

**MINUTES OF PUBLIC MEETING**

**June 28, 2010**

**KENNETH E. KROBERGER, PRESIDENT**

**1. CALL TO ORDER**

The June 28, 2010 Public Meeting of the Board of Commissioners was called to order at 7:30 P.M. by President of the Board, Kenneth E. Kroberger. The following individuals were in attendance:

Kenneth E. Kroberger	President
M. Clare Edelmayer	Vice President
James A. Santi	Commissioner
Eugene P. Ziemba	Commissioner
Thomas A. Duffy	Commissioner
Leonard T. Perrone	Township Manager
Sally Slook	Assistant Manager
Arthur Boesler	Czop/Specter, Inc.
Robert J. Kerns, Esquire	Township Solicitor
David Duffy	Chief of Police
David Brill	Finance Director

Mr. Kroberger addressed the audience to announce a presentation not listed on the Agenda. On behalf of the Board, the Staff, and the Resident's of Upper Gwynedd Township, Mr. Kroberger and Mr. Perrone presented Ms. Cassel, Administrative Assistant, with a letter of thanks and recognition for her twenty seven years of loyal and dedicated service to the Township. It was noted that her years of service were performed with the highest degree of professionalism which was driven by her rare sense of work ethic. It was further stated that every Board and Commission benefited from her work, particularly noteworthy were the Traffic Improvement Program and the Police Pension Board. In conclusion, Mr. Kroberger wished Mr. Cassel a long, healthy, and happy retirement on behalf of himself, this Board, and previous Boards.

In addition, Mr. Kroberger welcomed Ms. Cassel's replacement, Krista Caracausa, to her first Public Meeting.

That being said, Mr. Kroberger closed the Public Meeting and opened the Public Hearing.

**2. PUBLIC HEARING**

Mr. Kroberger advised that the purpose of this hearing is to hear comments concerning amendment of the zoning map attached to and incorporated in Chapter 195 of the Code of the Township of Upper Gwynedd, which changes the Zoning Classification of a tract of land containing 5.5007 acres from R-2 Residential to R-3 Residential.

For purpose of the hearing, Mr. Kroberger placed the following items into evidence:

- T1: The Reporter Advertisement of June 15, 2010.
- T2: Letter of recommendation from the Upper Gwynedd Township, Planning Commission, dated May 13, 2010.
- T3: Letter from Montgomery County indicating concern that the tract was less than five acres, dated March 26, 2010. By code this tract needed to be minimum of five acres. However, another parcel of land has been incorporated into the zoning change which takes it above the five acre minimum requirement.
- T4: Subdivision and Land Development and Zoning Joinder Agreement. This is concerning the additional piece of property that was added to meet the five acre minimum.
- T5: Posting Notice at the Site and Township Building.

Mr. Kroberger explained that the Site consists of 870, 872, and 876 Sumneytown Pike. He further stated that this property is adjacent to the gas station at the intersection of Sumneytown Pike and S. Broad Street. Attorney Kerns clarified that the legal description is included in the Ordinance. Mr. Kroberger requested that a presentation be made to the public. Mr. Jason Smeland, an Engineer from Lenape Valley Engineering, identified himself as the representative on the project working with Mr. Vince Paone. He explained that larger property in the middle, approximately 3 ½ acres, is owned by Mr. Paone. He further stated that the Applicant has been working with the Township for several years on the development of this property. He stated that although they originally wanted commercial use, they settled on residential as a consideration to the Kristin Drive development. After discussions with the Township, the Applicant and Paone concluded that Residential with multiple uses, such as townhouses and single family homes, would be appropriate in this location. Mr. Smeland presented a conceptual sketch plan and stated there should be 23 to 24 units on the property, including the existing home. He explained that they relocated the single family homes to the back of the development adjacent to the existing single family homes, and moved the townhouses to the front.

