

**TOWNSHIP OF FALLS
BOARD OF SUPERVISORS MEETING**

ROLL CALL:

ROBERT HARVIE, JR., CHAIRMAN	PRESENT
JEFFRY DENCE, VICE-CHAIRMAN	PRESENT
JEFFREY ROCCO, SECRETARY-TREASURER	PRESENT
BRIAN GALLOWAY, SUPERVISOR	PRESENT
JEFF BORASKI, SUPERVISOR	PRESENT

The meeting commenced at 7:05 p.m. with roll call and pledge to the flag. All Board members were present. Also present were Township Manager Peter Gray, Township Solicitor Michael Clarke, Township Solicitor Lauren Gallagher, and Township Engineer James Sullivan.

Chairman Harvie welcomed Boy Scout Connor Owens (Troop 102) who is here working on his Citizenship in the Community merit badge.

PRESENTATION BY THE COUNTY OF BUCKS TO THE FAIRLESS HILLS FIRE COMPANY FOR ASSISTANCE PROVIDED FOR THE HONOR FLIGHT TRIP

Mr. Joe Szafran, Bucks County Recorder of Deeds, spoke about the Honor Flight program which takes WWII and Korean War Veterans to Washington, D.C. to visit the memorials that were built on behalf of their service to our country. Last year, the Falls Township Police Department and the Fairless Hills Fire Company participated in this endeavor. Mr. Szafran presented thank you plaques for their participation. This year they are doing something special and on June 5th, they will have a special Tour of Honor for the Vietnam Veterans. This trip will leave from Parx Casino. They also have October 2nd reserved for the next WWII and Korean War Veterans Honor Flight. Mr. Szafran will send Manager Gray further information to be posted on the Falls Township channel.

INTRODUCTION AND CONSIDER RESOLUTIONS FOR THE HIRING OF POLICE OFFICER RYAN MURPHY AND POLICE OFFICER JACOB BLICKLEY

Police Officers Ryan Murphy and Jacob Blickley were sworn in by Judge Jan Vislosky. Member Galloway moved to approve Resolution # 17-12 for the hiring of Police Officer Ryan Murphy; Member Dence seconded the motion; all board members were in favor. (5-0) Member Dence moved to approve Resolution # 17-13 for the hiring of Police Officer Jacob Blickley; Member Galloway seconded the motion; all board members were in favor. (5-0) Judge Vislosky said with the Chief for the Day program, it has been a pleasure seeing the children come in.

**ITEM # 1 PUBLIC COMMENT – FIVE MINUTE LIMIT PER PERSON
FORTY-FIVE MINUTE MAXIMUM**

Ms. Toni Battiste (9218 Glouster Road, Fairless Hills) said she sent an e-mail to the township asking about motor less vehicles such as lawn equipment trailers being parked on residential streets. Ms. Battiste said according to PennDOT, even though they are licensed, they still have to follow the laws of the township. Ms. Battiste had a comment in regard to the YMCA's plans to move. According to the YMCA Director, they are looking at the possibility of moving to Hood Boulevard and South Olds Boulevard next to the swimming pool. If you look at the current size of their building and parking lot, she doesn't see how they can re-locate there without taking down a lot of the trees. Ms. Battiste said traffic is already very busy there. Chairman Harvie said vehicles over 7 tons are not allowed to be on residential streets. An example of this is when there was a tri-axle dump truck parked on a residential street. That is way over 7 tons and not allowed to be parked there. In terms of trailers or non-motor less – there is no law specifically, but they cannot block traffic. If there is an obstruction to the roadway, in a way that would block emergency vehicles, then we would ask them to move. Chairman Harvie said in terms of the possibility of the YMCA moving to Falls Township, they just submitted a sketch plan last week and they will be at the next Planning Commission meeting on May 23rd.

Mr. Anthony D'Amico said he will wait to speak on the agenda item he is here for.

Ms. Jane Frantz (14 Thompson Street, Bordentown City, NJ) said she lives across the Delaware River in Bordentown. They have a nice beach at Crosswicks Creek, where it comes together with the Delaware River, and there are docks for kayaks and canoes. She is here to speak against the proposed Elcon hazardous waste site. The Delaware River is tidal all the way up to Trenton. Crosswicks Creek is also tidal so whatever happens to the river also happens to the creek and to the marshes on both shores. It will affect both bodies of water. Please consider this when making a decision on Elcon. Ms. Frantz said she doesn't understand what benefits there would be with Elcon locating here. She only sees them as a huge risk. Ms. Frantz said she appreciates being able to speak tonight. Chairman Harvie said there is no proposal before us right now. From what we understand, they have submitted their phase 2 application to the DEP who will be reviewing all of that.

Ms. Natalie O'Donnell (Langhorne, PA) said she is from a neighboring community as well. She has relatives in Falls Township. Ms. O'Donnell asks to please keep in mind the residents of all of the communities who will be affected by Elcon. We all breathe the same air. The decisions you make will affect her house. Elcon is from Israel and they have never been able to build a company like this in the United States. It is alarming that they want to build here. You already have Waste Management and other business in that area. In January, 2016 they said they will build a mile from the Delaware River – a building next to a major water source. Ms. O'Connell encourages everyone to visit StopElcon.com. She said once they are here, it is hard to get rid of them. Toxic chemical waste and incineration in an area so close to residents and a natural resource is alarming. The only reason they are

in business is to make money. It is easier for them to expand and grow once they are already here.

