SUMMARY**

SUBJECT:

Consider Authorization to Advertise the Ordinance#16-295 - Approving Participation in

Intergovernmental Cooperation Agreement Wissahickon Creek Alternative TMDL

MEETING DATE:

June 27, 2016

ITEM NUMBER: #/O

MEETING/AGENDA:

ACTION

NONE

REASON FOR CONSIDERATION: Operational: xx

Policy:

Discussion:

Information:

INITIATED BY: Stacy Crandell

BACKGROUND:

Assistant to the Township Manage

BOARD LIAISON: Joseph P. Walsh, Chairman

The municipalities located in the Wissahickon Creek Watershed are obligated under the PA DEP's MS4 and NPDES programs to develop and implement a stormwater management plan, and to comply with their respective Sewage Facilities Plans, which contain the strategies to meet the municipality's MS4. NPDES and TMDL obligations. US EPA is poised to issue a new TMDL for the Wissahickon Creek Watershed which will include a new Total Phosphorus TMDL, which if technically defensible, is believed to include requirements that are unachievable.

The municipalities and wastewater treatment plant operators in Montgomery and Philadelphia Counties recognize that watersheds such as the Wissahickon Creek Watershed, cross municipal boundaries. With this in mind, it is recognized that it is in the best interest of their residents and property owners to participant in a collaborative effort to development an Alternative to the proposed EPA Total Phosphorus TMDL.

Over the past few months, the municipalities and wastewater treatment plant operators have been working together to put together an Intergovernmental Cooperation Agreement to move forward on this process. Ordinance#16-295 is to authorize the Township to approve this agreement. Earlier this year, the Board of Supervisors approved a resolution for the initial participation in this collaborative effort. This ordinance will allow the Township to approve the more formal intergovernmental agreement.

Township Staff is asking for authorization to advertise this ordnance which will be considered for approval at the July 11, 2016 Board of Supervisors Meeting after 8PM.

#### ZONING, SUBDIVISION OR LAND DEVELOPMENT IMPACT:

None.

#### PREVIOUS BOARD ACTION:

On January 25, 2016, the Board of Supervisors approved a resolution authorizing the Township participation in an Inter-Municipal Collaboration for the Alternative TMDL

#### ALTERNATIVES/OPTIONS:

None.

#### BUDGET IMPACT:

None.

#### RECOMMENDATION:

Township Staff recommends that the Board authorize the advertisement of the Ordinance#16-295 to Approving participation in the Intergovernmental Cooperation Agreement Wissahickon Creek Alternative TMDL.

#### MOTION/RESOLUTION:

BE IT RESOLVED by the Board of Supervisors of Montgomery Township that we hereby authorize the advertisement of Proposed Ordinance #16-295 Approving Participation in the Intergovernmental Cooperation Agreement Wissahickon Creek Alternative TMDL for consideration and adoption at the Board of Supervisors Meeting to be held on Monday, July 11, 2016 after 8PM in the Township Building.

MOTION:	SECOND:			
ROLL CALL:				
Robert J. Birch Candyce Fluehr Chimera	Aye Aye	Opposed Opposed	Abstain Abstain	Absent Absent
Jeffrey W. McDonnell	Aye	Opposed	Abstain	Absent
Joseph P. Walsh	Aye	Opposed	Abstain	Absent
Michael J. Fox	Aye	Opposed	Abstain	Absent

DISTRIBUTION: Board of Supervisors, Frank R. Bartle, Esq.

