

**Elizabeth Township
Board of Commissioners
Monday, October 2, 2017
Commissioners' Meeting**

Call to Order

Pledge of Allegiance & Moment of Silence

Roll Call

Commissioner Similo-present
Commissioner Saxon- present
Commissioner Kuzma-present
Commissioner Blake-present
Commissioner Rhoderick-present
Commissioner Evans-present
President Beckowitz- present

Executive Session Acknowledgement: President Beckowitz states that there was an Executive Session held Thursday, September 28, at 6:00 p.m. and October 2, at 6:30 p.m.

Department Reports:

Code Enforcement- Other than the written report for next meeting, John Snelson wants to remind the Board that the Huntley & Huntley Conditional Use Application Presentation is set for the Planning Commission meeting this month.

Engineer- Engineer Bryan Churilla will provide written report for next meeting. He is working on the Huntley & Huntley review which they will give for the Planning Commission and that will be on-going. Engineer Churilla attended the scoping meeting at Penn DOT for the Scenery Drive landslide. He advises Penn DOT sent a letter to the Township on September 1st and it is looking like they're going to bid out this project late this year with construction starting in Spring 2019. He will forward the information to the Board.

They started working on Chapel Drive. Engineer Churilla had a conference call on Friday with the Athletic Association to discuss their field needs. They will now be looking at the site and what we think we can fit in comparison to what they need. It will be distributed to the Board for review. Commissioner Similo asks Engineer Churilla about a DEP efficiency letter they received and is told the letter is about the Boston Fill Site that Public Works is grading and we had to retroactively submit a joint permit. It's been under review for a long time and we have 30 days to address the comments and give them what they need.

Commissioner Saxon asks about Arrow Drive. Engineer Churilla tells him that the plan is complete and they are trying to finalize the easement for the property owners which will need to be executed. It is Engineer Churilla's understanding that the property owners have seen the plan and everybody is fine with it. We just need them to sign off on it and then determine whether we are doing it in-house or bidding it out. It is confirmed there are only 2 houses involved with this.

Hopefully it will improve everything downstream if any of the other property owners are having issues, but actual property impacts that we would need easements is just the two.

President Beckowitz tells Engineer Churilla about the McKeesport Meeting attended by herself, Commissioner Similo and Commissioner Blake. After the meeting (John Mowery was there) she spoke with DEP and a fellow from Pennsylvania American Water Company (“PAWC”) and his suggestion was that anything that happens from now on they should be involved. Engineer Churilla informs her there is a representative from PAWC that emails and asks for update and he does provide them with information and the status of the 537.

Police- Chief Kerestes states a report will be given at the next meeting.

Public Works- Jake Weigand informs the Board they completed Jacktown Extension today and the pavers are coming in the next week or so. We have some drainage issues that we’re trying to take care of before all these other projects start up. Trying to get to all the little projects but because of the weather and the leaf pickup which is starting soon they’re moving a little slow. Commissioner Saxon tells Jake Weigand that he is doing a good job. Anytime he calls and asks for anything it gets done the next day.

Solicitor – Solicitor Racunas informs the Board he has nothing other than what was discussed in Executive Session.

Sanitary-Veolia Water- Report will be given at the next meeting.

Citizens to address agenda items:

Leah Balliard: She is the owner of the shopping center at 800-820 McKeesport Road that houses the Giant Eagle Supermarket, which she also owns. She is concerned about the inefficient way the bridge project on Lovedale Road was handled. A six (6) week project has turned into probably a 3 ½ month ordeal and she has lost a lot of customers. She tells the Board she asked the State on August 21st for an update. It took 2 weeks for them to have someone get back to her and they didn’t answer her email request. Walsh Construction Company call her and told her the reason the project was delayed is because the water company couldn’t perform what they wanted them to do. The water company said that the original plan was inefficient and they could not do the project the way the original plan stated. So there was a 2 or 3 week gap where the road was closed and nothing was being done. Her business started to be affected the week of August 13th and it’s going to take until the middle of November for this small bridge to be replaced. She is asking for the Board’s help because she knows that there are other projects involving roads and bridges in and around the Elizabeth Township area. She understands that the bridge needs replaced and this roadwork is necessary for the community, but she thinks they should be more efficient or more prepared to handle these situations so that the businesses around are not affected. Ms. Balliard tells the Board once customers form a new shopping pattern, which usually only takes about six (6) weeks, they don’t always come back. She present copies to the Commissioners of what she is concerned about.

