

**TOWNSHIP OF SALISBURY
LEHIGH COUNTY, PENNSYLVANIA
MINUTES FROM THE BOARD OF COMMISSIONERS
April 25, 2019
REGULAR MEETING – 7:00 PM**

The Public Meeting of the Salisbury Township Board of Commissioners was held on the above date in the Township Municipal Building located at 2900 South Pike Avenue, Allentown, Lehigh County, Pennsylvania.

PLEDGE OF ALLEGIANCE

Commissioner Martucci asked everyone to rise and recite the Pledge of Allegiance.

CALL TO ORDER

Commissioner Martucci called the meeting to order at 7:00 p.m.

Commissioner Martucci announced that an Executive Session regarding an agency matter for fact-finding will be held after the meeting.

Commissioner Martucci turned the proceedings over to Mrs. Cathy Bonaskiewich, Township Manager.

ROLL CALL

Board Members Present:

Robert Martucci, Jr., President
Debra Brinton, Vice-President
James Seagreaves, President Pro-Tempore
Joanne Ackerman
Rodney Conn

Staff Present:

Cathy Bonaskiewich, Township Manager
Sandy Nicolo, Assistant Township Manager/Code Enforcement Director, MS4 Coordinator
Paul Ziegenfus, Finance Director – ARRIVED LATE
John Andreas, Director of Public Works
Allen Stiles, Chief of Police
Don Sabo, Police Sergeant
Cynthia Sopka, Director of Planning & Zoning
John Ashley, Esquire, rep of Davison & McCarthy, Township Solicitor
David Tettermer, rep of Keystone Consulting Engineers, Township Engineer

NOTIFICATION

Mrs. Bonaskiewich informed the attendees that all sessions of the Salisbury Township Board of Commissioners regular meetings are recorded electronically for the purpose of taking the Minutes.

All public comments on agenda items will be taken prior to the vote. All public commented related to non-agenda items will be taken after the agenda has been satisfied.

Mrs. Bonaskiewich reminded everyone of the three-minute rule and asked that anyone who wishes to speak, come to the podium, announce oneself, and sign-in with name and address so as to assist Township administration with follow-ups.

APPROVAL OF THE FINANCIAL REPORT AND LIST OF BILLS PAYABLE

Motion by Commissioner Brinton, seconded by Commissioner Seagreaves, to approve the unaudited Financial Report for the period ending March 31, 2019 and the list of Bills Payable for the period 4/6/2019-4/19/2019, broken down as follows:

\$160,966.36 = GENERAL
\$15,242.71 = FIRE
\$1.45 = LIBRARY
\$12,834.79 = WATER
\$46,229.31 = SEWER
\$1,979.87 = REFUSE & RECYCLING
\$11,042.34 = HIGHWAY AID
\$0 _____ = SUBDIVISION & ESCROW
\$248,326.83 = GRAND TOTAL ALL FUNDS

Roll Call:

COMMISSIONER ACKERMAN – YES
COMMISSIONER SEAGREAVES – YES
COMMISSIONER BRINTON – YES
COMMISSIONER CONN – YES
COMMISSIONER MARTUCCI – YES

The Motion passed by 5-0.

MINUTES

April 11, 2019

Commissioner Martucci declared the Minutes of April 11, 2019 accepted as presented.

NEW BUSINESS

ORDINANCES

None.

RESOLUTIONS

None.

MOTIONS

Conditional Use Haring – South Mall Food Truck Events.

The Motion was tabled for a future meeting.

Motion to Approve the Collective Bargaining Agreement with the Salisbury Township Public Works Employee Association for the years 2019-2022, subject to acceptance of final pension plan documents and execution of Ordinances.

Ms. Bonaskiewich commented that negotiations have been ongoing for many months. She explained that one of the items discussed was the closing of the defined benefit pension plan that the Township currently offers and the opening and beginning of a defined contribution pension plan for any new employees who are hired after May 31, 2019. Ms. Bonaskiewich commented that there is a lot of legality in the language of the pension plan documents and that is the last lingering item. She stated that she is looking for the ability to go ahead and move forward on the Township's behalf and execute the other changes.