Mr. Kroberger clarified that this represents a zoning change only, and that any development issues would go through the land development process at a later date. Mr. Kroberger asked the Board if they had any questions. Since no questions were raised, Mr. Kroberger opened the floor to the Public for questions.

Mr. Hunter, 1101 Byron Court, questioned the deterioration of the existing property. He expressed concern about containers, trash, grass, and weeds. Mr. Kroberger stated that the Township Zoning Officer has issued citations in this regard and the Board will look into this further.

Hearing no further questions or comments either in favor or against the proposed ordinance, by motion of Mr. Santi, seconded by Mr. Duffy, Mr. Kroberger closed the Hearing.

---

Mr. Kroberger reopened the Public Meeting.

**3. MOTION TO APPROVE THE MINUTES OF THE WORKSHOP MEETING HELD ON MAY 19, 2010.**

Mr. Kroberger noted that the Workshop Minutes had been received with the Agenda packet. Hearing no questions or comments, upon motion of Mrs. Edelmayer, seconded by Mr. Duffy, the Minutes of the May 19, 2010 Workshop Meeting were approved as presented.

**4. MOTION TO APPROVE THE MINUTES OF THE PUBLIC MEETING HELD ON MAY 24, 2010.**

Mr. Kroberger noted that the Minutes of the Public Meeting had been received with the Agenda packet. Hearing no questions or comments, upon motion by Mr. Duffy, seconded by Mrs. Edelmayer, the Minutes of the May 24, 2010 Public Meeting were unanimously approved.

**5. MOTION TO APPROVE THE DEPARTMENTAL REPORTS FILED BY TOWNSHIP STAFF.**

Mr. Kroberger informed that the Departmental Reports were sent with the Agenda and asked for comments or questions. Hearing none, upon motion of Mr. Ziemba, seconded by Mrs. Edelmayer, the Departmental Reports were approved as submitted.

**6. PRESENTATION OF PUBLIC COMMENTS AND CONCERNS (LIMIT OF FIVE MINUTES PER INDIVIDUAL).**

Mr. Hunter, 1101 Byron Court, commented that the detour had claimed its first business casualty. He further stated that the Clubhouse II Restaurant had closed. He expressed his disapproval as to why the laydown area was blocking the egress to the establishment. He further suggested that the materials should be stored on the other side of the bridge, and the sign should be moved back.

Mr. Kroberger stated that the TIP Committee has been in contact with the contractors, the business owners, and the Township Manager for the past eighteen (18) years in regard to what needed to be done to lower the road and relocate the utilities. Many of those utilities are in front of this location. Mr. Kroberger stated that the Township was aware of the closure and it was expected to be a temporary situation.

Mr. Perrone explained that the road had to be lowered to accommodate current specifications on highway clearances with the Bridge. He stated that this caused a low spot which then needed storm drainage work. The storm drainage work caused the need to relocate eight (8) different utilities. Therefore, the area between Church Road and the Bridge is not being used as a laydown area. Mr. Boesler further explained that this area has been under total construction with regard to all of the utilities, and stated that it was not a matter of choice as to which area was used for laydown. Mr. Perrone clarified that this area was not closed for laydown. The Board unanimously agreed with Mr. Hunter that it is a sad situation.

Mr. Ciquiro, 1421 Gwynedale Way, stated that he and his wife are looking for support and assistance for a flood zone issue. He stated that neighbors are having trouble selling their homes. He further stated that FEMA is giving him the run around on an exemption. Mr. Kroberger stated that in some of these cases the residents are not actually in the flood plain. Mr. Perrone explained that he has been in direct contact with the person in charge of the case at FEMA. He stated that he will provide them with the facts to put the best case forward, but ultimately the decision is FEMA's. Mr. Ciquiro further mentioned that Supplee Road does not even exist on the map that FEMA is using. Mr. Perrone stated that the Township's goal is to prove that Supplee Road does exist and that the structures that allow that tributary

to go underneath Supplee Road are adequate. Mr. Perrone suggested that Mr. Ciquiro contact him and Mr. William Lawrence directly via email to further discuss the matter. Mr. Ciquiro mentioned that his son is having the same problem. Mr. Perrone stated that he wants to keep the cases separate, and suggested that his son contact him via email.