President Beckowitz asks Engineer Churilla if there was any mention of this at his meeting and he informs her not on this issue, that KLH involvement in this was the Township sanitary relocation. He continues that Penn DOT is pretty efficient on these jobs and their contractors get in and out. This was a situation where the existing water line plans were inaccurate and it threw off their whole schedule and they had to go back and re-design it. That was what happened there and that’s what caused the delay. There is more discussion about the work being done on the Lovedale bridge project. President Beckowitz

asks Engineer Churilla if the Township can call Penn DOT and see if there is some way to move it along. She heard that the contractor has gone elsewhere and now we have to wait because we're the last one on the list. She states further that they were there and ready, then they had to go elsewhere because of the delay and now they can't throw their whole schedule off. They have to finish their schedule and then come back here at the end. Engineer Churilla tells her he will check with Penn DOT. The last correspondence he had with Walsh was that last week they were doing the final testing and tie-ins for the water line and then the bridge contractor was going to mobilize immediately to get it done.

Commissioner Rhoderick tells the Board he made phone calls too and got the same story. Penn DOT blamed it on Walsh, Walsh blamed it on the water company, and it was a run-around. He states there were weeks when nobody was down there working and Walsh said it was the water company's fault. He called the water company and was told it was Penn DOT's fault. Nobody wanted to take responsibility and he explained to them that this was a main artery to the Township for people to use, businesses are being affected and it's unacceptable. There is discussion about how this also affects EMS and the fire departments and the schools.

Russell Verbanec: He asks the Board who is going to be appointed to the Planning Commission and is told there is a Motion later on. Mr. Verbanec asks again who is the person and Solicitor Racunas tells him there were two (2) applications submitted, Sandy Hearn and Dave Macioce. Those two are submitted so there will be nominations off the floor on Item #9. Mr. Verbanec states if Sandy Hearn is one of them, then he has something to say. He claims, 'she put out a false map of where drilling platforms were supposed to go in the Township and then there's stuff on here saying there's these big evacuation zones around it, this thing is a lie'. There is discussion between President Beckowitz and Mr. Verbanec where he also claims that he heard Sandy (Hearn) admit that she handed this piece of paper out and he doesn't think we should have any person like that on any of our commissions. After further discussion, President Beckowitz states that Ms. Hearn is not getting appointed.

Patty Hoffman: She discusses with the Board Sandy Hearn and the Planning Commission. Ms. Hoffman tells them she goes to the Planning meetings and Ms. Hearn is the only one on the Planning Commission that actually comes with research and asks a lot of questions and has lots of information. Everyone else just sits there, so Ms. Hoffman thinks that she is the perfect person to be on the Planning Commission.

She has a letter that she would like to read to have in the minutes:

'In 2012, Elizabeth Township adopted Oil & Gas Ordinances that were based on Pennsylvania's Act 13. However, there have been several legal challenges to Act 13 including one based on state over reach that violated local governments zoning authority. Another legal challenge brought into question, the role of Pennsylvania's Environmental Rights Amendment. As a result of those legal challenges, the PA Supreme Court has ruled that in 2013 portions of Act 13 law restricting local zoning were unconstitutional, reinstating local government's rights and responsibilities to ensure proper zoning for the protection of all. In June of 2017 that all governmental bodies must act in accordance with our Environmental Rights Amendment including local governmental boards like this one. With these new and very important updates to Act 13, we believe it is essential that our Township make revisions to our current oil & gas ordinances to reflect these legal changes. To avoid such updates could mean our local rules are unconstitutional and could unfairly allow highly industrialized oil and gas operations within areas of our community not zoned for such activities. We have come before this Board in the Elizabeth Township Planning Commission since March of this year seeking updates to the local oil and gas ordinances. It is unclear to us why this effort is continually delayed. We are, again, making this request with a new urgency. We respectfully request the Board of Commissioners take a vote tonight authorizing the Planning Commission to

begin the process of preparing updated draft oil and gas ordinances to include the following: requirements as outline by the PA Supreme Court rulings specifically, with regard to zoning requirements and our state Environmental Rights Amendment; a protocol for accepting all applications; provisions for requiring disclosure of full capacity build out of each proposed project; written proof of all applications, reports, and correspondence with each overseeing state, county and/or federal agencies; consideration of all requirements and/or procedures presented by concerned citizens throughout the months of public meetings; provide a top priority to the protection of our health, safety and welfare of our local residents; and that a deadline of November 17, 2017, be imposed on the Planning Commission to have an updated working draft completed with all of the above and available for public review. And we're saying November 17, it's the day after the Planning meeting. We are already having one place, Huntley & Huntley getting in under the wire under the old ordinance before anything has been updated and that's a crime. So she is really asking for a vote tonight.