Motion by Commissioner Conn, seconded by Commissioner Seagreaves, to approve the Collective Bargaining Agreement with the Salisbury Township Public Works Employee Association for the years 2019-2022, subject to acceptance of final pension plan documents and execution of Ordinances.

Roll Call:

COMMISSIONER ACKERMAN – YES
COMMISSIONER SEAGREAVES – YES
COMMISSIONER BRINTON – YES
COMMISSIONER CONN – YES
COMMISSIONER MARTUCCI – YES

The Motion passed by 5-0.

PRESENTATION – Update on the Lehigh Valley Hospital Grading Plan.

Mr. Jim Rothdeutsch from the Pidcock Company was present to address the Board on behalf of the Lehigh Valley Health Network. Mr. Rothdeutsch explained that the hospital had intended on stockpiling excess material on the property south of Fish Hatchery Road, but it has since been decided to spread the material and a grading permit needed to be obtained. He stated that he thought it was important to keep the Board updated and noted that the work on the campus is moving along.

Commissioner Ackerman inquired about how the rainwater is going to be handled in that area with the new proposed grading. Mr. Rothdeutsch stated that it will be the same condition as it is currently, but up a little higher. Commissioner Seagreaves asked how much will the elevation change. Mr. Rothdeutsch replied that some areas will see an increase of two to three feet, and

there is an area that slopes down but they are trying to level it out with only a 2-3% grade, so the maximum fill is about 10-12 feet.

Mr. Tetteimer noted that he requested Mr. Rothdeutsch bring the plan before the Board because the area is very open and easily visible, and he did not want anyone wondering what was happening at the site. He noted that there is a significant change in the grading and the concern was some of the area would no longer be farmable. Mr. Rothdeutsch stated that should the farmer decide not to farm any longer, the Hospital can plant meadow grass. Mr. Tetteimer clarified that the developer must go to the Lehigh Valley Conservation District for grading approval prior to starting the work.

PRIVILEGE OF THE FLOOR

Mr. Edward Hare of 1660 Bobalew Trail expressed concerns about the building of a house on a lot at 1651 Bobalew Trail. He alleged that there are deed restrictions in place regarding setbacks for the wetlands which stems from a building issue in the 1980's. Mr. Hare provided a brief history of the project, noting that the previous builders were issued a stop work order after the foundation was constructed for violating federal environment guidelines. He stated that Attorney Ashley commented the Township does not deal with deed restrictions as they are a private matter. Mr. Hare inquired how the Township can insist the deed restrictions be put in place, but do not check to see if they are being followed.

Mr. Hare inquired what has changed on the property and why it is now buildable. Mr. Tetteimer explained that last fall, a developer submitted a plan to regrade the lot and put a single-family home on it. He stated that there were some revisions made and the developer was required to go to the Lehigh County Conservation District for approval regarding the erosion control portion of the plan. Mr. Tetteimer noted that the developer did a wetlands study with one minor issue, and they ended up altering the design of the house to meet the requirement. At that point, they had met all the Township requirements for obtaining a grading permit, so one was issued.

Mr. Tetteimer further explained that they began construction three to four weeks ago and that was when Mr. Hare sent copies of deed restrictions. Since Mr. Tetteimer was not aware of them, he asked Attorney Ashley to review the matter. Attorney Ashley stated that they are private restrictions and the Township did not impose them on the developer. He noted that the people who have the agreement are the ones who have to enforce it.

Commissioner Martucci asked why the building was stopped the first time. Mr. Tetteimer replied that the location would have violated the private deed restriction and probably disturbed the wetlands when constructing the foundation. He stated that the new wetlands test had enough room to take the foundation out but they cannot go back any farther to the rear of the property.

A woman in the audience stated that she had knowledge of the purchase of 1651 Bobalew Trail in the 1980's and asked if the new grading plan was approved by the Conservation District. Mr. Tetteimer responded that it was approved. She inquired if there is a soil erosion plan approved by DEP, and Mr. Tetteimer responded, yes. The woman inquired if there was a new wetlands delineation, to which Mr. Tetteimer again responded, yes.