Mr. Eugene Fuzy (Bordentown Township, NJ) is the Deputy Mayor of Bordentown Township. He was asked to inform this board that his township is opposed to the Elcon facility. Mr. Fuzy said he was informed that the site is hydroelectrically connected to the Delaware River and that is alarming. Mr. Fuzy understands how the law works and we don't always get to choose. If you are not able to reject the project outright, he requests that you make sure they adhere to the most stringent environmental standards for this project. Bordentown Township will be reaching out to all towns, officials, and municipalities whose constituents get their drinking water from the Delaware River. There are at least 12 million people who drink from that river. On a personal note, Mr. Fuzy said he is in favor of the technology of Elcon, but he doesn't think this is a good site for it. Mr. Fuzy thanked the board for allowing him to speak.

ITEM # 2 CERTIFICATE OF APPROPRIATENESS – 55 LOWER MORRISVILLE ROAD – TMP # 13-020-300 – 4' WHITE PICKET FENCE ALONG PORTIONS OF THE REAR PROPERTY

Member Rocco moved to approve the Certificate of Appropriateness for 55 Lower Morrisville Road for a 4' white picket fence along portions of the rear property; Member Galloway seconded the motion; all board members were in favor. (5-0)

ITEM # 3 HIOSSEN, INC. – MINOR SUBDIVISION – 85 BEN FAIRLESS DRIVE – TMP # 13-051-001-020

Manager Gray said the applicant proposes to sub-divide the property at tax map parcel # 13-051-001-020, consisting of 28.59 acres, into two lots. Lot 1 consists of 9.07 acres and lot 2 consists of 19.52 acres. The applicant is represented by Mr. Douglas Waite from Gilmore and Associates. Mr. Waite gave a brief explanation of the project. They want to subdivide the property with the potential of leasing it to someone else or to sell. Member Galloway moved to approve Resolution # 17-14; Member Boraski seconded the motion; all board members were in favor. (5-0)

The board moved to agenda item # 5 at this time.

ITEM # 4 MORRISVILLE COMMONS, LP. – AMENDED PRELIMINARY AND FINAL LAND DEVELOPMENT – WEST TRENTON AVENUE AND PINE GROVE ROAD – TMP # 13-028-028

Mr. Thomas Hecker, Esq. said they are here for consideration of the amended final plan. They have removed the 6,000 sq. ft. restaurant with drive through and replaced it with a 5,586 sq. ft. WAWA convenience store with fuel pumps, a 14,578 sq. ft. Rite Aid and an approximate 1,850 sq. ft. restaurant with drive through. Mr. Hecker asks the board to please include the summary which was presented during the Conditional Use. Mr. Adam Banosky

Board of Supervisors – May 15, 2017

referenced the plan shown on the diagram. They plan to have 2.503 acres for the WAWA; 2.24 acres for the pharmacy; and 4.02 acres for fast-food. Each lot, if subdivided, would meet the requirements of the ordinance. Mr. Hecker said they have received the Township Engineer's letter dated April 4, 2017 and there are no comments in the review letter that are outstanding. They are asking for the same waivers as previously reviewed and approved in connection with the original plans. They have approval from the Township Fire Marshal, the Township Traffic Engineer, the PennDOT Highway Occupancy Permit (HOP) as well as the Township of Falls Authority. In the proposed resolution, with regard to the general provisions, all items will comply and they have been approved. Mr. Clarke said the applicant still needs to go back to the Zoning Hearing Board regarding a sign that they are proposing to place on the site that is not before you this evening. Mr. Hecker said the application has already been filed with the Zoning Hearing Board. The township allows for the free-standing sign to go up to 150 sq. ft. and they are asking for that since there will be three users on the site. That is scheduled to go to the Planning Commission for recommendation and then to the Zoning Hearing Board. Member Boraski said it would be nice to have a time on the plan that the re-fueling would occur during certain hours; so they wouldn't be refueling in the middle of the night and wake up the surrounding residents. Mr. Hecker said they could restrict deliveries that after a certain time at night, to a certain time in the morning, fuel deliveries would have to come in off of Pine Grove Road. Mr. Redel said normal fuel deliveries are on demand by their automated system. They don't like fuel restrictions because they do not want to run out of gas. In this case, when the refueling happens, it should not be noticeable to the residents as it will be largely blocked by the building and the vegetation berm. They could restrict night-time deliveries to enter/exit at a certain location. Chairman Harvie asked how many deliveries there are per day. Mr. Redel said there are roughly one to two deliveries per day. Chairman Harvie said when the old Acme was there, they normally had one or two tractor trailer deliveries per day and there was only one entrance/exit. Chairman Harvie said he would prefer to see no tractor trailer deliveries use that West Trenton Avenue entrance/exit. He would rather them use Pine Grove Road. They will try to restrict all deliveries to the loading zone, including trash pick-up, between 10 p.m. and 6 a.m. and any deliveries of fuel during those hours will have to be from the Pine Grove Road entrance. This will be on the plan. Member Rocco asked how they will enforce this. Mr. Redel said they have 725 stores and they have a database to manage all of the information entered in and it is passed on to operations. Member Rocco asked about the canopy. Mr. Banosky said there will be LED lights underneath an A-frame. They will comply with the dark sky initiative. Mr. Banosky explained the crosswalks and signs for the plan. They do not have the sign details, but they will be at both signals. They will be a monument type of sign. Chairman Harvie said his biggest concern is the traffic. He was encouraged to see the traffic report. Chairman Harvie said the WAWA at Green Lane and Rt. 13 creates a bottleneck. With the improvements at the WAWA at Wister Road and New Falls Road, the traffic has never been better. That gave him some peace of mind in terms of what he thinks will happen with the proposed WAWA we heard about tonight. There is a berm along West Trenton Avenue and there is some vegetation to shield the residences across the street. Chairman Harvie said he appreciates everyone coming out tonight. In general, he thinks the plan is a good one. He is comfortable moving forward with this, but he has a concern with the lighting. With the

