



WARRINGTON BOARD OF SUPERVISORS MINUTES FOR JANUARY 12, 2016

ATTENDANCE

Shirley A. Yannich, Chair; Carol T. Baker, Vice Chair, Matthew H. Hallowell, Member and Millie A. Seliga, Member. Staff present was Barry P. Luber, Interim Township Manager/CFO/Board Treasurer; Terry W. Clemons, Esq., Township Solicitor, Thomas Zarko, P.E., CKS Engineers, Township Engineer and Barbara Livrone, Executive Assistant to the Township Manager/Board Secretary.

PLEDGE OF ALLEGIANCE

Chair Yannich opened the meeting introducing Terry W. Clemons as township solicitor and Tom Zarko as township engineer. Following the introductions was a pledge to the flag.

EXECUTIVE SESSION REPORT: Ms. Yannich stated the Board discussed two issues during executive session. One item was a personnel matter and the other item discussed was litigation. The litigation matter will be addressed at the next Board meeting or the first meeting in February.

SPECIAL RECOGNITION OF BENEFICIAL BANK: Ms. Yannich stated no one from Beneficial Bank was able to attend the meeting to be recognized as a Gold sponsor of the township's 2015 Warrington Community Day event.

APPROVAL OF BILL LIST: Ms. Yannich announced if anyone wanted to view the detail list of the bill list to contact Barry Luber. A summary sheet listing the expenditures of each fund being paid is attached to the agenda at each meeting.

1. December 22, 2015 – December 31, 2015: \$869,140.92

Ms. Seliga motioned, seconded by Ms. Baker to approve the bill list from December 22, 2015 through December 31, 2015 totaling \$869,140.92. By roll call vote, the motion passed 4-0.

2. January 1, 2016 – January 12, 2016: \$175,601.98

Ms. Seliga motioned, seconded by Mr. Hallowell to approve the bill list from January 1, 2016 through January 12, 2016 totaling \$175,601.98. By roll call vote, the motion passed 4-0.

APPROVAL OF MINUTES:

3. December 8, 2015

Ms. Yannich stated that she and Mr. Hallowell were the only members of the Board at the December 8, 2015 meeting. Ms. Yannich asked if there were any corrections to the minutes. With no corrections the minutes stand as written. A motion was not required.

MINUTES FOR POSTING:**4. December 22, 2015**

Ms. Yannich stated that she and Mr. Hallowell were the only members of the Board at the December 22, 2015 meeting. Ms. Yannich asked if there were any corrections to the minutes. With no corrections the minutes are posted. A motion was not required.

5. January 4, 2016

Ms. Yannich stated that all Board members were present. Ms. Yannich asked if there were any corrections to the minutes. With no corrections to the January 4, 2016 minutes, the minutes can be posted as received. A motion was not required.

PUBLIC COMMENT *(The Board will hear from any interested resident or taxpayer who would like to comment on an item not on this evening's agenda. Respondents are asked to keep their comments to 3 minutes.)*

The following individuals spoke under public comment:

- Rodney Moyer (1246 School Lane) presented a list of concerns with the barricades on Park Road. Ms. Yannich responded that the Board will re-visit the closing of Park Road in a month or so but in the meantime, the barricades will remain.
- Tom Watkins (2512 Park Road) expressed concerns that traffic is going to increase by seventy five percent when Anderson Boulevard is open and the traffic light is installed. Ms. Yannich stated this concern will be discussed in March.
- Kyle Seckinger (2605 Pickertown Road) stated he wishes to have Park Road re-opened. He read excerpts from the township's comprehensive plan and Section 307 of SALDO referencing cul-de-sacs.
- John McConnell (206 Trellis Drive) opposes Park Road being closed. Mr. McConnell suggested making Park Road a one way street from Pickertown Road to Route 611.
- Josh Weiskopf (1263 School Lane) welcomed the new Board of Supervisors. For safety reasons, Mr. Weiskopf thanked the Board for the closure of Park Road.

Mr. Weiskopf read comments from Jeff Bigelow (2470 Park Road) who could not attend the meeting. Mr. Bigelow wrote that Park Road was designed in 1939 and is not wide enough to handle the increased traffic. There are no sidewalks and there is a large drop off for drainage. The new loop road will increase traffic. All the residents support the closure of Park Road.