# MONTGOMERY TOWNSHIP

ORDINANCE #16-295

AN ORDINANCE AUTHORIZING THE TOWNSHIP TO ENTER INTO AN INTERMUNICIPAL AGREEMENT FOR THE DEVELOPMENT OF AN ALTERNATIVE TMDL PLAN FOR THE WISSAHICKON CREEK WATERSHED

ENACTED: \_\_\_\_\_

#### MONTGOMERY TOWNSHIP

ORDINANCE #16- 295

AN ORDINANCE AUTHORIZING THE TOWNSHIP TO ENTER INTO AN INTERMUNICIPAL AGREEMENT FOR THE DEVELOPMENT OF AN ALTERNATIVE TMDL PLAN FOR THE WISSAHICKON CREEK WATERSHED

IT IS HEREBY ENACTED AND ORDAINED by the Montgomery Township Board of Supervisors as follows:

#### SECTION 1. Short Title.

This Ordinance shall be known and may be cited as the "Intergovernmental Agreement for the Development of an Alternative TMDL Plan for the Wissahickon Creek Watershed".

#### SECTION 2. Legislative Intent.

- A. Montgomery Township is a second class township.
- B. The Act of December 19, 1996, P.L. 1158, No. 177, referred to as the Intergovernmental Cooperation Law provides that local governments may jointly cooperate in the exercise or in the performance of their respective governmental functions, powers, or responsibilities.<sup>1</sup>
- C. The Wissahickon Creek Watershed Municipalities (including Abington Township, Ambler Borough, Cheltenham Township, Horsham Township, Lansdale Borough, Lower Gwynedd Township, Montgomery Township, North Wales Borough, Philadelphia County, Springfield Township, Upper Dublin Township, Upper Gwynedd Township, Upper Moreland Township, Whitemarsh Township, Whitpain Township, and Worcester Township) and certain wastewater treatment plants, including Abington Township Wastewater Treatment Plant, Abington Borough Wastewater Treatment Plant, Upper Gwynedd Township Wastewater Treatment Plant (Bucks County Water & Sewer Authority) ("Parties") desire to enter into an

<sup>1</sup> See 53 Pa. C.S. §2301, et seq.

Intermunicipal Agreement for the development of an Alternative TMDL Plan for the Wissahickon Creek Watershed ("Agreement").

#### SECTION 3. Goals and Objectives: Scope of the Study.

- A. The goal of the Alternative TMDL Plan is to achieve water quality standards in water bodies throughout the Wissahickon Creek Watershed.
- B. The objectives of the Alternative TMDL Plan are delineated in the attached Agreement's Attachment "A" ["Milestones"].

#### SECTION 4. Agreement Terms.

- A. The terms of the Agreement, including (1) identification of the parties involved; (2) guiding principles; (3) goals and objectives; (4) administrative organization; (5) applicable laws; (6) integration; (7) no oral modification; (8) severability; (9) representation by counsel; (10) counterparts; and (11) execution by facsimile or electronic scanning, are set forth in the attached Agreement as Appendix "A" and incorporated in this Ordinance as though set forth in full.
- B. In addition to the required funding under the terms of the Agreement, any additional funds for the implementation and enforcement of the Agreement may be appropriated by the Board of Supervisors, as it shall determine, in its sole discretion, from time to time by resolution.

#### SECTION 5. Authority to Enter Agreement.

The Chairman of the Board of Supervisors is hereby authorized to execute all documents and perform all necessary actions to cause the Township to enter into the Agreement, the terms of which are officially adopted through the enactment of this Ordinance.

#### SECTION 6. Repeal and Ratification.

All ordinances or parts of ordinances inconsistent herewith or in conflict with any of the specific terms enacted hereby, to the extent of said inconsistencies or conflicts, are hereby specifically repealed. Any other terms and provisions of the ordinances of the Township that are unaffected by this Ordinance are hereby reaffirmed and ratified.

#### SECTION 7. Severability.

Should any section, paragraph, sentence, clause, or phrase in this Ordinance be declared unconstitutional or invalid for any reason, the remainder of the Ordinance shall not be affected thereby and shall remain in full force and affect, and for this reason the provisions of this Ordinance shall be severable.

