

**REGULAR PUBLIC MEETING
JULY 16, 2012**

MEMBERS PRESENT

Paul Weiss, President
Michael Hudak, Vice President
Phil Barnard, Commissioner
Thomas Nolan, Commissioner
D. Martin Zawarski, Commissioner

OTHERS PRESENT

James Broughal, Township Solicitor
Howard Kutzler, Township Manager
Brian Dillman, The Pidcock Company, Township Engineer
Ronald Gawlik, The Pidcock Company, Township Engineer
Thomas Comitta, Township Planning Consultant
Richard Kanaskie, Assistant Public Works Director
Ted Rewak, Court Stenographer

CALL TO ORDER

President Weiss called the meeting to order at 7:00 p.m. and led those in attendance in reciting the Pledge of Allegiance to the Flag.

COURTESY OF THE FLOOR

Mr. Weiss stated that if anyone was present regarding an agenda item, comments or questions could be heard at that time also.

**GARY SIGLEY
4275 ALDER RD.**

Mr. Sigley stated he resides near the Koehler Farm and was present to voice a complaint regarding the smells, flies and dust coming from that farm. Mr. Weiss responded that the Township has had some input as to what they do at the farm, but it is an agricultural operation and is not sure what the Township can do. Mr. Weiss added that the Board would, however, take Mr. Sigley's comments to see if they are violating any Township ordinances. Mr. Sigley also stated that when he moved into his home, there were 4-5 cows; now there are 100. Mr. Sigley noted that there are other neighbors here this evening and the conditions have never been so bad. They cannot sit outside, the flies are terrible and the dust is bad. Mr. Sigley added that a truck load of melons were recently dumped on the farm and stayed there for 4-5 days before being cleaned up. Mr. Hudak stated that he is not sure there is much the Township can do.

Mr. Kutzler stated that when the neighboring homes were built, it was a crop farm animal husbandry has expanded. Mr. Kutzler added that along the property line is a main access road from the farm to the hay bales and concurs that the smell is worse and there are more flies. The property is a non-conforming use and while crop farming is permitted, animal husbandry is not. Mr. Kutzler stated that staff will contact the farming agency and state agencies to see if the animal husbandry can be controlled. With regard to the melons, Mr. Kutzler stated that they did receive complaints and the Koehlers acquired the melons when a tractor trailer overturned on Route 78. Those melons were eventually used to feed the cows.

Mr. Zawarski questioned whether there is a standard on how many cattle can be on certain acreage. Mr. Sigley also noted that come fall, Township vehicles will begin using that main access road to dump the leaves collected throughout the township as well as dumping gravel behind the residents' homes. Mr. Hudak suggested Mr. Kutzler reach out to the Koehlers before contacting any agencies.

**EXECUTIVE SESSION
ANNOUNCEMENT**

Solicitor Broughal announced that the Board of Commissioners met in executive session this evening (July 16, 2012) beginning at 6:00 pm. to discuss litigation, personnel and contract issues. The executive session was held pursuant to Section 708 (a) of the Pennsylvania Sunshine Act.

**OATHS OF OFFICE –
FIRE POLICE**

Dave Stapinski advised that the members of BTVFC to be sworn in as Fire Police were not aware that the swearing in was to take place this evening, therefore no one is present.

APPROVAL OF MINUTES

Upon motion (Zawarski-Nolan), the Board of Commissioners unanimously voted by voice vote to approve the minutes of the June 18, 2012 regular public meeting as presented.

PUBLIC HEARING

ORDINANCE 03-12

AN ORDINANCE AMENDING ORDINANCE NO. 8-97, THE BETHLEHEM TOWNSHIP ZONING ORDINANCE, CHAPTER 275, “ZONING,” AS AMENDED, BY AMENDING ARTICLE II, “DEFINITIONS;” ARTICLE XVII, “OFF-STREET PARKING;” ARTICLE XXXI, “MIXED-USE VILLAGE OVERLAY DISTRICT;” ARTICLE XXXII, “STREETSCAPE OVERLAY DISTRICT;” AND DELETING “EXHIBIT XXXI-A DESIGN GUIDELINES,” TO INCREASE FLEXIBILITY IN THE DESIGN OF SITE PLANS, SUBDIVISIONS, AND LAND DEVELOPMENTS; REPEALING ORDINANCES, RESOLUTIONS, OR PARTS THEREOF IN CONFLICT HERewith; PROVIDING FOR SEVERABILITY OF PARTS OF THIS ORDINANCE DEEMED TO BE INVALID; AND PROVIDING FOR AN EFFECTIVE DATE

Solicitor Broughal stated that a public hearing will be held to receive comments on this proposed ordinance amendment and the Board of Commissioners will then consider adoption of the ordinance. Solicitor Broughal asked that anyone here this evening to make a statement or comment regarding this ordinance be sworn in by the court stenographer. Mr. Rewak then swore in those wishing to make a statement.