Ms. Patel, 210 White's Road, stated that she is having a problem between the Township and the bank. Attorney Kerns stated that the bank must stand behind the Township's requirement to complete the public improvements that were not finished by the developer. He further clarified that the issue is with the bank not coming up with the funds to finish the public improvements, and the Township isn't going to make the Township taxpayers pay for improvements which will eventually benefit the homeowner. Attorney Kerns further stated that Ms. Patel should contact the bank because once this is settled, the Township will have a satisfactory Escrow Agreement in place.

**7. MOTION TO APPOINT LEONARD T. PERRONE TO THE POSITION OF TOWNSHIP SECRETARY.**

Mr. Kroberger stated that presently Mr. Chuck Testa is serving as Township Secretary. In order to streamline paperwork execution, it has been suggested that Mr. Perrone assume this position. Mr. Kroberger further stated that First Class Township Code studies have been completed, and that there is no longer a residency requirement. Upon motion by Mr. Ziemba, seconded by Mr. Santi, Mr. Perrone was appointed to the position of Township Secretary.

**8. MOTION TO ACCEPT THE RESIGNATION OF THOMAS M. DYOTT FROM THE PLANNING COMMISSION.**

Mr. Kroberger advised that Mr. Dyott has served on the Planning Commission for many years, and he also served as a Commissioner many years ago. He has been involved in various Township activities since 1979. Mr. Kroberger stated that Mr. Dyott recently tendered his Letter of Resignation because he is currently retired and is not spending as much time in the Township. Mr. Kroberger then read Mr. Dyott's letter and thanked him for his many years of service. He noted that Mr. Dyott is currently out of the country, but that he will attend next month's meeting for a recognition presentation.

**9. MOTION TO APPROVE RESOLUTION 18-2010, A RESOLUTION APPOINTING UPPER GWYNEDD REPRESENTATIVES TO THE MONTGOMERY COUNTY TAX COLLECTOR'S COMMITTEE.**

Mr. Kroberger announced that Resolution 18-2010 appoints Township representatives to the Montgomery County Tax Collector's Committee. He explained that this Committee is comprised of many municipalities, and that the Committee is trying to consolidate the collection of earned income tax throughout the County. This Resolution appoints two representatives to the Committee, one primary and an alternate. Mr. Kroberger announced that Mr. Brill, Finance Director, will be the primary voting delegate and Ms. Slook, Assistant Township Manager, will be the first alternate voting delegate. Upon motion by Mr. Santi, seconded by Mr. Duffy, the Board unanimously approved Resolution 18-2010.

**10. MOTION TO APPROVE ALLAN A. MYERS' APPLICATION FOR PAYMENT NO. 9 IN THE AMOUNT OF \$354,318.20 FOR WORK ASSOCIATED WITH THE SUMNEYTOWN PIKE PHASE 2 PROJECT.**

As a reminder, Mrs. Edelmayer summarized the reconstruction of Sumneytown Pike project. She stated that the original contract sum was approximately \$6,800,000 and further stated that there have been over \$400,000 in change orders. She explained that this puts the Township at approximately \$7,200,000 with about \$3,000,000 remaining. Therefore, Mrs. Edelmayer motioned to approve Payment No. 9 in the

amount of \$354,318.20 for work associated with the Sumneytown Pike Phase 2 project. This payment was approved when seconded by Mr. Ziembra.

**11. MOTION TO APPROVE ALLAN A. MYERS' CHANGE ORDER NO. 17 IN THE AMOUNT OF \$2,121.00. FOR STORM SEWER INLET REPAIR.**

Mrs. Edelmayer explained that Change Order No. 17 was due to an inlet collapse during paving which needed immediate repair. She stated that the invoice included labor and materials. Mrs. Edelmayer motioned to approved Allan A. Myers' Change Order No. 17 in the amount of \$2,121 for storm sewer inlet repair. Change Order No 17 was when seconded by Mr. Santi.