#### SECTION 8. Effective Date.

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

**ORDAINED AND ENACTED** this \_\_\_\_\_ day of June, 2016, by the Montgomery Township Board of Supervisors.

MONTGOMERY TOWNSHIP BOARD OF SUPERVISORS

JOSEPH P. WALSH, Chairman

[Seal]

Attested by:

LAWRENCE J. GREGAN
Township Manager/Secretary

# ORDINANCE NO. 16-295 (Municipality) Montgomery County, PA

# An Ordinance of (*Municipality*), Montgomery County, Pennsylvania adopting the Intergovernmental Agreement for the completion of the Alternative TMDL Plan for the Wissahickon

#### 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 Upper Moreland Township Lansdale Borough 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 achieve 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 (DATE).

ORDAINED AND ENACTED	by the (Board	or Council) of (Municipal Name), Montgomer
County, Pennsylvania, this	day of	, 2016.

#### DRAFT (6-8-16)

# Intergovernmental Agreement for Development of a Plan for an Alternative TMDL for the Wissahickon Creek Watershed.

#### Section 1 Intergovernmental Agreement.

THIS AGREEMENT is made by and among each of the Wissahickon Creek Watershed Municipalities and Wastewater Treatment Plants executing this Intergovernmental Agreement (Agreement) for the preparation of the Wissahickon Watershed Alternative TMDL Plan (Plan), each Party shall individually be referred to as a "Party" and shall collectively be referred to as the "Parties". The list of Parties is as follows, and shall be updated by Addendum as necessary. This Agreement is authorized by Chapter 23, Subchapter A (relating to intergovernmental cooperation) of the General Local Government Code, 53 Pa. C.S. §2301 et seq.

#### Municipalities

Abington Township
Ambler Borough
Cheltenham Township
Horsham Township
Lansdale Borough
Lower Gwynedd Township
Montgomery Township
North Wales Borough

Philadelphia County Springfield Township Upper Dublin Township Upper Gwynedd Township Upper Moreland Township Whitemarsh Township Whitpain Township 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 Definitions.

Consultant: The team formed by the Pennsylvania Environmental Council (PEC), comprised of members of PEC, the Wissahickon Valley Watershed Association, the Environmental Finance Center, the Center for Sustainable Communities, and the Montgomery County Planning Commission

Legal Services: Legal representation selected by the Management Committee to represent its interests and concerns pertaining to the preparation and adoption of the Alternative TMDL in interaction with the PADEP and/or the US EPA.

Expert Panel Services: A panel of technical experts, whose number and individuals will be selected by the Management Committee, whose purpose is to review the engineering and

scientific work portions of the Alternative TMDL Plan, and to independently verify the results of that work.

#### Section 3 Guiding Principles.

- a. The Parties have a mutual interest in restoring the impaired waters of the Wissahickon Creek Watershed and recognize that the issues associated with the TMDL developed by the EPA are too large for any one municipality to effectively address, and therefore commit to work together in a mutually cooperative and respectful manner to develop an Alternative TMDL Plan
- b. To evaluate the data obtained to develop a scientifically defensible strategy that is acceptable to the Parties, PADEP, and USEPA, and which identifies specific areas within the watershed that have characteristics that may be contributing to the reduced water quality.
- c. Said strategy will include developing a list of potential projects and or policies to reduce the existing deleterious characteristics and practices, including remediating degraded physical conditions in the watershed, replacing existing structures, implementing new practices and constructing facilities to enhance the impaired surface waters in the Wissahickon Creek Watershed as effectively and efficiently as possible.
- d. The Parties agree that projects will be assessed and prioritized based on the anticipated ability to provide results that can be measured to monitor the progress of water quality improvements. The effectiveness of a project, or projects, would be evaluated and a determination made on the type(s) of subsequent work projects to pursue during the implementation phase, which is a separate phase from this plan development phase.

#### Section 4 Goals and Objectives: The scope of study

The goal of the Alternative TMDL is to achieve water quality standards in water bodies throughout the Wissahickon Creek watershed.

Objectives: The objectives of the Alternative TMDL are delineated in Attachment "A", "Milestones".

#### Section 5 Administration and Organization.

Effective Date.

- a. The Effective Date of this Agreement shall be (DATE), by which time all Parties will have adopted the attached Ordinance authorizing the Agreement and executed the Agreement.
- b. This Agreement shall become effective as to each Party upon execution and adoption of the Ordinance.