Solicitor Broughal stated that he would ask questions of Township staff.

**HOWARD KUTZLER
TOWNSHIP MANAGER,
DIRECTOR OF PLANNING
AND ECONOMIC
DEVELOPMENT**

When asked by Solicitor Broughal what zoning areas of the zoning map this ordinance would affect, Mr. Kutzler noted the yellow areas located along Freemansburg Avenue corridor. In response to Solicitor Broughal’s questions, Mr. Kutzler responded that the Township did receive correspondence dated June 29, 2012 from the Lehigh Valley Planning Commission regarding this ordinance amendment. The ordinance was reviewed by the Lehigh Valley Planning Commission on June 28, 2012 and found the amendments to be a matter of local concern and offered no additional comments. When asked if the Bethlehem Township Planning Commission has reviewed this ordinance, Mr. Kutzler stated that the Bethlehem Township Planning Commission reviewed the ordinance at their June 25, 2012 meeting and voted to recommend approval of the ordinance by the Board of Commissioners. Solicitor Broughal had no further questions for Mr. Kutzler.

**THOMAS COMITTA
18 W. CHESTNUT ST.
WEST CHESTER, PA**

Mr. Comitta, Bethlehem Township Planning Consultant, presented a summary of his curriculum, academic and professional experience and stated that he has been called as an expert witness in 30 cases. Mr. Comitta outlined his involvement with the Bethlehem Township Comprehensive Plan update of 2004 in which they ratified the 10 recognized Smart Growth Principles which provides compatible mixed land use, workable compact building design, a range

of housing opportunities and choices, walk able neighborhoods and non-residential development, distinctive, attractive development with a strong sense of place, open space and preservation of natural beauty and critical environmental areas, development that strengthens and ties into existing land use; transportation choices, tools to allow for predictable, fair and cost effective development decisions and community and stakeholder collaboration in development decisions. When questioned why the 2004 Comprehensive Plan update was initiated, Mr. Comitta responded that Comprehensive Plan was updated due to major growth potential. Mr. Comitta then presented the chronology of the relevant land use relative to the Madison Farms site from 1997 through 2011.

Solicitor Broughal asked if the 2004 Comprehensive Plan update was sent to the Lehigh Valley Planning Commission and was it determined that the 2004 Comprehensive Plan update was consistent with the Lehigh Valley Planning Commission Comprehensive Plan. Mr. Comitta responded that it was and accounts for the various types of houses, traffic, transportation, walking paths, etc. Solicitor Broughal asked if the Madison Farms Preliminary Plan was consistent with the 2004 Comprehensive Plan update to which Mr. Comitta replied that the plan was consistent with the Comprehensive Plan update.

At this point, the public hearing was opened for comments or questions from those in attendance.

**ATTORNEY ED MURPHY
LAND USE COUNSEL
TO KRE**

Attorney Murphy stated that he has had 18 months of meetings with the Planning Commission and Township staff and this ordinance is a response of KRE to requests from the Planning Commission and Township staff as the plan developed. Attorney Murphy stated that he supports the adoption of this ordinance and believes this plan is superior to the Field of Dreams plan.

Solicitor Broughal stated that as an attorney that deals with land use and zoning issues, he assumes this is not the first public hearing Attorney Murphy has attended and that zoning amendments are often criticized for being spot zoning. Solicitor Broughal then asked Attorney Murphy if this ordinance represents spot zoning. Attorney Murphy responded that it does not represent spot zoning; what this ordinance is doing is modifying an overlay district. As to the criticism that this represents prohibited contract zoning, it does not because there is no contract or written agreements with the Township.

**DON LOCK
2405 COUNTRY TOP TR.**

Mr. Lock stated he is dissatisfied with the process of change and questioned whether, under the current rules of legislation, could this project be built? When the response was "no", Mr. Lock questioned how the plan received approval. Mr. Lock expressed his concern regarding 4-story apartment buildings that will have a reverse effect on the residents of Wagner Farms.

