President Martin called the Board of Commissioners regular meeting to order at 6:35 p.m. following a Stormwater Authority meeting. A moment of silence was observed, and The Pledge of Allegiance was recited by all. Roll Call was taken by Mr. Fazekas.

CONSIDERATION/APPROVAL OF MEETING MINUTES

President Martin asked for any comments or corrections to the Minutes of the August 21, 2019 Board of Commissioners meeting. There were none, and Commissioner Anderson made a MOTION to approve the Minutes of the August 21, 2019 Board of Commissioners meeting, SECONDED by Commissioner Castranio. The motion carried unanimously.

PRESIDENT'S ANNOUNCEMENTS

There were no announcements.

PRESIDENT'S RECOGNITION OF VISITORS

Laurie Braun, President of Southpoint Condominium Association Executive Board at 33 Southpoint Drive, dropped off a letter prior to the beginning of the meeting and asked that it be read into the minutes. The subject of the letter is Right of Way approval for the Mechanicsburg Area School District, Elmwood School Project, and it expresses “dissatisfaction with the approval for the School District to move ahead on completion of the Right-of-Way adjacent to” the Southpoint property and their disappointment that “they are allowed to move ahead having not acquired the appropriate certifications and the fact that they’ve now changed the design of the proposed ‘exit.’” Mrs. Boyer read the letter, which is attached to these minutes.

President Martin questioned whether Mrs. Boyer was aware of this information. She responded that she did speak to a representative of the applicant recently and found out that there were some changes proposed by PennDOT. She said they may come in for an extension to address the proposed changes. President Martin asked if the plan is different than what the Board of Commissioners approved, and she said she thinks the intersection in question was to be an exit only and her understanding is that now they want to make it in and out. Commissioner Cochran said he thought it
was originally calling for a right in and right out, and there was some requirement for them to review it once a year for 10 years. Board members questioned how they would do that without Board approval. Mrs. Boyer said she thinks they were waiting to hear back from PennDOT. She said the plan is not recorded because they don’t have their Highway Occupancy Permit (HOP). Commissioner Castranio recalled that the last time the applicant was before the Board, they said the PennDOT permit was going to be issued shortly. He noted that Ms. Braun’s letter indicated that Southpoint cannot close their entrance close to the intersection in question due to emergency services access. He questioned whether it is true that they need two access points. Mrs. Boyer responded that any development with 20 or more units needs two access points. She said she must look into these new developments, and President Martin said he hopes the Board of Commissioners will be part of any conversation between PennDOT and the School District. Commissioner Cochran asked Mrs. Boyer to give the Board an update on what she finds out.

Dom Holmes, of 2390 Oakwood Hills Drive, commented that from what he can see on-line, a large number of Upper Allen Township arrests involve possession of marijuana. He asked the Board of Commissioners to decriminalize simple possession of marijuana, noting that 80% of people use it recreationally. He said there is a clear line between local, state and federal laws, and the Board can make a decision to not be part of creating an endless pit that responsible people who are contributing members of society are falling into because of simple possession. He said once you fall into the system it is hard to get out of it. He said it ruins people’s lives and employment prospects.

Commissioner Cochran questioned whether Mr. Holmes is aware of the number of people getting DUls for marijuana. He added that the Board of Commissioners can’t supersede federal law. He said we can’t knowingly violate the Constitution. Mr. Holmes said he is asking the Board to be bold. He said he thinks we should be accountable to others and is all for penalizing people for getting behind the wheel while under the influence, but not for simple possession. He said he has experience as a political organizer and is a registered Democrat. He said he has talked to thousands of Democrats, Republicans, old, young, white, black, poor and wealthy people across the state, and they seem to be behind it. He said our past four Presidents have all admitted to some degree of illicit drug use. Commissioner Cochran said he doesn’t know why he would bring that up, and Mr. Holmes said the point is that marijuana users are looked upon as irresponsible, but they aren’t necessarily. He said there’s a fine line between being addicted to something, and making poor decisions every now and then.

