

**BOARD OF COMMISSIONERS
REGULAR PUBLIC MEETING
DECEMBER 19, 2022**

MEMBERS PRESENT

John J. Merhottein, President
John K. Gallagher, Vice President
Jan Beatty, Commissioner
Dale A. Sourbeck, Commissioner
Luke A. Verdes, Commissioner

OTHERS PRESENT

James L. Broughal, Township Solicitor
Doug Bruce, Township Manager
Andy Freda, Finance Director
Amanda Raudenbush, Planning Director (via Zoom)
Ron Gawlik, Township Engineer

CALL TO ORDER

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

POLICE OATHS OF OFFICE

Mr. Merhottein administered the police oaths of office to Ryan Bevin, Eric Norder and Amanda Stonehouse.

COURTESY OF THE FLOOR

**BARRY ROTH
4323 CHETWIN TERR.**

Mr. Roth there are used cars at the recycling center that could be utilized by the Code Enforcement Official. He said if the township doesn't plan on using them, then they should be auctioned. Mr. Roth wished the board and staff a Merry Christmas and a Happy New Year.

**MARK WAGNER
3511 COUNTRY CLUB RD.**

Mr. Wagner congratulated the newly sworn police officers. Mr. Wagner said that he has lived in the township for over 40 years and in those years has paid the township \$2.4 million in recreation fees and \$1.2 million in traffic fees for his developments. He said he is the only developer that has given five acres of open space and has also made improvements to Freemansburg Avenue. Mr. Wagner said he has donated over \$100,000 to Shriner Hospital and animal wellness.

APPROVAL OF MINUTES

Upon motion (Sourbeck-Gallagher), the Board of Commissioners voted by voice vote to approve the minutes of the December 5, 2022 regular public meeting as presented.

PUBLIC HEARING

ORDINANCE 10-22

**AN ORDINANCE ADOPTING A BUDGET, APPROPRIATING FUNDS,
AND FIXING THE REAL ESTATE MILLAGE RATE FOR THE 2023
FISCAL YEAR**

Mr. Merhottein said no tax increase was proposed and thanked staff for their hard work.

Upon motion (Sourbeck-Beatty), the Board of Commissioners voted unanimously by voice vote to adopt Ordinance 10-22 adopting a budget, appropriating funds, and fixing the real estate millage rate for the 2023 fiscal year as presented.

ORDINANCE 11-22

AN ORDINANCE IMPLEMENTING PENNSYLVANIA ACT 57 OF 2022, PROPERTY TAX WAIVER PROVISIONS, BY AMENDING CHAPTER 240, TAXATION; ADDING A NEW ARTICLE VII, PROPERTY TAX PENALTY WAIVER PROVISIONS, TO THE CODE OF CODIFIED ORDINANCES; AND REPEALING ALL ORDINANCES INCONSISTENT HEREWITH

Upon motion (Gallagher-Beatty), the Board of Commissioners voted unanimously by voice vote to adopt Ordinance 11-22 implementing Pennsylvania Act 57 of 2022, Property Tax Waiver Provisions, by amending Chapter 240, Taxation; adding a new Article VII, Property Tax Penalty Waiver Provisions, to the Code of Codified Ordinances; and repealing all ordinances inconsistent herewith as presented.

SUBDIVISIONS & LAND DEVELOPMENT

A RESOLUTION DENYING PRELIMINARY/FINAL PLAN APPROVAL OF HARVEY'S CORNER (WAWA)

RESOLUTION R091-22

Attorney Julie Wagner-Burkhart, representing the developer, said she believes that pulling the plan from the review process was in bad faith on the township's part. She said since 2019, the developer has paid \$150,000 to the township for review and process. That does not include the Recreation Fee nor the Traffic Impact Study fee. Attorney Wagner-Burkhart said the zoning map change request was supported by the board at their January 18, 2022, meeting, but the board later voted it down at the November 7, 2022, meeting. She said the plan was tabled at the Planning Commission's November 28, 2022, meeting and is scheduled to appear before the Zoning Hearing Board on Wednesday, December 21, 2022. Attorney Wagner-Burkhart said the plan received favorable recommendations from the Bethlehem Township Planning Commission and the Lehigh Valley Planning Commission.