#### Term

- a. The term of this Agreement (Term) shall be two (2) years, beginning on the Effective Date. All Parties approving this Agreement must participate for the entire time period.
- b. This Agreement may be extended by those Parties desiring to participate for an additional year, by resolution.

#### Party Representation

- a. Participation in preparation of the Plan shall be through either the Stakeholder Group or the Management Committee. Members of the Management Committee are entitled to be part of the Stakeholder Group.
- b) A Stakeholder Group shall be convened, consisting of one or more representatives of each Party, the Wissahickon Valley Watershed Association, Friends of the Wissahickon, PADEP, EPA, and Montgomery County. Other stakeholders may be invited to attend the Stakeholder Group meeting as appropriate.
- c) The Stakeholder group shall review and comment on various materials, sections of the Plan, and the complete Plan in draft and final. The Stakeholder group shall have no voting privileges, but is intended to provide input on the Plan.
- d) Management Committee: Each Party shall designate a primary voting representative and an alternate to serve as the representative on the Management Committee regarding all matters related to the Plan preparation. The name of and contact information for the representative and alternate shall be provided to the Consultant in writing, as well as any subsequent changes.
  - The Management Committee shall consist of one (1) representative from each Party. The twenty (20) voting representatives (primary voting representatives) will form the Management Committee. The alternate shall be entitled to fully participate in all Stakeholder and Committee meetings, but may vote only when the designated representative is unavailable.
  - 2) The members of the Management Committee shall be appointed by their governing board, shall serve at the discretion of their board for an indefinite term, and shall regularly report to their governing body and provide drafts of materials prepared for review and comment by their governing body.
  - 3) Where a Management Committee member vacates his or her position, the Party shall appoint a new representative, in a timely manner, such that the Management Committee does not have a vacancy for any forthcoming meeting.
- e) Officers Members of the Management Committee shall elect officers, to include 2 Co-Chairs, a Secretary and a Treasurer. Those Officers shall perform the duties necessary to implement this Agreement and as generally envisioned by Robert's Rules of Order, latest edition. An Officer shall serve for the duration of the Term, unless he or she resigns as an officer, as agreed to by the Management Committee. The Management Committee shall appoint a replacement for any officer who is unable to complete the term.
  - Treasurer shall collect, maintain and disburse funds in a timely fashion for legitimate expenses related to Legal Services and Expert Panel Services, as approved by the Management Committee.
- f) Administration: Officers of the Management Committee will administer the activities of the Management Committee. The following are tasks that shall be undertaken and the responsibility of administration. The Management Committee may choose to delegate some or all of these activities to the Consultant:
  - Preparation and circulation of minutes to all Parties from all Management Committee meetings.

- 2) Hold all Management Committee meetings.
- Review and comment on all draft Alternative Plan documents and revisions
  prepared by the Consultant, and submit the Plan as approved by the Management
  Committee to PADEP and EPA.
- 4) Review and Submit progress reports prepared by the Consultant to PADEP and EPA in a timely manner.
- 5) Calculate and invoice fees for each Party.
- 6) Retain all records, as that term is defined by the Pennsylvania Right-to-Know Law, for the time period required by applicable law but not less than six (6) years.