Board of Supervisors – May 15, 2017

LED lights, hopefully that won't be an issue. The question was raised about hurting other businesses in the area. Chairman Harvie spoke about people asking them to deny a business because it will hurt another business which is more of socialism than capitalism. Mr. Hecker said you have witnessed the situation at New Falls and Wister Roads and said that Mr. Hammond designed those improvements. Member Rocco asked about the timing of this project. Mr. Hecker said barring any legal entanglements, WAWA would be anxious to break ground in 30-40 days. Mr. Redel said construction should take approximately 6 months so they hope to be open by Christmas. Member Rocco moved to open public comment; Member Galloway seconded the motion; all board members were in favor. (4-0) Ms. Shaun Stilwell said the board gave in to back-door methods to get here, including social media. It is amazing to see e-mails from supervisors encouraging people when you are voting on a project. She said it is a complete disappointment. If you Google issues after WAWA has been instituted into a neighborhood, you will see that this is a destination. The waivers work in favor of the WAWA. It would be nice if someone in this room would admit that this was happening from the outset. Ms. Stilwell said she doesn't think the board paid attention to half of the people who spoke about this tonight.

Ms. Toni Battiste asked if there were any consideration about sidewalks. Chairman Harvie said there are sidewalks on the plan along West Trenton Avenue and Pine Grove Road. Mr. Banosky explained on the diagram where the sidewalks would be located. The entire frontage will have sidewalks. There was a question about the Fuddruckers WAWA. They did work on that WAWA, but as the project was being developed, PennDOT came in so they had to fit in what they were left with at the time.

Ms. Kim Reaper (530 Hammond Drive) said she is concerned about pedestrian traffic, particularly middle school children. She said kids will be kids and they will cross the street wherever they want to. You will also have an issue with cars turning around where they are not supposed to. Chairman Harvie said it is very difficult to put sidewalks and crosswalks where we want them. We are trying to accomplish what you are talking about, but PennDOT tells us what to do. All we can do is to put in the safety measures and hope that the kids do what is right. We can have the police help monitor this for us. Mr. Banosky said they are providing twenty-six new ramps and crossings and significant pedestrian accommodations. Everything we are doing is consistent with the West Trenton Avenue corridor study which focuses on improving pedestrian safety and access.

Member Rocco moved to close public comment; Member Boraski seconded the motion; all board members were in favor. (4-0) There will be notes added to the plan in regard to fuel deliveries, food deliveries, and trash collection. Member Rocco said he takes offense to being accused of back-dooring. Member Rocco moved to approve Resolution # 17-15; Member Galloway seconded the motion; all board members were in favor. (4-0)

ITEM # 5 MORRISVILLE COMMONS, LP. – CONDITIONAL USE – WEST TRENTON AVENUE AND PINE GROVE ROAD – TMP # 13-028-028

Member Boraski moved to open the Conditional Use hearing for Morrisville Commons, LP; Member Galloway seconded the motion; all board members will be in favor. (5-0) Mr. Clarke said this is a Conditional Use hearing. The applicant is Morrisville Commons, LP. The property is located at West Trenton Avenue and Pine Grove Road, Tax Map Parcel #

Board of Supervisors – May 15, 2017

13-028-028 in the Township of Falls, Bucks County, PA. This is an application requesting Conditional Use approval to permit the sale of fuel at the referenced address, pursuant to Chapter 209-23.B.6 of the Falls Township Zoning Code. The applicant is represented by Mr. Thomas Hecker, Esq. Mr. Hecker will make his presentation, mark any exhibits he has, then give a brief summary of the testimony that each of your witnesses you would call tonight would give. Bring your witnesses forward to be sworn in and ask them if they have heard your summary and if it was an accurate presentation. Then you and those witnesses would be available to answer any questions by the board and any member of the public requesting party status. Mr. Hecker agreed. Mr. Hecker said last year the board approved the final plan for this property which had three uses on it. The uses were two restaurants and a pharmacy. The plan for consideration this evening, removes the larger restaurant and in its place has a proposed WAWA convenience store with the sale of gasoline. It is the issue of the sale of fuel for consideration this evening. The three witnesses are: Mr. Adam Banoski from Bohler Engineering (prepared the site and amended plans), Mr. Michael Redel, Representative from WAWA (in regard to the sale of fuel), and Mr. Matt Hammond from Traffic Planning and Design (who would verify that the PennDOT permit has already been issued for this project). The first witness, Mr. Adam Banoski from Bohler Engineering, is a registered landscape architect. He was involved with this project for quite some time. It was Mr. Banoski who testified in the original plan (Resolution # 15-29) and a copy of this is listed as Exhibit A1. The difference from that plan is the revision that substitutes the 6,000 sq. ft. restaurant drive through with the WAWA convenience store and fuel facility. The sale of fuel, under the township ordinance, is permitted by Conditional Use and he would further verify that the sale of fuel requires a Conditional Use and nothing further. We have obtained from the Falls Township Zoning Officer what is called a preliminary opinion and that is listed as Exhibit A2. This verifies that the operation of a WAWA, with the sale of gasoline, does not fall under the category of a service station under the Falls Township Zoning Code; therefore, no relief is necessary with regard to the use, nor is some applicable provision of the ordinance necessary to be considered since this is not a service station under the terms of the ordinance. Mr. Banoski would further testify with regard to the ordinance requirement, specifically Section 209-50B, that the proposed change is consistent with the spirit, purpose, and intent of the ordinance. He would further verify that this meets the requirements because the ordinance provides for this use in the Highway Commercial (HC) district, and there are no variances needed in connection with this plan. All commercial, institutional, and industrial parking, loading access, or service areas will be adequately illuminated at night and such lighting will include sign lighting and is arranged to protect neighboring homes from direct glare or hazardous interference of any kind. There will not be any spill-over light on the street or adjacent properties. A further requirement of Conditional Use is in Section 209F. In that section of the ordinance, it provides for additional standards and goes on to say that gasoline service stations, which are designed as self-service facilities, shall meet the following requirements. They have an opinion that states that the sale of fuels would not constitute an automobile service station. Mr. Banoski would verify that in Section 209-50, the applicant meets a two-acre requirement on the site. WAWA is 2.5 acres on the plan, and the site is 8.7 acres. Section 209-50, Subsection 8 provides for waiting for at least ten cars to be served at the gasoline pumps. Mr. Banoski would verify that there is at least that amount of space for vehicles waiting to be serviced.