Mr. Gallagher said he was at the Lehigh Valley Planning Commission meeting and it did not give a recommendation but rather said it was nice that the township considers zoning changes. Mr. Gallagher said the plan was turned down because it did not comply with the current zoning and there was tremendous opposition from residents. Attorney Wagner-Burkhart said the applicant is prepared to sue. Solicitor Broughal said their zoning request was denied as a legislative decision, which cannot be appealed.

Upon motion (Sourbeck-Gallagher), the Board of Commissioners voted by roll call vote to approve Resolution R091-22 denying preliminary/final plan approval of Harvey's Corner (Wawa). The motion carried 4 to 1. Mr. Merhottein opposed.

RESOLUTION R092-22

A RESOLUTION GRANTING CONDITIONAL SITE PLAN APPROVAL OF 4114 BIRCH DRIVE VERIZON

Ms. Raudenbush said the plan proposes a 150-foot-tall cell phone tower inside a new fenced compound and the use is permitted by zoning with a required site plan. The Planning Commission recommended conditional approval of the site plan at their November 28, 2022 meeting, she said.

**DAVE WONG
4108 GINGER LANE**

Mr. Wong asked if the applicant could revise the plan to have a fence installed for proper screening. Ms. Raudenbush said the applicant was granted relief from the required evergreen screen to surround the site at the Zoning Hearing Board meeting of June 29, 2022. The Board of Commissioners cannot undo that decision, she said.

Upon motion (Gallagher-Beatty), the Board of Commissioners voted unanimously by voice vote to approve Resolution R092-22 granting conditional site plan approval of 4114 Birch Drive Verizon.

RESOLUTION R093-22

A RESOLUTION GRANTING CONDITIONAL PRELIMINARY LAND DEVELOPMENT PLAN APPROVAL OF THE MEDICAL OFFICE BUILDING AT THE SOUTHWEST CORNER OF WILLIAM PENN HIGHWAY AND FARMERSVILLE ROAD

Ms. Raudenbush explained the applicant is proposing to construct a two-story medical office building on the southwest corner of William Penn Highway and Farmersville Road. The site is zoned Planned Commercial with both the Commercial Enhancement and Streetscape Enhancement Overlay Districts. Ms. Raudenbush said the applicant is requesting preliminary plan approval because of the amount of site work that needs to be done. The Planning Commission recommended conditional approval at their November 28, 2022 meeting.

The Zoning Hearing Board granted the following variances and relief at their May 25, 2022 meeting:

§275-231.G(2): Relief from the requirement that parking be located to the side or rear of new buildings, to eliminate this requirement, allowing up to 60 parking spaces at the front of the building.

§275-261.A(1): Relief from the required principal buildings setback of 5 to 50 feet from the right-of-way along both Easton Avenue and Farmersville Road, to allow for a 92.12-foot setback.

§275-261.B(1): Relief from the prohibition of parking in front of a building, to eliminate this requirement.

§275-261.F(2): Relief maximum driveway cut of 24 feet, to allow 107.5 feet along Easton Avenue and 74 feet along Farmersville Road.

§275-261.J(4)(c): Relief from the minimum street edge wall height of 4 feet, to allow a minimum wall height of 6 inches.

§275-261.L(1): Relief from the requirement that utilities be placed underground, to allow existing overhead utilities in the public right-of-way to remain above ground.

The 'Zoning Relief Granted' table on Sheet CL should be updated to accurately reflect the extent of relief granted for building setback maximum distance and maximum curb cut widths, and to clarify underground utilities not being required only within the public right-of-way.

The applicant then went through the Township Engineer's review letter of November 2, 2022. Mr. Gawlik said they are still working with the applicant regarding the alignment modifications. Mr. Sourbeck expressed concerns about people cutting through the property to avoid the light. Solicitor Broughal said the road in the development is private.

**DAVID BUCHERER
4220 NICHOLAS ST.**

Mr. Bucherer said he wasn't aware of the waivers and deferrals and was not in favor of the plan. He also commented that the township boards and commissions should be working together.

