

**MINUTES
BOARD OF COMMISSIONERS PUBLIC MEETING
AUGUST 19, 2024**

CALL TO ORDER – ROLL CALL – DECLARATION OF QUORUM:

The Penn Township Board of Commissioners met in a regular session on Monday, August 19, 2024. President Elksnis called the meeting to order at 7:00 p.m. with a roll call of members. Present were Commissioners Baile, Berlingo, Brown, Heiland, and Elksnis. Also present were Solicitor Hovis, Police Chief Hettinger, WWTP Superintendent Lank, Zoning Officer Smith, and Township Secretary Sweeney.

PLEDGE OF ALLEGIANCE TO THE FLAG FOLLOWED BY A PERIOD OF SILENT MEDITATION:

All in attendance stood for the Pledge of Allegiance to the flag, which was followed by a period of silent meditation.

ANNOUNCEMENTS:

Commissioner Elksnis announced there was an executive session held Monday, August 5, 2024, following the Health and Sanitation Committee to discuss personal matters. The September Public Safety, Public Works, Finance and Health and Sanitation Committee meetings will be held Tuesday, September 3, beginning at 6 p.m. due to the Labor Day holiday. And there will be an executive session this evening following the Board of Commissioners meeting to consult with our solicitor on legal and personnel matters.

APPROVAL OF THE MINUTES:

The minutes of the July 15, 2024, Board of Commissioners meeting were approved as submitted.

PERSONS TO BE HEARD/CITIZEN'S COMMENTS: Bob Pretz of 26 Alabaster Run expressed concerns about against a recent request to install a communication tower in Penn Plaza. Commissioner Elksnis stated the plan was presented before the Planning Commission last month. Despite opposition, Verizon's attorney referencing the Telecommunications Act of 1996, which allows communication companies significant freedom in tower placement, leaving little room for denial. The Planning Committee approved the recommendation, which was forwarded to the Zoning Hearing Board. The Zoning Board, a separate legal entity from the planning board, approved the request as well.

Barbara Hitchen, a resident of 609 Norwood Avenue, spoke on behalf of her neighbor, Jean Brady, who resides at 4 Daugherty Drive. She reported the vacant property across the street has become a dumping ground for grass, leaves, brush and shrubbery. Commissioner Elksnis stated that property maintenance will look into the situation and get back to her.

PUBLIC HEARING – REQUEST TO REZONE A PORTION OF A PARCEL ON RIPPLE DRIVE

Township Staff Review and Comments:

Zoning Officer Smith reported the Planning Commission gave a unanimous favorable recommendation for the rezoning. He added that the York County Planning Commission considered the property in question to be an example of spot zoning, as the surrounding area is designated as a shopping commercial zone, despite the property currently being residential. The County recommended denying the request, citing the inconsistency with the surrounding zoning.

Applicant Comments:

Mr. Kris Raubenstine of Hanover Land Services, Inc., presented his request for the rezoning of a parcel owned by Stonewicke LP along Ripple Drive, Lot 1 in Stonewicke Phase four of the subdivision plan. He explained when the development was submitted in 2004-2005, the property was zoned R15 for residential use. However, the township later changed the zoning to shopping and commercial. Despite this, the residential homes in the Stonewicke development were grandfathered into the R15 zoning. The request now is to rezone Lot 1 from shopping and commercial back to R15, aligning it with the residential nature of the surrounding area. The developer argues that leaving Lot 1 as shopping and commercial would not be in the township's best interest, as it would invite increased traffic and commercial vehicles on Ripple Drive, which is the only access to the property. Additionally, larger road networks needed for commercial use are not available. Rezoning to R15 would maintain consistency with the residential homes nearby and prevent commercial development that could disrupt the community. He argued this counters the county's concern about spot zoning, as the surrounding areas are either already residential or are expected to be rezoned as R15.

Board of Commissioners:

Attorney Hovis explained that under Pennsylvania law, spot zoning is illegal and can be challenged if it occurs during rezoning. The Commonwealth prefers development and zoning to follow a planned, consistent approach, where zoning districts transition logically, such as from R1 to R2 to R3, with commercial and industrial areas buffering each other based on the intensity of use. The goal is to avoid isolated spots of inconsistent zoning, such as placing a residential area within an industrial zone. However, determining spot zoning is not black and white in Pennsylvania, and all relevant factors, including property size and location, are considered when assessing if spot zoning has occurred. He noted he was surprised that York County did not suggest including additional surrounding properties to support a larger rezoning purpose, which could help avoid the issue of spot zoning. Commissioner Heiland expressed concern that while approving the rezoning request may not set a legal precedent, it could lead to an influx of similar requests in the future. As Penn Township becomes more developed, there is a concern that others might seek to rezone areas, such as requesting to build houses in non-residential zones like RC (Residential-Commercial), potentially complicating future zoning decisions. Commissioner Berlingo stated that the Zoning Map is currently under review and certain changes are needed, however, currently spot zoning should be avoided.

Public Comments:

There were several residents in attendance, those that commented were: Barbara Rowlett, 9 Cantera Way, Jay Garvin, 305 Ripple Drive, Shirl and Bob Prietz, 26 Alabaster Run, Polly and Bill Stanley, 23 Alabaster Run, Anthony Fisher, 5 Alabaster Run, Tim Carroll, 3 Alabaster Run, Jeff Christman, 13 Alabaster Run, Brian Bowman, 1 Alabaster Run, Matthew Murphy, 117 Grandbury Crossing, Tirana Rawlings, 10 Cantera Way. Concern was expressed with their homes being located within the SC Shopping/Commercial zone, as well as regarding the future of Lot 1 if it is not rezoned to residential. Residents are worried about the potential for increased truck traffic and commercial activity, given that Lot 1 is situated in a predominantly residential area.

