



## Allen Township Board of Supervisors

### Meeting Minutes November 1, 2022 7:00 P.M.

A General Meeting of the Allen Township Board of Supervisors was held on Tuesday, November 1, 2022 at 7:00 P.M. at the Allen Township Fire Company Building, located at 3530 Howertown Road, Northampton, PA. Mr. Hassler led the audience in the Pledge of Allegiance to the Flag.

#### 1. Roll Call:

Present: Dale Hassler; Gary Behler; Tim Paul; Paul Link; B. Lincoln Treadwell, Jr., Esq; Ilene Eckhart, Manager; Maurin Ritinski, Admin. Asst.; and Stan Wojciechowski, PE, CME.

Absent: Jason Frack and Andrea Martin, EIT.

**2. Announcements and/or Actions to Add New Items to Current Agenda:** Ms. Eckhart announced that an executive session was held following the last Board of Supervisors meeting. Mr. Treadwell explained that the executive session was held to discuss potential litigation regarding the letter from Attorney Preston.

Ms. Eckhart requested that the Supervisors consider adding an item to the agenda to discuss a zoning hearing appeal application that was received. Mr. Behler made a motion to add the received zoning hearing appeal application to the agenda, seconded by Mr. Paul. On the motion, by roll call vote, all Supervisors present voted yes.

**3. Public Hearings:** No public hearings.

**4. Public to be Heard:** Phil Richardson, 917 Graystone Circle, informed the Supervisors that yesterday he witnessed an 18-wheeler coming from Prologis on Liberty Drive followed by a large dust cloud. Mr. Richardson reported that he also noticed Liberty Drive was covered in dirt. He stated that this morning he followed a dump truck on Route 329 which came from Liberty Drive. He explained that the dump truck deposited a large amount of mud on Route 329. Mr. Richardson questioned who is responsible for keeping roads clean. He requested that the roads are swept. Ms. Eckhart stated that she will follow up on this.

Gene Clater, 75 Arrowhead Lane, wished to clarify that the letter from Attorney Preston that Mr. Treadwell was referring to was in regards to the Aqua Pool situation. Mr. Clater explained that Mr. Preston was hired to consider all of the facts around this situation. He stated that this is not a non-conforming use because the use was granted in the 80s by a variance. Mr. Clater stated that there is now litigation pending. Mr. Clater stated that he believes that the Sunshine Law has been violated. He feels that there has not been the same level of discussion and transparency that there has been with other zoning topics of interest such as issues with Mud Lane and the Lappawinzo Fish and Game Protective Association. He continued to explain that he has requested numerous times for this issue with Aqua Pool to be added to the agenda but that his request has been denied each time. Mr. Treadwell commented that there is no pending litigation, only potential litigation. He explained that the letter received from Attorney Preston stated that the Township was put on "notice of something". Mr. Treadwell explained that this indicates that something is coming and that only this was discussed in the executive session. He explained that there was no discussion on issues regarding zoning violations or litigation. Mr. Treadwell also noted that he had written a memo on this topic and the memo was discussed in a public meeting. He further explained that this memo still stands. Mr. Clater stated that the memo should have been published

due to the need for public input. He stated that the Supervisors and Township need to operate “above board” and that public needs to be informed.

**5. Approval of Minutes:** Mr. Behler made a motion to approve the minutes of October 11 and 25, 2022; seconded by Mr. Link. On the motion, by roll call vote, all Supervisors present voted yes.

**6. Reports – All Reports with exception of the Treasurers Report noted as “on file”.**

**A. Treasurer:** Mr. Behler made a motion to approve the Treasurers Report and the Paying of the Bills; seconded by Mr. Paul. On the motion, by roll call vote, all Supervisors present voted yes.

**B. Solicitor:** On file.

**C. Engineer:** On file.

**D. Planning/Zoning/Code Enforcement:** On file.

**E. Road Superintendent/Public Works Leader:** On file.

**F. Fire Company:** On file.

**G. Emergency Management Coordinator:** On file.

**H. Parks:** On file.

**J. Nazareth Council of Government:** On file.

**K. First Regional Compost Authority:** On file. Ms. Eckhart reported ongoing issues with the disposal of ornamental grass. She stated that it is hard to get rid of due to its tendency to bind up the machines. Ornamental grass is not accepted by the First Regional Compost Authority (FRCA) and numerous residents are seeking solutions to dispose of ornamental grasses. Ms. Eckhart reports that FRCA is exploring the concept of air burners and have begun to seek out guidance from the Department of Environmental Protection. She reports that grant opportunities are also being explored. Ms. Eckhart also reported that FRCA is experiencing delays with the movement of materials, such as mulch. She stated that the resident demand for mulch has decreased making it harder to get rid of the FRCA produced mulch.