Mr. Gallagher asked if the improvements have been coordinated with the neighboring developers. The applicant responded that both applicants are seeking PennDOT approval.

Upon motion (Sourbeck-Verdes), the Board of Commissioners voted unanimously by voice vote to approve Resolution R093-22 granting conditional preliminary land development plan approval of the medical office building at the southwest corner of William Penn Highway and Farmersville Road.

MOTION

A MOTION APPROVING IMPROVEMENT SECURITY RELEASE CERTIFICATION #7, IN THE AMOUNT OF \$ 252,061.03, FOR NANCY RUN ESTATES PHASES 7-10

Ms. Raudenbush said the developer requested a release of security for work completed. The Township Engineer has approved the release of \$252,061.03, leaving a balance of \$2,300,873.04. Mr. Gallagher said he was amazed at what the developer accomplished.

Upon motion (Beatty-Sourbeck), the Board of Commissioners voted unanimously by voice vote to approve a motion approving Improvement Security Release Certification #7, in the amount of \$ 252,061.03, for Nancy Run Estates Phases 7-10.

MOTION

A MOTION APPOINTING A TIME EXTENSION TO DECEMBER 8, 2023, FOR FAIRFIELD MANAGEMENT CORPORATION TO COMPLY WITH THE CONDITIONS OF RESOLUTION R052-19 FOR HECKTOWN ROAD BUSINESS PARK LOTS 6 AND 7

Upon motion (Gallagher-Beatty), the Board of Commissioners voted unanimously by voice vote to approve a motion approving a time extension to December 8, 2023, for Fairfield Management Corporation to comply with the conditions of Resolution R052-19 for Hecktown Road Business Park Lots 6 and 7.

RESOLUTIONS OF THE BOARD OF COMMISSIONERS

RESOLUTION R094-22

A RESOLUTION APPROVING THE ISSUANCE OF AN ECONOMIC DEVELOPMENT RESTAURANT LIQUOR LICENSE FOR RED CRAB JUICY SEAFOOD BETHLEHEM INC., DBA FLAMING CRAB CAJUN SEAFOOD FOR THE PROPERTY LOCATED AT 3926 NAZARETH PIKE, SUITE 12-14

Solicitor Broughal said the applicant is seeking the board's support which is a step in the long process in obtaining an Economic Development Restaurant Liquor License. Mr. Gallagher said there was an article in the newspaper that the owner is changing the name and cuisine of the restaurant. Solicitor Broughal said this type of license is strictly for that parcel and cannot be moved or sold.

Upon motion (Sourbeck-Beatty), the Board of Commissioners voted unanimously by voice vote to approve Resolution R094-22 approving the issuance of an economic development restaurant liquor license for Red Crab Juicy Seafood Bethlehem Inc., dba Flaming Crab Cajun Seafood for the property located at 3926 Nazareth Pike, Suite 12-14.

RESOLUTION R095-22

RESOLUTION AMENDING THE BETHLEHEM TOWNSHIP FEE SCHEDULE FOR: APPLICATIONS, PERMITS, INSPECTIONS, APPEALS, AND OTHER ACTIVITIES REQUIRED BY LAW AND/OR ORDINANCE OF THE BETHLEHEM TOWNSHIP COMMUNITY DEVELOPMENT DEPARTMENT

Ms. Raudenbush explained the Township’s fee schedule needs to be updated to reflect increases in costs. Updates include an across the board 20% increase for all non-residential fees, introducing a fee for work that is performed prior to a permit being issued, and an update to the Township’s third-party inspection agency’s fee schedule.

Upon motion (Beatty-Sourbeck), the Board of Commissioners voted unanimously by voice vote to approve Resolution R095 -22 amending the Bethlehem Township fee schedule for: applications, permits, inspections, appeals, and other activities required by law and/or ordinance of the Bethlehem Township community development department.