Commissioner Elksnis closed the public hearing at 8:24 p.m.

Commissioners Elksnis/Heiland moved to deny the request to rezone a portion of the property owned by Stonewicke, LP and known as Parcel 44-000-36-0001.00-0000 (Ripple Drive), Penn Township from Shopping Commercial (SC) to Suburban Residential (R-15). Motion carried 5-0 on a roll call vote.

TOWNSHIP REPORTS – STANDING COMMITTEES:

Public Safety – Commissioner Heiland:

Commissioners Heiland/Berlingo moved to set the date for trick-or-treat for Tuesday, October 22, 2024, from 6 pm to 8 pm. Motion carried.

Personnel – Commissioner Heiland:

Commissioners Heiland/Brown moved to appoint George Zimmerman to the Civil Service Commission, said term to expire August 2030. Motion carried.

Commissioners Heiland/Berlingo moved to appoint Donna Sweeney the Right to Know Officer for the Township. Motion carried.

Commissioners Heiland/Berlingo moved to accept the resignation of Robert Smith as Township Zoning Officer effective September 4, 2024. Motion carried.

Public Works & Recreation – Commissioner Baile:

There were no additions or changes to the Engineer’s Report.

Commissioners Baile/Brown moved to approve C.S. Davidson, Inc., 2024 Guide Rail Contract Change Order No. 1, in the amount of a credit of \$3,701.25. Motion carried.

Commissioners Baile/Brown moved to approve an agreement with Hanover Land Services, Inc., for Stormwater Services, with the contract amount not to exceed \$42,500.00 for 2025. Motion carried.

The MS4/Stormwater Inspector is available Monday through Friday from 7:00 a.m. to 3:30 p.m. to answer any questions.

Planning – Commissioner Baile:

Commissioners Baile/Brown moved to set the maintenance bond amounts for High Pointe at ROJEN Farms-Penn South Phase S1 in the amount of \$249,421.40; Phase S2 in the amount of \$250,300.15; Phase S3 in the amount of \$113,321.60. Motion carried.

Zoning Officer Smith reported an addition to his report. On August 15th, an email was received concerning Lot 1 of Stonewicke, where a building originally approved for demolition is now being proposed to remain by the developer. The building is nonconforming and would require approval from the zoning hearing board to stay. There is uncertainty about the procedure moving forward—whether the board would allow the developer to retain the building, or if the matter should be directed to the zoning hearing board for a formal decision. Attorney Hovis stated he must submit an amendment to the original land development plan, demonstrating how the building will be utilized in a way consistent with ordinances. Since the current plan on record with York County shows the building slated for demolition, the amendment would need to be reviewed and approved by the township, then filed with the York County Recorder of Deeds to reflect the change.

The following Subdivision and Land Development Plan was submitted for formal filing:
SL24-09 Keel, LP - Spring Garden St.
SL24-10 1085 Fairview Drive – John M. & Lisa A. Diehl

Commissioners Baile/Brown moved to approve the following Subdivision and Land Development Plans:
SL24-02 Yazoo Mills – 37 Industrial Drive
SL24-08 Carroll County Christian Center, Inc.
Motion carried.

Commissioners Baile/Brown moved to approve the following extension requests due to expire November 18, 2024:
SL17-10 Mustang Pointe
SL21-05 Elsner Engineer Works, Inc.
SL22-01 Water Street Four, LLC
SL24-03 Holland Construction – 100 Blettner Avenue
SL24-07 Sheridan Press – 450 Fame Avenue
Motion carried.

Finance – Commissioner Brown:

Commissioners Brown/Heiland moved to approve Township warrants in the amount of \$1,685,501.20. Motion carried.

Commissioners Brown/Heiland moved to approve a request dated July 11, 2024, from Saint Joseph Parish for a waiver of permit fees for their Annual Summer Yard Sale that was held July 20, 2024. Motion carried.

Commissioners Brown/Heiland moved to approve a request dated July 26, 2024, from the Exchange Club of Hanover for a waiver of permit fees for their Annual Chili Cook Off to be held on Sunday, September 1, 2024. Motion carried.

Commissioners Brown/Heiland moved to award the 2006 Ford F-250 Super Duty Pickup with Western Snowplow bid to Donald Althoff, 400 Arbor Blvd Na, Perkasio, PA 18944 for the winning bid amount of \$6,300.00. Motion carried.

Commissioners Brown/Heiland moved to award the Kohler Power Systems Model 125 RZG Natural Gas Emergency Generator bid to Elvin Sensenig, 1563 Union Grove Road, East Earl, PA 17519, for the winning bid amount of \$7,000.00. Motion carried.

Commissioners Brown/Heiland moved to award the 2013 Ford Taurus bid to Carmen Yannuzzi, 833 Broadway, Newark, NJ 07104, for the winning bid amount of \$2,370.00. Motion carried.

Health & Sanitation – Commissioner Berlingo:

Commissioners Berlingo had nothing to report.

OLD BUSINESS: There was none.

NEW BUSINESS:

Commissioners Berlingo/Heiland moved to adopt Resolution No. 1034, adopting a Right to Know policy for the Township. Motion carried.

PERSONS TO BE HEARD/CITIZEN'S COMMENTS: Mr. Lenny Rice of 125 Hirtland Avenue requested an update on the search for a new Township Manager. The Board responded that the search is actively ongoing and that a decision is expected to be made soon.

QUESTIONS FROM THE PRESS: There were none.

ADJOURNMENT:

There being no further business to come before the Board, Commissioners Elksnis/Brown moved for adjournment at approximately 8:37 p.m. Motion carried.

Respectfully submitted,

Donna M. Sweeney,
Township Secretary