#### Meetings.

- a) The Management Committee shall organize and schedule routine meetings of the Management Committee as needed, but at least quarterly.
- b) The purpose of the meetings shall be to conduct the following activities as necessary:
  - 1) Review and comment on, and when necessary vote on draft and final sections of the Plan.
  - 2) Presentation and approval of Progress Reports.
  - 3) Presentation and approval of the Financial Report.
  - 4) Presentation of report(s) to PADEP, EPA and other agencies.
  - 5) Presentation and vote on other Party business pertaining to the Plan process.
  - 6) Oversight and coordination of all aspects of the Legal Services and Expert Panel Services.
- c) Except as otherwise provided herein, all voting shall be completed by voice vote and decisions shall be based on a simple majority vote of Management Committee Parties in attendance.
- d) Each Party in attendance shall be entitled to one (1) vote on all matters addressed at a meeting and for which a vote is taken.
- e) Quorum. A quorum (more than 50% of Management Committee members as represented by a voting representative) is necessary for the Management Committee to take official action.
- f) The Management Committee shall comply with all laws applicable to the Parties, including, but not limited to, the Public Official and Employees Ethics Act, the Sunshine Act, and any and all other applicable laws. All actions of the Management Committee shall be approved by a majority of its voting members. Management Committee members shall be entitled to attend meetings of the Management Committee, which shall occur no less than four (4) times per year or more frequently as needed, following advance written notice to all members of the Management Committee by regular mail, facsimile or email.

## Financing

- a) A monetary contribution shall be provided by each Party, to cover the costs of Legal Services and Expert Panel Services. The total cost for these services is not to exceed \$250,000 in total.
  - 1) Contribution Formula. The contribution from each Party shall be \$6,250 per Party per year for the Term. Depending on the costs incurred for legal representation and the

- expert review panel, these costs may be less, but in any event they shall not exceed a total of \$12,500 per Party for the duration of the Term.
- Invoicing and Payment. Parties shall be invoiced no later than June 30 of each calendar year, and the Parties' respective payments shall be due on or before July 31 of each year.
- 3) Organization Account. A separate Management bank account shall be established by the Management Committee for the deposit of each Party's Annual Contributions and the funds therein shall be used solely for reimbursement for eligible costs and expenses pertaining to Legal Services and Expert Panel Services. Administration of these funds to pay for proper expenses under this Agreement shall be the responsibility of the Management Committee.
- 4) Remaining Funds. Any funds remaining at the conclusion of the Term, shall be returned to the Parties, divided equally among the Parties that have paid their Annual Contribution. Such funds shall be disbursed to the Parties remaining at the completion of the Term no more than thirty (30) days after the date of Term completion.

#### Section 6 Applicable Law

The Parties agree and affirm that Pennsylvania law applies to this Agreement and all matters covered by and addressed by this Agreement. It is acknowledged and agreed that the sole and exclusive jurisdiction and venue for any dispute relating to any matter covered by this Agreement, and/or regarding any dispute over the enforcement or Interpretation of this Agreement, shall rest with the Montgomery County Court of Common Pleas. The Parties hereby submit to the exclusive jurisdiction of that Court.

#### **Section 7 Integration**

This Agreement contains the entire agreement between the Parties. There are no understandings or agreements, verbal or otherwise, in relation hereto, except those expressly and specifically set forth herein. The Parties have not relied upon any statement, projection, disclosure, report, information or any other representation or warranty except for those as may be specifically and expressly set forth in this Agreement.

#### Section 8 No Oral Modification

This Agreement may not be modified except in writing executed by all Parties. This Agreement shall be amended only in writing, by duly authorized representatives of all Parties, and such revision(s) must be approved by official action of each Party jurisdiction, and as required by any applicable law of the Commonwealth.

#### Section 9 Severability

No determination by any court, governmental body, arbitration, or other judicial body, that any provision of this Agreement or any amendment that may be created hereto, is invalid or unenforceable in any instance shall affect the validity or enforceability of any other provision of the Agreement or applicable amendment. Each provision shall be valid and enforceable to the fullest extent permitted by applicable law, and shall be construed where and whenever possible as being consistent with applicable law.

#### Section 10 Representation by Counsel

This Agreement has been negotiated by the Parties through their respective legal counsel and embodies terms that were arrived at through mutual negotiation and joint effort, and the Parties shall be considered to have contributed equally to the preparation of this Agreement. The Parties warrant and represent that the terms and conditions of this Agreement have been discussed and negotiated between them, and their respective counsel, and are voluntarily and knowingly accepted for the purpose of making a full and final compromise between the Parties, as referenced herein. The Parties further acknowledge that they understand the facts and their respective legal rights and obligations pursuant to this Agreement.