Board of Supervisors – May 15, 2017

He would verify that in Section 209-50, G, 1, and 8. He would further be asked with regard to the general requirement that states in the ordinance that the establishment of Conditional Use shall not impede the normal and orderly development and improvement of surrounding properties for uses permitted in the district. The properties surrounding this development are fully-developed. Mr. Banoski would testify that adequate utilities, drainage, and other necessary facilities are being improved to accommodate this particular application. With regard to the plan, it has been extensively reviewed by the township and outside agencies and they do not have any issues dealing with the adequacy of the utilities, drainage, or any other facilities. With the exception of the waivers, which will be addressed later, they completely comply with the requirements of the outside agencies relating to this project. There are some issues that they will deal with during land development which were previously approved for the prior plan. Mr. Banoski would testify that in his professional opinion, if the project were built and operated according to the approved plan, there would be no adverse impact to the community. Further, if the project was built according to the approved plan, the granting of the application would not be contrary to public interest, as he was in attendance at the township Planning Commission meeting who recommended approval of the Conditional Use application. Mr. Michael Redel, Real Estate Project Engineer for WAWA, has testified in other proceedings in the township. He would provide testimony on other standards contained in the zoning ordinance relating to fuel sales. He would verify that this facility would have at least one attendant on duty while the station is open for business and the attendant would have unrestricted view of each pump and instantaneous communication with each customer. The attendant has been trained to handle situations with regard to dispensing of gasoline at all times and in accordance with the requirements of the PA Department of Licenses and Inspections that this project would meet that requirement with regard to a view of each pump and to be able to communicate with each customer and that is done with a two-way speaker system. Only Underwriter's Laboratory approved pumps and dispensary equipment which contain computers would be installed. This is in compliance with Falls Township and the State Department of Industry. This facility would be equipped with a control panel that permits immediate activation/de-activation of fuel pumps so as to prevent pumps to continue to run in the event of an emergency. Warning signs, in accordance with state and Falls Township compliance, would be placed at conspicuous locations. Each facility would have installed a water faucet and also have available a water can for refilling radiators as well as washing off spilled gasoline. In the event of spillages, WAWA does not encourage the washing down of any parking areas into the drainage system. Absorbent material will be used for any spillages and it will be picked up and properly disposed of according to state requirements. They will use the recommended spill prevention clean up in the event of a spill. They are installing an air tower fully equipped with an air hose with accurate air gauge. They will provide one full-service pump for each self-service pump so that disabled customers or others who require full service may be accommodated. Each pump island has available a push-button, two-way speaker system to call for assistance. Each of the employees in the store can respond and provide that service when requested. Each of the pumps can act as a full-service pump in a normal WAWA operation. Mr. Hecker said that Mr. Matt Hammond (Traffic Planning and Design) is a traffic consultant. He has also previously testified before the Zoning Hearing Board, Planning Commission, and the Board of Supervisors. He will verify that the

Highway Occupancy Permit has been issued by PennDOT. This is marked as Exhibit A3. While pursuing this revised plan, Mr. Hammond went back to PennDOT and indicated a change was taking place with regard to the HOP and asked if any modifications to the traffic study or the plans would be required from PennDOT. PennDOT responded no, the incorporated improvements were more than sufficient to meet any traffic generated by WAWA. PennDOT is not requiring any additional improvements. That letter is marked as Exhibit A4. In relation to the requirement to Section 209-G-2 that requires access roads to be improved to accommodate the project, the same improvement for the prior plan would be included on this plan. That requirement will be met. Exhibit A5 is the review letter issued by the township traffic consultant, Remington and Vernick. In regard to Chapter 209-50G, which requires that adequate measures be taken regarding ingress and egress to minimize traffic congestion on public streets – Mr. Hammond would testify that based on the implementation of the improvements that have been incorporated into the plan, as well as to the PennDOT HOP, this project meets those requirements under the ordinance. Based upon the improvements recommended and now being installed and the issuing of permits by PennDOT whether the granting of Conditional Use would be contrary to public interest from a traffic standpoint, his answer would be absolutely not. It has been approved by PennDOT and will be built according to the HOP permit. The three witnesses were sworn in by Mr. Clarke and they each agreed with the accuracy and entirety of Mr. Hecker's testimony. Member Galloway said it was a clear summary and he has no questions at this point in time. Member Boraski has no comments. Member Dence asked how the traffic impact study could be the same for a 24/7 WAWA with gas as a Rite Aid and fast food restaurants. Mr. Hammond said regarding the impact of a 6,000 sq. ft. restaurant as compared to a WAWA is that they look at the new traffic that is added to an intersection. The majority of the traffic on the roadway today would be serviced by that facility. There is not a lot of new traffic, but a lot of current traffic. A restaurant would be more new traffic, more of a destination, where a gas station would be traffic that is already on the road. PennDOT said the roadway improvements that were previously improved as part of the original development would also be adequate for a proposed change from a 6,000 sq. ft. restaurant to a WAWA. Member Rocco has no comments at this time. Chairman Harvie asked about the traffic impact study. Mr. Hammond said the traffic study was completed as part of the original application. PennDOT issued them a HOP for improvements, which are currently under construction, and that letter was more of a verification from PennDOT to say there has been a change in the use. No further action was required by PennDOT for the traffic study and the HOP. The PennDOT letter is dated March 2, 2017. Chairman Harvie asked where the numbers come from. Mr. Hammond said they utilize a trip generation manual; ITE compiles all information regarding various uses – and that information is what they utilize to determine the traffic for a certain site. That is the standard. PennDOT goes a step further and requires certain methodology when looking at convenience facilities. Mr. Hammond said when he spoke about the mandates, they had him use a more conservative methodology. His firm conducted site-specific counts at twenty-eight WAWA facilities in PA, NJ, DE, MD, and VA. PennDOT decided in 2012 to go with the ITE information. About 76% of the traffic that enters or exits the WAWA facility is traffic that is already on the roadway today. ITE said it is more like 62% in the a.m. peak and 66% in the p.m. peak hour. The information they found at 28 specific sites says it is more in the range of 76-90%.