**L. Stormwater:** On file.

**7. Unfinished Business**

**A. Stone Ridge Phase 2 – Temporary Loop Road Security:** Tim Livengood, 745 Almond Road, Walnutport, Lehigh Township, stated that he was asked to come before the Board to review the timeline and circumstances regarding the Stone Ridge Phase 2 temporary loop road. Elisa Highley, Keystone Consulting Engineers was also present. Mr. Livengood explained that upon the approval of Phase 2, a condition was imposed that stipulated the conversion of the temporary loop must be completed by a specified date. Mr. Livengood explained that the Township, the Department of Environmental Protection, and the Conservation District then disallowed the on-lot infiltration beds. He reported that he was then contacted and informed that no further work could be completed in this phase or under this permit. He was told that different Best Management Practices (BMPs) would be imposed for the remainder of the project. He reports that he was told to stop all activities and close out the permit. Mr. Livengood explained that a Corrective Action Plan (CAP) was required due to the exceeding impervious coverage. He reports that stone infiltration berms on the swale on the east side of the project were placed along Savage Road and an infiltration bed was placed

surrounding the temporary loop road. Mr. Livengood explained that there were extensive delays due to the COVID-19 pandemic which caused the Conservation District to limit field meetings and inspections to mitigate the spread of COVID-19. He explained that in June of 2020 the permit was terminated and no further work was authorized. Mr. Livengood stated that the BMPs around the temporary loop road are not able to be disturbed due to the terminated permit. He explained that currently there is no active permit in place to do work to the BMPs around the temporary loop road or the rain garden. He noted that there is no infiltration testing to replace this. Mr. Livengood reports that he was asked to come before the Board to ask for an extension of the temporary loop road so that he may substitute the security.

Mr. Treadwell questioned the current state of the temporary loop. Mr. Livengood indicated that the temporary loop road has been constructed and has the finish wearing course placed. The unfinished portion of the temporary loop road is in regards to the width of the roadway. Mr. Livengood explained that the plan shows that the temporary loop road is supposed to be an equal width to that of the roads inside the project. The existing temporary loop would need to be widened to 40-feet with curbing and sidewalks along with grading of the right-of-way to be consistent with the plan. Mr. Livengood stated that none of this work is permitted due to the terminated permit. The temporary loop road is passable and does have the finished paving course.

Mr. Treadwell stated that the Township received notice from the bank that was holding the letter of credit to finish this project. The letter of credit is in the amount of approximately \$120,000.00. The notice from the bank stated that they would not be extending the letter of credit. Mr. Treadwell explained that action must be taken on this letter of credit by December 1, 2022 unless different security is posted from Mr. Livengood to cover the cost of the incomplete work. Mr. Treadwell indicated that Mr. Livengood was requesting additional time to complete the required work on the loop road or additional time to punch out the northern portion of Graystone Circle to connect with Horwith Drive. Mr. Treadwell explained that Mr. Livengood is requesting an additional year to either complete the required work on the loop road or punch out Graystone Circle to Horwith Drive. If the Board grants the additional year, Mr. Livengood will be able to get a bond to cover this in lieu of the letter of credit which cannot be extended.

Mr. Livengood indicated that it was always the intention to remove the temporary loop road and connect the northern portion of Graystone Circle out to Horwith Drive. He noted that all infiltration testing has been completed for the balance of the phases. Mr. Livengood stated that infiltration testing has not been completed around the temporary loop. He noted that the scheduling for this would be 6-8 weeks out and there is not an active permit in place. Ms. Highley reported that they are 6-8 weeks out on submitting to the Conservation District for the next phase of the project. She reported that a sketch plan was submitted a few months ago. Mr. Treadwell stated that finishing the loop road as designed did not make sense if it would be removed in the next year to begin the next phase that will require the removal of it upon the connection of the northern portion of Graystone Circle out to Horwith Drive. Mr. Behler agreed. He stated that he would have no problem with the extension request as long as a bond was secured.

Mr. Hassler also agreed. Mr. Hassler stated that he would like the temporary loop left in place as long as possible in its current condition. He believes that the new punch out to Horwith Drive should be used as a construction entrance so that construction traffic and the dirt on the roadway is limited within the finished portion of Graystone Circle. Mr. Hassler would like to see the temporary loop road removed last. Mr. Livengood ensured that they would build up to that point prior to the removal of the temporary loop road. Mr. Behler agreed. Mr. Paul agreed so long as the Township received security.

Mr. Behler made a motion to grant Mr. Livengood's request to December 1, 2023, with the possibility of an extension, with a security in place in the form of a bond, to either finish the loop road as shown on the plans or to build out the northern portion of Graystone Circle to connect to Horwith Drive, seconded by Mr. Paul. On the motion, by roll call vote, all Supervisors present voted yes.

Mr. Behler made a motion to authorize the Township Manager and Township Solicitor to draw down the letter of credit by December 1, 2022 if adequate security has not been received to replace it, seconded by Mr. Link. On the motion, by roll call vote, all Supervisors present voted yes.