Ms. Seliga thanked the residents for their comments. These issues will be addressed with the township engineer and a solution will be met.

PUBLIC HEARING:**6. Consider Conditional Use for Cellco Partnership d/b/a Verizon Wireless to construct a 110-foot cellular monopole in the PI-1 zoning district located at 160 Titus Avenue. (advertised December 29, 2015)**

Nicholas A. Cuce, Jr., Attorney for Cellco Partnership, d/b/a Verizon Wireless submitted a letter requesting a continuance of the hearing to be carried to the February 9, 2016 meeting of the Board of Supervisors. The

advertisement of the hearing was not printed in a timely manner; therefore the conditional use application could not be heard.

OLD BUSINESS (ACTION/DISCUSSION ITEMS):

7. Consider re-advertising an amendment to Chapter 27 of the Zoning Ordinance for Communications Antennas Conditional Uses. (advertised December 1 & December 8, 2015)

The amendment to Chapter 27 of the Zoning Ordinance was advertised for the December 15, 2015 meeting. The December 15, 2015 meeting was cancelled. Mr. Clemons reviewed the Bucks County Planning Commission review letter and based upon three comments, Mr. Clemons requested the Board to add additional language to the proposed Ordinance. Based on these additional revisions, a motion was made by Mr. Hallowell, seconded by Ms. Baker to re-advertise an amendment to Chapter 27 of the Zoning Ordinance for Communications Antennas Conditional Uses. The motion was passed unanimously 4-0.

8. Consider approval of Resolution 2016-R-06 Fee Schedule.

Mr. Luber stated the 2016 Fee Schedule was adopted at the January 4, 2016 meeting without the fees for the solicitor and engineer. Resolution 2016-R-06 has been revised to include the hourly rate for the solicitor and engineer. Ms. Yannich noted that the solicitor's hourly rate is \$150 per hour and his paralegal's hourly rate is \$90 per hour. The principal engineer's hourly rate is \$118 per hour; assistant engineer hourly rate is \$108 per hour; technical assistant's hourly rate is \$86 per hour and administrative assistant hourly rate is \$25.00 per hour. A motion was made by Ms. Seliga, seconded by Ms. Baker to approve Resolution 2016-R-06 with the noted fee updates to the 2016 Fee Schedule. The motion was unanimously passed 4-0.

NEW BUSINESS (ACTION/DISCUSSION ITEMS):

9. Recodification Project (Presentation by Michael Peter of General Code Corporation to Update and Recodify the Township Code)

Ms. Yannich stated the prior codification was difficult to access and Ordinances were difficult to find. The township's new company, General Code has reviewed our code and noted that there are inconsistencies within the code which may conflict with state laws.

Mr. Luber introduced Michael Peter, Account Manager for General Code. Mr. Peter presented two options to the Board: a Stand-Alone Editorial Analysis which includes an Editorial & Legal Analysis and a Recodification Project.

Public Comments:

Fred Gaines (200 Beech Blvd # 202), Chair of Planning Commission supports the Editorial and Legal Analysis for Chapters 22 and 27.

Connie Ace (1067 Folly Rd) Chair of the Historic Commission asked what the time frame for both proposals. Mr. Peters said the Stand-Alone Editorial Analysis is six months and the Recodification Project is two years.

Mark Bartow (2488 Park Road) asked if there would be public hearings on these changes.

Mr. Peters responded that the Ordinance would be properly advertised and adopted at a public meeting.

Ted Cicci (407 Prescott Ct) asked for Mr. Clemons' opinion.

Mr. Clemons recommends full codification.

Based upon the presentation and discussion, Ms. Yannich asked Mr. Peters to submit a proposal to Mr. Lubber.

10. Consider execution of a Declaration of Restrictions and Covenants to comply with Department of Environmental Protection for Barnes Park Improvements.

Mr. Zarko explained the Declaration of Restrictions and Covenants and a Post Construction Stormwater Management Instrument Filing Notice is for stormwater improvements at Barnes Park. Mr. Zarko also stated this is a perpetual maintenance for the township and protects the township. A motion was made by Ms. Seliga, seconded by Ms. Baker to authorize Barry Lubber to sign the covenant and PCSM. The motion passed unanimously.