**12. MOTION TO APPROVE ALLAN A. MYERS' CHANGE ORDER NO. 18 IN THE AMOUNT OF \$3,360.00 FOR 400 LINEAR FEET OF SUPER SILT FENCE DUE TO REVISION OF THE EROSION AND SEDIMENTATION PERMIT.**

Mrs. Edelmayer explained that Change Order No. 18 relates to NPDES permit with DEP requiring installation of 400 linear feet of super silt fence. Mr. Perrone explained that the excavation was so massive that they had to use additional silt fencing to protect the area. Upon motion by Mrs. Edelmayer, seconded by Mr. Santi, Change Order No. 18 was approved.

**13. MOTION TO APPROVE T & M ASSOCIATES APPLICATION FOR PAYMENT IN THE AMOUNT OF \$9,165.10 FOR CONSTRUCTION ENGINEERING AND ADMINISTRATIVE SERVICES RELATED TO PHASE 2 OF THE SUMNEYTOWN PIKE PROJECT.**

Mrs. Edelmayer explained that T&M Associates is the engineer working on the Sumneytown Pike Project. Therefore, she motioned to approve Application for Payment in the amount of \$9,165.10. This Change Order was approved when seconded by Mr. Ziembra.

**14. MOTION TO APPROVE RESOLUTION NO. 12-2010, A RESOLUTION ACCEPTING THE DEDICATION OF KINGSLEY HALL DRIVE AND CORRINE COURT.**

**15. MOTION TO APPROVE RESOLUTION NO. 13-2010, A RESOLUTION ACCEPTING THE DEDICATION OF BAINBRIDGE LANE, OLD ALLENTOWN ROAD AND PROVIDENCE LANE.**

**16. MOTION TO APPROVE RESOLUTION NO. 14-2010, A RESOLUTION ACCEPTING THE DEDICATION OF OXFORD CIRCLE.**

**17. MOTION TO APPROVE RESOLUTION NO. 15-2010, A RESOLUTION ACCEPTING THE DEDICATION OF SMILE LANE.**

**18. MOTION TO APPROVE RESOLUTION NO. 16-2010, A RESOLUTION ACCEPTING THE DEDICATION OF TWINLYN DRIVE.**

Mrs. Edelmayer explained that Agenda Items 14 through 18 represent roads that need to be dedicated so that the Township can apply for liquid fuel's from the State to maintain the roads. Therefore, Mrs. Edelmayer motioned to approve Resolution 12-2010, Resolution 13-2010, Resolution 14-2010, Resolution 15-2010, and Resolution 16-2010 for the following roads:

Kingsley Hall Drive  
Corrine Court  
Bainbridge Lane  
Old Allentown Road  
Providence Lane  
Oxford Circle  
Smile Lane  
Twinlyn Drive

Seconded by Mr. Ziemba, the Resolutions were approved.

**19. MOTION TO APPROVE HORGAN BROTHERS, INC.'S APPLICATION FOR PAYMENT NO. 3 IN THE AMOUNT OF \$41,210.00 FOR WORK COMPLETED ON THE NOR-GWYN BASEBALL FACILITY.**

Mrs. Edelmayer explained that this Application for Payment was for improvements at the Nor-Gwyn Baseball facility relating to ADA compliance. Mrs. Edelmayer motioned to approve Payment No. 3 in the amount of \$41,210 for work completed on the Nor-Gwyn Baseball facility. Payment No. 3 was approved when seconded by Mr. Duffy.

**20. MOTION TO APPROVE HORGAN BROTHERS, INC.'S APPLICATION FOR PAYMENT NO. 4 IN THE AMOUNT OF \$27,879.00 FOR WORK COMPLETED ON THE NOR-GWYN BASEBALL FACILITY.**

Mrs. Edelmayer and Mr. Kroberger agreed that this item should be tabled.