Mr. Behler stated that he would like Mr. Livengood to develop everything right in regards to stormwater management. Mr. Livengood noted that a Homeowners Association will likely be put in place in the future.

## **8. New Business**

**A. Authorization to Advertise 2023 Meeting Dates (Including January Reorganization Meeting):** Ms. Eckhart requested the Supervisors consider authorizing her to advertise the 2023 meeting dates including the January 2023 Reorganization Meeting. The Reorganization meeting must take place on the first Monday in January. Due to Monday, January 2<sup>nd</sup>, 2023 being a legal holiday, the Reorganization Meeting must be held on Tuesday, January 3<sup>rd</sup>, 2023. Mr. Link made a motion to authorize the Township Manager to advertise the 2023 meeting dates, including the 2023 Reorganization Meeting; seconded by Mr. Paul. Prior to a roll call vote on this motion, the Supervisors discussed changing the start time of meetings. The Supervisors discussed public attendance at meetings and which start time would produce the most public engagement. For consideration, the Supervisors discussed the advantages and disadvantages of keeping the meeting start time as 7PM along with the advantages and disadvantages of earlier start times. The Supervisors decided to seek resident feedback on the meeting start time by requesting a post be made on the website and social media. The Supervisors were in agreement that meeting days for the Board of Supervisors shall remain the second and fourth Tuesday of each month. This agenda item was tabled until the next Board of Supervisors meeting. No action was taken on Mr. Link's motion. Ms. Eckhart will place this item on the agenda for the December 13<sup>th</sup> meeting.

**B. Authorization to Advertise Intention to Appoint Certified Public Accountant – 2022 Audit:** Ms. Eckhart explained that the Township must advertise the intention to appoint a Certified Public Accountant to complete the 2022 audit. Mr. Paul made a motion to authorize the advertisement of the intention to appoint a Certified Public Accountant to perform the 2022 audit; seconded by Mr. Behler. On the motion, by roll call vote, all Supervisors present voted yes.

**C. Northampton Borough Municipal Authority – Notice of Rate Increase:** Ms. Eckhart reported that she received notice last week that the Northampton Borough Municipal Authority is increasing the base water rate by fifty (50) cents in the new year. She stated that she has not been able to confirm the effect on the meter charge yet. She plans on running a profit and loss statement for the sewer fund to see what the effect will be. Ms. Eckhart informed the Board that the rate can be adjusted on the fee schedule resolution at the Reorganizational Meeting. The current rate is 115% per the 2022 Allen Township General Fee Schedule.

**D. Zoning Hearing Board Application (Allen Development Partners, LLC) (Item Added to Agenda):** Ms. Eckhart reported that a Zoning Appeal Application was received from the Wawa Developer, Allen Development Partners, LLC. This appeal application is in regards to the proposed Wawa to be located at the intersection of Nor Bath Boulevard (Route 329) and Savage Road. The variances they are seeking are:

*Section 1505(19)(F) to allow one (1) additional fuel pump with two (2) fueling positions where seven (7) fuel pumps and fourteen (14) positions are permitted;*

*Section 1505(19)(F)(3) to allow a gas canopy 7,150 square feet in size where a gas canopy equal to square footage of the building, but not greater than 7,000 square feet is permitted;*

*Section 1505(19)(G)(2) to allow gas canopy lighting over fuel dispensing positions to exceed an average of 20.0 maintained footcandles for an average of 29.48 footcandles in accordance with the recommended standards of the Illuminating Engineering Society of North America; and*

*Section 1704(B)(2) to allow three proposed freestanding signs since all four side of the property front on a street.*

Ms. Eckhart explained that the Board may choose to take a position on any or all of these variance requests prior to the Zoning Hearing Board meeting. She noted that the hearing is scheduled for Tuesday, December 6, 2022 at 7:00 PM. The hearing will be held at the Allen Township Fire Company Building. Mr. Behler made a motion to take no action or position on the requested variances, seconded by Mr. Link. On the motion, by roll call vote, all Supervisors present voted yes.

**9. Public to be Heard:** No public comment.

**10. Announcements:** Mr. Hassler questioned if the Board would be agreeable to canceling the November 22<sup>nd</sup> Board of Supervisors meeting due to lack of business items and it being scheduled for the same week as the Thanksgiving holiday. Mr. Behler made a motion to cancel the scheduled Board of Supervisors meeting on November 22, 2022, seconded by Mr. Paul. On the motion, by roll call vote, all Supervisors present voted yes.

Mr. Hassler announced the upcoming meeting dates as follows:

Planning Commission – Monday, November 21, 2022 at 7:00 PM  
Board of Supervisors – Tuesday, November 22, 2022, 2022 at 7:00 PM – **CANCELLED**  
Zoning Hearing Board – Tuesday, December 6, 2022 at 7:00 PM  
Board of Supervisors – Tuesday, December 13, 2022 at 7:00 PM

There being no further comments or business the meeting adjourned at 7:40 PM.

Respectfully submitted,

Ilene M. Eckhart