She inquired about the process of notifying the Township when there appears to be a stormwater runoff problem, and noted that she has videos and photos of flooding in the area. The woman also commented that it appears the wetlands have been disturbed and ground has been put in that area. Mr. Tettermer stated that the Township has a Memorandum of Understanding with the Conservation District and they will review those types of erosion control issues. The woman asked if the Army Corps of Engineers were involved in the development as they had been in the past. Mr. Tettermer stated that no, they are now reluctant to come out to sites for small projects, and commented that the developer had a reputable company do the wetlands study.

Dr. Samantha Ottinger of 3115 W. Emmaus Avenue was present to discuss her veterinary clinic at that location. She stated that after reading an article in the newspaper, there were three issues brought forth by neighboring residents: the building use to see patients on site, the use of the alley by staff and clients and the concerns of water run-off from the clinic parking lot.

Dr. Ottinger stated that her intentions have always been to have a veterinarian clinic at that location, and noted that the sale of the building was contingent on zoning approval. She noted that her zoning application states they are a house-call practice and sees most patients in their own homes; however, she alleged that she made it clear they are converting the building into a veterinary office in order to see more patients. Dr. Ottinger claimed that she was initially going to call the practice “Home Away from Home Veterinary *Clinic*”, but when she met with the Zoning Officer, Ms. Sopka suggested that she change the name to “Home Away from Home Veterinary *Care*”. She provided the Board with copies of the Zoning Application showing the crossed out original name.

Commissioner Brinton noted that the application states, “mobile” veterinary practice. Dr. Ottinger pointed to a different section where it states the entire description of work, including the use of the building for a veterinary office. Commissioner Brinton inquired as to why the name was changed. Dr. Ottinger replied that her officer manager was told by Ms. Sopka that the Township would not like the original name because it makes the building sound like a hospital or clinic.

Dr. Ottinger stated that the other concern was the use of the alley. She commented that she does not believe her business will make a noticeable difference in the traffic flow, but as the property owner of the lot, her attorney found that has access to the easement rights as a matter of law. She read the letter from her attorney to the Board and provided them with copies.

Dr. Ottinger stated that she also had to prove to the Township that the amount of water run-off would not increase. As a result, the Township would only grant three parking spaces instead of the six requested. She also noted that she was instructed to tear down an existing shed to decrease the amount of impervious surface, and reroute the water run-off (currently going to the alley) to West Emmaus Avenue. Dr. Ottinger commented that she conducted a water run-off study which showed there would be little change to the water run-off on the alley, and proposed to the Township that she use impervious brick pavers for the parking lot to which she never got a response.

Dr. Ottinger read her business model which states that she is primarily a mobile service. She stated that she plans to see patients at the clinic for a few hours a day, specifically 30-minute appointments with three to five clients a day. She noted that she wants to be a good neighbor and is willing to enter into an agreement over maintaining the alley. She provided a letter to the neighbors with her contact information in hopes to better communicate.

Mr. Scott Horvath of 3118 Capital Street stated that since his last appearance at the Board Meeting on April 11, 2019, he has been in contact with an attorney and provided a written letter from the attorney detailing six specific issues.

Commissioner Martucci inquired if most of the appointments will still be seen off-site. Dr. Ottinger replied that most of her appointments will be mobile and she plans to see patients in the clinic for two to three hours per day in order to perform procedures that she is not currently able to do. Commissioner Seagreaves inquired how many mobile appointments Dr. Ottinger sees per day. Dr. Ottinger stated that she sees four to six clients per day.

Commissioner Seagreaves commented that two attorneys are looking at the alley situation and offering two different opinions.

Commissioner Martucci asked where the Township and residents go from here. Attorney Ashley stated that two parties could work it out between themselves. Dr. Ottinger noted she would be willing to sit down with Mr. Horvath to discuss the issue.