By using the PennDOT methodology, they are being more conservative in how much new traffic they will be experiencing. Member Rocco asked what would be some of the things they would recommend if there was higher traffic. Mr. Hammond said they have done a comprehensive package of roadway improvements as part of this development. There are new traffic signals, new turn lanes, ADA improvements, traffic signal improvements, timing and coordination improvements, widening on Pine Grove Road, and there is a safety factor built in. The proposed improvements can provide for future growth in the area. There are a lot of things being done. For example, they are fully upgrading the intersection of Pine Grove Road and West Trenton Avenue and providing sixteen new ADA ramps as well as new pedestrian equipment. There will be emergency pre-emption signals, GPS, and time clocks. Member Rocco asked if they took into consideration folks going on Rt. 1 south. Mr. Hammond said they did not put much emphasis into that scenario. It hasn't been his experience that people would go one or two miles out of their way to get to the WAWA. He wouldn't anticipate there being very heavy movement, but they have taken new traffic into account. Chairman Harvie said an issue that has been raised is concern about heavy truck traffic. Mr. Hammond said going two miles out of your way in a heavy truck; they want to make the minimal amount of stops necessary. The amount of time it would take to fill their trucks would take longer so they would most likely not stop there. WAWA does provide diesel, but it is not high flow. That discourages heavy truck traffic to that site. It doesn't affect the roadway network or interior. There is plenty of site distance. Member Rocco asked about the new traffic signal on Rt. 13. He said traffic usually moves pretty fast there and asked how they plan to slow down the traffic. Mr. Hammond said they are proposing to stop traffic with a red light. If anyone wishes to have party status in this matter, ask questions of the three witnesses and present any testimony they may do so now.

Mr. Anthony D'Amico (555 Stevens Road) asked how long they did the traffic study. Mr. Hammond said the traffic counts were taken on five separate days during the peak hours of traffic, 7-9 a.m., 4-6 p.m., and Saturday mid-day peak hour (11-1). Mr. D'Amico asked if they could do a traffic count on a Sunday. Mr. Hammond said traffic counts are not required on Sunday. They have an approved traffic study that has approved plans and there are no requirements in the township ordinance or PennDOT requirements to study on a Sunday. Mr. D'Amico asked if ITE comes up with the stats for the traffic flow in that area. Mr. Hammond said they come up with general rates that are utilized throughout the country with respect to certain types of uses. Mr. D'Amico asked how his firm determines what the traffic will be if you don't know the area. Mr. Hammond said their firm prepared a traffic impact study to study that specific area. Mr. D'Amico said from his facts, you are absolutely wrong. Mr. Clarke said this is an opportunity to ask questions. Mr. D'Amico asked what restaurants will be there besides the super WAWA. Mr. Hammond said they believe it will be a fast-food restaurant with a drive-through and there will be a pharmacy. Mr. D'Amico asked Mr. Hammond if he is comfortable with the traffic study. Mr. Hammond said absolutely. He is only required to do a traffic study on peak hours for one day. Not only is he comfortable with it, but the township was comfortable with it at the time because they agreed with the traffic study and PennDOT was comfortable with it because they approved the traffic study and also approved the roadway improvements being proposed as part of the development.

Board of Supervisors – May 15, 2017

Mr. Joseph Caracappa, Esq. said he is here on behalf of the Plaza Shell Service Station at 907 West Trenton Avenue in Morrisville Borough requesting party status for them (JR Sons LLC and GK Automotive Inc.). His client received notice of this Conditional Use application. They have been sued as a result of their opposition to this so they request party status at this time. Mr. Hecker said it is clear from the history of this application, that Mr. Caracappa is seeking party status on behalf of an individual who operates a gasoline service station and provides for both repairs and the sale of fuels. Very clearly, under applicable case law, “the zoning ordinance is not part of a regulatory scheme to protect against competitive injury and thus competition is not the kind to direct injury which gives rise to standing in a zoning case.” Mr. Hecker provided the township with a copy. Mr. Caracappa said they have had standing all along. Mr. Clarke said Mr. Hecker’s argument is more towards the weight of the evidence and not whether or not these individuals should be granted party status. Mr. Clarke said he believes it is appropriate to grant them party status. Mr. Caracappa requests a copy of Exhibit A2, the preliminary opinion of the township solicitor. Mr. Clarke said A2 is not a letter from his office; it is a letter from Mr. Tom Bennett, the Chief Code Officer and Zoning Officer of the township.