11. Consider authorization to advertise Ordinance for discontinuation of Planning Department.

An Ordinance was passed in 2013 creating the Planning Department. Subsequently, two more Ordinances were enacted in 2014 amending the Subdivision and Land Development Ordinance and Zoning Ordinance to include provisions for the Planning Department. Mr. Hollowell questioned why the Board wants to discontinue the Planning Department. Ms. Baker stated the Planning Commission consists of citizens of the township whereas the Planning Department consisted of supervisors. Ms. Seliga stated the Planning Commission needs full power as described under the Municipalities Planning Code. Mr. Clemons stated an Ordinance to discontinue the Planning Department must first be sent to the Bucks County Planning Commission, Warrington Township Planning Commission and then advertised. The review process is thirty days from submission. A motion was made by Mrs Seliga, seconded by Ms. Baker to authorize the advertisement of an Ordinance to discontinue the Planning Department. By roll call vote, the motion passed 3 to 1, with Mr. Hollowell voting no.

12. Consider Resolution to appoint Kevin Lawlor as a member of the Zoning Hearing Board.

In accordance with the State Ethics law, a statement of financial interest form must be completed prior to appointment to the Zoning Hearing Board. Mr. Lawlor will be asked to submit a form prior to the next meeting. Ms. Yannich asked for a motion to table Mr. Lawlor's appointment to the January 26th meeting. A motion was made by Ms. Seliga, seconded by Ms. Baker to table the Resolution appointing Kevin Lawlor as a member of the Zoning Hearing Board. The motion passed unanimously.

13. Consider Resolution to amend Resolution 2015-R-13 changing one year alternate term to three year alternate term for Zoning Hearing Board.

Ms. Yannich reported the Municipalities Planning Code specifically defines the term for an alternate is not one year but three years. Confirmation will be made with Mr. Watkins of his appointment as an alternate to the Zoning Hearing Board for a three year term. Ms. Baker motioned, seconded by Ms. Seliga to amend Resolution 2015-R-13 from a one year term to a three year term for an alternate to the Zoning Hearing Board. By roll call vote, the motion passed unanimously.

14. Consider authorization to advertise Ordinance for body-worn cameras for Police Department.

Mr. Lubber stated a 50% grant was received by the Central Bucks Regional Police Department which will be used to purchase twenty (20) cameras for Warrington Police Department. Ten (10) cameras will be purchased with federal funds and ten (10) cameras purchased with matching funds from Warrington Township. Mr. Hollowell motioned, seconded by Ms. Seliga to authorize advertisement of an Ordinance to obtain body-worn cameras for Warrington Township Police Department. The motion passed unanimously.

15. Consider authorizing to ratify the electric contract for all township accounts.

Mr. Luber reported on December 17th, bids were received from four electric suppliers to provide electricity to the township. Constellation Energy was the lowest bidder. Mr. Luber recommended ratifying the contract previously executed with Constellation Energy for a period of two years at the rate of .06000 Kwh. Ms. Baker motioned, seconded by Mr. Hallowell to ratify the electric contract for all township accounts with Constellation Energy. The motion passed unanimously.

16. Authorize solicitor to prepare and advertise Bike and Hike Trails Committee Ordinance.

Ms. Yannich stated the Bike and Hike Trails Committee was never established by Ordinance. Ms. Yannich authorized Mr. Clemons to establish this committee by Ordinance and codify its existence. Duties of the committee will be described along with the number of members and staggered terms. Ms. Yannich noted that the current members of the Bike and Hike Committee cannot expend funds until an Ordinance has been passed. Ms. Baker motioned, seconded by Ms. Seliga to authorize the solicitor to prepare and advertise an Ordinance establishing the Bike and Hike Trails Committee. The motion passed unanimously.