Solicitor Racunas tells her that Planning has already started doing that review process and that they're going through a lot of spot suggestions and there is a lot in it to put that kind of deadline. Ms. Hoffman tells him she understands, but we're going to have Huntley & Huntley coming in for a second time. Solicitor Racunas explains that he doesn't speak for the Planning Board, but he is saying there was a lot there and they started going through it but it is a lot of information to go through. The Planning Commission has already started making that review and they're going to continue that review at their next meeting. Ms. Hoffman states she understands all of that, but she wants to make sure all of these things are included in there and not just passed off to the side. There is discussion and President Beckowitz tells her that she will put this on the agenda and if it goes through, it goes through.

There is discussion between the Commissioners, Solicitor Racunas and Ms. Hoffman regarding the pending Supreme Court case that could affect everyone's zoning. The case that's on appeal now challenges allowing oil & gas lines in residential areas. It's industrial use and has to be in industrial zoned districts. There is also discussion about ordinance compliance with Act 13.

Items for Consideration:

1. Motion to approve the General Fund Bill Warrant dated October 2, 2017 in the amount of \$132, 566.89. **Motion:** Commissioner Similo. **Second:** Commissioner Blake. There are no questions on the Motion. **Roll Call Vote - All in Favor: Motion carries.**
2. Motion to approve the Sanitary Fund Bill Warrant dated October 2, 2017 in the amount of \$33, 582.43. **Motion:** Commissioner Evans. **Second:** Commissioner Blake. There are no questions on the Motion. **Roll Call Vote - All in Favor: Motion carries.**
3. Motion to approve the Henrich Plan of lots Subdivision as recommended by the Planning Commission. *This plan is a minor subdivision consolidating 3 lots into 2 by lot line revisions.* **Motion:** Commissioner Blake. **Second:** Commissioner Similo. There are no questions on the Motion. **All in Favor: the Ayes have it, Motion carries.**
4. Motion to approve the Piacquadio Subdivision as recommended by the Planning Commission. *This plan is a minor subdivision re-subdividing 3 existing lots by shifting lot lines.* **Motion:** Commissioner Evans. **Second:** Commissioner Blake. There are no questions on the Motion. **All in Favor: the Ayes have it, Motion carries.**

5. Motion to approve the McLaughlin Subdivision as recommended by the Planning Commission. *This plan is a minor subdivision that adjusts the lot lines of 4 existing lots.* **Motion:** Commissioner Blake: **Second:** Commissioner Saxon. There are no questions on the Motion. **All in Favor: the Ayes have it, Motion carries.**
6. Motion to purchase new liner for ice rink from Nice Rink in the amount of \$1,795.50 plus shipping costs. **Motion:** Commissioner Saxon. **Second:** Commissioner Evans. There are no questions on the Motion. **Roll Call Vote - All in Favor: Motion carries.** Commissioner Saxon makes a Motion that we should start looking for a used refrigeration unit for the rink for \$15,000 or less. Commissioner Similo seconds. **All in Favor: the Ayes have it, Motion carries.**
7. Motion to split cost of estimate provided by Barrier Protection for installation of HD Camera System at Boston Ballfield. **Motion:** Commissioner Blake: **Second:** Commissioner Evans. There are no questions on the Motion. **All in Favor: the Ayes have it, Motion carries.**
8. Motion to direct Solicitor to draft agreement between Elizabeth Township and Mon Yough Trail Council for the maintenance of new camera system at Boston Ballfield. **Motion:** Commissioner Blake: **Second:** Commissioner Saxon. There are no questions on the Motion. **All in Favor: the Ayes have it, Motion carries**
9. Motion to appoint David Macioce as regular Planning Commission member. **Motion:** Commissioner Saxon: **Second:** Commissioner Evans. There are no questions on the Motion. **All in Favor, Commissioner Similo opposed: 6:1 vote, Motion carries**
10. Motion to accept the 2018 Option Year for contracted trash removal services with Waste Management at a cost of \$14.60 per unit per month including the cost of the Door to Door Service Collection for Hard to Recycle Items. **Motion:** Commissioner Blake: **Second:** Commissioner Evans. Question on the Motion: Commissioner Rhoderick wants to clarify that we got something in writing from SHACOG and is told there is an email that we didn't participate in the joint bid process so we're not able to participate until 2019. **All in Favor: the Ayes have it, Motion carries**
11. Motion to renew the current medical plan design for 2018 through Municipal Benefits Services and execute agreement. **Motion:** Commissioner Saxon: **Second:** Commissioner Similo. There are no questions on the Motion. **All in Favor: the Ayes have it, Motion carries**
12. Motion to disburse the 2017 Volunteer Fire Relief Association allocation of \$64, 440.23 equally to the five volunteer fire companies of Elizabeth Township. **Motion:** Commissioner Evans. **Second:** Commissioner Blake. There are no questions on the Motion. **Roll Call Vote – 6:1 Commissioner Evans abstains: Motion carries.**