Mr. Mason Joseph Hovvi (51 Berwyn Road, Fairless Hills) commented on the proposed traffic from this project. He saw the traffic counters sitting at the traffic light. He believes their study is wrong and asked if there is any margin of error. Mr. Hecker said he objects because he believes Mr. Hovvi is far enough away that his interests are no different or greater than any other member of the public. Mr. Hovvi again asked about the margin of error. Mr. Hammond said a margin of error would be in a positive way from what they have seen in the past. There are a number of criteria and what they have found in the past is that they overestimate the amount of traffic that would be traveling through the intersection. Mr. Hovvi said he has seen the result from the study of Oxford Valley Road and Lincoln Highway. The traffic is tremendous. Mr. Hovvi said the amount of gasoline expected to sell in a day is between 7,000 and 10,000 and asked if they put that into your capacity of how many cars would be generated per day. Mr. Hammond said he doesn’t know how many gallons they sell, but they have estimated more than 900 vehicles per day. Mr. Hovvi asked what lane modifications are being made to accommodate traffic. Mr. Hammond said they have provided a roadway package. Mr. Hammond provided detailed information about the traffic plan in regard to the access, turn lanes, and concrete medians. A number of improvements are being done as part of this development. Mr. Hovvi asked if they would be studying this further. Mr. Hammond said he did what he was required to do, but also went a little bit above and beyond. Mr. Hovvi asked Mr. Redel if they could build the new WAWA without gas. Mr. Redel said no, not at this location.

Mr. Tom South (132 Harrison) said he is in the process of getting an apartment in Falls Township. Mr. Hecker objected to Mr. South having party status. Mr. Clarke said this objection is sustained.

Member Galloway moved to close the public hearing; Member Boraski seconded the motion; all board members were in favor. (5-0) Mr. Hecker provided the township with exhibits and confirmed that the plan and application are part of the record. Mr. Clarke said they are part of the record because they are in the township’s file. Mr. Clarke would like to mark as Township Exhibit # 1, a certificate of service dated April 18, 2017, provided by Mr. Thomas R. Hecker, Esq. containing the notice that was sent to the appropriate property

Board of Supervisors – May 15, 2017

owners. Mr. Hecker said in connection with the Conditional Use, the burden is on the applicant to demonstrate to the board that the requirements for Conditional Use have been met. Once that happens, there is a shifting burden on anyone who opposes it to produce evidence to the contrary. He was careful with the summary of testimony to make sure that each and every element of the Conditional Use requirements of the ordinance should have been met. What should have happened is that anyone who has objection to this, should have produced some testimony to that regard, other than simply asking questions. Mr. Hecker said, in his opinion, he believes the requirements of the Conditional Use have been met. Member Galloway moved to open public comment; Member Boraski seconded the motion; all board members were in favor. (5-0)

Mr. Joseph Caracappa said he agrees that the applicant has the burden to comply with the objective criteria of the zoning ordinance. It is his position that this clearly denies 1,500 feet between service stations. He doesn't think it would be appropriate for you to vote on this. We object to the granting of the Conditional Use. The proposed use does not comply with the criteria of your ordinance to be situated 1,500 feet from his client's service station of 907 West Trenton Avenue to this site; (which is about 600 feet from his site). That is found in Section 209-50F, 1A and contains a proximity regulation. It represents a judgment made by this Board of Supervisors and designed for the purpose of protecting and promoting the health, welfare, and safety of the residents. Mr. Caracappa said the Zoning Hearing Board has proposed the WAWA to be a service station under your ordinance. Mr. Caracappa said this board needs to set aside any personal preferences they have and asks them to deny the application.

Mr. Abdul Kayun (600 West Trenton Avenue) said he lives across the street from the proposed WAWA. His bedroom is not even 100 feet. He works 12 hours a day, 6 days a week. Mr. Kayun believes he will hear the intercom system. As far as traffic, Mr. Kayun said his daughter got hit ten years ago at that intersection and she is still affected by that accident. He hears the ongoing work from his bedroom.

Mr. Anthony D'Amico (555 Stevens Road) said he presented his thoughts and concerns on February 17, 2015 and his position has not changed. Mr. D'Amico said his son totaled his car at that intersection a month ago. He knows about the amount of traffic because he lives it day to day. There are a lot of factors that have to be taken into consideration and one is the people we have to represent us. In this instance, this will create congestion and it will create chaos. Mr. D'Amico also expressed concern over his property value. Mr. D'Amico said his neighbors are not here because they are afraid of getting sued. He asks you to please consider what will transpire in our area, in our township, and in our development. Mr. D'Amico thanked the board for their time.

Mr. Mason Joseph Hovvi said we support you all. When we stand here, we stand for justice. We welcome WAWA but not a gas station to be developed in our neighborhood. In the 1990's Exxon Mobil tried to get into that location and they were denied. Our kids live in that neighborhood. We honor your opinion and judgment, but please protect us.

Mr. Brett Fanley (1 Oak Avenue, Lower Makefield) said he is involved in a temporary employee business; otherwise known as contract staffing. It is the same thing and a gas station and a service station are the same thing. It is the same business and that is exactly what WAWA wants to do here. The three gas stations and the sub shops are in jeopardy. How many of the jobs that WAWA would create could provide a good job like his friend

Board of Supervisors – May 15, 2017

Glenn. He drives past that intersection to go to Philadelphia every day and believes the traffic will get worse.