17. MANAGER'S REPORT:**a. Consider approval of Change Order for Barness Park Sight Distance.**

During the process of obtaining a Highway Occupancy Permit for Barness Park, PennDOT required a reconfiguration of the proposed driveways to include concrete islands at the entrances. The sight distance is impacted by seven (7) trees. In the interest of public safety, a change order in the amount of \$2800 is recommended to remove these trees. Ms. Seliga motioned, seconded by Mr. Hallowell to approve Change Order 001 for the Barness Park Improvement project. The motion passed unanimously.

b. Consider motion to appoint Joe Knox for position of Public Works Director.

A contracted part-time Public Works Director, John Bonargo resigned at the end of December. Joe Knox, Assistant Public Works Director has been employed with the department for over two years and served thirty-eight years with the Warrington Township Police Department. Mr. Hallowell motioned, seconded by Ms. Baker to appoint Joseph Knox as Director for the Public Works Department. By roll call vote, the motion passed unanimously.

18. CHAIR'S REPORT:**a. Appoint second supervisor to Pension Advisory Board.**

Part 8, Article B, Section 811 of the Second Class Township Code establishes a Pension Advisory Board consisting of seven members. The Pension Board represents union and non-union employees and meets four times a year. Ms. Yannich nominated Ms. Seliga to be appointed as the second supervisor to the Pension Advisory Board. All were in favor.

b. Report on status of Water and Sewer Engineer appointment.

Mr. Zarko reported a transition meeting has not taken place between CKS and CEC. Mr. Zarko confirmed there will be no duplication of efforts or costs during the transition phase. Mr. Achenbach (905 Farnham Court) asked if there was a conflict of interest with CKS representing Warminster Township Municipal Authority and the townships contract with WTMA for sanitary sewer. Mr. Zarko replied by stating he feels it is a benefit to work with both WTMA and Warrington Township Water and Sewer Department as two entities.

c. **Discuss appointment of Solicitor for continuance with Victory Gardens hearings.**

The Board discussed an appointment of a solicitor to continue with the Victory Gardens hearings. Frank Shelly (1460 Easton Road) opined that Bill Casey has been solicitor at the hearings for the past one and half years and should continue. Connie Ace (1067 Folly Road) stated errors were made which delayed the hearings for about a year. John McConnell (206 Trellis Drive) is a party of record at the hearings and asked for a new solicitor. Ms. Yannich asked for a roll call vote for William H.R. Casey to remain as solicitor for the Victory Gardens hearings. By roll call vote, Ms. Baker, Mrs. Seliga and Ms. Yannich voted no and Mr. Hallowell voted yes. The motion to appoint William H. R. Casey was denied. Ms. Seliga motioned, seconded by Ms. Baker to appoint Terry Clemons as solicitor for the Victory Gardens hearings. Ms. Yannich asked for a roll call vote. Ms. Baker, Ms. Seliga and Ms. Yannich voted yes and Mr. Hallowell voted no. The motion carried to appoint Terry Clemons as solicitor for the Victory Gardens hearings.

d. **Discuss Board interaction with Board agencies.**

Ms. Yannich reported that she attended the Auditors meeting. She noted the Environmental Advisory Council, which she attends, is a very active council. She also attends the Planning Commission meetings and noted that the review application for the cell tower proposed at 160 Titus Avenue was reviewed by the Communications Advisory Board, Police Chief, Director of EMS, Historic Commission and Planning Commission.

According to the Municipalities Planning Code, an annual report from the Planning Commission must be submitted to the Board of Supervisors by March 1st. Ms. Yannich is requesting that each Board and Committee communicate with the Board of Supervisors by submitting their monthly minutes and present an annual report.

Ms. Seliga attended the Historic Commission meeting and was very impressed with the history of the township.

Ms. Baker attended the Planning Commission meeting and was impressed with the caliber of the committee members.

19. ENGINEER'S REPORT:

a. **Transition Process.**

Mr. Zarko reported a transition meeting with Carroll Engineering Corporation and CKS is scheduled for January 21st and a transition meeting between the two engineering firms for the water and sewer department is scheduled for January 22nd.