**21. MOTION TO APPROVE RESOLUTION NO. 17-2010, A RESOLUTION AUTHORIZING THE TOWNSHIP ATTORNEYS TO FINALIZE AN INTER-MUNICIPAL AGREEMENT, TAPPING FEE AND SEWER SERVICE AGREEMENT TO ACCEPT WASTEWATER FOR TREATMENT IN THE BOROUGH OF LANSDALE'S WASTEWATER TREATMENT PLANT FROM MERCK'S WEST POINT FACILITY.**

Mr. Duffy summarized that Merck has been talking to Lansdale with respect to transferring some of its wastewater flow from the Upper Gwynedd Plant over to the Lansdale Sewage Treatment Plant. This Resolution permits the attorneys to finalize the Inter-Municipal Agreement, Tapping Fee Agreement, and Sewer Service Agreement to accept wastewater for treatment in the Borough of Lansdale. This Resolution will allow attorneys and engineers to work out the details of these Agreements. Upon motion by Mr. Duffy, seconded by Mrs. Edelmayer, Resolution No. 17-2010 was approved.

**22. MOTION TO APPROVE ORDINANCE 2010-04, AN ORDINANCE AMENDING THE ZONING MAP IN CHAPTER 195 OF THE CODE OF THE TOWNSHIP CHANGING THE ZONING CLASSIFICATION OF 870, 872 AND 876 SUMNEYTOWN PIKE FROM R-2 RESIDENTIAL TO R-3 RESIDENTIAL.**

Mr. Santi explained that this is a motion to approve Ordinance 2010-04 and reminded that there was lengthy discussion about this earlier at the Public Hearing. Therefore, Mr. Santi motioned to approve Ordinance 2010-04 amending the Zoning Map in Chapter 195 of the Code of the Township changing the Zoning Classification of 870, 872 and 876 Sumneytown Pike from R-2 Residential to R-3 Residential. Seconded by Mrs. Edelmayer, Ordinance 2010-04 was approved.

**23. MOTION TO AUTHORIZE THE PREPARATION AND ADVERTISEMENT OF AN ORDINANCE CHANGING THE ZONING CLASSIFICATION OF A PARCEL OF LAND LOCATED AT 937 AND 957 MORRIS ROAD FROM RO TO R-3.**

Mr. Ziembra asked for a representative to speak on behalf of the Dion track. Mr. Jason Smeland, an Engineer from Lenape Valley Engineering, identified himself as the representative on the project. Mr. Kroberger noted that only the advertising is being authorized tonight. Mr. Smeland explained that the Dion tract consists of two properties along Morris Road next to the Ryan's Run community. Approximately eighteen (18) months ago an application for zoning change of 5.9 acres to Townhouse was submitted. The Planning Commission was in favor of this change. Since the property did not meet the 10 acre minimum requirement, an application for relief with the Zoning Hearing Board was filed but it was denied.

Mr. Smeland further advised that the Applicant met with the Ryan's Run Homeowner's Association and reviewed the alternative of RO residential use, and stated that Ryan's Run is in support of this change. Attorney Kerns questioned the justification of RO residential, and addressed the fact that the Applicant's previous zoning change request was denied. Mr. Smeland admitted that was true, and stated that the Applicant wanted to expand his home office at that time. He further explained that the Applicant has now acquired a second piece of property adjacent to the existing one. Mr. Smeland addressed the turnpike as a justification for the zoning change and the extension of the turnpike sound barrier wall. Solicitor Kerns questioned the grading of offices versus grading of residences. Mr. Smeland further clarified that with offices there would be more pad sites and flat spaces for parking. He further stated that residential grading is a better way to preserve vegetation. Attorney Kerns questioned the cost effectiveness of offices versus residences. Mr. Smeland stated that he only had "ball park" numbers at this point, but he would have the exact figures available for the Hearing.