President Martin said the Board hasn’t talked about the topic but thanked him for addressing the Board and applauded him for introducing the issue he feels strongly about. Vice President Rigney said the Board did get information from Steelton Borough that they had decriminalized it, and our Police Chief spoke about his department’s responsibilities as police officers. Chief Adams said a municipality doesn’t have the authority, other than possibly Philadelphia, to supersede state law. If we don’t enforce the marijuana laws, he questioned the next law that we will pick and choose. He said he pays attention to the collateral damage in states where recreational marijuana was made legal. He suggested that Mr. Holmes address the state legislature. Regarding Mr. Holmes’ comment about the pit people fall into, he urged him to do some research on expungement. He said people are eligible to get their record expunged if they stay clean and have no further issues within two years. He said he is willing to make himself available to speak with him.
CONSENT AGENDA

Vice President Rigney made a MOTION to approve the Consent Agenda as follows, SECONDED by Commissioner Cochran:

Consideration/Approval of Staff Reports.
Consideration/Approval of Bills in the Amount of $849,280.75

The motion carried unanimously.

PUBLIC SAFETY COMMITTEE

CONSIDERATION/APPROVAL OF COLLEGE COURSE WORK
FOR DETECTIVE TRENTON MELLOTT

Chief Adams provided a request for approval of college course work from Detective Trenton Mellott for WCM-610, Introduction to Organizational Conflict Management. Detective Mellott is pursuing his Master of Science Degree in Criminal Justice with a concentration in Public Safety Administration through Southern New Hampshire University. The requested class is a required class that will be applied to his Master’s Degree program.

Commissioner Castranio made a MOTION to approve Detective Mellott’s request for WCM-610, Introduction to Organizational Conflict Management, at a cost of $1,881.00, SECONDED by Commissioner Cochran. The motion carried unanimously.

MISCELLANEOUS COMMENTS

Although he said he doesn’t know where they came from, Chief Adams noted statistics that rank Upper Allen Township as the 35th safest city in Pennsylvania.

Regarding the Bishop Road emergency access, President Martin said Mr. Fazekas’s monthly report mentioned a lock. Fire Chief Shumberger said it will be a knox lock, which is the key they carry on the fire engine. President Martin questioned whether the Police or EMS should have one too. Mr. Fazekas said he will check with them to see if they meet the weight restrictions on Bishop Bridge, which the fire trucks can’t. Chief Adams said he was offered a key but declined it because they can access the bridge and can maneuver around much easier than the fire equipment. He said he didn’t see an advantage to having a key.

Vice President Rigney thanked Chief Shumberger for the recent Lunch and Learn at the fire station. He said Lori Shumberger, Jim Salter, and others did a great job and he thought it was a great success. President Martin noted that the concrete work in front of the building is moving along.

Commissioner Castranio mentioned that Officer Sanguinito received his Master of Professional Studies and the advanced study in Homeland Security.
PLANNING & ZONING COMMITTEE

CONSIDERATION TO SCHEDULE PUBLIC HEARING DATE FOR CONDITIONAL USE APPLICATION

On September 5, 2019, staff received a Conditional Use (CU) Application for 1100 Grantham Road. The applicant wishes to operate a resort at the property, which requires CU approval in the Low-Density Residential (R-1) Zoning District. All conditional use applications require a public hearing before the Board of Commissioners, and the Township has 60 days from the date of application to hold the hearing (on or before November 5, 2019).

Commissioner Anderson made a MOTION to advertise a public hearing before the Board of Commissioners to be held on November 4, 2019 at 6:00 p.m. The public hearing will be held to receive testimony regarding a Conditional Use Application for 1100 Grantham Road to permit a resort, in accordance with Section 245-5.2, Table V-1, Use #39 of the Zoning Ordinance. SECONDED by Vice President Rigney. The motion carried unanimously, except for Commissioner Castranio, who abstained because he is employed by the applicant’s engineer.

Mrs. Boyer noted that the Planning Commission will review the application on September 30 and will provide comments to the Board of Commissioners.

CONSIDERATION/APPROVAL OF CERTIFICATE OF APPROPRIATENESS TO REPAIR & EXTEND EXISTING PRIVACY FENCE AT 240 GETTYSBURG PIKE

Rkia Hall of 240 Gettysburg Pike has made an application for a Certificate of Appropriateness to replace the existing wood windows with vinyl/glass windows on the property. Other work being completed at the property includes repainting the existing roof (green) and repainting an existing rear structure (red) to match existing features of the property. The applicant will also be adding new fencing and replacing existing fencing. The property is located within the Township’s Neighborhood Commercial (C-1) Zoning District and the Shepherdstown Municipal Historic District. The 3-story structure was built circa 1860 for hotel use.