MOTIONS OF THE BOARD OF COMMISSIONERS

MOTION

A MOTION CERTIFYING THE VOLUNTEER ELIGIBILITY LISTS FOR NANCY RUN FIRE COMPANY AND BETHLEHEM TOWNSHIP VOLUNTEER FIRE COMPANY FOR THE PURPOSE OF TAX CREDITS

Mr. Bruce said this is an annual motion. The township adopted the volunteer tax credit for EIT (up to \$1,000) and Real Estate Tax (20% of Base Amount Paid) in 2017. Volunteers are eligible if they have met the minimum criteria (85 emergency response calls or 20% of the formal training and drills or 6 meetings attended of the volunteer fire company) for the eligibility period. Mr. Gallagher said he appreciates all the hard work of the volunteer fire companies.

Upon motion (Gallagher-Beatty), the Board of Commissioners voted unanimously by voice vote to approve a motion certifying the volunteer eligibility lists for Nancy Run Fire Company and Bethlehem Township Volunteer Fire Company for the purpose of tax credits.

MOTION

A MOTION APPROVING THE PUBLIC MEETING SCHEDULE FOR 2023 AND AUTHORIZING THE TOWNSHIP MANAGER TO ADVERTISE THE SCHEDULE

Upon motion (Gallagher-Beatty), the Board of Commissioners voted unanimously by voice vote to approve a motion approving the public meeting schedule for 2023 and authorizing the township manager to advertise the schedule.

MOTION

A MOTION AUTHORIZING THE TOWNSHIP MANAGER TO ENTER INTO AN AGREEMENT WITH MCMAHON ASSOCIATES INC. FOR SERVICES RELATED TO THE CREATION OF AN ACTIVE TRANSPORTATION PLAN FOR BETHLEHEM TOWNSHIP

Ms. Raudenbush said McMahon & Associates has provided a proposal for the Active Transportation Plan project that meets all of the needs of the Township and the grant award. Due to the tight timeframe of the grant requirements, the Township should enter the agreement at this meeting if it sees fit. Mr. Gallagher noted the proposal mentions the formation of a steering committee and said he

would be interested in serving. Mr. Sourbeck also expressed interest in serving on the committee.

Upon motion (Sourbeck-Gallagher), the Board of Commissioners voted unanimously by voice vote to approve a motion authorizing the township manager to enter into an agreement with McMahon Associates Inc. for services related to the creation of an active transportation plan for Bethlehem Township.

MOTION

A MOTION AUTHORIZING A FUNDING COMMITMENT LETTER TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY, STATING THE TOWNSHIP IS REQUESTING A GRANT OF \$3,052,700 FOR PHASE 1 OF THE EASTON AVENUE FLOOD MITIGATION PROJECT AND COMMITTING TO PROVIDE A LOCAL MATCH OF UP TO \$1,308,300

Mr. Bruce said Herbert, Rowland & Grubic, Inc., township stormwater engineer, is pursuing grants specifically for a portion on Walnut Street. He said they will be looking to borrow through debt series to fund all the local matches. Mr. Gallagher added that every grant will extend borrowing. Mr. Merhottein and Ms. Beatty thanked Herbert, Rowland & Grubic, Inc. for their hard work.

Upon motion (Sourbeck-Beatty), the Board of Commissioners voted unanimously by voice vote to approve a motion authorizing a funding commitment letter to the Federal Emergency Management Agency, stating the township is requesting a grant of \$3,052,700 for Phase 1 of the Easton Avenue flood mitigation project and committing to provide a local match of up to \$1,308,300.

APPROVAL OF BILL AGENDA OF DECEMBER 14, 2022

Upon motion (Gallagher-Sourbeck), the Board of Commissioners unanimously voted by voice vote to approve the Bill Agenda of December 14, 2022.