#### **Section 11 Counterparts**

This Agreement may be executed in counterparts, each of which will be an original, and all of which taken together shall constitute one and the same instrument.

### Section 12 Execution by Facsimile or Electronic Scanning

Delivery of an executed counterpart of this Agreement by facsimile, or by electronically scanning and e-mailing an executed counterpart signature page, while not specifically required, will be acknowledged by the Parties as being equally as effective as delivery of a manually executed counterpart of this Agreement. The use of a signature page received by facsimile, or through an electronic scan and e-mail, shall not affect the validity, enforceability, or binding effect of this Agreement.

# Attachment "A" Alternative TMDL Milestones and Activities

#### Project Result:

An Alternative Nutrient TMDL Plan (Plan) supported by the Permittees and approved by PADEP and USEPA, with associated MS4/TMDL permit issuance to follow. The Plan will demonstrate benefits of a successful multi-municipal approach to coordinating required stormwater and phosphorous discharges to achieve regulatory reductions into the Wissahickon Creek.

#### Milestone 1

Montgomery County Planning Commission (MCPC) designated to convene the 'Wissahickon Alternative TMDL Stakeholder Collaborative' (aka 'Collaborative') consisting of a core group of the (16) watershed municipalities and (4) WWTPs (the 20 Permittees) that is recognized by the US EPA and includes external stakeholders such as WVWA and FOW.

#### Activities:

- Led by MCPC, organizational structure finalized and implemented for the Collaborative.
- Coordination procedures with regulatory agencies approved and implemented.
- MCPC conducts regular monthly Collaborative meetings for the duration of the project.

#### MILESTONE 2

EFC works with each Collaborative member to develop a long term comprehensive financial strategy for implementing approved Alternative Nutrient TMDL plan projects/programs.

#### Activities:

- Initial individual Collaborative member engagement and baseline economic assessments completed
- Agreement with EPA executed for implementation expenditures.

#### **MILESTONE 3**

PEC coordinates the Technical Team to develop an Alternative Nutrient TMDL, using strategic guidance from WVWA, with plan approval by PA DEP and US EPA.

#### Activities:

• PEC forms a Technical Team consisting of CSC, EFC, MCPC, and legal counsel to be selected by the Permittees, with input from the Technical Team.

#### **MILESTONE 4**

Within 3 years of the signing of the IGA or sooner, Technical Team recommends an Alternative Nutrient TMDL science-based strategy for the Wissahickon watershed, submitted to PA DEP and US EPA for review and approval.

#### Activities:

 Key results of recent and ongoing studies and modeling efforts for the Wissahickon Creek watershed are compiled to fully describe the problems causing the water quality impairments

- Strategies and projects for Permittees to address water quality impairments and improve water quality are identified, evaluated, and prioritized for the watershed
- Temple CSC implements a preliminary adaptive watershed monitoring program during the planning process (month 6) with a long-term plan developed and adopted by the Collaborative to assess water quality improvements going forward

#### MILESTONE 5

Within 3 years of the signing of the IGA or sooner, EFC and Collaborative develop a long term comprehensive financial strategy for implementing approved Alternative Nutrient TMDL plan projects/programs.

#### Activities:

- In coordination with Temple CSC work, costs of plan projects/programs and associated timelines identified
- Equitable funding strategy approved by Collaborative members reflective of the capacities of individual municipalities, multi-municipal authorities and potential for other public and private funding sources.

#### MILESTONE 6

By the beginning of the third year from the signing of the IGA or sooner, strategies developed and deployed to ensure education and outreach is completed to build support for the Alternative TMDL plan.

#### Activities:

- Lead by WVWA, residents of the Wissahickon are kept informed of project progress, educated and encouraged to understand why Wissahickon water quality needs to be improved and how a TMDL Alternative may be a beneficial solution.
- Expand on existing DRWI programs including workshops, restoration site visits, and municipal technical assistance as necessary to accomplish the above activities.