Section 10 of Chapter 155 of the Township Code states that the Board shall consider applications for Certificates of Appropriateness and shall consider factors regarding the application as set forth in Section 155-9.C of the Township Code and the recommendation from HARB (Historical Architectural Review Board). If the Board approves the application, it shall issue a Certificate of Appropriateness authorizing the Building/Zoning Officer to issue a permit for the work covered, as stated in Section 155.10.D of the Township Code.

The HARB reviewed the application at their August 20, 2019 meeting and unanimously recommended that the Board of Commissioners approve the applicant’s request to replace the existing fence and extend the fence line to the end of the property. The discussion on window replacements was tabled pending receipt of samples and additional information regarding type of windows the applicant wishes to use.
Rkia Hall discussed the items that were found to be in disrepair once she purchased the building. She said the roof colors are mismatched so they want to replace them and paint them all green. She said they are currently doing inside repairs that don’t require HARB approval. She said the roof is priority #1, then the windows, which are beyond fixing and have to go. Part of the fence is still standing and other parts were falling down. She said the fence is meant to provide a barrier between her property and a neighboring property, which is not kept nice. She said she had to have a new survey done because the previous survey was not done properly. Stakes are in the ground now, showing the correct property lines. She said the wooded back yard of the property has become a dumping ground for neighbors, so by installing a fence it will cut it off from that use by the neighbors. President Martin said he is perplexed about the dumping and that the Township hasn’t enforced the Township ordinance. He said he is sorry she has to put up with it.

Commissioner Cochran made a MOTION to grant a Certificate of Appropriateness to Ms. Rkia Hall to replace the existing fence and to extend the fence line on her property. Replacement of the fence shall be in accordance with applicable building codes and the zoning ordinance, and in accordance with the building design and specifications as submitted and reviewed by the Historical Architectural Review Board. SECONDED by Vice President Rigney. The motion carried unanimously.

**DISCUSSION OF SMALL CELL LEGISLATION**

Representative Delozier sponsored a September 12 meeting on Small Cell Legislation. In attendance were representatives from the cellular industry, CAPCOG, attorneys from the Cohen Law Group, and representatives from Upper and Lower Allen Townships and Lemoyne Borough. Vice President Rigney and Mrs. Boyer attended from Upper Allen. Commissioner Cochran asked for the impressions of those who were at the meeting. He said he got an email from Representative Delozier that sounds counter to what he has heard from others who were there. He said he is not supportive of House Bill 1400, which spells out the process for the deployment of small cell wireless devices, and said there isn’t anything in it for the municipalities.

Mrs. Boyer said Upper Allen stated right away that we aren’t in support of House Bill 1400 and that it is limiting the power of the municipalities. She said Dan Cohen led the discussion and said that as a representative of municipalities, while they don’t think a compromise couldn’t be made, as it stands now House Bill 1400 isn’t doing Townships and Boroughs any favors. Mrs. Boyer briefly discussed the following parts of House Bill 1400:

- The FCC says you can charge $270 total per year for access fees charged for access to a municipal pole in the right-of-way, and can charge a higher fee if certain conditions can be justified. But House Bill 1400 proposes a $100 annual fee per small cell facility or $100 per new utility pole, and a $170 annual rate to co-locate on municipal poles. The language does not allow municipalities to combine the two fees to total the $270 as allowed by the FCC.

- The FCC shock clock is 60 days to review an application that co-locates a facility on an existing structure and 90 days for new construction. Failure to act and remediation would fall under the Telecommunications Act. House Bill 1400 says applications must be reviewed
in 10 business days and the applicant shall be notified if the application is incomplete. If this is not done there are repercussions.

- The FCC allows 3 cubic feet and not taller than 50 feet for the size and height of wireless facilities, but House Bill 1400 allows for 6 cubic feet in size and up to 50 feet of height. Towers taller than this can request a waiver through zoning, but House Bill 1400 doesn’t state that Zoning Ordinances are an allowed local regulation.