Mr. Smeland provided a conceptual sketch of the residential layout. Mr. Santi questioned the number of homes that would be built. Mr. Smeland stated there will be 21 or 22. Attorney Kerns questioned the location of the emergency access road. Mr. Smeland stated that an emergency access road is not needed because the planned cul de sac is shorter than the minimum requirement.

Mr. Ziembra questioned whether or not the Township has heard from any of the Ryan's Run residents. Mr. Perrone stated that Mr. Lawrence informed him that the residents were satisfied. Mr. Perrone further stated that he had not received any direct telephone calls on the matter. Mr. Kroberger stated that he attended the Planning Commission meeting and there were no objections from the Ryan's Run residents at the meeting.

Hearing no comments from the audience, Mr. Ziembra advised that changing the zoning classification of a parcel of land located at 937 and 957 Morris Road from RO to R-3 has been before the Planning Commission and received recommendation. By motion of Mr. Ziembra, seconded by Mr. Santi, authorization of preparation and advertisement was approved.

**24. MOTION TO APPROVE EASTERN ENVIRONMENTAL'S APPLICATION FOR PAYMENT NO. 7 IN THE AMOUNT OF \$42,294. FOR WORK COMPLETED ON THE DISSOLVED OXYGEN SYSTEM AT THE TOWNSHIP'S WASTEWATER TREATMENT FACILITY.**

Mr. Duffy advised that this matter is part of the Township's Dissolved Oxygen system. He further stated that the total contract sum is for \$507,960, leaving about \$171,000 after the \$42,294 payment. Therefore, Mr. Duffy motioned to approved Payment No. 7 in the amount of \$42,294 to Eastern Environmental. Application for Payment No. 7 was approved when seconded by Mr. Ziembra.

**25. MOTION TO APPROVE RESOLUTION 11-2010, A RESOLUTION AUTHORIZING THE TOWNSHIP'S PARTICIPATION, ALONG WITH OTHER SOUTHEASTERN PENNSYLVANIA MUNICIPALITIES, FOR LEGAL, ENGINEERING AND LEGISLATIVE SERVICES FOR STORM WATER REGULATORY SUPPORT.**

Mr. Duffy stated that the Township has been involved in a consortium working on new storm water management regulations. He further explained that Resolution 11-2010 authorizes participation along with other southeastern municipalities for legal and engineering legislative services for storm water regulatory support. Mr. Duffy motioned to approve Resolution 11-2010, seconded by Mr. Santi, this resolution was approved.

**OTHER BUSINESS**

**27. APPROVAL OF THE JUNE 2010 BILLS.**

Mr. Kroberger noted that the Board had received a copy of the General Fund bills. Hearing no questions, upon motion by Mr. Duffy, seconded by Mr. Ziembra, the General Fund bills for June were approved. Mrs. Edelmayer abstained from approving the Zoning Solicitor's bill.

Mr. Kroberger advised that the Board had also received a copy of the bills from the Sewer Fund and asked for questions or comments. Hearing none, upon motion by Mr. Duffy, seconded by Mrs. Edelmayer, the Board unanimously approved the Sewer Fund bills.

Mr. Kroberger advised that the Board was also being asked to approve invoices from all other funds. Upon motion by Mr. Santi, seconded by Mr. Ziembra, the Board unanimously approved these invoices as well.

Mr. Kroberger advised that there were a number of invoices that had been prepaid. Upon motion by Mr. Ziembra, seconded by Mr. Duffy, the Board unanimously approved the pre-paid invoices.

**28. CALL FOR ADJOURNMENT TO EXECUTIVE.**

There being no further business, upon motion by Mr. Santi, seconded by Mr. Ziemba, the meeting was adjourned to Executive Session at 8:40 PM.

Respectfully submitted,

Leonard T. Perrone  
Secretary

/kmc

**Approved July 26, 2010**