**TIM EDINGER
5030 FREEMANSBURG AVE.**

Mr. Edinger stated he is a professional engineer and stated his professional credentials. Mr. Edinger noted a recent local newspaper article regarding the Jersey invasion which predicts another 30,000 residents coming into Northampton County and Bethlehem Township will be a major location for these immigrants. In order to handle the new residents there will be a need for supporting infrastructure. The Township has looked to improve their major corridors and has provided the overlay districts to attract developers. St. Luke's Hospital and Madison Farms are providing millions of dollars to improve the infrastructure along Freemansburg Avenue. Mr. Edinger added that planning documents must be continually updated and he looks forward to seeing this ordinance adopted.

There being no other comments or questions, the public hearing was closed.

Upon motion (Nolan –Hudak), the Board of Commissioners unanimously voted by roll call vote to adopt Ordinance 03-12 as presented, amending Ordinance No. 8-97, Chapter 275 “Zoning” of the Township of Bethlehem Code of Ordinances, as amended, by amending Article II, “Definitions”, Article XVII “Off-Street Parking and Loading”, Article XXXI, “Mixed-Use Village Overlay District”, Article XXXII, “Streetscape Overlay District”, and deleting “Exhibit XXXI-A Design Guidelines”, to increase flexibility in the design of site plans, and subdivision developments.

RESOLUTION R034-12

A RESOLUTION AUTHORIZING THE ATTENDANCE OF OFFICER DAVE RYAN AT THE PENNSYLVANIA STATE POLICE ACCIDENT RECONSTRUCTION SEMINAR SEPTEMBER 25-27, 2012 IN STATE COLLEGE, PA

Mr. Kutzler stated that the Township has a certified accident reconstruction team and this training is required in order for Officer Ryan to retain his accreditation as an accident reconstruction expert. Mr. Kutzler added that the cost to the Township would be \$341.00 with no cost for tuition or overtime.

Upon motion (Hudak-Nolan), the Board of Commissioners unanimously voted by voice vote to adopt Resolution R034-12 as presented, authorizing the attendance of Officer Ryan at the Pennsylvania State Police Accident Reconstruction Seminar from September 2-12, 2012 in State College, PA.

RESOLUTION R035-12

A RESOLUTION AUTHORIZING THE TERMINATION OF CERTAIN LITIGATION INSTITUTED TOGETHER WITH HANOVER TOWNSHIP, NORTHAMPTON COUNTY, AGAINST THE COMMONWEALTH OF PENNSYLVANIA

Solicitor Broughal explained that this resolution would terminate the Township’s litigation regarding the NIZ upon the determination by the Solicitor that the conditions of the settlement are in the best interests of the Township and its residents.

Upon motion (Nolan-Zawarski), the Board of Commissioners unanimously voted by voice vote to adopt Resolution R035-12 as presented, authorizing the termination of certain litigation instituted together with Hanover Township, Northampton County, against the Commonwealth of Pennsylvania.

RESOLUTION R036-12

A RESOLUTION AUTHORIZING PREPARATION AND SUBMISSION OF A DECLARATION OF TAKING AND RELATED DOCUMENTATION FOR THE CONDEMNATION OF CERTAIN REAL ESTATE FOR ROADWAY IMPROVEMENTS TO FREEMANSBURG AVENUE

Solicitor Broughal explained that the Township undertook, along with St. Luke’s Hospital, roadway improvements along Freemansburg Avenue. In order to construct these improvements rights-of-way are required and it is necessary for the Township to use eminent domain for certain properties. In an agreement between St. Luke’s and the Township, St. Luke’s had agreed to pay all expenses incurred with the condemnation of any properties. This resolution will authorize the condemnation, if needed, for any of the required properties described in the exhibits attached to the resolution.

Upon motion (Hudak-Nolan), the Board of Commissioners unanimously voted by voice vote to authorize the preparation and submission of a Declaration of

MOTION

Taking and related documentation for the condemnation of certain real estate for roadway improvements to Freemansburg Avenue.

A MOTION AUTHORIZING THE EXECUTION OF A QUIT CLAIM DEED TRANSFERRING CERTAIN REAL ESTATE LOCATED ALONG FREEMANSBURG AVENUE ACQUIRED BY CONDEMNATION FOR ROADWAY IMPROVEMENTS TO FREEMANSBURG AVENUE TO ST. LUKE'S HOSPITAL AND HEALTH NETWORK

Attorney Broughal that this motion regards the old trolley line which ran along Freemansburg Avenue and corrects a previous glitch to enable the Township to transfer the land to St. Luke's.