- ATT and Verizon representatives all seem to want to locate on existing towers and want to co-locate as much as possible, so House Bill 1400 says providers should try to co-locate as much as possible and if they can’t, they have to demonstrate that they can’t, but municipalities have no way to validate that it is an acceptable reason why. She said standards must be created so that if these companies ask for a reason not to co-locate we can justify that they meet the standards.

Mrs. Boyer said some in attendance were concerned that House Bill 1400 will help municipalities who refuse to adopt ordinances. She said our ordinance is 23 pages and is pretty comprehensive. She said there are specific criteria and the ordinance was based on the last FCC order on wireless facilities. She said we went from 1 page to 23 pages of regulations, and it is a massive undertaking when people come in for an application. She said her concern is that if we are doing our part, we are being penalized because of those who aren’t doing their part. She said if the bill is amended to work with everyone and a solution that works for everyone is developed, she is ok with it, but she thinks our concerns will just get steamrolled. She said she appreciated that they were asked to come and present their concerns and have their voices heard. She noted that Upper Allen has written letters of opposition, and Dan Cohen thanked all for making that effort.

Commissioner Cochran said he was hoping that we go on record again in opposition to House Bill 1400. He said we should thank Representative Delozier for her meeting but let her know that our understanding of the bill hasn’t changed and we are still opposed to it. We should also copy the surrounding municipalities. Mr. Fazekas said Mr. Cohen represents the majority of municipalities in the area. He said he emailed him earlier in the week and Mr. Cohen said he will prepare a resolution soon for all municipalities to take action on. He said the Board of Commissioners can take action at their next meeting. Commissioner Anderson said Mr. Cohen is pretty good about working with municipal government and is very concerned about what has happened. Mr. Fazekas said there might be benefit to having our feelings in early, by way of a Board motion, and said he doesn’t think a boilerplate resolution carries as much weight. Commissioner Cochran agreed.

Vice President Rigney commented that the meeting moved very fast and it was hard to keep up. He said Mr. Cohen said it was the first time he could recall that industry, municipalities, and consumer advocates were in the same place, and said he never had an opportunity to address it publicly before. He also said that PSATC is considered a stronger organization and they seem to grasp the seriousness of the situation, but didn’t seem to oppose it aggressively enough. He said Mr. Cohen noted that House Bill 1400 was drafted by AT&T from the beginning, and 98% of requests for towers have been approved. Vice President Rigney said AT&T kept saying they need a predictable process so they aren’t unnecessarily kept from putting up their towers, but Mr. Cohen and Mrs.
Boyer both questioned why the municipalities are always the bad guys. He said Mr. Cohen pointed out that the FCC directive is sufficient and the state law is irrelevant. He said it doesn’t help us, it hurts us. AT&T then questioned why 28 states have state laws and several others have laws ready to pass. They said it doesn’t have to do with local management of these things because they are only located on state roads.

Vice President Rigney said he was disappointed that Representative Delozier’s staff person was so uninformed about something he is supposed to be an expert at. He said Representative Delozier seems to be on the side of opening it up but she said they won’t vote for at least 2 weeks. Commissioner Cochran said that is why he thinks we should get in early. Although he and Mrs. Boyer realized the meeting was a PR thing, he said AT&T did agree to sit down with Mr. Cohen, which Board members found to be encouraging. Commissioner Anderson agreed with Commissioner Cochran that even if Mr. Cohen sends out a resolution in the next couple of weeks it would be good to have something out now to let them know that our people in attendance didn’t feel comfortable with what was proposed, and then adopt his resolution too. She said this topic has come before the PSATC Executive Board many times and the problem is that the next Executive Board meeting isn’t until November, but the vote will likely be taken in October when they are back in session. She said they won’t want to take a controversial vote next year when they are up for election; they will want to do it this year.

Commissioner Cochran made a MOTION to draft a letter to Representative Delozier thanking her for holding the meeting but reaffirming the fact that we remain unanimously opposed to House Bill 1400 in its current form, and to send a copy to Senator Regan, CAPCOG, and Cumberland County Commissioners. SECONDED by Vice President Rigney. The motion carried unanimously.