Commissioner Seagreaves noted that the Township is not stopping the construction at the location. Mr. Tetterer clarified that the Township did not grant Dr. Ottinger access to the alley, but only reviewed the use of the property and the stormwater runoff issue.

A discussion ensued regarding the use of impervious surface pavers and granting more parking spaces.

Mr. Nicolo inquired as to what time the employees would be at the clinic. Dr. Ottinger stated that employees would be onsite usually from 8:00 a.m. to 5:00 p.m. during the week and closed on Saturdays and Sundays. Mr. Nicolo noted that when looked at the situation in the capacity of a single-family use, the property is going to be empty more than it is going to be occupied.

Commissioner Martucci requested that Mr. Tetterer look at the impervious surface paver information.

Mr. Horvath inquired as to why the Ordinances were not followed and why it was allowed to proceed as a vet clinic. Commissioner Martucci stated that he cannot answer that at this time but will look into it. Ms. Sopka stated that she interpreted the Zoning Ordinance incorrectly and apologized for the issues it has caused.

Ms. Janet Keim of 11 West Pine Street posed questions to the Board regarding Mr. Nicolo's promotion to Assistant Township Manager and left the room without waiting for a response.

Mr. Geoffrey Correll of 1641 Bobalew Trail stated that he is the side neighbor of the property in question at 1651 Bobalew Trail. He provided the Board with newspaper articles from when the property was issued a stop work order in the 1980's. Mr. Correll then requested a copy of the professional delineation of the location of the wetlands. Mr. Tetterer stated that he can provide him with a copy of the report and also a copy of the approved grading plan that shows the location of the building significantly closer to the road. He commented that the previous foundation was

closer to the wetlands, but this one is closer to the cul-de-sac which meets all necessary Township requirements for setbacks to the wetlands.

A discussion ensued regarding what constitutes wetlands. Mr. Nicolo recommended that the resident contact the Conservation District and request them to do a site visit. Mr. Tetteimer stated that for the record, the Conservation District does not approve wetlands. He noted that he reviewed the wetlands study that was conducted by a wetlands specialist in Bucks County and based on the information given, it seems reasonable that is the correct location of the wetlands. He noted that the developer was required to do a wetlands study and get approval by the Conservation District for erosion control – two separate issues which were completed.

Mr. Correll inquired as to who is responsible for a second opinion and questioned if it is something the Township would be willing to do. Mr. Tetteimer replied that he will send a wetlands specialist from Keystone Consulting Engineers to the site and if there is a significant discrepancy, he will recommend to the Commissioners that an outside party come in for a second opinion. He stated that he will have a response at the next Board meeting. Mr. Correll asked if the owners have applied for a building permit. Mr. Nicolo stated that a building permit has not been issued.

A discussion once again took place regarding the Township's responsibility of an easement agreement between the residents and the South Mountain Preservation Association that states, in part, "...if such easement holder passes from existence, the easement shall pass to the municipality." Attorney Ashley maintained that the agreement is not signed by the Township.

Commissioner Ackerman stated that she did not receive a job description or resume for the Assistant Manager position. Ms. Bonaskiewich stated that there was nothing to distribute as no application or resume needed to be shared. She commented that job description is currently being revised.

Ms. Sopka stated that herself and an EAC Representative are participating in an Earth Day celebration at Lehigh Valley Health Network on Friday, April 26, 2019.

Chief Stiles stated that on April 27, 2019, the Police Department will be conducting a Drug-Take-Back-Day at the South Mall from 10:00 a.m. – 2:00 p.m. He noted that there is always a box open to the public at the Police Department and Lehigh Valley Health Network for unused medications.

ADJOURNMENT

Commissioner Brinton made a motion to adjourn the meeting. Seconded by Commissioner Conn. The time was 9:17 p.m.

Respectfully submitted,

Cathy Bonaskiewich
Township Secretary

These constitute the official minutes of the Regular Meeting of the Board of Commissioners held on April 25, 2019.

Approved and certified on this date:

Cathy Bonaskiewich

Date: _____

SEAL