13. Motion to apply the 2017 Municipal Pension State Aid to the following plans in accordance with the 2017 MMO:

a. Elizabeth Township Pension Plan (non-uniform) \$67, 006.26

b. Elizabeth Township Police Pension Plan \$67, 006.26

Motion: Commissioner Saxon. **Second:** Commissioner Blake. **Roll Call Vote – All in Favor: Motion carries.**

14. **ADDED MOTION:** Commissioner Kuzma makes a Motion to approve proposal from McMillen Engineers. He suggests that instead of coming in and giving a second opinion, they come in as an investigative engineer and taking a looking at all the prior Bond Requisitions and everything else that was done in the past. In one of our audits, in a small period of time, it states \$860,000 of bond money was spent and only \$60,000 was used for the purpose of what that bond was allocated for. Motion to approve proposal from McMillen Engineering to work with special counsel and review the scope of the work completed by associates and past bond assurances.

Second: Commissioner Similo. Question on the Motion: Commissioner Saxon asks if we're going to deal with the attorney tonight and is told yes. **All in Favor: the Ayes have it, Motion carries.**

15. **ADDED MOTION:** Commissioner Kuzma makes a Motion for RFP special counsel to review the sanitary matters and work with McMillen Engineers. George Gobel wasn't able to finish it and his hourly rate was \$325 and that's more than Commissioner Kuzma states he makes in a month doing this job so he is opposed to that. He thinks we should put out to RFP and see if we can get a lower rate. **Second:** Commissioner Rhoderick. There are no questions on the Motion. **All in Favor: the Ayes have it, Motion carries.**

16. **ADDED MOTION:** President Beckowitz makes the Motion for Patty Hoffman to authorize the Planning Commission to start the process of preparing an updated draft of Oil and Gas Ordinances to include recommendations submitted **Motion:** Commissioner Similo. **There is no Second, Motion fails.**

Citizens to address items:

Scott Taylor: Mr. Taylor states that he learned at the September 18th Commissioner's meeting that Huntley & Huntley had applied for a Conditional Use Permit project titled the Apollo B Well Pad in our Township. Mr. Taylor discusses letters sent by KLH to Huntley & Huntley and their response noting that although all deficiencies were not corrected, KLH accepted their application as administratively complete. Mr. Taylor discusses the incomplete application and why it wasn't on the agenda for the September 18 Commissioners meeting. Mr. Taylor discusses further with the Board the oil and gas ordinance and asks for a Motion and a vote to put a temporary moratorium on oil and gas until to review the Township ordinance and for the Supreme Court ruling on the Gorseline case. There is discussion with the Board about Penn Township signing leases with natural gas companies, taking money for the leases and then they changed ordinances so the gas company couldn't drill resulting in APEC suing for \$300 Million dollars. The Township doesn't want to end up changing things and then losing more because the current township ordinance permits gas and oil drilling in residential areas.

President Beckowitz asks if she has a Motion to put a Moratorium on and Solicitor Racunas informs her that he looked at the legal implications of doing that and he thinks that by doing that we're exposing us,

and as the Township Solicitor he has to protect us legally and if we do a Moratorium we risk some exposure.

A Motion is made to have Solicitor Racunas look into a Moratorium to discuss at the next meeting in two (2) weeks. **Motion:** Commissioner Kuzma. **Second:** Commissioner Saxon. **All in Favor: the Ayes have it, Motion carries.**

There is inaudible discussion between someone in the audience, Solicitor Racunas and the Commissioners.

Mr. Taylor adds that he was on the website and the pipeline ordinance that is posted on the website is not the current ordinance. He asks if we can get that updated.

President Beckowitz states there is no further business before the Board.

Motion to Adjourn: Motion: Commissioner Evans. **Second:** Commissioner Saxon.

President, Chris Evans

Joelle Whiteman, Office Manager