APPROVAL OF PURCHASE ORDERS

**PO 20222699 – NORTH EAST TECHNICAL SALES – PPIS – \$6,664.00
PO 20222733 – TECHNOLOGY ENTERPRISE GROUP – BTPD – \$8,400.00
PO 20222739 – CORE & MAIN – PW – \$3,204.60
PO 20222746 – SERVICE MASTER CLEAN – BTCC – \$5,800.00
PO 20222750 – NEW ENTERPRISE STONE & LIME – PW – \$2,027.48
PO 20222751 – MONARCH PRECAST CONCRETE – PW – \$3,903.00
PO 20222760 – HYDRA-NUMATIC SALES – PPIS – \$5,767.88
PO 20222791 – JOAO & BRADLEY CONSTRUCTION – PW – \$8,301.49
PO 20222792 – JOAO & BRADLEY CONSTRUCTION – PW – \$9,456.64
PO 20222793 – NEW ENTERPRISE STONE & LIME – PW – \$7,973.69
PO 20222802 – ENTECH ENGINEERING – PPIS – \$4,152.50**

Upon motion (Sourbeck-Merhottein), the Board of Commissioners unanimously voted by voice to approve Purchase Orders 20222699, 20222733, 20222739, 20222746, 20222750, 20222751, 20222760, 20222791, 20222792, 20222793 and 20222802 as presented.

APPROVAL OF TREASURER'S REPORT OF NOVEMBER 30, 2022

Upon motion (Sourbeck-Beatty), the Board of Commissioners unanimously voted by voice vote to approve the Treasurer's Report of November 30, 2022 as presented, subject to audit.

MONTHLY REPORTS

All reports were accepted.

DISCUSSION ITEM

**VOTING WARD
REAPPORTIONMENT**

Mr. Bruce said the first step to determine if reapportionment is necessary is to conduct a population analysis. The population differences between wards must be less than 4 percent, he said. Mr. Verdes said a constituent reached out regarding the polling locations. He asked the board to consider how reapportioning may affect polling locations and determine ways to notify the residents of the change.

Solicitor Broughal said the first step is to determine if the wards are unequal and then the board must decide how to reapportion. Once the board decides, the maps are submitted to the county. Mr. Sourbeck said that municipalities are to determine that within a year of the most recent census. Solicitor Broughal said because of the 2020 pandemic, the township had not pursued the matter earlier and there are not penalties if it is done later. Mr. Sourbeck asked for a target date. Mr. Bruce said they will make every attempt to get the material to the board. They will use an outside GIS consultant as done previously.

By consensus, the board directed staff to begin process to determine if reapportionment is necessary.

ILLEGAL DUMPING

Mr. Sourbeck said over several months there has been illegal dumping and vehicles parked on Mowrer Road and Highland Avenue. Mr. Bruce said public works has gone out to clean it up. Mr. Sourbeck requested No Dumping signs at that location. He also asked if the property owner could be notified to cut the grass. Dave Stapinski, deputy chief of Bethlehem Township Volunteer Fire Company, said he works for a company that owns the land and had his employees out there to clean it up but found very unsanitary conditions and stopped. Mr. Sourbeck thanked Mr. Stapinski for the company's efforts. Mr. Sourbeck asked why the cul-de-sac was there in the first place. Solicitor Broughal said it was part of an approved plan. Mr. Gawlik added that the township has right-of-way of the cul-de-sac. Mr. Sourbeck suggested putting up signs and issuing tickets and perhaps installing a camera. Mr. Gallagher said that perhaps the Environmental Advisory Committee could form a volunteer group to clean it up. Fire Chief Stapinski advised against it saying it was unsafe. Mr. Merhottein said the first step is to notify the police chief.

**BARRY ROTH
4323 CHETWIN TERR.**

Mr. Roth said the cul-de-sac doesn't work with trailers parked there and suggested placing barriers.

**GLENN KRIER
3942 KENRICK DR.
ADJOURNMENT**

Mr. Krier asked if cameras can be installed. Mr. Merhottein said the township would have to get permission from the property owners. Ms. Raudenbush suggested that a formal complaint be submitted about the grass and debris so that the code enforcement official can enforce.

**DAVID WONG
3108 GINGER LANE**

Mr. Wong said warehouses created this issue and should be notified.

No formal action was taken.

COMMENT

Mr. Merhottein on behalf of the board wished everyone a Merry Christmas and a happy new year.

ADJOURNMENT

Mr. Merhottein motioned to adjourn the meeting at 8:31 p.m.

Respectfully submitted,

Laura G. Zapata

12-19-2022

Recording Secretary

12-19-2022