PUBLIC IMPROVEMENTS COMMITTEE

CONSIDERATION TO RATIFY DECISION TO AWARD CONTRACT FOR ENGLISH DRIVE CURB & SIDEWALK PROJECT

Mr. Fazekas noted that C. S. Davidson went out to bid the completion of the English Drive Curb and Sidewalk project after Northeast Foundation and Concrete defaulted on the project. Two bids were received as follows:

- Rogele, Inc. - $99,572.50 for the base bid, Alternate 1 – Cast-in-Place Inlets at $12,290, and Alternate 2 – Epoxy-Based Surface Treatment at $5,356, for a total cost of $117,218.50.

- Matthews Construction Services, LLC - $122,960.10 for the base bid, Alternate 1 – Cast-in-Place Inlets at $17,000, and Alternate 2 – Epoxy-Based Surface Treatment at $66,950, for a total cost of $206,910.

To avoid further delays, Mr. Fazekas accepted the low bid from Rogele, Inc. C. S. Davidson issued Rogele a Notice to Proceed, but delayed the start pending a site visit by Erie Insurance’s consulting engineer on September 10.
Commissioner Castranio made a **MOTION** to ratify the decision to issue Notice to Proceed to Rogele, Inc. for the base bid of $99,572.50 and Alternate 2 – Epoxy-Based Surface Treatment in the amount of $5,356, for a total not to exceed $104,928.50 without prior Board approval. **SECONDED** by Commissioner Cochran. The motion carried unanimously.

**UPDATE ON WINEBERRY DRIVE BASIN**

Vice President Rigney questioned the status of the stormwater basin on Wineberry Drive, brought to the Board’s attention by a resident at a recent Board meeting. Mr. Fazekas said Public Works cut it back the next day. He said there are trees in there and it is deep enough that for us to clean it out we would have to contract it out with some kind of excavator. He said we cut it back about 10 feet and the issue of it growing onto the resident’s property has been taken care of. He said it is an actual Township property that was dedicated previously.

**SANITARY SEWER COMMITTEE**

President Martin questioned whether work has started yet on the Allendale Interceptor project, and Mr. Fazekas said they are working through one minor issue and it has not yet started. President Martin commented that this project is an example of a contractor bidding less than half of what the other two bids were, and he hopes it is not a repeat of the English Drive Curb & Sidewalk project.

Regarding the delinquent billings shown on the Sewer Department portion of the Manager’s monthly report, Vice President Rigney noted that the balances also include stormwater fees, but they are lumped into the number with the sewer delinquencies. He said the stormwater activities are different from the sewer activities, so it seems as though the delinquencies should be separated. Mr. Fraser said they are separated out when they get paid in and the money is never deposited together. He agreed that they should be reported separately and said he will get that corrected. President Martin questioned why sewer is billed in arrears and stormwater is billed ahead, and Commissioner Cochran explained the rationale.

**ADMINISTRATIVE COMMITTEE**

**BUDGET UPDATE AND 2020 MMO ANNOUNCEMENT**

Mr. Fraser addressed his report. The information presented in the report is based on historical numbers generated in 2016, 2017, 2018 and year to date 2019. At the end of August, the General Fund’s overall net position is $1,680,439. Overall revenue and expenditure positions year to date are $7,315,978 (an increase of 4.48% when compared to 2018) and $5,635,539 (an increase of 9.65% when compared to 2018) respectively. Most of the difference in revenue appears to be from an increase in building permit fees and real estate tax collections, while the difference in expenditures is related to the previously-noted $500,000 transfer to the Stormwater Authority. The month of September is expected to see a continued decline in net position as expenses stay level and revenues continue to rely primarily on current year earned income.
For the month of August, General Fund expenditures (all expenditures plus transfers) of $1,076,000 exceeded General Fund revenues (revenues minus fund balance) of $609,000 by $467,000. The decrease in net position follows prior years’ trends which reflect gradual decreases of approximately $500,000 a month over the next two months. Much of the revenue in August is due to collections in transfer and income taxes, while most of the expenditures are related to debt service payments and departmental expenses.

The Sewer Operating Fund continued its upward net position trend in August, finishing the month at $562,000. This increase was expected as the Township’s Sewer Fund is in the middle of collecting the most recent quarterly sewer payments, and expenditures have remained level. Based on trending data, a decline is expected in September as quarterly payments drop off and semiannual debt service payments are due.