Upon motion (Hudak-Nolan), the Board of Commissioners unanimously voted by voice vote to authorize the execution of a Quit Claim Deed transferring certain real estate located along Freemansburg Avenue acquired by condemnation for roadway improvements to Freemansburg Avenue to St. Luke's Hospital and Health Network.

**ZONING HEARING BOARD
AGENDA – MEETING OF
JULY 25, 2012**

Mr. Kutzler stated that staff recommends that the Board of Commissioners authorize the Township Solicitor to attend the July 25, 2012 Zoning Hearing Board meeting to represent the Township's interests in Appeal #10-2012.

Upon motion (Nolan-Barnard), the Board of Commissioners unanimously voted by voice vote to authorize the Township Solicitor to represent the Township's interests at the July 25, 2012 Zoning Hearing Board meeting.

**APPROVAL OF BILL
AGENDA**

Upon motion (Nolan-Zawarski), the Board of Commissioners unanimously voted by voice vote to approve the Bill Agenda of July 13, 2012 as presented.

**APPROVAL OF
TREASURER'S REPORT**

Upon motion (Hudak-Nolan), the Board of Commissioners unanimously voted by voice vote to approve the Treasurer's Report as of June 30, 2012, subject to audit.

**ACCEPTANCE OF
MONTHLY REPORTS**

The monthly reports of the Finance Department, Community Center, Police and Public Works Departments were accepted as presented.

DISCUSSION ITEMS

**COMMUNITY CENTER
ENGINEERING-
ARCHITECTURAL STUDY**

Mr. Kutzler stated that proposals were received in response to the Township's Request For Proposals for the Community Center Engineering-Architectural Study in April and staff is requesting input from the Board of Commissioners on those proposals. The Community Center is now 7 years old and the HVAC and other systems are in need of improvements. Mr. Kutzler asked that the Board provide guidance as to what firms they would like to meet with in order to move forward with this project. Mr. Weiss apologized for not getting his input back to staff but assured Mr. Kutzler that he will respond by the end of the week. Mr. Nolan also stated that he will get a report back to staff and asked if the intent is to get to the top 2 or 3 firms. Mr. Kutzler replied that he would like to schedule the top 3 firms chosen by the Board for interviews.

**HOUSENICK PARK
SIGNAGE PLAN**

Mr. Kanaskie stated that the Parks & Recreation Committee is working with Evan Stone of T & M Associates on a signage plan for Housenick Park. The Committee has reviewed plans for the last several months and at their meeting of July 9, 2012 made 2 motions. The first motion was to recommend that the Board of Commissioners authorize T & M Associates to prepare bid documents and plans for the signage and trail marking phase of the Housenick Park Master Plan. The second motion was to recommend to the Board of Commissioners that T & M Associates be authorized to use the work product to date on the

signage phase of the park development to file the application for the Northampton County Gaming Grant.

Mr. Stone provided a signage and wayfinding manual and stated there would be 3 basic sign types (informational, regulatory and directional) in 3 color schemes (brown and white, red and white and black and gold). Mr. Hudak stated he likes what he sees but was hoping to see perimeter trails. Mr. Stone stated the plan shows the park as it exists today; other trails will be added in the future. Mr. Hudak also questioned whether some trails are extending into the County property. Mr. Stone responded that they do. Mr. Weiss stated that what he sees is consistent with the Master Plan and Mr. Nolan asked if some of the signs can be installed by the Public Works Department. Mr. Kanaskie responded that he would not want to piece meal the project and Mr. Kutzler added that if the Public Works Department had to install the signs, other work that they are responsible for may not get done. Mr. Nolan asked if there has been discussion with Moravian Church about entering their property and Mr. Stone replied that those discussions have not yet occurred. Mr. Kutzler stated that he was notified by the Trustees that they are willing to fund this project and uncommitted casino funds may also be available. Mr. Weiss asked if there were any suggestions on how to reach out to the church and the county. Solicitor Broughal stated that he would be willing to do so.

Upon motion (Hudak-Nolan), the Board of Commissioners unanimously voted by voice vote to move ahead with both of the Parks & Recreation Committees' motions to authorize T & M Associates to prepare bid documents and plans for the signage and trail marking phase of the Housenick Park Development and to also authorize T & M Associates to use the work product to date on the signage phase of the park development to file an application for the Northampton County Gaming Grant.

ADJOURNMENT

Upon motion (Hudak-Nolan), the Board of Commissioners unanimously voted by voice vote to adjourn the meeting at 8:45 p.m.

Respectfully submitted,

Judy Todaro
Recording Secretary