20. SOLICITOR'S REPORT:

a. **Discuss appointment of supervisor to fill a vacancy.**

Mr. Clemons reported according to the Second Class Township Code, the Board has thirty days to appoint someone to fill the vacancy left by Wayne Bullock on January 4, 2016. If a decision cannot be reached, then the Vacancy Board will intervene. An advertisement to solicit a supervisor will be placed in the Intelligencer on January 14th. All letters of interest must be submitted to the township by 4:00 pm on January 22, 2016. Interviews will take place at a public meeting on January 26th starting at 6:00 pm. Ms. Seliga motioned, seconded by Ms. Baker to advertise for a supervisor in the newspaper and to hold interviews on January 26, 2016. By roll call vote, the motion passed unanimously.

b. Interview Professional Services prior to Organizational Meeting.

Mr. Clemons reported there is no violation of the Sunshine Act when a single sitting supervisor meets with two elected supervisors for the purpose of interviewing prospective consultants to the Township. Mr. Clemons submitted a memorandum to be part of record. (*Attachment A*)

Joe Bonargo stated the Chair of the Supervisors excluded both Matt Hallowell and Wayne Bullock from the interviews. Nick Plenziak (3154 Street Rd) asked if Mr. Bonargo was a resident. Mr. Bonargo replied he is a business owner in the township.

Ms. Yannich responded by stating that she acted on her behalf and did not violate the Sunshine Act.

21. ESCROW AND MAINTENANCE BOND RELEASES: None

22. EXTENSION REQUESTS: None

23. DEDICATION REQUESTS: None

SUPERVISOR COMMENTS:

a. Emergency Preparedness

Mrs. Yannich commented that she will request a report from the Police, Fire Department, EMS and Public Works on the township's preparedness to handle any emergency. These reports will be presented at a Board of Supervisors meeting in March. Ms. Yannich also noted that the township has an Emergency Services Committee. Ms. Baker stated the police department is highly trained to protect the township against liability.

ADJOURNMENT

There being no further business Ms. Baker motioned, seconded by Ms. Yannich, to adjourn the meeting at 9:45 p.m. The motion passed unanimously 4-0.

Respectfully Submitted By:



Barry P. Lubet, Interim Township Manager

Attachment A

LAW OFFICES



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January 12, 2016

TO: Warrington Township Board of Supervisors

FROM: Terry W. Clemons, Esquire

RE: Whether Supervisor Meeting With Elected Supervisors Who Have Not Taken Office Violates Sunshine Act

There is no violation of the Sunshine Act (65 Pa. C.S. Sections 701-716) when a single sitting supervisor meets with two elected supervisors for the purpose of interviewing prospective consultants to the Township.

The Sunshine Act regulates the conduct of agency business (See Section 703). An agency as defined at Section 703 as the body authorized to take official action or render advice on matters of agency business. A township is a political subdivision and an agency for the purpose of the Sunshine Act.

The Board of Supervisors of Warrington Township is an agency as defined under the Sunshine Act. It consists of five board members. Until the newly elected supervisors were sworn in on January 4, 2016, the members of the Board of Supervisors consisted of Gerald B. Anderson (recently replaced by Wayne Bullock), John R. Paul, Matthew W. Hallowell, Sr., Shirley Yannich and Mary Achenbach.

Pursuant to Section 704 of the Sunshine Act, official actions and deliberations by a quorum of the members of an agency must take place at a meeting open to the public. Carol Baker and Millie Seliga did not become members of the agency (the Board of Supervisors) until they were sworn in on January 4, 2016. Elected supervisors have no authority to vote on any matter involving the business of Warrington Township, including the hiring or firing of consultants until they become members of the Board of Supervisors at the reorganization meeting at which they are sworn in. Therefore, their attendance at a meeting with a sitting Supervisor to discuss appointments does not constitute a quorum of the Board.

Furthermore, Section 708(a)(1) of the Sunshine Act permits an agency to hold an executive session to discuss, among other things, the employment, appointment, and termination of employment of specific current or prospective public officers or employees. The Township Solicitor and Township Engineer are specifically designated public officers under Sections 1101 and 1201 of the Second Class Township Code.

Therefore, even if the two elected Supervisors were somehow considered to be members of the Board prior to being sworn in - which they are not - this provision is available for a quorum of the Board of Supervisors to meet in executive session with current or prospective public officers. They would have been required to announce the executive session and its purpose at the next available public meeting (Section 708(b) of the Sunshine Act.

Terry