Mr. Tom South (132 Harrison Avenue) wonders who performed the traffic study at Old Rt. 13 and Penn Valley Road where there is another WAWA. He said there are more trucks at that location than cars and they come down Old Rt. 13. Mr. South asks if anyone thought about the traffic study when I-95 goes into a toll road and you only have two bridges that everyone will use. All the traffic that doesn't want to pay the toll will come up West Trenton Avenue. When you are serving water and air that is a service station like Glenn and Kevin. Mr. South referenced a time when a handicapped relative went to the Oxford Valley WAWA and had to wait 45 minutes for someone to come out and assist them.

Ms. Toni Battiste (218 Glouster Road, Fairless Hills) asked about the acreage for the WAWA and gas pumps. She doesn't believe they will meet the 2-acre minimum requirement. Ms. Battiste asks how you will get charged for full service. Ms. Battiste said it would have been nice for the applicant to have hand-outs so everyone could see their plans. Mr. Redel said there is no charge for someone coming out to pump the gas.

Mr. Christopher Brown (263 Althea Avenue) expressed thanks to everyone speaking for and against WAWA. He is glad he came out tonight. He understands some of the concerns from people who are against the WAWA. There will be negative effects, but they do not speak on behalf of the entire population of the three or four municipalities surrounding this WAWA that do not have the convenience of what has become the norm in Pennsylvania and New Jersey. Morrisville has some great small businesses such as Ben's Deli – and that place will stick around. As you look around this room, you see pictures showing that times change and the landscape changes. Small businesses that are good will survive. Some people are for the WAWA and some people are against the WAWA. As far as the self-service – if you know PA, it is not a full-service. If you want full service, you will go to the Shell across the street.

Ms. Marty Bringham (Morrisville, PA) said they have no gas station in town that is open past 7 p.m. She has to go elsewhere. There will be lower crime with the area lighting. Ms. Bringham said for most tractor-trailer drivers, their vehicles are equipped with GPS. Their employer knows where the driver is at every moment. They cannot go off route, not even 2 miles out of the way to get a cup of coffee.

Mr. John Daley (614 Barclay Avenue) said as far as the truck traffic goes, he knows with a 35-ft. truck, he would not attempt to get gas because it is not fast. If he went to a WAWA, he would be waiting for gas. There are ways to deter trucks from coming to this facility. As far as gas, he doesn't go to gas stations in town because they are too expensive. Mr. Daley said right now he goes down to the Oxford Valley WAWA to get gas. Full service isn't like it was in the past. A lot of people who live in Morrisville do not have a lot of money to put into their gas tanks so affordable gas is important. WAWA will positively affect a lot of people in this area, but he does think the all business owners will feel the effect of this.

Ms. Lisa Tardo (Lower Makefield Township) said you will be voting on putting in a 16-pump gas station in a non-attainable area. Your responsibility to our community is to decrease the pollution, not increase it. According to the 2017 American Lung Association report, we are now number one in the state for poor air quality. Putting in a 16-pump gas station is not going to improve our air quality or benefit our area. No one spoke about the

gas tanks that will need to be vented or the emissions from the line of cars that are waiting. This is a real problem.

Member Rocco moved to close public comment; Member Galloway seconded the motion; all board members were in favor. (5-0) Mr. Hecker would like to add Exhibit A6 - Proof of publication in the Bucks County Courier Times with regard to the public opinion letter which was requested and provided by Mr. Bennett. This publication was published in the Bucks County Courier Times twice in December and anyone who didn't agree with this had the right to file an appeal at that time. No such appeal was filed at that time. Mr. Hecker said Mr. Caracappa is relying on a Zoning Hearing Board decision which was appealed and remains on appeal. Mr. Caracappa didn't chose to push that appeal to conclusion so the Zoning Hearing Board's decision has no import with regard to this application. Member Boraski asked if there were any note as far as deliveries of fuel. Mr. Hecker said there is nothing on the plan. They will cover this during the land development. Chairman Harvie asked Mr. Hammond about only being required to study the traffic on one day at peak time. Mr. Hammond said it is a PennDOT requirement. Usually what you do is study the peak hours of traffic on a Tuesday, Wednesday or Thursday and one day during peak hours. If it were a movie theatre, you would look at Friday and Saturday. They did five days, covering two methodologies. Mr. Hammond said they use a counter – someone who observes and counts traffic on a counterboard and they also use myovision, a camera which is placed at the intersection and records traffic moving through the intersection. Member Galloway moved to grant the application for the Conditional Use for Morrisville Commons, LP, West Trenton Avenue and Pine Grove Road, TMP # 13-028-028; Member Boraski seconded the motion; all board members were in favor with the exception of Member Dence who voted no. (4-1)

There was a break in the meeting at 9:34 p.m. and the meeting reconvened at 9:48 p.m. The board moved to agenda item # 4 at this time.

Member Dence left the meeting as he was not feeling well.

ITEM # 6 CONSIDER PRIVATE SANITARY SEWER MAINTENANCE AGREEMENT BETWEEN FALLS TOWNSHIP AND MORRISVILLE COMMONS, LP.