#### MILESTONE 7

By the first quarter of the third year from the signing of the IGA or sooner, approved Alternative Nutrient TMDL Plan process documented with benefits/lesson learned compiled and, led by PEC, information dissemination actively underway in the DRWI, Delaware Watershed and Pennsylvania.

#### Activities:

- TMDL Alternative Plan Draft Report compiled and presented to public and regulators for review with multi-municipal TMDL Alternative Plan Report finalized thereafter.
- PEC devises and initiates a process for documentation and dissemination of a successful Alternative TMDL process; recruits and contracts with a professional to document alternative TMDL process.
- PEC defines multi-municipal benefits and develops strategies to promote multi-municipal Alternative TMDL process elsewhere in the DRWI clusters, across the Delaware basin and throughout Pennsylvania. Robust dissemination implemented as evidenced by a minimum of

five (5) professional presentations, and three (3) articles published via print or electronic platforms.

#### MONTGOMERY TOWNSHIP BOARD OF SUPERVISORS **BOARD ACTION SUMMARY**

SUBJECT:

Consider Payment of Bills

MEETING DATE:

June 27, 2016

ITEM NUMBER: #//

MEETING/AGENDA: WORK SESSION

NONE

REASON FOR CONSIDERATION: Operational: XX Information:

ACTION XX

Discussion:

Policy:

INITIATED BY: Lawrence J. Gregan

Township Manager

BOARD LIAISON: Joseph P. Walsh, Chairman of the Board of Supervisors

#### **BACKGROUND:**

Please find attached a list of bills for your review.

#### ZONING, SUBDIVISION OR LAND DEVELOPMENT IMPACT:

None.

PREVIOUS BOARD ACTION:

None.

ALTERNATIVES/OPTIONS:

None.

**BUDGET IMPACT:** 

None.

RECOMMENDATION:

Approval all bills as presented.

MOTION/RESOLUTION:

None.

**DISTRIBUTION**: Board of Supervisors, Frank R. Bartle, Esq.

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SEALMASTER

SUBURBAN BUILDERS

THE HOMER GROUP

TOP-A-COURT, LLC TRANS UNION LLC

SPRINT

SHAPIRO FIRE PROTECTION COMPANY

STAPLES CONTRACT & COMMERCIAL, INC.

SIGNAL CONTROL PRODUCTS, INC.

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CHECK REGISTER FOR MONTGOMERY TOWNSHIP