At this point in 2019, the Township expenditures are being managed within budgetary constraints. None of the Township’s funds are currently at risk of operating in a deficit; all funds’ revenues (revenue plus fund balance) exceed expenditures.

As required by Pennsylvania Act 205, the Administration must submit the next year’s Minimum Municipal Obligation (MMO) to the Board of Commissioners prior to the end of September. The Township is responsible for a total MMO of $897,691 in FY 2020.

The 2020 MMO for the Uniform Pension Plan is $463,102, which is an increase of $21,869. Based on the most recent Uniform Pension Plan valuation (December 31, 2018), the Township has actuarial accrued liability of $11,490,170 and a current market value of $10,325,078 (June 20, 2019). Based on the liability and the current market value, the Township’s Uniform Pension Plan is underfunded by $1,165,092, placing the plan at 89.9% funded. Funding levels above 70%, but below 90%, are considered “Minimally Distressed” by the PA Auditor General. Mr. Fraser noted that DROP funds being held for individuals in the DROP program are included in the current market value, the overall sum of those funds is less than $400,000, which would lower the Pension Fund to a funding level near 86%.

The 2020 MMO for the Non-Uniform Pension Plan is $377,071, which represents a decrease of $9,083. Based on the most recent Non-Uniform Pension Plan valuation (December 31, 2019), the Township has actuarial accrued liability of $7,835,454 and the current market value of $6,971,291 (June 20, 2019). Based on the liability and the current market value, the Township’s Non-Uniform Pension Plan is underfunded by $864,163, placing the plan at 89% funded. Funding levels between 70-90% place the Township in the “Minimally Distressed” classification per the PA Auditor General for this pension fund.

The 2020 MMO for the Non-Uniform Employees Retirement Plan is $57,518 based on projected salaries for members of this plan in 2020. The plan has the Township contributing 10% of each member’s salary each year.

Commissioner Cochran said he would like to not be in the distressed category, and asked Mr. Fraser to calculate how much the Township would have to contribute to the pension funds to bring us out of
the “Minimally Distressed” category, based on adjustment to the rates of return of .25% and .5%. Mr. Fraser said the audit already shows what would happen if you went up or down, but he will ask Conrad Siegel to run that and will provide it to Board members before the next Board meeting.

**PARK AND RECREATION COMMITTEE**

**CONSIDERATION/APPROVAL OF CHANGE ORDER NO. 2 FOR WINDING HILL CENTRAL HUB PROJECT**

Mr. Reichard said the contractors continue to make progress but it is slower than originally anticipated. He said there are many contractors and it is a complicated project. Based on the work seen to date, he said they have found no issue with the request to go out to September 30, 2019.

Commissioner Anderson made a **MOTION** to approve Change Order No. 2 to the Winding Hills Park Central Hub, Phase 2, Contract No. 1 – Site Improvements project, to extend the contract time from 81 calendar days to 91 calendar days, with a new Substantial Completion date of September 30, 2019. **SECONDED** by Vice President Rigney. The motion carried unanimously.

**MISCELLANEOUS**

There were no items for discussion.

**SOLICITOR UPDATE**

There was no report.

**TAX COLLECTION COMMITTEE UPDATE**

There was no report.

**CAPITAL REGION COG UPDATE**

President Martin noted that the annual golf outing and picnic was held on Monday, September 16 at Sunset Golf Course in Londonderry Township.

**MUNICIPAL ADVISORY BOARD (MAB) UPDATE**

There was no meeting.

**PENNSYLVANIA STATE ASSOCIATION OF TOWNSHIP COMMISSIONERS (PSATC) UPDATE**

Commissioner Anderson noted that PSATC will hold a meeting at Allenberry the weekend of September 27 and 28. Friday there will be a dinner, with Mike Kennedy as speaker. She said there are interesting events on Saturday also.
EXECUTIVE SESSION

President Martin recessed the meeting at 7:52 p.m. to an Executive Session to discuss negotiations.

CONTINUATION OF MEETING

President Martin continued the meeting at 8:20 p.m. and Commissioner Cochran made a MOTION to direct staff to prepare a letter of termination of the Township’s participation in the Joint Recreation Agreement, SECONDED by Vice President Rigney. The motion carried unanimously.

ADJOURNMENT

President Martin adjourned the regular meeting at 8:22 p.m.