The property will have a grinder pump which is a way of getting their sewage into the mains and DEP is now requiring that when a property has a grinder pump then the property owner and the township enter into an agreement regarding the proper maintenance of the grinder pump on the property. The second item is that since what the applicant is proposing is a deviation from the Act 537 Plan, then the sewage facilities planning module has to be submitted to the DEP. Member Galloway moved to approve the private sanitary sewer maintenance agreement between Falls Township and Morrisville Commons, LP and also Resolution # 17-16 for the Morrisville Commons, LP sewage facilities planning module; Member Boraski seconded the motion; all board members were in favor. (4-0)

ITEM # 7 CONSIDER RESOLUTION FOR MORRISVILLE COMMONS, LP FOR THE SEWAGE FACILITIES PLANNING MODULE

(see item # 6)

ITEM # 8 CONSIDER AUTHORIZING THE TOWNSHIP MANAGER TO FINALIZE AWARD FOR BID FOR THE VERMILLION HILLS DRAINAGE IMPROVEMENT PROJECT

Agenda items # 8, 9, and 10 were voted on in one motion. Member Galloway moved to authorize the Township Manager to finalize the awards for bids for the Vermillion Hills drainage improvement project, the Vermillion Hills footbridge installation project, and the 2017 Falls Township Road Improvement Program; Member Boraski seconded the motion; all board members were in favor. (4-0)

ITEM # 9 CONSIDER AUTHORIZING THE TOWNSHIP MANAGER TO FINALIZE AWARD FOR BID FOR THE VERMILLION HILLS FOOTBRIDGE INSTALLATION PROJECT

(see item # 8)

ITEM # 10 CONSIDER AUTHORIZING THE TOWNSHIP MANAGER TO FINALIZE AWARD FOR BID FOR THE 2017 FALLS TOWNSHIP ROAD IMPROVEMENT PROGRAM

(see item # 8)

ITEM # 11 MINUTES – APRIL 18, 2017

Member Rocco moved to approve the minutes from April 18, 2017; Member Boraski seconded the motion; all board members were in favor with the exception of Member Galloway who abstained as he was absent from the April 18th meeting. (3-0-1)

ITEM # 12 ENGINEERS REPORT

Mr. Sullivan said we are currently waiting for two projects that went out for re-bid. They are for landscaping and the fishing pier. The 2016 Road Program is virtually complete with a little landscaping left to do and the top coat to be paved by General Asphalt in the next week or so. Member Rocco moved to approve the April Engineers Report dated May 11, 2017; Member Galloway seconded the motion; all board members were in favor. (4-0)

ITEM # 13 BILL LIST

Member Rocco moved to approve the May 15, 2017 bill list in the amount of \$2,256,997.25; Member Boraski seconded the motion; all board members were in favor. (4-0)

ITEM # 14 EXECUTIVE SESSION

Mr. Clarke said that prior to tonight's meeting, the board held an Executive Session to discuss a personnel matter, a matter regarding a Collective Bargaining Agreement, and a matter of potential litigation.

ITEM # 15 POLICE CHIEF'S REPORT

Chief Wilcox provided the following information:

- Chief Wilcox congratulated and welcomed Police Officer Ryan Murphy and Police Officer Jason Blickley who were sworn in earlier this evening. Special thanks to Judge Vislosky for administering them the Oath of Office to them.
- Between May 15th and 19th, there will be upcoming lane restrictions at the intersection of Pine Grove Road and Rt. 13 and also on Tyburn Road between New Ford Mill Road and Pennsylvania Avenue.
- For the county's prescription drug drop-off program on April 29th, Officer Yeager said they collected 142 lbs. of prescription drugs. To date, 40,000 lbs. of prescription drugs have been collected by the county.
- The Chief for a Day Program with 5th graders has turned out to be a very good program.
- On May 22nd, St. Andrews in Newtown will be the site for a Fallen Police Officer Memorial Service for men and women killed in action. There is also a service in Bristol Township at 9 a.m., Bensalem at 10 a.m., and Middletown at 12 noon.
- Sgt. Finelli asked Chief Wilcox to speak about the drug gray death which is a form of heroin. Narcan doesn't put a dent in it. There is special protocol for handling this drug.
- There was some recent traffic enforcement with other municipalities, focusing on Rt. 13. More than 100 citations were issued with over 40 of those issued in Falls Township.
- During the first week in June we will have graduated our two K-9's Leo and Zeko. They will be finishing up scent class and patrol class.

ITEM # 16 MANAGER COMMENT

- A. Member Rocco moved to approve the escrow release for Spirit Financial Credit Union in the amount of \$13,362.27; the escrow release for RJC Investments in the amount of \$634.68; and 13 escrow accounts for Asset Management, according to the schedule provided to board members by Manager Gray; Member Galloway seconded the motion; all board members were in favor. (4-0)
- B. Member Rocco moved to approve a \$6,000 donation to each of the following organizations: Levittown American Athletic Association, Levittown Continental Little League, Fairless Hills Athletic Association, and the Fairless Hills Soccer Club; Member Galloway seconded the motion; all board members were in favor. (4-0)
- C. Member Rocco moved to approve the 90-day extension to August 31, 2017 for CAM Real Estate Partners; Member Galloway seconded the motion; all board members were in favor. (4-0)

Board of Supervisors – May 15, 2017

D. Manager Gray announced new township businesses. They are: USA Dental Care, Progressive Lighting Units and Systems, Algo and VCA Animal Hospital.

E. Manager Gray has Dollar General mylars ready for signature.

ITEM # 17 BOARD COMMENT


Member Rocco thanked Member Boraski and the Parks and Rec Boad for the Touch a Truck event. It was well attended.

Member Galloway – no comment.

Member Boraski – no comment.

Chairman Harvie also thanked Member Boraski for the Touch a Truck event. It was a very good event. For everyone attending tonight's meeting, we knew that not everyone would be happy with the outcome, but we have to follow the law. If someone owns property, they have rights just as everyone else has rights. We hope the development is as successful as we hope it will be. That lot will be filled with businesses contributing tax dollars to the township and providing jobs for people in the area. We will make sure they follow the guidelines they are supposed to be following. Chairman Harvie thanked fellow board members and professionals for their patience.

Member Rocco moved to adjourn the meeting; Member Galloway seconded the motion all board members were in favor. (4-0) The meeting was adjourned at 10:55 p.m.



Jeffrey Rocco, Secretary