User: msanders DB: Montgomery Twp CHECK DATE FROM 06/14/2016 - 06/27/2016

Page: 2/2

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				JOE BIFOLCO	60.00
06/24/2016	01	64963	MISC-FIRE	JOHN H. MOGENGEN	60.00
06/24/2016	01	64964	MISC-FIRE	JOHN H. MUGENSEN	60.00
06/24/2016	01	64965	100000121	LEWIS ENVIRONMENTAL	13,023.54
06/24/2016	01	64966	MISC-FIRE	MARY NEWELL	75.00
06/24/2016	01	64967	MISC-FIRE	MARY NEWELL	45.00
06/24/2016	01	64968	MISC-FIRE	MATT SHINTON	80.00
06/24/2016	01	64969	MISC-FIRE	MATTHEW GIORGIO	45.00
06/24/2016	01	64970	MISC-FIRE	MICHAEL D. SHINTON	40.00
06/24/2016	01	64971	MISC-FIRE	MIKE BEAN	15.00
06/24/2016	01	64972	00000540	MYSTIC PIZZA	156.00
06/24/2016	01	64973	MISC-FIRE	PAUL R. MOGENSEN	40.00
06/24/2016	01	64974	00000595	PENN VALLEY CHEMICAL COMPANY	188.51
06/24/2016	01	64975	MISC-FIRE	PETER CHIMERA	15.00
06/24/2016	01	64976	MISC-FIRE	PETER CHIMERA	15.00
06/24/2016	01	64977	MISC-FIRE	PHIL STUMP	30.00
06/24/2016	01	64978	MISC-FIRE	PHIL STUMP	15.00
06/24/2016	01	64979	MISC-FIRE	RACHEL GIBSON	15.00
06/24/2016	01	64980	MISC-FIRE	RACHEL GIBSON	15.00
06/24/2016	01	64981	MISC-FIRE	RACHEL TROUTMAN	40.00
06/24/2016	01	64982	MISC-FIRE	RACHEL TROUTMAN	40.00
06/24/2016	01	64983	MISC-FIRE	ROBERT MCMONAGLE	60.00
06/24/2016	01	64984	MISC-FIRE	ROBERT MCMONAGLE	15.00
06/24/2016	01	64985	MISC-FIRE	RYAN CROUTHAMEL	15.00
06/24/2016	01	64986	00001618	SEALMASTER	1,051.88
06/24/2016	01	64987	00001030	SIGNAL CONTROL PRODUCTS, INC.	450.00
06/24/2016	01	64988	00001030	SIGNAL CONTROL PRODUCTS, INC.	516.00
06/24/2016	01	64989	00001334	STANDARD INSURANCE COMPANY	7,554.44
06/24/2016	01	64990	00001334	DRUMHELLER CONSTRUCTION, INC.  DVMMA - DELAWARE VALLEY MUNICIPAL  EAGLE POINT GUN  GLEN ROETMAN  GRAINGER  JOE BIFOLCO  JOE BIFOLCO  JOHN H. MOGENSEN  LEWIS ENVIRONMENTAL  MARY NEWELL  MARY NEWELL  MARY SHINTON  MATTHEW GIORGIO  MICHAEL D. SHINTON  MIKE BEAN  MYSTIC PIZZA  PAUL R. MOGENSEN  PENN VALLEY CHEMICAL COMPANY  PETER CHIMERA  PETER CHIMERA  PHIL STUMP  PHIL STUMP  RACHEL GIBSON  RACHEL GIBSON  RACHEL TROUTMAN  RACHEL TROUTMAN  ROBERT MCMONAGLE  ROBERT MCMONAGLE  RYAN CROUTHAMEL  SEALMASTER  SIGNAL CONTROL PRODUCTS, INC.  SIGNAL CONTROL PRODUCTS, INC.  STANDARD INSURANCE COMPANY  STAPLES CONTRACT & COMMERCIAL, INC.  STEVE SPLENDIDO  VERIZON	527.88
06/24/2016	01	64991	MISC-FIRE	STEVE SPLENDIDO	30.00
		64992	00000040	VERIZON	97.57
06/24/2016	01			VERTZON	30.31
06/24/2016	01	64993	00000040	VERIZON	38.74
06/24/2016	01	64994	00000040	VERIZON WIDELESS SERVICES IIC	176.19
06/24/2016	01	64995	00000038	VERIZON WIRELESS SERVICES, LLC	480.17
06/24/2016	01	64996	MISC-FIRE	VINAY SETTY	100.00
06/24/2016	01	64997	MISC-FIRE	VINCE ZIRPOLI	180.00
06/24/2016	01	64998	00002090	WHITMOYER AUTO GROUP	30,800.00
06/24/2016	01	64999	MISC-FIRE	WILLIAM WIEGMAN	120.00

#### 01 TOTALS:

(2 Checks Voided)

Total of 135 Disbursements:

583,977.30

# 06/24/2016

# Payroll ACH List For Check Dates 06/14/2016 to 06/27/2016

#### Check

D.4.	**************************************		
Date	Name	Amount	 
06/16/2016	UNITED STATES TREASURY	941 Tax Payment	\$ 79,520.98
06/16/2016	PBA	PBA Payment	\$ 789.41
06/16/2016	BCG 401	401 Payment	\$ 13,909.73
06/16/2016	BCG 457	457 Payment	\$ 11,515.63
06/16/2016	PA SCDU	Withholding Payment	\$ 1,423.23
06/22/2016	STATE OF PA	State Tax Payment	\$ 8,440.73
Total Checks: 6			\$ 115,599.71